

EXPLANATORY MEMORANDUM TO
THE EXCHANGE GAINS AND LOSSES (BRINGING INTO ACCOUNT GAINS OR
LOSSES) (AMENDMENT) REGULATIONS 2004

2004 No. 3259

1. This explanatory memorandum has been prepared by the Commissioners of Inland Revenue and is laid before the House of Commons by Command of Her Majesty.
2. **Description**
 - 2.1 The regulations amend the Exchange Gains and Losses (Bringing Into Account Gains or Losses) Regulations 2002 (SI 2002/1970) in consequence of the enactment of Schedule 10 Finance Act 2004.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 The power to make the regulations is in section 84A Finance Act 1996, paragraph 26 Schedule 23 and paragraph 16 Schedule 26 Finance Act 2002. These provisions allow certain exchange gains and losses to be kept out of account for tax purposes when they are recognised in a company's accounts, subject to their being brought into account at a later date. The regulations prescribe when and how the gains and losses are brought back into account. The regulations are being made under the negative resolution procedure.
5. **European Convention on Human Rights**
 - 5.1 This instrument is subject to annulment and does not amend primary legislation, so no certificate under the ECHR is required.
6. **Extent**
 - 6.1 This instrument applies to all of the United Kingdom.
7. **Policy background**
 - 7.1 Exchange gains and losses (like other profits and losses) on debts and derivative contracts are generally brought into account as they are recognised in accounts drawn up using UK Generally Accepted Accounting Practice (GAAP). From 2005 all companies will be permitted to use International Accounting Standards (IAS) to draw up their accounts, and such accounts will be an acceptable basis for tax purposes – section 50 Finance Act 2004.

- 7.2 The treatment of exchange gains and losses under IAS differs from that under UK GAAP – in particular their range of circumstances when gains and losses may be “matched” with losses and gains on an asset and taken to reserve is limited. The tax treatment of accounts drawn up in a currency which is not sterling also changes under IAS. Consequently Parts 1, 2 and 4 Schedule 10 FA 2004 made a number of changes to the tax legislation in this area, rewriting much of the legislation using the language and concepts of IAS.
- 7.3 As a result it is necessary to amend the existing regulations dealing with “matching” to reflect the FA 2004 changes.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector.

9. Contact

Richard Thomas at Inland Revenue, Business Tax Tel: 020 7438 6553 or e-mail: richard.thomas@ir.gsi.gov.uk