STATUTORY INSTRUMENTS

2005 No. 2082

The Finance Act 2002, Schedule 26, Parts 2 and 9 (Amendment No. 2) Order 2005

Amendment of Part 9 of Schedule 26 to the Finance Act 2002

20.—(1) Amend paragraph 45K(**1**) as follows.

(2) For sub-paragraph (1)(d) substitute—

"(d)   the derivative contract—

(i) is an exactly tracking contract, within the meaning of paragraph 45F, or

(ii) would be such a contract but for any condition in it that D cannot be less than 90% of C (where D and C have the same meaning as in paragraph 45F(4)), and".

(3) In sub-paragraph (2) after paragraph (d) insert—

"(e)   the liability representing the debtor relationship was not owed by the company immediately before its first accounting period to begin on or after 1st January 2005.".

(4) In sub-paragraph (3)—

(a) for "period, paragraph 14(3) (non-trading" substitute—

"period—

(a) paragraph 14(2) and (3) (trading and non-trading"; and

(b) at the end insert—

", but

(b) sub-paragraph (3A) shall have effect.".

(5) After sub-paragraph (3) insert—

"(3A) Where—

(a) the debtor relationship comes to an end, and

(b) an amount ("the discharge amount") is paid to discharge all the company's obligations under that relationship,

then, for the purposes of corporation tax on chargeable gains, there shall be treated as accruing to the company a chargeable gain or allowable loss of an amount determined in accordance with sub-paragraph (3B).

(3B) That amount is the amount of the gain or loss (as the case may be) that would accrue on the assumption that—

(a) the derivative contract is an asset of the company,

(b) there is a disposal of that asset at the time when the debtor relationship comes to an end,

(c) the consideration for the disposal of that asset is equal to the amount of the proceeds of issue of the security representing the debtor relationship, and

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(**1**)   Paragraph 45K was inserted by articles 5 and 10 of S.I.2004/3270 and amended by articles 13 and 17 of S.I. 2005/646.

(d) the cost of the asset is equal to the discharge amount.".