

EXPLANATORY MEMORANDUM TO
THE LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS (EXCHANGE GAINS AND LOSSES USING FAIR VALUE ACCOUNTING) REGULATIONS 2005

2005 No. 3422

1. This explanatory memorandum has been prepared by Her Majesty's Commissioners of Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

The regulations provide a definition of exchange gains and losses where a company uses fair value accounting in relation to a financial asset or liability or a derivative contract.

3. Matters of special interest to the Select Committee on Statutory Instruments

None

4. Legislative Background

The power to make the regulations is in section 103(1AA) of the Finance Act 1996 and paragraph 54(2A) of Schedule 26 to the Finance Act 2002. These provisions allow regulations to define what is meant by exchange gains and losses where fair value accounting is used by a company.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Where a company uses fair value accounting in relation to its financial assets and liabilities and its derivative contracts, as is permitted by International Accounting Standards, a single amount of profit or loss is shown in the accounts which may contain a number of elements. One element may be an exchange gain or loss. It may be necessary to determine for tax purposes (for example in applying the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations SI 2004/3256) what part of the total profit or loss is an exchange gain or loss, but there is no simple way of doing that.

7.2 The regulations set out how the exchange gain or loss element is computed for tax purposes.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument.

8.2 There is no impact on the public sector.

9. Contact

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