
STATUTORY INSTRUMENTS

2006 No. 3269

The Finance Act 2002, Schedule 26,
(Parts 2 and 9) (Amendment) Order 2006

Amendment of Part 9 of Schedule 26

Amendment of paragraph 45J of Schedule 26

21.—(1) Amend paragraph 45J(1) (issuers of securities with embedded derivatives: deemed options) as follows.

(2) In sub-paragraph (1) for paragraphs (a) and (b) substitute—

“(a) the derivative contract is a loan-contract embedded derivative to which the company is treated as party by virtue of a debtor relationship of the company (“the original relationship”),”.

(3) In sub-paragraph (1)(c) for the words from the beginning to “that section” substitute “the derivative contract is treated by virtue of section 94A(3) of the Finance Act 1996”.

(4) In sub-paragraph (2)(a), in both places, and in sub-paragraph (4) for “debtor” substitute “original”.

(5) In sub-paragraph (3)(b) for “(9)” substitute “(9A)”.

(6) For sub-paragraphs (8) and (9) substitute—

“(8) In sub-paragraph (7)—

E is—

- (a) in a case where the company was a party to the original relationship at the time it was created, the initial carrying value of the option, and
- (b) in a case where the company became a party to the original relationship at a later time, the carrying value of the option at that time;

F is the amount paid by the debtor in fulfilment of the obligations under the original relationship reduced (but not below nil) by the fair value of the loan-contract host contract at the date on which the option is exercised.

(9) Sub-paragraph (9A) applies if the company ceases to be a party to the original relationship at a time when the option mentioned in sub-paragraph (1)(c) has not been exercised.

(9A) The company is treated for the purposes of corporation tax on chargeable gains—

- (a) as having disposed of an asset for a consideration equal to G, and
- (b) as having acquired that asset for a consideration equal to H.

(9B) In sub-paragraph (9A)—

G is—

(1) Paragraph 45J was inserted by article 10 of [S.I. 2004/3270](#) and amended by article 16 of [S.I. 2005/646](#), article 18 of [S.I. 2005/2082](#) and article 11 of [S.I. 2005/3440](#).

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- (a) in a case where the company was a party to the original relationship at the time it was created, the initial carrying value of the option, and
- (b) in a case where the company became a party to the original relationship at a later time, the carrying value of the option at that time;

It is—

- (a) in a case where the company ceases to be a party to the original relationship as a result of the redemption or repayment of the liability representing the original relationship, the amount paid by the company, and
- (b) in any other case, the consideration given by the company on its ceasing to be party to the original relationship,

in either case reduced (but not below nil) by the fair value of the loan-contract host contract at the date on which it so ceases.”.