

2009 No. 3217

CORPORATION TAX

The Corporation Tax (Tax Treatment of Financing Costs and Income) (Acceptable Financial Statements) Regulations 2009

<i>Made</i>	- - - -	<i>3rd December 2009</i>
<i>Laid before the House of Commons</i>		<i>7th December 2009</i>
<i>Coming into force</i>	- -	<i>1st January 2010</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in the exercise of the powers conferred by paragraph 88(3)(b) of Schedule 15 to the Finance Act 2009(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Corporation Tax (Tax Treatment of Financing Costs and Income) (Acceptable Financial Statements) Regulations 2009.

(2) These Regulations shall come into force on 1st January 2010.

(3) Subject to paragraph (4), these Regulations shall have effect in relation to periods of account beginning on or after 1st January 2010.

(4) Paragraph (5) of regulation 2 shall have effect only in relation to periods of account beginning on or after 1st April 2011.

Acceptable financial statements

2.—(1) Financial statements are acceptable for the purposes of paragraph 88 of Schedule 15 to the Finance Act 2009 (non-compliant financial statements of worldwide group) if they meet one of conditions A to D.

(2) Condition A is that the financial statements are drawn up in accordance with international accounting standards adopted with modifications by the European Commission in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19th July 2002 on the application of international accounting standards(b).

(3) Condition B is that the financial statements are drawn up in accordance with UK generally accepted accounting practice.

(4) Condition C is that the financial statements are drawn up in accordance with generally accepted accounting principles or practice of one of the following territories—

- (a) Canada,
- (b) China,

(a) 2009 c.10.
(b) OJ L 243, 11.9.2002 p1.

- (c) Japan,
- (d) South Korea,
- (e) the United States of America.

(5) Condition D is that the financial statements are drawn up in accordance with generally accepted accounting principles or practice of India.

Dave Hartnett
Bernadette Kenny

3rd December 2009

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under powers conferred by Schedule 15 to the Finance Act 2009. That Schedule is concerned with the tax treatment of financing costs and income; and paragraph 88 of that Schedule is concerned with non-compliant financial statements of worldwide groups. Paragraph 88(1) and (2) provide that in specified circumstances Schedule 15 applies as if financial statements had been drawn up in accordance with international accounting standards (“IAS”). Those circumstances are that a worldwide group draws up financial statements in respect of a period which are not acceptable and which disclose amounts which are materially different from those that would be disclosed in IAS financial statements for that period. Paragraph 88(3) sets out three criteria, one of which must be met by financial statements if they are to be “acceptable” for the purposes of paragraph 88. The criterion in subparagraph (3)(b) is that the financial statements meet such conditions relating to accounting standards, or accounting principles or practice, as may be specified in regulations made by the Commissioners for Her Majesty’s Revenue and Customs. These Regulations specify those conditions.

Regulation 1 deals with preliminary matters.

Regulation 2 specifies conditions A to D which relate to accounting standards, accounting principles and accounting practice. One of those conditions must be met by financial statements if they are to be acceptable in accordance with paragraph 88(3)(b) of Schedule 15 for the purposes of that paragraph. Condition A is that the financial statements are drawn up in accordance with IAS adopted with modifications by the European Commission as specified in paragraph (2) of regulation 2. Condition B is that the financial statements are drawn up in accordance with UK generally accepted accounting practice. Condition C is that the financial statements are drawn up in accordance with generally accepted accounting principles or practice of one of the territories specified in paragraph (4) of regulation 2. Condition D is that the financial statements are drawn up in accordance with generally accepted accounting principles or practice of India.

These Regulations are included in a package of measures being introduced as part of the Government’s review of taxation of the foreign profits of companies. A full and final impact assessment of the effect which the package as a whole will have on the costs of business and the voluntary sector was published on 22nd April 2009. A copy is available at http://www.hm-treasury.gov.uk/d/Budget2009/bud09_impactassessment_1395.pdf.

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