

2014 No. 3187

CORPORATION TAX

The Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2014

<i>Made</i>	- - - -	<i>1st December 2014</i>
<i>Laid before the House of Commons</i>		<i>2nd December 2014</i>
<i>Coming into force</i>	- -	<i>31st December 2014</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 319 and 598 of the Corporation Tax Act 2009(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2014 and come into force on 31st December 2014.

(2) These Regulations have effect in relation to periods of account beginning on or after 1st January 2015.

Amendments to the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004

2. The Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004(b) are amended as follows.

Amendment to regulation 3C: distressed debt

3. In regulation 3C (prescribed debits and credits not brought into account)(c)—

(a) in paragraph (2)—

(i) for sub-paragraph (e) and the “and” at the end of that sub-paragraph substitute—

“(e) debits and credits in relation to an interest rate, currency, commodity or debt contract to which regulation 9A of the Disregard Regulations applies;”, and

(ii) after sub-paragraph (f) insert—

“, and

(g) credits in respect of the modification or replacement of a loan relationship specified in paragraph (3B).”,

(b) after paragraph (3) insert—

(a) 2009 c. 4.

(b) S.I. 2004/3271, relevantly amended by S.I. 2005/3383, 2006/3238, 2007/950, 2007/3432 and 2008/3237.

(c) Regulation 3C was inserted by S.I. 2005/3383 and amended by S.I. 2006/3238, 2007/950 and 2008/3237.

“(3A) Debits in respect of the reversal of a credit specified in paragraph (2)(g) shall not be brought into account in determining a company’s profit or loss for any period.

(3B) A loan relationship is specified if—

- (a) the company is party to the relationship as debtor,
- (b) the debtor relationship is modified or replaced by another,
- (c) immediately before the modification or replacement it is reasonable to assume that, without the modification or replacement and any arrangements of which the modification or replacement forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts, and
- (d) the modification or replacement is treated for accounting purposes as a substantial modification of the terms of a loan relationship of the company.

(3C) For the purposes of paragraph (3B)(c), a company is unable to pay its debts if—

- (a) it is unable to pay its debts as they fall due, or
- (b) the value of the company’s assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.”

Definitions and updating statutory references

4.—(1) In regulation 2—

- (a) in the definition of “amortised cost basis of accounting”, for “section 103(1) of the Finance Act 1996”(a) substitute “section 313(4) of CTA 2009”;
- (b) after the definition of “amortised cost basis of accounting” insert—
 - ““CTA 2009” means the Corporation Tax Act 2009;
 - “CTA 2010” means the Corporation Tax Act 2010(b);”;
- (c) in the definition of “earlier period” and “later period”, for “paragraph 19A of Schedule 9 to the Finance Act 1996” substitute “section 315(2) of CTA 2009”;
- (d) in the definition of “exchange gains and losses”(c)—
 - (i) for “sections 103(1A) and 103(1B) of the Finance Act 1996” substitute “section 475 of CTA 2009”;
 - (ii) for “paragraphs 54(2) and (3) of Schedule 26 to the Finance Act 2002” substitute “section 705 of CTA 2009”;
- (e) in the definition of “fair value accounting”, for “section 103(1) of the Finance Act 1996” substitute “section 313(5) of CTA 2009”;
- (f) in the definition of “impairment” and “impairment loss”, for “section 103(1) of the Finance Act 1996” substitute “section 476(1) of CTA 2009”;
- (g) in the definition of “qualifying transfer”(d), for “section 343(1) of the Income and Corporation Taxes Act 1988 (company reconstruction without a change of ownership)(e)” substitute “Chapter 1 of Part 22 of CTA 2010”;
- (h) in the definition of “successor”, for “section 343(1) of the Income and Corporation Taxes Act 1988” substitute “section 940B(4) of CTA 2010(f)”.

(2) In regulation 3B(10)(g)—

- (a) in the definition of “bank”, for “section 840A of the Income and Corporation Taxes Act 1988” substitute “section 1120(2) of CTA 2010”;

(a) 1996 c. 8.

(b) 2010 c. 4.

(c) This definition was inserted by S.I. 2008/3237.

(d) This definition was inserted by S.I. 2007/3432.

(e) 1988 c. 1.

(f) Renumbered as section 940B by section 30 of, and paragraph 3 of Schedule 5 to, the Finance Act 2011 (c. 11).

(g) Regulation 3B was inserted by S.I. 2005/3383 and substituted by S.I. 2007/3432.

- (b) in the definition of “building society”, for “section 832(1)” substitute “section 1119”;
 - (c) in the definition of “carrying value”, for “paragraph 19A(4A) of Schedule 9 to the Finance Act 1996” substitute “section 317 of CTA 2009”.
- (3) In regulation 3C(a)—
- (a) in paragraph (2)(b), for “paragraph 45L of Schedule 26 to the Finance Act 2002 (derivatives not embedded in a loan relationship)” substitute “section 616 of CTA 2009”;
 - (b) in paragraph (2)(ca)(ii)(b), for “paragraph 16(3) of Schedule 26 to Finance Act 2002” substitute “section 606(3) of CTA 2009(c)”;
 - (c) in paragraph (2)(da)(ii)(d), for “section 84A(3) of the Finance Act 1996” substitute “section 328(3) of CTA 2009”;
 - (d) in paragraph (4)—
 - (i) in the definition of “functional currency”, for “section 92E(3) of the Finance Act 1993” substitute “section 17(4) of CTA 2010”;
 - (ii) in the definition of “underlying subject matter”(e), for “paragraph 11 of Schedule 26 to the Finance Act 2002” substitute “section 583 of CTA 2009”.
- (4) In regulation 4(f)—
- (a) in paragraph (1)(a), for “section 85B(1)(b) of the Finance Act 1996 (amounts recognised in determining company’s profit or loss)” substitute “section 308(1)(b) of CTA 2009”;
 - (b) in paragraph (1)(b), for “paragraph 19A(3) of Schedule 9 to the Finance Act 1996 (adjustment on change of accounting policy)” substitute “section 316 of CTA 2009”;
 - (c) in paragraph (1)(c), for “paragraph 17B(1)(b) of Schedule 26 to the Finance Act 2002 (amounts recognised in determining company’s profit or loss)” substitute “section 597(1)(b) of CTA 2009”;
 - (d) in paragraph (1)(d), for “paragraph 50A(2) of Schedule 26 to the Finance Act 2002 (adjustment on change of accounting policy)” substitute “section 614 or 615 of CTA 2009”;
 - (e) in paragraph (4)(a), for “section 94A(2)(b) of the Finance Act 1996” substitute “section 415(3) of CTA 2009”.
- (5) In regulation 5—
- (a) in paragraph (1), for “Chapter 2 of Part 4 of the Finance Act 1996” substitute “Part 5 of CTA 2009”;
 - (b) in paragraph (2), for “section 85B(1) of the Finance Act 1996” substitute “section 308(1) of CTA 2009”.

David Evennett
Alun Cairns

1st December 2014

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (“the principal Regulations”) which make provision for certain debits and credits not to be brought into account in the first accounting period of a

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- (a) Regulation 3C was inserted by S.I. 2005/3383.
 - (b) Sub-paragraph (ca) was inserted by S.I. 2008/3237.
 - (c) Section 606 was amended by section 43 of, and paragraph 5 of Schedule 21 to, the Finance Act 2009 (c. 10).
 - (d) Sub-paragraph (da) was inserted by S.I. 2008/3237.
 - (e) This definition was inserted by S.I. 2008/3237.
 - (f) Regulation 4 was relevantly amended by S.I. 2005/3383 and 2007/950.

company beginning on or after 1st January 2005, and for those debits and credits instead to be brought into account over a ten year period (beginning with the first period of account on or after 1st January 2006), or not to be brought into account for any period.

Regulation 1 provides for citation, commencement and effect. Authority for the limited retrospective effect of these Regulations is given by sections 319(5) and 598(6) of the Corporation Tax Act 2009.

Regulation 2 introduces the amendments.

Regulation 3 amends regulation 3C (prescribed debits and credits not brought into account) to extend the classes of specified debits and credits which are not to be brought into account in determining a company's profit or loss for any period to cases where a loan relationship is modified where debtor company is in financial difficulties.

Regulation 4 inserts definitions and updates the statutory references in the Regulations.

A Tax Information and Impact Note covering this instrument was published on 7th August 2014 alongside draft legislation and is available on the GOV.UK website at www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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