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STATUTORY INSTRUMENTS

2016 No. 1234

CORPORATION TAX

The Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2016

<i>Made</i>	- - - -	<i>15th December 2016</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th December 2016</i>
<i>Coming into force</i>	- -	<i>6th January 2016</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 319 and 598 of the Corporation Tax Act 2009(1).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) Regulations 2016 and come into force on 6th January 2016

(2) These Regulations have effect in relation to periods of account beginning on or after 1st January 2016.

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(2) are amended as follows.

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

(a) in paragraph (2)—

(i) at the end of sub-paragraph (f), omit “and”,

(ii) after sub-paragraph (g), insert—

(1) 2009 c. 4.

(2) S.I. 2004/3271; relevant amending instruments are S.I. 2005/3383 and 2014/3187.

- “(h) debits and credits relating to the matters mentioned in section 306A(1) of CTA 2009(3) in respect of a loan relationship of a company which—
- (i) have in accordance with generally accepted accounting practice been recognised in the company’s accounts in an accounting period beginning before 1 January 2016 as an item of other comprehensive income, and
 - (ii) have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1st January 2016, and
- (i) debits and credits relating to the matters mentioned in section 594A(1) of CTA 2009(4) in respect of a derivative contract of a company which—
- (i) have in accordance with generally accepted accounting practice been recognised in the company’s accounts in an accounting period beginning before 1st January 2016 as an item of other comprehensive income, and
 - (ii) have not subsequently been transferred to become items of profit or loss in an accounting period beginning before 1st January 2016.”,

(b) after paragraph (3C), insert—

“(3D) For the purposes of sub-paragraphs (h) and (i) of paragraph (2)—

 - (a) in determining what debits and credits fall within those sub-paragraphs, it is to be assumed that the accounting policy applied in drawing up the company’s accounts for the last accounting period of the company beginning before 1 January 2016 (“the pre-commencement period”) was also applied in previous accounting periods,
 - (b) but if the company’s accounts for the pre-commencement period are in accordance with generally accepted accounting practice drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in sub-paragraph (a), that different assumption applies in determining what debits and credits fall within those sub-paragraphs.”.

Stephen Barclay
Robert Syme
Two of the Lords Commissioners of Her
Majesty’s Treasury

15th December 2016

(3) Section 306A was inserted by paragraph 3 of Schedule 7 to the Finance (No 2) Act 2015 (c. 33).

(4) Section 594A(1) was inserted by paragraph 61 of Schedule 7 to the Finance (No 2) Act 2015.

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 in relation to bringing into account of certain debits and credits arising on a change of accounting policy in drawing up a company’s accounts. The amendments are consequential to amendments made to Parts 5 and 7 of the Corporation Tax Act 2009 in relation to the taxation of loan relationships and derivative contracts.

Regulation 1 provides for citation, commencement and effect. Authority for the limited retrospective effect is provided by section 319(5) of the Corporation Tax Act 2009.

Regulation 2 introduces the amendments.

Regulation 3 amends regulation 3C so that amounts recognised in a company’s accounts in an accounting period beginning before 1st January 2016 as an item of other comprehensive income which have not been transferred to become items of profit or loss are not brought into account under the principal Regulations

A Tax Information and Impact Note for the modernisation of the taxation of corporate debt and derivative contracts which covers this instrument was published at Summer Budget 2015 on 8th July 2015 and is available on the HMRC website at: <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.