
STATUTORY INSTRUMENTS

1996 No. 1347

INCOME TAX

The Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) (Amendment) Regulations 1996

<i>Made</i>	-	-	-	-	<i>21st May 1996</i>
<i>Laid before the House of Commons</i>	-	-	-	-	<i>21st May 1996</i>
<i>Coming into force</i>	-	-			<i>30th June 1996</i>

The Treasury, in exercise of the powers conferred on them by sections 164(14) and 167(1) and (4) to (6) of, and Schedule 15 to, the Finance Act 1993⁽¹⁾, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) (Amendment) Regulations 1996 and shall come into force on 30th June 1996.

(2) Regulation 4 shall have effect as respects accrual periods ending on or after 30th June 1996.

Interpretation

2. In these Regulations “the principal Regulations” means the Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) Regulations 1994⁽²⁾, and “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3. In regulation 4(2) the following definition shall be added at the end—

““qualifying asset” shall be construed in accordance with subsection (1) of section 153 of the 1993 Act, read with subsections (3) and (4) of that section⁽³⁾.”

4.—(1) Regulation 5 shall be amended as follows.

(1) 1993 c. 34; Schedule 15 was amended by section 116 of the Finance Act 1994 (c. 9).

(2) S.I. 1994/3227.

(3) Subsection (4) of section 153 was substituted by paragraph 70(1) of Schedule 14 to the Finance Act 1996 (c. 8).

(2) In paragraph (2) for the words “paragraph (3)” there shall be substituted “paragraphs (3) and (3A)”.

(3) In paragraph (3) after the word “then” there shall be inserted “, subject to paragraph (3A) below”.

(4) After paragraph (3) there shall be inserted the following paragraph—

“(3A) If in a case where this regulation applies—

- (a) only a proportion of a liability owed by the company is matched with an asset, not being an asset that is a ship or an aircraft, or
- (b) another liability owed by the company is eligible to be matched with that asset at the time the election is made, but is not matched, and
- (c) an exchange loss in relation to—

- (i) the whole of the liability referred to in sub-paragraph (a) or (b), or
- (ii) a proportion of that liability, being in the case of the liability referred to in sub-paragraph (a), a greater proportion than the proportion matched,

is shown in the company’s accounts for the period which is or includes the current period, in the reserves,

the amount of the initial exchange loss as respects that liability for the current period, calculated in accordance with this regulation, shall be reduced by the amount by which the exchange loss shown in the reserves and relating to that liability exceeds the exchange loss relating to the proportion (if any) of the liability that was matched.”

(5) In paragraph (6)(c) after the words “sub-paragraph (a) or (b) above” there shall be added “and which is not a qualifying asset”.

(6) In paragraph (7)—

- (a) the word “and” immediately following sub-paragraph (a) shall be omitted;
- (b) after sub-paragraph (a) there shall be inserted the following sub-paragraphs—
 - “(aa) all shares in the same company shall constitute a single asset,
 - (ab) all debts on a security issued by the same company shall constitute a single asset, and”.

5. In regulation 10—

- (a) in paragraph (2)—
 - (i) sub-paragraphs (a) and (d) shall be omitted;
 - (ii) in sub-paragraph (c) after the word “liability” there shall be inserted “to be matched by the election”;
- (b) in paragraph (5)—
 - (i) for the words “specified in”, wherever occurring, there shall be substituted “matched by”;
 - (ii) for the words from “the liability ceases” to “any other liability” there shall be substituted “in any such case at any time after the election is made or, in the case of an election to which regulation 11(2) applies, has effect, the company is subject to another eligible liability”;
- (c) in paragraph (6) for the words “specified in”, where those words first occur, there shall be substituted “matched by”.

6. In regulation 11—

- (a) in paragraph (5)(a) after the words “that company” there shall be inserted “or, where the direction is given on or after 1st April 1996, no earlier accounting period of that company is an ADP exempt period”;
- (b) after paragraph (5) there shall be added the following paragraph—
 - “(6) In paragraph (5) above “ADP exempt period” means an accounting period of the company—
 - (a) which begins on or after 28th November 1995, and
 - (b) in respect of which the company has pursued, within the meaning of Part I of Schedule 25 to the Taxes Act, an acceptable distribution policy.”

21st May 1996

Simon Burns
Michael Bates
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Exchange Gains and Losses (Alternative Method of Calculation of Gain or Loss) Regulations 1994 (S.I. [1994/3227](#)) (“the principal Regulations”) which make provision for an alternative method of calculation to be used in certain circumstances for finding the amount to be treated as an exchange gain or loss under the provisions in Chapter II of Part II of the Finance Act 1993.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 adds a definition of “qualifying asset” to regulation 4(2) of the principal Regulations (interpretation).

Regulation 4 amends regulation 5 of the principal Regulations in two respects. The first amendment provides that, where an exchange loss arising to a company in relation to a liability owed by the company is shown in the company’s accounts, in the reserves, and the amount of that exchange loss exceeds the amount of the exchange loss on the proportion (if any) of the liability that is matched with an asset, the amount of the initial exchange loss shall be reduced by the amount of the excess. The second amendment amends the definition of “eligible assets” so as to exclude qualifying assets.

Regulation 5 makes two amendments to regulation 10 of the principal Regulations. First it omits from the list of matters to be identified in a matching election certain items relating to the liability to be matched with an asset. Secondly, where a liability matched by an election ceases at any time to match the asset specified in the election, the regulation enables the election to have effect in relation to any liability of a company that is eligible to be matched with the asset, irrespective of whether or not the company has ceased to owe the liability originally matched by the election.

Regulation 6 amends regulation 11(5) of the principal Regulations so as to make clear that the special rules for determining the date when a matching election made by a controlled foreign company takes effect do not apply where, prior to the accounting period for which a direction under section 747 of the Income and Corporation Taxes Act 1988 ([c. 1](#)) (imputation of chargeable profits and creditable tax of a controlled foreign company) is made in relation to the company, there has been a previous accounting period in respect of which the company has pursued, within the meaning of Part I of Schedule 25 to that Act, an acceptable distribution policy.