

**2002 No. 1969**

**INCOME TAX**

**The Exchange Gains and Losses (Transitional Provisions  
and Savings) Regulations 2002**

<i>Made</i> - - - - -	<i>25th July 2002</i>
<i>Laid before the House of Commons</i>	<i>25th July 2002</i>
<i>Coming into force</i> - - - - -	<i>1st October 2002</i>

The Treasury, in exercise of the powers conferred upon them by section 81 of the Finance Act 2002(a), hereby make the following Regulations:

**PART 1**

**Introduction**

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Exchange Gains and Losses (Transitional Provisions and Savings) Regulations 2002 and shall come into force on 1st October 2002.

(2) These Regulations have effect in relation to accounting periods beginning on or after 1st October 2002.

**PART 2**

**Saving of the Exchange Gains and Losses (Transitional Provisions) Regulations  
1994 with modifications**

**Introduction**

2. The Exchange Gains and Losses (Transitional Provisions) Regulations 1994(b) are modified in accordance with regulations 3 to 11 below and, as modified, continue to have effect (notwithstanding the repeal of sections 164(14), 165(4) to (6) and 167(1) and (4) to (6) of, and Schedule 16 to, the Finance Act 1993(c) by sections 79(1)(b) and 141 of, and Part 3(10) of Schedule 40 to, the Finance Act 2002).

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(a) 2002 c. 23.

(b) S.I. 1994/3226, amended by S.I. 1995/408 and 1996/1349.

(c) 1993 c. 34. Subsections (5A) and (5B) were inserted in section 167 by paragraph 74 of Schedule 14 to the Finance Act 1996 (c. 8) and those subsections were amended, and subsection (5C) inserted in section 167, by section 106(15) of the Finance Act 2000 (c. 17).

### **Modification of regulation 1**

3. In regulation 1(3)(a)—
  - (a) for sub-paragraph (g) substitute—

“(g) “a regulation 6(3) asset” means an existing asset the basic valuation of which was determined for the purposes of Chapter II in accordance with regulation 6(3) of these Regulations;”;
  - (b) at the end of sub-paragraph (h) add “; and”
    - (i) “the relevant accounting period”, in relation to a company, means the company’s first accounting period to begin on or after 1st October 2002.”.

### **Modification of regulation 2**

4. In regulation 2(2)—
  - (a) omit “Sections 136, 137 and 139 to 141 of the 1993 Act;”;
  - (b) omit “The Exchange Gains and Losses (Deferral of Gains and Losses) Regulations 1994.”.

### **Omission of regulations 3 to 6**

5. Omit regulations 3 to 6(b).

### **Modification of regulation 7**

6. In regulation 7(2)—
  - (a) after the definition of “the cumulative taxed loss” insert—

““the final accounting period”, in relation to a company, means the company’s accounting period preceding the relevant accounting period;”;
  - (b) omit the words from “and any reference” to the end.

### **Modification of regulation 8**

7. In regulation 8(5) for “above” substitute “of these Regulations”.

### **Modification of regulation 13**

- 8.—(1) Modify regulation 13(c) as follows.
  - (2) In paragraph (1) for “14(1) and 15(1)” substitute “14 and 14A”.
  - (3) After paragraph (1) insert—

“(1A) For the purposes of paragraph (1)(a) above, the final accounting period shall be treated as the last accrual period as respects any asset or liability held or owed by the company immediately after the end of the final accounting period.”.
  - (4) In paragraphs (2)(a), (b) and (c) and (3)(a), (b) and (c) for “before the end of the last accrual period” substitute “after the end of the final accounting period”.
  - (5) For paragraph (4) substitute—

“(4) In paragraphs (2) and (3) above, a relevant gain or loss in relation to a regulation 6(3) asset is a chargeable gain or an allowable loss.

(4A) In relation to any asset other than a regulation 6(3) asset or any liability, an amount equal to the amount of any relevant gain or loss that is deemed to accrue to the company under paragraph (2) or (3) above shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (according to whether it is a relevant gain or loss)—

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(a) Regulation 1(3) was amended by regulation 3 of S.I. 1996/1349.  
(b) Regulation 6 was amended by regulation 4 of S.I. 1996/1349.  
(c) Regulation 13 was amended by regulation 6 of S.I. 1996/1349.

- (a) as a credit in respect of a loan relationship of the company, or
  - (b) as a debit in respect of a loan relationship of the company,
- which falls to be brought into account under section 82(2) of that Act(a).”.

(6) Omit paragraphs (5) to (8).

#### **Substitution of regulation 14**

9. For regulation 14(b) substitute—

##### **“Elections to defer bringing into account relevant gains and losses deemed to accrue immediately after the end of the final accounting period**

**14.**—(1) In any case where, apart from this regulation, relevant gains or losses would accrue to a company immediately after the end of the final accounting period by virtue of regulation 13, the company may elect, by notice to the inspector within two years of the end of the final accounting period, that this regulation shall apply as respects—

- (a) subject to paragraph (3) below, all relevant gains or losses to which paragraph (4) of regulation 13 would apply;
- (b) all relevant gains or losses to which paragraph (4A) of that regulation would apply; or
- (c) both.

An election under this paragraph shall be irrevocable.

(2) Where an election is made under paragraph (1) above, every gain or loss to which this regulation applies shall be treated as accruing only when the asset or liability to which the gain or loss relates ceases to be held or owed by the company.

(3) No election may be made under paragraph (1) above as respects relevant gains or losses to which regulation 13(4) would apply if an election under regulation 14A is made as regards such losses.

##### **Elections to treat losses deemed to accrue immediately after the end of the final accounting period as debits in respect of loan relationships**

**14A.**—(1) In any case where—

- (a) apart from this regulation, relevant losses would accrue to a company as respects regulation 6(3) assets immediately after the end of the final accounting period by virtue of regulation 13; and
- (b) if relevant gains would accrue as respects such assets at that time by virtue of that regulation, such losses would exceed them,

the company may elect, by notice to the inspector within two years of the end of the final accounting period, that this regulation shall apply as respects such losses or, in a case where sub-paragraph (b) applies, such losses to the extent that they exceed the relevant gains.

An election under this paragraph shall be irrevocable.

(2) Where an election is made under paragraph (1) above, an amount equal to the amount of the losses to which this regulation applies shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as a debit in respect of a loan relationship of the company for the new accounting period and not falling to be brought into account under section 82(2) of that Act.

##### **Treatment of losses available to be carried forward at the end of the final accounting period as a result of an election made under regulation 14(5) or 16(1)**

**14B.**—(1) This regulation applies where, as a result of an election made under regulation 14(5) or 16(1) of these Regulations, an amount of available losses (“the relevant amount”) was available at the end of the final accounting period to be carried forward and, apart from this regulation, to be set against a company’s exchange gains.

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(a) Section 82(2) was amended by paragraph 11 of Schedule 7 to the Finance Act 1998 (c. 36).  
(b) Regulation 14 was amended by regulation 7 of S.I. 1996/1349.

(2) Where this regulation applies an amount equal to the relevant amount shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as a debit in respect of a loan relationship of the company for the new accounting period and not falling to be brought into account under section 82(2) of that Act.”.

#### **Omission of regulations 15 and 16**

10. Omit regulations 15 and 16(a).

#### **Omission of Part 4**

11. Omit the whole of Part 4(b).

## **PART 3**

### **Saving of the Exchange Gains and Losses (Alternative Method of Calculation) Regulations 1994 with modifications**

#### **Introduction**

12. The Exchange Gains and Losses (Alternative Method of Calculation) Regulations 1994(c) are modified in accordance with regulations 13 to 17 below and, as modified, continue to have effect (notwithstanding the repeal of sections 164(14) and 167(1) and (4) to (6) of, and Schedule 15 to, the Finance Act 1993 by sections 79(1)(b) and 141 of, and Part 3(10) of Schedule 40 to, the Finance Act 2002).

#### **Omission of regulations 2 and 3**

13. Omit regulations 2 and 3(d).

#### **Modification of regulation 7**

- 14.—(1) Modify regulation 7 as follows.

(2) In paragraph (1) for the words from “Subject to” to “by a company at any time” substitute “Paragraphs (3) to (5) below apply in any case where a disposal of an asset is deemed by virtue of paragraph (1A) below to have been made by a company immediately before the first day of its first accounting period to begin on or after 1st October 2002”.

- (3) After paragraph (1) insert—

“(1A) For the purposes of paragraph (1) above, any asset held by the company at the beginning of the first day of its first accounting period to begin on or after 1st October 2002 shall be deemed to have been disposed of by the company immediately before that first day.”.

- (4) Omit paragraph (2).
- (5) Omit paragraphs (6) to (8).

#### **Omission of regulations 8 and 9**

15. Omit regulations 8 and 9.

#### **Modification of regulation 11**

16. In regulation 11(e) after paragraph (1) insert—

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(a) Regulation 15 was amended by regulation 8 of S.I. 1996/1349.  
(b) Part 4 was amended by regulation 2 of S.I. 1995/408 and regulation 9 of S.I. 1996/1349.  
(c) S.I. 1994/3227, relevantly amended by S.I. 1996/1347 and 2001/3629.  
(d) Regulation 2 was amended by article 138 of S.I. 2001/3629.  
(e) Regulation 11 was amended by regulation 6 of S.I. 1996/1347.

“(1A) Notwithstanding the following provisions of this regulation, an election made under regulation 10 or this regulation—

- (a) shall have effect only in relation to accounting periods beginning before 1st October 2002, and
- (b) an election which specifies a day as the day from which the election is to have effect must specify a day that falls within an accounting period beginning before 1st October 2002.”.

#### **Omission of regulation 12**

- 17. Omit regulation 12.

## **PART 4**

### **Saving of the Exchange Gains and Losses (Insurance Companies) Regulations 1994 with modifications**

#### **Introduction**

18. The Exchange Gains and Losses (Insurance Companies) Regulations 1994(a) are modified in accordance with regulations 19 to 27 below and, as modified, continue to have effect (notwithstanding the repeal of sections 167(1) and 168(2) to (5) of the Finance Act 1993 by sections 79(1)(b) and 141 of, and Part 3(10) of Schedule 40 to, the Finance Act 2002).

#### **Modification of regulation 1**

- 19. In regulation 1(b) after the definition of “basic valuation” insert—  
““the final accounting period”, in relation to a company, means the company’s accounting period preceding the first accounting period to begin on or after 1st October 2002;”.

#### **Omission of regulations 2 to 5A**

- 20. Omit regulations 2 to 5A(c).

#### **Modification of regulation 7**

- 21. In regulation 7(d) for paragraph (1) substitute—  
“(1) An asset specified by this regulation is referred to in regulations 7A and 8 to 12 as a “regulation 7 asset.”.

#### **Insertion of regulations 7A and 7B**

- 22. After regulation 7 insert—  
“7A.—(1) An asset shall be deemed to have been disposed of by an insurance company immediately before its first accounting period to begin on or after 1st October 2002 where—
  - (a) the asset was a regulation 7 asset at the time of its deemed disposal, and
  - (b) at that time, the insurance company had made no election under regulation 8A of these Regulations.  
(2) Subject to regulation 7B, any chargeable gain or allowable loss accruing on the deemed disposal under paragraph (1) above of an asset shall be brought into account as if it had accrued immediately after the end of the final accounting period.

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(a) S.I. 1994/3231, amended by S.I. 1996/673 and 1485, S.I. 1997/1155 and S.I. 2001/3629.

(b) Regulation 1 was amended by regulation 3 of S.I. 1996/673.

(c) Regulation 5A was inserted by regulation 3 of S.I. 1996/1485.

(d) Regulation 7 was added, together with regulations 8 and 9 to 12, by regulation 4 of S.I. 1996/673 and amended by S.I. 1997/1155 and article 138 of S.I. 2001/3629.

**7B.** In any case where, apart from this regulation, chargeable gains or allowable losses would accrue to an insurance company immediately after the end of the final accounting period by virtue of regulation 7A—

- (a) the insurance company may elect, by notice to the inspector within two years of the end of the final accounting period, that this regulation shall apply as respects all such gains or losses, and
- (b) where such an election is made, every such gain or loss to which this regulation applies shall be treated as accruing only when the asset or liability to which the gain or loss relates ceases to be held or owed by the insurance company.”.

#### **Modification of regulation 8**

**23.** In regulation 8(1)(a)—

- (a) for “disposal of a regulation 7 asset” substitute “the deemed disposal under regulation 7A(1) of an asset”;
- (b) for “8A” substitute “9”.

#### **Omission of regulation 8A**

**24.** Omit regulation 8A(b).

#### **Modification of regulation 9**

**25.** In regulation 9(2) for “disposal of the asset” substitute “deemed disposal under regulation 7A(1) of the asset”.

#### **Modification of regulation 11**

**26.** In regulation 11(2) for “disposal of the asset” substitute “deemed disposal under regulation 7A(1) of the asset”.

#### **Modification of regulation 12**

**27.** In regulation 12(2) for “disposal of the asset” substitute “deemed disposal under regulation 7A(1) of the asset”.

## **PART 5**

### **Saving of the Exchange Gains and Losses (Miscellaneous Modifications) Regulations 2000 with modifications**

#### **Introduction**

**28.** The Exchange Gains and Losses (Miscellaneous Modifications) Regulations 2000(c) are modified in accordance with regulations 29 and 30 below and, as modified, continue to have effect (notwithstanding the repeal of sections 164(14), 167(1) and (4) to (6) of, and Schedules 15 and 16 to, the Finance Act 1993 by sections 79(1)(b) and 141 of, and Part 3(10) of Schedule 40 to, the Finance Act 2002).

#### **Omission of regulations 2 to 5**

**29.** Omit regulations 2 to 5.

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(a) Regulation 8(1) was amended by regulation 4 of S.I. 1996/1485.  
(b) Regulation 8A was inserted by regulation 5 of S.I. 1996/1485.  
(c) S.I. 2000/3315.

## Omission of regulation 11

30. Omit regulation 11.

*Jim Fitzpatrick  
Philip Woolas*

25th July 2002

Two of the Lords Commissioners of Her Majesty's Treasury

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 79(1) of the Finance Act 2002 (c. 23) repeals paragraph 4 of Schedule 9 to the Finance Act 1996 (c. 8) and, in consequence, sections 125 to 169 of the Finance Act 1993 (c. 34). These Regulations make savings (with modifications) of various regulations made under powers contained in the latter provisions. The Regulations are intended to make transitional provision in respect of the change of tax treatment of exchange gains and losses which will be governed in future by the provisions relating to loan relationships in Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) and to derivative contracts in Schedule 26 to the Finance Act 2002.

Part 1 contains introductory provisions. Regulation 1 provides for citation, commencement and effect. The Regulations have effect in relation to accounting periods beginning on or after 1st October 2002.

Part 2 saves the Exchange Gains and Losses (Transitional Provisions) Regulations 1994 (S.I. 1994/3226) (“the Transitional Provisions Regulations”) with modifications.

Regulation 2 is an introductory provision.

Regulation 3 modifies regulation 1 of the Transitional Provisions Regulations.

Regulation 4 modifies regulation 2 of the Transitional Provisions Regulations.

Regulation 5 omits regulations 3 to 6 of the Transitional Provisions Regulations.

Regulation 6 modifies regulation 7 of the Transitional Provisions Regulations.

Regulation 7 modifies regulation 8 of the Transitional Provisions Regulations.

Regulation 8 modifies regulation 13 of the Transitional Provisions Regulations.

Regulation 9 substitutes regulation 14 of the Transitional Provisions Regulations.

Regulation 10 omits regulations 15 and 16 of the Transitional Provisions Regulations.

Regulation 11 omits Part 4 of the Transitional Provisions Regulations.

Part 3 saves the Exchange Gains and Losses (Alternative Method of Calculation) Regulations 1994 (S.I. 1994/3227) (“the Alternative Method Regulations”) with modifications.

Regulation 12 is an introductory provision.

Regulation 13 omits regulations 2 and 3 of the Alternative Method Regulations.

Regulation 14 modifies regulation 7 of the Alternative Method Regulations.

Regulation 15 omits regulations 8 and 9 of the Alternative Method Regulations.

Regulation 16 modifies regulation 11 of the Alternative Method Regulations.

Regulation 17 omits regulation 12 of the Alternative Method Regulations.

Part 4 saves the Exchange Gains and Losses (Insurance Companies) Regulations 1994 (S.I. 1994/3231) (“the Insurance Companies Regulations”) with modifications.

Regulation 18 is an introductory provision.

Regulation 19 modifies regulation 1 of the Insurance Companies Regulations.

Regulation 20 omits regulations 2 to 5A of the Insurance Companies Regulations.

Regulation 21 modifies regulation 7 of the Insurance Companies Regulations.  
Regulation 22 inserts regulations 7A and 7B in the Insurance Companies Regulations.  
Regulation 23 modifies regulation 8 of the Insurance Companies Regulations.  
Regulation 24 omits regulation 8A of the Insurance Companies Regulations.  
Regulation 25 modifies regulation 9 of the Insurance Companies Regulations.  
Regulation 26 modifies regulation 11 of the Insurance Companies Regulations.  
Regulation 27 modifies regulation 12 of the Insurance Companies Regulations.  
Part 5 saves the Exchange Gains and Losses (Miscellaneous Modifications) Regulations 2000 (S.I. 2000/3315) (“the Miscellaneous Modifications Regulations”) with modifications.  
Regulation 28 is an introductory provision.  
Regulation 29 omits regulations 2 to 5 of the Miscellaneous Modifications Regulations.  
Regulation 30 omits regulation 11 of the Miscellaneous Modifications Regulations.

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