

**2007 No. 3432**

**CORPORATION TAX**

**The Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) (No. 2) Regulations 2007**

<i>Made</i> - - - -	<i>5th December 2007</i>
<i>Laid before the House of Commons</i>	<i>6th December 2007</i>
<i>Coming into force</i> - -	<i>27th December 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 85B(3) and (5) of, and paragraph 19B of Schedule 9 to, the Finance Act 1996(a).

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Loan Relationships and Derivative Contracts (Change of Accounting Practice) (Amendment) (No. 2) Regulations 2007 and shall come into force on 27th December 2007.

(2) These Regulations have effect in relation to accounting periods beginning on or after 1st January 2008.

**Amendment of 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 of regulation 2**

3. In regulation 2 (interpretation), insert at the end—

““qualifying transfer” means—

- (a) a transaction to which section 343(1) of the Income and Corporation Taxes Act 1988(c) (company reconstruction without a change of ownership) applies,
- (b) a transaction to which that section would apply if for “trade” there were substituted “investment business or property business”, or
- (c) a transfer of a business which consists of the effecting or carrying out of contracts of long-term insurance from one person to another person (“the transferee”);

“successor” has the meaning given by section 343(1) of the Income and Corporation Taxes Act 1988;

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(a) 1996 c. 8. Section 85B was inserted by paragraph 3 of Schedule 10 to the Finance Act 2004 (c. 12) and paragraph 19B was inserted by paragraph 36 of that Schedule.

(b) S.I. 2004/3271; relevantly amended by S.I. 2005/3383 and S.I. 2006/3238.

(c) 1988 c. 1.

“transferee” shall be construed in accordance with paragraph (c) of “qualifying transfer”.”

#### **Amendment of regulation 3A**

4. In regulation 3A (prescribed debits and credits brought into account over prescribed period)(a), omit paragraph (8).

#### **Substitution of regulation 3B**

5. For regulation 3B(b) substitute—

##### **“Prescribed debits and credits in relation to dormant accounts**

**3B.**—(1) The debits and credits prescribed in regulation 4(1)(a) or (b) which are specified in paragraph (2) (“the specified amounts”) shall be brought into account in accounting periods of the company beginning on or after 1st January 2008 in accordance with this regulation, but only to the extent that they represent the reversal of amounts that have been brought into account for corporation tax in accounting periods before the later period.

(2) The specified debits and credits are those which represent an adjustment in the value for accounting purposes of a liability owed by a bank or building society to a depositor which at the end of the earlier period had no carrying value.

(3) One tenth of the specified amounts shall be allocated to each year in the prescribed period.

(4) If amounts representing fractions of the specified amounts fall under paragraph (3) to be allocated to a year these amounts shall be—

- (a) apportioned between the accounting periods beginning or ending in that year, and
- (b) brought into account in the periods to which they are so apportioned, subject to paragraph (6).

(5) An apportionment between accounting periods of amounts allocated under paragraph (3) to any year shall be made according to how much of the year is included in each period, and, if that year and the accounting period are the same, the apportionment shall be effected by the allocation of the whole of the amounts to that accounting period.

(6) Where the prescribed period began before 1st January 2008, the debits and credits specified in paragraph (2) that would have been brought into account in accounting periods beginning before that date if regulation 3A had applied to those debits and credits from the beginning of the prescribed period shall be brought into account in the first accounting period beginning on or after that date.

(7) If a company ceases to be within the charge to corporation tax before the end of the prescribed period, the whole of the specified amounts, so far as they have not fallen to be brought into account for an earlier accounting period, shall be brought into account as a credit or debit for the accounting period ending when the company ceases to be within that charge.

This paragraph does not apply if paragraph (8) applies.

(8) In a case where there is a qualifying transfer—

- (a) these Regulations apply to the successor or transferee for the remainder of the prescribed period for the purpose of bringing into account the specified amounts, so far as they have not fallen to be brought into account for an earlier accounting period, and
- (b) if—

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(a) Regulation 3A was inserted by S.I. 2005/3383.

(b) Regulation 3B was inserted by S.I. 2005/3383 and amended by S.I. 2006/3238.

- (i) there are two or more successors or transferees, or
  - (ii) the transfer is of part only of the business,
- those specified amounts shall be apportioned between the parties in a manner that is just and reasonable in the circumstances.

(9) Paragraph 8 does not apply where the successor or transferee is resident outside the United Kingdom unless the business to which the qualifying transfer relates is carried on by the successor or transferee through a permanent establishment in the United Kingdom.

(10) In this regulation—

“bank” has the meaning given by section 840A of the Income and Corporation Taxes Act 1988(a);

“building society” has the meaning given by section 832(1) of that Act;

“carrying value” has the meaning given by paragraph 19A(4A) of Schedule 9 to the Finance Act 1996(b);

“prescribed period” has the meaning given by regulation 3A(2).”

*Alan Campbell*  
*Claire Ward*

5th December 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) Section 840A was inserted by paragraph 1(1) of Schedule 37 to the Finance Act 1996 and amended by S.I. 2001/3629 and S.I. 2002/1409 and by paragraph 36 of Schedule 35 to the Finance Act 2004 and by paragraph 226 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(b) Paragraph 19A was inserted by paragraph 36 of Schedule 10 to the Finance Act 2004 and sub-paragraph (4A) was inserted by paragraph 31(3) of Schedule 4 to the Finance Act 2005 (c. 7).

## 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 made provision for certain debits and credits not to be brought into account in the first accounting period beginning on or after 1st January 2005 but to be brought into account in later accounting periods.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 2 (interpretation) of the principal Regulations.

Regulation 4 amends regulation 3A (prescribed debits and credits brought into account over prescribed period) of the principal Regulations consequent upon the amendment made by regulation 3.

Regulation 5 substitutes regulation 3B of the principal Regulations to introduce a provision to bring into account debits and credits in respect of dormant accounts of banks and building societies in accounting periods beginning on or after 1st January 2008.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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