STATUTORY INSTRUMENTS

2019 No. 1345

CORPORATION TAX

The Hybrid and Other Mismatches (Financial Instruments: Excluded Instruments) Regulations 2019

Made - - - -	*14th October 2019*
Laid before the House of Commons	*15th October 2019*
Coming into force - -	*1st January 2020*

The Treasury, in exercise of the powers conferred by section 259N(3)(b) of the Taxation (International and Other Provisions) Act 2010(**a**), make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Hybrid and Other Mismatches (Financial Instruments: Excluded Instruments) Regulations 2019 and come into force on 1st January 2020.

(2) These Regulations have effect in relation to—

(a) payments(**b**) made on or after 1st January 2020 but before 1st January 2023, and

(b) quasi-payments(**c**) in relation to which the payment period(**d**) begins on or after 1st January 2020 and ends before 1st January 2023.

(3) Where a payment period begins before 1st January 2020 and ends on or after that date ("the straddling period")—

(a) so much of the straddling period as falls before 1st January 2020, and so much of that period as falls on or after that date, are to be treated as separate taxable periods(**e**), and

(b) where it is necessary to apportion an amount for the straddling period to the two separate taxable periods, it is to be apportioned—

(i) on a time basis according to the respective length of the separate taxable periods, or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

(4) Where a payment period begins on or before 31st December 2022 and ends after that date ("the straddling period")—

(a) so much of the straddling period as falls on or before 31st December 2022, and so much of that period as falls after that date, are to be treated as separate taxable periods, and

(**a**) 2010 c. 8; section 259N was inserted by paragraph 1 of Schedule 10 to the Finance Act 2016 (c. 24) and was amended by section 19(4) of the Finance Act 2019 (c. 1).
(**b**) "Payment" is defined in section 259NF of the Taxation (International and Other Provisions) Act 2010.
(**c**) "Quasi-payment" is defined in section 259NF of the Taxation (International and Other Provisions) Act 2010.
(**d**) "Payment period" is defined in section 259NF of the Taxation (International and Other Provisions) Act 2010.
(**e**) "Taxable period" is defined in section 259NF of the Taxation (International and Other Provisions) Act 2010.

(b) where it is necessary to apportion an amount for the straddling period to the two separate taxable periods, it is to be apportioned—

(i) on a time basis according to the respective length of the separate taxable periods, or

(ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

Financial instruments: excluded instruments

2.—(1) An instrument issued to an associated enterprise is not a financial instrument within section 259N of the Taxation (International and Other Provisions) Act 2010 if it meets the conditions set out in paragraphs (i) to (iv) of point (b) of paragraph 4 of Article 9 of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market(**a**).

(2) For the purposes of paragraph (1), "associated enterprise" has the meaning given in Article 2(4) of that Directive.

Revocation of the Hybrid and Other Mismatches (Financial Instrument: Exclusions) Regulations 2019

3. The Hybrid and Other Mismatches (Financial Instrument: Exclusions) Regulations 2019(**b**) are revoked.

Mike Freer
Michelle Donelan
14th October 2019 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provisions implementing Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.

Regulation 1 provides for citation commencement and effect. These Regulations only have effect in relation to payments made on or after 1 January 2020 and before 1 January 2023.

Regulation 2 makes provision to exclude instruments which satisfy the conditions in paragraphs (i) to (iv) of point (b) of paragraph 4 of Article 9 of that Directive from the definition of "financial instrument" in section 259N of the Taxation (International and Other Provisions) Act 2010.

Regulation 3 revokes the Hybrid and Other Mismatches (Financial Instrument: Exclusions) Regulations 2019.

A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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(**a**) OJ No. L 193, 19.7.2016, p. 1, relevantly amended by Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (OJ No. L 144, 7.6.2017, p. 1).
(**b**) S.I. 2019/1251.

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