
STATUTORY INSTRUMENTS

2006 No. [abcd]

INCOME TAX

CORPORATION TAX

CAPITAL GAINS TAX

The Authorised Investment Funds (Tax) Regulations 2006

Made - - - - - *[day month 2006]*

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The Treasury, in exercise of the powers conferred upon them by sections 17(3) and 18 of the Finance (No. 2) Act 2005(a) and section 152 of the Finance Act 1995(b) make the following Regulations:

PART 1

PRELIMINARY PROVISIONS AND INTERPRETATION

Preliminary provisions

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Authorised Investment Funds (Tax) Regulations 2006, and shall come into force on [day/month] 2006.

(2) These Regulations have effect—

- (a) for the purposes of income tax, for—
 - (i) the tax year 2006-07, and subsequent tax years, and
 - (ii) for distribution periods beginning on or after 6th April 2006;
- (b) for the purposes of corporation tax—
 - (i) for accounting periods beginning on or after 1st April 2006, and
 - (ii) for distribution periods beginning on or after 1st April 2006; and
- (c) for the purposes of capital gains tax the tax year 2006-07, and subsequent tax years.

Structure of these Regulations

2. The structure of these Regulations is as follows—

- this Part contains preliminary provisions and provides for interpretation;
- Part 2 deals with the tax treatment of authorised investment funds;
- Part 3 deals with distributions made by authorised investment funds;
- Part 4 deals with the treatment of participants in authorised investment funds;
- Part 5 deals with compliance;
- Part 6 contains further provisions relating to authorised investment funds;
- Part 7 contains consequential amendments and modifications of enactments; and
- Part 8 contains final provisions.

(a) 2005 c. 22.

(b) 1995 c. 4; section 152 was amended by paragraph 13 of Schedule 19 to the Finance Act 1999 (c. 16) and Article 90 of S.I. 2001/3629.

Interpretation

Definition of “authorised investment funds”

3. In these Regulations “authorised investment funds” means—

- (a) open-ended investment companies, and
- (b) authorised unit trust schemes.

Definition of “open-ended investment company”

4. In these Regulations “open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of the 2000 Act^(a) applies.

Interpretation of expressions relating to authorised unit trust schemes

5.—(1) In these Regulations “unit trust scheme” has the meaning given by section 237 of the 2000 Act.

(2) For the purposes of these Regulations a unit trust scheme is authorised in relation to an accounting period if an order under section 243 of the 2000 Act is in force in relation to that scheme during the whole or part of that accounting period.

(3) In these Regulations “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

Further definitions generally relevant for authorised investment funds

6.—(1) In these Regulations the “legal owner” means—

- (a) in relation to an open-ended investment company, the open-ended investment company, and
- (b) in relation to an authorised unit trust, the trustee of the trust.

(2) In these Regulations the “scheme property” means—

- (a) in relation to an open-ended investment company, the property subject to the collective investment scheme constituted by the company, and
- (b) in relation to an authorised unit trust, the property subject to the collective investment scheme constituted by the trust.

(3) In these Regulations the “manager” means—

- (a) in relation to an open-ended investment company, the authorised corporate director, and
- (b) in relation to an authorised unit trust means the person who is the manager of the trust for the purposes of Chapter 3 of Part 17 of the 2000 Act (authorised unit trust schemes).

(4) In these Regulations a “participant” means—

- (a) a shareholder in an open-ended investment company, or
- (b) a unit holder in an authorised unit trust;

and a reference to a participant includes a person beneficially entitled to shares or units (and a reference to owning shares or units shall be construed accordingly).

(5) In these Regulations, unless a contrary intention appears, “units” means the rights or interests (however described) of the participants in the authorised investment fund.

(6) In these Regulations “accumulation unit” means—

(a) 2000 c. 8.

- (a) in relation to an open-ended investment company, a share in the company in respect of which income is credited periodically to the capital part of the scheme property of the company, and
- (b) in relation to an authorised unit trust, a unit in the trust in respect of which income is credited periodically to the capital part of the scheme property of the trust.

Umbrella companies and umbrella schemes: interpretation

7.—(1) In these Regulations “umbrella company” has the meaning given by section 468A(4) of the Taxes Act(a), and a reference to a part of an umbrella company shall be construed in accordance with that provision.

(2) For the purposes of these Regulations each of the parts of an umbrella company shall be regarded as an open-ended investment company and the umbrella company as a whole shall not be so regarded.

(3) In relation to a part of an umbrella company, any reference—

- (a) to investments of an open-ended investment company shall have effect as a reference to such of the investments as under the arrangements form part of the separate pool to which that part of the umbrella company relates, and
- (b) a person for the time being having rights in that part shall be regarded as the owner of shares in the open-ended investment company which that part is regarded as being by virtue of paragraph (2), and not as the owner of shares in the umbrella company itself.

(4) In these Regulations “umbrella scheme” has the meaning given by section 468(8) of the Taxes Act, and a reference to a part of an umbrella scheme shall be construed in accordance with that provision.

(5) For the purposes of these Regulations each of the parts of an umbrella scheme shall be regarded as an authorised unit trust and the umbrella scheme as a whole shall not be so regarded.

(6) In relation to a part of an umbrella scheme, any reference—

- (a) to investments subject to the trusts of an authorised unit trust, shall have effect as a reference to such of the investments as under the arrangements form part of the separate pool to which that part of the umbrella scheme relates, and
- (b) to a unit holder, shall have effect as a reference to a person for the time being having rights in that separate pool.

General interpretation

8. In these Regulations—

“authorised corporate director” in relation to an open-ended investment company, means a corporate director of the company acting in the capacity as the director having responsibility for the management of its scheme property, being an authorised person within the meaning given by section 31(2) of the 2000 Act, or if there is no such director, the person for the time being having responsibility for the management of the scheme property of the company and acting in that capacity;

“collective investment scheme” has the meaning given by section 235 of the 2000 Act;

the “Commissioners” means the Commissioners for Revenue and Customs;

“creditor relationship” has the meaning given by section 103(1) of the Finance Act 1996(b);

“derivative contract” means—

- (a) a contract which is a derivative contract within the meaning of Schedule 26 to the Finance Act 2002(c), or

(a) Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

(b) 1996 c. 8.

(c) 2002 c. 23.

(b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);

“investments” do not include cash awaiting investment;

“net asset value” means the value of the assets of the authorised investment fund, after the deduction of specified liabilities;

“reporting date” means the final day of each annual and each half-yearly accounting period of the authorised investment fund;

“residence declaration” is to be construed in accordance with regulation 30;

“tax year”—

(a) in relation to income tax, means a year of assessment within the meaning of the Taxes Act (see section 832(1) of that Act), and

(b) in relation to capital gains tax, means a year of assessment within the meaning of the 1992 Act (see section 288(1) of that Act).

PART 2

THE TAX TREATMENT OF AUTHORISED INVESTMENT FUNDS

Loan relationships and derivative contracts: exclusion of capital profits, gains or losses

General rule for loan relationships: exclusion of capital profits, gains or losses

9.—(1) This regulation applies if any profits, gains or losses arising to an authorised investment fund from a creditor relationship in an accounting period are capital profits, gains or losses.

(2) For the purposes of Chapter 2 of Part 4 of the Finance Act 1996^(a) (loan relationships) those profits, gains or losses must not be brought into account as credits or debits.

(3) Regulation 10 explains what is meant by “capital profits, gains or losses” in the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice.

General rule for derivative contracts: exclusion of capital profits, gains or losses

10.—(1) This regulation applies if any profits, gains or losses arising to an authorised investment fund from a derivative contract in an accounting period are capital profits, gains or losses.

(2) For the purposes of Schedule 26 to the Finance Act 2002^(b) (derivative contracts) those profits, gains or losses must not be brought into account as credits or debits.

(3) Regulation [2.1. explains what is meant by “capital profits, gains or losses” in the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice.

Accounts prepared in accordance with UK generally accepted accounting practice

11.—(1) In the case of an authorised investment fund that prepares accounts in accordance with UK generally accepted accounting practice, capital profits, gains or losses arising from a creditor relationship in an accounting period, or capital profits, gains or losses arising from a derivative contract in an accounting period, are such profits, gains or losses arising from a creditor relationship as fall to be dealt with under—

(a) 1996 c. 8.
(b) 2002 c. 23.

- (a) the heading “net gains/losses on investments during the period”, or
- (b) the heading “other gains/losses”,

in the statement of total return for the accounting period.

(2) For the purposes of paragraph (1), the statement of total return for an accounting period is the statement of total return which, in accordance with the Statement of Recommended Practice used for the accounting period, must be included in the accounts contained in the annual report of the authorised investment fund which deals with the accounting period.

(3) For the purposes of paragraph (2), “Statement of Recommended Practice” means—

- (a) in relation to any accounting period for which it is required or permitted to be used, the Statement of Recommended Practice relating to authorised investment funds issued by the Investment Management Association on 21st November 2003, as from time to time modified, amended or revised; or
- (b) in relation to any accounting period for which it is required or permitted to be used, any subsequent Statement of Recommended Practice relating to authorised investment funds, as from time to time modified, amended or revised.

Loan relationships: treatment of interest distributions and deficits

Treatment of interest distributions for purposes of loan relationships

12.—(1) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) has effect in relation to the authorised investment fund and to an interest distribution paid by that fund as it would have effect if the interest distribution were interest payable on a loan to the authorised investment fund and were, accordingly, interest under a loan relationship to which the authorised investment fund were a party.

(2) This regulation is subject to regulation 13.

Treatment of deficits on loan relationships

13. Section 83(2)(c) of the Finance Act 1996 (carrying back of non-trading deficit on loan relationships) shall not have effect in relation to the loan relationships of an authorised investment fund (so that, accordingly, if for any accounting period there is a deficit on the loan relationships of the authorised investment fund, the deficit may not be carried back to be set off against profits for earlier accounting periods).

PART 3

DISTRIBUTIONS MADE BY AUTHORISED INVESTMENT FUNDS

Preliminary

Interpretation

14.—(1) In these Regulations a reference to a “distribution” includes crediting an amount to scheme capital on behalf of a participant in respect of the participant’s accumulation units.

(2) In these Regulations “distribution period”, in relation to an authorised investment fund, means a period by reference to which the total amount available for distribution to participants is ascertained.

(3) In these Regulations “distribution accounts”, in relation to an authorised investment fund, means accounts showing—

- (a) the total amount available for distribution to participants, and
- (b) how that total amount is computed.

(4) In these Regulations the “distribution date” for a distribution period of an authorised investment fund means—

- (a) the date specified by or in accordance with the terms of the trust or the instrument of incorporation of the company for any distribution for that distribution period, or
- (b) if no date is specified, the last day of that distribution period.

Funds excluded from the ambit of this Part

15. This Part does not apply to an authorised investment fund if the fund—

- (a) is a registered pension scheme within the meaning of Part 4 of the Finance Act 2004^(a), or
- (b) is treated, under paragraph 1(1) of Schedule 36 to that Act, as having become such a scheme.

Distribution accounts: general

Contents of distribution accounts

16.—(1) The total amount shown in the distribution accounts as available for distribution to participants must be shown as available for distribution in one of the following ways—

- (a) it may be shown as available for distribution as yearly interest (see regulations 17 to 20 below); or
- (b) it may be shown as available for distribution as dividends (see regulation 21 below).

(2) The following may not be included in any amount shown in the distribution accounts as available for distribution as yearly interest—

- (a) amounts chargeable to income tax as property income (see Part 3 of the 2005 Act: property income);
- (b) amounts chargeable to corporation tax under Schedule A;
- (c) amounts chargeable to corporation tax as income of an overseas property business (see section 70A(4) of the Taxes Act)^(b).

Interest distributions

Interest distributions: general

17.—(1) Paragraph (2) applies where the total amount shown in the distribution accounts as available for distribution to participants is shown as available for distribution as yearly interest.

(2) The Tax Acts shall have effect as if the total amount were payments of yearly interest made on the distribution date by the authorised investment fund to the participants in proportion to their rights.

(3) In these Regulations an “interest distribution” means a payment of yearly interest treated as made by virtue of paragraph (2) (including a payment of interest treated as made to a participant who is not chargeable to income tax).

(4) This regulation is subject to—

- (a) regulation 18 (the qualifying investments test), and
- (b) regulation 22 (treatment of de minimis amounts).

(a) 2004 c. 12.

(b) Section 70A was inserted by paragraph 25 of Schedule 5 to the Finance Act 1998 (c. 36).

The qualifying investments test

18.—(1) No amount may be shown as available for distribution as yearly interest unless the authorised investment fund in question satisfies the qualifying investments test throughout the distribution period.

(2) An authorised investment fund satisfies the qualifying investments test throughout a distribution period (the “relevant period”) if at all times in that period, the market value of the qualifying investments exceeds 60 per cent. of the market value of all the investments of the fund.

(3) Regulations 19 and 20 deal with the meaning of the expression “qualifying investments”.

Meaning of “qualifying investments”

19. In these Regulations “qualifying investments”, in relation to an authorised investment fund, means the investments of that fund which fall within any of the following categories (read, as appropriate, with any applicable provision in regulation 20)—

Category 1

Money placed at interest.

Category 2

Securities.

Category 3

Shares in a building society.

Category 4

Qualifying units in another authorised investment fund.

Category 5

Derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in categories 1 to 4 and currency.

Category 6

Contracts for differences whose underlying subject matter consists wholly of any one or more of interest rates, creditworthiness or currency.

Category 7

Alternative finance arrangements.

Meaning of “qualifying investments”: further provisions

20.—(1) This regulation applies for the purposes of regulation 19.

(2) For the purposes of category 2 “securities” do not include shares in a company.

(3) For the purposes of category 4 units in another authorised investment fund are qualifying units at any time in the relevant period if, and only if, the other authorised investment fund would itself (on the relevant assumption) satisfy the qualifying investments test throughout that period.

(4) For the purposes of paragraph (3) the relevant assumption is that the only investments of the other authorised investment fund which are to be regarded as qualifying investments are those falling within categories 1 to 3 and 5 to 7.

(5) In paragraph (4) references to investments of an authorised investment fund—

(a) in the case of an open-ended investment company are references to investments comprised in the scheme property of that company, but do not include references to cash awaiting investment, and

(b) in the case of an authorised unit trust are references to investments subject to the trusts of that authorised unit trust, but do not include references to cash awaiting investment.

(6) For the purposes of categories 5 and 6 “underlying subject matter” has the same meaning as in paragraph 11 of Schedule 26 to the Finance Act 2002(a).

(7) For the purposes of categories 5 and 6 underlying subject matter may consist of currency only if and to the extent that there is a hedging relationship between the contract and a qualifying investment falling within categories 1 to 4.

(8) In paragraph (7) “hedging relationship” has the meaning given by paragraph 12(14) of Schedule 26 to the Finance Act 2002(b).

(9) For the purposes of category 6 a “contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002(c).

(10) For the purposes of category 7 “alternative finance arrangements” has the meaning given by section 46(1) of the Finance Act 2005(d).

Dividend distributions

Dividend distributions: general

21.—(1) Paragraph (2) applies where the total amount shown in the distribution accounts as available for distribution to participants is shown as available for distribution as dividends.

(2) The Tax Acts shall have effect as if the total amount were dividends on shares paid on the distribution date by the authorised investment fund to the participants in proportion to their rights.

(3) In these Regulations a “dividend distribution” means a dividend treated as paid by virtue of paragraph (2) (including a dividend treated as paid to a participant who is not chargeable to corporation tax).

(4) This regulation is subject to regulation 22 (treatment of de minimis amounts).

De minimis amounts

Provisions applying if amounts available for distribution are de minimis

22.—(1) An authorised investment fund is not treated as making a distribution for a distribution period if conditions A to D are met.

(2) Condition A is that, in accordance with rules made by the Financial Services Authority, the authorised investment fund has an agreed de minimis limit.

(3) Condition B is that the authorised investment fund—

(a) Has prepared distribution accounts in which the amount shown as available for distribution to participants is a de minimis amount, and

(b) Chooses to waive the distribution of that de minimis amount.

(4) Condition C is that the de minimis amount is carried forward to the next distribution period as an amount available for distribution to participants.

(5) Condition D is that none of the units of the authorised investment fund in issue on the distribution date are in bearer form.

(6) If this regulation applies, the authorised investment fund is not required to comply with the requirements of section 234A of the Taxes Act(e) (information relating to distributions) in respect of the de minimis amount for the distribution period in question.

(7) In this regulation—

(a) 2002 c. 23. Paragraph 11 of Schedule 26 was amended by Article 12 of S.I. 2004/2201.

(b) Paragraph 12(14) of Schedule 26 to the Finance Act 2002 was added by Article 9 of S.I. 2005/646.

(c) Paragraph 12 of Schedule 26 to the Finance Act 2002 was amended by Article 13 of S.I. 2004/2201 and Article 9 of S.I. 2005/646.

(d) 2005 c. 7.

(e) Section 234A was inserted by section 32(1) of the Finance (No. 2) Act 1992 (c. 48) and amended by paragraph 2(2) of Schedule 37 to the Finance Act 1996 (c. 8)

The “de minimis limit” means an amount in respect of which a distribution of income of an authorised investment fund is not required if the total amount shown in the authorised investment fund’s distribution accounts as available for distribution to participants does not exceed that amount, and

“de minimis amount” means an amount falling within the de minimis limit.

PART 4

THE TREATMENT OF PARTICIPANTS IN AUTHORISED INVESTMENT FUNDS

CHAPTER 1

PRELIMINARY PROVISIONS

Structure of this Part

23. The structure of this Part of these Regulations is as follows—

this Chapter contains preliminary provisions;

Chapter 2 contains provisions relating to the tax treatment of participants chargeable to income tax;

Chapter 3 contains provisions relating to the tax treatment of participants chargeable to corporation tax;

Chapter 4 imposes a charge to tax on substantial holdings in qualified investor schemes.

Funds excluded from the ambit of this Part

24. This Part does not apply to an authorised investment fund if the fund—

(a) is a registered pension scheme within the meaning of Part 4 of the Finance Act 2004^(a),
or

(b) is treated, under paragraph 1(1) of Schedule 36 to that Act, as having become such a scheme.

CHAPTER 2

PARTICIPANTS CHARGEABLE TO INCOME TAX

Deduction of tax from interest distributions: general

Deduction of tax where interest distributions made

25.—(1) This regulation applies if an interest distribution is made for a distribution period to a participant chargeable to income tax.

(2) Any obligation to deduct a sum under section 349(2) of the Taxes Act^(b) is subject to the provisions of this regulation.

(3) In this Part the “deduction obligation” means the obligation specified in paragraph (2).

(4) The deduction obligation does not apply to the interest distribution if—

(a) 2004 c. 12.

(b) Section 349(2) was amended by paragraph 1(2) of Schedule 11 to the Finance Act 1991 (c. 31), paragraph 18 of Schedule 14 to the Finance Act 1996 (c. 8) and paragraph 148(2) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

- (a) the participant is a company;
- (b) the participant consists of the trustees of a unit trust scheme;
- (c) the reputable intermediary condition is met with respect to a participant on the distribution date (see regulation 26);
- (d) the residence condition is met with respect to a participant on the distribution date (see regulation 29); or
- (e) the non-liability condition is met with respect to a participant on the distribution date (see regulation 33).

(5) But if the participant is a company which is the trustee of the trust to which (or under which) the interest distribution is made (or received), the deduction obligation is not excluded by virtue of paragraph (4)(a).

(6) In its application to an interest distribution to a participant in respect of accumulation units, the deduction obligation is an obligation to deduct a sum out of the amount being credited to scheme capital on the participant's behalf.

The reputable intermediary condition

The reputable intermediary condition

26.—(1) The reputable intermediary condition is met with respect to a participant on the distribution date if conditions A to C are met.

(2) Condition A is that the interest distribution is paid on behalf of the participant to a company.

(3) Condition B is that the company either is subject to the EC Money Laundering Directive, or to equivalent non-EC provisions, or is an associated company resident in a regulating country or territory of a company which is so subject.

(4) Condition C is that the open-ended investment company or, as the case may be, the trustee of the authorised unit trust, has reasonable grounds for believing that the participant is not ordinarily resident in the United Kingdom.

The reputable intermediary condition: further provisions

27.—(1) This regulation applies for the purposes of Condition B in regulation 26.

(2) A company is subject to the EC Money Laundering Directive if it is a credit institution or financial institution as defined by Article 1 of Directive 91/308/EEC, as amended by Directive 2001/97/EC.

(3) A company is subject to equivalent non-EC provisions if it is required by the law of any country or territory which is not a member State to comply with requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

(4) A company is to be treated as another's associated company if it would be so treated for the purposes of Part 11 of the Taxes Act (close companies) (see section 416 of that Act).

(5) A country or territory is a regulating country or territory if it either is a member State or imposes requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

Consequences of reasonable but incorrect belief

28.—(1) This regulation applies if conditions A to D are met.

(2) Condition A is that an interest distribution is made to a participant.

(3) Condition B is that the open-ended investment company or, as the case may be, the trustee of the authorised unit trust, in reliance on the reputable intermediary condition being met with respect

to the participant, does not comply with the deduction obligation in relation to the interest distribution.

(4) Condition C is that the deduction obligation would apply but for the reputable intermediary condition being met.

(5) Condition D is that (contrary to the belief of the open-ended investment company or, as the case may be, the trustee of the authorised unit trust) the participant is in fact ordinarily resident in the United Kingdom.

(6) Section 350 of the Taxes Act^(a) (charge to tax where payments made under section 349) and Schedule 16 to that Act^(b) (collection of income tax on company payments which are not distributions) have effect as if the deduction obligation applied.

The residence condition

The residence condition

29.—(1) The residence condition is met with respect to a participant on the distribution date if any of conditions A to E is met.

(2) Condition A is that, in relation to an interest distribution which is not made to or received under a trust, there is a valid declaration, made by the participant, that the participant is not ordinarily resident in the United Kingdom.

(3) Condition B is—

- (a) that the participant holds the units as the personal representative of a deceased person, and
- (b) that the deceased, before his death, made a declaration, valid at the time of his death, that he was not ordinarily resident in the United Kingdom.

(4) Condition C is—

- (a) that the participant holds the units as the personal representative of a deceased person, and
- (b) that the personal representative has made a declaration that the deceased, immediately before his death, was not ordinarily resident in the United Kingdom.

(5) Condition D is that, in the case of an interest distribution made to or received under a trust where the whole of the income is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, there is a valid declaration, made by the person in question that he is either not ordinarily resident or, in the case of a company, not resident in the United Kingdom.

(6) Condition E is that, in circumstances in which condition D does not apply and with respect to a participant in the case of an interest distribution made to or received under a trust, there is a valid declaration, made by the trustees of that trust that—

- (a) the trustees are not resident in the United Kingdom, and
- (b) each beneficiary of the trust is either not ordinarily resident or, in the case of a beneficiary which is a company, not resident in the United Kingdom.

Residence declarations

30.—(1) A declaration made for the purposes of regulation 29 must—

- (a) be in such form as may be required or authorised by the Commissioners;
- (b) be made in writing to the legal owner of the authorised investment fund in question; and

(a) Section 350 was amended by paragraph 8 of Schedule 6 to the Finance Act 1996 and section 96(2) of the Finance Act 2002.
(b) Schedule 16 was amended by section 149(3)(d) of the Finance Act 1989 (c.26), Part II of Schedule 23 to the Finance Act 1996, section 91 of the Finance Act 1999 (c. 16) and paragraph 19 of Part 1 of Schedule 3 to the Debt Arrangement and Attachment (Scotland) Act 2002 (asp. 17).

- (c) contain any details or undertakings required by paragraphs (2) to (4) below.
- (2) A declaration made for the purposes of condition A or B in regulation 29 must contain—
 - (a) the name and principal residential address of the person making it; and
 - (b) an undertaking that he will notify the legal owner if he becomes ordinarily resident in the United Kingdom.
- (3) A declaration made for the purposes of condition C in regulation 29 must contain the name of the deceased and his principal residential address immediately before his death.
- (4) A declaration made for the purposes of condition D or E in regulation 29 must contain—
 - (a) the names and principal residential addresses of the trustees of the trust or, in the case of a trustee which is a company, the name of the company and the address of its registered or principal office;
 - (b) the names and principal residential addresses of the beneficiaries of the trust or, in the case of a beneficiary which is a company, the name of the company and the address of its registered or principal office; and
 - (c) an undertaking that the trustees of the trust will notify the legal owner of the authorised investment fund in question if—
 - (i) they become resident in the United Kingdom,
 - (ii) any beneficiary of the trust named in the declaration becomes ordinarily resident or, in the case of a company, resident in the United Kingdom, or
 - (iii) any person who becomes a beneficiary of the trust after the making of the declaration either is at the time of becoming a beneficiary, or subsequently becomes, ordinarily resident or, in the case of a company, resident in the United Kingdom.

References to beneficiaries in regulations 29 and 30

31. In regulations 29 and 30 references to a beneficiary are references to any person who is known to the trustees of the trust to be either—

- (a) a person who is or will or may become, entitled to any income of the trust, whether in the form of income or not, or
- (b) a person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by them.

Interest distributions: the position of the legal owner

32.—(1) For the purposes of determining whether an interest distribution should be made with or without any deduction, the legal owner is entitled to treat a declaration made for the purposes of regulation 29 as valid.

(2) But the legal owner may not treat a declaration as valid if condition A or B is met.

(3) Condition A is that the legal owner receives a notification in compliance with an undertaking under regulation 30 that a person in question has become resident or ordinarily resident in the United Kingdom.

(4) Condition B is that the legal owner comes into possession of information by some other means which indicates that such a person is or may be resident or ordinarily resident in the United Kingdom.

The non-liability condition

The non-liability condition

33.—(1) The non-liability condition is met with respect to a participant on the distribution date if the conditions A and B are met.

(2) Condition A is that the person beneficially entitled to the interest distribution is unlikely to be liable to pay any amount by way of income tax for the tax year in which the interest distribution is made.

(3) Condition B is that a qualifying certificate has been given to the legal owner of the authorised investment fund.

(4) A qualifying certificate must be signed by the person giving it.

Qualifying certificates

34. For the purposes of these Regulations a “qualifying certificate” means a certificate that meets the following conditions—

- (a) the contents condition (see regulation 35);
- (b) the supplier condition (see regulation 36);
- (c) the qualifying circumstances condition (see regulation 37);
- (d) the continuing validity condition (see regulation 38);
- (e) the time limit condition (see regulation 39); and
- (f) if applicable, the joint holding condition (see regulation 40).

The contents condition

35.—(1) The contents condition is met if conditions A to C are met.

(2) Condition A is that the certificate contains a statement to the effect that the person beneficially entitled to the interest distribution is unlikely to be liable to pay any amount by way of income tax for the tax year in which the payment is made.

(3) Condition B is that the certificate contains an undertaking by the person giving it that he will notify the legal owner if the person beneficially entitled to the interest distribution becomes liable to pay any amount by way of income tax for the tax year in which the interest distribution is made.

(4) Condition C is that the certificate contains the following further information—

- (a) the name, permanent residential address including postcode, and date of birth of the person beneficially entitled to the payment;
- (b) except where the Commissioners indicate in a particular case that this information is not required, the national insurance number of an individual within paragraph (a) and aged 16 or over at the beginning of the year in which the payment is made who, at any time within the period of three years ending with the date on which a certificate is signed, has been liable to pay Class 1 or Class 2 contributions within the meaning of section 1(2) of the Social Security Contributions and Benefits Act 1992^(a);
- (c) the following details relating to the depositor’s account held with the fund manager to which the certificate relates—
 - (i) the name of the fund manager, and
 - (ii) the reference number relating to the participant (if any).

The supplier condition

36.—(1) The supplier condition is met if the person giving the certificate is a person within any of categories A to G below.

(2) Category A is an individual who is aged 16 or over at the beginning of the tax year in which the interest distribution is made and who is beneficially entitled to the interest distribution.

(a) 1992 c. 4.

(3) Category B is the parent or guardian of a person beneficially entitled to the payment if that person is under the age of 16 at the beginning of the tax year in which the interest distribution is made.

(4) Category C is an individual beneficially entitled to the payment who is under the age of 16 at the beginning of the tax year in which the interest distribution is made, but will reach that age during that tax year.

(5) Category D is the donee of a power of attorney authorising him to administer the financial affairs of a person beneficially entitled to the payment.

(6) Category E is a parent, guardian, spouse or son or daughter of a person suffering from mental disorder.

(7) Category F is a receiver or other person appointed by any court in the United Kingdom to act in relation to the property and affairs of a person incapable, by reason of mental disorder, of managing and administering his property and affairs.

(8) Category G is a person appointed by the Secretary of State under paragraph (1) of regulation 33 of the Social Security (Claims and Payments) Regulations 1987, whose appointment has not been revoked or terminated, or who has not resigned his office, in accordance with paragraph (2) of that regulation.

The qualifying circumstances condition

37.—(1) The qualifying circumstances condition is met in all circumstances except those in which condition A or B apply.

(2) Condition A applies if the provisions of section 660B of the Taxes Act (payments to unmarried minor children of the settlor) apply to the payment.

(3) Condition B applies if the holding to which the qualifying certificate relates is specified in a notice which—

- (a) has been issued under regulation 38(6), and
- (b) has not been cancelled.

The continuing validity condition

38.—(1) The continuing validity condition is met if the qualifying certificate continues in full force and effect and has not ceased to be valid.

(2) The qualifying certificate ceases to be valid in circumstances A to E.

(3) Circumstance A is the receipt, by the legal owner, of information that the person beneficially entitled to the interest distribution has become liable to pay an amount by way of income tax for the tax year in which the payment is made.

(4) Circumstance B is the ending of the tax year in which the person beneficially entitled to the payment reaches the age of 16 in a case where paragraph (3) of regulation 36 (the supplier condition) applies.

(5) Circumstance C is the failure by a person who has given a qualifying certificate under paragraph (4) of regulation 36, but is not the holder of the holding to which the certificate for units relates, to become the holder before the first interest distribution made after the end of the tax year in which he reaches the age of 16.

(6) Circumstance D is where the Commissioners, having reason to believe that a person beneficially entitled to an interest distribution is or has become liable to pay an amount by way of income tax, by notice require the legal owner to deduct tax under section 349(2) of the Taxes Act from interest distributions which—

- (a) are made in respect of a holding specified in the notice, and
- (b) are made to or for the benefit of that person after the expiry of a period of 30 days beginning with the date on which the notice is issued.

(7) Circumstance E is where the legal owner receives notification that the person by whom or on whose behalf the certificate was given has died.

The time limit condition

39.—(1) The time limit condition is met if the certificate is given and supplied to the legal owner before the specified time.

(2) In the cases of all categories specified in regulation 36 except for category C, the specified time is the end of the tax year in which the interest distribution is made.

(3) In the case of category C in regulation 36, the specified time is the end of the tax year in which the individual beneficially entitled to the interest distribution reaches the age of 16.

The joint holding condition

40.—(1) This regulation applies if more than one person is entitled to an interest distribution.

(2) The joint holding condition is met if—

- (a) either condition A or B is met, and
- (b) condition C is met.

(3) Condition A is met if a qualifying certificate is given by or on behalf of each person beneficially entitled to the interest distribution.

(4) Condition B is met if a qualifying certificate is given by or on behalf of one or more (but not all) of the persons beneficially entitled to the interest distribution.

(5) Condition C is that paragraph 4 of regulation 71 (notice relating to payments made under deduction of tax) is not applicable.

Qualifying certificates valid for only part of jointly held accounts

41.—(1) This regulation applies if condition B in regulation 40 is met.

(2) This regulation also applies if—

- (a) condition A in regulation 40 is met, and
- (b) a qualifying certificate has ceased to be valid in one of circumstances A to D in regulation 38 (the continuing validity condition).

(3) It shall be assumed that each person is beneficially entitled in equal shares to the interest distribution, and accordingly—

- (a) payment of so much of the interest distribution as corresponds to the share of any person by or on behalf of whom a qualifying certificate has given shall be made without deduction of tax; and
- (b) payment of the remainder of the interest distribution shall be made under deduction of tax.

(4) For all the purposes of the Income Tax Acts, tax deducted from a payment within paragraph (3)(b) is treated as income tax paid by the persons to whom the payment is treated as made.

(5) If this regulation applies by virtue of paragraph (2), it applies in relation to a payment of interest made at any time after the time when the qualifying certificate ceased to be valid.

This is subject to paragraph (6).

(6) In a case where circumstance D of regulation 38 applies, this regulation applies in relation to a payment of interest made at any time—

- (a) after the expiry of a period of 30 days beginning with the date of issue of the notice referred to in that circumstance D, or
- (b) after such date falling within that period as the legal owner may at its option determine.

(7) This regulation is subject to regulation 71 (notice relating to payments made under deduction of tax).

Qualifying certificate not in writing

42.—(1) If a qualifying certificate is not in writing, the legal owner concerned may—

- (a) make a declaration in writing on behalf of the person giving the qualifying certificate (“the relevant person”) that the particulars contained in the certificate are those recorded in the declaration, and
- (b) send a copy of the declaration (“the copy declaration”) to the relevant person.

(2) The declaration takes effect as from the date on which the copy declaration is sent to the relevant person in accordance with paragraph (1).

This is subject to paragraph (3).

(3) The relevant person may notify any corrections to the legal owner within the period of 30 days beginning with the date on which the copy declaration was sent to him; and the corrections may be incorporated in a revised declaration made by the legal owner.

(4) A qualifying certificate is regarded as being given in writing for the purposes of this regulation if it is given—

- (a) by telephonic facsimile transmission, or
- (b) by electronic communication containing an electronic signature of the relevant person.

(5) For the purposes of this regulation a declaration made by the legal owner is regarded as made in writing if it is produced by electronic means; and the copy declaration may be sent to the relevant person by telephonic facsimile transmission or by electronic communication.

Consequences of notice under regulation 38(6)

43.—(1) This regulation applies if the Commissioners issue a notice under regulation 38(6).

(2) No further qualifying certificate may be given by or on behalf of the person referred to in the notice in respect of units specified in the notice.

This is subject to paragraphs (3) and (4).

(3) If the Commissioners are satisfied, as a result of information received following the issue of the notice, that the person referred to in the notice—

- (a) was not liable at the date of the notice, and has not since become liable, to pay an amount by way of income tax, or
- (b) is no longer liable to pay such an amount,

they shall cancel the notice and give notice of the cancellation to the legal owner and the person referred to in the notice.

(4) If, under paragraph (3), the Commissioners cancel the notice a further qualifying certificate may be given on behalf of the person referred to in the notice.

(5) If the Commissioners issue a notice under regulation 38(6) they must, at the same time, send a copy to the person referred to in the notice.

CHAPTER 3

PARTICIPANTS CHARGEABLE TO CORPORATION TAX

Interest distributions

The obligation to deduct tax

44.—(1) This regulation applies if an interest distribution is made for a distribution period to a participant chargeable to corporation tax.

(2) The deduction obligation does not apply to the interest distribution.

(3) But if the participant is a company which is the trustee of the trust to which (or under which) the interest distribution is made (or received), the deduction obligation is not excluded by virtue of paragraph (2).

(4) In its application to an interest distribution to a participant in respect of accumulation units, the deduction obligation is an obligation to deduct a sum out of the amount being invested on the participant's behalf.

Dividend distributions

General

45.—(1) Paragraph (2) applies if—

- (a) a dividend distribution for a distribution period is made to a participant by the legal owner of an authorised investment fund, and
- (b) on the distribution date for that distribution period the participant is within the charge to corporation tax.

(2) For the purpose of computing the corporation tax chargeable upon the participant, the unfranked part of the dividend distribution is treated—

- (a) as an annual payment and not as a dividend distribution or an interest distribution; and
- (b) as having been received by the participant after deduction of income tax at the lower rate for the year of assessment in which the distribution date falls, from a corresponding gross amount.

(3) Regulation 46 explains how to calculate the unfranked part of the dividend distribution.

Calculation of unfranked part of dividend distribution

46.—(1) This is how to calculate the unfranked part of the dividend distribution—

$$U = \frac{A \times C}{D}$$

(2) In paragraph (1)—

U = the unfranked part of the dividend distribution to the participant;

A = the amount of the dividend distribution;

C = such amount of the gross income as does not derive from franked investment income, as reduced by an amount equal to the legal owner's net liability to corporation tax in respect of the gross income;

D = the amount of the gross income, as reduced by an amount equal to the legal owner's net liability to corporation tax in respect of the gross income.

(3) Any reference in this regulation to the legal owner's net liability to corporation tax in respect of the gross income is a reference to the amount of the liability of the legal owner to corporation tax in respect of that gross income less the amount (if any) of any reduction of that liability which is given or falls to be given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act (relief by agreement with other territories) or by way of a credit under section 790(1) of that Act (unilateral relief).

References to gross income

47. For the purposes of this Chapter the references to the gross income are references to the gross income entered in the distribution accounts for the purpose of computing the total amount available for distribution to participants for the distribution period in question.

Cases where participant is the manager of the fund

48. If on the distribution date the participant is the manager of the authorised investment fund, regulation 45(2) shall not apply in so far as the rights in respect of which the dividend distribution is made are held by him in the ordinary course of his business as manager of the fund.

Repayments of tax

49.—(1) This regulation applies if, in relation to a dividend distribution, any tax is treated as having been deducted by virtue of regulation 45(2)(b).

(2) The amount to which the participant is entitled by way of repayment of that tax must not exceed the amount of the participant's portion of the legal owner's net liability to corporation tax in respect of the gross income.

(3) In calculating the amount to which the participant is entitled by way of repayment of that tax, tax treated as having been deducted by virtue of regulation 45(2)(b) is set off in priority to any other tax under section 7(2) of the Taxes Act and under paragraph 5 of Schedule 16 to that Act.

(4) For the purposes of paragraph (2) the participant's portion shall be determined by reference to the proportions in which participants have rights in the authorised investment fund in the distribution period in question.

CHAPTER 4

CHARGE TO TAX ON SUBSTANTIAL HOLDINGS IN QUALIFIED INVESTOR SCHEMES

General

Charge to tax under this Chapter

50.—(1) A participant is charged to tax under this Chapter if the participant owns a substantial holding in a qualified investor scheme.

(2) But a participant is excepted from the charge to tax under this Chapter if the participant is—

- (a) a charity within the meaning of section 506(1) of the Taxes Act;
- (b) a registered pension scheme within the meaning of Part 4 of the Finance Act 2004;
- (c) a scheme which is treated, under paragraph 1(1) of Schedule 36 to the Finance Act 2004, as a registered pension scheme within the meaning of Part 4 of that Act;
- (d) an insurance company within the meaning of section 431(2) of the Taxes Act^(a) holding the units in the qualified investor scheme as assets of its long-term insurance fund; or
- (e) a friendly society within the meaning of section 466(2) of the Taxes Act^(b) holding the units in the qualified investor scheme as assets of its long-term insurance fund.

(3) In these Regulations a “qualified investor scheme” means a fund, authorised by the Financial Services Authority, in which a statement that the fund is a qualified investor scheme is included in the instrument constituting the scheme.

(a) The definition of “insurance company” in section 431(2) was substituted by Article 26(3) of S.I. 2001/3629.

(b) The definition of “friendly society” in section 466(2) was substituted by paragraph 14(4) of Schedule 9 to the Finance (No. 2) Act 1992 (c.48).

(4) In paragraph (2)(d) “long-term insurance fund” has the meaning given by section 431(2) of the Taxes Act(a).

(5) In paragraph (2)(e) “long-term insurance fund” has the meaning given by section 431AB of the Taxes Act(b).

Meaning of “substantial holding”

51.—(1) For the purposes of this Chapter a participant owns a substantial holding in a qualified investor scheme if the participant, either alone or together with associates or connected persons, (and otherwise than as a nominee or a bare trustee) owns units which represent rights to 10% or more of the net asset value of the fund.

This is without prejudice to what is meant by “substantial” where the word appears in other contexts.

(2) Section 417 of the Taxes Act applies for the purposes of this regulation to determine whether persons are associates.

(3) Section 839 of the Taxes Act (connected persons) applies for the purposes of this regulation.

(4) A participant who owns a substantial holding in a qualified investor scheme continues to own a substantial holding in that scheme until the date on which the whole of that holding is disposed of (so that, accordingly, it does not matter that the holding no longer represents 10% or more of the net value of the qualified investor scheme).

(5) Paragraph (4) is subject to regulation 59 (cases where a holding becomes substantial).

Amount charged to tax under this Chapter

52.—(1) A participant is charged to tax under this Chapter by reference to the difference in value.

(2) The difference in value is the amount given by the formula—

VLMD – VEMD

(3) In paragraph (2)—

VEMD is the market value of the substantial holding at a measuring date (the “earlier measuring date”) after making the calculations required under this Chapter, and

VLMD is the market value of the substantial holding at the next measuring date (the “later measuring date”) before making the calculations required under this Chapter.

(4) In the case of units in a qualified investor scheme where both the buying and selling prices of units are published regularly by the manager of the scheme, “market value” means an amount equal to the buying price (that is the lower price) so published on any particular date, or if none were published on that date, on the latest date before.

(5) In the case of units in a qualified investor scheme where a single price is published regularly by the manager of the scheme, “market value” means that price.

Measuring dates

53. Each of the following is a measuring date—

- (a) the first measuring date (see regulation 60);
- (b) the date on which the participant acquires additional units in the qualified investor scheme;

(a) The definition of “long-term insurance fund” was inserted (as “long term business fund”) by paragraph 1(2) of Schedule 6 to the Finance Act 1990 (c. 29), and amended by paragraphs 2(1)(b) and 2(2)(a) of Article 52 of S.I. 2001/3629.

(b) Section 431AB was inserted by regulation 7 of S.I. 2005/2014.

- (c) any reporting date;
- (d) the date on which there is a disposal of part of the substantial holding (see regulation 62);
- (e) the date on which there is a disposal of the whole of the substantial holding (see regulation 63);
- (f) the date of the participant's death.

How tax is charged under this Chapter: income tax

- 54.**—(1) This regulation applies in the case of a participant chargeable to income tax.
- (2) The following amounts must be calculated—
- (a) the difference in value for each measuring date falling within a tax year; and
 - (b) the aggregate amount of those differences in value.
- (3) If the aggregate amount is a positive amount, the participant is charged to income tax under Chapter 8 of Part 5 of the 2005 Act (income not otherwise charged) on that aggregate amount for that tax year.
- (4) If the aggregate amount is a negative amount, the participant is treated as if—
- (a) he had sustained a loss of that aggregate amount in a transaction, and
 - (b) this regulation were listed in Part 3 of the Table in section 836B(a) of the Taxes Act.

How tax is charged under this Chapter: corporation tax

- 55.**—(1) This regulation applies in the case of a participant chargeable to corporation tax.
- (2) The following amounts must be calculated—
- (a) the difference in value for each measuring date falling within an accounting period; and
 - (b) the aggregate amount of those differences in value.
- (3) If the aggregate amount is a positive amount, the participant is charged to corporation tax under Case VI of Schedule D on that aggregate amount for that accounting period.
- (4) If the aggregate amount is a negative amount, the participant is treated as if it had incurred a loss of that aggregate amount in a transaction in respect of which the participant were within the charge to corporation tax under Case VI of Schedule D.

The first measuring date

The general rule

- 56.**—(1) The general rule is that on the first date on which a participant who is within the charge to tax under this Chapter owns a substantial holding in a qualified investor scheme, the participant must value his own holding in that scheme as at that date.
- (2) The general rule is modified if any of the following regulations apply—
- (a) regulation 57 (cases affected by the coming into force of these Regulations);
 - (b) regulation 58 (cases involving the launch of qualified investor schemes);
 - (c) regulation 59 (cases where a participant's holding becomes substantial).

Cases affected by the coming into force of these Regulations

- 57.**—(1) This regulation applies if—
- (a) a participant chargeable to income tax owns a substantial holding in a qualified investor scheme on 6th April 2006, or

(a) Section 836B was inserted by paragraph 340 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(b) a participant chargeable to corporation tax owns a substantial holding in a qualified investor scheme on 1st April 2006.

(2) If on the measuring date first occurring after 30th June 2006 the participant does not own a substantial holding in the qualified investor scheme, the participant is not required to value his own holding in that scheme as at 1st or 6th April 2006 (as the case may be).

(3) If on the measuring date first occurring after 30th June 2006 the participant is chargeable to income tax and owns a substantial holding in the qualified investor scheme, the participant must value his own holding in that scheme as at 6th April 2006.

(4) If on the measuring date first occurring after 30th June 2006 the participant is chargeable to corporation tax and owns a substantial holding in the qualified investor scheme, the participant must value its own holding in that scheme as at 1st April 2006.

Cases involving the launch of qualified investor schemes

58.—(1) This regulation applies if a qualified investor scheme is launched.

(2) If on the date immediately following the expiry of a period of six months beginning with the date of issue of the first prospectus of the scheme (“the qualification date”) the participant does not own a substantial holding in the qualified investor scheme, the participant is not required to value his own holding in that scheme as at that date or any earlier date.

(3) If on the qualification date the participant owns a substantial holding in the qualified investor scheme, the participant must value his own holding in that scheme as at the first measuring date.

Cases where a participant’s holding becomes substantial

59.—(1) This regulation applies if, on any date, a participant owns a substantial holding in a qualified investor scheme otherwise than as a result of the acquisition of shares in that scheme.

(2) If on the next reporting date and the reporting date following it (“the second reporting date”) the participant does not own a substantial holding in the qualified investor scheme, the participant—

- (a) is not required to value his own holding in that scheme at any time, and
- (b) is not treated as owning a substantial holding in the scheme on the second reporting date or at any earlier time.

(3) If on the second reporting date the participant owns a substantial holding in the qualified investor scheme, the participant must value his own holding in that scheme as at the date mentioned in paragraph (1) and as at each subsequent measuring date.

Definition of the “first measuring date”

60. In this Chapter the “first measuring date” means the date on which, in accordance with regulation 56(1), 57(3) or (4), or 59(3), the participant must value his own holding in the qualified investor scheme.

Calculation to be made on the first measuring date

61. On the first measuring date the participant must calculate the chargeable gain or allowable loss that would have accrued for the purposes of tax in respect of chargeable gains if, on that date, the participant had disposed of the relevant holding for a consideration equal to its market value at that time.

Disposals of holdings

Disposal of part of a relevant holding

62.—(1) This regulation applies if a participant disposes of part of a substantial holding.

(2) The date on which the participant disposes of the part of the substantial holding is a measuring date.

(3) For the purposes of the calculation under regulation 52 (amount charged to tax under this Chapter) that is required to be made as at that later measuring date, the amount VEMD is the value of a corresponding part of the holding as at the earlier measuring date.

(4) For the purposes of tax in respect of chargeable gains a corresponding part of the chargeable gain or loss specified in regulation 61 is treated as accruing on the disposal.

(5) Subject to paragraph (4) and for the purposes of tax in respect of chargeable gains, the participant is treated as making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the participant.

(6) Paragraphs (4) and (5) are subject to regulation 64 (no gain/no loss disposals).

Disposal of the whole of a relevant holding

63.—(1) This regulation applies if a participant disposes of the whole of a substantial holding.

(2) The date on which the participant disposes of the substantial holding is a measuring date.

(3) For the purposes of tax in respect of chargeable gains—

(a) In a case where regulation 62 has applied on an earlier disposal of part of the substantial holding, the remaining part of the chargeable gain or loss specified in regulation 61 is treated as accruing on the disposal, and

(b) In any other case, the whole of the chargeable gain or loss specified in regulation 61 is treated as accruing on the disposal.

(4) Subject to paragraph (3) and for the purposes of tax in respect of chargeable gains, the participant is treated as making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the participant.

(5) Paragraphs (3) and (4) are subject to regulation 64 (no gain/no loss disposals).

No gain/no loss disposals

64.—(1) This regulation applies if, for the purposes of tax in respect of chargeable gains, any disposal of the whole or part of a relevant holding falls within any of the following provisions of the 1992 Act—

(a) section 58(1) (transfers between spouses);

(b) section 62(4) (acquisition as legatee);

(c) section 139 (company reconstructions);

(d) section 140A (transfers of a UK trade);

(e) section 140E(a) (merger leaving assets within the UK tax charge);

(f) section 171(1) (transfers within a group).

(2) The participant is treated as making the disposal for a consideration of such amount as would secure that neither a gain nor a loss accrues to him.

(3) A person who has acquired the whole or (as the case may be) that part of the relevant holding is treated as if he had acquired the holding or (as the case may be) that part of the holding at the same time and for the same consideration as it was acquired by the person making the disposal.

(a) Section 140E was inserted by section 51(1) of the Finance (No. 2) Act 2005 (c. 22).

PART 5

COMPLIANCE

Application of section 234A of the Taxes Act

65.—(1) Section 234A of the Taxes Act^(a) (information relating to distributions) shall apply in relation to an authorised investment fund with any necessary modifications.

(2) In the appropriate statement sent under that section to a participant within the charge to corporation tax, the legal owner of the authorised investment fund must include a statement showing the legal owner's net liability to corporation tax in respect of the gross income.

Notification of interest distributions made without deduction of tax

66.—(1) An authorised investment fund that must report information to the Commissioners in accordance with these Regulations must give notice to the Commissioners in writing, within 14 days of the end of the tax year, if the authorised investment fund has made interest distributions without deduction of tax during that tax year.

(2) Notice given under paragraph (1) has effect for the tax year in which it is given and for subsequent tax years until the notice is withdrawn.

(3) An authorised investment fund that fails to comply with paragraph (1) is liable to a penalty not exceeding [£x] determined in accordance with section 100 of the Taxes Management Act 1970.

(4) Sections 100A, 100B, 102, 103(4) and 118(2) of the Taxes Management Act 1970 apply to a penalty determined in accordance with paragraph (2).

Information about interest distributions made without deduction of tax

67.—(1) The Commissioners may by notice require a person specified in paragraph (2) to supply them with such information as they may reasonably require for the purpose of determining whether interest distributions were properly made by that person without deduction of tax.

(2) The persons specified are—

- (a) an open-ended investment company;
- (b) the authorised corporate director of an open-ended investment company;
- (c) a trustee of an authorised unit trust.

(3) The information to be provided may include copies of any relevant books, documents or other records.

(4) The information must be provided within such time (not being less than 14 days) as may be specified in the notice.

Inspection of records

68.—(1) A person specified in regulation 67(2) shall, whenever required to do so, make available for inspection by an officer of the Commissioners authorised for that purpose, at such time as that officer may reasonably require, all such copies of books, documents or other records in their possession or under their control as may be required by the Commissioners under regulation 67.

(2) Every qualifying certificate supplied to a legal owner under Chapter 2 of Part 4 (participants chargeable to income tax) must be preserved by the legal owner in such manner as may be

^(a) Section 234A was inserted by section 32(1) of the Finance (No. 2) Act 1992 (c. 48) and amended by paragraph 2(2) of Schedule 37 to the Finance Act 1996 (c. 8).

approved by the Commissioners for two years after it has ceased to be otherwise required under the provisions of these Regulations.

Use of information

- 69.**—(1) Information obtained by the Commissioners under regulation 67 or 68—
- (a) must not be used for the purpose of ascertaining the tax liability (if any) of any person other than the persons specified in paragraph (2), and
 - (b) must otherwise be used only for the purposes of these Regulations.
- (2) The persons specified in this paragraph are—
- (a) the open-ended investment company in question;
 - (b) the trustees of the authorised unit trust in question;
 - (c) a participant who is beneficially entitled to an interest distribution made without deduction of tax to whom the information obtained relates;
 - (d) where the whole of an interest distribution made to or received under a trust without deduction of tax is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, that person in so far as the information obtained relates to him; and
 - (e) where an interest distribution is made to or received under a trust without deduction of tax and sub-paragraph (d) does not apply, the trustees of that trust and any beneficiary of the trust to whom the information obtained relates.
- (3) In paragraph (2)(e) “any beneficiary of the trust” means—
- (a) any person who is, or will or may become, entitled to any income of the trust, whether in the form of income or not, and
 - (b) any person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by the trustees of the trust.

Paragraph (1) does not prevent any disclosure of information authorised under section 182(5) of the Finance Act 1989(a).

Inspection of residence declarations

70.—(1) The legal owner of an authorised investment fund shall, on being required to do so by a notice given by an officer of the Commissioners, make available for inspection by such an officer—

- (a) any residence declarations made to the authorised investment fund under Chapter 2 of Part 4 (participants chargeable to income tax), or
- (b) any specified declaration or description of declarations.

(2) If a notice has been given to the legal owner under paragraph (1), the declarations shall be made available within such time as may be specified in the notice and the person carrying out the inspection may take copies of or extracts from them.

Notice relating to payments made under deduction of tax

- 71.**—(1) This regulation applies if condition B in regulation 40 is met.
- (2) This regulation also applies if—
- (a) condition A in regulation 40 is met, and
 - (b) a qualifying certificate has ceased to be valid in one of circumstances A to D in regulation 38 (the continuing validity condition).

(a) 1989 c. 26. Section 182(5) was amended by section 18(5) of the Child Trust Funds Act 2004 (c. 6).

(3) The legal owner of an authorised investment fund may give notice to the Commissioners of its intention that the whole of an interest distribution specified in the notice shall be made under deduction of tax.

(4) If notice is given under paragraph (3), regulation 41 (qualifying certificate valid for only part of joint account) does not apply; and, accordingly, tax must be deducted by the legal owner from any payment to which the notice relates and which is made after the date of the notice.

(5) The legal owner of an authorised investment fund may give notice to the Commissioners (a “cancellation notice”) cancelling a notice given under paragraph (3).

(6) If a cancellation notice is given, regulation 40 applies to any interest to which the notice given under paragraph (3) formerly related and which is made after the date of the cancellation notice.

PART 6

FURTHER PROVISIONS RELATING TO AUTHORISED INVESTMENT FUNDS

CHAPTER 1

GENERAL

Ownership of shares of different denominations in open-ended investment companies

72.—(1) This regulation applies if conditions A and B are met.

(2) Condition A is that in respect of a given class of shares specified in the instrument of incorporation of an open-ended investment company, shares issued of that class consist of both smaller denomination shares and larger denomination shares.

(3) Condition B is that a participant owns both smaller denomination shares and larger denomination shares of that class.

(4) For the purposes of the provisions of the Tax Acts and the 1992 Act relating to ownership of shares in a company, the shares owned by the investor are treated as securities of the same class.

(5) Each larger denomination share is to be treated for those purposes as if it were comprised of the relevant number of smaller denomination shares.

(6) The market value of each smaller denomination share is to be taken for those purposes to be the relevant proportion of the market value of each larger denomination share.

(7) In this regulation—

“smaller denomination shares” means shares to which are attached rights specified in the company’s instrument of incorporation that are expressed in the smaller of two denominations;

“larger denomination shares” means shares to which are attached rights so specified that are expressed in the larger of two denominations;

“relevant number” means the number calculated by reference to the relevant proportion; and

“relevant proportion” means the proportion, determined by the company’s instrument of incorporation, which the rights attaching to each smaller denomination share bear to the rights attaching to each larger denomination share.

Non-discrimination in respect of different classes of shares

73.—(1) This regulation applies if the distribution accounts show an amount as available for distribution to participants.

(2) There must not be any discrimination between participants in respect of different classes of shares.

- (3) There is no such discrimination if condition A and either condition B or C is met.
- (4) Condition A is that the differences are wholly attributable to differences between the amounts or treatment for accounting purposes of the charges or expenses which—
- (a) are permitted by the instrument of incorporation of the open-ended investment company concerned or the prospectus in issue for the time being of that company (including any supplements to that prospectus) or by the trust deed under which the authorised unit trust is constituted, and
 - (b) are payable out of the scheme property of that authorised investment fund in respect of the shares of those classes.
- (5) Condition B is that the authorised investment fund is able to show that the differences between the amounts or treatment for accounting purposes of the charges or expenses referred to in condition A apply for bona fide commercial reasons.
- (6) Condition C is that the differences are not such as to enable the participants in any one of those classes to obtain a tax advantage which they would not obtain if there were no differences between the amounts or treatment for accounting purposes of those charges or expenses.
- (7) In paragraph (6) “tax advantage” has the same meaning as in Chapter 1 of Part 17 of the Taxes Act (cancellation of tax advantages from transactions in securities).

CHAPTER 2

AMALGAMATION OF AN AUTHORISED UNIT TRUST WITH, AND CONVERSION OF AN AUTHORISED UNIT TRUST TO, AN OPEN-ENDED INVESTMENT COMPANY

Circumstances in which this Chapter applies

74.—(1) This Chapter applies if, in connection with a scheme of reorganisation, conditions A to E are met.

(2) Condition A is that the whole of the scheme property of an authorised unit trust that is available for transfer is transferred on a given date under an arrangement to an open-ended investment company.

(3) Condition B is that the consideration under the arrangement consists of or includes the issue, on the transfer date, of shares in the acquiring company to the holders of units in the target trust in exchange for those units.

(4) Condition C is that the consideration shares are issued to the holders of units in proportion to their holdings of the exchanged units.

(5) Condition D is that the consideration under the arrangement does not include anything else in addition to the issue of the consideration shares, other than (where applicable) the assumption or discharge by the acquiring company of liabilities of the trustees of the target trust.

(6) Condition E is that under the arrangement all the units in the target trust are extinguished.

(7) In this Chapter—

the “target trust” means the authorised unit trust mentioned in paragraph (2);

the “transfer date” means the given date mentioned in paragraph (2);

the “acquiring company” means the open-ended investment company mentioned in paragraph (2); and

“the whole of the scheme property of an authorised unit trust that is available for transfer” means the whole of the property subject to the trusts of the target trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the target trust;

the “consideration shares” means the shares in the acquiring company mentioned in paragraph (4); and

the “exchanged units” means the units in the target trust mentioned in paragraph (4).

Ending of accounting period of the target trust

75.—(1) An accounting period of the target trust (the “pre-transfer accounting period”) ends immediately before the transfer date; and, for the purposes of the Corporation Tax Acts, the whole of the scheme property of the target trust that is available for transfer is treated as having been transferred immediately after the end of that accounting period.

(2) This regulation applies despite anything in section 12(1) to (7) of the Taxes Act (periods of assessment for corporation tax).

Carrying forward of excess management expenses

76.—(1) This regulation applies if condition A or B is met.

Condition A is that, in respect of the pre-transfer accounting period of the target trust, the trustees are entitled, under section 75(9) of the Taxes Act^(a) (carry forward of management expenses and sums treated as management expenses), to carry forward an excess amount to the next accounting period of the trust.

(2) Condition B is that—

- (a) the pre-transfer accounting period is the final accounting period of the target trust, and
- (b) the trustees are entitled, under section 75(9) of the Taxes Act, to carry forward an excess amount to what would have been the next accounting period of the trust were the trust to have an accounting period beginning on the transfer date.

(3) With effect from the transfer date, the entitlement is translated into a right in the acquiring company to treat the amount as if it had been carried forward under section 75(9) of the Taxes Act to the first of its accounting periods to end on or after the transfer date.

Distributions by authorised unit trust after the end of its pre-transfer accounting period

77.—(1) This regulation applies if, in respect of any post-transfer distribution date of the target trust, there is an amount which falls to be treated, in accordance with regulation 21 (dividend distributions: general), as dividends on shares paid on that distribution date by the target trust to its participants in proportion to their rights.

(2) The amount shall instead be treated as dividends on shares paid on that date by the acquiring company to those persons in proportion to their rights.

(3) In this regulation “post-transfer distribution date” of a target trust means a distribution date of that trust which—

- (a) occurs on or after the transfer date, and
- (b) is the distribution date for a distribution period of the trust ending before the transfer date.

Continuing validity of residence declarations

78.—(1) This regulation applies if—

- (a) before the transfer date, a unit holder has made a residence declaration to the trustees of the target trust, and
- (b) immediately before the transfer date, the trustees of the target trust treated the residence declaration as valid.

(2) The acquiring company may treat the residence declaration as valid.

Assessments made on discovery

79. The provisions of this Chapter do not affect any enactment in the Tax Acts which provides for assessments to be made where an officer of the Commissioners discovers that a set-off,

(a) Section 75 was substituted by section 38(1) of the Finance Act 2004 (c.12).

matching, repayment of tax, or payment of tax credit or provision for relief in any other form ought not to have been made, given or otherwise allowed, or is or has become excessive.

Powers of the acquiring company

80.—(1) On and after the transfer date, the acquiring company has the powers set out in paragraphs (2) and (3).

(2) The acquiring company may continue anything which—

- (a) immediately before the transfer date was in the process of being done by the trustees of the target trust for the purposes of tax in relation to accounting periods of the target trust ending before that date, and
- (b) is not continued by the trustees on or after the transfer date.

(3) The acquiring company may do anything which—

- (a) immediately before that date was not in the process of being done for the purposes of tax in relation to such accounting periods by the trustees of the target trust, and is not done by them for those purposes, and
- (b) might reasonably have been expected to be done by them for those purposes had the scheme of reorganisation not taken place.

Prevention of double relief

81. For the purposes of the Tax Acts, nothing in this Chapter has the effect of enabling—

- (a) any set-off or matching of an amount to be made,
- (b) any repayment of an amount of tax or payment of an amount of tax credit to be made, or
- (c) any other relief to be given,

more than once in respect of the same amount or relief.

PART 7

CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS

CHAPTER 1

AMENDMENTS OF REFERENCES TO REPEALED ENACTMENTS

Introduction

82. Regulations 83 to 85 amend references in enactments to provisions repealed by section 17(1) of the Finance (No. 2) Act 2005.

Amendment of the Taxes Management Act 1970

83.—(1) The Taxes Management Act 1970 is amended as follows.

(2) In section 98, in the first column of the Table, for the entries “section 468P(6)” and “regulations under section 468PB(3)” substitute “regulations under section 17(3) of the Finance (No. 2) Act 2005”.

Amendment of the 1992 Act

84.—(1) The 1992 Act is amended as follows.

(2) In section 99B(3)(a) (calculation of the disposal cost of accumulation units), for “section 468H of the Taxes Act” substitute “regulations under section 17(3) of the Finance (No. 2) Act 2005”.

Amendment of the Finance Act 1996

85.—(1) The Finance Act 1996 is amended as follows.

(2) In paragraph 4(4) of Schedule 10, for “section 468L(3) of the Taxes Act 1988” substitute “regulations under section 17(3) of the Finance (No. 2) Act 2005”.

CHAPTER 2

MODIFICATIONS OF THE TAX ACTS

Introduction

86. Regulations 87 to 89 provide for the modification of enactments relating to taxation in their application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds.

Modifications of the Taxes Act

87.—(1) The Taxes Act is modified as follows.

(2) In Schedule 20 (charities: qualifying investments and loans) after paragraph 6 insert—

“**6A.** Shares in an open-ended investment company.”.

Modifications of the Finance Act 1996

88.—(1) Paragraph 8 of Schedule 10 to the Finance Act 1996 is modified as follows.

(2) In sub-paragraph (1)—

- (a) for “a unit trust scheme or offshore fund” substitute “an authorised investment fund”;
- (b) for “scheme or fund” substitute “fund”.

(3) In sub-paragraph (2)—

- (a) for “a unit trust scheme or offshore fund, means investments of the scheme or fund” substitute “an authorised investment fund, means investments of the fund”;
- (b) insert the following paragraph at the end—

“(g) alternative finance arrangements within the meaning given by section 46 of the Finance Act 2005.”.

(4) Omit sub-paragraph (3A).

(5) In sub-paragraph (4)—

- (a) for “sub-paragraphs (3) and (3A)” substitute “sub-paragraph (3)”;
- (b) for “(e) and (f)” substitute “(e), (f) and (g)”.

(6) Omit sub-paragraphs (6A) and (6B).

(7) In sub-paragraph (7) insert at the end “; and references in this paragraph to investments of an open-ended investment company shall be construed in accordance with the Authorised Investment Funds (Tax) Regulations 2006.”.

(a) Section 99B was inserted by section 21 of the Finance (No. 2) Act 2005 (c. 22).

(8) Omit sub-paragraphs (7A) to (7D) and (7F).

Modifications of the 2005 Act

89.—(1) The 2005 Act is modified as follows.

(2) In each of the provisions specified in paragraph (3) insert at the end “, except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those regulations”.

(3) The provisions specified are—

- (a) section 374(1) (date when open-ended investment company interest distributions made),
- (b) section 376(1) (date when authorised unit trust interest distributions made),
- (c) section 387(1) (date when open-ended investment company dividend distributions made), and
- (d) section 390(1) (date when authorised unit trust dividend distributions made).

CHAPTER 3

MODIFICATIONS OF THE 1992 ACT

Preliminary

Introduction

90. Regulations 91 to 102 provide for the modification of the 1992 Act in its application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds.

General

Application of the 1992 Act: general

91.—(1) The 1992 Act has effect in relation to—

- (a) open-ended investment companies,
- (b) holdings in, and the assets of, such companies, and
- (c) transactions involving such companies,

in like manner as the manner in which it has effect in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.

(2) References in the 1992 Act to companies, to holdings in, and the assets of, companies and to transactions involving companies accordingly have effect (or do not have effect as the case may be) in relation to open-ended investment companies, to holdings in, and the assets of, such companies, and to transactions involving such companies, in like manner as the manner in which they have effect (or do not have effect) in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts, and to transactions for purposes connected with such trusts.

(3) This regulation has effect subject to the other modifications contained in this Chapter.

General modifications: introduction

92. The modifications specified in regulations 93 to 97 have effect subject to the modifications specified in regulations 98 to 102.

General modification: authorised unit trust

93.—(1) The modifications specified in this regulation are that references, however expressed, in the 1992 Act to—

- (a) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (b) a unit trust scheme as denoting or including (whether expressly or by implication) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (c) the trustees of an authorised unit trust within sub-paragraph (a) or of a unit trust scheme within sub-paragraph (b),

have effect as if they included references to an open-ended investment company.

(2) Paragraph (1) does not apply—

- (a) to references in any of the provisions specified in paragraph (3), or
- (b) to references to provisions which include reference, whether made expressly or by implication, to an open-ended investment company.

(3) The provisions specified are—

- (a) section 99(1) (application of Act to unit trust scheme),
- (b) section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) section 100(2) (exemption for units in unit trust scheme), and
- (d) section 272(5) (valuation of rights of unit holders).

General modification: manager of authorised unit trust

94.—(1) The modifications specified in this regulation are that references, however expressed, in the 1992 Act to the manager of an authorised unit trust or of a unit trust scheme within regulation 93(1)(b) have effect as if they included references to the authorised corporate director of the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 272(5) (valuation of rights of unit holders), or
- (b) to references in provisions which include reference, whether made expressly or by implication, to the authorised corporate director of an open-ended investment company.

General modification: unit of authorised unit trust

95.—(1) The modifications specified in this regulation are that references, however expressed, in the 1992 Act to—

- (a) a unit or an interest in, or rights under, an authorised unit trust,
- (b) a unit or an interest in, or rights under, a unit trust scheme within regulation 93(1)(b), or
- (c) an entitlement to a share of, or in, the investments subject to the trusts of an authorised unit trust or a unit trust scheme within regulation 93(1)(b),

have effect as if they included references to a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- (b) to section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) to section 272(5) (valuation of rights of unit holders), or
- (d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

General modification: accumulation units in unit trust schemes

96. The modifications specified in this regulation are that references, however expressed, in the 1992 Act to accumulation units in an authorised unit trust or in a unit trust scheme within regulation 93(1)(b) have effect as if they included references to accumulation shares in an open-ended investment company.

General modification: holder of unit in authorised unit trust

97.—(1) The modifications specified in this regulation are that references, however expressed, in the 1992 Act to the holder of a unit within regulation 95(1) (other than references in a definition of a unit holder) have effect as if they included references to the owner of a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- (b) to section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) to section 272(5) (valuation of rights of unit holders), or
- (d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Specific modifications of the 1992 Act

Modification of section 99 of the 1992 Act

98.—(1) Section 99 of the 1992 Act (application of Act to unit trust schemes)(a) is modified as follows.

(2) In subsection (2) for “section 99A” substitute “sections 99A and 99AA”.

(3) In subsection (2) after paragraph (b) insert—

“(c) open-ended investment company has the meaning given in regulation 4 of the Authorised Investment Funds (Tax) Regulations 2006.”.

Insertion of section 99AA of the 1992 Act

99. After section 99A of the 1992 Act(b) insert the following section—

“Open-ended investment companies: treatment of umbrella companies

99A—(1) In this section an “umbrella company” has the meaning given by section 468A(4) of the Taxes Act(c), and a reference to a part of an umbrella company is to be construed in accordance with that provision.

(2) For the purposes of this Act (except subsection (1))—

- (a) each of the parts of an umbrella company shall be regarded as an open-ended investment company, and

(a) Section 99 was relevantly amended by section 118(2) of the Finance Act 2004 (c. 12).

(b) Section 99A was inserted by section 118(3) of the Finance Act 2004.

(c) Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

(b) the umbrella company as a whole shall not be so regarded (and shall not, unless express provision is made otherwise, be regarded as a company).

(3) In this Act, in relation to a part of an umbrella company, any reference, however expressed, to the owner of a share in an open-ended investment company is to a person for the time being having rights in the separate pool to which the part of the umbrella company relates.

(4) Nothing in subsections (2) or (3) shall prevent—

(a) gains accruing to an umbrella company being regarded as gains accruing to an open-ended investment company for the purposes of section 100(1) (exemption for authorised unit trusts etc);

(b) a transfer of business to an umbrella company being regarded as a transfer to an open-ended investment company for the purposes of section 139(4) (exclusion of transfers to authorised unit trusts etc).”.

Modifications of section 272 of the 1992 Act

100.—(1) Section 272 of the 1992 Act (valuation: general) is modified as follows.

(2) In subsection (3)(a) after “2 figures, or” insert “where a single price is shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the relevant date, that price, or”.

(3) After subsection (5) insert—

“(5AA) In this Act “market value” in relation to shares of a given class in an open-ended investment company the prices of which are published regularly by the authorised corporate director of that company (whether or not those shares are also quoted in The Stock Exchange Daily Official List) shall mean an amount equal to the price so published on the relevant date, or if no price was published on that date, on the latest date before that date.

(5AB) In subsection (5AA) “authorised corporate director” has the meaning given by regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006.”.

Modifications of section 288 of the 1992 Act

101.—(1) Section 288 of the 1992 Act(a) (interpretation) is modified as follows.

(2) In subsection (1), in the definition of “collective investment scheme”, for “section 99A substitute “sections 99A and 99AA”.

(3) In the table in subsection (8) (index of general definitions)—

(a) in the first column after “Absolutely entitled as against the trustee” insert “Authorised corporate director”;

(b) in the first column after “Market value” insert “Open-ended investment company”;

(c) in the second column after “s 60(2)” insert “s 272(5AB) (as that provision is inserted by regulation 100(3) of the Authorised Investment Funds (Tax) Regulations 2006)”;

(d) in the second column after “ss 272 to 274 and Sch 11” insert “s.99 (as that section is modified by regulation 98 of the Authorised Investment Funds (Tax) Regulations 2006)”.

Modification of Schedule A1 to the 1992 Act

102. In Schedule A1 to the 1992 Act (application of taper relief), in paragraph 16(2)(b) (special rules for postponed gains) at the end of paragraph (f) add “, or” and then add—

“(g) regulations 62(4) and 63(4) of the Authorised Investment Funds (Tax) Regulations 2006.”.

(a) Section 288 was relevantly amended by section 118(4) of the Finance Act 2004.

(b) Schedule A1 was inserted by Schedule 20 to the Finance Act 1998 (c.36).

PART 8

FINAL PROVISIONS

Instruments revoked

103. The following statutory instruments are revoked—

- The Open-ended Investment Companies (Tax) Regulations 1997(**a**);
- The Open-ended Investment Companies (Tax) (Amendment) Regulations 1997(**b**);
- The Open-ended Investment Companies (Tax) (Amendment) Regulations 2002(**c**);
- The Open-ended Investment Companies (Tax) (Amendment) Regulations 2003(**d**).

Abbreviations and general index

104.—(1) The Schedule to these Regulations (which contains abbreviations and defined expressions that apply for the purposes of these Regulations) has effect.

(2) Part 1 of the Schedule gives the meaning of the abbreviated references to Acts used in these Regulations.

(3) Part 2 of the Schedule lists the places where expressions used in these Regulations are defined or otherwise explained—

- (a) in these Regulations for the purposes of these Regulations, or
- (b) in these Regulations for the purposes of a Part or Chapter of these Regulations.

[x Month 2006]

[abc]
[def]

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Abbreviations and Defined Expressions

PART 1

Abbreviations of Acts

the Taxes Act	The Income and Corporation Taxes Act 1988 (c. 1)
the 1992 Act	The Taxation of Chargeable Gains Act 1992 (c. 12)
the 2000 Act	The Financial Services and Markets Act 2000 (c. 8)

- (a) S.I. 1997/1154.
- (b) S.I. 1997/1715.
- (c) S.I. 2002/1973.
- (d) S.I. 2003/1831.

the 2003 Act	The Income Tax (Earnings and Pensions) Act 2003 (c. 1)
the 2005 Act	The Income Tax (Trading and Other Income) Act 2005 (c. 5)

PART 2

Index of expressions defined or otherwise explained in these Regulations

Accumulation unit	Regulation 6(6)
Acquiring company (in Chapter 2 of Part 6)	Regulation 74(7)
Alternative finance arrangements (in Part 3)	Regulation 20(10)
Authorised (in relation to unit trust schemes)	Regulation 5(2)
Authorised corporate director	Regulation 8
Authorised investment funds	Regulation 3
Capital profits, gains or losses (in Part 2)	Regulation 11
Collective investment scheme	Regulation 8
Commissioners	Regulation 8
Consideration shares (in Chapter 2 of Part 6)	Regulation 74(7)
Contract for differences (in Part 3)	Regulation 20(9)
Creditor relationship	Regulation 8
Deduction obligation (in Part 4)	Regulation 25(3)
Derivative contract	Regulation 8
Difference in value (in Chapter 4 of Part 4)	Regulation 52(2)
Distribution	Regulation 14(1)
Distribution accounts	Regulation 14(3)
Distribution date	Regulation 14(4)
Distribution period	Regulation 14(2)
Dividend distribution	Regulation 14(3)
Earlier measuring date (in Chapter 4 of Part 4)	Regulation 52(2)
Exchanged units (in Chapter 2 of Part 6)	Regulation 74(7)
First measuring date (in Chapter 4 of Part 4)	Regulation 60
Interest distribution	Regulation 17(4)
Investments	Regulation 8
Later measuring date (in Chapter 4 of Part 4)	Regulation 52(2)
Legal owner	Regulation 6(1)
Manager	Regulation 6(3)
Market value (in Chapter 4 of Part 4)	Regulation 52(4)
Measuring date (in Chapter 4 of Part 4)	Regulation 53
Net asset value	Regulation 8
Open-ended investment company	Regulation 4
Participant	Regulation 6(4)
Pre-transfer accounting period (in Chapter 2 of Part 6)	Regulation 74(1)
Qualifying certificate	Regulation 34
Qualified investor scheme	Regulation 50
Qualifying investments	Regulation 19
Qualifying shares (in an open-ended investment company) (in Part 3)	Regulation 20(2)

Relevant assumption (in Part 3)	Regulation 20(6)
Relevant period (in Part 3)	Regulation 18(1)
Reporting date	Regulation 8
Residence declaration	Regulation 8
Scheme property	Regulation 6(2)
Securities (in Part 3)	Regulation 20(2)
Share	Regulation 6(5)
Statement of recommended Practice (in Part 2)	Regulation 11(3)
Substantial holding (in Chapter 4 of Part 4)	Regulation 51
Target trust (in Chapter 2 of Part 6)	Regulation 74(7)
Tax year	Regulation 8
Transfer date (in Chapter 2 of Part 6)	Regulation 74(7)
Umbrella company	Regulation 7(1)
Umbrella scheme	Regulation 7(4)
Underlying subject matter (in Part 3)	Regulation 20(8)
Unit holder	Regulation 5(3)
Unit trust scheme	Regulation 5(1)
The whole of the scheme property of an authorised unit trust that is available for transfer(in Chapter 2 of Part 6)	Regulation 74(7)

EXPLANATORY NOTE

(This note is not part of the Regulations)

In the Finance (No. 2) Act 2005 (c. 22) (“the 2005 Act”), Chapter 3 of Part 2 makes provision relating to authorised investment funds. Existing statutory provisions dealing with authorised investment funds cease to have effect on such day as the Treasury may appoint by order (see sections 17(1) and 19(1) of the 2005 Act). Sections 17(3) and 18 of the 2005 Act then confer powers to make provisions about the treatment of authorised investment funds for taxation purposes. Arrangements are being made for the enactments specified in section 17(1) of the 2005 Act to be repealed.

These Regulations exercise the powers conferred in sections 17(3) and 18 of the 2005 Act to make provision about the treatment of authorised investment funds for taxation purposes. In doing so, these Regulations contain material dealing with the same matters as those dealt with in the enactments specified in section 17(1) of the 2005 Act, and in various statutory instruments; but these Regulations make changes in dealing with those matters. These Regulations also contain new provisions.

Part 1 of these Regulations contains preliminary provisions and provides for interpretation. As regards the preliminary provisions, regulation 1 provides for citation, commencement and effect; and regulation 2 sets out the structure of these Regulations, indicating the nature of each of the eight parts into which these Regulations are divided. Regulations 3 to 8 then deal with matters of interpretation. Regulation 3 defines “authorised investment funds” as “open-ended investment companies” and as “authorised unit trust schemes”. The definition of an open-ended investment company is dealt with in regulation 4 and definitions relating to authorised unit trust schemes are set out in regulation 5. Regulations 6 to 8 contain further definitions.

Part 2 of these Regulations deals with the tax treatment of authorised investment funds; and this Part contains the special detailed rules that apply to this subject. Capital profits, gains or losses arising to an authorised investment fund must not be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships) (see regulation 9), or for the purposes of Schedule 26 to the Finance Act 2002 (c. 23) (derivative contracts) (see regulation 10). Regulation 11 contains further provisions supplementing these basic rules. Further provision is then made for the purposes of an authorised investment fund’s loan relationships. Regulation 12 is concerned with the treatment of interest distributions, and regulation 13 prevents the carrying-back of deficits on loan relationships to earlier periods (regulation 13).

Part 3 of these Regulations deals with distributions made by authorised investment funds. Regulation 14 is concerned with interpretation, and regulation 15 specifies the funds excluded from the ambit of this Part. Regulation 16 deals with the contents of distribution accounts: amounts shown as available for distribution must be shown as available for distribution as yearly interest or as dividends. Regulations 17 to 20 are concerned with interest distributions. Regulation 17 sets out the general rule that applies. But before an interest distribution may be made, an amount must satisfy the qualifying investments test. The test is set out in regulation 18 and further explained in regulations 19 and 20. Regulation 21 deals with dividend distributions; and regulation 22, which applies both to interest distributions and to dividend distributions, contains provisions which apply if the amounts available for distribution are *de minimis* only.

Part 4 of these Regulations deals with the treatment of participants in authorised investment funds; and this Part is divided into four Chapters.

Chapter 1 of Part 4 contains preliminary provisions. Regulation 23 sets out the structure of this Part, indicating the nature of each of the four Chapters, and regulation 24 specifies the funds excluded from the ambit of this Part.

Chapter 2 of Part 4 deals with participants chargeable to income tax. Regulation 25 provides that the general obligation, under section 349(2) of the Income and Corporation Tax Act 1988 (c. 1) to deduct a sum representing tax when any yearly interest is paid (“the deduction obligation”), shall be relaxed in a number of cases. The cases in question include those where the reputable

intermediary condition is met, the residence condition is met or the non-liability condition is met. Regulations 26 to 28 then deal in detail with reputable intermediary condition; regulations 29 to 32 with the residence condition; and regulations 33 to 43 with the non-liability condition.

Chapter 3 of Part 4 deals with participants chargeable to corporation tax. Regulation 44 provides that the deduction obligation does not apply to interest distributions. So far as dividend distributions are concerned, regulation 45 provides for the unfranked part of the dividend distribution to be treated as an annual payment and not as a dividend distribution or an interest distribution. Regulation 46 specifies how the unfranked part of the dividend distribution is to be calculated, and regulations 47 to 49 contain supplemental provisions.

Chapter 4 of Part 4, which does not derive in any way from earlier legislation, imposes a charge to tax on substantial holdings in qualified investor schemes. Regulation 50 provides for the charge to tax under this Chapter, and specifies those participants who are excepted from the charge under this Chapter. Regulation 51 explains what is meant by the expression "substantial holding". Regulation 52 is concerned with the amount charged to tax under this Chapter: that amount is calculated by reference to the difference in value of the substantial holding between two measuring dates. Regulation 53 specifies the dates that are measuring dates, and regulations 54 and 55 contain further provisions relating (respectively) to the charges to income tax and corporation tax. The next group of provisions are concerned with the first measuring date. The general rule that a participant must value his holding on the first measuring date is set out in regulation 56; but that general rule is modified in the cases dealt with in regulations 57 to 59. Regulation 60 contains the definition of the first measuring date, and regulation 61 specifies a calculation that must then be made. The final group of regulations in this Chapter is concerned with disposals of holdings; and separate provision is made for part of a holding (regulation 62), for the whole of a holding (regulation 63) and for no gain/no loss disposals (regulation 64).

Part 5 of these Regulations deals with compliance. Regulation 65 provides for section 234A of the Income and Corporation Taxes Act 1988 (information relating to distributions) to apply in a modified form. Regulation 66 provides that an authorised investment fund making interest distributions without deduction of tax must report this information to the Commissioners for Revenue and Customs. The Commissioners may require information to be given about interest distributions made without deduction of tax (regulation 67) and may inspect records (regulation 68), but the information so obtained by the Commissioners may only be used in limited contexts (see regulation 69). The Commissioners may also inspect residence declarations given under Chapter 2 of Part 4 of these Regulations (regulation 70). Regulation 71 provides that, in the context of the non-liability condition (see regulations 33 to 43), the legal owner of an authorised investment fund must, in certain circumstances, give notice to the Commissioners if it proposes to make interest distributions under deduction of tax.

Part 6 of these Regulations contains further provisions relating to authorised investment funds; and this Part is divided into two Chapters.

Chapter 1 of Part 6 is of a general nature. Regulation 72 deals with the case where an open-ended investment company issues shares of different denominations. Regulation 73 provides that there must not be discrimination in respect of different classes of shares.

Chapter 2 of Part 6 is concerned with the amalgamation of an authorised unit trust with, and the conversion of an authorised unit trust into, an open-ended investment company. The circumstances in which this Chapter applies are set out in regulation 74; and regulations 75 to 81 are concerned with the tax consequences of the scheme undertaken.

Part 7 of these Regulations contains consequential amendments and modifications of enactments; and this Part is divided into three Chapters.

Chapter 1 of Part 7 contains amendments of references to enactments repealed by section 17(1) of the 2005 Act (regulations 82 to 85).

Chapter 2 of Part 7 contains modifications of the Tax Acts (regulations 86 to 89).

Chapter 3 of Part 7 contains modifications of the Taxation of Chargeable Gains Act 1992 (c. 12) (regulations 90 to 102).

Part 8 of these Regulations contains final provisions. Regulation 103 provides for the revocation of statutory instruments whose subject matter is now contained in these Regulations; and regulation 104 introduces the Schedule to these Regulations.

The Schedule to these Regulations is in two Parts. Part 1 gives the meaning of the abbreviated references to Acts used in these Regulations; and Part 2 consists of an Index of expressions defined or otherwise explained in these Regulations.