

Bill 6

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PART 1

RULES FOR SPECIAL TYPES OF COMPANY ETC

CHAPTER 1

AUTHORISED INVESTMENT FUNDS

Introductory

1 Overview of Chapter [\[j8300over\]](#)

- (1) This Chapter contains provision about taxation in relation to –
 - (a) open-ended investment companies (see sections 2 and 3),
 - (b) authorised unit trusts (see sections 5 to 7), and
 - (c) court common investment funds (which are treated in accordance with section 9 as authorised unit trusts).

[Origin: Drafting.](#)

- (2) The Chapter also includes provision about –
 - (a) open-ended investment companies which take the form of umbrella companies (see section 4), and
 - (b) authorised unit trust schemes which take the form of umbrella schemes (see section 8).

[Origin: Drafting.](#)

- (3) The effect of the provision mentioned in subsection (2) is that, for the purposes of this Chapter, each part of the umbrella company or scheme is regarded as an open-ended investment company or authorised unit trust, but the umbrella company or scheme itself is not.

[Origin: Drafting.](#)

Open-ended investment companies

2 Meaning of “open-ended investment company” [\[j8303\]](#)

In this Chapter “open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 applies.

[Origin: ICTA s.468A\(2\).](#)

3 Applicable corporation tax rate [j8303a]

- (1) The rate of corporation tax in relation to an open-ended investment company for the financial year 2010 and subsequent financial years is the rate specified in subsection (2).

Origin: ICTA s.468A(1).

- (2) The rate is that at which income tax at the basic rate is charged for the tax year beginning on 6 April in the financial year concerned (and section 13 of ICTA (small companies' relief) does not apply).

Origin: ICTA s.468A(1).

4 Umbrella companies [j8304]

- (1) In this section “umbrella company” means an open-ended investment company –
- (a) whose instrument of incorporation provides arrangements for separate pooling of the contributions of the shareholders and the profits or income out of which payments are made to them, and
 - (b) whose shareholders are entitled to exchange rights in one pool for rights in another.

Origin: ICTA s.468A(4).

- (2) References in this section to a part of an umbrella company are to a separate pool.

Origin: ICTA s.468A(4).

- (3) For the purposes of this Chapter –
- (a) each of the parts of an umbrella company is to be regarded as an open-ended investment company, and
 - (b) the umbrella company as a whole is not to be regarded as an open-ended investment company.

Origin: ICTA s.468A(3).

- (4) The umbrella company as a whole is not to be regarded as a company for any other purpose of the Tax Acts unless an enactment expressly provides otherwise.

Origin: ICTA s.468A(3).

*Authorised unit trusts***5 Meaning of “authorised unit trust” and “unit holder” [j8300]**

- (1) In this Chapter “authorised unit trust” means, in relation to an accounting period, a unit trust scheme in respect of which an order under section 243 of FISMA 2000 is in force during the whole or part of the period.

Origin: ICTA s.468(6).

- (2) In this Chapter “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

Origin: ICTA s.468(6).

- (3) Subsections (1) and (2) are subject to section 8 (umbrella schemes).

Origin: ICTA s.468(6).

6 Authorised unit trust treated as UK resident company [j8301]

- (1) In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts have effect as if –
- the trustees were a UK resident company, and
 - the rights of the unit holders were shares in the company.

Origin: ICTA s.468(1).

- (2) References in the Corporation Tax Acts to a body corporate are to be construed in accordance with subsection (1); and section 234A of ICTA applies with any necessary modifications.

Origin: ICTA s.468(3).

- (3) Subsection (1)(b) does not affect the making of distributions which are interest distributions to unit holders.

Origin: ICTA s.468(1).

- (4) “Interest distributions” has the meaning given by regulations made under section 17(3) of F(No.2)A 2005.

Origin: ICTA s.468(1).

7 Applicable corporation tax rate [j8302]

- (1) The rate of corporation tax in relation to an authorised unit trust for the financial year 2010 and subsequent financial years is the rate specified in subsection (2).

Origin: ICTA s.468(1A).

- (2) The rate is that at which income tax at the basic rate is charged for the tax year beginning on 6 April in the financial year concerned (and section 13 of ICTA (small companies’ relief) does not apply).

Origin: ICTA s.468(1A).

8 Umbrella schemes [j8301a]

- (1) In this section “umbrella scheme” means a unit trust scheme –
- which provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are made to them (“pooling arrangements”),
 - under which the participants are entitled to exchange rights in one pool for rights in another, and
 - in respect of which an order under section 243 of FISMA 2000 is in force.

Origin: ICTA s.468(8).

- (2) References in this section to a part of an umbrella scheme are to such of the pooling arrangements as relate to a separate pool.

Origin: ICTA s.468(8).

- (3) For the purposes of this Chapter –
- (a) each of the parts of an umbrella scheme is to be regarded as an authorised unit trust, and
 - (b) the umbrella scheme as a whole is not to be regarded as an authorised unit trust.

Origin: ICTA s.468(7).

- (4) In relation to a part of an umbrella scheme, references to investments subject to the trusts of an authorised unit trust are references to such of the investments as under the pooling arrangements form part of the separate pool to which the part relates.

Origin: ICTA s.468(9).

- (5) In relation to a part of an umbrella scheme, references to a unit holder are references to a person for the time being having rights in that separate pool.

Origin: ICTA s.468(9).

Court common investment funds

9 Court common investment funds [j8310]

- (1) In this section “common investment fund” means a common investment fund established under section 42 of the Administration of Justice Act 1982 (c. 53) (common investment funds for money paid into court).

Origin: ICTA s.469A(1).

- (2) The Tax Acts apply to a common investment fund as if –
- (a) the fund were an authorised unit trust,
 - (b) the person who is for the time being the investment manager of the fund were the trustee of the trust, and
 - (c) the persons with qualifying interests (see the table in subsection (3)) were the unit holders in the trust.

Origin: ICTA s.469A(1).

- (3) This is the table referred to in subsection (2)(c) –

<i>Description of shares in the fund</i>	<i>Persons with qualifying interests in relation to the shares</i>
Shares held by the Accountant General	The persons whose interests entitle them, as against the Accountant General, to share in the fund’s investments

<i>Description of shares in the fund</i>	<i>Persons with qualifying interests in relation to the shares</i>
Shares held by any other person authorised by the Lord Chancellor to hold such shares on behalf of others (an “authorised person”)	The persons whose interests entitle them, as against the authorised person, to share in the fund’s investment (or, if there are no such persons, the authorised person)
Shares held by persons authorised by the Lord Chancellor to hold such shares on their own behalf	The persons so authorised

Origin: ICTA s.469A(1A).

- (4) In subsection (3) “the Accountant General” means –
- (a) the Accountant General of [the Senior Courts of England and Wales], or
 - (b) the Accountant General of [the Court of Judicature of Northern Ireland].

Origin: ICTA s.469A(2).