

SCHEDULES

SCHEDULE 14

Section 112.

DISTRIBUTIONS OF AUTHORISED UNIT TRUSTS

- 1 Chapter III of Part XII of the Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 5 of this Schedule.

The new sections

- 2 The following sections shall be inserted immediately before section 469—

“Distributions of authorised unit trusts: general

468H Interpretation

- (1) This section has effect for the interpretation of sections 468I to 468R.
- (2) The making of a distribution by an authorised unit trust to a unit holder includes investing an amount on behalf of the unit holder in respect of his accumulation units.
- (3) In relation to an authorised unit trust—
 - (a) “distribution period” means a period by reference to which the total amount available for distribution to unit holders is ascertained; and
 - (b) “distribution accounts” means accounts showing how that total amount is computed.
- (4) The distribution date for a distribution period of an authorised unit trust is—
 - (a) the date specified by or in accordance with the terms of the trust for any distribution for that distribution period; or
 - (b) if no date is so specified, the last day of that distribution period.
- (5) In this Chapter references to foreign income dividends shall be construed in accordance with Chapter VA of Part VI.
- (6) Sections 468I to 468R do not apply to an authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

468I Distribution accounts

- (1) The total amount shown in the distribution accounts as available for distribution to unit holders shall be shown as available for distribution in one of the ways set out below.
- (2) It may be shown as available for distribution as dividends which are not foreign income dividends.

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- (3) It may be shown as available for distribution as foreign income dividends.
- (4) It may be shown as available for distribution as yearly interest.
- (5) It may be divided into—
 - (a) a part shown as available for distribution as dividends which are not foreign income dividends; and
 - (b) a part shown as available for distribution as foreign income dividends.
- (6) Amounts deriving from income under Schedule A may not be included in any amount shown in the distribution accounts as available for distribution as yearly interest.
- (7) Where distribution accounts show an amount as available for distribution to unit holders in the way set out in subsection (5) above there shall not be any discrimination between unit holders having accumulation units and other unit holders (or between unit holders on other grounds).

Dividend and foreign income distributions

468J Dividend distributions

- (1) Subsection (2) below applies where the total amount or a part of the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as dividends which are not foreign income dividends.
- (2) The Tax Acts shall have effect as if the total amount or, as the case may be, the part were dividends on shares paid on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.
- (3) The trustees of an authorised unit trust may not make an election under section 246A in respect of dividends paid by virtue of this section.
- (4) In the following provisions of this Chapter “a dividend distribution” means a dividend treated as paid by virtue of subsection (2) above.

468K Foreign income distributions

- (1) Subsection (2) below applies where the total amount or a part of the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as foreign income dividends.
- (2) The Tax Acts shall have effect (subject to what follows) as if the total amount or, as the case may be, the part were foreign income dividends on shares paid on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.
- (3) In relation to the paying of foreign income dividends by authorised unit trusts Chapter VA of Part VI shall have effect as if the following provisions were omitted—

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- (a) sections 246A and 246B (provisions with respect to election to pay foreign income dividends);
 - (b) sections 246K to 246M (special provisions for subsidiaries); and
 - (c) sections 246S to 246W (international headquarters companies).
- (4) In the following provisions of this Chapter “a foreign income distribution” means a foreign income dividend treated as paid by virtue of subsection (2) above.

Interest distributions

468L Interest distributions

- (1) Subsection (2) below applies where the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as yearly interest.
- (2) The Tax Acts shall have effect (subject to what follows) as if the total amount were payments of yearly interest made on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.
- (3) In the following provisions of this Chapter “an interest distribution” means a payment of yearly interest treated as made by virtue of subsection (2) above.
- (4) The obligation under section 349(2) to deduct a sum in its application to an interest distribution is subject to sections 468M and 468N (and, in its application to an interest distribution to a unit holder in respect of his accumulation units, is an obligation to deduct a sum out of the amount being invested on the unit holder’s behalf).
- (5) Interest distributions shall not be a charge on income for the purposes of section 338(1) but any interest distributions for a distribution period which are interest distributions with respect to which the obligation under section 349(2) (if and to the extent that it applies) is complied with shall be allowed as a deduction against the profits of the authorised unit trust for the accounting period in which the last day of that distribution period falls.
- (6) The deduction mentioned in subsection (5) above may be made—
 - (a) in computing the total profits for the accounting period, after the deduction of any expenses deductible in computing profits apart from section 75 and either before or after the deduction under that section of sums disbursed as expenses of management; or
 - (b) against total profits as reduced by any other relief from tax or against total profits not so reduced.
- (7) Where in any accounting period the amount deductible by virtue of subsection (5) above exceeds the amount from which the deduction is made—
 - (a) the excess may be carried forward to the succeeding accounting period; and

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- (b) the amount so carried forward shall be treated as if it were deductible in that succeeding accounting period by virtue of subsection (5) above.

468M Deduction of tax (simple case)

- (1) Subsection (2) below applies where—
 - (a) an interest distribution is made for a distribution period to a unit holder; and
 - (b) the gross income entered in the distribution accounts for the purpose of computing the total amount available for distribution to unit holders derives from eligible income entirely.
- (2) Where this subsection applies, the obligation to deduct under section 349(2) shall not apply to the interest distribution to the unit holder if the residence condition is on the distribution date fulfilled with respect to him.
- (3) Section 468O makes provision with respect to the circumstances in which the residence condition is fulfilled with respect to a unit holder.
- (4) Subject to subsection (5) below, in this Chapter “eligible income” means—
 - (a) any interest on a security which falls within paragraph 5(5)(d) of Schedule 19AA;
 - (b) any interest on a security which is a quoted Eurobond for the purposes of section 124;
 - (c) any dividends falling within section 17(1)3;
 - (d) any proceeds or other realisation falling within section 17(1)4;
 - (e) any amount taxable by virtue of section 123;
 - (f) any other amount, if it is not subject to income tax by deduction.
- (5) “Eligible income” does not include—
 - (a) franked investment income;
 - (b) income under Schedule A;
 - (c) any foreign income dividend;
 - (d) any amount afforded relief from taxation imposed under the laws of a territory outside the United Kingdom under arrangements having effect by virtue of section 788 in relation to that territory.

468N Deduction of tax (mixed funds)

- (1) Subsection (2) below applies where—
 - (a) an interest distribution is made for a distribution period to a unit holder; and
 - (b) the gross income entered in the distribution accounts for the purposes of computing the total amount available for distribution to unit holders does not derive from eligible income entirely.
- (2) Where this subsection applies, the obligation to deduct under section 349(2) shall not apply to the relevant amount of the interest distribution to the unit holder if the residence condition is on the distribution date fulfilled with respect to him.

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(3) Section 468O makes provision with respect to the circumstances in which the residence condition is fulfilled with respect to a unit holder.

(4) This is how to calculate the relevant amount of the interest distribution—

$$R = A \times \frac{B}{C}$$

Where—

- R = the relevant amount;
- A = the amount of the interest distribution before deduction of tax to the unit holder in question;
- B = such amount of the gross income as derives from eligible income;
- C = the amount of the gross income.

(5) In subsection (4) above the references to the gross income are references to the gross income entered as mentioned in subsection (1)(b) above.

468O Residence condition

(1) For the purposes of sections 468M and 468N, the residence condition is fulfilled with respect to a unit holder if—

- (a) there is a valid declaration made by him that he is not ordinarily resident in the United Kingdom; or
- (b) he holds the rights as a personal representative of a unit holder and—
 - (i) before his death the deceased made a declaration valid at the time of his death that he was not ordinarily resident in the United Kingdom; or
 - (ii) the personal representative has made a declaration that the deceased, immediately before his death, was not ordinarily resident in the United Kingdom.

(2) For the purposes of sections 468M and 468N, the residence condition is also fulfilled with respect to a unit holder if the unit holder is a company and there is a valid declaration made by the company that it is not resident in the United Kingdom.

(3) The Board may by regulations make such provision as appears to them to be necessary or expedient modifying the application of this section and section 468P in relation to interest distributions made to or received under a trust.

(4) Regulations under subsection (3) above may—

- (a) make different provision for different cases; and
- (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

468P Residence declarations

(1) A declaration made for the purposes of section 468O must—

- (a) be in such form as may be required or authorised by the Board;

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- (b) be made in writing to the trustees of the authorised unit trust in question; and
 - (c) contain any details or undertakings required by subsections (2) to (4) below.
- (2) A declaration made as mentioned in section 468O(1)(a) or (b)(i) must contain—
 - (a) the name and principal residential address of the person making it; and
 - (b) an undertaking that he will notify the trustees if he becomes ordinarily resident in the United Kingdom.
- (3) A declaration made as mentioned in section 468O(1)(b)(ii) must contain the name of the deceased and his principal residential address immediately before his death.
- (4) A declaration made as mentioned in section 468O(2) must contain—
 - (a) the name of the company making it and the address of its registered or principal office; and
 - (b) an undertaking that the company will notify the trustees if it becomes resident in the United Kingdom.
- (5) For the purposes of determining whether an interest distribution should be made with or without any deduction, the trustees may not treat a declaration as valid if—
 - (a) they receive a notification in compliance with an undertaking under subsection (2) or (4) above that the person in question has become ordinarily resident or, as the case may be, resident in the United Kingdom; or
 - (b) they come into possession of information by some other means which indicates that the person in question is or may be ordinarily resident or, as the case may be, resident in the United Kingdom;but, subject to that, they are entitled to treat the declaration as valid.
- (6) The trustees shall, on being required to do so by a notice given by an officer of the Board, make available for inspection by such an officer any declarations made to them under this section or any specified declaration or description of declarations.
- (7) Where a notice has been given to the trustees under subsection (6) above, 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.
- (8) The Board may by regulations make provision for giving effect to this section, including in particular provision requiring trustees and managers of authorised unit trusts to supply information and make available books, documents and other records for inspection on behalf of the Board.
- (9) Regulations under subsection (8) above may—
 - (a) make different provision for different cases; and
 - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

Distributions to corporate unit holder

468Q Dividend distribution to corporate unit holder

- (1) Subsection (2) below applies where—
 - (a) a dividend distribution for a distribution period is made to a unit holder by the trustees of an authorised unit trust; and
 - (b) on the distribution date for that distribution period the unit holder is within the charge to corporation tax.
- (2) For the purpose of computing corporation tax chargeable in the case of the unit holder the unfranked part of the dividend distribution shall be deemed—
 - (a) to be an annual payment and not a dividend distribution, a foreign income distribution or an interest distribution; and
 - (b) to have been received by the unit holder 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) This is how to calculate the unfranked part of the dividend distribution—

$$U = \left((A + B) \times \frac{C}{D} \right) - B$$

Where—

- U = the unfranked part of the dividend distribution to the unit holder;
- A = the amount of the dividend distribution;
- B = the amount of any foreign income distribution for the distribution period for which that dividend distribution is made to the unit holder;
- C = such amount of the gross income as does not derive from franked investment income;
- D = the amount of the gross income.

- (4) If the calculation in accordance with subsection (3) above produces a value of U that is less than O, it shall be assumed for the purposes of this section that no part of the dividend distribution is unfranked.
- (5) Where the unit holder is on the distribution date the manager of the scheme, subsection (2) above 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 scheme.
- (6) For the purposes of this section 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 unit holders for the distribution period in question.

468R Foreign income distribution to corporate unit holder

- (1) Subsection (2) below applies where—

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- (a) a foreign income distribution for a distribution period is made to a unit holder by the trustees of an authorised unit trust; and
- (b) on the distribution date for that distribution period the unit holder is within the charge to corporation tax.
- (2) The provisions of subsections (2) to (6) of section 468Q shall have effect, with the necessary modifications, in relation to the foreign income distribution as they have effect in relation to a dividend distribution, and in particular as if for the provisions of subsection (3) of that section there were substituted the provisions of subsection (3) below.
- (3) This is how to calculate the unfranked part of the foreign income distribution—

$$U = \left((A + B) \times \frac{E}{D} \right) - A$$

Where—

- U = the unfranked part of the foreign income distribution to the unit holder in question;
- A = the amount of any dividend distribution for the distribution period for which that foreign income distribution is made to the unit holder;
- B = the amount of that foreign income distribution;
- E = such amount of the gross income as does not derive from foreign income dividends;
- D = the amount of the gross income.”

Other amendments

- 3 (1) Section 468 (authorised unit trusts) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted “but paragraph (b) above is without prejudice to the making of distributions which are interest distributions (within the meaning of section 468L) to unit holders”.
- (3) Subsection (2) (notional dividends of authorised unit trusts) shall be omitted.
- (4) In subsection (3) for the words “subsections (1) and (2) above” there shall be substituted “subsection (1) above”.
- (5) In subsection (6) the definition of “distribution period” shall be omitted.
- 4 Sections 468F and 468G shall cease to have effect.
- 5 In section 469 (other unit trusts), in subsection (6) (meaning of “distribution period”) for the words “has the same meaning as in section 468, but” there shall be substituted “means a period beginning on or after 1st April 1987 over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders, but”.
- 6 In section 834(3) of the Taxes Act 1988 (date on which dividends treated as paid) for the words from “except in so far as” to the end there shall be substituted “except in so far as Chapter III of Part XII makes other provision for dividends treated as paid by virtue of that Chapter”.

Commencement

- 7 (1) Subject to sub-paragraph (2) below, this Schedule shall have effect in relation to distribution periods beginning on or after 1st April 1994.
- (2) Nothing in the amendments made by this Schedule shall be taken to permit—
- (a) the total amount shown in the distribution accounts for a distribution period of an authorised unit trust, or
 - (b) a part of that total amount,
- to be shown as available for distribution as foreign income dividends unless the distribution date for that distribution period is 1st July 1994 or a subsequent date.