



Finance (No. 2) Act 2005

2005 CHAPTER 22

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

AUTHORISED INVESTMENT FUNDS ETC

18 Section 17(3): specific powers

- (1) Regulations under section 17(3)(a) or (b) may make provision about distributions which may, in particular—
- (a) require an authorised investment fund to comply with prescribed rules for determining (whether by reference to a formula or otherwise) what proportion of an amount shown in distribution accounts as available for distribution is to be distributed by way of dividends and what proportion is to be distributed by way of yearly interest;
 - (b) permit persons responsible for the management of an authorised investment fund to elect to distribute entirely by way of dividends;
 - (c) require distribution accounts to show the amount available for distribution—
 - (i) by way of dividends;
 - (ii) by way of yearly interest;
 - (d) allow a distribution of yearly interest for a distribution period to be deducted, in the prescribed manner, in computing the profits of the authorised investment fund for the accounting period in which the last day of that distribution period falls;
 - (e) make provision for determining the distribution date in relation to a distribution period of an authorised investment fund;
 - (f) permit distributions to be made, in prescribed circumstances, to or for the benefit of a person not ^{F1}... resident in the United Kingdom without deducting tax;

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- (g) permit distributions to be made without deducting tax, in prescribed circumstances, to a person ^{F1}... resident in the United Kingdom who is unlikely to be liable to pay an amount by way of income tax for the year of assessment in which the distribution is made;
 - (h) include provision, in respect of a unit holder or shareholder who is within the charge to corporation tax, about—
 - (i) the liability to corporation tax resulting from receipt of a distribution, and
 - (ii) the method of computing that liability.
- (2) Regulations under section 17(3)(a) or (b) may, in particular—
- (a) make special provision for loan relationships held by an authorised investment fund;
 - (b) make special provision for derivative contracts held by an authorised investment fund;
 - [^{F2}(c) modify the meaning of “ relevant holding ” for the purposes of—
 - (i) sections 490 and 492 of the Corporation Tax Act 2009 (loan relationships), and
 - (ii) section 587 of that Act (derivative contracts).]
 - (d) make special provision in relation to the treatment of umbrella companies and umbrella schemes (or shareholders or unit holders in umbrella companies or umbrella schemes);
 - (e) prohibit action which favours a class of unit holders or shareholders.
- (3) Regulations under section 17(3)(a) or (b) may, in particular—
- (a) make special provision in relation to a person who, alone or together with associates or connected persons, owns (otherwise than as a nominee) units or shares, in a fund designated by the [^{F3}Financial Conduct Authority] as a Qualified Investor Scheme, which represent 10% or more (or such other percentage as the regulations may specify) of the net asset value of the fund;
 - (b) include exceptions from provision made by virtue of paragraph (a) above including, in particular, an exception relating to units or shares held—
 - (i) by a charity ^{F4}...,
 - (ii) by a registered pension scheme (within the meaning of section 150 of FA 2004),
 - [^{F5}(iii) by an insurance company (within the meaning of section 65 of FA 2012) as assets for the purposes of its long-term business (within the meaning of section 63 of that Act),]or
 - (iv) by such other persons, in such circumstances, as the regulations may specify.
- (4) Regulations under section 17(3)(c) may, in particular, require persons responsible for the management of an authorised investment fund to supply information to, and make available books, documents and other records for inspection by, the Commissioners for Her Majesty's Revenue and Customs.
- (5) Regulations under section 17(3) may, in particular—
- (a) amend a reference in an enactment to a provision repealed by section 17(1);
 - (b) make different provision for different circumstances;
 - (c) make incidental, consequential, supplemental or transitional provision.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Section 18. (See end of Document for details)

Textual Amendments

- F1** Word in s. 18(1)(f)(g) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 46 para. 136**
- F2** S. 18(2)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 669** (with Sch. 2 Pts. 1, 2)
- F3** Words in s. 18(3)(a) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 108** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F4** Words in s. 18(3)(b)(i) omitted (1.4.2012) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 22, 34(2)**; S.I. 2012/736, art. 16
- F5** S. 18(3)(b)(iii) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 124**

Changes to legislation:

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