



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 6

#### RELATIONSHIPS TREATED AS LOAN RELATIONSHIPS ETC

### CHAPTER 3

#### OEICS, UNIT TRUSTS AND OFFSHORE FUNDS

##### *The qualifying investments test*

#### **493 The qualifying investments test**

- (1) An open-ended investment company, a unit trust scheme or an offshore fund meets the qualifying investments test for the purposes of this Chapter if the market value of the qualifying investments of the company, scheme or fund does not exceed 60% of the market value of all its investments.
- (2) References in this section and sections 494 and 495 to investments of an open-ended investment company are references—
  - (a) except where paragraph (b) applies, to the property subject to the collective investment scheme constituted by the company, and
  - (b) in a case where under [F1section 615(3) of CTA 2010] part of an umbrella company is regarded as an open-ended investment company, to such of the property subject to the collective investment scheme constituted by the umbrella company as forms part of the separate pool in question, other than cash awaiting investment.
- (3) References in this section and sections 494 and 495 to investments of a unit trust scheme are references to investments subject to the trusts of the scheme, other than cash awaiting investment.

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- (4) References in this section and sections 494 and 495 to investments of an offshore fund are references to assets of the fund, other than cash awaiting investment.
- (5) In this section “collective investment scheme” has the meaning given by section 235 of FISMA 2000.
- (6) A person with rights in a part of an umbrella company which is regarded under [<sup>F2</sup>section 615(3) of CTA 2010] as an open-ended investment company is treated for the purposes of this section as not owning shares in the umbrella company.
- (7) For the meaning of references to investments subject to the trusts of the scheme in the case of certain authorised unit trusts, see [<sup>F3</sup>section 619 of CTA 2010] (umbrella schemes).

#### Textual Amendments

- F1** Words in s. 493(2)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 628\(2\)](#) (with [Sch. 2](#))
- F2** Words in s. 493(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 628\(3\)](#) (with [Sch. 2](#))
- F3** Words in s. 493(7) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 628\(4\)](#) (with [Sch. 2](#))

#### 494 Meaning of “qualifying investments”

- (1) In section 493 “qualifying investments”, in relation to an open-ended investment company, a unit trust scheme or an offshore fund, means investments of the company, scheme or fund of any of the following descriptions—
  - (a) money placed at interest,
  - (b) securities,
  - (c) shares in a building society,
  - (d) qualifying holdings in an open-ended investment company, a unit trust scheme or an offshore fund,
  - (e) alternative finance arrangements,
  - (f) derivative contracts whose underlying subject matter consists wholly of any one or more of—
    - (i) the matters referred to in paragraphs (a) to (e) (other than diminishing shared ownership arrangements), and
    - (ii) currency,
  - (g) contracts for differences whose underlying subject matter consists wholly of any one or more of—
    - (i) interest rates,
    - (ii) creditworthiness, and
    - (iii) currency, and
  - (h) derivative contracts not within paragraph (f) or (g) where there is a hedging relationship between the contract and an asset within paragraphs (a) to (d).
- (2) In this section—
  - “contract for differences” has the same meaning as in Part 7 (derivative contracts) (see section 582),

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“diminishing shared ownership arrangements” means arrangements to which section 504 applies,  
“hedging relationship” has the meaning given by section 496,  
“qualifying holding” has the meaning given by section 495(1),  
“security” does not include shares in a company, and  
“underlying subject matter” has the same meaning as in Part 7 (derivative contracts) (see section 583).

#### 495 Qualifying holdings

(1) For the purposes of section 494(1)(d) a holding in an open-ended investment company, a unit trust scheme or an offshore fund is a qualifying holding at any time if—

- (a) at that time, or
- (b) at any other time in the relevant accounting period,

the company, scheme or fund [<sup>F4</sup>itself fails] to meet the qualifying investments test <sup>F5</sup> . . . .

<sup>F6</sup>(2) . . . . .

(3) In this section “holding”—

- (a) in relation to an open-ended investment company, means—
  - (i) except where sub-paragraph (ii) applies, shares in the company, and
  - (ii) in a case where under [<sup>F7</sup>section 615(3) of CTA 2010] part of an umbrella company is regarded as an open-ended investment company, rights in the separate pool in question,
- (b) in relation to a unit trust scheme, means an entitlement to a share in the investments of the scheme, and
- (c) in relation to an offshore fund, means—
  - (i) shares in any company by which the fund is constituted, or
  - (ii) an entitlement to a share in the investments of the fund.

(4) In this section “relevant accounting period” means the accounting period referred to in section 490(1).

#### Textual Amendments

- F4** Words in s. 495(1) substituted (with effect in accordance with s. 27(7)-(9) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 27\(6\)\(a\)\(i\)](#)
- F5** Words in s. 495(1) omitted (with effect in accordance with s. 27(7)-(9) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\), s. 27\(6\)\(a\)\(ii\)](#)
- F6** S. 495(2) omitted (with effect in accordance with s. 27(7)-(9) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\), s. 27\(6\)\(b\)](#)
- F7** Words in s. 495(3)(a)(ii) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 629](#) (with [Sch. 2](#))

#### 496 Meaning of “hedging relationship”

(1) For the purposes of section 494, in relation to an open-ended investment company, a unit trust scheme or an offshore fund, there is a hedging relationship between a

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derivative contract (“the hedging instrument”) and an asset (“the hedged item”) so far as condition A or B is met.

- (2) Condition A is that the hedging instrument and the hedged item are designated as a hedge by the company, scheme or fund.
- (3) Condition B is that the hedging instrument is intended to act as a hedge of exposure to changes in fair value of a hedged item which is—
  - (a) a recognised asset which could affect the total net return of the company, scheme or fund, or
  - (b) an identified part of such an asset which is attributable to a particular risk.
- (4) For the purposes of subsection (3) “the total net return” of a company, scheme or fund means its total net return calculated—
  - (a) in accordance with generally accepted accounting practice, or
  - (b) in the case of accounts prepared in a jurisdiction outside the United Kingdom, in accordance with generally accepted accounting practice in that jurisdiction.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)