
STATUTORY INSTRUMENTS

1994 No. 2318

INCOME TAX

**The Income Tax (Authorised Unit Trusts)
(Interest Distributions) Regulations 1994**

Made - - - - 5th September 1994
Laid before the House of
Commons - - - - 6th September 1994
Coming into force - - 27th September 1994

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 468O(3) and (4) and 468P(8) and (9) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 and shall come into force on 27th September 1994.

Interpretation

2. In these Regulations unless the context otherwise requires—

“authorised unit trust” and “unit holder” have the meanings given by section 468(6) of the Taxes Act;

“the Board” means the Commissioners of Inland Revenue;

“interest distribution” has the meaning given by section 468L(3)(2) of the Taxes Act;

“section 468O” and “section 468P” mean section 468O and section 468P respectively of the Taxes Act;

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“the Tax Acts” has the meaning given by section 831(2) of the Taxes Act.

(1) 1988 c. 1; sections 468O and 468P were inserted by paragraph 2 of Schedule 14 to the Finance Act 1994 (c. 9).

(2) Sections 468L, 468M and 468N were inserted by paragraph 2 of Schedule 14 to the Finance Act 1994.

Modifications of sections 468O and 468P in relation to interest distributions made to or received under a trust

3. Except in a case to which regulation 6 applies, section 468O and section 468P shall apply in relation to an interest distribution made to or received under a trust with the modifications specified in regulations 4 and 5.

4. In section 468O for subsections (1) and (2) there shall be substituted the following subsections—

“(1) For the purposes of sections 468M and 468N(2), the residence condition is fulfilled with respect to a unit holder in the case of an interest distribution made to or received under a trust if 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.

(2) In subsection (1) above and in section 468P, 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.”.

5. In section 468P—

(a) in subsection (1)(c) for the words “subsections (2) to (4)” there shall be substituted the words “subsection (2)”;

(b) for subsection (2) there shall be substituted the following subsection—

“(2) A declaration made as mentioned in section 468O(1) 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 trustees of the authorised unit trust in question if—
 - (i) they become resident in the United Kingdom, or
 - (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.”;

(c) subsections (3) and (4) shall be omitted;

(d) in subsection (5)(a)—

- (i) the words “or (4)” shall be omitted;

- (ii) for the words “the person in question” there shall be substituted the words “the trustees of the trust have become resident, or any beneficiary of the trust”;
- (e) in subsection (5)(b) for the words “the person in question” there shall be substituted the words “the trustees of the trust are or may be resident, or any beneficiary of the trust”.

Modification of section 468O in case where interest distribution made to or received under a trust is income of a person other than the trustees

6.—(1) This regulation applies in any case where the whole of an interest distribution made to or received under a trust 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.

(2) Where this regulation applies, section 468O and section 468P shall apply as if references to a unit holder in section 468O were references to the person referred to in paragraph (1) above.

Information to be provided to the Board — interest distributions made without deduction of tax

7.—(1) The Board may by notice require the trustees of an authorised unit trust, within such time (not being less than 14 days) as may be provided by the notice, to supply them with such information (including copies of any relevant books, documents or other records) as they may reasonably require for the purpose of determining whether, having regard to section 468P, interest distributions were properly made by that authorised unit trust without deduction of tax.

(2) The Board may by notice require the manager of an authorised unit trust, within such time (not being less than 14 days) as may be provided by the notice, to supply them with such information (including copies of any relevant books, documents or other records) as they may reasonably require for the purpose of determining whether, having regard to section 468P, interest distributions were properly made by that authorised unit trust without deduction of tax.

(3) A notice under paragraph (1) above and a notice under paragraph (2) above—

- (a) may each be given in respect of the same authorised unit trust, and
- (b) may each require the same information in respect of the same authorised unit trust.

Inspection of records

8. The trustees or the manager of an authorised unit trust shall, whenever required to do so, make available for inspection by an officer of the Board authorised for that purpose, at such time as that officer may reasonably require, all such copies of books, documents or other records in their or his possession or under their or his control as may be required by the Board under regulation 7.

Use of information

9.—(1) Subject to paragraph (3) below, information obtained by the Board under regulation 7 or 8 shall not be used for the purpose of ascertaining the tax liability (if any) of any person other than the persons specified in paragraph (2) below and shall otherwise be used only for the purposes of these Regulations.

(2) The persons specified in this paragraph are—

- (a) the trustees of the authorised unit trust in question;
- (b) a unit holder beneficially entitled to an interest distribution made without deduction of tax to whom the information obtained relates;

- (c) where an interest distribution is made to or received under a trust without deduction of tax and sub-paragraph (d) below does not apply, the trustees of that trust and any beneficiary of the trust to whom the information obtained relates; and
- (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.

(3) Paragraph (1) above shall not be construed as preventing any disclosure of information within section 182(5) of the Finance Act 1989(3).

(4) In paragraph (2)(c) above, “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.

*S. C. T. Matheson
G. H. Bush*

5th September 1994

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to certain payments of yearly interest by authorised unit trusts (“interest distributions”) which may be made without deduction of tax pursuant to sections 468M to 468P of the Income and Corporation Taxes Act 1988 (inserted by paragraph 2 of Schedule 14 to the Finance Act 1994) if at the time of the payment to the unit holder there exists a valid declaration to the effect that the unit holder is not ordinarily resident or, if a company, not resident in the United Kingdom. The Regulations first modify the application of sections 468O and 468P of the 1988 Act (residence conditions and residence declarations) in relation to interest distributions made to or received under a trust. Secondly the Regulations make provision enabling the Board of Inland Revenue (“the Board”) to require authorised unit trusts to supply information and make records available for inspection in connection with residence declarations.

Regulation 1 provides for citation and commencement, and regulation 2 contains definitions.

Regulations 3 to 5 modify the application of sections 468O and 468P of the 1988 Act in relation to interest distributions made to or received under a trust, and have the effect that, in order for the interest distribution to be paid to the trust without deduction of tax, there has to be in existence a valid declaration made by the trustees of the recipient trust that they are not resident in the United Kingdom and each beneficiary of the trust who is known to the trustees is not ordinarily resident or, if a company, not resident in the United Kingdom.

Regulation 6, by way of an exception to regulations 3 to 5, ensures that where the whole of an interest distribution made to or received under a trust constitutes income of a person other than the trustees, there has to be in existence a valid declaration made by that person that he is not ordinarily resident or, if a company, not resident in the United Kingdom, in order for the interest distribution to be paid without deduction of tax.

Regulations 7 and 8 enable the Board to require trustees and managers of authorised unit trusts to supply information and make documents and other records available for inspection for the purpose of determining whether interest distributions were properly made without deduction of tax.

Regulation 9 specifies the purposes for which information obtained by the Board under regulation 7 or 8 may be used.