
STATUTORY INSTRUMENTS

1997 No. 1716

INCOME TAX

The Personal Equity Plan (Amendment No. 2) Regulations 1997

<i>Made</i>	- - - -	<i>18th July 1997</i>
<i>Laid before the House of Commons</i>	- - - -	<i>18th July 1997</i>
<i>Coming into force</i>	- -	<i>8th August 1997</i>

The Treasury, in exercise of the powers conferred on them by section 333 of the Income and Corporation Taxes Act 1988(1) and section 151 of the Taxation of Chargeable Gains Act 1992(2), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Equity Plan (Amendment No. 2) Regulations 1997 and shall come into force on 8th August 1997.

Interpretation

2. In these Regulations “the principal Regulations” means the Personal Equity Plan Regulations 1989(3) and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3.—(1) In sub-paragraph (a) of regulation 2(1)(4) in the definition of “company” there shall be inserted before paragraph (a)—

“(aa) an open-ended investment company.”.

(2) For sub-paragraph (b) of regulation 2(1)(5) there shall be substituted—

“(b) “authorised unit trust” means a unit trust scheme in the case of which an authorisation order made by the Securities and Investments Board under section 78 of the Financial Services Act 1986(6) is in force;

(1) 1988 c. 1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31).

(2) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34) and by section 64(2) of the Finance Act 1995 (c. 4).

(3) S.I. 1989/469, amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756, 1995/1539, 3287, 1996/846, 1355, 1997/511.

(4) Amended by S.I. 1990/678, 1991/733, 2774, 1995/1539, 3287, 1996/846.

(5) Amended by S.I. 1990/678, 1993/756, 1996/846.

(6) 1986 c. 60.

“fund of funds” means—

- (i) an authorised unit trust which according to the terms of the scheme is a fund of funds belonging to the category under that name established by the Securities and Investments Board, and
- (ii) a part of an umbrella scheme which the terms of the scheme identify as a part that would belong to that category if it were itself an authorised unit trust, where, in either case, the terms of the scheme do not permit any of the investments subject to the trusts of the scheme to consist of units in authorised unit trusts or parts of umbrella schemes which are not securities funds or of shares in open-ended investment companies or parts of umbrella companies which are not securities companies;

“securities fund” means—

- (i) an authorised unit trust which according to the terms of the scheme is a securities fund belonging to the category under that name established by the Securities and Investments Board, and
- (ii) a part of an umbrella scheme which the terms of the scheme identify as a part that would belong to that category if it were itself an authorised unit trust;

“umbrella scheme” and references to a part of an umbrella scheme shall be construed in accordance with subsection (8)(7) of section 468 of the Taxes Act and, in relation to a part of an umbrella scheme, references to investments subject to the trusts of an authorised unit trust and to a unit holder shall be construed in accordance with subsection (9)(7) of that section;

“unit holder”, except in relation to a part of an umbrella scheme, has the meaning given by subsection (6)(8) of section 468 of the Taxes Act;

“unit trust scheme” has the meaning given by subsection (6) of section 468 of the Taxes Act;

“units”, in relation to an authorised unit trust, means the rights or interests (however described) of the unit holders in that authorised unit trust and, in relation to a part of an umbrella scheme, means the rights or interests for the time being of the unit holders in that part;”.

(3) After sub-paragraph (b) of regulation 2(1) there shall be added—

- “(c) “open-ended investment company” has the meaning given by subsection (10) of section 468 of the Taxes Act as that subsection is added in relation to open-ended investment companies by regulation 10(4) of the 1997 Regulations;

“securities company” means—

- (i) an open-ended investment company which according to its instrument of incorporation is a securities company belonging to the category under that name established by the Securities and Investments Board and in respect of which an authorisation order made by that Board is in force, and
- (ii) a part of an umbrella company which according to the instrument of incorporation of the company is a part which would belong to that category if it were itself an open-ended investment company in respect of which an authorisation order made by the Securities and Investments Board is in force;

(7) Subsections (8) and (9) were added by section 113(2) of the Finance Act 1994 (c. 9).

(7) Subsections (8) and (9) were added by section 113(2) of the Finance Act 1994 (c. 9).

(8) Subsection (6) was amended by section 113(1) of, and paragraph 3(5) of Schedule 14 to, the Finance Act 1994.

“shares”, in relation to an open-ended investment company, includes shares of any class and of any denomination of a given class and, in relation to a part of an umbrella company, means shares in the company which confer for the time being rights in that part;

“umbrella company” and references to a part of an umbrella company shall be construed in accordance with subsection (18) of section 468 of the Taxes Act as that subsection is added in relation to open-ended investment companies by regulation 10(4) of the 1997 Regulations and, in relation to a part of an umbrella company, references to investments of the company shall be construed in accordance with subsection (12) of that section as so added;

“the 1997 Regulations” means the Open-ended Investment Companies (Tax) Regulations 1997(9).”

4.—(1) In regulation 4(3A)(10) in sub-paragraph (a) after paragraph (iii) there shall be inserted—
“(iia) shares or rights to shares in an open-ended investment company or a part of an umbrella company, or

(iib) units or rights to units in an authorised unit trust or a part of an umbrella scheme, or”.

(2) In regulation 4(6)(11)—

(a) in sub-paragraph (c) for the words “the share certificate or other document evidencing title to a plan investment” there shall be substituted the words “, where a share certificate or other document evidencing title to a plan investment is issued, it”;

(b) for sub-paragraphs (d) and (e) there shall be substituted—

“(d) that the plan manager shall, if the plan investor so elects, arrange for the plan investor to receive a copy of the annual report and accounts issued to investors by every company, unit trust, open-ended investment company or other entity in which he has plan investments;

(e) that the plan manager shall be under an obligation (subject to any provisions made under any other enactment and if the plan investor so elects) to arrange for the plan investor to be able—

(i) to attend any meetings of investors in companies, unit trusts, open-ended investment companies and other entities in which he has plan investments,

(ii) to vote, and

(iii) to receive, in addition to the documents referred to in sub-paragraph (d), any other information issued to investors in such companies, unit trusts, open-ended investment companies and other entities;”.

5. In regulation 5(5)(12)—

(a) in sub-paragraph (a)—

(i) for the words “an authorised unit trust” there shall be substituted the words “a securities fund”;

(ii) after the words “shares in” there shall be inserted the words “a securities company or”;

(b) for sub-paragraph (b) there shall be substituted—

(9) S.I. 1997/1154.

(10) Inserted by S.I. 1996/1355.

(11) Amended by S.I. 1993/756, 1995/1539.

(12) Substituted by S.I. 1992/623 and amended by S.I. 1993/756, 1995/1539.

“(b) in units in a securities fund or a fund of funds or in shares in a securities company or an investment trust which does not satisfy the relevant condition specified in regulation 6(3), but satisfies that condition as modified by regulation 6(5), provided that immediately after such an investment is made the total market value of plan investments in such securities funds, funds of funds, securities companies and investment trusts does not exceed one quarter of the market value of the portfolio.”

6.—(1) In regulation 6(2)(13)—

- (a) in sub-paragraph (a) the words “or dealt in on the Unlisted Securities Market” shall be omitted;
- (b) in sub-paragraph (ab)(ii) for the word “quoted” there shall be substituted the word “listed”;
- (c) in sub-paragraph (b) for the words “an authorised unit trust or a fund of funds” there shall be substituted the words “a securities fund or a fund of funds, or shares in a securities company,”.

(2) In regulation 6(2B)(14) in sub-paragraphs (a), (b) and (c) for the word “quoted” there shall be substituted the word “listed”.

(3) In regulation 6(3)(15)—

(a) in sub-paragraph (a)—

- (i) for the words “a unit trust scheme which is an authorised unit trust” there shall be substituted the words “a securities fund”;
- (ii) in paragraph (ii) for the word “quoted” there shall be substituted the word “listed”;
- (iii) after paragraph (iii) there shall be inserted—

“(iiia) shares in a securities company where at least 50 per cent. in value of the investments of the company are shares referred to in paragraph (i) or (ii), securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they first became investments of the company and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required, or

(iiib) units in a securities fund where at least 50 per cent. in value of the investments subject to the trusts of the scheme are shares or securities referred to in paragraph (i), (ii) or (iii), or”;

- (iv) in paragraph (iv) for the words “satisfying the conditions specified in paragraph (2C)” there shall be substituted the words “which would satisfy the conditions specified in paragraph (2C) (if sub-paragraph (c) of that paragraph required the terms on which they were issued to be judged at the date when they first became subject to the trusts of the scheme)”;

(b) for sub-paragraph (b) there shall be substituted—

“(b) in the case of a fund of funds, at least 50 per cent. in value of the investments subject to the trusts of the scheme are units in a securities fund or shares in a securities company where at least 50 per cent. in value of the investments subject to the trusts of the scheme or, as the case may be, of the investments of the company are—

(13) Amended by S.I. 1990/678, 1991/2774, 1993/756, 1995/1539, 1996/846.

(14) Inserted by S.I. 1995/1539.

(15) Substituted by S.I. 1993/756 and amended by S.I. 1995/1539.

- (i) shares referred to in paragraph (i) or (ii) of sub-paragraph (a), or
 - (ii) securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they first became subject to the trusts of the securities fund or, as the case may be, investments of the securities company and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required;”
- (c) after sub-paragraph (b) there shall be inserted—
- “(ba) in the case of a securities company, at least 50 per cent. in value of the investments of the company are—
- (i) shares or units referred to in paragraph (i), (ii), (iiia) or (iiib) of sub-paragraph (a), or
 - (ii) securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they first became investments of the company and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required, or
 - (iii) shares in, and securities which would satisfy the conditions specified in paragraph (2C) (if sub-paragraph (c) of that paragraph required the terms on which they were issued to be judged at the date when they first became investments of the company) of, an investment trust where at least 50 per cent. in value of the investments held by that trust are shares referred to in paragraph (i) or (ii) of sub-paragraph (a), securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they were first held by that trust and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required;”
- (d) for paragraphs (i) and (ii) of sub-paragraph (c) there shall be substituted—
- “(i) shares or units referred to in paragraph (i), (ii), (iiia) or (iiib) of sub-paragraph (a), or
- (ii) securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they first became investments held by the trust and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required, or
 - (iii) shares in, and securities which would satisfy the conditions specified in paragraph (2C) (if sub-paragraph (c) of that paragraph required the terms on which they were issued to be judged at the date when they first became investments of the trust) of, an investment trust where at least 50 per cent. in value of the investments held by that trust are shares referred to in paragraph (i) or (ii) of sub-paragraph (a), securities which would be qualifying securities if paragraph (2C)(c) required the terms on which they were issued to be judged at the date when they were first held by that trust and securities which would be qualifying securities if they satisfied one of the conditions specified in paragraph (2B) and paragraph (2C)(c) so required.”

(4) In regulation 6(4)(16) in sub-paragraph (a) for the words “authorised unit trusts” there shall be substituted the words “securities companies, securities funds”.

(5) In regulation 6(5)(17)—

(a) for sub-paragraph (b) there shall be substituted—

“(b) by substituting for paragraphs (ii) to (iv) of sub-paragraph (a)—

“(ii) shares in a securities company where at least 50 per cent. in value of the investments of the company are such ordinary shares or other quoted shares;

(iii) units in a securities fund where at least 50 per cent. in value of the investments subject to the trusts of the scheme are such ordinary shares or other quoted shares;

(iv) shares in an investment trust where at least 50 per cent. in value of the investments held by that trust are such ordinary shares or other quoted shares;”

(b) for sub-paragraph (c) there shall be substituted—

“(c) by substituting for paragraphs (i) and (ii) of sub-paragraph (b) the words “shares referred to in paragraph (i) of sub-paragraph (a) and other quoted shares”;

(c) after sub-paragraph (c) there shall be inserted—

“(ca) by substituting for paragraphs (i) to (iii) of sub-paragraph (ba)—

“(i) shares referred to in paragraph (i) of sub-paragraph (a) or other quoted shares, or

(ii) shares in a securities company where at least 50 per cent. in value of the investments of the company are such ordinary shares or other quoted shares, or

(iii) units in a securities fund where at least 50 per cent. in value of the investments subject to the trusts of the scheme are such ordinary shares or other quoted shares, or

(iv) shares in an investment trust where at least 50 per cent. in value of the investments held by that trust are such ordinary shares or other quoted shares;”

(d) for sub-paragraph (d) there shall be substituted—

“(d) by substituting for paragraphs (i) and (ii) of sub-paragraph (c)—

“(i) shares referred to in paragraph (i) of sub-paragraph (a) or other quoted shares, or

(ii) shares in a securities company where at least 50 per cent. in value of the investments of the company are such ordinary shares or other quoted shares, or

(iii) units in a securities fund where at least 50 per cent. in value of the investments subject to the trusts of the scheme are such ordinary shares or other quoted shares, or

(16) Substituted by S.I. 1993/756 and amended by S.I. 1996/846.

(17) Substituted by S.I. 1995/1539.

(iv) shares in an investment trust where at least 50 per cent. in value of the investments held by that trust are such ordinary shares or other quoted shares.””

7. In regulation 6A(18)—

- (a) in paragraph (1) for the words “authorised unit trusts” there shall be substituted the words “securities funds”;
- (b) in paragraph (2)(c) for the words “authorised unit trusts” there shall be substituted the words “securities companies, securities funds”.

8. In regulation 6B(2)(19) in sub-paragraph (a) the words “, or dealt in on the Unlisted Securities Market,” shall be omitted.

9. In regulation 16(3)(b)(20) in paragraph (iv) after the words “regulation 4(2A)(a),” the word “and” shall be omitted and after the words “regulation 4(2A)(b)” there shall be inserted the words “and on such an allotment or allocation as is referred to in regulation 4(2A)(c)”.

10. In regulation 17(1)(21) for sub-paragraph (a) there shall be substituted—

- “(a) no tax shall be chargeable on the plan manager or his nominee or on the plan investor—
 - (i) in respect of interest, dividends, distributions or gains in respect of plan investments, or
 - (ii) on any annual profits or gains treated by section 714(2) of the Taxes Act as having been received by any of them in respect of plan investments, or
 - (iii) on an offshore income gain to which a disposal made by any of them of a plan investment gives rise which is treated by section 761(1) of the Taxes Act as constituting profits or gains, or
 - (iv) on a profit realised by any of them from the discount on a relevant discounted security within the meaning of Schedule 13 to the Finance Act 1996(22) which is held as a plan investment;”.

11. In regulation 19(5)(b)(23) in paragraph (ii) after the words “regulation 4(2A)(a),” the word “and” shall be omitted and after the words “regulation 4(2A)(b)” there shall be inserted the words “and on such an allotment or allocation as is referred to in regulation 4(2A)(c)”.

12.—(1) In regulation 24A(2)(b)(24) in paragraph (iv) after the words “regulation 4(2A)(a),” the word “and” shall be omitted and after the words “regulation 4(2A)(b)” there shall be inserted the words “and on such an allotment or allocation as is referred to in regulation 4(2A)(c)”.

(2) In regulation 24A(3)(a)(25)—

- (a) in paragraph (ii) for the words “authorised unit trusts” there shall be substituted the words “securities funds”;
- (b) after paragraph (ii) there shall be inserted—
 - “(ia) shares in securities companies,”.

(18) Inserted by S.I. 1990/678 and amended by S.I. 1991/733, 1993/756.

(19) Inserted by S.I. 1991/2774 and amended by S.I. 1996/846.

(20) Substituted by S.I. 1993/756 and amended by S.I. 1996/846.

(21) Substituted by S.I. 1995/1539.

(22) 1996 c. 8.

(23) Added by S.I. 1993/756.

(24) Inserted by S.I. 1993/756.

(25) Inserted by S.I. 1993/756 and amended by S.I. 1995/1539, 1997/511.

- 13.—(1)** In regulation 27(2)(**26**)—
- (a) in paragraph (b) of section 104(4) of the Taxation of Chargeable Gains Act 1992 (in this regulation referred to as “the 1992 Act”) as substituted by sub-paragraph (a) for the words “or (b)” there shall be substituted the words “, (b) or (c)”;
 - (b) in sub-paragraph (i) of paragraph (b) of section 104(4) of the 1992 Act as so substituted for the words “or (b)” there shall be substituted the words “, (b) or (c)”.
- (2) In regulation 27(2A)(**27**)—
- (a) in paragraph (a) of section 107(10) of the 1992 Act as substituted for the words “or (b)” there shall be substituted the words “, (b) or (c)”;
 - (b) in section 107(11) of the 1992 Act as substituted for the words “regulation 4(2A)(a) or (b)” there shall be substituted the words “regulation 4(2A)(a), (b) or (c)” .
- (3) In regulation 27(3)(**28**) after the words “other qualifying shares” there shall be inserted the words “, shares in securities companies, units in funds of funds, units in securities funds”.

*Bob Ainsworth
Jim Dowd*

Two of the Lords Commissioners of Her
Majesty’s Treasury

18th July 1997

(26) Substituted by S.I. [1996/846](#).

(27) Inserted by S.I. [1996/846](#).

(28) Amended by S.I. [1995/1539](#), [1996/846](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Personal Equity Plan Regulations 1989 (S.I.1989/469 as amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756, 1995/1539, 3287, 1996/846, 1355, 1997/511) (“the principal Regulations”) and come into force on 8th August 1997. The main effect of the amendments is that, on the coming into force of these Regulations, investments in open-ended investment companies (and parts of umbrella companies) will become qualifying investments for general plans under similar conditions as apply to investments in authorised unit trusts. Those conditions have themselves been revised in two main respects. The definitions of “securities fund” and “fund of funds” have been brought more closely in line with those used by the Securities and Investments Board and the investment rules have been changed so that investments may be made in sub-funds of umbrella schemes. The amendments also make a number of minor changes to the principal Regulations mainly to reflect market developments.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 amends definitions in relation to unit trust schemes and inserts new definitions in the principal Regulations relating to umbrella schemes and open-ended investment companies.

Regulation 4 amends the conditions in the principal Regulations under which a plan investor may subscribe to a plan by transferring shares allotted or allocated as a result of a public offer, amends the principal Regulations in consequence of the fact that share certificates are not now issued as a matter of course by all companies and makes clarificatory amendments to the provisions of the principal Regulations about arrangements to be made to enable plan investors to receive reports and accounts, attend meetings, vote and receive other information concerning their plan investments.

Regulation 5 amends the rules providing that cash received by way of dividends, interest and proceeds in respect of plan investments may be invested in additional plan investments and, in particular, provides that such cash may be invested in open-ended investment companies.

Regulation 6 deletes a reference to the Unlisted Securities Market, makes an amendment in consequence of the fact that shares listed on the Official List of the Stock Exchange are not always quoted and contains detailed amendments by virtue of which shares in open-ended investment companies become qualifying investments for general plans under similar conditions as apply to units in authorised unit trusts and those conditions are themselves revised.

Regulation 7 contains amendments to the rules concerning plans in which non-qualifying investments were held on 5th April 1990 which are consequential on the amendments made by these Regulations.

Regulation 8 deletes a reference to the Unlisted Securities Market.

Regulations 9, 11, 12(1) and 13(1) and (2) make amendments which are consequential on the amendments made by the Personal Equity Plan (Amendment) Regulations 1997 (S.I. 1997/511).

Regulation 10 contains an amendment clarifying the extent of the tax relief given by regulation 17 of the principal Regulations.

Regulations 12(2) and 13(3) contain further consequential amendments to the requirement for the annual return of information by plan managers and to the operation of the capital gains tax provisions relating to company reorganisations in relation to shares and units held under plans.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.