

1999 No. 3261

TAXES

The Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) (Amendment No. 2) Regulations 1999

Made - - - - 7th December 1999

Laid before the House of Commons 8th December 1999

Coming into force 6th February 2000

The Treasury, in exercise of the powers conferred on them by section 152 of the Finance Act 1995(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) (Amendment No. 2) Regulations 1999 and shall come into force on 6th February 2000.

Interpretation

2. In these Regulations “the principal Regulations” means the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997(b) and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3.—(1) Regulation 2 shall be amended as follows.

(2) The definitions of “the Board”, “open-ended investment company” and “authorised corporate director”, and “the Taxes Act” shall be omitted.

(3) Before the definition of “authorised unit trust” there shall be inserted the following definitions—

“authorised corporate director”, “open-ended investment company”, “owner of shares” and “scheme property” have the meanings given by subsection (10) of section 468 of the Income and Corporation Taxes Act 1988(c), read with subsections (11) to (18) of that section, as those subsections are added in relation to open-ended investment companies by regulation 10(4) of the Open-ended Investment Companies (Tax) Regulations 1997(d); and accordingly references in subsections (11) to (16) of that section to the “Tax Acts” shall be construed as if they included references both to the enactments relating to stamp duty and to the enactments relating to stamp duty reserve tax;”.

(a) 1995 c. 4. Section 152(2)(b), (3)(c) and (6) was amended by paragraph 13 of Schedule 19 to the Finance Act 1999 (c. 16).

(b) S.I. 1997/1156.

(c) 1988 c. 1.

(d) S.I. 1997/1154.

(4) After the definition of “authorised unit trust” there shall be inserted the following definitions–

“ “the enactments relating to stamp duty” and “the enactments relating to stamp duty reserve tax” have the meanings given by section 152(6) of the Finance Act 1995;

“the relevant enactments relating to stamp duty or stamp duty reserve tax” means–

- (a) sections 88(1), 90(1) to (1B), 99(5A) and (5B) of the Finance Act 1986(a), and
- (b) section 122(1) and (2) of, and paragraphs 1 to 9, 14 and 17 of Schedule 19(b) to, the Finance Act 1999;”.

(5) For the definitions of “unit” and “unit trust scheme” there shall be substituted the following definitions–

“ “trust instrument”, “trust property”, “unit”, “unit holder” and “unit trust scheme” have the meanings given by paragraph 14 of Schedule 19 to the Finance Act 1999.”

4. For regulation 3 there shall be substituted the following regulation–

“Stamp duty and stamp duty reserve tax treatment of open-ended investment companies

3. Subject to the modifications set out in regulations 4 to 4B, the relevant enactments relating to stamp duty or stamp duty reserve tax shall have effect in relation to open-ended investment companies in a manner corresponding to that in which they have effect in relation to unit trust schemes.”

5. For regulation 4 there shall be substituted the following regulations–

“General modifications of the relevant enactments relating to stamp duty or stamp duty reserve tax

4.—(1) Subject to the modifications specified in regulations 4A and 4B, the relevant enactments relating to stamp duty or stamp duty reserve tax shall be modified as follows in relation to open-ended investment companies.

(2) References, however expressed, to–

- (a) a unit trust scheme, or
- (b) the trustees of a unit trust scheme,

shall have effect as if they were references to an open-ended investment company.

(3) References, however expressed, to the managers of a unit trust scheme shall have effect as if they were references to the authorised corporate director of an open-ended investment company.

(4) References, however expressed, to–

- (a) a unit under a unit trust scheme, or
- (b) an entitlement to a share of the trust property,

shall have effect as if they were references to a share in an open-ended investment company.

(5) References, however expressed, to–

- (a) a unit holder, or
- (b) a person entitled to a unit,

shall have effect as if they were references to the owner of a share in an open-ended investment company.

(a) 1986 c. 41. Section 88(1) was amended by sections 188(2) and 192(2) of the Finance Act 1996 (c. 8), and by paragraph 10 of Schedule 19 of the Finance Act 1999 (“Schedule 19”). Section 90(1) was amended, and section 90(1A) and (1B) were inserted, by paragraph 11 of Schedule 19. Section 99(5A) and (5B) were inserted by paragraph 12(3) of Schedule 19. Part IV of the Finance Act 1986 (comprising sections 86 to 99), was repealed by sections 110 and 111(1) of, and Part VII of Schedule 19 to, the Finance Act 1990 (c. 29) with effect from a day to be appointed.

(b) Parts I to III of Schedule 19 (comprising paragraphs 1 to 13) are repealed, and paragraphs 14(1) and 17(1) in Part IV of Schedule 19 are partly repealed, by section 123(3) of, and Part V(6) of Schedule 20 to, the Finance Act 1999 with effect in accordance with section 110 of the Finance Act 1990.

(6) References, however expressed, to trust property shall have effect as if they were references to scheme property.

(7) References, however expressed, to a trust instrument shall have effect as if they were references to an instrument incorporating an open-ended investment company.

Modifications of Schedule 19 to the Finance Act 1999

4A.—(1) Schedule 19 to the Finance Act 1999 shall be modified as follows in relation to open-ended investment companies.

(2) In paragraph 4—

(a) in sub-paragraph (1)—

(i) for the words “units of the same class as the unit in question” there shall be substituted the word “shares”, and

(ii) for the words “units of that class” there shall be substituted the word “shares”;

(b) in sub-paragraph (3) for the words “units of the class” in both places where they occur there shall be substituted the word “shares”;

(c) in sub-paragraph (4) for the words “units of the class in question” there shall be substituted the word “shares”;

(d) after sub-paragraph (5) there shall be added the following sub-paragraph—

“(6) Where there is more than one class of shares in an open-ended investment company, the proportionate reduction of tax under this paragraph shall be calculated as if all the shares in the company had been converted into shares of a single class.”

(3) In paragraph 14—

(a) for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) “Open-ended investment company” has, subject to paragraph 17, the meaning given by subsection (10) of section 468 of the Income and Corporation Taxes Act 1988, read with subsections (11) to (18) of that section, as those subsections are added in relation to open-ended investment companies by regulation 10(4) of the Open-ended Investment Companies (Tax) Regulations 1997; and accordingly references in subsection (11) to (16) of that section to the “Tax Acts” shall be construed as if they included references both to the enactments relating to stamp duty and to the enactments relating to stamp duty reserve tax; and those enactments shall have effect accordingly.”

(b) in sub-paragraph (3) the definitions of “trust instrument”, “trust property”, “unit” and “unit holder” shall be omitted.

(4) In paragraph 17 sub-paragraph (4) shall be omitted.

Modifications of the Finance Act 1986

4B.—(1) Section 99 of the Finance Act 1986 (general interpretation provisions) shall be modified as follows in relation to open-ended investment companies.

(2) In subsections (5A) paragraph (a) and the word “or” following it shall be omitted.”

6. In regulation 5 for the words “of Part IV of the Finance Act 1986” there shall be substituted the words “the enactments relating to stamp duty reserve tax.”

7. Regulation 6 shall be omitted.

7th December 1999

Bob Ainsworth
Greg Pope
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/1156) (“the principal Regulations”).

The purpose of the amendments is to ensure that the enactments relating to stamp duty and stamp duty reserve tax continue to have effect in relation to open-ended investment companies in a manner corresponding to that in which they have effect in relation to unit trusts following the Finance Act 1999. Schedule 19 to that Act abolishes stamp duty on transfers of units under a unit trust but introduces a new charge to stamp duty reserve tax on certain dealings with units in unit trusts with effect from 6th February 2000.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 amends and adds definitions in regulation 2 of the principal Regulations.

Regulation 4 substitutes regulation 3 of the principal Regulations. The substituted regulation 3 provides that, subject to the modifications in new regulations 4 to 4B of the principal Regulations (substituted by regulation 5 of these Regulations), the relevant enactments relating to stamp duty or stamp duty reserve tax have effect in relation to open-ended investment companies in a manner corresponding to that in which they have effect in relation to unit trust schemes.

Regulation 5 substitutes regulations 4 to 4B for regulation 4 of the principal Regulations. New regulation 4 makes general modifications of the relevant enactments relating to stamp duty or stamp duty reserve tax. New regulations 4A and 4B make specific modifications of Schedule 19 to the Finance Act 1999 and the Finance Act 1986 respectively.

Regulation 6 amends regulation 5 of the principal Regulations.

Regulation 7 revokes regulation 6 of the principal Regulations.

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