
STATUTORY INSTRUMENTS

2006 No. 746

**STAMP DUTY
STAMP DUTY RESERVE TAX**

**The Stamp Duty and Stamp Duty Reserve Tax
(Definition of Unit Trust Scheme and Open-ended
Investment Company) (Amendment) Regulations 2006**

<i>Made</i>	- - - -	<i>15th March 2006</i>
<i>Laid before the House of Commons</i>	- - - -	<i>15th March 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred upon them by paragraph 6A(4) of Schedule 19 to the Finance Act 1999(1).

Citation and commencement

1. These Regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) (Amendment) Regulations 2006 and shall come into force on 6th April 2006.

Amendment of the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001

2. The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001(2) are amended as follows.

3. For regulation 2 (interpretation) substitute—

“Interpretation

2.—(1) In these Regulations—

(1) 1999 c. 16. Paragraph 6A was inserted by section 93(4) of the Finance Act 2001 (c. 9) and sub-paragraph (4) was substituted by paragraph 46(2) of Schedule 35 to the Finance Act 2004 (c. 12).
(2) S.I. 2001/964.

“feeder fund” means a feeder fund within the meaning of (and complying with the requirements) of paragraph 2 of Part 1 of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997⁽³⁾ (including a constituent part of an umbrella registered pension unit trust which is regarded as a feeder fund for the purposes of those Regulations);

“open-ended investment company” has the meaning given in section 236 of the Financial Services and Markets Act 2000⁽⁴⁾;

“qualifying EEA investment company” means a company—

- (a) which is formed under the law of an EEA State and complies with the requirements specified in section 266(2) of the Companies Act 1985,
- (b) which may lawfully offer its shares to the public in an EEA State, and
- (c) in relation to which, on the basis of its last published annual accounts, the ratio between the company’s loan capital and the value of its ordinary shares is 50% per cent or less;

“qualifying EEA open-ended investment company” means an open-ended investment company within the meaning given by section 236 of the Financial Services and Markets Act 2000 which—

- (a) is formed under the law of an EEA state,
- (b) is not a UCITS, and
- (c) may lawfully offer its shares to the public in an EEA State”;

“recognised scheme” has the meaning given in section 264 of the Financial Services and Markets Act 2000⁽⁵⁾;

“registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004;

“registered pension unit trust” means a registered pension scheme which is an authorised unit trust scheme of a kind mentioned in Part 1 of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997;

“trust instrument” has the meaning given by paragraph 14 of Schedule 19 to the Finance Act 1999;

“UCITS” means an undertaking for collective investment in transferable securities within the meaning of Article 1 of Council Directive 85/611/EEC⁽⁶⁾, as last amended by European Parliament and Council Directive 2001/108/EC⁽⁷⁾;

“umbrella registered pension unit trust” means a registered pension unit trust which is constituted as an umbrella fund within the meaning of the Financial Services (Regulated Scheme) Regulations 1991;

“units” and “unit trust scheme” have the meanings given by section 237 of the Financial Services and Markets Act 2000.

(2) In these Regulations “individual pension account” means an account within which investments may be held and which satisfies the following conditions:

Condition 1

The funds of the account consist only of—

⁽³⁾ From 6th April 2006 these regulations will be amended by the Personal Pension Schemes (Appropriate Schemes) (Amendment) Regulations 2006 (S.I. 2006/147).

⁽⁴⁾ 2000 c. 8.

⁽⁵⁾ 2000 c. 8.

⁽⁶⁾ OJ L.375, 31.12.85, p.3.

⁽⁷⁾ OJ L.041, 13.2.02, p.35.

- (a) monies received from the trustees, managers or administrators of registered pension schemes, or monies held for the purposes of registered pension schemes that are designated to be held within the account, and
- (b) income and gains arising from those monies when held as funds of the account.

Condition 2

Any monies received in accordance with Condition 1 consist of one or more of the following—

- (a) contributions to a registered pension scheme by a member, or the employer of a member, of that registered pension scheme,
- (b) amounts transferred to a registered pension scheme from another registered pension scheme,
- (c) minimum contributions referred to in section 188(3)(c) of the Finance Act 2004,
- (d) minimum payments within the meaning given by section 8(2) of the Pension Schemes Act 1993.

Condition 3

The funds and other assets of the account—

- (a) are held—
 - (i) by the trustees, managers or administrators of the registered pension schemes whose members subscribe to the account as account holders, and
 - (ii) on behalf of the individual account holders as beneficial owners subject to the account rules, or
- (b) in the case of assets consisting of units in a registered pension unit trust or, where the registered pension unit trust is an umbrella registered pension unit trust, in the respective parts of the umbrella registered pension unit trust—
 - (i) are registered in the names of the individual account holders, and
 - (ii) are issued subject to the terms of the trust deed and the rules constituting the registered pension unit trust.

Condition 4

The funds and other assets of the account are used only to provide benefits in respect of individual account holders under registered pension schemes and subject to the limits and rules of those registered pension schemes.

Condition 5

The assets of the account, other than cash awaiting investment, consist of one or more of the following investments—

- (a) units in an authorised unit trust scheme or in a unit trust scheme that is a recognised scheme,
- (b) shares in a qualifying EEA open-ended investment company,
- (c) units in a UCITS formed under the laws of a member state other than the United Kingdom which has been authorised by the competent authorities of that member state and is a recognised scheme,
- (d) shares in a body corporate which is a qualifying UK investment company,
- (e) shares in a body corporate which is a qualifying EEA investment company,
- (f) shares in an investment company with variable capital, and

- (g) investments falling within paragraph 13 of Part 2 of Schedule 2 to the Financial Services and Markets Act 2000 (government and public securities).

The reference in head (a) to units in an authorised unit trust scheme, where the authorised unit trust scheme is an umbrella registered pension unit trust that is constituted as a feeder fund or comprises feeder funds, comprises both the units in the feeder fund or feeder funds that are issued to the individual account holder and the underlying units held by the feeder fund or feeder funds.

Condition 6

If monies are received by the account that comprise an individual's investment in more than one registered pension scheme the amount relating to each registered pension scheme is separately identified by the administrator of the account.

Condition 7

Whenever required to do so by an officer of Revenue and Customs, the administrator of the account has provided to that officer the following information—

- (a) the names of individuals who are the account holders,
- (b) details of the registered pension schemes of which those individuals are members,
- (c) the amount of the funds, and the description and value of the assets, held on behalf of each account holder,
- (d) the amount of income and gains accruing to each account holder from funds and assets held on that individual's behalf,
- (e) transfers of funds to another individual pension account on behalf of an account holder.

Condition 8

Whenever required to do so by an officer of Revenue and Customs, the administrator of the account has enabled that officer to audit and inspect all aspects of the management and administration of the account, including records and systems relating to the management or administration of the account.”.

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Two of the Commissioners for Her Majesty's
Revenue and Customs

15th March 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001 (S.I.2001/964: “the principal regulations”).

Regulation 1 provides for the citation and commencement.

Regulation 2 introduces the amendments to the principal regulations.

Regulation 3 replaces regulation 2 of the principal Regulations, mainly in consequence of changes made to the taxation of pensions by Part 4 of the Finance Act 2004 (c. 12).

These Regulations do not impose any new costs on business.