
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 7

CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS

CHAPTER 1

AMENDMENTS OF REFERENCES TO REPEALED ENACTMENTS

Introduction

86. Regulations 87 to 92—

- (a) amend references in enactments to provisions repealed by section 17(1) of the Finance (No. 2) Act 2005, and
- (b) make incidental, consequential and supplemental provision.

Amendments of TMA 1970

87.—(1) TMA 1970(1) is amended as follows.

(2) In section 98 (penalties in relation to special returns)—

- (a) in subsection (4E)(2) for “Chapter 3 of Part 12 of the principal Act” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.
- (b) in the first column of the Table—
 - (i) omit the entry relating to section 468P(6) of ICTA,
 - (ii) omit the entry relating to regulations under section 468PB(3) of ICTA(3), and
 - (iii) at the end insert—

“regulations under section 17(3) of the Finance (No. 2) Act 2005”.

Amendment of ICTA

88.—(1) ICTA is amended as follows.

(2) In section 468(1)(4) (authorised unit trusts) for “section 468L” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.

(1) 1970 c. 9.

(2) Section 98(4E) was inserted by section 203(12) of the Finance Act 2003 (c. 14).

(3) The entries relating to section 468P(6) and to regulations under section 468PB(3) were inserted by section 203(13) of the Finance Act 2003.

(4) Section 468(1) was amended by paragraph 3(2) of Schedule 14 to the Finance Act 1994 (c. 9).

Amendment of TCGA 1992

89.—(1) TCGA 1992 is amended as follows.

(2) In section 99B(3)(5) (calculation of the disposal cost of accumulation units) for “section 468H of ICTA” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 15 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.

Amendment of FA 1996

90.—(1) FA 1996(6) is amended as follows.

(2) In paragraph 4(4) of Schedule 10(7) (loan relationships: company holdings in unit trusts and offshore funds) for “section 468L(3) of the Taxes Act 1988” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.

Amendments of ITTOIA 2005

91.—(1) ITTOIA 2005 is amended as follows.

(2) In section 373(2) (open-ended investment company interest distributions) for “subsections (6) and (7)” substitute “subsection (7)”.

(3) In section 376(2) (authorised unit trust interest distributions) for “subsections (6) and (7)” substitute “subsection (7)”.

Amendment of the Finance Act 2005

92.—(1) The Finance Act 2005(8) is amended as follows.

(2) In Schedule 2 (alternative finance arrangements: further provisions), omit paragraph 4.

CHAPTER 2

MODIFICATIONS OF THE TAX ACTS

Introduction

93. In their application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds,

the Tax Acts have effect with the modifications specified in regulations 94 to 96.

Modifications of ICTA

94.—(1) ICTA is modified as follows.

(2) In section 402 (surrender of relief between members of groups and consortia) after subsection (3) the following subsection is treated as inserted—

“(3AA) For the purposes of this Chapter—

(5) Section 99B was inserted by section 21 of the Finance (No. 2) Act 2005 (c. 22).

(6) 1996 c. 8.

(7) Paragraph 4(4) of Schedule 10 was amended by paragraph 41(3) of Schedule 10 to the Finance Act 2004 (c. 12).

(8) 2005 c. 7.

(a) an open-ended investment company cannot be either the surrendering company or the claimant company, and

(b) an authorised unit trust shall not be regarded as a company.”.

(3) In section 413 (interpretation of Chapter 4), in subsection (2), the following definitions are treated as inserted at the appropriate places—

““authorised unit trust” has the meaning given by section 468(6);

“open-ended investment company” has the meaning given by section 468A(2);”.

(4) In section 413 after subsection (3) the following subsection is treated as inserted—

“(3A) For the purposes of paragraph (a) of subsection (3) above an open-ended investment company cannot be the third company mentioned in that paragraph.”.

(5) In section 832 (interpretation of the Tax Acts) after subsection (2) the following subsection is treated as insert—

“(2A) The definition of “ordinary share capital” does not include the issued share capital of an open-ended investment company.”.

(6) In section 834 (interpretation of the Corporation Tax Acts), in subsection (3), the words “except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those Regulations” are treated as substituted for the words from “except in so far as” to the end.

(7) In Schedule 20 (charities: qualifying investments and loans) after paragraph 6 the following paragraph is treated as inserted—

“**6A.** Shares in an open-ended investment company.”.

Modifications of FA 1996

95.—(1) FA 1996 is modified as follows.

(2) In paragraph 4 of Schedule 10 (loan relationships: collective investment schemes: company holdings in unit trusts and offshore funds)(**9**)—

(a) in sub-paragraph (1)(a) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”,

(b) in sub-paragraph (1)(b) the word “, company” is treated as inserted after the word “scheme”, and

(c) in sub-paragraph (4) the words “or open-ended investment company” are treated as inserted after the words “authorised unit trust”.

Modifications of ITTOIA 2005

96.—(1) ITTOIA 2005 is modified as follows.

(2) The words “, except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those regulations” are treated as inserted at the end of each of the provisions specified in paragraph (3).

(3) The provisions specified are—

(a) section 374(1) (date when open-ended investment company interest distributions made),

(b) section 376(1) (date when authorised unit trust interest distributions made),

(9) Paragraph 4 was amended by paragraph 41 of Schedule 10 to the Finance Act 2004 (c. 12).

- (c) section 387(1) (date when open-ended investment company dividend distributions made), and
- (d) section 390(1) (date when authorised unit trust dividend distributions made).
- (4) In sections 375(1) (interpretation of sections 373 and 374) and 388(1) (interpretation of sections 386 and 387) the definition of “the OEIC Regulations” is treated as omitted.
- (5) In those provisions, the following definitions are treated as substituted for the definitions of “open-ended investment company”, “owner of shares” and “umbrella company”—
- ““open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 applies,
- “owner of shares”, in relation to an open-ended investment company, has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005, and
- “umbrella company” has the meaning given by section 468A(10) of ICTA.”
- (6) In sections 375(3) and 388(3) the words “regulations under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 6(2) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))” are treated as substituted for the words from “Chapter 3 of Part 12 of ICTA” to the end.

CHAPTER 3

MODIFICATIONS OF TCGA 1992

Preliminary

Introduction

97. In its application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds

TCGA 1992 has effect with the modifications specified in regulations 98 to 110.

General

Application of TCGA 1992: general

98.—(1) TCGA 1992 has effect in relation to—

- (a) open-ended investment companies,
- (b) holdings in, and the assets of, such companies, and
- (c) transactions involving such companies,

in like manner as the manner in which it has effect in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.

(2) References in TCGA 1992 to companies, to holdings in, and the assets of, companies and to transactions involving companies accordingly have effect (or do not have effect as the case may be) in relation to open-ended investment companies, to holdings in, and the assets of, such companies, and to transactions involving such companies, in like manner as the manner in which they have effect

(10) Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

(or do not have effect) in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts, and to transactions for purposes connected with such trusts.

(3) This regulation has effect subject to the other modifications contained in this Chapter.

General modifications of TCGA 1992

General modifications: introduction

99. The modifications specified in regulations 100 to 104 have effect subject to the modifications specified in regulations 105 to 110.

General modification: authorised unit trust

100.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

- (a) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (b) a unit trust scheme as denoting or including (whether expressly or by implication) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (c) the trustees of an authorised unit trust within sub-paragraph (a) or of a unit trust scheme within sub-paragraph (b),

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

(2) Paragraph (1) does not apply—

- (a) to references in any of the provisions specified in paragraph (3), or
- (b) to references to provisions which include reference, whether made expressly or by implication, to an open-ended investment company.

(3) The provisions specified are—

- (a) section 99(1) (application of Act to unit trust scheme),
- (b) section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) section 100(2) (exemption for units in unit trust scheme), and
- (d) section 272(5) (valuation of rights of unit holders).

General modification: manager of authorised unit trust

101.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the manager of an authorised unit trust or of a unit trust scheme within regulation 100(1)(b) have effect as if they included references to the authorised corporate director of the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 272(5) (valuation of rights of unit holders), or
- (b) to references in provisions which include reference, whether made expressly or by implication, to the authorised corporate director of an open-ended investment company.

General modification: unit in authorised unit trust

102.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

- (a) a unit or an interest in, or rights under, an authorised unit trust,
- (b) a unit or an interest in, or rights under, a unit trust scheme within regulation 100(1)(b), or
- (c) an entitlement to a share of, or in, the investments subject to the trusts of an authorised unit trust or a unit trust scheme within regulation 100(1)(b),

have effect as if they included references to a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- (b) to section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) to section 272(5) (valuation of rights of unit holders), or
- (d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

General modification: accumulation units in authorised unit trusts

103.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to accumulation units in an authorised unit trust or in a unit trust scheme within regulation 100(1)(b) have effect as if they included references to accumulation shares in an open-ended investment company.

(2) In paragraph (1) “accumulation shares in an open-ended investment company” means shares in the company in respect of which income is credited periodically to the capital part of the scheme property of the company.

General modification: holder of unit in authorised unit trust

104.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the holder of a unit within regulation 102(1) (other than references in a definition of a unit holder) have effect as if they included references to the owner of a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- (b) to section 99A (authorised unit trusts: treatment of umbrella schemes),
- (c) to section 272(5) (valuation of rights of unit holders), or
- (d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Specific modifications of TCGA 1992

Modification of section 99 of TCGA 1992

105. In section 99 of TCGA 1992 (application of Act to unit trust schemes)(**11**), in subsection (2), the words “sections 99A and 99AA” are treated as substituted for “section 99A”.

Insertion of section 99AA of TCGA 1992

106. After section 99A of TCGA 1992(**12**) the following section is treated as inserted—

(11) Section 99 was relevantly amended by section 118(2) of the Finance Act 2004 (c. 12).

(12) Section 99A was inserted by section 118(3) of the Finance Act 2004.

“Open-ended investment companies: treatment of umbrella companies

99AA.—(1) In this section an “umbrella company” has the meaning given by section 468A(4) of the Taxes Act⁽¹³⁾, and a reference to a part of an umbrella company is to be construed in accordance with that provision.

(2) For the purposes of this Act (except subsection (1))—

- (a) each of the parts of an umbrella company shall be regarded as an open-ended investment company, and
- (b) the umbrella company as a whole shall not be so regarded (and shall not, unless express provision is made otherwise, be regarded as a company).

(3) In this Act, in relation to a part of an umbrella company, any reference, however expressed, to an owner of shares in an open-ended investment company is to a person for the time being having rights in the separate pool to which the part of the umbrella company relates.

(4) Nothing in subsection (2) or (3) shall prevent—

- (a) gains accruing to an umbrella company being regarded as gains accruing to an open-ended investment company for the purposes of section 100(1) (exemption for authorised unit trusts etc);
- (b) a transfer of business to an umbrella company being regarded as a transfer to an open-ended investment company for the purposes of section 139(4) (exclusion of transfers to authorised unit trusts etc).”.

Modification of section 170 of TCGA 1992

107. In section 170 of TCGA 1992 (groups of companies: interpretation), after subsection (4), the following subsection is treated as inserted—

“(4A) An open-ended investment company cannot be the principal company of a group.”.

Modifications of section 272 of TCGA 1992

108.—(1) Section 272 of TCGA 1992 (valuation: general) is modified as follows.

(2) In subsection (3)(a) the words “where a single price is shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the relevant date, that price, or” are treated as inserted after “2 figures, or”.

(3) After subsection (5) the following subsection is treated as inserted—

“(5AA) In this Act “market value” in relation to shares of a given class in an open-ended investment company the prices of which are published regularly by the authorised corporate director of that company (whether or not those shares are also quoted in The Stock Exchange Daily Official List) shall mean an amount equal to the price so published on the relevant date, or if no price was published on that date, on the latest date before that date.”.

Modifications of section 288 of TCGA 1992

109.—(1) Section 288 of TCGA 1992 (interpretation)⁽¹⁴⁾ is modified as follows.

(2) In subsection (1)—

⁽¹³⁾ Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

⁽¹⁴⁾ Section 288 was relevantly amended by section 118(4) of the Finance Act 2004.

- (a) in the definition of “collective investment scheme”, the words “sections 99A and 99AA” are treated as substituted for “section 99A”, and
- (b) the following definitions are treated as inserted at the appropriate places in alphabetical order—

““authorised corporate director” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”

““open-ended investment company” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 4 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”

““owner of shares” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”.

Modification of Schedule A1 to TCGA 1992

110. In Schedule A1 to TCGA 1992 (application of taper relief), in paragraph 16(2) (special rules for postponed gains)(**15**), at the end of paragraph (f) the word “, or” is treated as added and the following paragraph is then also treated as added—

- “(g) regulations 67(4) and 68(4) of the Authorised Investment Funds (Tax) Regulations 2006.”.

(15) Schedule A1 was inserted by Schedule 20 to the Finance Act 1998 (c. 36).