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STATUTORY INSTRUMENTS

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**2013 No. 2819**

**The Unauthorised Unit Trusts (Tax) Regulations 2013**

**PART 2**

Exempt unauthorised unit trusts

CHAPTER 4

Taxation of income of exempt unauthorised unit trusts

**Basis periods**

**11.**—(1) The income of an exempt unauthorised unit trust for a tax year is taken to be the income of the exempt unauthorised unit trust arising in a basis period for the tax year.

(2) The general rule is that the basis period for a tax year [<sup>F1</sup>(the current year)] for an exempt unauthorised unit trust is the period [<sup>F2</sup>beginning immediately after the end of the basis period for the previous tax year and ending with the accounting date in the current year].

(3) The accounting date, in relation to a tax year, means—

- (a) the date in the tax year to which accounts are drawn up, or
- (b) if there are two or more such dates, the latest of them.

[<sup>F3</sup>(3A) In the first tax year that a trust is an exempt unauthorised unit trust the basis period for the tax year is the period—

- (a) beginning on the first day of the first period of account in respect of which the trust is approved under these Regulations as an exempt unauthorised unit trust, and
- (b) ending with the accounting date in that year.]

(4) If there is no accounting date in the first tax year that the trust is an exempt unauthorised unit trust but there is an accounting date in the following tax year—

- (a) there is no basis period for the first tax year (so that the trust has no income for that year), but
- (b) the basis period for the following year is the period [<sup>F4</sup>beginning on the first day of the first period of account in respect of which the trust is approved under these Regulations as an exempt unauthorised trust and] ending with the accounting date in that year.

(5) If there is no accounting date in the first two tax years that the trust is an exempt unauthorised unit trust—

- (a) there is no basis period for [<sup>F5</sup>those years] (so that the trust has no income for [<sup>F6</sup>those years]), but

[<sup>F7</sup>(b) the basis period for the third tax year that the trust is an exempt unauthorised unit trust is the period—

- (i) beginning on the first day of the first period of account in respect of which the trust is approved under these Regulations as an exempt unauthorised unit trust, and

(ii) ending with the accounting date in that year.]

(6) Otherwise, if there is no accounting date in the tax year, the basis period is the period of 12 months beginning immediately after the end of the basis period for the previous tax year.

(7) If the basis period for a tax year does not coincide with a period of account of an exempt unauthorised unit trust, either of the steps in paragraph (8) must be taken if necessary in order to arrive at the amount of the income of the trust treated under regulation 14 as if it were accrued income profits arising in a basis period.

(8) The steps are—

- (a) apportioning the income of a period of account to the parts of that period falling in different basis periods, and
- (b) adding the income of a period of account (or part of a period) to the income of other periods of account (or parts),

and the steps must be taken by reference to the number of days in the periods concerned.

- F1** Words in [reg. 11\(2\)](#) inserted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(2\)\(a\)](#)
- F2** Words in [reg. 11\(2\)](#) substituted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(2\)\(b\)](#)
- F3** [Reg. 11\(3A\)](#) inserted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(3\)](#)
- F4** Words in [reg. 11\(4\)\(b\)](#) substituted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(4\)](#)
- F5** Words in [reg. 11\(5\)\(a\)](#) substituted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(5\)\(a\)](#)
- F6** Words in [reg. 11\(5\)\(a\)](#) substituted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(5\)\(b\)](#)
- F7** [Reg. 11\(5\)\(b\)](#) substituted (6.4.2015) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment\) Regulations 2015 \(S.I. 2015/463\)](#), [regs. 1, 2\(6\)](#)

### **Treatment of income of an exempt unauthorised unit trust**

**12.**—(1) If income arises to the trustees of an exempt unauthorised unit trust, the income is treated as the income of the trustees and not of the unit holders.

(2) If income tax on any part of the income arising to the trustees of an exempt unauthorised unit trust would apart from this paragraph be charged at the dividend ordinary rate, income tax on that part of the income is instead charged at the basic rate.

(3) None of the following applies in relation to the income—

- (a) sections 397(1) and 397A(1) <sup>M1</sup> of ITTOIA 2005 (tax credits for qualifying distributions),
- (b) section 399(2) and (6) of ITTOIA 2005 (person not entitled to tax credits treated as having paid income tax),
- (c) section 400(2) and (3) of ITTOIA 2005 (person whose income includes non-qualifying distribution treated as having paid income tax), and
- (d) section 479 of ITA 2007 (trustees' accumulated or discretionary income to be charged at special rates).

[<sup>F8</sup>(3A) Subsections (1) to (4) of section 272A of ITTOIA 2005 (restricting deductions for finance costs related to residential property) do not apply in relation to calculating the profits of a UK

property business, or overseas property business, for the purposes of charging the trustees of an exempt unauthorised unit trust to income tax on those profits.]

(4) Sections 494, 495 and 496B of ITA 2007<sup>M2</sup> (discretionary payments) do not apply in relation to payments made by the trustees.

**F8** [Reg. 12\(3A\)](#) inserted (7.1.2016) by [The Unauthorised Unit Trusts \(Tax\) \(Amendment No. 2\) Regulations 2015 \(S.I. 2015/2053\)](#), regs. 1, 3

**Marginal Citations**

**M1** [2005 c.5](#). Section 397A was inserted by paragraph 4 of Schedule 12 to FA 2008.

**M2** [2007 c.3](#). Section 496B was inserted by [S.I. 2010/157](#).

**Treatment of capital expenditure of an exempt unauthorised unit trust**

**13.** The trustees (and not the unit holders) of an exempt unauthorised unit trust are treated as the persons to or on whom an allowance or charge is to be made under any provision relating to relief for capital expenditure.

**Special provision for accrued income profits**

- 14.**—(1) This regulation applies to income of an exempt unauthorised unit trust which—
- (a) arises from its investments in securities within the meaning of Chapter 2 of Part 12 of ITA 2007 (accrued income profits), and
  - (b) is shown in its accounts.
- (2) The income is charged to tax under Chapter 2 of Part 12 of ITA 2007—
- (a) as if it were accrued income profits, and
  - (b) as if those profits were treated as made in the tax year in which the last day of the period of account in which the income is accounted for falls.
- (3) None of the income is charged to income tax under Chapter 2 of Part 4 of ITTOIA 2005 (interest).

**Changes to legislation:**

There are currently no known outstanding effects for the The Unauthorised Unit Trusts (Tax) Regulations 2013, CHAPTER 4.