
STATUTORY INSTRUMENTS

1996 No. 1585

INCOME TAX

**The Income Tax (Pension Funds
Pooling Schemes) Regulations 1996**

<i>Made</i>	- - - -	<i>19th June 1996</i>
<i>Laid before the House of Commons</i>	- - - -	<i>19th June 1996</i>
<i>Coming into force</i>	- -	<i>11th July 1996</i>

The Treasury, in exercise of the powers conferred on them by section 469(7) and (8) of the Income and Corporation Taxes Act 1988⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Pension Funds Pooling Schemes) Regulations 1996 and shall come into force on 11th July 1996.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“address” in relation to any person means—

- (a) where that person is an individual, the address of his principal place of business or, if he has none, his principal residential address;
- (b) where that person is a company, the address of its registered or principal office;

“the Board” means the Commissioners of Inland Revenue;

“cancellation event” means an occasion when the rights and interests of a participant in the scheme property of a unit trust scheme are wholly redeemed, or otherwise wholly purchased or wholly cancelled, by the trustee of that scheme, other than an occasion when the rights and interests of the participant in the scheme property become the rights and interests of its successor in the scheme property;

“descendant” in relation to a former participant in a unit trust scheme (“the relevant participant”) means the participant for the time being in the scheme which is either the successor of the relevant participant or the successor of another former participant in the

scheme which, at the time it so participated, was part of the line of succession of participants that commenced with the relevant participant;

“employee” has the meaning given by section 612(1) of the Taxes Act, and “employer” and other cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“overseas scheme” means a pension funds scheme which—

- (a) is established outside the United Kingdom, and
- (b) is not an exempt approved scheme but is for the time being accepted by the Board as equivalent to a retirement benefits scheme approved by the Board for the purposes of Chapter I of Part XIV of the Taxes Act;

“pension funds pooling scheme” means a unit trust scheme of the description specified in regulation 4;

“relevant period” in relation to a unit trust scheme means a period which—

- (a) commences when the trustee of the scheme first incurs expenditure in respect of which an allowance under the 1990 Act is to be, or may be, made, or next incurs such expenditure after the end of a relevant period, and
- (b) ends when it is first the case that the trustee of the scheme has disposed of all interests in respect of which such expenditure is incurred, unless immediately after that time the scheme incurs further expenditure in respect of which an allowance under the 1990 Act is to be, or may be, made;

“retirement benefits scheme” has the meaning given by subsection (1) of section 611 of the Taxes Act (read with subsections (2) to (5) of that section);

“scheme” in relation to a pension funds scheme shall be construed in accordance with section 611(2) of the Taxes Act;

“scheme property” in relation to a unit trust scheme means property of any description, including money, which is held on trust for the participants in the scheme;

“section 469” means section 469 of the Taxes Act(2);

“sponsor” in relation to a pension funds scheme means any person who established the scheme or who for the time being has authority to vary the terms of, or to terminate, the scheme, or to appoint or replace a manager of the scheme;

“successor” in relation to a former participant in a unit trust scheme means the participant which—

- (a) was not a participant in the scheme immediately before the time when that former participant ceased to participate in the scheme, and
- (b) immediately after that time became entitled to all the rights and interests in the scheme property to which that former participant was entitled immediately before ceasing so to participate;

“tax year” means a year beginning on 6th April and ending on 5th April in the following calendar year;

“Taxes Act” means the Income and Corporation Taxes Act 1988(3);

“trustee” in relation to a unit trust scheme means the person or persons for the time being holding the scheme property on trust for the participants in that scheme;

(2) Section 469 was amended by section 71 of the Finance Act 1988 (c. 39), by section 113(3) of, and paragraph 5 of Schedule 14 to, the Finance Act 1994 (c. 9), and by paragraph 12 of Schedule 6, and Part V(1) of Schedule 41, to the Finance Act 1996 (c. 8).
 (3) 1988 c. 1.

“units” and “unit trust scheme” have the meanings given by section 75(8) of the Financial Services Act 1986⁽⁴⁾;

“1990 Act” means the Capital Allowances Act 1990⁽⁵⁾;

“1992 Act” means the Taxation of Chargeable Gains Act 1992⁽⁶⁾.

(2) References in these Regulations to an exempt approved scheme are references to a retirement benefits scheme which is either—

- (a) an exempt approved scheme within the meaning given by subsection (1) of section 592 of the Taxes Act, or
- (b) before the Board in order for them to decide whether the scheme qualifies as an exempt approved scheme within the meaning of that subsection.

(3) References in these Regulations to a superannuation fund are references to a superannuation fund which either—

- (a) falls within subsection (6) of section 615 of the Taxes Act, or
- (b) is before the Board in order for them to decide whether the superannuation fund falls within that subsection.

(4) References in these Regulations to an exempt approved scheme, a superannuation fund or an overseas scheme as a participant in a unit trust scheme, are references to the appropriate person or persons specified in paragraph (5) who is or are for the time being a participant or participants in the unit trust scheme within the meaning given by section 75(1) and (2) of the Financial Services Act 1986.

(5) The persons specified are—

- (a) in the case of an exempt approved scheme set up under trust or a superannuation fund, the trustees of that scheme or fund;
- (b) in the case of an exempt approved scheme not set up under trust, the sponsor of that scheme;
- (c) in the case of an overseas scheme, the persons who are for the time being parties to the arrangements constituting that scheme, other than an employee in his capacity as a beneficiary of the scheme.

(6) The like provisions as are contained in section 159(2) to (8) of the 1990 Act⁽⁷⁾ shall have effect to determine when capital expenditure is to be taken to be incurred for the purposes of these Regulations.

Exception of pension funds pooling scheme from section 469

3. A unit trust scheme which is a pension funds pooling scheme shall be treated as not being a unit trust scheme for the purposes of section 469.

Description of a pension funds pooling scheme

4.—(1) Subject to paragraph (2), a unit trust scheme is a pension funds pooling scheme at any time if at that time it has the characteristics specified in paragraph (3).

(2) A unit trust scheme which at any time in a tax year, or at the end of a tax year, ceases to have the characteristics specified in paragraph (3) is not a pension funds pooling scheme as regards that year.

(4) 1986 c. 60.

(5) 1990 c. 1.

(6) 1992 c. 12.

(7) Subsection (2) of section 159 was amended by paragraph 14 of Schedule 14 to the Finance Act 1991 (c. 31), and subsections (4) and (6)(b) of that section were amended by section 213(1) of the Finance Act 1994.

- (3) The characteristics specified in this paragraph are that—
- (a) subject to regulation 9(10) and (11), each participant in the scheme is—
 - (i) an exempt approved scheme, or
 - (ii) a superannuation fund, or
 - (iii) an overseas scheme;
 - (b) each participant in the scheme has been approved by the Board in accordance with regulation 7 as eligible to participate in the scheme and, subject to regulation 9(10) and (11), that approval has not subsequently been revoked or withdrawn under regulation 7(8) or (9);
 - (c) all the participants in the scheme are jointly absolutely entitled as against the trustee of that scheme, within the meaning of section 60 of the 1992 Act, to the scheme property;
 - (d) subject to paragraph (4), the scheme property consists of any or all of the following—
 - (i) land;
 - (ii) buildings or structures on land;
 - (iii) shares, stock or other investments which are the subject of transactions falling within subsection (12) of section 127 of the Finance Act 1995⁽⁸⁾ (read with subsection (13) of that section);
 - (iv) investments comprising futures contracts or options contracts relating to land (including contracts falling within subsection (13) of that section);
 - (e) except as provided in paragraph (5), the contributions of the participants are expended on any or all of the following—
 - (i) the acquisition of, or of rights in or over, land, or the management or development of that land;
 - (ii) the acquisition or construction of, or the purchase of interests in, buildings or structures on land, or the management or development of those buildings or structures;
 - (iii) the provision of machinery or plant which is an integral part of those buildings or structures, or the management, alteration or improvement of that machinery or plant;
 - (iv) the making of any investments falling within sub-paragraph (d)(iii) or (iv) above, or the management of those investments;
 - (f) where expenditure falling within sub-paragraph (e) is expenditure in respect of which an allowance under the 1990 Act is to be, or may be, made, the terms of the scheme secure that the conditions specified in regulation 5 (read with regulation 6) are satisfied;
 - (g) the terms of the scheme secure that no participant has rights or interests in any part of the scheme property that are different in nature from the rights or interests which any other participant has in that part of the scheme property;
 - (h) the terms of the scheme secure that, in relation to any arrangements which are entered into on or after the date of coming into force of these Regulations—
 - (i) a participant is obliged to give to the trustee of the scheme, in the situation described, and within the period of time specified, in paragraph (1) of regulation 8, the notification specified in that regulation;
 - (ii) the trustee of the scheme is irrevocably authorised and obliged to undertake on behalf of the participants the responsibilities specified in regulation 10 and the duties specified in regulations 9 and 11;

(8) 1995 c. 4.

- (j) the trustee of the scheme has given notice to the Board electing for the scheme to be treated, pursuant to these Regulations, the Capital Gains Tax (Pension Funds Pooling Schemes) Regulations 1996⁽⁹⁾, and the Stamp Duty and Stamp Duty Reserve Tax (Pension Funds Pooling Schemes) Regulations 1996⁽¹⁰⁾, as not being a unit trust scheme for the purposes specified in each of the Regulations.
- (4) A unit trust scheme is a pension funds pooling scheme notwithstanding that the scheme property at any time consists wholly or partly of—
 - (a) cash held temporarily by the trustee that is subsequently expended as mentioned in sub-paragraph (e) of paragraph (3), or for purposes incidental to, or arising out of, any of the expenditure referred to in that sub-paragraph,
 - (b) cash held temporarily by the trustee that is subsequently expended in making payment to a participant or former participant in the scheme following the redemption, purchase or cancellation of any of the rights or interests of that participant or former participant in the scheme property,
 - (c) cash held temporarily by the trustee that is subsequently expended by way of distribution to the participants generally,
 - (d) cash held temporarily by the trustee that is subsequently expended on the management of the scheme, or the management or development of the scheme property,
 - (e) cash held temporarily by the trustee that is subsequently expended on the acquisition or maintenance of assets falling within sub-paragraph (f) below, or
 - (f) other assets held by the trustee in connection with the management of the scheme, or the management or development of the scheme property.
- (5) A unit trust scheme is a pension funds pooling scheme notwithstanding that the contributions of the participants are expended—
 - (a) for purposes incidental to, or arising out of, the expenditure referred to in paragraph (3)(e),
 - (b) for any of the purposes mentioned in sub-paragraphs (a) to (e) of paragraph (4), or
 - (c) on the acquisition or maintenance of assets falling within sub-paragraph (f) of that paragraph.
- (6) In this regulation—
 - “management” includes insurance, repair and maintenance;
 - “development” includes alteration or improvement.

Expenditure qualifying for capital allowances—specification of conditions

- 5.—(1) The conditions specified for the purposes of regulation 4(3)(f) are those set out in paragraphs (2) to (6).
- (2) The first condition is that each participant in the scheme in a relevant period is either—
 - (a) an enduring participant, or
 - (b) a participant that is a descendant of a former participant in the scheme which was a participant at the commencement of that period.
 - (3) The second condition is that, during a relevant period, no participant in the scheme is the successor of more than one former participant which ceased to participate in the scheme—
 - (a) immediately before the commencement of that period, or
 - (b) at the time of the commencement of that period, or

⁽⁹⁾ S.I. 1996/1583.

⁽¹⁰⁾ S.I. 1996/1584.

- (c) at any subsequent time before the end of that period.
- (4) The third condition is that during a relevant period—
 - (a) an enduring participant's share of the scheme property remains the same as it was at the commencement of that period, and
 - (b) the share of a participant which is a descendant of a former participant which was a participant at the commencement of the relevant period remains the same as the share of that former participant was at the commencement of that period,
 until such time as a cancellation event occurs, or, if earlier, the rights and interests in the scheme property of the participant concerned become the rights and interests in the scheme property of its successor.
- (5) The fourth condition is that, immediately after the occurrence of a cancellation event during a relevant period, the ratio that the shares of the scheme property belonging to the participants at that time bear to each other is the same as the ratio that the shares of the scheme property belonging to those participants bore to each other immediately before the occurrence of that event.
- (6) The fifth condition is that, following the occurrence of a cancellation event during a relevant period, every participant's share of the scheme property remains the same as it was immediately after the occurrence of that event or, where a participant is a descendant of a former participant which was a participant immediately after the occurrence of that event, the same as the share of that former participant was at that time, until that period ends or, if earlier, a further cancellation event occurs or the rights and interests in the scheme property of the participant concerned become the rights and interests in the scheme property of its successor.
- (7) In this regulation "enduring participant" in relation to a relevant period means a participant which has been a participant since the commencement of that period.

Expenditure qualifying for capital allowances—provisions supplementary to regulation 5

- 6.—**(1) Where the rights and interests of a participant in the scheme property become the rights and interests of its successor in the scheme property at the time when a relevant period commences or a cancellation event occurs during a relevant period, those rights and interests shall be treated, for the purposes of regulation 5, as having become the rights and interests of the successor before the commencement of the relevant period or (as the case may be) the occurrence of the cancellation event.
- (2) Where the rights and interests of a participant in the scheme property become the rights and interests of its successor in the scheme property at the time when a relevant period ends, those rights and interests shall be treated, for the purposes of regulation 5, as having become the rights and interests of the successor after the end of that period.
- (3) Where contributions by participants in the scheme are made at the time when—
- (a) a relevant period commences, or
 - (b) a cancellation event occurs during a relevant period, or
 - (c) a relevant period ends,
- those contributions shall be treated, for the purposes of regulation 5, as having been made before the commencement of the relevant period or the occurrence of the cancellation event, or after the end of the relevant period (as the case may be).
- (4) Where during a relevant period the rights and interests of a participant in the scheme property become the rights and interests of its successor in the scheme property at the same time as the trustee of the scheme makes a disposal of any interest or rights in or over an asset which, immediately before that disposal was made, formed part of the scheme property, the disposal shall be treated, for

the purposes of regulation 5, as having been made after the participant's rights and interests in the scheme property have become the successor's rights and interests in the scheme property.

(5) Where, as a result of a business reorganisation, amalgamation or other form of reconstruction, a merger of participants occurs, that is, the whole of the rights and interests of two or more participants in the scheme property become the whole of the rights and interests of a single participant in the scheme property, then for the purposes of regulation 5—

- (a) where the merger occurs at the time when a relevant period commences, it shall be treated as having occurred before that time;
- (b) where the merger occurs at the time when a relevant period ends, it shall be treated as having occurred after that time;
- (c) where the merger occurs during a relevant period, it shall be treated as never having occurred.

(6) Where, as a result of a business reorganisation, fragmentation or other form of reconstruction, a demerger relating to participants occurs, that is, the whole of the rights and interests of a single participant in the scheme property ("the demerging participant") become the whole of the rights and interests of two or more participants in the scheme property ("the replacement participants"), then for the purposes of regulation 5—

- (a) where the demerger occurs at the time when a relevant period commences or a cancellation event occurs during a relevant period, it shall be treated as having occurred before that time;
- (b) where the demerger occurs at the time when a relevant period ends, it shall be treated as having occurred after that time;
- (c) where the demerger occurs during a relevant period, the demerging participant shall be treated as having been comprised of participants whose successors are the replacement participants.

(7) For the purposes of paragraph (6)(c), where one of the replacement participants is the demerging participant, that participant shall be treated as if, in its capacity as a replacement participant, it were a separate and distinct participant from the demerging participant.

(8) In paragraph (4) "disposal" shall be construed in accordance with the provisions of Chapter II of Part II of the 1992 Act relating to disposals of assets.

(9) Where during a relevant period of a unit trust scheme it first occurs that the scheme has the characteristics specified in regulation 4(3), that period shall be treated, for the purposes of regulation 5 and this regulation, as having commenced at the time of that first occurrence.

Approval of participants

7.—(1) An application for approval of a scheme or fund as eligible to participate in a pension funds pooling scheme shall be made in writing by the trustee of that pension funds pooling scheme to the Board and shall contain the information specified in paragraph (2) or, as the case may be, in paragraph (3) or (4).

(2) As regards an exempt approved scheme or a superannuation fund, the information is—

- (a) the full title of the scheme or fund;
- (b) the Board's reference number relating to the scheme or fund.

(3) As regards an overseas scheme other than a scheme falling within paragraph (4) below, the information is—

- (a) the full title of the scheme;

- (b) where the scheme is established under trust, the names and addresses of the sponsors and trustees of the scheme;
- (c) where the scheme is not established under trust, the names and addresses of the sponsors and managers of the scheme;
- (d) the names and addresses of any employers who contribute to, but are not sponsors of, the scheme;
- (e) where the arrangements constituting the scheme are made between two or more persons, details of any undertakings or promises made between any of those persons that are, or are likely to be, relevant to the custodianship of any rights or interests of that scheme in the pension funds pooling scheme, and the name and address of each of those persons;
- (f) identification of the legislative and, if applicable, the regulatory provision under which the scheme is authorised for tax or supervisory purposes;
- (g) a copy of any letter or other document issued by the relevant tax authority or by the relevant supervisory authority confirming the authorised status of the scheme, together with a translation into English where the letter or other document is in a language other than English;
- (h) the normal age of retirement under the scheme for male employees and female employees respectively;
- (i) details showing how the amounts of the contributions payable to the scheme by employers and employees are calculated in respect of all employees who are members of the scheme within the meaning given by section 591D(8) of the Taxes Act⁽¹¹⁾;
- (j) details of the amounts of any contributions payable to the scheme by a person in a capacity other than that of employer or employee;
- (k) details of the amounts of any supplementary voluntary contributions (including single lump sum contributions) which an employee is entitled to pay to the scheme;
- (l) details of any benefits, including loans, which may be provided by the scheme to or on behalf of an employee on death or on or during retirement;
- (m) details of any benefits, including loans, which may be provided by the scheme to or on behalf of an employee otherwise than on death or on or during retirement;
- (n) details of any withdrawals which may be made from the scheme by or on behalf of an employee otherwise than on death or on or during retirement;
- (o) where the scheme enables loans or other benefits to be provided within sub-paragraph (m), or withdrawals to be made within sub-paragraph (n), or any other benefits to be provided which are not related to employment, a copy of the rules of the scheme together with a translation into English where the rules are in a language other than English.

(4) As regards an overseas scheme falling within a class or description of scheme in relation to which the Board have announced that they are satisfied, having regard to the legislative provision under which the scheme is established, or the supervisory control of the operation of the scheme by the government of the territory in which it is established, that the information specified in sub-paragraphs (h) to (o) of paragraph (3) is not required, the information is the like information as that specified in sub-paragraphs (a) to (g) of that paragraph.

(5) Where the Board determine to approve a scheme or fund pursuant to an application under paragraph (1), they shall give notice of the approval to the trustee of the pension funds pooling scheme.

(6) Approval may be given by the Board in full where they are satisfied that the scheme or fund is eligible to participate in the pension funds pooling scheme, or may be given on a provisional basis—

(11) Section 591D was inserted by section 61(1) of the Finance Act 1995.

- (a) in the case of a scheme falling within paragraph (3), pending the Board's consideration of information received by them pursuant to that paragraph, or
 - (b) in the case of an exempt approved scheme or a superannuation fund which is before the Board for the purpose referred to in regulation 2(2)(b) or (3)(b) (as the case may be).
- (7) On receipt of a notice of approval, the trustee of the pension funds pooling scheme may admit the scheme or fund which is the subject of the notice to be a participant in the pension funds pooling scheme.
- (8) The Board shall, by notice to the trustee, either convert to full approval or revoke an approval given on a provisional basis and, where the approval is revoked, the notice shall state the reason why it is considered by the Board that the participant is not eligible to participate in the pension funds pooling scheme.
- (9) The Board may, by notice to the trustee, withdraw approval of a participant where they are satisfied that a participant is not eligible to participate in the pension funds pooling scheme, and the notice shall state the reason why it is considered by the Board that the participant is not so eligible.
- (10) In this regulation references to a pension funds pooling scheme include references to any arrangements which, although not constituting such a scheme at the time an application for approval is made under paragraph (1), have been entered into with the intention that they will constitute such a scheme, and references to the trustee of a pension funds pooling scheme shall be construed accordingly.

Notification by participant of non-eligibility

- 8.—(1) On becoming aware that, by reason of a change in its circumstances or otherwise, it is not, or may not be, eligible to participate in a pension funds pooling scheme, a participant shall notify the trustee of the scheme in writing of that fact within seven days after its becoming so aware.
- (2) A notification under paragraph (1)—
- (a) shall state the reason why the participant considers that it is not, or may not be, so eligible, and
 - (b) shall be accompanied by a copy of any document in the participant's possession that confirms or suggests that it is not, or may not be, so eligible.

Duties of trustee of a pension funds pooling scheme—participants ceasing to be eligible to participate

- 9.—(1) On receiving a notification by a participant in accordance with regulation 8(1), the trustee of a pension funds pooling scheme shall, within 14 days after the date of receipt of the notification, give notice to the Board that a notification has been received by him.
- (2) A notice under paragraph (1) shall state the full title of the participant concerned and, in the case of a notification received from a participant which is an exempt approved scheme or a superannuation fund, the Board's reference number relating to that participant.
- (3) A notice under paragraph (1) shall be accompanied by—
- (a) a copy of the notification received from the participant, and
 - (b) a copy of the information provided by the participant to the trustee in accordance with regulation 8(2)(b), together with a translation of that information into English where the document in which the information is comprised is in a language other than English.
- (4) Where, as a result of receiving any information, other than information provided in accordance with regulation 8(1), the trustee of a pension funds pooling scheme has reason to believe that—

- (a) in the case of a participant which is an exempt approved scheme or a superannuation fund, the participant is not eligible to participate in the scheme, or
- (b) in the case of a participant which is an overseas scheme, the Board would be likely, were they to be in possession of the information received by the trustee, to have reason to revoke or withdraw their approval of the participant under regulation 7(8) or (9),

the trustee shall, within 14 days after the date of receipt of that information, give notice to the Board containing the information specified in paragraph (5).

(5) The information specified in this paragraph is—

- (a) the full title of the participant,
- (b) in the case of a participant which is an exempt approved scheme or a superannuation fund, the Board's reference number relating to the scheme or fund concerned,
- (c) details of the information received by the trustee;
- (d) a statement setting out the reasons for the trustee's belief that—
 - (i) in the case of a participant which is an exempt approved scheme or a superannuation fund, the participant is not eligible to participate in the scheme, or
 - (ii) in the case of a participant which is an overseas scheme, the Board would be likely to have reason to revoke or withdraw their approval of the participant.

(6) A notice under paragraph (4) above shall be accompanied by a copy of any document in the trustee's possession that contains information in support of his belief as mentioned in paragraph (5) (d), together with a translation of that information into English where the document is in a language other than English.

(7) Where a notice is given by the trustee under paragraph (1) or (4) in relation to a participant which is an overseas scheme, an officer of the Board may, for the purpose of ascertaining whether or not the participant is eligible to participate in the scheme, by notice require the trustee to furnish him, within such time (not being less than 21 days) as may be provided by the notice, such information relating to the participant as is specified in regulation 7(3) (whether or not the participant is an overseas scheme to which regulation 7(4) applies).

(8) On receiving a notice given by the Board revoking or withdrawing approval under regulation 7(8) or (9), the trustee of the scheme shall forthwith give notice to the participant concerned that every unit in the scheme held by the participant, or by a nominee on its behalf, will be sold or cancelled by the trustee within 28 days after the date on which the notice given by the Board was received by the trustee.

(9) A notice given by the trustee under paragraph (8) shall state the reason why the participant is not eligible to participate in the scheme.

(10) Where all the units referred to in paragraph (8) are sold or cancelled by the trustee within the period of 28 days referred to in that paragraph, the unit trust scheme shall not cease to have the characteristics specified in regulation 4(3)(a) and (b).

(11) Where any of the units referred to in paragraph (8) are not sold or cancelled by the trustee within the period of 28 days referred to in that paragraph, the unit trust scheme shall be regarded as ceasing to satisfy the characteristics specified in regulation 4(3)(a) and (b) with effect from the date on which the notice given by the Board under regulation 7(8) or (9) was received by the trustee.

(12) References in this regulation to a participant which is an exempt approved scheme or a superannuation fund include references to a participant which is no longer an exempt approved scheme or a superannuation fund but which was such a scheme or fund at the time when notice of approval was given by the Board to the trustee in accordance with regulation 7(5).

Responsibilities of trustee of a pension funds pooling scheme

10.—(1) The trustee of a pension funds pooling scheme shall be responsible for negotiating and agreeing with an officer of the Board on behalf of the participants the matters specified in paragraph (2).

(2) The matters specified in this paragraph are—

- (a)
 - (i) a method of calculating the amount of any income arising from the scheme property in each accounting period of the scheme, and of attributing to each participant the appropriate allocation of that amount;
 - (ii) the amount of any income arising from the scheme property in each accounting period of the scheme, and the amount of that income that is attributable to each participant;
- (b) the amount of any profits or gains arising in each accounting period of the scheme in respect of rents or receipts from the scheme property in that period that are attributable to each of those participants in the scheme which are chargeable on such profits or gains under Schedule A;
- (c) the amount of any interest of money or other annual profits or gains from the scheme property arising in each accounting period of the scheme that are attributable to each of those participants in the scheme which are chargeable on such interest or other annual profits or gains under Schedule D;
- (d) the amount of any dividends or other distributions from the scheme property arising in each accounting period of the scheme that are attributable to each of those participants in the scheme which are chargeable on such dividends or other distributions under Schedule F;
- (e)
 - (i) where in an accounting period an event occurs that gives rise, or may give rise, to a balancing allowance or a balancing charge under the 1990 Act to or on those participants which were participants immediately before or immediately after that event, a method of computing the amount of the balancing allowance or charge attributable to each of those participants;
 - (ii) the amount of the balancing allowance or charge referred to in paragraph (i) of this sub-paragraph that is attributable to each of the participants concerned;
- (f) in relation to expenditure to which regulation 4(3)(f) applies, the amount of any such expenditure incurred in each accounting period of the scheme which is—
 - (i) capital expenditure for a chargeable period in relation to which Part I of the 1990 Act applies, or
 - (ii) capital expenditure on the provision of machinery or plant in respect of which a writing-down allowance is to be, or may be, made in accordance with sections 24 to 26 of the 1990 Act⁽¹²⁾;
- (g) the amount of the expenditure calculated in accordance with sub-paragraph (f) for an accounting period that is attributable to each participant;
- (h) where, in relation to a building or structure which forms part of the scheme property, an event occurs in an accounting period which gives rise, or may give rise, to a balancing allowance or a balancing charge under the 1990 Act to or on each of the participants which were participants immediately before or immediately after that event, the amount of any sale, insurance, salvage or compensation moneys within the meaning of section 156 of the 1990 Act⁽¹³⁾ which are relevant to that event;

⁽¹²⁾ Sections 24 to 26 were amended by paragraphs 5 and 6 of Schedule 17, and Part V of Schedule 19, to the Finance Act 1990 (c. 29), paragraphs 7 and 8 of Schedule 14, and Part V of Schedule 19, to the Finance Act 1991, section 68 of the Finance (No. 2) Act 1992 (c. 48), and section 213(1) and (4) of, and Part V(24) of Schedule 26 to, the Finance Act 1994.

⁽¹³⁾ Section 156 was amended by section 99(9) of the Finance Act 1995.

- (j) the disposal value, calculated in accordance with section 26 of the 1990 Act⁽¹⁴⁾, of any plant and machinery forming part of the scheme property which is or may be required to be brought into account for a chargeable period;
 - (k) the form of the certificate referred to in paragraph (3).
- (3) The trustee of a pension funds pooling scheme shall also be responsible for providing within three months after the end of each accounting period of the scheme to each participant in the scheme in that period, a certificate in relation to that participant showing the information specified in paragraph (4).
- (4) The information specified in this paragraph is—
- (a) the amount of the income agreed with the officer of the Board under paragraph (2)(a)(ii) which is attributable to that participant for the accounting period concerned;
 - (b) the amount (if any) agreed with the officer of the Board under paragraph (2)(b) to be chargeable under Schedule A which is attributable to that participant for the accounting period concerned;
 - (c) the amount (if any) agreed with the officer of the Board under paragraph (2)(c) to be chargeable under Schedule D which is attributable to that participant for the accounting period concerned;
 - (d) the amount (if any) agreed with the officer of the Board under paragraph (2)(d) to be chargeable under Schedule F which is attributable to that participant for the accounting period concerned;
 - (e) where in the accounting period concerned an event occurs that gives rise to a balancing allowance or a balancing charge under the 1990 Act, the amount (if any) of that allowance or charge agreed with the officer of the Board under paragraph (2)(e)(ii) which is attributable to that participant for that period;
 - (f) the amount (if any) of the expenditure agreed with the officer of the Board under paragraph (2)(g) which is attributable to that participant for the accounting period concerned;
 - (g) where applicable, the parts of amounts of sale, insurance, salvage or compensation moneys in relation to events occurring in the accounting period concerned, and of the disposal values of plant and machinery agreed with the officer of the Board under paragraph (2)(h) and (j), which are attributable to that participant for that period.
- (5) In this regulation any reference to a participant in the scheme in relation to an accounting period includes a reference to a participant which, although not a participant throughout that period, was a participant at some time during that period.

Duties of trustee of a pension funds pooling scheme—annual provision of information

11.—(1) Where, at the end of a tax year, a unit trust scheme has the characteristics specified in regulation 4(3), the trustee of that scheme shall, within three months after the end of that year (“the relevant year”), provide to an officer of the Board, in a form authorised, or in the form provided, by the Board—

- (a) the information concerning each participant in the scheme specified in paragraph (2) or, as the case may be, paragraph (3), and
- (b) a declaration made by the trustee and signed by him or, if the trustee is a company, signed by the company secretary or other person authorised by the company for that purpose, that the information so provided is correct to the best of the declarant’s knowledge and belief.

⁽¹⁴⁾ Section 26 was amended by paragraph 8 of Schedule 14, and Part V of Schedule 19, to the Finance Act 1991, and by section 68(5) of the Finance (No. 2) Act 1992 (c. 48).

(2) As regards a participant in the relevant year which is an exempt approved scheme or a superannuation fund, the information is—

- (a) the full title of the scheme or fund;
- (b) the Board's reference number relating to the scheme or fund;
- (c) a copy of any certificate referred to in regulation 10(3) which was supplied by the trustee to the participant in respect of any accounting period of the scheme ending in or at the end of the relevant year;
- (d) where the trustee has in the relevant year received a notice given by the Board under regulation 7(8) or (9) revoking or withdrawing approval in relation to that participant—
 - (i) a copy of the notice given to the participant by the trustee under regulation 9(8);
 - (ii) the date or dates (if any), whether during the relevant year or subsequently but prior to the making of the declaration under paragraph (1)(b), on which units held by the participant, or by a nominee on its behalf, at the time the notice given by the Board was received by the trustee, were sold or cancelled;
 - (iii) if applicable, the date on which the participant ceased to participate in the scheme;
- (e) where the trustee has not, whether in the relevant year or subsequently but prior to the making of the declaration under paragraph (1)(b), received a notice given by the Board under regulation 7(8) or (9) revoking or withdrawing approval in relation to that participant, confirmation that the participant had not at any time in that year received notification from the Board that it was not an exempt approved scheme or, as the case may be, a superannuation fund.

(3) As regards a participant in the relevant year which is an overseas scheme, the information is—

- (a) the full title of the scheme;
- (b) details of any matters falling within sub-paragraphs (b) to (g) and, where the scheme is not one to which regulation 7(4) applies, sub-paragraphs (h) to (o) of regulation 7(3) which, by reason of changes to those matters having occurred in the relevant year, differ from—
 - (i) the details of those matters which were included in the trustee's application under regulation 7(1) in respect of the participant, or
 - (ii) (if applicable) the details of those matters which were most recently provided in accordance with this sub-paragraph in respect of the participant in relation to tax years ending before the relevant year;
- (c) the like information as is specified in paragraph (2)(c);
- (d) if applicable, the like information as is specified in paragraph (2)(d).

(4) As regards a participant in the relevant year which is an overseas scheme, an officer of the Board may, at any time after the form referred to in paragraph (1) has been provided to him by the trustee of the scheme, by notice require the trustee to furnish him, within such time (not being less than 21 days) as may be provided by the notice, with a statement in writing setting out details of matters—

- (a) falling within sub-paragraphs (b) to (g) and, where the scheme is not one to which regulation 7(4) applies, sub-paragraphs (h) to (o) of regulation 7(3) with respect to that scheme, and
- (b) subsisting at any time during the relevant year.

(5) In this regulation any reference to a participant in the relevant year which is an exempt approved scheme or a superannuation fund or an overseas scheme (as the case may be)—

- (a) includes a reference to a participant which, although not a participant throughout that year, was a participant at some time during that year, and

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

- (b) includes a reference to a participant which is no longer an exempt approved scheme or a superannuation fund or an overseas scheme but which was such a scheme or fund at the time when notice of approval was given by the Board to the trustee of the scheme in accordance with regulation 7(5).

Bowen Wells

Liam Fox

Two of the Lords Commissioners of Her
Majesty's Treasury

19th June 1996

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for certain unauthorised unit trust schemes (“pension funds pooling schemes”), participation in which is restricted to specified pension schemes or funds and which satisfy the criteria set out in the Regulations, to be excepted from the treatment of such unit trust schemes given by section 469 of the Income and Corporation Taxes Act 1988 (“section 469”). The effect is that income and expenditure of the trustee of the scheme will be treated, so far as income tax and capital allowances are concerned, as being income and expenditure of the participants, the proportion of that income and expenditure attributable to any participant being determined by the size of that participant’s share of the scheme property.

Corresponding Regulations in connection with pension funds pooling schemes have also been made for the purposes of capital gains tax (S.I. [1996/1583](#)) and stamp duty and stamp duty reserve tax (S.I. [1996/1584](#)).

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 excepts from section 469 a unit trust scheme which is a pension funds pooling scheme and regulation 4 describes the characteristics of a pension funds pooling scheme.

Regulation 5 sets out conditions to be satisfied in relation to expenditure incurred by the scheme that qualifies for capital allowances, and regulation 6 contains provisions that supplement regulation 5.

Regulation 7 provides for approval by the Board of Inland Revenue (“the Board”) of participants in a pension funds pooling scheme.

Regulation 8 provides that participants shall notify the trustee of a pension funds pooling scheme if they consider that they are not, or may not be, eligible to participate in the scheme.

Regulation 9 specifies the duties of the trustee in connection with participants who cease to be eligible to participate in the scheme.

Regulation 10 specifies various responsibilities of the trustee, and regulation 11 specifies the information which the trustee is required to provide to an officer of the Board each year in connection with the scheme.