

2001 No. 964

TAXES

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

<i>Made</i> - - - -	<i>14th March 2001</i>
<i>Laid before the House of Commons</i>	<i>14th March 2001</i>
<i>Coming into force</i> - -	<i>6th April 2001</i>

The Treasury, in exercise of the powers conferred upon them by section 98 of the Finance Act 1986(a), section 152 of the Finance Act 1995(b) and section 121 of, and paragraph 17 of Schedule 19 to, the Finance Act 1999(c), hereby make the following Regulations:

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) Regulations 2001 and shall come into force on 6th April 2001.

Interpretation

2. In these Regulations—

“individual pension accounts” has the meaning given by regulation 4 of the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001(d);

“open-ended investment company” has 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(e); and accordingly references in subsections (11) to (16) of that section 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;

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

(a) 1986 c. 41; section 98 was amended by section 195 of the Finance Act 1996 (c. 8).

(b) 1995 c. 4; section 152 was amended by paragraph 13 of Schedule 19 to the Finance Act 1999 (c. 16).

(c) Paragraph 17 has effect in relation to open-ended investment companies in a manner corresponding to that in which it has effect in relation to unit trust schemes by virtue of regulations 3 to 4A of S.I. 1997/1156 as those regulations are substituted by regulations 4 and 5 of S.I. 1999/3261.

(d) S.I. 2001/117.

(e) S.I. 1997/1154.

Schemes to be treated as not being unit trust schemes

3.—(1) A scheme of the description specified in paragraph (2) shall be treated as not being a unit trust scheme for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.

(2) The description of scheme specified in this paragraph is a unit trust scheme the units under which are required by the terms of the trust instrument to be held only within individual pension accounts.

Companies to be treated as not being open-ended investment companies

4.—(1) A company of the description specified in paragraph (2) shall be treated as not being an open-ended investment company for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.

(2) The description of company specified in this paragraph is an open-ended investment company the shares in which are required by the terms of the instrument incorporating the company to be held only within individual pension accounts.

Amendments to the Stamp Duty Reserve Tax Regulations 1986

5.—(1) Amend the Stamp Duty Reserve Tax Regulations 1986(a) as follows.

(2) In regulation 4B(b)—

(a) in paragraph (1)—

(i) in sub-paragraph (a)(iii) for “paragraph 6” substitute “paragraph 6A(c), 6”;

(ii) after sub-paragraph (a) insert—

“(aa) give to the Board any certificate pursuant to paragraph 6A(2) of Schedule 19 to the Finance Act 1999 to be contained in, or provided with, the notice, and”;

(b) in paragraph (3) after “under this regulation” insert “, and any certificate pursuant to paragraph 6A(2) of Schedule 19 to the Finance Act 1999 to be contained in, or provided with, such a notice,”.

Amendment to the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997

6.—(1) Amend the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997(d) as follows.

(2) In regulation 4B(e) after paragraph (2) insert—

“(3) After subsection (5B)(f) insert—

“(5C) “Chargeable securities” does not include shares in a company which is treated as not being an open-ended investment company by regulations made under paragraph 17 of Schedule 19 to the Finance Act 1999 (“paragraph 17”).

In this subsection the reference to paragraph 17 is a reference to that paragraph as it has effect in relation to open-ended investment companies by virtue of regulations 3 to 4A of the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997.””

*Clive Betts
Greg Pope*

14th March 2001

Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 1986/1711 relevantly amended by S.I. 1999/3264.

(b) Inserted by regulation 7 of S.I. 1999/3264.

(c) The reference is to paragraph 6A of Schedule 19 to the Finance Act 1999 which was inserted by a House of Commons resolution made on 13th March 2001 and having temporary statutory effect under section 1 of the Provisional Collection of Taxes Act 1968 (c. 2).

(d) S.I. 1997/1156 relevantly amended by S.I. 1999/3261.

(e) Substituted, together with regulations 4 and 4A, for regulation 4 by regulation 5 of S.I. 1999/3261.

(f) The reference is to section 86(5B) of the Finance Act 1986 which was inserted by paragraph 12(3) of Schedule 19 to the Finance Act 1999.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for unit trust schemes of a specified description, and open-ended investment companies of a specified description, to be treated as not being unit trust schemes, or, as the case may be, open-ended investment companies, for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.

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

Regulation 3 specifies the description of scheme to be treated as not being a unit trust scheme and regulation 4 specifies the description of company to be treated as not being an open-ended investment company.

Regulation 5 amends the Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711). The purpose of the amendments is to reflect related amendments made to Schedule 19 of the Finance Act 1999 (c. 16) by a House of Commons resolution having statutory effect under section 1 of the Provisional Collection of Taxes Act 1968 (c. 2).

Regulation 6 amends the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/1156) so that those regulations further modify section 99 of the Finance Act 1986 (c. 41). The purpose of this further modification is to ensure that Part IV of the Finance Act 1986 (stamp duty reserve tax) has effect in relation to shares in a company to be treated as not being an open-ended investment in a manner corresponding to the manner in which it has effect in relation to units under a scheme to be treated as not being a unit trust scheme.

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