

2006 No. 1182

CORPORATION TAX

The Investment Trusts and Venture Capital Trusts (Definition of Capital Profits, Gains or Losses) Order 2006

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| <i>Made</i> - - - - | <i>26th April 2006</i> |
| <i>Laid before the House of Commons</i> | <i>27th April 2006</i> |
| <i>Coming into force</i> - - | <i>18th May 2006</i> |

The Treasury make the following Order in exercise of the powers conferred on them by paragraphs 1A(2)(b), 1B(2)(b) and 9(1) of Schedule 10 to the Finance Act 1996(a) and paragraphs 38(2)(b) and 38A(2)(b) of Schedule 26 to the Finance Act 2002(b).

Citation, commencement and effect

1.—(1) This Order may be cited as the Investment Trusts and Venture Capital Trusts (Definition of Capital Profits, Gains or Losses) Order 2006, and shall come into force on 18th May 2006.

(2) This Order has effect for accounting periods beginning on or after 1st January 2006.

Scope of this Order

2.—(1) This Order applies for the purposes of the specified provisions—

- (a) in the case of an investment trust that prepares accounts in accordance with international accounting standards, and
- (b) in the case of a venture capital trust that prepares accounts in accordance with international accounting standards.

(2) In this Order “the specified provisions” means—

- (a) paragraph 1A of Schedule 10 to the Finance Act 1996 (loan relationships: investment trusts: capital profits, gains or losses);
- (b) paragraph 1B of Schedule 10 to the Finance Act 1996 (loan relationships: venture capital trusts: capital profits, gains or losses);
- (c) paragraph 38 of Schedule 26 to the Finance Act 2002 (derivative contracts: investment trusts: capital profits, gains or losses); and
- (d) paragraph 38A of Schedule 26 to the Finance Act 2002 (derivative contracts: venture capital trusts: capital profits, gains or losses).

(a) 1996 c. 8. Paragraphs 1A and 1B of Schedule 10 were added by paragraph 38 of Schedule 10 to the Finance Act 2004 (c. 12).

(b) 2002 c. 23. Paragraphs 38 and 38A of Schedule 26 were added by paragraph 63 of Schedule 10 to the Finance Act 2004, and amended by paragraph 36 of Schedule 4 to the Finance Act 2005 (c. 7).

Meaning of “capital profits, gains or losses”

3.—(1) For the purposes of the specified provisions “capital profits, gains or losses” means profits, gains or losses where the circumstances fall within Case A, B or C.

(2) Case A is where, in the case of an investment trust or a venture capital trust, the profits, gains or losses are accounted for through the capital column of the income statement in accordance with the Statement of Recommended Practice.

(3) Case B is where, in the case of an investment trust, the profits, gains or losses would have been accounted for through the capital column of the income statement if the Statement of Recommended Practice had been applied correctly.

(4) Case C is where, in the case of a venture capital trust, the profits, gains or losses would have been accounted for through the capital column of the income statement if the venture capital trust had been an investment trust and the Statement of Recommended Practice had been applied correctly.

(5) For the purposes of this Order the Statement of Recommended Practice is, in relation to an accounting period for which it is required or permitted to be used—

- (a) the Statement of Recommended Practice relating to the Financial Statements of Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2003 and revised in December 2005, as from time to time modified, amended or revised, or
- (b) any subsequent Statement of Recommended Practice relating to investment trusts, as from time to time modified, amended or revised.

*Tom Watson
Joan Ryan*

26th April 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Investment trusts and venture capital trusts are both within the ambit of the corporation tax provisions that apply to loan relationships (see Chapter 2 of Part 4 of the Finance Act 1996 (c. 8)), and to derivative contracts (see Schedule 26 to the Finance Act 2002 (c. 23)). Under those provisions, all profits, gains and losses, including those of a capital nature, are chargeable to corporation tax as income. If no further provision were to be made, therefore, the result would be that capital profits would fall within the charge to corporation tax, even though, before the enactment of those provisions, those profits were outside that charge.

In order to prevent this result, provision is made to exclude “capital profits, gains or losses” from being brought into account for the purposes of the corporation tax provisions applying to loan relationships and derivative contracts; and the expression “capital profits, gains or losses” has a different meaning according to whether the investment trust or venture capital trust prepares accounts in accordance with UK generally accepted accounting practice, or in accordance with international accounting standards. If accounts are prepared in accordance with international accounting standards, the expression “capital profits, gains or losses” has the meaning given by order made by the Treasury.

This Order accordingly defines the expression “capital profits, gains or losses” in the cases of investment trusts and venture capital trusts that prepare accounts in accordance with international accounting standards. The definition given is in accordance with the accounting treatment set out in the Statement of Recommended Practice relating to the Financial Statements of Investment Trust Companies, issued by the Association of Investment Trust Companies in January 2003 and revised in December 2005. This Statement of Recommended Practice may be found on the Association of Investment Trust Companies’ web site at <http://www.aipc.co.uk/files/technical/AITCRevised%20SORPDecember2005.pdf>.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

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