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STATUTORY INSTRUMENTS

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**2009 No. 23**

**INCOME TAX  
CORPORATION TAX  
CAPITAL GAINS TAX**

**The Income Tax Act 2007 (Amendment) Order 2009**

<i>Made</i>	- - - -	<i>12th January 2009</i>
<i>Laid before the House of Commons</i>	- - - -	<i>13th January 2009</i>
<i>Coming into force</i>	- -	<i>3rd February 2009</i>

The Treasury make the following Order in exercise of the powers conferred by sections 1028 and 1029 of the Income Tax Act 2007<sup>(1)</sup>.

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Income Tax Act 2007 (Amendment) Order 2009 and shall come into force on 3rd February 2009.

(2) This Order has effect—

- (a) for income tax and capital gains tax purposes, for the tax year 2007-08 and subsequent tax years, and
- (b) for corporation tax purposes, for accounting periods ending after 5th April 2007.

**Amendment of the Income and Corporation Taxes Act 1988**

2.—(1) Section 469 of the Income and Corporation Taxes Act 1988<sup>(2)</sup> (other unit trusts) is amended as follows.

(2) In subsection (1)<sup>(3)</sup> for “neither an authorised unit trust nor an umbrella scheme” substitute “an unauthorised unit trust within the meaning of section 989 of ITA 2007”.

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(1) 2007 c. 3.

(2) 1988 c. 1.

(3) Section 469(1) was amended by section 113(3)(a) of the Finance Act 1994 (c. 9) and Part V(1) of Schedule 41 to the Finance Act 1996 (c. 8).

(3) In subsection (2)(4) after “unit holders)” insert “; and the trustees (and not the unit holders) shall be regarded as the persons to or on whom allowances or charges are to be made under the provisions of those Acts relating to relief for capital expenditure”.

(4) Omit subsection (6A)(5).

#### **Amendment of the Taxation of Chargeable Gains Act 1992**

3. In section 256 of the Taxation of Chargeable Gains Act 1992(6) (charities) after subsection (5) insert—

“(6) In subsections (3) and (4) of this section, and in sections 256A and 256B, “charitable trust” has the same meaning as in Part 10 of ITA 2007 (see section 519 of that Act).”.

#### **Amendment of the Finance Act 1994**

4. In section 113 of the Finance Act 1994(7) (umbrella schemes) omit subsection (3).

#### **Amendment of the Income Tax Act 2007**

5.—(1) The Income Tax Act 2007 is amended as follows.

(2) After section 504 insert—

##### **“Treatment of capital expenditure of unauthorised unit trust**

**504A.**—(1) This section applies for income tax purposes in relation to an unauthorised unit trust if the trustees are UK resident.

(2) The trustees (and not the unit holders) 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.”.

(3) In section 821 (meaning of “relevant disregarded income”)—

- (a) in subsection (3) for “subsection (4)” substitute “subsection (5)”;
- (b) in subsection (4) for “subsections (2) and (3)” substitute “subsection (2)”;
- (c) after subsection (4) insert—

“(5) The transactions referred to in subsection (3) are transactions—

- (a) carried out by the investment manager on the non-UK resident company’s behalf, and
- (b) in relation to which the investment manager does not fall to be treated as a permanent establishment of the non-UK resident company, ignoring the requirements of the 20% rule.”.

(4) In section 904(2)(a) (annual payments for dividends or non-taxable consideration) after “ITTOIA 2005” insert “otherwise than as relevant foreign income”.

(5) In section 1007 (meaning of “unit trust scheme”) for subsection (2) substitute—

“(2) The Treasury may, in relation to a unit trust scheme within the meaning given by section 237 of FISMA 2000 whose trustees are UK resident, by regulations provide that the

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(4) Section 469(2) was amended by paragraph 12 of Schedule 6 to the Finance Act 1996, paragraph 12(2) of Schedule 4 to the Finance (No. 2) Act 1997 (c. 58) and paragraph 87(2) of Schedule 1 to the Income Tax Act 2007.

(5) Section 469(6A) was inserted by section 113(3)(b) of the Finance Act 1994.

(6) 1992 c. 12; section 256 was amended by section 55(4) of the Finance Act 2006 (c. 25) and paragraph 326 of Schedule 1 to the Income Tax Act 2007.

(7) 1994 c. 9.

scheme is not to be a unit trust scheme for the purposes of the definition in section 989 of “unauthorised unit trust” if it is within a specified description.”.

12th January 2009

*Dave Watts*  
*Frank Roy*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order exercises powers conferred by the Income Tax Act 2007 to undo changes and to make consequential amendments. The Acts affected are the Income and Corporation Taxes Act 1988 (article 2), the Taxation of Chargeable Gains Act 1992 (article 3), the Finance Act 1994 (article 4) and the Income Tax Act 2007 itself (article 5).

Authority for the retrospective provision made by this Order is conferred by sections 1028(4) and 1029(4) of the Income Tax Act 2007.

A full and final Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.