



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER III

UNIT TRUST SCHEMES, DEALERS IN SECURITIES ETC.

Unit trust schemes

468 Authorised unit trusts

- (1) In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts shall have effect as if—
 - (a) the trustees were a company resident in the United Kingdom; and
 - (b) the rights of the unit holders were shares in the company.
- (2) The Tax Acts shall also have effect as if the aggregate amount shown in the accounts of the trust as income available for payment to unit holders or for investment were dividends on the shares referred to in subsection (1) above paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—
 - (a) the date or latest date provided by the terms of the authorised unit trust for any distribution in respect of the distribution period in question;
 - (b) if no date is so provided, the last day of the distribution period.

This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

Status: This is the original version (as it was originally enacted).

- (3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with subsections (1) and (2) above, and section 234(3) and (4) shall apply with any necessary modifications.
- (4) Section 75 shall apply in relation to an authorised unit trust whether or not it is an investment company within the meaning of section 130; and sums periodically appropriated for managers' remuneration shall be treated for the purposes of section 75 as sums disbursed as expenses of management.
- (5) Subsection (1) above shall not apply in relation to an authorised unit trust under the terms of which the funds of the trust cannot be invested in such a way that income can arise to the trustees which will be chargeable to tax in the hands of the trustees otherwise than—
- (a) under Schedule C as profits arising from United Kingdom public revenue dividends, or
 - (b) under Case III of Schedule D;
- and in this subsection “United Kingdom public revenue dividends” means public revenue dividends payable in the United Kingdom (whether they are also payable outside the United Kingdom or not) out of the public revenue of the United Kingdom.
- (6) In this section—
- “authorised unit trust” means, as respects an accounting period, a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force during the whole or part of that accounting period;
- “distribution period” means a period beginning on or after 1st April 1987 over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders;
- “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme; and
- “unit trust scheme” has the same meaning as in section 469.

469 Other unit trusts

- (1) This section applies to—
- (a) any unit trust scheme that is not an authorised unit trust; and
 - (b) any authorised unit trust to which, by virtue of subsection (5) of section 468, that section does not apply,
- except where the trustees of the scheme are not resident in the United Kingdom.
- (2) Income arising to the trustees of the scheme shall be regarded for the purposes of the Tax Acts as income of the trustees (and not as income of the unit holders); 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.
- (3) For the purposes of the Tax Acts the unit holders shall be treated as receiving annual payments (made by the trustees under deduction of tax) in proportion to their rights.
- This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

Status: This is the original version (as it was originally enacted).

- (4) The total amount of those annual payments in respect of any distribution period shall be the amount which, after deducting income tax at the basic rate in force for the year of assessment in which the payments are treated as made, is equal to the aggregate amount shown in the accounts of the scheme as income available for payment to unit holders or for investment.
- (5) The date on which the annual payments are treated as made shall be the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question, except that, if—
 - (a) the date so provided is more than 12 months after the end of the period; or
 - (b) no date is so provided,the date on which the payments are treated as made shall be the last day of the period.
- (6) In this section “distribution period” has the same meaning as in section 468, but—
 - (a) if the scheme does not make provision for distribution periods, then for the purposes of this section its distribution periods shall be taken to be successive periods of 12 months the first of which began with the day on which the scheme took effect; and
 - (b) if the scheme makes provision for distribution periods of more than 12 months, then for the purposes of this section each of those periods shall be taken to be divided into two (or more) distribution periods, the second succeeding the first after 12 months (and so on for any further periods).
- (7) In this section “unit trust scheme” has the same meaning as in the Financial Services Act 1986, except that the Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this section.
- (8) Regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.
- (9) Sections 686 and 687 shall not apply to a scheme to which this section applies.
- (10) Section 720(5) shall not apply in relation to profits or gains treated as received by the trustees of a scheme to which this section applies if or to the extent that those profits or gains represent accruals of interest (within the meaning of Chapter II of Part XVII) which are treated as income in the accounts of the scheme.
- (11) This section shall have effect in relation to distribution periods beginning on or after 6th April 1987.

470 Transitional provisions relating to unit trusts

- (1) Any transitional provisions contained in an order made under section 40(5) of the Finance Act 1987 appointing a day for the coming into force of subsections (1) and (2) of that section and made in connection therewith shall after the coming into force of this section have effect for the purposes of this Act as they had effect for the purposes of that section, with such modifications if any as may be necessary.
- (2) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, section 468 shall have effect with the substitution for the definition of “authorised unit trust” contained in subsection (6) of the following definition—

Status: This is the original version (as it was originally enacted).

“authorised unit trust” means, as respects any accounting period, a unit trust scheme in the case of which an order under section 17 of the Prevention of Frauds (Investments) Act 1958 or under section 16 of the Prevention of Frauds (Investments) Act (Northern Ireland) 1940 is in force during the whole or some part of that accounting period;

and sections 468 and 832 shall have effect with the omission of the definition of “unit trust scheme”.

- (3) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, subsection (2) above shall cease to have effect on such day as the Board may by order appoint; and an order under this subsection may contain such transitional provisions as appear to the Board to be necessary or expedient.

Dealers in securities, banks and insurance businesses

471 Exchange of securities in connection with conversion operations, nationalisation etc

(1) If—

- (a) any securities to which a person who is carrying on a trade which consists wholly or partly in dealing in securities is beneficially entitled are exchanged for other securities; and
- (b) the exchange is one to which this section applies,

then, whether or not any additional consideration is given for the exchange but subject to subsection (2) below, that person shall be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both at the time of the exchange and thereafter, as if the exchange had not taken place, and in that case the produce of any subsequent realisation of any of the securities received by him under the exchange (together with any additional consideration, or the appropriate part of any additional consideration, received by him under the exchange) shall be treated as the produce of the realisation of the corresponding securities surrendered by or transferred from him under the exchange, or of a corresponding part thereof, as the case may be.

- (2) Subsection (1) above shall not apply to any person who gives notice to the inspector not later than two years after the end of the chargeable period in which the exchange takes place that he desires not to be treated as mentioned in that subsection.

(3) The exchanges to which this section applies are—

- (a) any exchange effected under any arrangement carried out under section 2 of the National Loans Act 1939 or section 14 of the National Loans Act 1968 if the Treasury direct, in pursuance of that arrangement, that this section shall apply to exchanges thereunder;
- (b) any exchange of securities effected by section 1 of the Bank of England Act 1946; and
- (c) any exchange of securities effected in pursuance of any enactment passed after 5th April 1946 which provides for the compulsory acquisition of any securities and the issue of other securities in lieu thereof, if the Treasury direct that this section shall apply to exchanges of securities effected in pursuance of that enactment.

- (4) In this section “securities” includes shares, stock, bonds, debentures and debenture stock.

472 Distribution of securities issued in connection with nationalisation etc

- (1) Where—
- (a) in pursuance of any enactment passed after 5th April 1946 any securities are issued to any body corporate as, or as part of, the consideration for the compulsory acquisition of any property under that enactment; and
 - (b) that body corporate is wound up or the capital thereof is reduced or any bonds, debentures or debenture stock thereof are redeemed, and, in or in connection with the winding up, reduction of capital or redemption, all or any of the securities so issued are distributed to holders of securities of the body corporate (“the distributed securities”); and
 - (c) the Treasury direct that this section shall apply in relation to the distribution, any person (“the dealer”) who is carrying on a trade which consists wholly or partly in dealing in securities and is beneficially entitled to any securities (“the relevant securities”) to the holders of which the distribution is made shall, in relation to that distribution, be treated for tax purposes in the manner specified in subsections (2) and (3) below, unless he gives notice to the inspector not later than two years after the end of the chargeable period in which the distribution takes place that he desires not to be so treated in relation to that distribution.
- (2) If the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock is that the relevant securities to which the dealer is beneficially entitled are wholly extinguished without his receiving anything in respect thereof except the distributed securities, he shall be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both then and thereafter, as if neither the extinction nor the distribution had taken place but as if the produce of any subsequent realisation of any of the distributed securities were the produce of the realisation of the relevant securities or a corresponding part thereof, as the case may be.
- (3) In any other case—
- (a) the dealer shall be treated as having acquired the distributed securities at a cost equal to such proportion of the cost to him of the relevant securities as may be specified in the direction of the Treasury referred to in subsection (1) above and the question whether he has made any, and if so what, profit or suffered any, and if so what, loss on any subsequent realisation of the distributed securities shall be determined accordingly; and
 - (b) in considering whether he has, either as the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock and the distribution of the securities, or on any subsequent realisation of any of the relevant securities, made any, and if so what, profit or suffered any, and if so what, loss in connection with the relevant securities, the distributed securities shall be left out of account and the cost to him of the relevant securities shall be deemed to be reduced by the amount of the cost at which, under paragraph (a) above, he is taken to have acquired the distributed securities.
- (4) In this section “securities” includes shares, stock, bonds, debentures and debenture stock.

473 Conversion etc. of securities held as circulating capital

- (1) Subsections (3) and (4) below shall have effect where a transaction to which this section applies occurs in relation to any securities (“the original holding”)—

Status: This is the original version (as it was originally enacted).

- (a) to which a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is beneficially entitled; and
 - (b) which are such that a profit on their sale would form part of the trading profits of that business.
- (2) This section applies to any transaction which, if the securities were not such as are mentioned in subsection (1)(b) above—
- (a) would result in the original holding being equated with a new holding by virtue of sections 77 to 86 of the 1979 Act (capital gains tax roll-over relief in cases of conversion etc.); or
 - (b) would be treated by virtue of section 84 of that Act (compensation stock) as an exchange for a new holding which does not involve a disposal of the the original holding;
- but does not apply to any transaction in relation to which section 471 applies or would apply if the person concerned had not given a notice under that section.
- (3) Subject to subsection (4) below, in making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the business —
- (a) the transaction shall be treated as not involving any disposal of the original holding, and
 - (b) the new holding shall be treated as the same asset as the original holding.
- (4) Where under the transaction the person concerned receives or becomes entitled to receive any consideration in addition to the new holding, subsection (3) above shall have effect as if references to the original holding were references to the proportion of it which the market value of the new holding at the time of the transaction bears to the aggregate of that value and the market value at that time (or, if it is cash, the amount) of the consideration.
- (5) Subsections (3) and (4) above shall have effect with the necessary modifications in relation to any computation made for the purposes of section 76(2) in a case where securities held by the company concerned are equated with a new holding by virtue of any of sections 77 to 86 of the 1979 Act or are treated as not disposed of by virtue of section 84 of that Act.
- (6) In this section “securities” includes shares, any security within the meaning of section 82 of the 1979 Act and any rights, interests or options which by virtue of section 86(7), 93 or 139 of that Act are treated as shares for the purposes of sections 77 to 86 of that Act.
- (7) In determining for the purposes of subsection (2)(a) above whether a transaction would result in the original holding being equated with a new holding by virtue of section 85 or 86 of the 1979 Act the reference in section 87(1) of that Act to capital gains tax shall be construed as a reference to income tax.

474 Treatment of tax-free income

- (1) Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is carried on in the United Kingdom by a person not resident there, then—

Status: This is the original version (as it was originally enacted).

- (a) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained in, the business, and
- (b) in the case of an insurance business, also in computing the profits or loss from pension business and general annuity business under section 436,

all interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively.

In this subsection “securities” includes stocks and shares.

- (2) Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities—
 - (a) is carried on in the United Kingdom by a person not ordinarily resident there, and
 - (b) in making any such computation as is referred to in subsection (1) above with respect to that business, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest on those securities for tax purposes,

then any expenses attributable to the acquisition or holding of, or to any transaction in, the securities (but not including in those expenses any interest on borrowed money), and any profits or losses so attributable, shall also be excluded in making that computation.

475 Tax-free Treasury securities: exclusion of interest on borrowed money

- (1) This section has effect where paragraphs (a) and (b) of section 474(2) apply to a business for any accounting period or year of assessment.
- (2) Up to the amount determined under this section (“the amount ineligible for relief”), interest on money borrowed for the purposes of the business—
 - (a) shall be excluded in any computation under the Tax Acts of the profits (or losses) arising from the business or, where subsection (6) below applies, arising from any annuity business forming part of the life assurance business, and
 - (b) shall be excluded from the definition of “charges on income” in section 338.
- (3) Subject to subsection (4) below, in determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the tax-free Treasury securities held for the purpose of the business in that period.
- (4) Where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection, and is not to be treated as a charge on income for the purposes of the Corporation Tax Acts.
- (5) Subject to subsection (6) below, the amount ineligible for relief shall be equal to a year’s interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than 12 months interest shall be taken for that shorter period instead of for a year.

Status: This is the original version (as it was originally enacted).

- (6) Where relief for expenses of management is to be granted to an insurance company for any accounting period, and that relief falls to be reduced under section 445(8)(b) (by applying the fraction which is investment income of the life assurance fund other than income from tax-free Treasury securities divided by that total investment income)—
- (a) the amount ineligible for relief shall be a fraction of the amount of interest in the accounting period on money borrowed for the purposes of the business; and
 - (b) that fraction shall be the fraction which is income from tax-free Treasury securities divided by total investment income of the life assurance fund (that is to say, one minus the fraction to be applied under section 445(8)(b)).
- (7) In this section “tax-free Treasury securities” means securities issued by the Treasury with a condition regulating the treatment of the interest thereon for income tax or corporation tax purposes such that interest on the securities is excluded in computing the income or profits.
- (8) For the purposes of this section the cost of a holding of tax-free Treasury securities which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting or basis period, applied to the average amount of the holding in the accounting or basis period, and this subsection shall be applied separately to securities of different classes.
- (9) In this section “accounting or basis period” means the company’s accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.