



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES <sup>[F1]</sup>ETC]

### CHAPTER III

COLLECTIVE INVESTMENT SCHEMES AND INVESTMENT TRUSTS <sup>[F1]</sup>ETC]

#### Textual Amendments

- F1** Word in Pt. 3 Ch. 3 heading inserted (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 22 para. 9](#); S.I. 2010/670, art. 2

#### **99 Application of Act to unit trust schemes.**

- (1) This Act shall apply in relation to any unit trust scheme as if—
- (a) the scheme were a company,
  - (b) the rights of the unit holders were shares in the company, and
  - (c) in the case of an authorised unit trust, the company were resident <sup>F2</sup>... in the United Kingdom,

except that nothing in this section shall be taken to bring a unit trust scheme within the charge to corporation tax on chargeable gains.

<sup>F3</sup>(1A) Subsection (1) does not apply to an offshore fund that is a transparent fund within the meaning given by regulation 11 of the Offshore Funds (Tax) Regulations 2009 (see instead section 103D).]

- (2) Subject to subsection (3) <sup>F4</sup>and <sup>F5</sup>sections 99A and 151W(a)] below, in this Act—
- (a) “unit trust scheme” has the <sup>F6</sup>meaning given by section 237(1) of the Financial Services and Markets Act 2000],

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- [<sup>F7</sup>(aa) “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme;
- (b) “authorised unit trust” means, as respects an accounting period, a unit trust scheme in the case of which an order under section 243 of the Financial Services and Markets Act 2000 is in force during the whole or part of that period.]
- [<sup>F8</sup>(c) “open-ended investment company” has the meaning given by subsection (10) of section 468 of the Taxes Act, read with subsections (11) to (18) of that section, as those subsections are added by regulation 10(4) of the Open-ended Investment Companies (Tax) Regulations 1997; and accordingly references in subsections (11) to (16) of that section to “the Tax Acts” shall be construed as if they included references to this Act.]
- (3) 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 Act; and regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

#### Textual Amendments

- F2** Words in s. 99(1)(c) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 96**
- F3** S. 99(1A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **3**
- F4** Words in s. 99(2) inserted (with effect in accordance with s. 118(5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **s. 118(2)(a)**
- F5** Words in s. 99(2) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 199** (with Sch. 9 paras. 1-9, 22)
- F6** Words in s. 99(2)(a) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), **62(1)**
- F7** S. 99(2)(aa)(b) substituted for s. 99(2)(b) (with effect in accordance with s. 118(5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **s. 118(2)(b)**
- F8** S. 99(2)(c) added (28.4.1997) by [The Open-ended Investment Companies \(Tax\) Regulations 1997 \(S.I. 1997/1154\)](#), regs. 1(1), **20**

#### Modifications etc. (not altering text)

- C1** S. 99 extended (27.7.1993) by [1993 c. 37](#), s. 12, **Sch. 2 Pt. I para. 22(2)**
- C2** S. 99(1) excluded in part by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), reg. 14B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2008/3159](#), regs. 1(1), 11)
- C3** S. 99(1) excluded in part (9.12.2021) by [S.I. 2006/964](#), **reg. 14DA(2)(d)** (as inserted by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2021 \(S.I. 2021/1270\)](#), regs. 1, **3(2)**)

#### [<sup>F9</sup>99A [<sup>F10</sup>Treatment of umbrella schemes]

- (1) In this section an “umbrella scheme” means [<sup>F11</sup>a relevant collective investment scheme]—

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- (a) which provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them, and
- (b) under which the participants are entitled to exchange rights in one pool for rights in another,

and any reference to a part of an umbrella scheme is a reference to such of the arrangements as relate to a separate pool.

[<sup>F12</sup>(2) For the purposes of this Act (except subsection (1) and section 103C)—

- (a) each of the parts of an umbrella scheme shall itself be regarded as a collective investment scheme of the same form as the umbrella scheme as a whole, and
- (b) the umbrella scheme as a whole shall not be regarded as a collective investment scheme of that form or as any other form of collective investment scheme,

and the participants in the umbrella scheme are to be treated accordingly.

(2A) Subsection (2)—

- (a) does not prevent gains or losses accruing to an umbrella scheme which is a unit trust scheme (other than an authorised unit trust) being regarded as gains or losses accruing to the umbrella scheme as a whole, and
- (b) does not apply for the purposes of section 100(2).]

<sup>F13</sup>(3) .....

(4) Nothing in [<sup>F14</sup>subsection (2)] shall prevent—

- (a) gains accruing to an umbrella scheme being regarded as gains accruing to an authorised unit trust for the purposes of section 100(1) (exemption for authorised unit trusts etc);
- (b) a transfer of business to an umbrella scheme being regarded as a transfer to [<sup>F15</sup>a unit trust scheme] for the purposes of section 139(4) (exclusion of transfers to authorised unit trusts etc);

<sup>F16</sup>(c) .....

[ For the purposes of subsection (1), “arrangements” includes arrangements provided <sup>F17</sup>(5) in a company’s instrument of incorporation.

(6) In this section, “relevant collective investment scheme” means a collective investment scheme which is—

- (a) an authorised contractual scheme which is a co-ownership scheme,
- (b) a unit trust scheme, or
- (c) an offshore fund.]]

#### Textual Amendments

- F9** S. 99A inserted (with effect in accordance with s. 118(5) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 118\(3\)](#)
- F10** S. 99A heading substituted (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\), regs. 1\(1\), 8\(f\)](#) (with [reg. 1\(2\)](#))
- F11** Words in s. 99A(1) substituted (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\), regs. 1\(1\), 8\(a\)](#) (with [reg. 1\(2\)](#))

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- F12** S. 99A(2)(2A) substituted for s. 99A(2) (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **8(b)** (with reg. 1(2))
- F13** S. 99A(3) omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **8(c)** (with reg. 1(2))
- F14** Words in s. 99A(4) substituted (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **8(d)(i)** (with reg. 1(2))
- F15** Words in s. 99A(4)(b) substituted (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **8(d)(ii)** (with reg. 1(2))
- F16** S. 99A(4)(c) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with Sch. 36)
- F17** S. 99A(5)(6) inserted (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **8(e)** (with reg. 1(2))

### **[<sup>F18</sup>99B Calculation of the disposal cost of accumulation units**

- (1) For the purposes of computing the gain accruing on a disposal by a unit holder of units in a unit trust scheme and for the purposes of all other provisions of this Act, an amount shall be treated as expenditure falling within section 38(1)(b) if—
- (a) it represents income from the investments subject to the unit trust scheme,
  - (b) it has been reinvested in respect of the units on behalf of the unit holder (without an issue of new units), and
  - (c) it is either—
    - (i) charged to income tax as income of the unit holder (or would be charged to income tax as his income but for a relief which has effect in respect of it) for the purposes of the Income Tax Acts, or
    - (ii) taken into account as a receipt in calculating profits, gains or losses of the unit holder for the purposes of the Income Tax Acts.
- (2) Where an amount is treated as expenditure by virtue of subsection (1), the expenditure shall be treated for the purposes of this Act as having been incurred—
- (a) in relation to an authorised unit trust, on the distribution date for the distribution period in respect of which the amount is reinvested, and
  - (b) in relation to any other unit trust scheme, on the date on which the amount is reinvested.
- (3) In subsection (2)(a) “distribution date” and “distribution period” shall have the meaning given by [<sup>F19</sup>regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 15 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964))].

[ Subsection (1) does not apply to disposals in units of an offshore fund that is a <sup>F20</sup>(4) transparent fund within the meaning given by regulation 11 of the Offshore Funds (Tax) Regulations 2009 (see instead section 103D).]

#### **Textual Amendments**

- F18** S. 99B inserted (with effect in accordance with s. 21(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **s. 21(1)**

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- F19** Words in s. 99B(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), regs. 1(1), **89(2)**
- F20** S. 99B(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **4**

## 100 Exemption for authorised unit trusts etc.

(1) Gains accruing to an authorised unit trust, an investment trust [<sup>F21</sup>a venture capital trust] or a court investment fund shall not be chargeable gains.

- <sup>F22</sup>(2) .....
- <sup>F22</sup>(2A) .....
- <sup>F22</sup>(2B) .....

(3) In this Act “court investment fund” means a fund established under section 42 of the <sup>M1</sup>Administration of Justice Act 1982.

### Textual Amendments

- F21** Words in s. 100(1) inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. **72(2)**
- F22** S. 100(2)-(2B) omitted (6.4.2014) by virtue of [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **34** (with reg. 32)

### Modifications etc. (not altering text)

- C4** S. 100 excluded by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), reg. 14B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2008/3159](#), regs. 1(1), 11)
- C5** S. 100 excluded (9.12.2021) by [S.I. 2006/964](#), reg. **14DA(2)(e)** (as inserted by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2021 \(S.I. 2021/1270\)](#), regs. 1, **3(2)**)
- C6** S. 100(1) modified (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by [The Venture Capital Trust \(Winding up and Mergers\) \(Tax\) Regulations 2004 \(S.I. 2004/2199\)](#), regs. 1(1), **5**

### Marginal Citations

- M1** 1982 c. 53.

## <sup>F23</sup>100A Exemption for certain EEA UCITS

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### Textual Amendments

- F23** S. 100A omitted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 46](#)

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## 101 Transfer of company's assets to investment trust.

- (1) Where section 139 has applied on the transfer of a company's business (in whole or in part) to a company which at the time of the transfer was not an investment trust, then if—
- (a) at any time after the transfer the company becomes for an accounting period an investment trust, and
  - (b) at the beginning of that accounting period the company still owns any of the assets of the business transferred,

the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.

[<sup>F24</sup>(1A) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the end of the last accounting period to end before the beginning of the accounting period mentioned in that subsection.]

[<sup>F25</sup>(1B) This section does not apply if at the time at which the company becomes an investment trust there has been an event by virtue of which it falls by virtue of section 101B(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.]

- (2) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of subsection (1) above may be made at any time within 6 years after the end of the accounting period referred to in subsection (1) above, and where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.

### Textual Amendments

**F24** S. 101(1A) inserted (29.4.1996 with effect as specified in s. 140(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 140\(1\)](#)

**F25** S. 101(1B) inserted (with application in accordance with s. 134(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 134\(3\)](#)

## [<sup>F26</sup>101A Transfer within group to investment trust.

- (1) This section applies where—
- (a) an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
  - (b) at the time of the disposal the acquiring company was not an investment trust, and
  - (c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

- (2) Those conditions are satisfied by the acquiring company if—

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- (a) it becomes an investment trust for an accounting period beginning not more than 6 years after the time of the disposal,
  - (b) at the beginning of that accounting period, it owns, otherwise than as trading stock—
    - (i) the asset, or
    - (ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
  - (c) it has not been an investment trust for any earlier accounting period beginning after the time of the disposal, and
  - (d) at the time at which it becomes an investment trust, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101C(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.
- (3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.
- (4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the end of the last accounting period to end before the beginning of the accounting period for which the acquiring company becomes an investment trust.
- (5) For the purposes of this section a chargeable gain is carried forward from an asset to other property on a replacement of business assets if—
  - (a) by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and
  - (b) as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.
- (6) For the purposes of this section an asset acquired by the acquiring company shall be treated as the same as an asset owned by it at a later time if the value of the second asset is derived in whole or in part from the first asset; and, in particular, assets shall be so treated where—
  - (a) the second asset is a freehold and the first asset was a leasehold; and
  - (b) the lessee has acquired the reversion.
- (7) Where under this section a company is to be treated as having disposed of and reacquired an asset—
  - (a) all such recomputations of liability in respect of other disposals, and
  - (b) all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax,as may be required in consequence of the provisions of this section shall be carried out.
- (8) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may be made at any time within 6 years after the end of the accounting period referred to in subsection (2)(a) above.]

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#### Textual Amendments

**F26** S. 101A inserted (with application in accordance with s. 133(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 133\(1\)](#)

### [<sup>F27</sup>101B Transfer of company's assets to <sup>F27</sup>venture capital trust.

- (1) Where section 139 has applied on the transfer of a company's business (in whole or in part) to a company which at the time of the transfer was not a venture capital trust, then if—
  - (a) at any time after the transfer the company becomes a venture capital trust by virtue of an approval for the purposes of [<sup>F28</sup>Part 6 of ITA 2007]; and
  - (b) at the time as from which the approval has effect the company still owns any of the assets of the business transferred,
 the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.
- (2) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the time mentioned in subsection (1)(b) above.
- (3) This section does not apply if at the time mentioned in subsection (1)(b) above there has been an event by virtue of which the company falls by virtue of section 101(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.
- (4) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the approval mentioned in subsection (1)(a) above has effect as from the beginning of an accounting period, be made at any time within 6 years after the end of that accounting period.
- (5) Where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.]

#### Textual Amendments

**F27** S. 101B inserted (with application in accordance with s. 134(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 134\(2\)](#)

**F28** Words in s. 101B(1)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 304](#) (with [Sch. 2](#))

### [<sup>F29</sup>101C Transfer within group to venture capital trust.

- (1) This section applies where—



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- (a) an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
  - (b) at the time of the disposal the acquiring company was not a venture capital trust, and
  - (c) the conditions set out in subsection (2) below are satisfied by the acquiring company.
- (2) Those conditions are satisfied by the acquiring company if—
- (a) it becomes a venture capital trust by virtue of an approval having effect as from a time (the “time of approval”) not more than 6 years after the time of the disposal,
  - (b) at the time of approval the company owns, otherwise than as trading stock—
    - (i) the asset, or
    - (ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
  - (c) it has not been a venture capital trust at any earlier time since the time of the disposal, and
  - (d) at the time of approval, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101A(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.
- (3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.
- (4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the time of approval.
- (5) Subsections (5) to (7) of section 101A apply for the purposes of this section as they apply for the purposes of that section.
- (6) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the time of approval is the time at which an accounting period of the company begins, be made at any time within 6 years after the end of that accounting period.
- (7) Any reference in this section to an approval is a reference to an approval for the purposes of [F<sup>30</sup>Part 6 of ITA 2007].]

#### Textual Amendments

- F29** S. 101C inserted (with application in accordance with s. 135(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 135\(2\)](#)
- F30** Words in s. 101C(7) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 305](#) (with [Sch. 2](#))

<sup>F31</sup>**102** Collective investment schemes with property divided into separate parts.

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#### Textual Amendments

- F31** S. 102 omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), 9 (with reg. 1(2))

### <sup>F32</sup> 103 Restriction on availability of indexation allowance.

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#### Textual Amendments

- F32** S. 103 repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 93(7), [Sch. 26 Pt. V\(8\)](#) (with [Sch. 12](#))

### <sup>F33</sup> 103A Application of Act to certain offshore funds

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#### Textual Amendments

- F33** Ss. 103A, 103B omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), 5

### <sup>F33</sup> 103B Application of section 99B to transparent funds

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#### Textual Amendments

- F33** Ss. 103A, 103B omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), 5

### [<sup>F34</sup> 103C Power to make regulations about collective investment schemes

- (1) The Treasury may by regulations make provision about the treatment of participants in collective investment schemes for the purposes of this Act.
- (2) The regulations may, in particular, specify descriptions of collective investment scheme in relation to which they are to apply.
- (3) Regulations under this section may make different provision for different cases or different purposes.
- (4) Regulations under this section—
  - (a) may modify this Act or any other enactment or instrument (whenever passed or made), and

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- (b) may include incidental, consequential, supplementary or transitional provision.
- (5) A statutory instrument containing regulations under this section must be laid before the House of Commons after being made.
- (6) The regulations cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless before the end of that period the instrument is approved by a resolution of the House of Commons.
- (7) After an instrument containing regulations under this section has been approved under subsection (6), subsections (5) and (6) do not apply to any subsequent such instrument (and accordingly section 287(3) applies to any such instrument).
- (8) If regulations cease to have effect as a result of subsection (6), that does not—
  - (a) affect anything previously done under the regulations, or
  - (b) prevent the making of new regulations to the same or similar effect.
- (9) In calculating the period of 40 days for the purposes of subsection (6), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.
- (10) In this section—
  - “modify” includes amend, repeal or revoke, and
  - “participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000.]

#### Textual Amendments

**F34** S. 103C inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), s. 36(3)

#### [<sup>F35</sup>103DA] Application of Act to tax transparent funds

- (1) For the purposes of this section—
  - “tax transparent fund” means—
    - (a) an authorised contractual scheme which is a co-ownership scheme, or
    - (b) an offshore fund that is a transparent fund within the meaning given by regulation 11 of the Offshore Funds (Tax) Regulations 2009, and
  - “fund property”, in relation to a tax transparent fund, means the property subject to the fund.
- (2) For the purposes of this Act—
  - “authorised contractual scheme” has the meaning given by section 237(3) of the Financial Services and Markets Act 2000, and
  - “co-ownership scheme” has the meaning given by section 235A of that Act.
- (3) A unit in a tax transparent fund is treated as an asset for the purposes of this Act, and, accordingly, a participant’s interest in the fund property is disregarded for those purposes.

[<sup>F36</sup>(3A) But if a participant is entitled to an allowance under Part 2A of CAA 2001 (structures and buildings allowances) by reference to expenditure in relation to any fund property, the participant’s interest in the fund property is not to be disregarded under

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subsection (3) for the purposes of the application of section 37B (exclusion of certain expenditure: structures and buildings allowances) in relation to the disposal by the participant of units in the fund.]

- (4) In computing the gain accruing on a disposal by a participant of units in a tax transparent fund, an amount which—
- (a) represents income from the fund property, and
  - (b) is taken into account as a receipt or other credit of the participant in calculating an amount chargeable to income tax,
- is treated as expenditure falling within section 38(1)(b).
- (5) In computing the gain accruing on a disposal by a participant of units in a tax transparent fund—
- (a) the sums that would otherwise be allowable under section 38(1) as a deduction from the consideration in the computation of the gain are reduced (but not below nil) by the amounts within subsection (7), and
  - (b) if those amounts exceed the sums that would otherwise be so allowable, the consideration is treated as increased by the amount of the excess.
- (6) So far as an amount within subsection (7) is dealt with under subsection (5)(a), it is not also dealt with under section 39.
- (7) An amount is within this subsection if it is—
- (a) any amount arising to the participant from the fund property which is taken into account as an expense or other debit of the participant in calculating an amount chargeable to income tax, or
  - (b) anything paid or transferred to the participant, or anything else of value received by the participant, which is referable to the holding of the units (whenever paid, transferred or received) unless section 22 applies to whatever is paid, transferred or received.
- (8) In the case of any asset transferred as mentioned in subsection (7)(b), the value of the asset on the date of the transfer is taken to be its market value on that date.
- (9) If a participant has incurred expenditure in relation to any fund property in respect of which a capital allowance or renewals allowance (as defined by section 41(4) or (5)) has been or may be made, that expenditure is excluded from the sums allowable as a deduction in computing the amount of a loss accruing to the participant on a disposal of the units in the fund.
- (10) In this section—
- “participant”—
- (a) in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000, and
  - (b) in relation to an offshore fund (which is not a collective investment scheme), has the meaning given in section 362(1) of TIOPA 2010, and
- “units”, in relation to a tax transparent fund, means the rights or interests (however described) of the participants in the fund.

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#### Textual Amendments

- F35** Ss. 103D, 103DA substituted for s. 103D (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **6**
- F36** S. 103D(3A) inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, **4(9)**

### 103DA Tax transparent funds: share pooling etc

A unit in a transparent fund is to be regarded as a security for the purposes of sections 104, 105, 107, 110 and 114 (share pooling, identification of securities and indexation).]

#### Textual Amendments

- F35** Ss. 103D, 103DA substituted for s. 103D (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **6**

### [<sup>F37</sup> 103DBK property rich collective investment vehicles etc

Schedule 5AAA makes provision in relation to collective investment vehicles where the property which is the subject of or held by the vehicles consists of or includes direct or indirect interests in land in the United Kingdom.]

#### Textual Amendments

- F37** S. 103DB inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 8**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)