

SCHEDULES

SCHEDULE 13

Section 40

UNAUTHORISED UNIT TRUSTS

Amendments of Chapter 13 of Part 15 of ITA 2007

- 1 (1) Chapter 13 of Part 15 of ITA 2007 (deduction of income tax at source: unauthorised unit trusts) is amended as follows.
- (2) In section 941(6) (deemed payments to unit holders and deemed deductions of income tax), after the definition of “deemed deduction”, insert—
““deemed income” means the gross amount of income treated as received as mentioned in subsection (1),”.
- (3) In section 942 (income tax to be collected from trustees) after subsection (5) insert—
“(6) No relief under—
(a) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or
(b) section 18(1)(b) and (2) of that Act (relief for foreign tax where no double taxation arrangements),
is allowed in relation to income tax to be collected by virtue of this section.”
- (4) After section 943 (calculation of trustees’ income pool) insert—

“943A Treatment of cases involving double tax relief

- (1) This section applies where—
(a) the trustees of an unauthorised unit trust are treated as making deemed payments to unit holders in a tax year (“the current tax year”),
(b) there is a reduction in the income pool in the current tax year, and
(c) the amount of the trustees’ double tax relief pool as at the start of the current tax year is greater than zero.
- (2) Section 848 (income tax deducted at source treated as income tax paid by recipient) does not apply to the foreign element of the deemed deduction treated as made from any of the deemed payments.
- (3) Instead, for the purposes of the Tax Acts—
(a) the foreign element of the deemed deduction is treated as if it were tax payable under the law of a territory outside the United Kingdom with which there are not in force any arrangements under section 2(1) of TIOPA 2010 (double taxation relief by agreement), and

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- (b) the foreign element of the deemed income represented by the deemed payment is treated as if it were income that—
 - (i) arises in a territory of the kind mentioned in paragraph (a), and
 - (ii) is income by reference to which the tax treated under paragraph (a) as payable was computed.
- (4) A reference in this Chapter to a reduction in the income pool in a tax year is to the amount (if any) by which—
 - (a) the amount of the income pool at the start of the tax year, exceeds
 - (b) the amount of the income pool at the start of the following tax year.
- (5) See—
 - section 943B for provision about references to the “foreign element” of a deemed deduction or deemed income, and
 - section 943C for provision about the calculation of the trustees’ double tax relief pool as at the beginning of a tax year.

943B The “foreign element” of a deemed deduction or deemed income

- (1) References in this Chapter to the “foreign element” of—
 - (a) a deemed deduction treated as made in a tax year, or
 - (b) deemed income treated as received in a tax year,
 are to the deemed deduction or deemed income multiplied by the relevant fraction.
- (2) For this purpose “the relevant fraction” means—

$$\frac{A}{B}$$

where—

A is—

- (a) the reduction in the income pool in the tax year multiplied by the basic rate for the year, or
- (b) if lower, the amount of the trustees’ double tax relief pool as at the start of the tax year;

B is the total of the deemed deductions treated as made in the tax year.

943C Calculation of trustees’ double tax relief pool

- (1) This is how the amount of the trustees’ double tax relief pool as at the start of a tax year (“the current tax year”) is calculated.
- (2) The trustees’ double tax relief pool as at the start of the current tax year is—

$$A + B - C$$

where—

A is—

- (a) the amount of the trustees’ double tax relief pool as at the start of the previous tax year, or

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- (b) if the current tax year is the tax year during which the unauthorised unit trust is established, or the trustees have been UK resident for no tax year prior to the current tax year, nil;
B is the amount of the reduction, if any, in the liability of the trustees to income tax in the previous tax year under—
 - (a) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or
 - (b) section 18(1)(b) and (2) of TIOPA 2010 (relief for foreign tax where no double taxation arrangements);C is the sum of the foreign elements (if any) of deemed deductions from deemed payments treated as made in the previous tax year.
- (3) If the trustees were non-UK resident for the previous tax year, references in subsection (2) to the previous tax year are to be read as references to the last tax year prior to the current tax year for which the trustees were UK resident.

943D Annual statements

- (1) This section applies in relation to any tax year in which the trustees of an unauthorised unit trust are treated as making a deemed payment to a unit holder.
- (2) The trustees must, as soon as reasonably practicable after the end of the tax year, give the unit holder a statement (an “annual statement”).
- (3) The annual statement must include the following information in relation to each deemed payment treated as made by the trustees to the unit holder in the tax year—
 - (a) the date on which the deemed payment was treated as made,
 - (b) the gross amount of the deemed payment,
 - (c) the foreign element (if any) of the deemed income represented by the deemed payment,
 - (d) the deemed deduction made from the deemed payment, and
 - (e) the foreign element (if any) of that deemed deduction.
- (4) The duties imposed by this section are enforceable by the unit holder.”

Consequential amendments

- 2 (1) In section 550 of ITTOIA 2005 (distributions from unauthorised unit trusts: income tax treated as paid), after “is” insert “, subject to section 943A of that Act (treatment of cases involving double tax relief).”.
- (2) In section 848 of ITA 2007 (income tax deducted at source treated as income tax paid by the recipient), at the end insert—
 - “(4) In relation to income tax deducted at source under section 941 (unauthorised unit trusts), this section is subject to section 943A (treatment of cases involving double tax relief).”
- (3) In Schedule 4 to that Act (index of defined expressions), insert at the appropriate places—

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“deemed income (in Chapter 13 of Part 15)	section 941(6)”
“foreign element (in Chapter 13 of Part 15)	section 943B”.

- (4) In section 971 of CTA 2009 (distributions from unauthorised unit trusts: overview of Chapter), in subsection (2)(a), after “is” insert “, subject to section 943A of that Act (treatment of cases involving double tax relief),”.

Commencement

- 3 The amendments made by this Schedule have effect in relation to payments treated under section 941(2) of ITA 2007 as made on or after 21 October 2009.

Transitional provision: opening value of trustees’ double tax relief pool

- 4 (1) This paragraph applies, and section 943C of ITA 2007 does not apply, in relation to the determination of the amount of the trustees’ double tax relief pool as at the start of the tax year 2009-10.
- (2) That amount is—
- (a) if amounts A and B are both greater than £20,000, the lower of those amounts, and
 - (b) in any other case, nil.
- (3) Amount A is the sum of—
- (a) any amount by which the liability of the trustees to income tax for the tax year 2007-08 is reduced under—
 - (i) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or
 - (ii) section 18(1)(b) and (2) of that Act (relief for foreign tax where no double taxation arrangements), and
 - (b) any amount by which the liability of the trustees to income tax for the following tax year is so reduced.
- (4) Amount B is 20% of the amount (if any) of the trustees’ income pool as at the start of the tax year 2009-10 (calculated in accordance with section 943 of ITA 2007).