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STATUTORY INSTRUMENTS

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**2014 No. 685**

**INCOME TAX**

**CORPORATION TAX**

**The Investment Transactions (Tax) Regulations 2014**

<i>Made</i>	- - - -	<i>17th March 2014</i>
<i>Laid before the House of</i>		
<i>Commons</i>	- - - -	<i>18th March 2014</i>
<i>Coming into force</i>	- -	<i>8th April 2014</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 17(3) and 18 of the Finance (No. 2) Act 2005<sup>(1)</sup>, section 622A of the Corporation Tax Act 2010<sup>(2)</sup>, section 354 of the Taxation (International and Other Provisions) Act 2010<sup>(3)</sup> and section 217 of the Finance Act 2013<sup>(4)</sup>.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Investment Transactions (Tax) Regulations 2014 and come into force on 8th April 2014.

(2) The Regulations have effect in relation to transactions entered into on or after that date.

**Investment transactions**

2.—(1) These Regulations specify certain kinds of transactions as investment transactions for the purposes of—

- (a) the Authorised Investment Funds (Tax) Regulations 2006<sup>(5)</sup>,
- (b) the Offshore Funds (Tax) Regulations 2009<sup>(6)</sup>,
- (c) the Investment Trust (Approved Company) (Tax) Regulations 2011<sup>(7)</sup>, and
- (d) the Unauthorised Unit Trusts (Tax) Regulations 2013<sup>(8)</sup>.

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(1) 2005 c. 22.

(2) 2010 c. 4, section 622A was inserted by section 50 of the Finance Act 2011 (c. 11).

(3) 2010 c. 8.

(4) 2013 c. 29.

(5) S.I. 2006/964, amended by S.I. 2009/2036; there are other amending instruments but none is relevant.

(6) S.I. 2009/3001, amended by S.I. 2011/1211; there are other amending instruments but none is relevant.

(7) S.I. 2011/2999, to which there are amendments not relevant to these Regulations.

(8) S.I. 2013/2819.

- (2) An investment transaction means—
- (a) any transaction in stocks and shares,
  - (b) any transaction in a relevant contract,
  - (c) any transaction which results in a fund becoming a party to a loan relationship or a related transaction in respect of a loan relationship,
  - (d) any transaction in units in a collective investment scheme,
  - (e) any transaction in securities of any description not falling within paragraphs (a) to (d),
  - (f) any transaction consisting in the buying or selling of any foreign currency,
  - (g) any transaction in a carbon emission trading product,
  - (h) any transaction in rights under a life insurance policy.

(3) For the purposes of these Regulations, “fund” means an authorised investment fund, an offshore fund, an investment trust or an exempt unauthorised unit trust, as the case may be.

**“Relevant contract”**

**3.—**(1) For the purposes of regulation 2(2)(b), “relevant contract” has the same meaning as in Part 7 of the Corporation Tax Act 2009<sup>(9)</sup>.

This is subject to paragraphs (2) to (4).

- (2) A transaction which relates to land can only be a relevant contract if it uses an index which is—
- (a) publicly accessible,
  - (b) comprised of a significant number of properties, and
  - (c) not maintained by—
    - (i) the fund,
    - (ii) the manager of the fund, or
    - (iii) a person connected with the fund or the manager of the fund.

(3) A contract the terms of which provide for the delivery of any property other than property a transaction in which would fall within regulation 2(2) where the property is delivered is not a relevant contract.

(4) The reference to a loan relationship in the definition of “warrant” in section 710 of the Corporation Tax Act 2009 is to be construed in accordance with regulation 4 but with references to “fund” in that regulation being treated as references to “company”.

- (5) For the purposes of this regulation—
- (a) sections 993 and 994 of the Income Tax Act 2007 (connected persons)<sup>(10)</sup> apply where the manager is a person other than a company, and
  - (b) sections 1122 and 1123 of CTA 2010 (connected persons) apply in the case of a fund or where the manager is a person which is a company.

(6) For the purposes of the Unauthorised Unit Trusts (Tax) Regulations 2013, references in this regulation to the manager of the fund are to be treated as references to the manager or trustee of the fund.

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<sup>(9)</sup> 2009 c. 4; “relevant contract” is defined in section 577 of the Corporation Tax Act 2009, also see sections 580 to 583 of that Act.

<sup>(10)</sup> 2007 c. 3; section 994 was amended by paragraphs 494 and 565 of Part 2 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

### **Loan relationships and related transactions**

4.—(1) For the purposes of regulation 2(2)(c), a fund has a loan relationship where the fund stands (whether by reference to a security or otherwise) in the position of a creditor or debtor as respects any money debt and either—

- (a) that debt is one arising from a transaction for the lending of money, or
- (b) that debt is not one which arose from a transaction for the lending of money but is one—
  - (i) on which interest is payable to or by the fund,
  - (ii) in relation to which the exchange gains or losses arise to the fund, or
  - (iii) as respects which the conditions in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1)(b)(iii) are that—

- (a) the fund stands in the position of creditor in relation to the money debt, and
- (b) the money debt is one from which a discount (whether of an income or capital nature) arises to the fund.

(3) For the purposes of this regulation—

“exchange gains or losses” means profits or gains or losses which arise as a result of comparing at different times the expression in one currency of the whole or some part of the valuation put by the fund in another currency on an asset or liability of the fund,

“money debt” has the same meaning as it has for the purposes of Part 5 of the Corporation Tax Act 2009<sup>(11)</sup>.

(4) For the purposes of regulation 2(2)(c), a “related transaction” in relation to a loan relationship means any disposal or acquisition (in whole or in part) of rights or liabilities under that relationship.

### **“Units in a collective investment scheme”**

5.—(1) For the purposes of regulation 2(2)(d)—

“collective investment scheme” has the meaning given by section 235 of the Financial Services and Markets Act 2000<sup>(12)</sup>,

“units” means the rights or interests (however described) of the investors in a collective investment scheme.

(2) In paragraph (1) an “investor”, in relation to a collective investment scheme, means a beneficial owner of units in the scheme, except where the units are held on trust (other than a bare trust) or are comprised in the estate of a deceased person, and in such a case the investor, in relation to the scheme, means the trustees of the trust or, as the case may be, the deceased’s personal representatives.

### **“Transaction in a carbon emission trading product”**

6.—(1) For the purposes of regulation 2(2)(g), a “transaction in a carbon emission trading product” means a transaction—

- (a) in transferable units issued pursuant to the Kyoto Protocol, or
- (b) in any similar transferable units relating to emissions of greenhouse gases,

where the transaction does not otherwise fall within any other sub-paragraph of regulation 2(2).

(2) For the purposes of this regulation—

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<sup>(11)</sup> “Money debt” is defined in section 303 of the Corporation Tax Act 2009.

<sup>(12)</sup> 2000 c. 8.

“the Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change signed at Kyoto on 11th December 1997<sup>(13)</sup>,

“units” includes assigned amount units, certified emission reductions, emission reduction units and removal units.

### **Consequential amendments**

7.—(1) The Authorised Investment Funds (Tax) Regulations 2006<sup>(14)</sup> are amended as follows.

(2) In regulation 14E (tax treatment of diversely owned AIFs)<sup>(15)</sup>, in paragraph (5), for “regulation 14F” substitute “regulation 2 of the Investment Transactions (Tax) Regulations 2014”.

(3) Omit regulations 14F to 14N.

(4) In Part 2 of the Schedule, omit the definition of “investment transaction”.

8.—(1) The Offshore Funds (Tax) Regulations 2009<sup>(16)</sup> are amended as follows.

(2) In regulation 80 (treatment of investment transactions carried out by diversely owned funds), at the end insert—

“(3) For the purposes of these Regulations an “investment transaction” is an investment transaction specified by regulation 2 of the Investment Transactions (Tax) Regulations 2014.”

(3) Omit regulations 81 to 89.

(4) In Part 2 of Schedule 3, omit the definition of “investment transaction”.

9.—(1) The Investment Trust (Approved Company) (Tax) Regulations 2011<sup>(17)</sup> are amended as follows.

(2) In regulation 32 (treatment of transactions carried out by investment trusts), at the end insert—

“(3) For the purposes of this Part an “investment transaction” is an investment transaction specified by regulation 2 of the Investment Transactions (Tax) Regulations 2014.”

(3) Omit regulations 33 to 41.

10. In the Unauthorised Unit Trusts (Tax) Regulations 2013, in regulation 24 (treatment of investment transactions carried out by exempt unauthorised unit trusts) for paragraph (2) substitute—

“(2) For the purposes of paragraph (1) an “investment transaction” is an investment transaction specified by regulation 2 of the Investment Transactions (Tax) Regulations 2014.”

*Sam Gyimah*

*David Evennett*

Two of the Lords Commissioners of Her  
Majesty’s Treasury

17th March 2014

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<sup>(13)</sup> The text of the Kyoto Protocol is available at [www.unfccc.int/kyoto\\_protocol/items/2830.php](http://www.unfccc.int/kyoto_protocol/items/2830.php).

<sup>(14)</sup> S.I. 2006/964, amended by S.I. 2009/2036; there are other amending instruments but none is relevant.

<sup>(15)</sup> Regulations 14E to 14N and the definition of investment transaction were inserted by S.I. 2009/2036.

<sup>(16)</sup> S.I. 2009/3001, amended by S.I. 2011/1211; there are other amending instruments but none is relevant.

<sup>(17)</sup> S.I. 2011/2999, to which there are amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

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

These Regulations specify certain types of transactions as “investment transactions” for the purposes of the Authorised Investment Funds (Tax) Regulations 2006, the Offshore Funds (Tax) Regulations 2009, the Investment Trust (Approved Company) (Tax) Regulations 2011 and the Unauthorised Unit Trusts (Tax) Regulations 2013. An investment transaction carried out by an authorised investment fund, an offshore fund, an investment trust or an exempt unauthorised unit trust, as the case may be, will not be characterised as a trading transaction for tax purposes if the fund concerned meets certain conditions set out in those Regulations.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 specifies the Regulations for which provision is made by these Regulations and defines “investment transaction”. An investment transaction is transaction in stocks or shares, a transaction in a relevant contract, a transaction which results in a fund becoming a party to a loan relationship or a related transaction, a transaction in units in a collective investment scheme, a transaction in securities, a transaction in buying or selling currency, a transaction in a carbon emissions trading product and a transaction in rights under a life insurance policy.

Regulations 3 to 6 make provision about particular types of investment transaction.

Regulations 7 to 10 make consequential amendments to the Authorised Investment Funds (Tax) Regulations 2006, the Offshore Funds (Tax) Regulations 2009, the Investment Trust (Approved Company) (Tax) Regulations 2011 and the Unauthorised Unit Trusts (Tax) Regulations 2013 to refer to these Regulations and omit the equivalent provisions in those Regulations.

A Tax Information and Impact Note covering this instrument was published on 20 December 2013 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.