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STATUTORY INSTRUMENTS

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**2013 No. 2819**

**The Unauthorised Unit Trusts (Tax) Regulations 2013**

**PART 2**

Exempt unauthorised unit trusts

CHAPTER 7

Miscellaneous provisions

**No tax charge for disposal of interests in offshore non-reporting funds: reporting condition**

**22.**—(1) No tax is charged on the trustees of an exempt unauthorised unit trust under regulation 17 of the Offshore Funds Regulations on the disposal of an interest in a non-reporting fund if the reporting condition is met.

(2) The reporting condition is met if—

- (a) the trustees prepare computations of reportable income for the fund for all accounting periods which, if the fund were a reporting fund, would be reporting periods ending on or before the day of disposal, and
- (b) any excess of the trustees' share of the reportable income of the non-reporting fund over their share of the distributions made by the non-reporting fund is included in the amount mentioned in regulation 15(2) for each period of account ending on or before that day.

(3) Nothing in paragraph (2) applies in relation to any time before the date on which the trustees acquire or re-acquire the interest.

(4) The trustees are treated for all purposes as if they had disposed of and immediately reacquired an interest in a non-reporting fund on a date they specify if in the event of a subsequent disposal of the interest—

- (a) the reporting condition would not be met in relation to times before the date, but
- (b) the trustees reasonably expect the reporting condition will be met in relation to times on and after the date.

(5) The date the trustees specify must be included in an appropriate entry in their return made under section 8A of TMA 1970 for the period of account in which the date falls but the date must not be earlier than 6 April 2014.

(6) The deemed disposal and reacquisition of the interest is taken to be for a consideration equal to its market value on the specified date.

(7) In this regulation—

- “market value” has the meaning given by regulation 10 of the Offshore Funds Regulations,
- “reporting fund” has the meaning given by regulation 50 of those Regulations, and
- “reporting period” has the meaning given by regulation 91 of those Regulations.

(8) If a non-reporting fund is a UCITS fund for the purposes of regulation 12<sup>MI</sup> of the Offshore Funds Regulations, regulation 80 of those regulations (treatment of investment transactions

carried out by diversely owned funds) applies for the purposes of the computations mentioned in paragraph (2)(a).

#### Marginal Citations

**M1** Regulation 12 was amended by S.I. 2011/1121.

#### No tax charge for disposal of interests in offshore non-reporting funds: qualifying index

**23.**—(1) No tax is charged on the trustees of an exempt unauthorised unit trust under regulation 17 of the Offshore Funds Regulations on the disposal of an interest in a non-reporting fund if—

- (a) in accordance with the trust's investment strategy contained in its prospectus, the aim of the trust throughout the period during which the trustees held the interest has been to replicate the performance of a qualifying index,
  - (b) the main purpose of the investment in the non-reporting fund throughout that period is to represent the composition of the qualifying index, and
  - (c) the capital and income returns of the trust throughout that period replicated as closely as practicable the returns of the investment comprised in the qualifying index.
- (2) For the purposes of this regulation an index is a “qualifying index” if—
- (a) it is based solely on the value of securities listed on a recognised stock exchange or admitted to trading on a regulated market,
  - (b) an authority (whether in the United Kingdom or elsewhere) recognises the index on the basis that—
    - (i) its composition is sufficiently diverse,
    - (ii) it represents an adequate benchmark for the market to which it refers, and
    - (iii) it is published in such a way that it is widely available, and
  - (c) it is calculated and published by a body which is managed independently from the management of the exempt unauthorised unit trust.
- [<sup>F1</sup>(3) In this regulation “regulated market” means—
- (a) a UK regulated market within the meaning given by Article 2.1(13A) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments,
  - (b) an EU regulated market within the meaning given by Article 2.1(13B) of that Regulation, and
  - [<sup>F2</sup>(c) a Gibraltar regulated market within the meaning given by Article 26(11)(b)(i) of that Regulation.]]

#### Textual Amendments

- F1** Reg. 23(3) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 34(2) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 23(3)(c) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/818), regs. 1(3), 13(2); 2020 c. 1, Sch. 5 para. 1(1)

### **Treatment of investment transactions carried out by exempt unauthorised unit trusts**

**24.**—(1) An investment transaction entered into by the trustees of an exempt unauthorised unit trust is treated for the purposes of the Income Tax Acts as entered into otherwise than in the course of a trade.

[<sup>F3</sup>(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.]

#### **Textual Amendments**

**F3** Reg. 24(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Investment Transactions \(Tax\) Regulations 2014 \(S.I. 2014/685\)](#), regs. 1(1), **10**

### **Authorised investment funds investing in exempt unauthorised unit trusts**

**25.** If an authorised investment fund (within the meaning given by the AIF Regulations) is at any time in a period of account a unit holder of an exempt unauthorised unit trust, the following provisions of CTA 2010 do not apply in relation to the fund for any financial year in which that period (or any part of it) falls—

- (a) Part 3 (relief for companies with small profits), and
- (b) sections 614 and 618 (applicable corporation tax rate),

(and, accordingly, the rate of corporation tax which applies in relation to the fund is the main rate within the meaning of section 3 of CTA 2010).

### **Statements about income treated as received by unit holders**

**26.** A unit holder of an exempt unauthorised unit trust is entitled by notice to require the trustees of the trust to provide the unit holder with a statement in writing showing the amount of income treated as received by the unit holder for a distribution period under regulation 15.

**Changes to legislation:**

There are currently no known outstanding effects for the The Unauthorised Unit Trusts (Tax) Regulations 2013, CHAPTER 7.