



Capital Gains Tax Act 1979

1979 CHAPTER 14

PART IV

SHARES AND SECURITIES

CHAPTER III

UNIT TRUSTS ETC.

Preliminary

92 Interpretation

In this Act—

- (a) “unit trust scheme” has the meaning given by section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940,
- (b) “authorised unit trust” has the meaning given by section 358 of the Taxes Act,
- (c) “investment trust” has the meaning given by section 359 of the Taxes Act,
- (d) “court investment fund” means a common investment fund established under section 1 of the Administration of Justice Act 1965.

93 Application of Act to unit trusts

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 and ordinarily resident in the United Kingdom.

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General

94 Reduction of tax liability on disposal of units or shares

- (1) Subject to subsections (2) and (6) below, this section applies to disposals of shares in—
- (a) authorised unit trusts,
 - (b) unit trust schemes to which section 97 below applies,
 - (c) investment trusts, and
 - (d) any court investment fund.
- (2) Paragraphs (a), (b) and (c) of subsection (1) above do not apply to any share of a class to which there would not be attributable in a liquidation of the trust the whole or a substantial part—
- (a) of the assets of the trust representing gains on capital, or
 - (b) if those assets would be so attributable to two or more classes of shares, of a proportion of those assets corresponding to the proportion of all the issued shares of those classes represented by the issued shares of the class in question.

Where there are shares on which different amounts have been paid up the proportion mentioned in paragraph (b) above shall be calculated by reference to the amount paid up on the issued share capital of each class of shares.

- (3) Where gains accrue to a person in any year of assessment on any disposals to which this section applies, the capital gains tax to which he is chargeable for that year shall be reduced by a credit equal to whichever of the following amounts is the smallest—
- (a) the amount of that tax,
 - (b) an amount equal to 10 per cent. of the total chargeable gains accruing to him in that year on disposals to which this section applies,
 - (c) an amount equal to 10 per cent. of the total amount of chargeable gains accruing to him in that year on which capital gains tax is chargeable.
- (4) Subsection (3) above shall have effect in relation to the corporation tax chargeable on a company for an accounting period in which gains accrue to it on any disposals to which this section applies as it has effect in relation to the capital gains tax chargeable on a person other than a company, and shall so have effect as if—
- (a) references to a year of assessment were references to an accounting period, and
 - (b) for the total amount of chargeable gains mentioned in paragraph (c) of that subsection there were substituted the amount of gains charged to corporation tax for the accounting period in question increased, where subsection (5) below applies, in accordance with that subsection.

In this subsection “gains charged to corporation tax ” means the profits on which corporation tax falls finally to be borne after deducting the income charged to corporation tax as defined in section 85(6) of the Finance Act 1972 (read with section 110(4) of that Act) except that, in relation to an accounting period for which the company claims a credit for foreign tax, those gains shall be determined in accordance with section 100(5) of that Act.

- (5) In relation to an accounting period for which any reduction falls to be made under section 93 of the Finance Act 1972 in the amount to be included in respect of chargeable gains in the company's total profits, the gains mentioned in subsection (4) (b) above shall be increased by multiplying by the inverse of the fraction of that amount

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remaining after the reduction; and if under subsection (3) or (4) of the said section 93 the reduction falls to be made by reference to different portions of that amount, the increase under this subsection shall be made similarly, using the inverse of the fractions of those portions remaining after any reduction.

- (6) Where a person disposes of a share—
- (a) which at the time of disposal is a qualifying share (that is to say, a share falling within subsection (1)(a), (b) or (c) above) but has not at all times while in the ownership of that person been a qualifying share, or
 - (b) which at the time of disposal is not a qualifying share but has previously while in his ownership been such a share,
- this section shall apply to the disposal, but for the purposes of subsection (3)(b) above the gain accruing on the disposal shall be treated as reduced in proportion to the time for which the share was in the ownership of that person without being a qualifying share.
- (7) Where under Chapter II above the share of which a person disposes falls to be identified with another asset or other assets previously held by him, subsection (6) above shall have effect as if—
- (a) his period of ownership of the share disposed of included his period of ownership of the other asset or assets, and
 - (b) the share disposed of had or had not been a qualifying share at any time during that additional period according to whether or not the other asset or any of those other assets was a qualifying share at that time.
- (8) Where a person disposes of a share which at the time of disposal is a qualifying share and which he has received on a conversion of—
- (a) a share other than a qualifying share, or
 - (b) loan stock,
- previously held by him, being a conversion pursuant to rights in that behalf attached to the share or stock previously held, subsections (6) and (7) above shall have effect as if that share or stock had been a qualifying share throughout any time for which the company by which it was issued was a body of the kind mentioned in paragraph (a), (b) or (c) of subsection (1) above.
- (9) Where the gain accruing on a disposal to which this section applies falls to be computed in accordance with paragraph 14(2)(b) of Schedule 5 to this Act (unquoted securities held before 6th April 1965 which are subsequently converted or exchanged)
- (a) the period of ownership of the share disposed of shall not be treated under subsection (7)(a) above as having begun before the time mentioned in the said paragraph 14(2)(b); and
 - (b) for the purposes of subsection (3)(b) above the gain shall be taken to be that mentioned in sub-paragraph (ii) of the said paragraph 14(2)(b) reduced, where applicable, in accordance with subsections (6) and (7) above.
- (10) For the purposes of subsections (6) to (8) above no account shall be taken of any period of ownership before 6th April 1965 ; and nothing in Chapter II above shall be construed as enabling any asset to be treated as having been a qualifying share at any time when it was not such in fact.
- (11) For the purposes of this section loan stock issued by an investment trust before 11th April 1972, being loan stock to which there would be attributable in a liquidation of

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the trust the whole of the assets of the trust representing gains on capital, shall be treated as shares in the trust falling within subsection (1) above.

Unit trusts

95 Valuation of assets and rights

Nothing in any trust deed executed before 1st September 1972 and regulating any authorised unit trust, or any unit trust scheme to which section 97 below applies, shall preclude the managers of the trust or the trustee, in valuing the assets of the trust at any time during an accounting period, from making a deduction for any tax for which the trust may become liable in respect of its net gains in that period up to that time.

In this section “net gains” means the excess, if any, of chargeable gains over the allowable losses deductible from those gains as those gains and losses are computed for the charge to tax on the trust.

96 Unit trusts for exempt unit holders

If throughout a year of assessment all the issued units in a unit trust scheme are assets such that any gain accruing if they were disposed of by the unit holder would be wholly exempt from capital gains tax or corporation tax (otherwise than by reason of residence) gains accruing to the unit trust scheme in that year of assessment shall not be chargeable gains.

97 Unit trusts for pension schemes

- (1) This section applies to a unit trust scheme for any year of assessment if throughout that year all the issued units in the unit trust scheme constitute investments to which section 208(2) of the Taxes Act or section 21(7) of the Finance Act 1970 (pension schemes) applies, each being an investment such that any gain accruing if it were disposed of by the unit holder would either be wholly exempt from capital gains tax or corporation tax, or be so exempt as to not less than 85 per cent.
- (2) Of all the gains accruing to the unit trust scheme in the year of assessment one-tenth (that is one-tenth of what would apart from this subsection be chargeable gains) shall be chargeable gains.
- (3) The rate of capital gains tax payable on chargeable gains accruing to a unit trust scheme to which this section applies in the year of assessment shall be 10 per cent.

98 Transfer of company's assets to unit trust which later comes within section 96 or 97

- (1) Where section 267 of the Taxes Act (roll-over for assets transferred on company reconstruction or amalgamation) has applied on the transfer of a company's business (in whole or in part) to a unit trust scheme to which at the time of the transfer neither section 96 nor section 97 applied, then if—
 - (a) at any time after the transfer the unit trust scheme becomes in a year of assessment one to which either of those sections does apply, and
 - (b) at the beginning of that year of assessment the unit trust scheme still owns any of the assets of the business transferred,

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

- (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 six years after the end of the year of assessment referred to in subsection (1) above, and where under this section a unit trust scheme 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.

Court investment funds etc.

99 Funds in court

- (1) For the purposes of section 46 above (nominees and bare trustees) funds in court held by the Accountant General shall be regarded as held by him as nominee for the persons entitled to or interested in the funds, or as the case may be for their trustees.
- (2) Where funds in court standing to an account are invested or, after investment, are realised the method by which the Accountant General effects the investment or the realisation of investments shall not affect the question whether there is for the purposes of this Act an acquisition, or as the case may be a disposal, of an asset representing funds in court standing to the account, and in particular there shall for those purposes be an acquisition or disposal of shares in a court investment fund notwithstanding that the investment in such shares of funds in court standing to an account, or the realisation of funds which have been so invested, is effected by setting off, in the Accountant General's accounts, investment in one account against realisation of investments in another.
- (3) In this section “funds in court” means—
- (a) money in the Supreme Court, money in county courts and statutory deposits described in section 14 of the Administration of Justice Act 1965, and
 - (b) any such moneys as are mentioned in section 30 of the said Act of 1965 (which relates to Northern Ireland) and money in a county court in Northern Ireland, and investments representing such money; and references in this section to the Accountant General are references to the Accountant General of the Supreme Court of Judicature in England and, in relation to money within paragraph (b) above and investments representing such money, include references to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

100 Reduced rate of tax

The rate of capital gains tax payable on chargeable gains accruing to a court investment fund shall be 10 per cent.