



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER III

UNIT TRUST SCHEMES, DEALERS IN SECURITIES ETC.

Unit trust schemes

468 Authorised unit trusts.

- (1) ^{M1}In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts shall have effect as if—
 - (a) the trustees were a company resident in the United Kingdom; and
 - (b) the rights of the unit holders were shares in the company.
- (2) The Tax Acts shall also have effect as if the aggregate amount shown in the accounts of the trust as income available for payment to unit holders or for investment were dividends on the shares referred to in subsection (1) above paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—
 - (a) the date or latest date provided by the terms of the authorised unit trust for any distribution in respect of the distribution period in question;
 - (b) if no date is so provided, the last day of the distribution period.

This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

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Changes to legislation: *Income and Corporation Taxes Act 1988, Cross Heading: Unit trust schemes is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with subsections (1) and (2) above, and section [F1234A] shall apply with any necessary modifications.
- (4) Section 75 shall apply in relation to an authorised unit trust whether or not it is an investment company within the meaning of section 130; and sums periodically appropriated for managers' remuneration shall be treated for the purposes of section 75 as sums disbursed as expenses of management.
- (5) Subsection (1) above shall not apply in relation to an authorised unit trust under the terms of which the funds of the trust cannot be invested in such a way that income can arise to the trustees which will be chargeable to tax in the hands of the trustees otherwise than—
- (a) under Schedule C as profits arising from United Kingdom public revenue dividends, or
 - (b) under Case III of Schedule D;
- and in this subsection “United Kingdom public revenue dividends” means public revenue dividends payable in the United Kingdom (whether they are also payable outside the United Kingdom or not) out of the public revenue of the United Kingdom.
- (6) In this section—
- “authorised unit trust” means, as respects an accounting period, a unit trust scheme in the case of which an order under section 78 of the ^{M2}Financial Services Act 1986 is in force during the whole or part of that accounting period;
- “distribution period” means a period beginning on or after 1st April 1987 over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders;
- “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme; and
- “unit trust scheme” has the same meaning as in section 469.

Textual Amendments

F1 Words in s. 468(3) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 32(3)(4)

Modifications etc. (not altering text)

C1 See—1989 s.80—subs.(5)not to apply to gilt unit trusts.1990 ss.52(2), (3)and 132and Sch.19 Part IV—subs.(5)not to apply as regards a distribution period beginning after 31December 1990.And see 1990 s.52(3), (4)for assessment of trustees' income under Case III Sch.Dfor the last distribution period.

C2 Definition employed for the purposes of s.46(7)—insurance companies: annual deemed disposal of holdings of unit trusts etc.

Marginal Citations

M1 Source—1970 ss.354, 358; 1980 s.60; 1987 s.38, 40(1); 1987 (No.2) s.40(1)

M2 1986 c. 60.

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[^{F2}468AA Authorised unit trusts: futures and options.

- (1) Trustees shall be exempt from tax under Case I of Schedule D in respect of income if—
 - (a) the income is derived from transactions relating to futures contracts or options contracts, and
 - (b) the trustees are trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period in which the income is derived.
- (2) For the purposes of subsection (1) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.
- (3) In this section—

“authorised unit trust” has the same meaning as in section 468, and
“unit trust scheme” has the same meaning as in section 469.]

Textual Amendments

F2 S. 468AA inserted by Finance Act 1990 (c. 29), s. 81(1)(5)

Modifications etc. (not altering text)

C3 S. 468AA modified (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154), regs. 1, 9, 11

[^{F3}468A Certified unit trusts.

^{F4}

Textual Amendments

F3 Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. 78

F4 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

^{F5}468B Certified unit trusts: corporation tax.

^{F6}

Textual Amendments

F5 Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. 78

F6 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

^{F7}468C Certified unit trusts: distributions.

^{F8}

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Textual Amendments

- F7** Ss. 468A-468C inserted by [Finance Act 1989 \(c. 26\), s. 78](#)
F8 Ss. 468A-468D repealed by [Finance Act 1990 \(c. 29\), s. 52, Sch. 19 Pt. 4](#), Note 7

[^{F9}468D Funds of funds: distributions.

^{F10}

Textual Amendments

- F9** S. 468D inserted by [Finance Act 1989 \(c. 26\), s. 79](#)
F10 Ss. 468A-468D repealed by [Finance Act 1990 \(c. 29\), s. 52, Sch. 19 Pt. 4](#), Note 7

[^{F11}468E Authorised unit trusts: corporation tax.

- (1) This section has effect as regards an accounting period of the trustees of an authorised unit trust ending after 31st December 1990.
- (2) Subject to subsection (3) below, the rate of corporation tax [^{F12}shall be deemed to be 22.5 per cent. for the financial year 1993 and for subsequent financial years shall be deemed to be the rate at which income tax at the lower rate]is charged for the year of assessment which begins on 6th April in the financial year concerned.
- (3) Where the period begins before 1st January 1991, subsection (2) above shall only apply for the purpose of computing corporation tax chargeable for so much of the period as falls in the financial year 1991 and subsection (4) below shall apply for the purpose of computing corporation tax chargeable for so much of the period as falls in the financial year 1990.
- (4) So much of the period as falls after 31st December 1990 and before 1st April 1991 shall be deemed to fall in a financial year for which the rate of corporation tax is the rate at which income tax at the basic rate is charged for the year 1990-91.
- (5) Subsections (3) and (4) above shall not apply where the authorised unit trust concerned is a certified unit trust as respects the period.
- (6) Where the period begins after 31st December 1990, section 338 shall have effect as if any reference to interest of any description were a reference to interest of that description on borrowing of a relevant description.
- (7) Where the authorised unit trust concerned is a certified unit trust as respects the period, subsection (6) above shall have effect without the words preceding “section 338”.
- (8) For the purposes of subsection (6) above borrowing is of a relevant description if it is borrowing in respect of which there has been no breach during the accounting period of the duties imposed on the manager of the scheme by regulations under section 81 of the ^{M3}Financial Services Act 1986 with respect to borrowing by the trustees of the scheme.
- (9) The Treasury may by regulations provide that for subsection (8) above (as it has effect for the time being) there shall be substituted a subsection containing a different

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definition of what constitutes borrowing of a relevant description for the purposes of subsection (6) above.

(10) Regulations under subsection (9) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury think fit.

(11) In this section “certified unit trust” means, as respects an accounting period, a unit trust scheme in the case of which—

- (a) an order under section 78 of the Financial Services Act 1986 is in force during the whole or part of that accounting period, and
- (b) a certificate under section 78(8) of that Act, certifying that the scheme complies with the conditions necessary for it to enjoy the rights conferred by the UCITS directive, has been issued before or at any time during that accounting period.

(12) In this section—

“authorised unit trust” has the same meaning as in section 468,

^{M4} “the UCITS directive” means the directive of the Council of the European Communities, dated 20th December 1985, on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (no.85/611/EEC), and

“unit trust scheme” has the same meaning as in section 469.]]

Textual Amendments

F11 Ss. 468E-468G inserted by [Finance Act 1990 \(c. 29\)](#), s. 51

F12 Words in s. 468E(2) substituted (27.7.1993 with effect for the financial year 1993 and subsequent financial years) by [1993 c. 34, s. 79, Sch. 6 paras. 4, 25\(2\)](#)

Marginal Citations

M3 [1986 c. 60](#).

M4 Source—[O.J.85/L375/3](#).

VALID FROM 03/05/1994

^{F13} **468EE Corporation tax: cases where lower rate applies.**

- (1) Where this subsection applies, the rate of corporation tax for the financial year shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in that financial year.
- (2) Subsection (1) above only applies—
 - (a) for the financial year 1994 and subsequent financial years; and
 - (b) where, on a claim made within the period of twelve months from the end of the accounting period which or part of which falls in the financial year concerned, it is shown to the satisfaction of the inspector that throughout that accounting period the condition in subsection (3) below is fulfilled by the investments subject to the trusts of the authorised unit trust.

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- (3) The condition in this subsection is fulfilled by the investments if the market value of such of those investments as are qualifying investments does not exceed 60 per cent. of the market value of all those investments.
- (4) For the purposes of subsection (3) above “qualifying investments” means any of the following investments—
- (a) any money placed at interest;
 - (b) any security—
 - (i) including any loan stock or similar security whether of the Government of the United Kingdom or of any other government or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured, but
 - (ii) excluding shares in a company;
 - (c) any shares in a building society; and
 - (d) an entitlement to a share in the investments subject to the trusts of another authorised unit trust, unless, throughout the relevant period, the condition in subsection (5) below is fulfilled by the investments subject to the trusts of that other authorised unit trust.
- (5) The condition in this subsection is fulfilled by the investments if the market value of such of the investments as fall within paragraphs (a) to (c) of subsection (4) above does not exceed 60 per cent. of the market value of all those investments.
- (6) In subsection (4)(d) above “the relevant period” means the accounting period in relation to which by virtue of subsection (2)(b) above the question whether the entitlement is a “qualifying investment” falls to be determined.
- (7) For the purposes of this section “investment” does not include cash awaiting investment.
- (8) The Treasury may by order amend this section so as to extend or restrict the meaning of qualifying investments for the purposes of subsection (3) above.
- (9) An order under subsection (8) above may contain such transitional provision as the Treasury think necessary or expedient.]

Textual Amendments

F13 S. 468EE inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 111\(2\)](#)

468F ^{F14} Authorised unit trusts: distributions.

- (1) Subsection (2) below applies where—
- (a) as regards a distribution period ending after 31st December 1990 a dividend is treated by virtue of section 468(2) as paid to a unit holder (whether or not income is in fact paid to the unit holder),
 - (b) the dividend is treated as paid by the trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period in which the distribution period falls, and
 - (c) on the date of payment the unit holder is within the charge to corporation tax

^{F15}

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- (2) For the purpose of computing corporation tax chargeable in the case of the unit holder [^{F16}the unfranked portion of the payment] shall be deemed—
- (a) to be an annual payment, and not a dividend or other distribution, and
 - (b) to have been received by the unit holder after deduction of income tax at the [^{F17}lower rate], for the year of assessment in which the date of payment falls, from a corresponding gross amount.
- [^{F18}(2A) For the purposes of subsection (2) above the unfranked portion of the payment shall be calculated according to the following formula—

$$U = Py \frac{I - D}{I}$$

- (2B) For the purposes of the formula in subsection (2A) above—
- U is the unfranked portion of the payment;
 - P is the payment;
 - I is the gross amount of the income arising to the trustees in respect of the distribution period in question which has been brought into account in ascertaining the amount of income available for distribution to unit holders in respect of that period; and
 - D is so much of I as represents franked investment income from the investments subject to the trusts.]
- (3) Subsection (2) above shall have effect subject to the following provisions of this section and to section 468G.
- (4) Subsection (2) above shall not apply where the rights in respect of which the dividend is treated as paid are held by the trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period (of that scheme) in which the date of payment falls.
- (5) Where the unit holder is on the date of payment the manager of the scheme, subsection (2) above shall not apply in so far as the rights in respect of which the dividend is treated as paid are rights held by him in the ordinary course of his business as manager of the scheme.
- (6) Subsection (2) above shall not apply to so much of the payment as is attributable to income of the trustees arising before 1st January 1991.
- (7) Subsection (6) above shall not apply where—
- (a) the payment is treated as made as regards a distribution period falling in an accounting period as respects which the authorised unit trust is a certified unit trust, or
 - (b) the authorised unit trust is on the date of payment a fund of funds.
- (8) In this section—
- “authorised unit trust” has the same meaning as in section 468,
 - “certified unit trust” has the same meaning as in section 468E,
 - “distribution period” has the same meaning as in section 468,
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^{F19}“fund of funds” means a unit trust scheme the sole object of which is to enable the unit holders to participate in or receive profits or income arising from the acquisition, holding, management or disposal of units in unit trust schemes, and

“unit trust scheme” has the same meaning as in section 469.]

Textual Amendments

- F14** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51
- F15** Words in s. 468F(1)(c) repealed (with effect in accordance with s. 251(1)(2) of the repealing Act) by Finance Act 1994 (c. 9), s. 251(2)(a), Sch. 26 Pt 8(1), Note
- F16** Words in s. 468F(2) substituted (27.7.1993 with effect where the date of payment is on or after 1st April 1993) by 1993 c. 34, s. 79, 79, Sch. 6 paras. 5(1)(a), 25(3)
- F17** Words in s. 468F(2)(b) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, Sch. 6 paras. 5(1)(b), 25(3)
- F18** S. 468F(2A)(2B) inserted (27.7.1993 with effect where the date of payment is on or after 1st April 1993) by 1993 c. 34, s. 79, Sch. 6 paras. 5(2), 25(3)
- F19** S. 468F(8): definition of "dual resident" repealed (with effect in accordance with s. 251(1)(2) of the repealing Act) by Finance Act 1994 (c. 9), s. 251(2)(b), Sch. 26 Pt 8(1), Note

468G [^{F20}Dividends paid to investment trusts.

- (1) Section 468F(2) shall not apply in a case where—
 - (a) the first condition set out below is fulfilled, and
 - (b) if one or more of the second to fourth conditions set out below applies, the condition (or each of the conditions) which applies is fulfilled.
- (2) The first condition is that—
 - (a) the unit holder is a company which is an investment trust as respects the accounting period of the company that includes 20th March 1990, and
 - (b) immediately before the end of 20th March 1990, not less than 90 per cent. by value of the company’s investments consisted of units in a unit trust scheme which (or units in different unit trust schemes each of which) was an authorised unit trust on 20th March 1990.
- (3) The second condition applies if the date of payment is included in an accounting period of the company which falls after the company’s accounting period that includes 20th March 1990; and the condition is that the company is an investment trust as respects—
 - (a) the accounting period of the company that includes the date of payment, and
 - (b) each (if any) accounting period of the company which falls after the company’s accounting period that includes 20th March 1990 and before the company’s accounting period that includes the date of payment.
- (4) The third condition applies if the company makes an investment after 20th March 1990, and on or before the date of payment, in units in a unit trust scheme which is an authorised unit trust on the date of payment; and the condition is that, immediately before the end of the date of payment, each unit held by the company in a unit trust scheme which is an authorised unit trust on that date is a unit in a unit trust scheme—
 - (a) in which the company held units immediately before the end of 20th March 1990, and
 - (b) which was an authorised unit trust on 20th March 1990.

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- (5) The fourth condition applies if—
- (a) the third condition applies, and
 - (b) immediately before the end of 20th March 1990 the company held units in more than one unit trust scheme which was an authorised unit trust on that date;
- and the condition is that the investments made by the company after 20th March 1990, and on or before the date of payment, were made in accordance with the requirements applicable to the investment of funds of the company on 20th March 1990.
- (6) For the purposes of this section—
- (a) “authorised unit trust” has the same meaning as in section 468,
 - (b) “unit trust scheme” has the same meaning as in section 469, and
 - (c) a unit trust scheme is an authorised unit trust on a particular date if it is an authorised unit trust as respects the accounting period of the scheme that includes that date.

Textual Amendments

F20 Ss. 468E-468G inserted by [Finance Act 1990 \(c. 29\), s. 51](#)

469 Other unit trusts.

- (1) This section applies to—
- (a) a ^{M5}ny unit trust scheme that is not an authorised unit trust; and
 - (b) any authorised unit trust to which, by virtue of subsection (5) of section 468, that section does not apply,
- except where the trustees of the scheme are not resident in the United Kingdom.
- (2) Income arising to the trustees of the scheme shall be regarded for the purposes of the Tax Acts as income of the trustees (and not as income of the unit holders); and the trustees (and not the unit holders) shall be regarded as the persons to or on whom allowances or charges are to be made under the provisions of those Acts relating to relief for capital expenditure.
- (3) For the purposes of the Tax Acts the unit holders shall be treated as receiving annual payments (made by the trustees under deduction of tax) in proportion to their rights.
- This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).
- (4) The total amount of those annual payments in respect of any distribution period shall be the amount which, after deducting income tax at the basic rate in force for the year of assessment in which the payments are treated as made, is equal to the aggregate amount shown in the accounts of the scheme as income available for payment to unit holders or for investment.
- (5) The date on which the annual payments are treated as made shall be the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question, except that, if—
- (a) the date so provided is more than 12 months after the end of the period; or
 - (b) no date is so provided,

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the date on which the payments are treated as made shall be the last day of the period.

[^{F21}(5A) Subsection (5B) below applies where for any year of assessment—

- (a) the trustees are (or, apart from this subsection, would be) chargeable under section 350 with tax on payments treated as made by them under subsection (3) above, and
- (b) there is an uncredited surplus in the case of the scheme.

(5B) Where this subsection applies, the amount on which the trustees would otherwise be so chargeable shall be reduced—

- (a) if the surplus is greater than that amount, to nil, or
- (b) if it is not, by an amount equal to the surplus.

(5C) For the purposes of subsections (5A) and (5B) above whether there is an uncredited surplus for a year of assessment in the case of a scheme (and, if so, its amount) shall be ascertained by—

- (a) determining, for each earlier year of assessment in which the income on which the trustees were chargeable to tax by virtue of subsection (2) above exceeded the amount treated by subsection (3) above as annual payments received by the unit holders, the amount of the excess,
- (b) aggregating the amounts determined in the case of the scheme under paragraph (a) above, and
- (c) deducting from that aggregate the total of any reductions made in the case of the scheme under subsection (5B) above for earlier years of assessment.

(5D) The references in subsection (5C)(a) above to subsections (2) and (3) above include references to subsections (2) and (3) of section 354A of the 1970 Act.]

(6) In this section “distribution period” has the same meaning as in section 468, but—

- (a) if the scheme does not make provision for distribution periods, then for the purposes of this section its distribution periods shall be taken to be successive periods of 12 months the first of which began with the day on which the scheme took effect; and
- (b) if the scheme makes provision for distribution periods of more than 12 months, then for the purposes of this section each of those periods shall be taken to be divided into two (or more) distribution periods, the second succeeding the first after 12 months (and so on for any further periods).

(7) In this section “unit trust scheme” has the same meaning as in the ^{M6}Financial Services Act 1986, except that 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 section.

(8) Regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

(9) Sections 686 and 687 shall not apply to a scheme to which this section applies.

(10) Section 720(5) shall not apply in relation to profits or gains treated as received by the trustees of a scheme to which this section applies if or to the extent that those profits or gains represent accruals of interest (within the meaning of Chapter II of Part XVII) which are treated as income in the accounts of the scheme.

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- (11) This section shall have effect in relation to distribution periods beginning on or after 6th April 1987.

Textual Amendments

F21 1988(F) s.71.

Modifications etc. (not altering text)

C4 S. 469 extended (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 22(1)(2)

C5 For regulations see Part III Vol. 5

Marginal Citations

M5 Source—1970 s.354A; 1987 s.39; 1987 (No.2) s.40(1)

M6 1986 c. 60.

470 Transitional provisions relating to unit trusts.

- (1) Any transitional provisions contained in an order made under section 40(5) of the ^{M7}Finance Act 1987 appointing a day for the coming into force of subsections (1) and (2) of that section and made in connection therewith shall after the coming into force of this section have effect for the purposes of this Act as they had effect for the purposes of that section, with such modifications if any as may be necessary.
- (2) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, section 468 shall have effect with the substitution for the definition of “authorised unit trust” contained in subsection (6) of the following definition—
- “authorised unit trust” means, as respects any accounting period, a unit trust scheme in the case of which an order under section 17 of the ^{M8}Prevention of Frauds (Investments) Act 1958 or under section 16 of the ^{M9}Prevention of Frauds (Investments) Act (Northern Ireland) 1940 is in force during the whole or some part of that accounting period;
- and sections 468 and 832 shall have effect with the omission of the definition of “unit trust scheme”.
- (3) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, subsection (2) above shall cease to have effect on such day as the Board may by order appoint; and an order under this subsection may contain such transitional provisions as appear to the Board to be necessary or expedient.

Modifications etc. (not altering text)

C6 S.I. 1988 No.745 (not reproduced)—appointed day 29 April 1988.

Marginal Citations

M7 1987 s.40(5)

M8 1958 c. 45.

M9 1940 c. 9 (N.I.).

Status:

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