

Status: Point in time view as at 06/04/2006.

Changes to legislation: Finance Act 1999, SCHEDULE 19 is up to date with all changes known to be in force on or before 03 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)

SCHEDULES

SCHEDULE 19

Section 122(4).

STAMP DUTY AND STAMP DUTY RESERVE TAX: UNIT TRUSTS

PART I

ABOLITION OF STAMP DUTY ON TRANSFERS ETC. OF UNITS IN UNIT TRUSTS

- 1 (1) No stamp duty is chargeable on a transfer or other instrument relating to a unit under a unit trust scheme.
- (2) Sub-paragraph (1) does not affect any charge to stamp duty—
- (a) on a conveyance or transfer on sale of property other than units under a unit trust scheme in relation to which such units form the whole or part of the consideration, or
 - (b) under Schedule 15 to this Act (bearer instruments).
- (3) This paragraph has effect in relation to instruments executed on or after 6th February 2000.

PART II

STAMP DUTY RESERVE TAX ON DEALINGS WITH UNITS IN UNIT TRUSTS

Modifications etc. (not altering text)

- C1** Sch. 19 Pt. II excluded (11.5.2001 with effect as mentioned in s. 94(5) of the amending Act) by 2001 c. 9, s. 94(1)-(4)

Charge to tax

- 2 (1) There is a charge to stamp duty reserve tax where—
- (a) a person authorises or requires the trustees or managers under a unit trust scheme to treat him as no longer interested in a unit under the scheme, or
 - (b) a unit under a unit trust scheme is transferred to the managers of the scheme, and the unit is a chargeable security.
- Those events are referred to in this Part of this Schedule as a “surrender” of the unit to the managers.
- (2) The tax is chargeable—
- (a) whether the surrender is made or effected in the United Kingdom or elsewhere, and

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- (b) whether or not any party is resident or situate in any part of the United Kingdom.
- (3) The persons liable for the tax are the trustees of the unit trust.
- (4) This paragraph is subject to the exclusions provided for in paragraphs 6 [F1, 6A] and 7.

Textual Amendments

F1 Words in Sch. 19 Pt. II para. 2(4) inserted (11.5.2001 with effect as mentioned in s. 93(6) of the amending Act) by 2001 c. 9, s. 93(2)

Rate of tax

- 3 (1) Tax under this Part of this Schedule is chargeable at the rate of 0.5% of the market value of the unit.
- This is subject to any reduction under paragraph 4 or 5.
- (2) The market value of a unit means whichever is higher of—
- (a) the price the unit might reasonably be expected to fetch on a sale in the open market at the time of surrender, and
 - (b) its cancellation price, or if it is redeemed its redemption price, at that time, calculated in accordance with the trust instrument.

Proportionate reduction of tax by reference to units issued

- 4 (1) The amount of tax chargeable shall be proportionately reduced if the number of units of the same class as the unit in question that are surrendered to the managers in the relevant two-week period exceeds the number of units of that class issued by the managers in that period.
- (2) The “relevant two-week period” in relation to a surrender is the period from the beginning of the week in which the surrender occurs to the end of the following week.
- For this purpose a week means a period of seven days beginning with a Sunday.
- (3) The reduction is made by applying the following fraction to the amount otherwise chargeable—

$$\frac{S}{N + I}$$

Where:

I is the number of units of the class issued by the managers in the relevant two-week period, and
 S is the number of units of the class surrendered to the managers in that period.

- (4) If a consolidation or sub-division of units affects the comparison of the number of units surrendered and the number of units issued, the numbers shall be determined as if the consolidation or sub-division had not taken place.

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“Consolidation or sub-division” includes any alteration of the number of units of the class in question otherwise than in consequence of an increase or reduction in the trust property.

- (5) This paragraph does not apply if on the surrender of the unit the unit holder receives anything other than money; and for the purposes of this paragraph no account shall be taken of a surrender or issue that is not entirely for money.
- [^{F2}(6) If a certificate is given in accordance with paragraph 6A(1)(c) in respect of a period which includes the relevant two-week period in the case of the unit in question in sub-paragraph (1), there shall be left out of account in applying this paragraph in relation to that unit—
- (a) any issue of a unit which is to be held within an individual pension account, and
 - (b) any surrender of a unit which, immediately before the surrender, was held within an individual pension account.
- (7) “Individual pension account” has the same meaning in sub-paragraph (6) as it has in paragraph 6A.]

Textual Amendments

F2 Sch. 19 para. 4(6)(7) inserted (11.5.2001 with effect as mentioned in s. 93(5) of the amending Act) by 2001 c. 9, s. 93(3)

Modifications etc. (not altering text)

C2 Sch. 19 para. 4 modified (6.2.2000) by S.I. 1997/1156, reg. 4A(2) (as inserted (6.2.2000) by S.I. 1999/3261, reg. 5)

Proportionate reduction of tax by reference to assets held

- 5 (1) The amount of tax chargeable after any reduction under paragraph 4 shall be further reduced if in the relevant two-week period the trust property is invested in both exempt and non-exempt investments.
- (2) The reduction is made by applying the following fraction to that amount—

$$\frac{N}{N + E}$$

Where:

N is the average market value of the non-exempt investments over the relevant two-week period, and

E is the average market value of the exempt investments over that period.

- (3) In this paragraph “exempt investment” has the same meaning as in section 99(5A) (b) of the ^{M1}Finance Act 1986; and “non-exempt investment” means any investment that is not an exempt investment.

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Marginal Citations

M1 1986 c.41.

Exclusion of charge in certain cases of change of ownership

- 6 (1) This paragraph applies where in pursuance of arrangements between the person entitled to a unit and another person (“the new owner”)—
- (a) the unit is surrendered to the managers, and
 - (b) the person surrendering the unit authorises or requires the managers or trustees to treat the new owner as entitled to it.
- (2) There is no charge to tax under this Part of this Schedule if no consideration in money or money’s worth is given in connection with the surrender of the unit or the new owner’s becoming entitled to it.
- (3) There is no charge to tax under this Part of this Schedule if the new owner is—
- (a) a body of persons established for charitable purposes only, or
 - (b) the trustees of a trust established for those purposes only, or
 - (c) the Trustees of the National Heritage Memorial Fund, or
 - (d) the Historic Buildings and Monuments Commission for England.
- (4) There is no charge to tax under this Part of this Schedule if an instrument executed at the time of the surrender—
- (a) in pursuance of arrangements between the person entitled to the unit and the new owner, and
 - (b) transferring the unit from the one to the other,
- would be exempt from stamp duty (if stamp duty were otherwise chargeable) by virtue of any of the provisions mentioned in sub-paragraph (5).
- (5) The provisions referred to in sub-paragraph (4) are—
- (a) section 42 of the ^{M2}Finance Act 1930 or section 11 of the ^{M3}Finance Act (Northern Ireland) 1954 (transfers between associated companies); and
 - (b) regulations under section 87(2) of the ^{M4}Finance Act 1985 (power to exempt instruments from stamp duty of fixed amount).
- (6) Where by virtue of sub-paragraph (2), (3) or (4) there is no charge to tax, both the surrender and the related issue shall be left out of account for the purposes of paragraph 4.

Marginal Citations

M2 1930 c.28.

M3 1954 c.23(N.I).

M4 1985 c.54.

Exclusion of charge in case of individual pension accounts

- [^{F3}6A (1) There is no charge to tax under this Part of this Schedule on the surrender of the unit if—

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- (a) immediately before the surrender, the unit is held within an individual pension account,
 - (b) not all the units under the unit trust scheme are so held at that time, and
 - (c) a certificate pursuant to sub-paragraph (2) is contained in, or provided with, the relevant monthly tax return.
- (2) The certificate must be given by the persons making the relevant monthly tax return and must state—
- (a) that at all times in the period to which the return relates the trustees or managers were able to identify which of the units under the scheme were held within individual pension accounts, and
 - (b) that at no time in that period have the trustees or managers imposed any charge on, or recovered any amount from, an IPA unit holder which included an amount directly or indirectly attributable to tax payable by the trustees under this Part of this Schedule.
- (3) In sub-paragraph (2), “IPA unit holder” means—
- (a) a person acquiring, or who has acquired, a unit under the unit trust scheme, where the unit is to be held within an individual pension account,
 - (b) a person holding a unit under the scheme, where the unit is held within an individual pension account, or
 - (c) a person surrendering, or who has surrendered, a unit under the scheme, where immediately before the surrender the unit is or was held within an individual pension account.
- (4) In this paragraph—
- [^{F4}“individual pension account” has the meaning given by regulations made by the Commissioners of Inland Revenue;]
- “the relevant monthly tax return”, in the case of any surrender, means the notice required by regulations under section 98 of the Finance Act 1986 (c. 41) to be given by the managers (or, failing that, the trustees) under the unit trust scheme to the Commissioners of Inland Revenue containing among other things details of all surrenders in the relevant two-week period;
- “the relevant two-week period” has the meaning given by paragraph 4(2).]
- [^{F5}(5) Regulations under sub-paragraph (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

Textual Amendments

- F3** Sch. 19 Pt. II para. 6A inserted (11.5.2001 with effect as mentioned in s. 93(6) of the amending Act) by 2001 c. 9, s. 93(4)
- F4** Words in Sch. 19 para. 6A(4) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 46(2) (with Sch. 36)
- F5** Sch. 19 para. 6A(5) inserted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 46(3) (with Sch. 36)

Exclusion of charge in case of in specie redemption

- 7 There is no charge to tax under this Part of this Schedule if on the surrender of the unit the unit holder receives only such part of each description of asset in the trust

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property as is proportionate to, or as nearly as practicable proportionate to, the unit holder's share.

Interpretation

- 8 (1) For the purposes of this Part of this Schedule “issue” in the context of the issue of a unit by the managers under a unit trust scheme includes their transferring an existing unit or authorising or requiring the trustees to treat a person as entitled to a unit under the scheme.
- (2) References in this Part of this Schedule to the surrender or issue of a unit under a unit trust scheme do not include a surrender or issue effected by means of, or consisting of the issue of, a certificate to bearer.

Transitional provision

- 9 This Part of this Schedule applies where the surrender of the unit to the managers occurs on or after 6th February 2000.

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Finance Act 1986 (c.41)

- 10 In section 88(1) of the Finance Act 1986 (instruments exempt from stamp duty disregarded for the purpose of repayment etc. of stamp duty reserve tax), after paragraph (b) insert—
- “, or
- (c) Part I of Schedule 19 to the Finance Act 1999 (transfers etc. of units in unit trusts),”.
- 11 (1) Section 90 of the Finance Act 1986 (exceptions from general charge to stamp duty reserve tax) is amended as follows.
- (2) In subsection (1) (transfer of unit to managers of unit trust scheme) for “to the managers” substitute “to or from the managers”.
- (3) After that subsection insert—
- “(1A) Section 87 above shall not apply as regards an agreement to transfer a unit under a unit trust scheme if an instrument executed at the same time as the agreement and giving effect to the agreement would be exempt from stamp duty (if stamp duty were otherwise chargeable) by virtue of—
- (a) section 42 of the Finance Act 1930 or section 11 of the Finance Act (Northern Ireland) 1954 (transfers between associated companies),
- or
- (b) regulations under section 87(2) of the Finance Act 1985 (power to exempt instruments from stamp duty of fixed amount).”.
- (4) After the subsection inserted by sub-paragraph (3) insert—

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“(1B) Section 87 above shall not apply as regards an agreement to transfer trust property to the unit holder on the surrender to the managers of a unit under a unit trust scheme.

The reference here to the surrender of a unit has the same meaning as in Part II of Schedule 19 to the Finance Act 1999.”.

- (5) The amendments in sub-paragraphs (2) and (3) apply where the relevant day for the purposes of section 87 of the Finance Act 1986 falls on or after 6th February 2000.
- (6) The amendment in sub-paragraph (4) applies where the surrender (within the meaning of Part II of Schedule 19 to the Finance Act 1999) occurs on or after 6th February 2000.
- 12 (1) Section 99 of the Finance Act 1986 (general interpretation provisions) is amended as follows.
- (2) In subsection (5) (securities excepted from being chargeable securities), in paragraph (a), after “securities” insert “ falling within paragraph (a), (b) or (c) of subsection (3) above ”.
- (3) After that subsection insert—
- “(5A) “Chargeable securities” does not include a unit under a unit trust scheme if—
- (a) all the trustees under the scheme are resident outside the United Kingdom and the unit is not registered in a register kept in the United Kingdom by or on behalf of the trustees under the scheme; or
 - (b) under the terms of the scheme the trust property can only be invested in exempt investments.
- (5B) For the purposes of subsection (5A)(b)—
- (a) an investment other than an interest under a collective investment scheme is an exempt investment if, and only if—
 - (i) it is not an investment on the transfer of which *ad valorem* stamp duty would be chargeable, and
 - (ii) it is not a chargeable security;
 - (b) an interest under a collective investment scheme is an exempt investment if, and only if, the scheme is an authorised unit trust scheme or an open-ended investment company and under the terms of the scheme the property subject to the scheme—
 - (i) cannot be invested in such a way that income can arise to the trustees or the company that will be chargeable to tax in their hands otherwise than under Case III of Schedule D, and
 - (ii) can only be invested in exempt investments;
 - (c) a derivative is an exempt investment if, and only if, it relates wholly to one or more exempt investments; and
 - (d) funds held for the purposes of the day to day management of the unit trust scheme are not regarded as investments.

In this subsection “authorised unit trust scheme”, “collective investment scheme” and “open-ended investment company” have the same meaning as in the Financial Services Act 1986.”.

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- (4) For subsection (9) (meaning of “unit” and “unit trust scheme”) substitute—
 “(9) “Unit trust scheme” and related expressions have the meanings given by Part IV of Schedule 19 to the Finance Act 1999.”.

Finance Act 1995 (c.4)

- 13 (1) Section 152 of the Finance Act 1995 (power to apply tax legislation to open-ended investment companies) is amended as follows.
- (2) In subsection (2)(b) for “Part IV of the Finance Act 1986 (stamp duty reserve tax)” substitute “ stamp duty reserve tax ”.
- (3) In subsection (3)(c)—
- (a) for “Part IV of the Finance Act 1986” substitute “ the enactments relating to stamp duty or stamp duty reserve tax ”, and
- (b) for “the enactments relating to stamp duty” substitute “ those enactments ”.
- (4) In subsection (6) at the appropriate place insert—
 ““the enactments relating to stamp duty reserve tax” means Part IV of the Finance Act 1986 and any enactment which amends or is required to be construed as one with that Part;”.

PART IV

GENERAL DEFINITIONS

Meaning of “unit trust scheme” and related expressions

- 14 (1) The following definitions apply for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.
- (2) “Unit trust scheme” has [^{F6}the meaning given by section 237(1) of the Financial Services and Markets Act 2000], subject to paragraphs 15 to 18.
- (3) In relation to a unit trust scheme—
- “trust instrument” means the trust deed or other instrument (whether under seal or not) creating or recording the trusts on which the property in question is held;
- “trust property” means the property subject to the trusts of the trust instrument;
- “unit” means a right or interest (whether described as a unit, as a sub-unit or otherwise) of a beneficiary under the trust instrument;
- “unit holder” means a person entitled to a share of the trust property; and
- “certificate to bearer”, in relation to a unit, means a document by the delivery of which the unit can be transferred.

Textual Amendments

- F6** Words in [Sch. 19 Pt. IV para. 14\(2\)](#) substituted (1.12.2001 with effect as mentioned in art. 104(2) of the amending S.I.) by [S.I. 2001/3629](#), [art. 104\(1\)](#)

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Modifications etc. (not altering text)

- C3 Sch. 19 para. 14 modified (6.2.2000) by S.I. 1997/1156, reg. 4A(3) (as inserted (6.2.2000) by S.I. 1999/3261, reg. 5)

Schemes not treated as unit trust schemes

- 15 References in the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax to a unit trust scheme do not include—
- (a) a common investment scheme under section 22 of the ^{M5}Charities Act 1960, section 25 of the ^{M6}Charities Act (Northern Ireland) 1964, or section 24 of the ^{M7}Charities Act 1993,
 - (b) a common deposit scheme under section 22A of the Charities Act 1960 or section 25 of the Charities Act 1993, or
 - (c) a unit trust scheme the units in which are under the terms of the trust instrument required to be held only by bodies of persons established for charitable purposes only or trustees of trusts so established.

Marginal Citations

- M5 1960 c.58.
M6 1964 c.33(N.I.).
M7 1993 c.10.

- 16 References in the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax to a unit trust scheme do not include common investment arrangements made by trustees of exempt approved schemes (within the meaning of section 592(1) of the Taxes Act 1988) solely for the purposes of the schemes.
- 17 (1) 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 the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.
- (2) Regulations under this paragraph—
- (a) may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (3) This paragraph replaces section 57(1A) and (1B) of the ^{M8}Finance Act 1946 and section 28(1A) and (1B) of the ^{M9}Finance (No.2) Act (Northern Ireland) 1946.
- (4) Any regulations having effect under those provisions for the purposes of Part VII of the Finance Act 1946 or Part III of the Finance (No.2) Act (Northern Ireland) 1946 which are in force immediately before the commencement of this Schedule shall have effect as if made under this paragraph.

Modifications etc. (not altering text)

- C4 Sch. 19 para. 17 modified (6.2.2000) by S.I. 1997/1156, reg. 4A(4) (as inserted (6.2.2000) by S.I. 1999/3261, reg. 5)

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Marginal Citations

- M8** 1946 c.64.
M9 1946 c.17(N.I.).

Treatment of umbrella schemes

- 18 (1) For the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax each of the parts of an umbrella scheme is regarded as a unit trust scheme and the scheme as a whole is not so regarded.
- (2) An “umbrella scheme” means a unit trust scheme—
- (a) which provides arrangements for separate pooling of the contributions of participants and of the profits or income out of which payments are to be made to them, and
 - (b) under which the participants are entitled to exchange rights in one pool for rights in another;
- and a “part of an umbrella scheme” means such of the arrangements as relate to a separate pool.
- (3) In relation to a part of an umbrella scheme—
- (a) any reference to the trust property has effect as a reference to such of the trust property as under the arrangements forms part of the separate pool to which the part of the umbrella scheme relates, and
 - (b) any reference to a unit holder has effect as a reference to a person for the time being having rights in that separate pool.

References to stock in stamp duty enactments include units under unit trust scheme

- 19 In the enactments relating to stamp duty—
- (a) any reference to stock includes a unit under a unit trust scheme, and
 - (b) any reference to a stock certificate to bearer includes a certificate to bearer in relation to a unit under a unit trust scheme.

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