

1988 No. 266

TAXES

The Capital Gains Tax (Definition of Unit Trust Scheme) Regulations 1988

Made - - - - - 18th February 1988

Laid before the House of Commons 18th February 1988

Coming into force - - - 11th March 1988

The Treasury, in exercise of the powers conferred on them by section 92 of the Capital Gains Tax Act 1979(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Capital Gains Tax (Definition of Unit Trust Scheme) Regulations 1988 and shall come into force on 11th March 1988.

Interpretation

2. In these Regulations unless the context otherwise requires—

“limited partnership” means a limited partnership registered under the Limited Partnerships Act 1907(b) and “general partner” and “limited partner” have the same meanings as in that Act,

“limited partnership scheme” means a unit trust scheme of the description specified in regulation 4;

“participant” in relation to a unit trust scheme, has the meaning given by section 75(2) of the Financial Services Act 1986(c);

“the principal Act” means the Capital Gains Tax Act 1979;

“scheme property” means, in relation to a unit trust scheme, property of any description, including money, which is held on trust for the participants in the scheme;

“unit trust scheme” means a scheme which, apart from these Regulations, is a unit trust scheme for the purposes of the principal Act.

Exception of certain unit trust schemes from the principal Act

3. A unit trust scheme which is—

(a) a limited partnership scheme, or

(b) a profit sharing scheme which has been approved in accordance with Part I of Schedule 9 to the Finance Act 1978(d),

shall be treated as not being a unit trust scheme for the purposes of the principal Act.

(a) 1979 c.14; section 92 was amended by section 40(3) and (4) of the Finance Act 1987 (c.16).

(b) 1907 c.24; relevant amendments were made by section 286 of, and Part I of Schedule 6 to, the Companies (Consolidation) Act 1908 (c.69), section 1 of, and Part I of the Schedule to, the Statute Law Revision Act 1927 (c.42) and sections 46(b) and 51(2) of, and Schedule 7 to, the Banking Act 1979 (c.37).

(c) 1986 c.60. (d) 1978 c.42; Part I of Schedule 9 was amended by section 25(1) (4) (5) and (6) of the Finance Act 1983 (c.28).

Description of a limited partnership scheme

4. A unit trust scheme is a limited partnership scheme when the scheme property is held on trust for the general partners and the limited partners in a limited partnership.

18th February 1988

David Lightbown
Mark Lennox-Boyd
Two of the Lords Commissioners of
Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for certain unauthorised unit trust schemes to be excepted from the definition of unit trust scheme for the purposes of capital gains tax given by section 92(1)(a) of the Capital Gains Tax Act 1979 ("section 92(1)(a)"). As substituted by section 40(3) of the Finance Act 1987, that section provides that "unit trust scheme" is to have the same meaning as in the Financial Services Act 1986. Two types of unit trust scheme are excepted from the definition in section 92(1)(a) by these Regulations: limited partnership schemes and approved profit sharing schemes. In the case of limited partnership schemes the liability of the trustees and unit holders for the purposes of capital gains tax will accord with the legal nature of the relationship between them, as established by the terms of the scheme. Approved profit sharing schemes will be taxed in accordance with section 53(5) of the Finance Act 1978.

Regulation 1 provides for the title and commencement.

Regulation 2 contains definitions.

Regulation 3 provides that limited partnership schemes and approved profit sharing schemes are to be excepted from the definition of "unit trust scheme" in section 92(1)(a).

Regulation 4 describes a limited partnership scheme.

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