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STATUTORY INSTRUMENTS

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**2001 No. 964**

**TAXES**

**The Stamp Duty and Stamp Duty Reserve Tax  
(Definition of Unit Trust Scheme and Open-  
ended Investment Company) Regulations 2001**

<i>Made</i>	- - - -	<i>14th March 2001</i>
<i>Laid before the House of Commons</i>	- - - -	<i>14th March 2001</i>
<i>Coming into force</i>	- -	<i>6th April 2001</i>

The Treasury, in exercise of the powers conferred upon them by section 98 of the Finance Act 1986(1), section 152 of the Finance Act 1995(2) and section 121 of, and paragraph 17 of Schedule 19 to, the Finance Act 1999(3), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001 and shall come into force on 6th April 2001.

**Commencement Information**

**II** Reg. 1 in force at 6.4.2001, see [reg. 1](#)

**[F1] Interpretation**

2.—(1) In these Regulations—

“feeder fund” means a feeder fund within the meaning of (and complying with the requirements) of paragraph 2 of Part 1 of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (including a constituent part of an umbrella

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(1) 1986 c. 41; section 98 was amended by section 195 of the Finance Act 1996 (c. 8).

(2) 1995 c. 4; section 152 was amended by paragraph 13 of Schedule 19 to the Finance Act 1999 (c. 16).

(3) Paragraph 17 has effect in relation to open-ended investment companies in a manner corresponding to that in which it has effect in relation to unit trust schemes by virtue of regulations 3 to 4A of S.I. 1997/1156 as those regulations are substituted by regulations 4 and 5 of S.I. 1999/3261.

registered pension unit trust which is regarded as a feeder fund for the purposes of those Regulations);

“open-ended investment company” has the meaning given in section 236 of the Financial Services and Markets Act 2000<sup>(4)</sup>;

“qualifying EEA investment company” means a company—

- (a) which is formed under the law of an EEA State and complies with the requirements specified in [F<sup>2</sup>section 833(2) of the Companies Act 2006],
- (b) which may lawfully offer its shares to the public [F<sup>3</sup>in the UK or] in an EEA State, and
- (c) in relation to which, on the basis of its last published annual accounts, the ratio between the company’s loan capital and the value of its ordinary shares is 50% per cent or less;

“qualifying EEA open-ended investment company” means an open-ended investment company within the meaning given by section 236 of the Financial Services and Markets Act 2000 which—

- (a) is formed under the law of an EEA state,
- (b) is not a UCITS, and
- (c) may lawfully offer its shares to the public [F<sup>4</sup>in the UK or] in an EEA State”;

F<sup>5</sup> ...

“registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004;

“registered pension unit trust” means a registered pension scheme which is an authorised unit trust scheme of a kind mentioned in Part 1 of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1997;

[F<sup>6</sup>“relevant authority” means—

- (a) the government of the United Kingdom, of Northern Ireland, or of any country outside the United Kingdom,
- (b) a local authority in the United Kingdom or elsewhere,
- (c) any international organisation the members of which include the United Kingdom or a member State;]

“trust instrument” has the meaning given by paragraph 14 of Schedule 19 to the Finance Act 1999;

[F<sup>7</sup> “UCITS” means—

- (a) a UCITS within the meaning given by section 236A of the Financial Services and Markets Act 2000, or
- (b) an undertaking established in Gibraltar which is a UCITS under the law of Gibraltar which implemented [Directive 2009/65/EC](#) of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities,]

“umbrella registered pension unit trust” means a registered pension unit trust which is constituted as an umbrella fund within the meaning of the Financial Services (Regulated Scheme) Regulations 1991;

“units” and “unit trust scheme” have the meanings given by section 237 of the Financial Services and Markets Act 2000.

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(4) S.I. 2001/117.

(2) In these Regulations “individual pension account” means an account within which investments may be held and which satisfies the following conditions:

*Condition 1*

The funds of the account consist only of—

- (a) monies received from the trustees, managers or administrators of registered pension schemes, or monies held for the purposes of registered pension schemes that are designated to be held within the account, and
- (b) income and gains arising from those monies when held as funds of the account.

*Condition 2*

Any monies received in accordance with Condition 1 consist of one or more of the following—

- (a) contributions to a registered pension scheme by a member, or the employer of a member, of that registered pension scheme,
- (b) amounts transferred to a registered pension scheme from another registered pension scheme,
- (c) minimum contributions referred to in section 188(3)(c) of the Finance Act 2004,
- (d) minimum payments within the meaning given by section 8(2) of the Pension Schemes Act 1993.

*Condition 3*

The funds and other assets of the account—

- (a) are held—
  - (i) by the trustees, managers or administrators of the registered pension schemes whose members subscribe to the account as account holders, and
  - (ii) on behalf of the individual account holders as beneficial owners subject to the account rules, or
- (b) in the case of assets consisting of units in a registered pension unit trust or, where the registered pension unit trust is an umbrella registered pension unit trust, in the respective parts of the umbrella registered pension unit trust—
  - (i) are registered in the names of the individual account holders, and
  - (ii) are issued subject to the terms of the trust deed and the rules constituting the registered pension unit trust.

*Condition 4*

The funds and other assets of the account are used only to provide benefits in respect of individual account holders under registered pension schemes and subject to the limits and rules of those registered pension schemes.

*Condition 5*

The assets of the account, other than cash awaiting investment, consist of one or more of the following investments—

- (a) units in an authorised unit trust scheme or in a unit trust scheme that is a [F8UCITS and is a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000],
- (b) shares in a qualifying EEA open-ended investment company,
- (c) [F9units in a UCITS formed under the laws of a member State which has been authorised by the competent authorities of that member State and is a recognised scheme for the purposes of Part 17 of the Financial Services and Markets Act 2000.]

- (d) shares in a body corporate which is a qualifying UK investment company,
- (e) shares in a body corporate which is a qualifying EEA investment company,
- (f) shares in an investment company with variable capital, and
- (g) [<sup>F10</sup>loan stock, bonds and other instruments—
  - (a) creating or acknowledging indebtedness, and
  - (b) issued by or on behalf of a relevant authority.]

The reference in head (a) to units in an authorised unit trust scheme, where the authorised unit trust scheme is an umbrella registered pension unit trust that is constituted as a feeder fund or comprises feeder funds, comprises both the units in the feeder fund or feeder funds that are issued to the individual account holder and the underlying units held by the feeder fund or feeder funds.

#### Condition 6

If monies are received by the account that comprise an individual's investment in more than one registered pension scheme the amount relating to each registered pension scheme is separately identified by the administrator of the account.

#### Condition 7

Whenever required to do so by an officer of Revenue and Customs, the administrator of the account has provided to that officer the following information—

- (a) the names of individuals who are the account holders,
- (b) details of the registered pension schemes of which those individuals are members,
- (c) the amount of the funds, and the description and value of the assets, held on behalf of each account holder,
- (d) the amount of income and gains accruing to each account holder from funds and assets held on that individual's behalf,
- (e) transfers of funds to another individual pension account on behalf of an account holder.

#### Condition 8

Whenever required to do so by an officer of Revenue and Customs, the administrator of the account has enabled that officer to audit and inspect all aspects of the management and administration of the account, including records and systems relating to the management or administration of the account.]

#### Textual Amendments

- F1** Reg. 2 substituted (6.4.2006) by The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) (Amendment) Regulations 2006 (S.I. 2006/746), regs. 1, 3
- F2** Words in reg. 2(1) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2008 (S.I. 2008/954), arts. 1(1), 49
- F3** Words in reg. 2(1) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 26(2)(a) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 2(1) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 26(2)(b) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 26(2)(c) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 2(1) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 26(2)(d) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

- F7** Words in [reg. 2\(1\)](#) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), [regs. 1, 26\(2\)\(e\)](#) (with [regs. 39-41](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in [reg. 2\(2\)](#) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), [regs. 1, 26\(3\)\(a\)](#) (with [regs. 39-41](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in [reg. 2\(2\)](#) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), [regs. 1, 26\(3\)\(b\)](#) (with [regs. 39-41](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in [reg. 2\(2\)](#) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), [regs. 1, 26\(3\)\(c\)](#) (with [regs. 39-41](#)); 2020 c. 1, Sch. 5 para. 1(1)

### Schemes to be treated as not being unit trust schemes

**3.—(1)** A scheme of the description specified in paragraph (2) 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) The description of scheme specified in this paragraph is a unit trust scheme the units under which are required by the terms of the trust instrument to be held only within individual pension accounts.

#### Commencement Information

**I2** Reg. 3 in force at 6.4.2001, see [reg. 1](#)

### Companies to be treated as not being open-ended investment companies

**4.—(1)** A company of the description specified in paragraph (2) shall be treated as not being an open-ended investment company for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.

(2) The description of company specified in this paragraph is an open-ended investment company the shares in which are required by the terms of the instrument incorporating the company to be held only within individual pension accounts.

#### Commencement Information

**I3** Reg. 4 in force at 6.4.2001, see [reg. 1](#)

### Amendments to the Stamp Duty Reserve Tax Regulations 1986

**5.—(1)** Amend the Stamp Duty Reserve Tax Regulations 1986**(5)** as follows.

(2) In regulation 4B**(6)**—

(a) in paragraph (1)—

(i) in sub-paragraph (a)(iii) for “paragraph 6” substitute “paragraph 6A**(7)**, 6”;

(ii) after sub-paragraph (a) insert—

**(5)** S.I. [1986/1711](#) relevantly amended by S.I. [1999/3264](#).

**(6)** Inserted by regulation 7 of S.I. [1999/3264](#).

**(7)** The reference is to paragraph 6A of Schedule 19 to the Finance Act 1999 which was inserted by a House of Commons resolution made on 13th March 2001 and having temporary statutory effect under section 1 of the Provisional Collection of Taxes Act [1968](#) (c. 2).

**Changes to legislation:** There are currently no known outstanding effects for the The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001. (See end of Document for details)

- “(aa) give to the Board any certificate pursuant to paragraph 6A(2) of Schedule 19 to the Finance Act 1999 to be contained in, or provided with, the notice, and”;
- (b) in paragraph (3) after “under this regulation” insert “, and any certificate pursuant to paragraph 6A(2) of Schedule 19 to the Finance Act 1999 to be contained in, or provided with, such a notice,”.

**Commencement Information**

**I4** Reg. 5 in force at 6.4.2001, see [reg. 1](#)

**Amendment to the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997**

**6.—(1)** Amend the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997(**8**) as follows.

(2) In regulation 4B(**9**) after paragraph (2) insert—

“(3) After subsection (5B)(**10**) insert—

“(5C) “Chargeable securities” does not include shares in a company which is treated as not being an open-ended investment company by regulations made under paragraph 17 of Schedule 19 to the Finance Act 1999 (“paragraph 17”).

In this subsection the reference to paragraph 17 is a reference to that paragraph as it has effect in relation to open-ended investment companies by virtue of regulations 3 to 4A of the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997.””

**Commencement Information**

**I5** Reg. 6 in force at 6.4.2001, see [reg. 1](#)

*Clive Betts*  
*Greg Pope*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

(8) S.I. 1997/1156 relevantly amended by S.I. 1999/3261.

(9) Substituted, together with regulations 4 and 4A, for regulation 4 by regulation 5 of S.I. 1999/3261.

(10) The reference is to section 86(5B) of the Finance Act 1986 which was inserted by paragraph 12(3) of Schedule 19 to the Finance Act 1999.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for unit trust schemes of a specified description, and open-ended investment companies of a specified description, to be treated as not being unit trust schemes, or, as the case may be, open-ended investment companies, for the purposes of the enactments relating to stamp duty and the enactments relating to stamp duty reserve tax.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 specifies the description of scheme to be treated as not being a unit trust scheme and regulation 4 specifies the description of company to be treated as not being an open-ended investment company.

Regulation 5 amends the Stamp Duty Reserve Tax Regulations 1986 (S.I.1986/1711). The purpose of the amendments is to reflect related amendments made to Schedule 19 of the Finance Act 1999 (c. 16) by a House of Commons resolution having statutory effect under section 1 of the Provisional Collection of Taxes Act 1968 (c. 2).

Regulation 6 amends the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/1156) so that those regulations further modify section 99 of the Finance Act 1986 (c. 41). The purpose of this further modification is to ensure that Part IV of the Finance Act 1986 (stamp duty reserve tax) has effect in relation to shares in a company to be treated as not being an open-ended investment in a manner corresponding to the manner in which it has effect in relation to units under a scheme to be treated as not being a unit trust scheme.

**Changes to legislation:**

There are currently no known outstanding effects for the The Stamp Duty and Stamp Duty Reserve Tax (Definition of Unit Trust Scheme and Open-ended Investment Company) Regulations 2001.