

2003 No. 1830

INCOME TAX

**The Income Tax (Authorised Unit Trusts) (Interest
Distributions) Regulations 2003**

<i>Made</i> - - - -	<i>16th July 2003</i>
<i>Laid before the House of Commons</i>	<i>17th July 2003</i>
<i>Coming into force</i> - -	<i>7th August 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 468PB of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 and shall come into force on 7th August 2003.

(2) These Regulations have effect in relation to interest distributions made on or after 16th October 2002.

Interpretation

2. In these Regulations—

“authorised unit trust” and “unit holder” have the meanings given by section 468(6) of the Taxes Act(b);

“the Board” means the Commissioners of Inland Revenue;

“interest distribution” has the meaning given by section 468L(3) of the Taxes Act(c);

“the Taxes Act” means the Income and Corporation Taxes Act 1988 and references to a section number without more are references to a section of that Act;

“the Tax Acts” has the meaning given by section 831(2) of the Taxes Act;

“unit trust scheme” has the meaning given by section 469(7) of the Taxes Act(d).

(a) 1988 c. 1; section 468PB was inserted by section 203 of the Finance Act 2003 (c. 14).

(b) Section 468(6) was relevantly amended by section 113 of the Finance Act 1994 (c. 9) and section 432(1) of, and paragraph 4 of Schedule 20 to, the Financial Services and Markets Act 2000 (c. 8).

(c) Section 468L was inserted by paragraph 2 of Schedule 14 to the Finance Act 1994.

(d) Section 469(7) was amended by section 432(1) of and paragraph 4 of Schedule 20 to the Financial Services and Markets Act 2000 (c. 8).

Modification of sections 468M(1)(a), 468O and 468P in relation to interest distributions made to or received under a trust

3. Except in a case to which regulation 7 applies, section 468M(1)(a)(a), section 468O and section 468P(b) shall apply in relation to an interest distribution made to or received under a trust (other than a unit trust scheme) with the modifications specified in regulations 4, 5 and 6.

4. In section 468M(1)(a) after the word “company” insert the words “except where the company is the trustee of the trust to which or under which the interest distribution is made or received,”.

5. In section 468O for subsection (1) substitute the following subsection—

“(1) For the purposes of section 468M, the residence condition is fulfilled with respect to a unit holder in the case of an interest distribution made to or received under a trust if there is a valid declaration made by the trustees of that trust that—

- (a) the trustees are not resident in the United Kingdom(c), and
- (b) each beneficiary of the trust is either not ordinarily resident or, in the case of a beneficiary which is a company, not resident in the United Kingdom.

(1ZA) In subsection (1) and in section 468P, references to a beneficiary are references to any person who is known to the trustees of the trust to be either—

- (a) a person who is, or will or may become, entitled to any income of the trust, whether in the form of income or not, or
- (b) a person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by them.”.

6. In section 468P—

(a) in subsection (1)(c) for the words “subsections (2) or (3)” substitute the words “subsection (2)”;

(b) for subsection (2) substitute the following subsection—

“(2) A declaration made as mentioned in section 468O(1) must contain—

- (a) the names and principal residential addresses of the trustees of the trust or, in the case of a trustee which is a company, the name of the company and the address of its registered or principal office;
- (b) the names and principal residential addresses of the beneficiaries of the trust or, in the case of a beneficiary which is a company, the name of the company and the address of its registered or principal office; and
- (c) an undertaking that the trustees of the trust will notify the trustees of the authorised unit trust in question if—
 - (i) they become resident in the United Kingdom,
 - (ii) any beneficiary of the trust named in the declaration becomes ordinarily resident or, in the case of a company, resident in the United Kingdom, or
 - (iii) any person who becomes a beneficiary of the trust after the making of the declaration either is at the time of becoming a beneficiary, or subsequently becomes, ordinarily resident or, in the case of a company, resident in the United Kingdom.”;

(c) omit subsection (3);

(a) Section 468M(1)(a) was substituted by section 203 of the Finance Act 2003.

(b) Section 468O and section 468P were inserted by paragraph 2 of Schedule 14 to the Finance Act 1994 and amended by section of and paragraph/Part of Schedule to the Finance Act 2003.

(c) See section 110 of the Finance Act 1989 (c. 26).

- (d) in subsection (5)(a) for the words “the person in question” substitute the words “the trustees of the trust have become resident in the United Kingdom, or any beneficiary of the trust”;
- (e) in subsection (5)(b) for the words “the person in question” substitute the words “the trustees of the trust are or may be resident in the United Kingdom, or any beneficiary of the trust”.

Modification of section 468O in cases where an interest distribution made to or received under a trust is income of a person other than the trustees

7.—(1) This regulation applies in any case where the whole of an interest distribution made to or received under a trust (other than a unit trust scheme) is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust.

(2) Where this regulation applies, sections 468M, 468O and 468PA shall apply as if references to a unit holder in those sections were references to the person referred to in paragraph (1).

Information to be provided to the Board — interest distributions made without deduction of tax

8. The Board may by notice require the trustees of an authorised unit trust, within such time (not being less than 14 days) as may be provided by the notice, to supply them with such information (including copies of any relevant books, documents or other records) as they may reasonably require for the purpose of determining whether, having regard to section 468M, section 468O and section 468P, interest distributions were properly made by that authorised unit trust without deduction of tax.

Inspection of records

9. The trustees of an authorised unit trust shall, whenever required to do so, make available for inspection by an officer of the Board authorised for that purpose, at such time as that officer may reasonably require, all such copies of books, documents or other records in their possession or under their control as may be required by the Board under regulation 8.

Use of information

10.—(1) Subject to paragraph (3), information obtained by the Board under regulation 8 or 9 shall not be used for the purpose of ascertaining the tax liability (if any) of any person other than the persons specified in paragraph (2) and shall otherwise be used only for the purposes of these Regulations.

(2) The persons specified in this paragraph are—

- (a) the trustees of the authorised unit trust in question;
- (b) a unit holder beneficially entitled to an interest distribution made without deduction of tax to whom the information obtained relates;
- (c) where an interest distribution is made to or received under a trust without deduction of tax and sub-paragraph (d) does not apply, the trustees of that trust and any beneficiary of the trust to whom the information obtained relates; and
- (d) where the whole of an interest distribution made to or received under a trust without deduction of tax is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, that person in so far as the information obtained relates to him.

(3) Paragraph (1) shall not be construed as preventing any disclosure of information within section 182(5) of the Finance Act 1989^(a).

(4) In paragraph (2)(c), “any beneficiary of the trust” means—

(a) any person who is, or will or may become, entitled to any income of the trust, whether in the form of income or not, and

(b) any person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by the trustees of the trust.

Revocation

11. The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994^(b) are revoked.

16th July 2003

Dave Hartnett
Helen Ghosh
Two of the Commissioners of Inland Revenue

^(a) 1989 c. 26.
^(b) S.I. 1994/2318.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 (S.I. 1994/2318) and relate to certain payments of yearly interest by authorised unit trusts (“interest distributions”) which may be made without deduction of tax pursuant to sections 468M to 468P of the Income and Corporation Taxes Act 1988 (as amended by section 203 of and Part 5 of Schedule 43 to the Finance Act 2003 (c. 14)). Interest distributions may be made without deduction of tax if the unit holder is a company or the trustees of a unit trust scheme, or if at the time of the payment to the unit holder the residence condition or the reputable intermediary condition is satisfied. The Regulations first modify the application of sections 468M(1)(a), 468O and 468P of the 1988 Act (cases where there is no obligation to deduct tax, residence and reputable intermediary conditions and residence declarations) in relation to interest distributions made to or received under a trust (other than a unit trust scheme). Secondly the Regulations make provision enabling the Board of Inland Revenue (“the Board”) to require authorised unit trusts to supply information and make records available for inspection in connection with the payment of interest distributions without deduction of tax.

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of certain of the amendments is given by section 203(14) of the Finance Act 2003.

Regulation 2 contains definitions.

Regulations 3 to 6 modify the application of sections 468M, 468O and 468P of the 1988 Act in relation to interest distributions made to or received under a trust. Regulation 4 excludes corporate trustees from the category of unit holder entitled to receive interest distributions without deduction of tax unless they satisfy either the residence condition or the reputable intermediary condition. Regulations 5 and 6 modify the residence condition and have the effect that, in order for the interest distribution to be paid to a trust without deduction of tax, there has to be in existence a valid declaration made by the trustees of the recipient trust that they are not resident in the United Kingdom and each beneficiary of the trust who is known to the trustees is not ordinarily resident or, if a company, not resident in the United Kingdom.

Regulation 7, by way of an exception to regulations 3 to 6, ensures that where the whole of an interest distribution made to or received under a trust constitutes income of a person other than the trustees, there has to be in existence a valid declaration made by that person that he is not ordinarily resident or, if a company, not resident in the United Kingdom, in order for the interest distribution to be paid without deduction of tax.

Regulations 8 and 9 enable the Board to require trustees of authorised unit trusts to supply information and make documents and other records available for inspection for the purpose of determining whether interest distributions were properly made without deduction of tax.

Regulation 10 specifies the purposes for which information obtained by the Board under regulation 8 or 9 may be used.

Regulation 11 revokes the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994.

STATUTORY INSTRUMENTS

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