

Taxation of unit holders in undertakings for collective investment. FA93 s18; FA94 s57(b) 739.—(1) Subject to this section, as respects a payment made on or after the 6th day of April, 1994, in money or money's worth to a unit holder by reason of rights conferred on the holder as a result of holding units in an undertaking for collective investment—

(a) where the holder is not a company, the payment shall not be reckoned in computing the total income of the holder for the purposes of the Income Tax Acts, and

(b) where apart from this paragraph the payment would be taken into account for the purposes of computing income chargeable to corporation tax, such payment shall be treated as if it were the net amount of an annual payment chargeable to tax under Case IV of Schedule D from the gross amount of which income tax has been deducted at the standard rate.

(2) (a) This subsection shall apply to a payment which—

(i) is made on or after the 6th day of April, 1994, in money or money's worth, by reason of rights conferred on a unit holder as a result of holding units in an undertaking for collective investment, and

(ii) apart from subsection (1) would be charged to corporation tax under Case I of Schedule D.

(b) Subsection (1) shall not apply to a payment to which this subsection applies.

(c) For the purposes of the Tax Acts other than paragraphs (d) and (e)—

(i) the income for a chargeable period attributable to a payment to which this subsection applies shall be increased by an amount determined by reference to paragraph (d), and

(ii) the amount so determined shall be deemed to be an amount of income tax which shall—

(I) be set off against corporation tax assessable on the unit holder for the chargeable period, or

(II) in so far as it cannot be set off in accordance with clause (I), be repaid to the unit holder.

(d) The amount referred to in paragraph (c), by which the income attributable to a payment to which this subsection applies is to be increased, shall be determined by the formula—

$$I \times A \div 100 - A$$

where—

I is the income attributable to a payment to which this subsection applies, and

A is the standard rate per cent for the year of assessment in which the payment is made.

(e) For the purposes of this subsection, in computing income attributable to a payment—

(i) an amount shall be deducted from the payment if the payment arises on a sale or other transfer of ownership, or on a cancellation, redemption or repurchase by the undertaking for collective investment, of units or an interest in units, and an amount shall not be deducted otherwise,

(ii) subject to subparagraphs (iii) to (v), the amount of the consideration in money or money's worth given by or on behalf of the unit holder for the acquisition of units or an interest in units for which the payment is made, and not any other amount, shall be deducted from the payment,

(iii) where units are acquired by the unit holder before the 6th day of April, 1994, in an undertaking for collective investment carrying on business on the 25th day of May, 1993, the consideration for the acquisition of the units shall be deemed to be the amount of their market value) on the 6th day of April, 1994, if that amount is greater than the consideration given, or deemed by virtue of subparagraph (iv) to be given, by the unit holder for their acquisition,

(iv) where units are acquired by a unit holder for a consideration which is less than the market value) of the units on the day the unit holder acquired them, the consideration given by the unit holder for those units shall be deemed to be that market value, and

(v) the amount of consideration given for units shall be determined in accordance with section 580.

(3) (a) Subject to paragraph (b) and subsections (5) and (6), as respects a disposal on or after the 6th day of April, 1994, of units in an undertaking for collective investment by a person other than a company—

(i) no chargeable gain shall accrue on the disposal if the person disposing of the units acquired them on or after that date, and

(ii) if the person disposing of the units acquired them before that date, the chargeable gains on the disposal shall be computed as if—

(I) the consideration for the disposal were the market value of the units on the 5th day of April, 1994, and

(II) for the purposes of selecting the appropriate multiplier) and of applying paragraph 25 of Schedule 32 the disposal were made in the year 1993-94,

and for the purposes of this subsection and subsection (4) references to units shall be construed as including a reference to an interest in units, and accordingly this subsection and subsection (4) shall apply with any necessary modifications.

(b) Clause (I) of paragraph (a)(ii) shall not apply in relation to the disposal of units if as a consequence of the application of that clause—

(i) a gain would accrue on that disposal to the person making the disposal and either a smaller gain or

loss would so accrue if that clause did not apply, or

(ii) a loss would so accrue and either a smaller loss or a gain would accrue if that clause did not apply,

and accordingly, in a case to which subparagraph (i) or (ii) applies, the amount of the gain or loss accruing on the disposal shall be computed without regard to clause (I) of paragraph (a)(ii) but, in a case where this paragraph would otherwise substitute a loss for a gain or a gain for a loss, it shall be assumed in relation to the disposal that the units were acquired by the person disposing of them for a consideration such that neither a gain nor a loss accrued to that person on making the disposal.

(4) (a) Subject to paragraph (b) and subsections (5) and (6), as respects a disposal by a company on or after the 6th day of April, 1994, of units in an undertaking for collective investment, for the purposes of the Corporation Tax Acts—

(i) any chargeable gain accruing on the disposal shall, notwithstanding section 21 (3), be treated as if it were the net amount of a gain from the gross amount of which capital gains tax has been deducted at the standard rate of income tax,

(ii) the amount to be taken into account in respect of the chargeable gain in computing in accordance with section 78 the company's chargeable gains for the accounting period in which the company disposes of the units shall be the gross amount of the chargeable gain, and

(iii) the capital gains tax treated as deducted from the gross amount of the chargeable gain shall—

(I) be set off against the corporation tax assessable on the company for the accounting period, or

(II) in so far as it cannot be set off in accordance with clause (I), be repaid to the company.

(b) As respects a disposal by a company of units which it acquired before the 6th day of April, 1994, in an undertaking for collective investment carrying on business on the 25th day of May, 1993, paragraph (a) shall apply only to so much of the chargeable gain accruing to the company on that disposal of units as does not exceed the chargeable gain which would have accrued on that disposal had the company sold and immediately reacquired those units on the 5th day of April, 1994, at their market value on that day.

(c) This subsection shall be disregarded for the purposes of section 546 (2).

(5) (a) Where a person (in this subsection referred to as “the disponent”) disposing of units in an undertaking for collective investment acquired them—

(i) on or after the 6th day of April, 1994, and

(ii) in such circumstances that by virtue of any enactment other than section 556 (4) the disponent and the person from whom the disponent acquired them (in this subsection referred to as “the previous owner”) were to be treated for the purposes of the Capital Gains Tax Acts as if the disponent's acquisition were for a

consideration of such an amount as would secure that, on the disposal under which the disponent acquired them, neither a gain nor a loss accrued to the previous owner,

then, the previous owner's acquisition of the interest shall be treated as the disponent's acquisition of the interest.

(b) Where the previous owner acquired the units disposed of on or after the 6th day of April, 1994, and in circumstances similar to those referred to in paragraph (a), the acquisition of the units by the previous owner's predecessor shall be treated for the purposes of this section as the previous owner's acquisition, and so on back through previous acquisitions in similar circumstances until the first such acquisition before the 6th day of April, 1994, or, as the case may be, until an acquisition on a disposal on or after that date.

(6) Where an undertaking for collective investment was not carrying on a collective investment business on the 25th day of May, 1993, this section shall apply as respects payments by, or disposals of units in, that undertaking as if—

(a) “on or after the 6th day of April, 1994,” were deleted from subsections (1), (2), (3) and (4), and

(b) paragraphs (a)(ii) and (b) were deleted from subsection (3).