

Special arrangements for qualifying unit trusts. CGTA75 s32; FA77 s35; CGT(A)A78 s16 and Sch1 par9; FA97 s146(2) and Sch9 PtlI 732.—(1) In this section—

“securities” includes securities within section 607 and stocks, shares, bonds and obligations of any government, municipal corporation, company or other body corporate;

“quoted securities” means securities which, at any time at which they are to be taken into account for the purposes of this section, or at any time in the period of 6 years immediately before such time, have or have had quoted market values on a stock exchange in the State or elsewhere.

(2) This section shall apply—

(a) to a unit trust (in this section referred to as a “qualifying unit trust”)—

(i) which is a registered unit trust scheme of the Unit Trusts Act, 1972 ),

(ii) the trustees of which are resident and ordinarily resident in the State,

(iii) the prices of units in which are published regularly by the managers,

(iv) all the units in which are of equal value and carry the same rights, and

(v) which, at all times since it was registered in the register established under the Unit Trusts Act, 1972 , but subject to subsection (7), satisfied the conditions specified in subsection (6), and

(b) to disposals of assets which are units in a qualifying unit trust (in this section referred to as “qualifying units”).

(3) Chargeable gains accruing to a qualifying unit trust in any year of assessment shall be chargeable to capital gains tax at one-half of the rate specified in section 28 (3).

(4) Chargeable gains which derive from the disposal of qualifying units and accrue to a person chargeable to capital gains tax shall be chargeable to tax at one-half of the rate at which those gains would be chargeable under the Capital Gains Tax Acts apart from this subsection.

(5) For any accounting period of a company, being an accounting period for which the company is chargeable to corporation tax in respect of chargeable gains—

(a) where the total amount of chargeable gains accruing to the company for the accounting period derives from the disposal of qualifying units, the amount which apart from this section would be included in respect of chargeable gains in the company's total profits for the accounting period under section 78 (1) shall be reduced by 50 per cent,

(b) where the total amount of chargeable gains accruing to the company for the accounting period includes—

(i) an amount in respect of such chargeable gains on the disposal of qualifying units, and

(ii) an amount in respect of such chargeable gains on the disposal of assets other than qualifying units,

the amount which apart from this section would be included in respect of chargeable gains in the company's total profits for the accounting period under section 78 (1) shall be reduced by such amount as bears to the amount to be so included the same proportion as one-half of the amount referred to in subparagraph (i) bears to the total of the amounts referred to in subparagraphs (i) and (ii).

(6) The conditions referred to in subsection (2)(a)(v) are that—

(a) not less than 80 per cent of the units were held by persons who acquired them pursuant to an offer made to the general public,

(b) the number of unit holders was not less than 50 and no one unit holder was the beneficial owner of more than 5 per cent of the units in issue at any time, and for the purposes of this paragraph a person and any persons with whom such person is connected shall be treated as one unit holder,

(c) the value of quoted securities held by the trustees on behalf of the unit trust was not less than 80 per cent by value of the assets so held by the trustees, and

(d) the securities held by the trustees on behalf of the unit trust in any one company did not exceed 15 per cent by value of the total securities so held by the trustees.

(7) The Revenue Commissioners may treat a unit trust as a qualifying unit trust for the purposes of this section notwithstanding that one or more of the conditions specified in subsection (6) was or were not complied with in relation to the unit trust—

(a) for the period ending on the 5th day of April, 1978, in the case where the unit trust became registered in the register established under the Unit Trusts Act, 1972, before the 6th day of April, 1976, and

(b) for the period ending on a date not more than 2 years after the date on which the unit trust became registered in that register, in the case where the unit trust became so registered on or after the 6th day of April, 1976.