HMRC - STSM107020 - Contribution To An Existing Unit Trust / Open-Ended Investment Company

The creation of units in a unit trust or shares in an Open-Ended Investment Company (OEIC) following a cash contribution by an investor is regarded as an issue for the purposes of FA99/SCH19. The number of issues is to be included by the trust/OEIC fund manager in his Stamp Duty Reserve Tax (SDRT) computations when reporting the number of units or shares surrendered during the same ‘relevant two-week period’ in a monthly notice to HM Revenue & Customs.

There are instances, however, where an investor, in lieu of cash, may transfer other forms of property including SDRT ‘chargeable securities’ (or ‘stock or marketable securities’ - stamp duty) as a subscription for the issue of units or OEIC shares in a newly created unit trust or OEIC where the only investments held will be the contributed property.

Unit Trust

Where an investor (or investors) ‘seeds’ a newly created unit trust by transferring to it property (which may include ‘stock or marketable securities’ or ‘chargeable securities’) and such property represents the only investment(s) held by the trust fund, no stamp duty or SDRT charge arises on such transfer or on the units issued as consideration

This is because, at that stage, the only units in issue are those held by the transferor, and since, in law, unit holders hold an undivided share in the property of the unit trust fund, no change of ownership in the underlying securities takes place. An initial investor(s) therefore has a one hundred per cent interest in the underlying assets, as indeed he did before the transfer was undertaken. In these circumstances, the transfer of property into the trust fund is regarded as being a transfer otherwise than on sale and therefore outside the scope of a stamp duty charge (FA99/SCH19/PARA1(1)). Similarly, the contributed property is not regarded as being an agreement to transfer chargeable securities for the purposes of a charge to SDRT under FA86/S87.

Subsequent contributions of assets by the same sole investor will equally be outside the scope of a charge to SDRT for the reasons outlined above. The subsequent contribution of assets by other investors in exchange or return for units may, however, attract stamp duty, or a charge to SDRT. This is because the ownership interests of the underlying assets of the trust may have been disturbed (see STSM107010) unless the transfer is undertaken by way of a pro rata in specie contribution (see STSM107030).

Top of page

Open-Ended Investment Company

The position of an OEIC is fundamentally different in law. Beneficial ownership of the underlying assets rests with the OEIC itself, rather than the investor, as an OEIC, unlike a unit trust, is regarded as a separate corporate body entity for tax purposes.

So a transfer of property which includes ‘stock or marketable securities’ to an OEIC by means of a formal instrument of transfer will give rise to a stamp duty charge by virtue of FA99/SCH19/PARA1(2) and FA99/SCH13 . Similarly, a contribution of ‘chargeable securities’ to an OEIC by an initial investor represents an agreement to transfer upon which a charge to SDRT arises under FA86/S87.

There is no legislative provision that enables transfers of chargeable securities from initial investors to a newly created OEIC (or to a sub-fund of an OEIC), in return for shares in that OEIC (or sub-fund of an OEIC), to be exempt or relieved from stamp duty or SDRT.

In situations where property other than cash is received as subscription for the issue of units, a fund manager must not include the issue of units or OEIC shares in his Schedule 19 monthly SDRT calculations.

See STSM101020 for the meaning of a unit trust.

See STSM101050 for the meaning of an open-ended investment company.

See STSM104080 for information of a SDRT monthly notice.

See STSM103070 for the meaning of a ‘relevant two-week period’.

See STSM021040 for the meaning of ‘stock or marketable securities’.

See STSM031090 for the meaning of ‘chargeable securities’.

Previous page

Next page