

Tax Transparent Fund

Who is likely to be affected?

Investors in the new tax transparent fund (TTF) pooled investment vehicle are expected to be UK authorised unit trusts, Open Ended Investment Companies (OEICs), pension funds and insurance companies and similar European investors.

General description of the measure

The measure will facilitate the appropriate tax treatment of the new regulated asset pooling vehicle, the TTF, covering capital gains and stamp taxes on shares. The new regulated vehicle is expected to be in place by summer 2012.

Policy objective

The policy objective is to ensure that the UK can compete as a fund domicile for tax transparent funds. The proposed tax measures are designed to remove any tax obstacles to achieving that objective for TTFs, which are being introduced to facilitate the setting up of UK pooled "master fund" investment vehicles under the Undertakings for Collective Investment in Transferable Securities (UCITS) IV Directive (2009/65/EC of the European Parliament and of The Council).

Background to the measure

The Government announced at Budget 2011 the introduction of a new TTF vehicle to be in place in the summer of 2012. It was then announced in May 2011 that, as most of the legislation required was regulatory and not tax, this would be taken forward as a regulatory consultation. A regulatory consultation document will be published before the end of 2011 or in early 2012. The tax measures in the Finance Bill will provide the necessary powers to provide appropriate tax treatment for investors in TTFs in line with the policy objective.

Detailed proposal

Operative date

The measure will have effect from Royal Assent to Finance Bill 2012.

Current law

The TTF regulated vehicle is not yet in place so no specific provisions exist for these vehicles.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 which takes a power to make regulations about the tax treatment of participants in collective investment schemes for the purposes of tax on capital gains.

Specific anticipated uses of the power will be to:

- provide that, for the purposes of tax on chargeable gains, assets held by investors as part of certain tax transparent collective investment schemes will not be chargeable assets and that, instead, the investor's interest in the scheme will be treated as if it were a chargeable asset;

- provide that, for such chargeable assets, section 212 of the Taxation of Chargeable Gains Act 1992 (TCGA) will apply to interests within the long term fund of an insurance company;
- provide a relief for insurance companies which transfer assets to such transparent schemes to ensure that no chargeable gain arises at the point of transfer, together with a provision to prevent abuse of that relief; and,
- enable the provisions in TCGA to be adapted for use at the merger and reconstruction of new and existing types of collective investment scheme so that the provisions will work when applied to interests in tax-transparent schemes and be simplified in application to existing schemes.

For stamp duty and stamp duty reserve tax, it is proposed to take a power to give relief or exemption for transactions relating to collective investment schemes in the context of TTFs.

Specific anticipated uses of this power will be to provide relief:

- where the TTF acquires securities in exchange for issuing units in itself;
- where the TTF only has charitable investors; and,
- in certain other circumstances to be determined following the consultation exercise.

No change will be made to Schedule 19 to the Finance Act 1999 as TTFs will be outside the charge to SDRT under that Schedule.

On corporation tax, it is intended that the regulatory legislation to be consulted upon shortly will add the new TTF funds to the exclusions from charge in section 1121 of Corporation Tax Act 2010, to the extent necessary to put beyond doubt that the fund, which will not be a legal entity, is not chargeable to UK corporation tax.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2012.				
Economic impact	The introduction of the TTF is designed to retain business in or attract business to the UK. The wider impact will be covered in the regulatory impact assessment. Specific Finance Bill measures are not expected to impact tax yield directly. There is a possible indirect impact via increased economic activity/avoiding losing business overseas.				
Impact on individuals and households	No impact is expected on individuals and households.				
Equalities impact	This measure is not expected to have any impact on people with protected characteristics.				
Impact on business including civil society organisations	There will be a negligible impact on business as a result of the tax measures as these only facilitate the use of a fund structure by investors.				
Operational impact (£m) (HMRC or other)	The impact on HM Revenue and Customs will be negligible.				

Other impacts	No significant impacts have been identified. However the wider impact of the regulatory change will be covered in the regulatory impact assessment which will be issued by January 2012 with a regulatory consultation document.
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Monitoring and evaluation

HMRC has an established programme of liaison with the industry, which will capture issues around implementation and ongoing compliance and administrative costs. In addition, companies are required to prepare tax returns and computations which will provide data to inform any such monitoring and evaluation.

Further advice

If you have any questions about this change, please contact John Buckeridge (email: john.buckeridge@hmrc.gsi.gov.uk) or Jeremy Schryber (stamp taxes issues only) (email: jeremy.schryber@hmrc.gsi.gov.uk).

1 Collective investment schemes: chargeable gains

- (1) TCGA 1992 is amended as follows.
- (2) In section 99A(2) (treatment of umbrella schemes), after “subsection (1)” insert “and section 103C”.
- (3) After section 103B insert –

“103C Power to make regulations about collective investment schemes

- (1) The Treasury may by regulations make provision about the treatment of participants in collective investment schemes for the purposes of this Act.
- (2) Regulations under this section may make different provision for different cases or different purposes.
- (3) Regulations under this section –
 - (a) may modify this Act or any other enactment or instrument (whenever passed or made), and
 - (b) may include consequential, supplementary and transitional provision.
- (4) A statutory instrument containing regulations under this section must be laid before the House of Commons after being made.
- (5) The regulations cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless before the end of that period the instrument is approved by a resolution of the House of Commons.
- (6) After an instrument containing regulations under this section has been approved under subsection (5), subsections (4) and (5) do not apply to any subsequent such instrument (and accordingly section 287(3) applies to any such instrument).
- (7) If regulations cease to have effect as a result of subsection (5), that does not –
 - (a) affect anything previously done under the regulations, or
 - (b) prevent the making of new regulations to the same or similar effect.
- (8) In calculating the period of 40 days for the purposes of subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.
- (9) In this section –

“modify” includes amend, repeal or revoke, and

“participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000.”

2 Collective investment schemes: stamp duty and stamp duty reserve tax

- (1) The Treasury may by regulations confer an exemption or other relief from stamp duty or stamp duty reserve tax for transactions relating to collective investment schemes.
- (2) The regulations may, in particular –
 - (a) specify descriptions of collective investment scheme in relation to which the exemption or relief is available, and
 - (b) specify the cases in which the exemption or relief is available.
- (3) Regulations under this section may make different provision for different cases or different purposes.
- (4) Regulations under this section –
 - (a) may modify any enactment or instrument (whenever passed or made), and
 - (b) may include consequential, supplementary and transitional provision.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (7) In this section –
 - “collective investment scheme” has the meaning given by section 235 of the Financial Services and Markets Act 2000, and
 - “modify” includes amend, repeal or revoke.

EXPLANATORY NOTE

COLLECTIVE INVESTMENT SCHEMES: CHARGEABLE GAINS

SUMMARY

1. This clause amends the Taxation of Chargeable Gains Act 1992 (TCGA) to provide a power for the HM Treasury to make regulations about the tax treatment of gains in the holdings of UK investors in assets subject to collective investment schemes and provides powers for the Treasury to define in regulations the types of schemes affected.

DETAILS OF THE CLAUSE

2. New section 103C provides a power to make regulations about the treatment of investors in collective investment schemes for the purposes of tax on chargeable gains.
3. Regulations made under this section will cease to have effect unless approved by the House of Commons within 40 days.
4. The background note below provides details of the intended use of the power provided.

BACKGROUND NOTE

5. The Government has announced its intention to legislate to enable the UK regulator to authorise, under the UCITS IV directive¹, tax transparent collective investment schemes, to be constituted by contractual arrangements. The purpose of this clause is to provide powers for the appropriate tax treatment of gains made by UK investors on assets held in specified new types of collective investment scheme.
6. As the legislation to enable authorisation of specific types of tax-transparent collective investment scheme is yet to be consulted on or enacted, this clause provides a power to specify the tax treatment of participants in collective investment schemes. It is anticipated that the power will be used on the enactment of legislation to authorise new schemes.
7. Specific anticipated uses of the power will be to:
 - a. provide that, for the purposes of tax on chargeable gains, assets held by the investors within certain tax transparent collective

investment schemes will not be chargeable assets and that, instead, the investor's interest in the scheme will be treated as if it were a chargeable asset,

- b. provide that, for assets held within a transparent scheme where interests in the scheme are treated as being the assets held by the investor then section 212 TCGA will apply to interests within the long term fund of an insurance company,
 - c. provide a relief for insurance companies which transfer assets to such transparent schemes that will ensure that no chargeable gain arises at the point of transfer, together with a provision to prevent abuse of that relief,
 - d. enable the provisions in TCGA to be adapted for use with the merger and reconstruction of new and existing types of collective investment scheme so that the provisions will work when applied to interests in tax-transparent schemes and be simplified in application to existing schemes.
8. If you have any questions on this change, or comments on the legislation, please contact John Buckeridge on 020 7147 2560 (email: john.buckeridge@hmrc.gsi.gov.uk)

¹ Directive 2009/65/EC of the European Parliament and of The Council.

EXPLANATORY NOTE

**COLLECTIVE INVESTMENT SCHEMES: STAMP DUTY AND
STAMP DUTY RESERVE TAX**

SUMMARY

1. This clause gives the Treasury the power to make regulations to provide an exemption or relief from stamp duty or stamp duty reserve tax for transactions relating to collective investment schemes.

DETAILS OF THE CLAUSE

2. Subsection (2) allows the regulations to specify the type of collective investment scheme affected and the circumstances in which an exemption or relief applies.
3. Subsection (4)(a) allows the regulations to modify existing or future primary or other legislation. Subsection (4)(b) makes provision for the regulations to make consequential, supplementary and transitional provision.
4. Subsection (6) provides that a statutory instrument made under this power is subject to the negative resolution procedure.

BACKGROUND NOTE

5. The Government has announced its intention to legislate to enable the UK regulator to authorise, under the UCITS IV directive¹, tax transparent collective investment schemes to be constituted by contractual arrangements. Transactions relating to the new schemes will need to have an appropriate stamp duty and stamp duty reserve tax treatment. This clause gives the Treasury the power to provide this.
6. If you have any questions about this change, or comments on the legislation, please contact Jeremy Schryber on 020 7147 2788 (email: Jeremy.schryber@hmrc.gsi.gov.uk).

¹ Directive 2009/65/EC of the European Parliament and of The Council.