

Authorised Contractual (tax transparent) Schemes

Who is likely to be affected?

Investors in the new Authorised Contractual Scheme (ACS) 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 ACS, covering capital gains and stamp taxes on shares and VAT.

Policy objective

The measure will 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 ACSs, 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 Directive¹.

Background to the measure

The Government announced at Budget 2011 the introduction of a new ACS 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 was published in January 2012 and the consultation period ended in March 2012. Enabling legislation to provide the necessary powers to provide appropriate tax treatment for investors in ACSs, in line with the policy objective, was included in Finance Act 2012.

This Tax Information and Impact Note updates and replaces the note published on 6 December 2011.

Detailed proposal

Operative date

The Regulations are to be made under the powers provided in the Finance Act 2012 and are intended to be made and to have effect once the regulatory measures that were the subject of the consultation are in force.

Current law

The ACS regulated vehicle is defined in The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013 (SI 2013/1388) which also amends the Financial Services and Markets Act 2000 to provide the powers for Financial Conduct Authority regulation of ACS.

Provisions in the Taxation of Chargeable Gains Act 1982 (TCGA) relating to mergers and reconstructions currently apply to most Collective Investment Schemes as if they were companies.

Proposed revisions

These instruments:

- provide that, for the purposes of tax on chargeable gains, assets held by investors as part of certain ACS (co-ownership funds) 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 TCGA will apply to interests within the long term fund of an insurance company;
- provide a relief for insurance companies which transfer assets to co-ownership funds or to similar funds offshore 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 including ACSs and be simplified in application to existing schemes;
- for corporation tax, the new ACS funds are added 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;
- for stamp duty and Stamp Duty Reserve Tax (SDRT), there is a separate instrument to give relief or exemption for transactions relating to collective investment schemes in the context of ACSs;
- for VAT there is a further instrument to insert ACS into the list of schemes and/or undertakings the management of which are exempt from VAT.

ACSs will be outside the charge to SDRT under Schedule 19 to the Finance Act 1999.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17
	negligible	negligible	negligible	negligible	negligible
This measure is expected to have a negligible impact on the Exchequer					
Economic impact	The introduction of the ACS is designed to retain business in or attract business to the UK. The wider impact is covered in the Regulatory impact assessment. 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 and civil society organisations	The impact on the compliance costs and admin burdens to business as a result of the tax measures are expected to be negligible as these only facilitate the use of a fund structure by investors.				

Operational impact (£m) – (HMRC or other)	The impact on HMRC will be negligible.
Other impacts	No significant impacts have been identified. However the wider impact of the Regulatory change is covered in the Regulatory impact assessment which was issued in January 2012 with a Regulatory Consultation Document.

Monitoring and evaluation

This policy may be kept under review through communication with groups affected by the measure. 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).

Declaration

The Rt. Hon Greg Clarke MP, Financial Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.

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