
Taxation of unit trusts for pension schemes and charities – Exempt Unit Trusts (EUTs)

Part 27-01-01

This document should be read in conjunction with section 731(5) Taxes Consolidation Act (TCA), 1997.

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Introduction

There is a type of unit trust (commonly referred to as an “exempt unit trust”) which is recognised by tax law in section 731(5) TCA 1997. These unit trusts are not authorised by the Central Bank under the Unit Trusts Act 1990, as they are not open to the public generally and consequently are unauthorised. Investment in these unit trusts is confined to pension schemes and charities and they are specifically excluded from being an investment undertaking under both the old or “net” (section 738 TCA 1997) and new or “gross roll-up” (section 739B TCA 1997) investment undertaking taxation regimes.

1. Background

Exempt unit trusts have existed since the 1960s and were specifically formed for investment by approved pension schemes and charities. At that time there was no taxation regime in place for unit trusts and they were exempted from income tax by concession. When capital gains tax was introduced in 1975, specific provision was made in section 31 Capital Gains Tax Act (CGT) 1975, to exempt such unit trusts from CGT. Exemption from income tax continued as a concession. Section 71 Finance Act 2001 provided a legislative basis for the exemption from income tax and deposit interest retention tax.

2. Tax exemption

The tax exemption provided by section 731(5) TCA 1997, covers CGT, income tax and deposit interest retention tax. Additionally, section 172C(2)(db) TCA 1997 provides an exemption from dividend withholding tax. This exempt treatment for the unit trust is conditional on all of the underlying unit holders in the trust themselves being person who are wholly exempt from CGT otherwise that by reason of residence.

The Revenue practice in relation to these unit trusts continues to be that only approved pension schemes and charities may be unit holders. The holding of units by any other category of person will prejudice the “exempt” status of the unit trust. To ensure that such “exempt” status continues to apply, section 30 Finance Act 2010 introduced a reporting requirement whereby each unit trust must make an annual declaration and return ([Form EUT1](#)) to

Revenue Large Cases Division,
Financial Services (Insurance and Investment Funds),
Ballaugh House,
73-79 Lower Mount Street,
D02 PX37

listing each unit holder in the unit trust.

3. Implementation of the Alternative Investment Fund Managers Directive (AIFMD)

As a consequence of the implementation of the Alternative Investment Fund Managers Directive (AIFMD) in 2013, some unit trusts now require to be authorised by the Central Bank and, as a result, will fall outside the provisions of section 731(5) TCA 1997. Following authorisation by the Central Bank, such unit trusts will be subject to the provisions of section 739B TCA 1997 as authorised unit trusts (within the meaning of the Unit Trusts Act 1990).