STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 5

COMPLIANCE

Information relating to distributions

Application of section 234A of ICTA

70.—(1) Section 234A of ICTA(**1**) (information relating to distributions) applies in relation to an authorised investment fund with any necessary modifications.

(2) In the appropriate statement sent under that section to a participant within the charge to corporation tax, the legal owner of the authorised investment fund must include a statement showing the legal owner's net liability to corporation tax in respect of the gross income.

(3) In paragraph (2)—

"gross income" has the same meaning as in regulation 50, and

"net liability to corporation tax" is to be construed in accordance with regulation 49(3).

Interest distributions

Notification of interest distributions made without deduction of tax

71.—(1) If, during a tax year, an authorised investment fund has made interest distributions without deduction of tax, the legal owner must give notice of that fact to the Commissioners within 14 days of the end of that tax year.

(2) Notice given under paragraph (1)—

(a) must be in writing, and

(b) has effect for the tax year in which it is given and for subsequent tax years until the notice is withdrawn.

(3) An authorised investment fund that fails to comply with paragraph (1) is liable to a penalty not exceeding £3,000 determined in accordance with section 100 of TMA 1970(**2**).

(4) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970(**3**) apply to a penalty determined in accordance with paragraph (3).

(**1**) Section 234A was inserted by section 32(1) of the Finance (No. 2) Act 1992 (c. 48) and amended by paragraph 2(2) of Schedule 37 to the Finance Act 1996 (c. 8).

(**2**) 1970 c. 9. Section 100 was substituted by section 167 of the Finance Act 1989 (c. 26). There are amendments to section 100 but none is relevant.

(**3**) Sections 100A and 100B were substituted by section 167 of the Finance Act 1989, and section 100B was amended by paragraph 31 of Schedule 19 to the Finance Act 1994 and section 115(7) of the Finance Act 1995 (c. 4) and by S.I. 1994/1813. Section 102 was amended by section 168(40 of the Finance Act 1989. Section 118(2) was amended by Part VII of Schedule 8 to the Finance Act 1970 (c. 24) and by section 94 of the Finance (No. 2) Act 1987 (c. 51).

Information about interest distributions made without deduction of tax

72.—(1) The Commissioners may by notice require a person specified in paragraph (2) to provide them with such information as they may reasonably require for the purpose of determining whether interest distributions were properly made by that person without deduction of tax.

(2) The persons specified are—

(a) an open-ended investment company;

(b) the authorised corporate director of an open-ended investment company;

(c) a trustee of an authorised unit trust.

(3) The information to be provided may include copies of any relevant books, documents or other records.

(4) The information must be provided within such time (not being less than 14 days) as may be specified in the notice.

Inspection of records

73.—(1) A person specified in regulation 72(2) must, whenever required to do so, make available for inspection by an officer of the Commissioners authorised for that purpose, at such time as that officer may reasonably require, all such copies of books, documents or other records in their possession or under their control as may be required by the Commissioners under regulation 72.

(2) Every qualifying certificate supplied to a legal owner under Chapter 2 of Part 4 (participants chargeable to income tax) must be preserved by the legal owner in such manner as may be approved by the Commissioners for two years after it has ceased to be otherwise required under the provisions of these Regulations.

Use of information

74.—(1) Information obtained by the Commissioners under regulation 72 or 73—

(a) must not be used for the purpose of ascertaining the tax liability (if any) of any person other than the persons specified in paragraph (2), and

(b) must otherwise be used only for the purposes of these Regulations.

(2) The persons specified in this paragraph are—

(a) the open-ended investment company in question;

(b) the trustees of the authorised unit trust in question;

(c) a participant who is beneficially entitled to an interest distribution made without deduction of tax to whom the information obtained relates;

(d) where the whole of an interest distribution made to or received under a trust without deduction of tax is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, that person in so far as the information obtained relates to him; and

(e) where an interest distribution is made to or received under a trust without deduction of tax and sub-paragraph (d) does not apply, the trustees of that trust and any beneficiary of the trust to whom the information obtained relates.

(3) In paragraph (2)(e) "any beneficiary of the trust" means—

(a) any person who is, or will or may become, entitled to any income of the trust, whether in the form of income or not, and

(b) any person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by the trustees of the trust.

(4) Paragraph (1) does not prevent any disclosure of information authorised under section 182(5) of the Finance Act 1989(**4**).

Residence declarations

Inspection of residence declarations

75.—(1) The legal owner of an authorised investment fund must, on being required to do so by a notice given by an officer of the Commissioners, make available for inspection by such an officer—

(a) any residence declarations made to the authorised investment fund under Chapter 2 of Part 4 (participants chargeable to income tax), or

(b) any specified declaration or description of declarations.

(2) If a notice has been given to the legal owner under paragraph (1), the declarations shall be made available within such time as may be specified in the notice and the person carrying out the inspection may take copies of or extracts from them.

(**4**) 1989 c. 26. Section 182(5) was amended by section 18(5) of the Child Trust Funds Act 2004 (c. 6).