

## STATUTORY INSTRUMENTS

# 2006 No. 964

## The Authorised Investment Funds (Tax) Regulations 2006

### [<sup>F1</sup>PART 6A

#### FUNDS INVESTING IN NON-REPORTING OFFSHORE FUNDS

### [<sup>F1</sup>CHAPTER 5

#### Disposal of units in FINROFs

##### Textual Amendments

- F1** Pt. 6A inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2010 \(S.I. 2010/294\)](#), regs. 1(1), **21** (with regs. 25, 26)

##### Application of this Chapter

**85U.** This Chapter applies if a participant disposes of an asset and at the time of the disposal—

- (a) the asset consists of units in a FINROF, or
- (b) the asset consists of units in an authorised investment fund that is not a FINROF and the requirements specified in paragraph (3) of regulation 85M are met.

##### Disposal of an asset: the basic rule

**85V.**—(1) There is a disposal of an asset for the purposes of this Part if there would be a disposal of an asset for the purposes of TCGA 1992.

(2) Paragraph (1) is subject to the following regulations in this Chapter.

##### Provisions applicable on death

**85W.**—(1) Notwithstanding anything in paragraph (b) of subsection (1) of section 62 of TCGA 1992 (general provisions applicable on death: no deemed disposal by the deceased), where a person dies and the assets of which the deceased was competent to dispose at the time of death include units in a FINROF, then, for the purposes of these Regulations—

- (a) immediately before the acquisition referred to in paragraph (a) of that subsection, those units shall be deemed to be disposed of by the deceased for such a consideration as is mentioned in that subsection; but
- (b) nothing in this regulation affects the determination, in accordance with regulation 85U, of the question whether that deemed disposal is one to which this Chapter applies.

(2) Subject to paragraph (1), section 62 of TCGA 1992 applies for the purposes of these Regulations as it applies for the purposes of that Act, and the reference in that paragraph to the

assets of which a deceased person was competent to dispose are to be construed in accordance with subsection (10) of that section.

#### **Application of section 135 of TCGA 1992**

**85X.**—(1) Section 135 of TCGA 1992 (exchange of securities for those in another company treated as not involving a disposal) does not apply for the purposes of this Part to the extent that—

- (a) the interest in the entity that is company A for the purposes of that section that is exchanged is units in a FINROF, and
- (b) the interest in the entity that is company B for those purposes that is exchanged is not units in such a fund.

(2) In a case where section 135 of TCGA 1992 would apply apart from paragraph (1), the exchange in question shall for the purposes of this Part constitute a disposal of units in the FINROF for a consideration equal to their market value at the time of the exchange.

#### **Application of section 136 of TCGA 1992**

**85Y.**—(1) Section 136 of TCGA 1992 (scheme of reconstruction involving issue of securities treated as exchange not involving disposal) does not apply for the purposes of this Part to the extent that—

- (a) the interest in the entity that is company A for the purposes of that section that is exchanged is units in a FINROF, and
- (b) the interest in the entity that is company B for those purposes that is exchanged is not units in such a fund.

(2) In a case where section 136 of TCGA 1992 would apply apart from paragraph (1), the deemed exchange in question shall for the purposes of this Part constitute a disposal of units in the FINROF for a consideration equal to their market value at the time of the deemed exchange.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER 5.