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## STATUTORY INSTRUMENTS

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# 2006 No. 964

## The Authorised Investment Funds (Tax) Regulations 2006

### PART 7

#### CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS

##### CHAPTER 2

##### MODIFICATIONS OF THE TAX ACTS

#### Introduction

**93.** In their application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds,

the Tax Acts have effect with the modifications specified in regulations 94 to <sup>[F1]</sup>96A].

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#### Textual Amendments

- F1** Word in [reg. 93](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2012 \(S.I. 2012/519\)](#), [regs. 1\(1\), 7](#)

#### <sup>[F2]</sup>Modifications of TMA 1970

**93A.**—(1) TMA 1970 is modified as follows.

(2) In section 98(4E) (special returns etc.)—

- (a) in paragraph (a) for “trustees of an authorised unit trust” substitute “legal owner of an authorised investment fund”;
- (b) in paragraph (b)—
  - (i) for “trustees” substitute “legal owner”, and
  - (ii) for “do not comply” substitute “does not comply”; and
- (c) in paragraph (d) for “trustees” substitute “legal owner”.]

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#### Textual Amendments

- F2** [Reg. 93A](#) inserted (6.4.2007) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/794\)](#), [regs. 1\(1\), 5](#)

## Modifications of ICTA

94.—(1) ICTA is modified as follows.

(2) In section 402 (surrender of relief between members of groups and consortia) after subsection (3) the following subsection is treated as inserted—

“(3AA) For the purposes of this Chapter—

- (a) an open-ended investment company cannot be either the surrendering company or the claimant company, and
- (b) an authorised unit trust shall not be regarded as a company.”.

(3) In section 413 (interpretation of Chapter 4), in subsection (2), the following definitions are treated as inserted at the appropriate places—

““authorised unit trust” has the meaning given by section 468(6);

“open-ended investment company” has the meaning given by section 468A(2);”.

(4) In section 413 after subsection (3) the following subsection is treated as inserted—

“(3A) For the purposes of paragraph (a) of subsection (3) above an open-ended investment company cannot be the third company mentioned in that paragraph.”.

[<sup>F3</sup>(4A) After paragraph (b) of section 432A(1ZA) of ICTA (apportionment of income and gains), there is treated as inserted—

“(ba) income from property income distributions to which regulation 69Z15 of the Authorised Investment Funds (Tax) Regulations 2006 apply (property income distributions by an open-ended investment company.”]

(5) In section 832 (interpretation of the Tax Acts) after subsection (2) [<sup>F4</sup>the following subsection is treated as inserted] —

“(2A) The definition of “ordinary share capital” does not include the issued share capital of an open-ended investment company.”.

(6) In section 834 (interpretation of the Corporation Tax Acts), in subsection (3), the words “except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those Regulations ” are treated as substituted for the words from “except in so far as” to the end.

(7) In Schedule 20 (charities: qualifying investments and loans) after paragraph 6 the following paragraph is treated as inserted—

“6A. Shares in an open-ended investment company.”.

### Textual Amendments

**F3** Reg. 94(4A) inserted (with effect in accordance with reg. 1(2)(4) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), 28

**F4** Words in reg. 94(5) substituted (6.4.2007) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/794\)](#), regs. 1(1), 6

## Modifications of FA 1996

[<sup>F5</sup>95.—(1) FA 1996 is modified as follows.

[<sup>F6</sup>(1A) In section 297 (trading credits and debits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

“(1A) For the purposes of subsection (1) a “diversely owned AIF is treated as being party to all of its loan relationships other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) “diversely owned AIF” has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.”.

(1B) In section 573 (trading debits and credits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

“(1A) For the purposes of subsection (1) a diversely owned AIF is treated as being party to all of its derivative contracts other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) “diversely owned AIF” has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.”.]

(2) In paragraph 4 of Schedule 10 (loan relationships: collective investment schemes: company holdings in unit trusts and offshore funds)—

(a) in sub-paragraph (1)(a) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”,

(b) in sub-paragraph (1)(b) the word “, company” is treated as inserted after the word “scheme”,

(c) in sub-paragraph (4) the words “or open-ended investment company” are treated as inserted after the words “authorised unit trust”,

(d) in sub-paragraph (5) the words “scheme, fund or open-ended investment company” are treated as substituted for the words “scheme or fund”, and

(e) the following sub-paragraph is treated as inserted at the end—

“(7) In this paragraph “open-ended investment company” has the same meaning as in sub-paragraph (7A)(b) of paragraph 8 below; and sub-paragraphs (7A) to (7D) of that paragraph apply for the purposes of this paragraph as they apply for the purposes of paragraph 8.”.

(3) In paragraph 8 of Schedule 10 (loan relationships: collective investment schemes: non-qualifying investments test)—

(a) in sub-paragraph (1)—

(i) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”, and

(ii) the word “, company” is treated as inserted after the words “investments of the scheme”;

(b) in sub-paragraph (2)—

(i) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”, and

(ii) the word “, company” is treated as inserted after the words “investments of the scheme”.]

### Textual Amendments

- F5** Reg. 95 substituted (30.6.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2008 \(S.I. 2008/1463\)](#), regs. 1, 2

**F6** Reg. 95(1A)(1B) inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **30**

**Modifications of ITTOIA 2005**

**96.**—(1) ITTOIA 2005 is modified as follows.

[<sup>F7</sup>(1A) In the application of the provisions specified in paragraph (1B) in relation to a Property AIF and a Tax Elected Fund—

- (a) for “the total” substitute “an”, and
- (b) the amount available for distribution as PAIF distribution (interest) or TEF distribution (non-dividend), as the case may be, shall be treated as the amount available for distribution as yearly interest.

(1B) The specified provisions are—

- (a) section 373(1) (open-ended investment company interest distributions), and
- (b) section 376(1) (authorised unit trust interest distributions).]

(2) The words “, except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those regulations ” are treated as inserted at the end of each of the provisions specified in paragraph (3).

(3) The provisions specified are—

- (a) section 374(1) (date when open-ended investment company interest distributions made),
- (b) section [<sup>F8</sup>377(1)] (date when authorised unit trust interest distributions made),
- (c) section 387(1) (date when open-ended investment company dividend distributions made), and
- (d) section 390(1) (date when authorised unit trust dividend distributions made).

(4) In sections 375(1) (interpretation of sections 373 and 374) and 388(1) (interpretation of sections 386 and 387) the definition of “the OEIC Regulations” is treated as omitted.

(5) In those provisions, the following definitions are treated as substituted for the definitions of “open-ended investment company”, “owner of shares” and “umbrella company”—

““open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 applies,

“owner of shares”, in relation to an open-ended investment company, has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005, <sup>F9</sup> ...

<sup>F9</sup> .....

(6) In sections 375(3) and 388(3) the words “ regulations under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 6(2) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ” are treated as substituted for the words from “Chapter 3 of Part 12 of ICTA” to the end.

**Textual Amendments**

**F7** Reg. 96(1A)(1B) inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **31(2)**

**F8** Word in reg. 96(3)(b) substituted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **31(3)**

**F9** Words in reg. 96(5) revoked (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**[<sup>F10</sup>Modification of CTA 2009**

**96A.**—(1) CTA 2009 is modified as follows.

(2) In section 490 (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights)—

(a) for subsection (2) the following subsection is treated as substituted—

“(2) The Corporation Tax Acts have effect for the accounting period in accordance with subsections (3) and (3A) as if—

(a) the relevant holding were rights under a creditor relationship of the company, and

(b) any distribution in respect of the relevant holding were not a distribution (and accordingly is within Part 5).”;

(b) after subsection (3) the following subsections are treated as inserted—

“(3A) To the extent that any distribution to which subsection (2)(b) applies relates to an unfranked part of a dividend distribution—

(a) regulation 48(2)(b) of the Authorised Investment Funds (Tax) Regulations 2006 applies to determine the amount of the distribution and any tax treated as deducted from that distribution, and

(b) regulations 48A and 48B of those Regulations apply to determine the amount of any foreign income and the foreign element of the tax treated as deducted.

(3B) For the purposes of subsection (3A)—

(a) “dividend distribution” has the meaning given by regulation 22(3) of the Authorised Investment Funds (Tax) Regulations 2006, and

(b) regulation 49 of those Regulations explains how to calculate the unfranked part of the dividend distribution.”; and

(c) subsections (4) and (5) are treated as omitted.]

**Textual Amendments**

**F10** Reg. 96A inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2012 (S.I. 2012/519), regs. 1(1), **8**

**Changes to legislation:**

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER 2.