
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

[^{F1}PART 4A

PROPERTY AIFS

[^{F1}CHAPTER 5

THE TREATMENT OF PARTICIPANTS IN PROPERTY AIFS

Textual Amendments

- F1** Pt. 4A inserted (6.4.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2008 \(S.I. 2008/705\)](#), regs. 1, 5

Treatment of distributions: liability to tax of participants

Property income distributions: liability to tax of participants

69Z18.—(1) A property income distribution received by a participant in an open-ended investment company to which this Part applies shall be treated—

- (a) in the case of a participant within the charge to corporation tax, as profits of a Schedule A business, and
 - (b) in the case of a participant within the charge to income tax, as the profits of a UK property business (within the meaning of section 264 of ITTOIA 2005).
- (2) A distribution received by a participant who is not resident in the United Kingdom—
- (a) if the participant is a company within the charge to corporation tax, shall be chargeable to tax as profits of a Schedule A business,
 - (b) if the participant is a person other than a company within the charge to corporation tax, shall be chargeable to tax as profits of a UK property business (within the meaning of section 264 of ITTOIA 2005), and
 - (c) in either case shall not be chargeable to tax by virtue of sections 971 and 972 of ITA 2007 (non-resident landlords).
- (3) Paragraph (1) shall not apply in relation to a participant if and in so far as the participant—
- (a) is a dealer in respect of distributions (within the meaning of section 95 of ICTA),
 - (b) is a dealer in securities who is charged to tax under Part 2 of ITTOIA 2005 (trading income) in respect of distributions made by companies,
 - (c) is an individual member of Lloyd's (within the meaning given by section 184(1) of FA 1993) and the distribution is made in respect of assets forming part of—
 - (i) a premium trust fund of his (within the meaning given by section 174 of FA 1993), or

- (ii) an ancillary trust fund of his (within the meaning given by section 176 of FA 1993),
or
- (d) is a corporate member of Lloyd's (within the meaning given by section 230(1) of FA 1994) and the distribution is made in respect of assets forming part of—
 - (i) a premium trust fund of his (within the meaning given by section 222 of FA 1994), or
 - (ii) an ancillary trust fund of his (within the meaning given by section 223 of FA 1994).
- (4) Section 114(1)(a) of ICTA (partnerships with companies as members) does not disapply paragraph (1).
- (5) Sections 231 of ICTA and 397 of ITTOIA 2005 (tax credits in respect of qualifying distributions) shall not apply to property income distributions.
- (6) Property income distributions received by one participant acting in one capacity shall be treated, for the purposes of paragraph (1), as the profits of a single business which is separate from—
 - (a) any other Schedule A business carried on by the participant,
 - (b) any other UK property business (within the meaning of section 264 of ITTOIA 2005) carried on by the participant,
 - (c) any overseas property business (within the meaning of section 70A(4) of ICTA) carried on by the participant, and
 - (d) any overseas property business (within the meaning of section 265 of ITTOIA 2005) carried on by the participant.
- (7) In the case of a participant which is a partnership, paragraph (6) applies to receipts by a partner of a share of any distribution as it applies to receipts by a participant.

PAIF distributions (interest): liability to tax of participants

- 69Z19.**—^{F2}(1) A PAIF distribution (interest) received by a participant in an open-ended investment company to which this Part applies shall be treated—
- (a) in the case of a participant within the charge to corporation tax, as if it were interest arising from a loan relationship; and
 - (b) in the case of a participant within the charge to income tax, as if it were a payment of yearly interest falling within Chapter 2 of Part 4 of ITTOIA 2005.]
- (2) Sections 231 of ICTA and 397 of ITTOIA 2005 (tax credits in respect of qualifying distributions) shall not apply to PAIF distributions (interest).

Textual Amendments

- F2** Reg. 69Z19(1) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **24**

Property distributions (dividends): liability to tax of participants

- 69Z20.**—(1) A PAIF distribution (dividends) received by a participant in an open-ended investment company to which this Part applies shall be treated as if it were a dividend on shares.
- (2) If a PAIF distribution (dividends) is made for a distribution period to a participant chargeable to corporation tax, regulations 48 to 52A shall not apply to the distribution.

Distributions made after cessation

- 69Z21.**—(1) This regulation applies if an open-ended investment company—
- (a) is a company to which this Part applies in respect of an accounting period,
 - (b) makes a distribution in respect of that accounting period, and
 - (c) the distribution is made after cessation.
- (2) Regulations 69Z18 to 69Z20 apply in relation to the distribution.

Deduction of tax from distributions

Deduction of tax from property income distributions

69Z22.—(1) On making a property income distribution, an open-ended investment company to which this Part applies must deduct a sum representing income tax at the basic rate in force for the tax year in which the distribution date falls.

(2) A property income distribution shall be treated as having been received by the participant after deduction of income tax at the basic rate for the year of assessment in which the distribution date falls, from a corresponding gross amount.

(3) The sum is accordingly taken into account under sections 59B and 59D of TMA 1970 (see also paragraph 8 of Schedule 18 to the Finance Act 1998) in determining the income tax or corporation tax payable by, or repayable to, the participant.

(4) This regulation is subject to regulation 69Z24 (distribution payments to be made without deduction of tax).

Deduction of tax from PAIF distributions (interest)

69Z23.—(1) On making a PAIF distribution (interest), an open-ended investment company to which this Part applies must deduct a sum representing income tax at the [^{F3}basic rate] in force for the tax year in which the PAIF distribution (interest) is made.

(2) Accordingly, the sum is one to which section 874 of ITA 2007 applies.

^{F4}(3)

(4) This regulation is subject to regulation 69Z24 (distribution payments to be made without deduction of tax).

Textual Amendments

F3 Words in reg. 69Z23(1) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **25(a)**

F4 Reg. 69Z23(3) omitted (1.1.2009) by virtue of [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **25(b)**

Distribution payments to be made without deduction of tax

69Z24.—(1) [^{F5}Subject to paragraphs (3A) and (3B),] on making a distribution, an open-ended investment company to which this Part applies must not deduct any sum representing income tax if the company reasonably believes that conditions A and B are met.

(2) Condition A is that if the distribution were made by a UK-REIT out of the profits of C (tax-exempt), the distribution would be required to be made without any deduction representing income tax.

(3) Condition B is that if the distribution were a distribution of yearly interest, the distribution would be required to be made without any deduction representing income tax.

[^{F6}(3A) But neither condition A nor condition B is met, in relation to a unit trust scheme, where—

- (a) the distribution is made to the trustee of the scheme;
- (b) the trustee is chargeable to corporation tax or income tax on the distribution in the United Kingdom; and
- (c) the trustee has made a request in writing to the Property AIF that the Property AIF should deduct tax from the distribution.

(3B) The Property AIF must not specify that the trustee of any unit trust scheme seeking to acquire shares in the Property AIF must have tax deducted from any distribution.]

(4) If at the time it makes a distribution the company reasonably believes that conditions A and B are met, but in fact those conditions are not both met, these Regulations shall apply to the distribution as if it were never one which could be made without deduction of tax.

(5) In paragraph (2) “profits of C (tax-exempt)” shall be construed in accordance with Part 4 of FA 2006.

Textual Amendments

- F5** Words in reg. 69Z24(1) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **26(a)**
- F6** Reg. 69Z24(3A)(3B) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **26(b)**

[^{F7}Manufactured dividends representing property income distributions

69Z24A.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of property income distributions to which regulation 69Z15 applies.

(2) The amount of the manufactured dividend falling within paragraph (1) is referred to in this regulation as “the manufactured PID amount”.

(3) The recipient of the manufactured PID amount is treated as having received a distribution to which regulation 69Z18 applies.

(4) In relation to the dividend manufacturer—

- (a) if the dividend manufacturer is a company and the manufactured dividend is paid in the course of a trade carried on in the United Kingdom, the manufactured PID amount shall be treated as an expense of the trade;
- (b) if the manufactured dividend is paid in connection with investment business, the manufactured PID amount shall be treated for the purposes of section 75 of ICTA as expenses of management; and
- (c) in the case of a company carrying on life assurance business, so much of the manufactured PID amount as would be referable by virtue of section 432A of ICTA to basic life assurance and general annuity business if it were received by the company shall be treated for the

purposes of section 76 of ICTA as if it were an expense payable falling to be brought into account at step 3 of section 76(7).

- (5) Regulations 69Z22, 69Z24 and 69Z29 to 69Z35 apply to the dividend manufacturer as if—
- (a) the dividend manufacturer were an open-ended investment company to which this Part applies; and
 - (b) the manufactured PID amount were a distribution to which those regulations apply.]

Textual Amendments

F7 Regs. 69Z24A-69Z24D inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **27**

[^{F7}Manufactured dividends representing PAIF distributions (interest)]

69Z24B.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of a PAIF distribution (interest) to which regulation 69Z16 applies.

(2) The amount of the manufactured dividend to which this regulation applies is referred to in this regulation as the “manufactured PAIF interest amount”.

(3) If the recipient of the manufactured dividend is a company within the charge to corporation tax it is treated as having received, in relation to the manufactured PAIF interest amount, an amount to which section 97 of FA 1996 applies.

(4) If the recipient of the manufactured dividend is within the charge to income tax it is treated as having received, in relation to the manufactured PAIF interest amount, an amount to which regulation 69Z19 applies.

(5) If the dividend manufacturer is a company within the charge to corporation tax, section 97 of FA 1996 is treated as applying to the manufactured PAIF interest amount.

(6) Regulations 69Z23, 69Z24 and 69Z29 to 69Z35 apply to the dividend manufacturer in relation to the manufactured PAIF interest amount as if the dividend manufacturer were an open-ended investment company to which this Part applies.]

Textual Amendments

F7 Regs. 69Z24A-69Z24D inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **27**

[^{F7}Manufactured dividends – PAIF distributions (dividends)]

69Z24C.—(1) This regulation applies to the extent that a manufactured dividend which is paid by a dividend manufacturer is representative of a PAIF distribution (dividends) to which regulation 69Z17 applies.

(2) The recipient of the manufactured dividend is treated as having received, to that extent, an amount to which regulation 69Z20 applies.

(3) If the dividend manufacturer is a company, paragraph 2(2)(b) of Schedule 23A to ICTA has effect in relation to the amount of the manufactured dividend to which paragraph (1) applies.]

Textual Amendments

- F7** Regs. 69Z24A-69Z24D inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), 27

[^{F7} Interpretation

69Z24D. In regulations 69Z24A to 69Z24C, “manufactured dividend” and “dividend manufacturer” have the meanings given by Schedule 23A to ICTA .]

Textual Amendments

- F7** Regs. 69Z24A-69Z24D inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), 27

[^{F8} Conversions and exchanges

Textual Amendments

- F8** [Regs. 69Z24E-69Z24H](#) and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2012 \(S.I. 2012/1783\)](#), regs. 1(1), 4

Conversion to property AIF

69Z24E.—(1) This regulation applies if—

- (a) a fund (“the pre-conversion fund”) which is not a property AIF becomes, or intends to become, a property AIF,
- (b) the unit-holders in the pre-conversion fund dispose of the units which they hold in that fund (“the original units”) and, as part of an arrangement, acquire units of the same, or substantially the same, value as the original units in the fund which is, or is intended to become, the dedicated feeder fund for the property AIF, and
- (c) the further requirement of regulation 69Z24G is met.

(2) Sections 127 to 131 of TCGA apply in relation to the disposal and subsequent acquisition of units specified in this regulation.

(3) A fund converting to a property AIF in accordance with this regulation shall be treated as meeting condition A in regulation 69K (the corporate ownership condition) where the conditions in paragraph (4) are met, notwithstanding that the holding of a body corporate in the property AIF may exceed the percentage mentioned in regulation 69K(3)(a) during the relevant period.

(4) The conditions in this paragraph are that—

- (a) during the relevant period, no distributions are declared or made,
- (b) any distribution which was declared before the beginning of the relevant period is paid before the beginning of that period, and
- (c) the units held by the body corporate in the property AIF are exchanged for units in the dedicated feeder fund as soon as reasonably practicable.

(5) In this regulation, “the relevant period” is the period beginning with the time at which the fund becomes a property AIF and ending with the time at which the units in the dedicated feeder fund for the property AIF are issued to a participant which is a body corporate.

Exchange of units

69Z24F.—(1) This regulation applies if—

(a) there is—

- (i) an exchange of units in a dedicated feeder fund for shares in the property AIF for which that fund is the dedicated feeder fund, or
- (ii) an exchange of shares in a property AIF for units in the dedicated feeder fund for that property AIF, and

(b) the further requirement of regulation 69Z24G is met.

(2) The units to be exchanged in accordance with either paragraph (1)(a) or (b) must represent the same, or substantially the same, share of the net asset value of the property AIF as the units which are held immediately after the exchange.

(3) Sections 127 to 131 of TCGA 1992 apply in relation to a disposal or acquisition of units or shares specified in paragraph (1).

Further requirement

69Z24G. The further requirement is that if a transaction involves the acquisition of units in a dedicated feeder fund, that it is undertaken with the agreement of the manager of the property AIF.

Application of section 137 of TCGA

69Z24H. Section 137 of TCGA (restriction on application of tax treatment) applies to any transaction specified in regulations 69Z24E or 69Z24F in the circumstances mentioned in that section.]]

Changes to legislation:

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER5.