
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 4

**THE TREATMENT OF PARTICIPANTS
IN AUTHORISED INVESTMENT FUNDS**

CHAPTER 2

PARTICIPANTS CHARGEABLE TO INCOME TAX

The non-liability condition

The non-liability condition

34.—(1) The non-liability condition is met with respect to a participant on the distribution date if conditions A and B are met.

(2) Condition A is that the person beneficially entitled to the interest distribution is unlikely to be liable to pay any amount by way of income tax for the tax year in which the interest distribution is made.

(3) Condition B is that a qualifying certificate has been given to the legal owner of the authorised investment fund.

(4) A qualifying certificate must be signed by the person giving it.

Qualifying certificates

35. For the purposes of these Regulations a “qualifying certificate” means a certificate that meets the following conditions—

- (a) the contents condition (see regulation 36);
- (b) the supplier condition (see regulation 37);
- (c) the time limit condition (see regulation 38);
- (d) the continuing validity condition (see regulation 39);
- (e) the qualifying circumstances condition (see regulation 40); and
- (f) if applicable, the joint holding condition (see regulation 41).

The contents condition

36.—(1) The contents condition is met if conditions A to C are met.

(2) Condition A is that the certificate contains a statement to the effect that the person beneficially entitled to the interest distribution is unlikely to be liable to pay any amount by way of income tax for the tax year in which the payment is made.

(3) Condition B is that the certificate contains an undertaking by the person giving it to notify the legal owner if the person beneficially entitled to the interest distribution becomes liable to pay any amount by way of income tax for the tax year in which the interest distribution is made.

(4) Condition C is that the certificate contains the following further three items of information.

(5) Item 1 is the name, permanent residential address including postcode, and date of birth of the person beneficially entitled to the payment.

(6) Item 2 is the national insurance number of an individual within paragraph (5)—

- (a) who is aged 16 or over at the beginning of the year in which the payment is made, and
- (b) who, at any time within the period of three years ending with the date on which a certificate is signed, has been liable to pay Class 1 or Class 2 contributions within the meaning of—
 - (i) section 1(2) of the Social Security Contributions and Benefits Act 1992(1), or
 - (ii) section 1(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2).

The Commissioners may indicate in a particular case that this item of information is not required.

(7) Item 3 is the following details relating to the participant's holding of units in the authorised investment fund to which the certificate relates—

- (a) the name of the authorised investment fund,
- (b) the name of the fund manager, and
- (c) the reference number relating to the participant (if any).

The supplier condition

37.—(1) The supplier condition is met if the person giving the certificate is a person within any of categories A to G below.

(2) Category A is an individual who is—

- (a) aged 16 or over at the beginning of the tax year in which the interest distribution is made, and
- (b) beneficially entitled to the interest distribution.

(3) Category B is the parent or guardian of a person beneficially entitled to the payment if that person is under the age of 16 at the beginning of the tax year in which the interest distribution is made.

(4) Category C is an individual beneficially entitled to the payment who is under the age of 16 at the beginning of the tax year in which the interest distribution is made, but will reach that age during that tax year.

(5) Category D is the donee of a power of attorney authorising that person to administer the financial affairs of a person beneficially entitled to the payment.

(6) Category E is a parent, guardian, spouse or son or daughter of a person suffering from mental disorder.

(7) Category F is a receiver or other person appointed by any court in the United Kingdom to act in relation to the property and affairs of a person incapable, by reason of mental disorder, of managing and administering his property and affairs.

(8) Category G is a person—

(1) 1992 c. 4.

(2) 1992 c. 7.

- (a) appointed by the Secretary of State under paragraph (1) of regulation 33 of the Social Security (Claims and Payments) Regulations 1987⁽³⁾, whose appointment has not been revoked or terminated, or who has not resigned his office, in accordance with paragraph (2) of that regulation, or
- (b) in Northern Ireland, appointed by the Department for Social Development under paragraph (1) of regulation 33 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽⁴⁾, whose appointment has not been revoked or terminated, or who has not resigned his office, in accordance with paragraph (2) of that regulation.

The time limit condition

38.—(1) The time limit condition is met if the certificate is given to the legal owner by the specified time.

(2) In the cases of all categories specified in regulation 37 except for category C, the specified time is the end of the tax year in which the interest distribution is made.

(3) In the case of category C in regulation 37, the specified time is the end of the tax year in which the individual beneficially entitled to the interest distribution reaches the age of 16.

The continuing validity condition

39.—(1) The continuing validity condition is met if the qualifying certificate continues in full force and effect and has not ceased to be valid.

(2) The qualifying certificate ceases to be valid in circumstances A to E.

(3) Circumstance A is the receipt, by the legal owner, of information that the person beneficially entitled to the interest distribution has become liable to pay an amount by way of income tax for the tax year in which the payment is made.

(4) Circumstance B is the ending of the tax year in which the person beneficially entitled to the payment reaches the age of 16 in a case where paragraph (3) of regulation 37 (the supplier condition) applies.

(5) Circumstance C is the failure by a person who has given a qualifying certificate under paragraph (4) of regulation 37, but is not the holder of the holding to which the certificate for units relates, to become the holder before the first interest distribution made after the end of the tax year in which he reaches the age of 16.

(6) Circumstance D is where the Commissioners, having reason to believe that a person beneficially entitled to an interest distribution is or has become liable to pay an amount by way of income tax, by notice require the legal owner to deduct tax under section 349(2) of ICTA from interest distributions which—

- (a) are made in respect of a holding specified in the notice, and
- (b) are made to or for the benefit of that person after the expiry of a period of 30 days beginning with the date on which the notice is issued.

(7) Circumstance E is where the legal owner receives notification that the person by whom or on whose behalf the certificate was given has died.

(8) If the Commissioners issue a notice under paragraph (6), they must, at the same time, send a copy to the person referred to in the notice.

(3) [S.I. 1987/1968](#).

(4) [S.R. \(NI\) 1987 No. 465](#).

The qualifying circumstances condition

40.—(1) The qualifying circumstances condition is met in all circumstances except those circumstances in which condition A or B applies.

(2) Condition A applies if section 629 of ITTOIA 2005 (income paid to unmarried minor children of settlor) applies to the payment.

(3) Condition B applies if the holding to which the qualifying certificate relates is specified in a notice which—

- (a) has been issued under regulation 39(6), and
- (b) has not been cancelled.

The joint holding condition

41.—(1) The joint holding condition is met if—

- (a) more than one person is entitled to an interest distribution,
- (b) paragraph (2) of regulation 44 (notice relating to payments made under deduction of tax) is not applicable, and
- (c) either condition A or B is met.

(2) Condition A is that a qualifying certificate is given by or on behalf of each person beneficially entitled to the interest distribution.

(3) Condition B is that a qualifying certificate is given by or on behalf of one or more (but not all) of the persons beneficially entitled to the interest distribution.

Qualifying certificates valid for only part of jointly held accounts: introductory

42.—(1) Regulations 43 and 44 apply if—

- (a) condition A in regulation 41 is met, and
- (b) a qualifying certificate has ceased to be valid in one of circumstances A to D in regulation 39 (the continuing validity condition).

(2) Regulations 43 and 44 also apply if condition B in regulation 41 is met.

Qualifying certificates valid for only part of jointly held accounts: the general rule

43.—(1) The general rule is that it is to be assumed that each person is beneficially entitled in equal shares to the interest distribution, and accordingly—

- (a) payment of so much of the interest distribution as corresponds to the share of any person by or on behalf of whom a qualifying certificate has given must be made without deduction of tax; and
- (b) payment of the remainder of the interest distribution must be made under deduction of tax.

(2) For all the purposes of the Income Tax Acts, tax deducted from a payment within paragraph (1) (b) is treated as income tax paid by the persons to whom the payment is treated as made.

(3) If this regulation applies by virtue of regulation 42(2), it applies in relation to a payment of interest made at any time after the time when the qualifying certificate ceased to be valid.

This is subject to paragraph (4).

(4) In a case where circumstance D of regulation 39 applies, this regulation applies in relation to a payment of interest made at any time—

- (a) after the expiry of a period of 30 days beginning with the date of issue of the notice referred to in that circumstance D, or
 - (b) after such date falling within that period as the legal owner may at its option determine.
- (5) This regulation is subject to regulation 44.

Qualifying certificates valid for only part of jointly held accounts: further provisions

44.—(1) The legal owner of an authorised investment fund may give notice to the Commissioners of its intention that the whole of an interest distribution specified in the notice shall be made under deduction of tax.

(2) If notice is given under paragraph (1), regulation 43 does not apply; and, accordingly, tax must be deducted by the legal owner from any payment of an interest distribution which is made after the date of the notice, and to which the notice relates.

(3) The legal owner of an authorised investment fund may give notice to the Commissioners (a “cancellation notice”) cancelling a notice given under paragraph (1).

(4) If a cancellation notice is given, regulation 43 applies to any payment of an interest distribution which is made after the date of the cancellation notice, and to which the notice given under paragraph (3) formerly related.

Consequences of notice under regulation 39(6)

45.—(1) This regulation applies if the Commissioners issue a notice under regulation 39(6).

(2) No further qualifying certificate may be given by or on behalf of the person referred to in the notice in respect of units specified in the notice.

This is subject to paragraphs (3) and (4).

(3) If the Commissioners are satisfied, as a result of information received following the issue of the notice, that the person referred to in the notice—

- (a) was not liable at the date of the notice, and has not since become liable, to pay an amount by way of income tax, or
- (b) is no longer liable to pay such an amount,

they must cancel the notice and give notice of the cancellation to the legal owner and the person referred to in the notice.

(4) If, under paragraph (3), the Commissioners cancel the notice, a further qualifying certificate may be given on behalf of the person referred to in the notice.

Qualifying certificate not in writing

46.—(1) If a qualifying certificate is not in writing, the legal owner concerned may—

- (a) make a declaration in writing on behalf of the person giving the qualifying certificate (“the relevant person”) that the particulars contained in the certificate are those recorded in the declaration, and
- (b) send a copy of the declaration (“the copy declaration”) to the relevant person.

(2) The declaration takes effect as from the date on which the copy declaration is sent to the relevant person in accordance with paragraph (1).

This is subject to paragraph (3).

(3) The relevant person may notify any corrections to the legal owner within the period of 30 days beginning with the date on which the copy declaration was sent to him; and the corrections may be incorporated in a revised declaration made by the legal owner.

(4) A qualifying certificate is regarded as being given in writing for the purposes of this regulation if it is given by electronic communication containing an electronic signature of the relevant person.

(5) For the purposes of this regulation a declaration made by the legal owner is regarded as made in writing if it is produced by electronic means; and the copy declaration may be sent to the relevant person by telephonic facsimile transmission or by electronic communication.