
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

[^{F1}PART 4A

PROPERTY AIFS

CHAPTER 2

ENTRY INTO AND MEMBERSHIP OF THE PROPERTY AIF REGIME

[^{F1}Procedural matters relating to the giving of notice for this Part to apply

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

Notice: further provisions: quashing notices

69R.—(1) This regulation applies if any of conditions A to C are met.

(2) Condition A is that an existing company notice is given, but the notice is not accompanied by the documents specified in regulation 69Q(3)(b).

(3) Condition B is that a future company notice is given, but the notice is not accompanied by the documents specified in regulation 69Q(5)(b).

(4) Condition C is that a person gives a notice under regulation 69O in circumstances where the documents supplied do not demonstrate that the open-ended investment company (or the proposed open-ended investment company) will meet all the conditions of membership of the Property AIF regime.

(5) HM Revenue and Customs may give a notice (a “quashing notice”) quashing the notice given under regulation 69O—

- (a) to the manager of the open-ended investment company if an existing company notice has been given, or
- (b) to the applicant if a future company notice has been given.

Procedure relating to quashing notices

69S.—(1) HM Revenue and Customs must not give a quashing notice until—

- (a) they have given a notice (a “preliminary notice”) to the person giving the notice under regulation 69O specifying the reasons why the preliminary notice is given, and
- (b) they have given the person giving the notice under regulation 69O a period of 28 days to rectify the matters specified in the preliminary notice.

Paragraph (1)(b) is subject to paragraphs (7) to (9).

(2) HM Revenue and Customs must give a preliminary notice within a period of 28 days beginning with the day on which they receive the notice given under regulation 69O.

(3) HM Revenue and Customs must—

- (a) give a quashing notice, or
- (b) give notice to the manager of the open-ended investment company or to the applicant (as the case may be) that they are satisfied that the matters specified in the preliminary notice have been rectified,

within a period of 28 days beginning on the day specified in paragraph (4).

(4) The day specified is whichever is the earlier to occur of—

- (a) the day immediately following the expiry of the period specified in the preliminary notice, and
- (b) the day on which HM Revenue and Customs receive notice from the manager of the open-ended investment company or from the applicant (as the case may be) that the manager or applicant thinks—
 - (i) that the matters specified in the preliminary notice have been rectified, or
 - (ii) that the original notice given under regulation 69O is valid.

(5) If HM Revenue and Customs give a preliminary notice, the open-ended investment company (or, as the case may be, the proposed open-ended investment company) in respect of which the notice is given may not enter the Property AIF regime until HM Revenue and Customs have notified the manager of the company (or, as the case may be, the applicant) that they are satisfied that the matters specified in the preliminary notice have been rectified.

(6) If HM Revenue and Customs give a quashing notice, and the person to whom the notice is given appeals, the open-ended investment company (or, as the case may be, the proposed open-ended investment company) in respect of which the notice is given may not enter the Property AIF regime until the appeal is determined.

(7) The period of 28 days mentioned in paragraph (1)(b) is replaced by the period referred to in paragraph (9) if, within that 28 day period, the conditions specified in paragraph (8) are met.

(8) The conditions are that—

- (a) HM Revenue and Customs and the applicant are in agreement as to the changes needed to the notice or to the documents accompanying the notice (or to both),
- (b) the applicant has given notice to HM Revenue and Customs stating that the changes referred to in sub-paragraph (a) will take a specified period (which is longer than 28 days) to effect, and
- (c) HM Revenue and Customs have given notice to the applicant accepting the statement made in the notice given under sub-paragraph (b).

(9) The period is the specified period mentioned in paragraph (8)(b).

Appeal against quashing notice

69T.—(1) A person to whom a quashing notice is given may appeal ^{F2}....

(2) The notice of appeal must be given to HM Revenue and Customs within a period of 28 days beginning with the day on which the quashing notice is given.

(3) On an appeal [^{F3}that is notified to the tribunal, the tribunal] shall determine whether it was just and reasonable for HM Revenue and Customs to give the quashing notice.

(4) If the [^{F4}tribunal allows] the appeal—

- (a) [^{F5}the tribunal may] direct that this Part shall apply to the open-ended investment company (or, as the case may be to the proposed open-ended investment company), and
 - (b) [^{F5}the tribunal may] specify the date from which this Part shall so apply.
- (5) The date mentioned in paragraph (4)(b)—
- (a) must not be earlier than the beginning of the specified accounting period if an existing company notice has been given, and
 - (b) must not be earlier than the date of incorporation and authorisation if a future company notice has been given.]

Textual Amendments

- F2** Words in reg. 69T(1) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(2)**
- F3** Words in reg. 69T(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(3)**
- F4** Words in reg. 69T(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(4)(a)**
- F5** Words in reg. 69T(4)(a)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 156(4)(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, Cross Heading: Procedural matters relating to the giving of notice for this Part to apply.