
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 6

FURTHER PROVISIONS RELATING TO AUTHORISED INVESTMENT FUNDS

CHAPTER 1

GENERAL

Non-discrimination in respect of different classes of shares

77.—(1) This regulation applies if the distribution accounts show an amount as available for distribution to participants.

(2) There must not be any discrimination between participants in respect of different classes of shares.

(3) There is no such discrimination if condition A and either condition B or C is met.

(4) Condition A is that the differences are wholly attributable to differences between the amounts or treatment for accounting purposes of the charges or expenses which—

(a) are permitted by the instrument of incorporation of the open-ended investment company concerned or the prospectus in issue for the time being of that company (including any supplements to that prospectus) or by the trust deed under which the authorised unit trust is constituted, and

(b) are payable out of the scheme property of that authorised investment fund in respect of the shares of those classes.

(5) Condition B is that the authorised investment fund is able to show that the differences between the amounts or treatment for accounting purposes of the charges or expenses referred to in condition A apply for bona fide commercial reasons.

(6) Condition C is that the differences are not such as to enable the participants in any one of those classes to obtain a tax advantage which they would not obtain if there were no differences between the amounts or treatment for accounting purposes of those charges or expenses.

(7) In paragraph (6) “tax advantage” has the same meaning as in Chapter 1 of Part 17 of ICTA (cancellation of tax advantages from transactions in securities).