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STATUTORY INSTRUMENTS

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**2006 No. 3239**

**CORPORATION TAX**

**The Authorised Investment Funds  
(Tax) (Amendment) Regulations 2006**

*Made - - - - 6th December 2006*  
*Laid before the House of*  
*Commons - - - - 6th December 2006*  
*Coming into force - - 7th December 2006*

The Treasury make the following Regulations in exercise of the powers conferred by sections 17(3) and 18 of the Finance (No. 2) Act 2005<sup>(1)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Authorised Investment Funds (Tax) (Amendment) Regulations 2006 and shall come into force on 7th December 2006.

**Amendment of the Authorised Investment Funds (Tax) Regulations 2006**

2. The Authorised Investment Funds Regulations 2006<sup>(2)</sup> shall be amended by inserting the following regulation after regulation 52—

**“Banks and other financial traders: treatment of certain amounts of tax as foreign tax**

**52A.—**(1) This regulation applies if conditions A to D are met.

(2) Condition A is that an authorised investment fund makes a dividend distribution to which regulation 48(2) applies.

(3) Condition B is that there is some foreign tax suffered by the authorised investment fund in respect of which relief is given or falls to be given in accordance with any arrangements having effect by virtue of section 788 of ICTA (relief by agreement with other territories) or by way of a credit under section 790(1) of that Act (unilateral relief).

(4) Condition C is that the dividend distribution is made to a participant carrying on—

(a) a banking business, or

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(1) 2005 c. 22.  
(2) S.I. 2006/964.

- (b) any other business where a distribution from an authorised investment fund is treated as a trading receipt.
- (5) Condition D is that the participant, either alone or together with connected persons (and otherwise than as a nominee or bare trustee), owns units which represent rights to 50% or more of the net asset value of the authorised investment fund.
- (6) But rights in an authorised investment fund held as assets of a company's long-term insurance fund are not treated as held by the participant (either alone or together with connected persons) for the purposes of determining whether the participant owns units which represent rights to 50% or more of the net asset value of the authorised investment fund.
- (7) Section 839 of ICTA(3) (connected persons) applies for the purposes of this regulation.
- (8) For the purposes of the specified provisions, an amount of tax equal to the participant's portion of the foreign tax mentioned in paragraph (3) is treated as foreign tax and not as United Kingdom tax.
- (9) For the purposes of paragraph (8) the participant's portion shall be determined by reference to the proportions in which participants have rights in the authorised investment fund in the distribution period in question.
- (10) In paragraph (8) "the specified provisions" means—
- (a) section 798A of ICTA(4) (limits for credit on foreign tax: corporation tax on trade income), and
  - (b) section 804C of ICTA(5) (insurance companies: allocation of expenses etc. in computations under Case I of Schedule D) to the extent that it applies to business of a company which is not long-term business.
- (11) In this regulation "long-term business" and "long-term insurance fund" have the same meanings as in Chapter 1 of Part 12 of ICTA (insurance companies etc.)."

*Claire Ward  
Dave Watts*

Two of the Lords Commissioners of Her  
Majesty's Treasury

6th December 2006

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(3) Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995 (c. 4) and by paragraph 340 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(4) Section 798A was substituted by section 86(1) of the Finance Act 2005 (c. 7).

(5) Section 804C was inserted by paragraph 18(1) of Schedule 30 to the Finance Act 2000 (c. 17) and amended by paragraph 11(2) to (4) of Schedule 33 to the Finance Act 2003 (c. 14).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Authorised Investment Funds Regulations 2006 (S.I. 2006/964) by inserting a new regulation 52A.

The new regulation applies if a participant is carrying on a banking business or any other business where a distribution from an authorised investment fund is treated as a trading receipt; if the participant, either alone or together with connected persons, owns units which represent rights to 50% or more of the net value of the authorised investment fund; and if the authorised investment fund makes a dividend distribution to such a participant in circumstances where there is some foreign tax suffered by the authorised investment fund which is eligible for double taxation relief. In such a case, an amount of tax equal to the participant's portion of the foreign tax is treated as foreign tax and not as United Kingdom tax for the purposes of section 798A of the Income and Corporation Taxes Act 1988 (c. 1) (limits for credit on foreign tax: corporation tax on trade income) and of section 804C of that Act (insurance companies: allocation of expenses etc. in computations under Case I of Schedule D) to the extent that section 804C applies to business of a company which is not long-term business.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.