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STATUTORY INSTRUMENTS

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**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 residence condition*

**The residence condition**

**30.**—(1) The residence condition is met with respect to a participant on the distribution date if any of conditions A to E is met.

(2) Condition A is that, in relation to an interest distribution which is not made to or received under a trust, there is a valid declaration, made by the participant, that the participant is not ordinarily resident in the United Kingdom.

(3) Condition B is—

- (a) that the participant holds the units as the personal representative of a deceased person, and
- (b) that the deceased, before his death, made a declaration, valid at the time of his death, that he was not ordinarily resident in the United Kingdom.

(4) Condition C is—

- (a) that the participant holds the units as the personal representative of a deceased person, and
- (b) that the personal representative has made a declaration that the deceased, immediately before his death, was not ordinarily resident in the United Kingdom.

(5) Condition D is that, in the case of an interest distribution made to or received under a trust where the whole of the income is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, the income of a person other than the trustees of that trust, there is a valid declaration, made by the person in question that he is either not ordinarily resident or, in the case of a company, not resident in the United Kingdom.

(6) Condition E is that, in circumstances in which condition D does not apply and with respect to a participant in the case of an interest distribution made to or received under a trust, there is a valid declaration, made by the trustees of that trust that—

- (a) the trustees are not resident in the United Kingdom, and
- (b) each beneficiary of the trust is either not ordinarily resident or, in the case of a beneficiary which is a company, not resident in the United Kingdom.

**Residence declarations**

- 31.**—(1) A declaration made for the purposes of regulation 30 must—
- (a) be in such form as may be required or authorised by the Commissioners;
  - (b) be made in writing to the legal owner of the authorised investment fund in question; and
  - (c) contain any details or undertakings required by paragraphs (2) to (4) below.
- (2) A declaration made for the purposes of condition A or B in regulation 30 must contain—
- (a) the name and principal residential address of the person making it; and
  - (b) an undertaking that he will notify the legal owner if he becomes ordinarily resident in the United Kingdom.
- (3) A declaration made for the purposes of condition C in regulation 30 must contain the name of the deceased and his principal residential address immediately before his death.
- (4) A declaration made for the purposes of condition D or E in regulation 30 must contain—
- (a) the names and principal residential addresses of the trustees of the trust or, in the case of a trustee which is a company, the name of the company and the address of its registered or principal office;
  - (b) the names and principal residential addresses of the beneficiaries of the trust or, in the case of a beneficiary which is a company, the name of the company and the address of its registered or principal office; and
  - (c) an undertaking that the trustees of the trust will notify the legal owner of the authorised investment fund in question if—
    - (i) they become resident in the United Kingdom,
    - (ii) any beneficiary of the trust named in the declaration becomes ordinarily resident or, in the case of a company, resident in the United Kingdom, or
    - (iii) any person who becomes a beneficiary of the trust after the making of the declaration either is at the time of becoming a beneficiary, or subsequently becomes, ordinarily resident or, in the case of a company, resident in the United Kingdom.

**References to beneficiaries in regulations 30 and 31**

- 32.** In regulations 30 and 31 references to a beneficiary are references to any person who is known to the trustees of the trust to be either—
- (a) a person who is or will or may become, entitled to any income of the trust, whether in the form of income or not, or
  - (b) a person to whom any such income may be paid, or for whose benefit any such income may be applied, whether in the form of income or not, in the exercise of a discretion by them.

**Interest distributions: the position of the legal owner**

- 33.**—(1) For the purposes of determining whether an interest distribution should be made with or without any deduction, the legal owner is entitled to treat a declaration made for the purposes of regulation 30 as valid.
- (2) But the legal owner may not treat a declaration as valid if condition A or B is met.
- (3) Condition A is that the legal owner receives a notification in compliance with an undertaking under regulation 31 that a person in question has become resident or ordinarily resident in the United Kingdom.

(4) Condition B is that the legal owner comes into possession of information by some other means which indicates that such a person is or may be resident or ordinarily resident in the United Kingdom.