
STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 4

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

CHAPTER 3

PARTICIPANTS CHARGEABLE TO CORPORATION TAX

Interest distributions

The obligation to deduct tax

47.—(1) This regulation applies if an interest distribution is made for a distribution period to a participant chargeable to corporation tax.

(2) The deduction obligation does not apply to the interest distribution.

(3) But if the participant is a company which is the trustee of the trust to which (or under which) the interest distribution is made (or received), the deduction obligation is not excluded by virtue of paragraph (2).

(4) In its application to an interest distribution to a participant in respect of accumulation units, the deduction obligation is an obligation to deduct a sum out of the amount being invested on the participant's behalf.

Dividend distributions

General

48.—(1) Paragraph (2) applies if—

- (a) a dividend distribution for a distribution period is made to a participant by the legal owner of an authorised investment fund, and
- (b) on the distribution date for that distribution period the participant is within the charge to corporation tax.

(2) [^{F1}Subject to paragraphs (2A) and (2B),] for the purpose of computing the corporation tax chargeable upon the participant, the unfranked part of the dividend distribution is treated—

- (a) as an annual payment and not as a dividend distribution or an interest distribution; and
- (b) as having been received by the participant after deduction of income tax at the [^{F2}basic rate] for the [^{F3}tax year] in which the distribution date falls, from a corresponding gross amount.

[^{F4}(2A) But paragraph (2) does not apply to a dividend distribution to which [^{F5}Chapter 2 of Part 3 of CTA 2009] applies.

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Changes to legislation: There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER 3. (See end of Document for details)

(2B) If, on the distribution date, the participant is the manager of the authorised investment fund, paragraph (2) shall not apply to the extent that the rights in respect of which the dividend distribution is made are held by him in the ordinary course of the manager's business as manager of the fund.]

(3) Regulation 49 explains how to calculate the unfranked part of the dividend distribution.

[^{F6}(4) This regulation does not apply in respect of a holding in a qualified investor scheme if the scheme has not met the genuine diversity of ownership condition in regulation [^{F7}9A] in relation to an accounting period.]

Textual Amendments

- F1** Words in reg. 48(2) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **13(2)**
- F2** Words in reg. 48(2)(b) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **13(3)(a)**
- F3** Words in reg. 48(2)(b) substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **13(3)(b)**
- F4** Reg. 48(2A)(2B) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **13(4)**
- F5** Words in [reg. 48\(2A\)](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2010 \(S.I. 2010/294\)](#), regs. 1(1), **14**
- F6** Reg. 48(4) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **13(5)**
- F7** Word in reg. 48(4) substituted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **12**

Calculation of unfranked part of dividend distribution

49.—(1) This is how to calculate the unfranked part of the dividend distribution—

$$U = \frac{A \times C}{D}$$

(2) In paragraph (1)—

U = the unfranked part of the dividend distribution to the participant;

A = the amount of the dividend distribution;

C = such amount of the gross income as does not derive from franked investment income, as reduced by an amount equal to the legal owner's net liability to corporation tax in respect of the gross income;

D = the amount of the gross income, as reduced by an amount equal to the legal owner's net liability to corporation tax in respect of the gross income.

[^{F8}(2A) For the purpose of calculating the value of C in paragraph (1) in relation to a distribution made by an authorised investment fund (“AIF1”) to a participant, the amount of any distribution from another authorised investment fund (“AIF2”) which is treated by AIF1 as an annual payment by virtue of regulation 48(2)(a), shall be treated as not deriving from franked investment income arising to AIF2.]

(3) Any reference in this regulation to the legal owner's net liability to corporation tax in respect of the gross income is a reference to the amount of the liability of the legal owner to corporation tax in respect of that gross income less the amount (if any) of any reduction of that liability which 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).

Textual Amendments

- F8** Reg. 49(2A) inserted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **14**

References to gross income

[^{F9}50. For the purposes of this Chapter, references to gross income are references to the net revenue before taxation determined in accordance with the Statement of Recommended Practice.]

Textual Amendments

- F9** Reg. 50 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2010 \(S.I. 2010/294\)](#), regs. 1(1), **15** (with reg. 24)

[^{F10}Participants chargeable to corporation tax: holdings in qualified investor schemes where scheme does not meet the genuine diversity of ownership condition

51.—(1) This regulation applies if—

- (a) a participant has a holding in a qualified investor scheme, and
- (b) the scheme has not met the genuine diversity of ownership condition in regulation [^{F11}9A] in relation to an accounting period.

(2) Section 212 of TCGA 1992 (annual deemed disposal of holdings of unit trusts etc.) does not apply to the participant in relation to that accounting period.

(3) Paragraph 4 of Schedule 10 to FA 1996 (company holdings in unit trusts and offshore funds) shall not apply to the participant in relation to that accounting period.]

Textual Amendments

- F10** Reg. 51 substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **15**
- F11** Word in reg. 51(1)(b) substituted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **13**

Repayments of tax

52.—(1) This regulation applies if, in relation to a dividend distribution, any tax is treated as having been deducted by virtue of regulation 48(2)(b).

(2) The amount to which the participant is entitled by way of repayment of that tax must not exceed the amount of the participant's portion of the legal owner's net liability to corporation tax in respect of the gross income.

(3) In calculating the amount to which the participant is entitled by way of repayment of that tax, tax treated as having been deducted by virtue of regulation 48(2)(b) is set off in priority to any other tax under section 7(2) of ICTA and under paragraph 5 of Schedule 16 to that Act.

Status: Point in time view as at 06/03/2010.

Changes to legislation: There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, CHAPTER 3. (See end of Document for details)

(4) For the purposes of paragraph (2) 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.

[^{F12}Companies carrying on general insurance business: treatment of certain amounts of tax as foreign tax

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

(2) Condition A is that—

- (a) an authorised investment fund makes a dividend distribution, to which regulation 48(2) applies, to a participant carrying on general insurance business, and
- (b) the distribution mentioned in sub-paragraph (a) falls to be brought into account as a trading receipt of that business.

(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 participant—

- (a) owns units which represent rights to 10% or more of the net asset value of the authorised investment fund; and
- (b) does not own those units as a nominee or a bare trustee.

(5) But, for the purposes of paragraph (4), 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.

(6) For the purposes of the specified provisions, an amount 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.

(7) For the purposes of paragraph (6), 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.

(8) In paragraph (6), “the specified provisions” means—

- (a) section 804C of ICTA (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; and
- (b) regulation 48.

(9) In this regulation—

“general insurance business” means the business of effecting and carrying out contracts of insurance falling within Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“long-term business” has the meaning given in section 431(2) of ICTA (interpretative provisions relating to insurance companies).]

Textual Amendments

F12 Reg. 52A substituted (1.1.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), 16

[^{F13}**Diversely owned AIFs and financial traders: treatment of shares and units**

52B.—(1) This regulation and regulation 52C apply if a financial trader has held, or holds, shares or units in a diversely owned AIF.

(2) In computing the trading profits or losses of the financial trader for the relevant period, the following amounts must be brought into account—

- (a) all distributions received by or credited to the financial trader in respect of such shares or units for the relevant period; and
- (b) any amount required to be brought into account under regulation 52C.

(3) In this regulation and in regulation 52D(2) references to distributions are subject to section 130 of CTA 2009 (insurers receiving distributions etc).

(4) In this regulation and in regulations 52C and 52D—

“relevant period” means—

- (a) in the case of a financial trader within the charge to corporation tax, an accounting period, and
- (b) in the case of a financial trader within the charge to income tax, a period of account;

“financial trader” has the meaning given by regulation 52E.

Textual Amendments

F13 Regs. 52B-52E inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, 14

Financial traders: amounts to be brought into account in respect of shares or units held in diversely owned AIFs

52C.—(1) The only amounts that are to be brought into account in computing the trading profits or losses in respect of the shares or units in the diversely owned AIF for the relevant period are—

- (a) amounts that are brought into account in accordance with Cases 1 to 4, and
- (b) amounts within regulation 52B(2)(a).

This is subject to section 130 of CTA 2009 (insurers receiving distributions etc) and regulation 52D.

(2) Case 1 applies if the financial trader held the shares or units in a diversely owned AIF at the beginning of the relevant period and holds those shares or units throughout that period.

Where Case 1 applies, the amount to be brought into account is the difference between the market value of the shares or units at the end of the immediately preceding relevant period and the market value of those shares or units at the end of the relevant period.

(3) Case 2 applies if a financial trader acquired shares or units in a diversely owned AIF during the relevant period and retains those shares or units throughout the relevant period.

Where Case 2 applies, the amount to be brought into account is the difference between the market value of the shares or units at the end of the relevant period and the acquisition cost of those shares or units.

(4) Case 3 applies if the financial trader held shares or units in a diversely owned AIF at the beginning of the relevant period and disposes of those shares or units during that period.

Where Case 3 applies the amount to be brought into account is the difference between the market value of the shares or units at the end of the immediately preceding relevant period and the disposal value of the shares or units.

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(5) Case 4 applies if the financial trader acquires shares or units in a diversely owned AIF during the relevant period and disposes of those shares or units during that period.

Where Case 4 applies the amount to be brought into account is the difference between the acquisition cost of the shares or units and the disposal value of those shares or units.

(6) In this regulation—

“acquisition cost” means the value of the consideration given for the acquisition of the shares or units;

“disposal value” means the value of the consideration received for the disposal of the shares or units;

“market value” means—

- (a) in the case of shares or units in a diversely owned AIF where both the buying and selling prices of units are published regularly by the manager of the fund, an amount equal to the buying price (that is the lower price) so published on any particular date or, if none were published on that date, on the latest date before;
- (b) in the case of shares or units in a diversely owned AIF where a single price is published regularly by the manager of the fund, the price so published on any particular date, or if none were published on that date, on the latest date before.

Textual Amendments

F13 Regs. 52B-52E inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, 14

Shares and units not within regulation 52C

52D.—(1) Regulation 52C does not apply in respect of any shares or units in a diversely owned AIF in relation to which—

- (a) conditions A and B are both satisfied, or
- (b) condition C is satisfied.

(2) Condition A is that the shares or units in the diversely owned AIF form part of the financial trader’s stock in trade and all the profits and losses, including distributions, arising in relation to the shares or units in the diversely owned AIF are included in the computation of the financial trader’s trading profits for the relevant period.

(3) Condition B is that the shares or units in the diversely owned AIF are accounted for under generally accepted accounting practice on the basis of fair value accounting.

(4) Condition C is that the shares or units in the diversely owned AIF are a relevant holding in respect of which the provisions of section 490 of CTA 2009 apply in relation to the financial trader.

(5) In paragraph (4) “relevant holding” means—

- (a) any rights under a unit trust scheme;
- (b) a material interest in an offshore fund; or
- (c) any shares in an open-ended investment company.

Textual Amendments

F13 Regs. 52B-52E inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, 14

Meaning of financial trader

52E.—(1) In regulations 52B, 52C and 52D “financial trader” means a person who is carrying on a business which is—

- (a) a banking business,
- (b) an insurance business, or
- (c) a business consisting wholly or in part of dealing in trading assets such that any profit on such assets would form part of the trading profits of that business.

This paragraph is subject to paragraphs (2) and (3).

(2) “An insurance business” in paragraph (1)(b) does not include life assurance business carried on by an insurance company and in the event that such a company carries on both life assurance business and any other insurance business that company will not be a financial trader in respect of the life assurance business.

(3) If—

- (a) a financial trader, “A”, directly or indirectly transfers trading assets to a diversely owned AIF under or as part of an arrangement which has an unallowable purpose, and
- (b) a connected person, “B”—
 - (i) holds shares or units in that diversely owned AIF at the time of the transfer; or
 - (ii) directly or indirectly acquires shares or units in that diversely owned AIF at a later time,

B is treated as being a financial trader in relation to those shares or units.

(4) In paragraphs (1) and (3) “trading assets” means—

- (a) stocks or shares;
- (b) a relevant contract within regulation 14G;
- (c) a loan relationship within regulation 14L;
- (d) units in a collective investment scheme within regulation 14M;
- (e) securities within regulation 14F;
- (f) foreign currency; or
- (g) a carbon emission trading product within regulation 14N,

a profit on the sale of which would form part of the trading profits of the financial trader.

(5) An arrangement includes any scheme, understanding or transaction of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.

(6) An arrangement has an unallowable purpose if the main purpose or one of the main purposes for either A or B being party to the arrangement is to obtain a tax advantage or an income tax advantage for any person.

(7) In paragraph (6)—

“tax advantage” has the meaning given by section of 840ZA of ICTA; and

“income tax advantage” has the meaning given by section 683 of ITA 2007.]

Textual Amendments

F13 Regs. 52B-52E inserted (1.9.2009) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2009 (S.I. 2009/2036), regs. 1, 14

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