
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}The property investment business condition

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

The property investment business condition

69E.—(1) The property investment business condition is that the open-ended investment company must meet conditions A and B throughout the accounting period.

(2) Condition A is that the company’s instrument of incorporation and its prospectus (including any supplements to the prospectus) include a statement that the company’s investment objectives are—

- (a) to carry on property investment business, and
- (b) to manage cash raised from investors for investment in the property investment business.

(3) Condition B is that the company must carry on property investment business.

(4) In this Part “prospectus” includes any supplements to a prospectus.

Meaning of “property investment business”

69F.—(1) In this Part “property investment business” means business consisting of any one or more of—

- (a) property rental business (see regulation 69H);
- (b) owning shares in UK-REITs; and
- (c) owning shares or units in an entity in circumstances in which conditions A to C are met.

(2) In these Regulations “UK-REIT” means a company or group to which Part 4 of FA 2006 applies.

(3) Condition A is that the entity is—

- (a) a property company, or

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- (b) a unit trust scheme or similar contractual arrangement—
 - (i) which is not a collective investment scheme,
 - (ii) which has defined capital,
 - (iii) which is listed on a recognised stock exchange, and
 - (iv) where there is no obligation on the manager of the scheme to provide opportunities for redemption of the investment.
- (4) Condition B is that the entity is not within the charge to corporation tax.
- (5) Condition C is that the entity is equivalent to a UK-REIT in the jurisdiction in which the property company is incorporated, or (as the case may be) in the jurisdiction in which the unit trust scheme or similar contractual arrangement carries on business.
- (6) For the purposes of paragraph (3)(a) a property company is not equivalent to a UK-REIT if—
 - (a) the shares forming the company’s ordinary share capital are not listed on a recognised stock exchange, or
 - (b) it is a company to which section 236 of FISMA 2000 applies.
- (7) In this regulation “recognised stock exchange” has the meaning given by section 1005(1) of ITA 2007.
- (8) This regulation is subject to the further provisions in regulation 69G.

Property investment business: further provisions

- 69G.**—(1) If an open-ended investment company to which this Part applies receives a distribution from a UK-REIT—
- (a) the distribution is income of F (tax-exempt) to the extent that the distribution represents business of C (tax-exempt) carried on by the UK-REIT, and
 - (b) the distribution is income of F (residual) to the extent that the distribution represents business other than business of C (tax-exempt) carried on by the UK-REIT.
- (2) In paragraph (1) “C (tax-exempt)” shall be construed in accordance with Part 4 of the Finance Act 2006.
- (3) If an open-ended investment company to which this Part applies receives a distribution from an entity within regulation 69F(1)(c), the distribution is income of F (tax-exempt) except to the extent that the distribution is identified, at the time at which it is made, as arising from any activity of the entity that is not property rental business.
- (4) For the purposes of this Part an asset is involved in property investment business if—
- (a) it is an estate, interest or right in or over land by the exploitation of which property rental business is conducted;
 - (b) it consists of shares owned by the open-ended investment company in a UK-REIT; or
 - (c) it consists of shares owned by the open-ended investment company in an entity within regulation 69F(1)(c).

Meaning of “property rental business”

- 69H.**—(1) In this Part “property rental business” means—
- (a) property rental business within the meaning given by section 104 of FA 2006, and
 - (b) the relevant business of an intermediate holding vehicle (see regulation 69I).

(2) For the purposes of paragraph (1)(b) the relevant business of an intermediate holding vehicle is its property rental business within the meaning given by section 104 of FA 2006, but disregarding subsection (1)(a) of that section.

(3) For the purposes of this Part an asset is involved in property rental business if—

- (a) it is an estate, interest or right in or over land by the exploitation of which property rental business is conducted, or
- (b) it consists of shares owned by the open-ended investment company in an intermediate holding vehicle.

Meaning of “intermediate holding vehicle”

69I.—(1) For the purposes of regulation 69H, an entity is an “intermediate holding vehicle” in an accounting period if it meets conditions A to F throughout the accounting period.

(2) Condition A is that the vehicle is a company, trust or partnership.

(3) Condition B is that the vehicle is not a collective investment scheme.

(4) Condition C is that the vehicle is wholly owned by the open-ended investment company (the “parent”) or another intermediate holding vehicle or series of intermediate holding vehicles wholly owned by the parent, unless and to the extent that local legislation or regulations relating to the intermediate holding vehicle holding the property specified in paragraph (5) requires a proportion of local ownership.

(5) Condition D is that the function of the intermediate holding vehicle is solely to enable the holding, by the parent, of estates, interests or rights in or over land outside the United Kingdom by the exploitation of which property rental business is conducted.

(6) Condition E is that the intermediate holding vehicle has its accounts consolidated with those of the parent.

(7) Condition F is that all property rental income of the intermediate holding vehicle (or the full proportion of that income representing the interest of the parent in the intermediate holding vehicle) must be reflected in the distribution accounts of the parent at the same time as that income is reflected in the accounts of the intermediate holding vehicle.]

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