

STATUTORY INSTRUMENTS

2006 No. 964

The Authorised Investment Funds (Tax) Regulations 2006

PART 7

CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS

CHAPTER 1

AMENDMENTS OF REFERENCES TO REPEALED ENACTMENTS

Introduction

86. Regulations 87 to 92—

- (a) amend references in enactments to provisions repealed by section 17(1) of the Finance (No. 2) Act 2005, and
- (b) make incidental, consequential and supplemental provision.

Amendments of TMA 1970

87.—(1) TMA 1970 ^{M1} is amended as follows.

(2) In section 98 (penalties in relation to special returns)—

- (a) in subsection (4E) ^{M2} for “Chapter 3 of Part 12 of the principal Act” substitute “ regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ”.
- (b) in the first column of the Table—
 - (i) omit the entry relating to section 468P(6) of ICTA,
 - (ii) omit the entry relating to regulations under section 468PB(3) of ICTA ^{M3}, and
 - (iii) at the end insert—

“regulations under section 17(3) of the Finance (No. 2) Act 2005”.

Marginal Citations

M1 1970 c. 9.

M2 Section 98(4E) was inserted by section 203(12) of the [Finance Act 2003 \(c. 14\)](#).

M3 The entries relating to section 468P(6) and to regulations under section 468PB(3) were inserted by section 203(13) of the Finance Act 2003.

Amendment of ICTA

^{F1}**88.**

Textual Amendments

- F1** [Reg. 88](#) revoked (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

Amendment of TCGA 1992

89.—(1) TCGA 1992 is amended as follows.

(2) In section 99B(3)^{M4} (calculation of the disposal cost of accumulation units) for “section 468H of ICTA” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 15 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.

Marginal Citations

- M4** Section 99B was inserted by section 21 of the [Finance \(No. 2\) Act 2005 \(c. 22\)](#).

Amendment of FA 1996

90.—(1) FA 1996^{M5} is amended as follows.

(2) In paragraph 4(4) of Schedule 10^{M6} (loan relationships: company holdings in unit trusts and offshore funds) for “section 468L(3) of the Taxes Act 1988” substitute “regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]))”.

Marginal Citations

- M5** [1996 c. 8](#).
M6 Paragraph 4(4) of Schedule 10 was amended by paragraph 41(3) of Schedule 10 to the [Finance Act 2004 \(c. 12\)](#).

Amendments of ITTOIA 2005

91.—(1) ITTOIA 2005 is amended as follows.

(2) In section 373(2) (open-ended investment company interest distributions) for “subsections (6) and (7)” substitute “subsection (7)”.

(3) In section 376(2) (authorised unit trust interest distributions) for “subsections (6) and (7)” substitute “subsection (7)”.

Amendment of the Finance Act 2005

92.—(1) The Finance Act 2005^{M7} is amended as follows.

(2) In Schedule 2 (alternative finance arrangements: further provisions), omit paragraph 4.

Marginal Citations

- M7** [2005 c. 7](#).

CHAPTER 2 MODIFICATIONS OF THE TAX ACTS

Introduction

93. In their application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds,

the Tax Acts have effect with the modifications specified in regulations 94 to [F²96A].

Textual Amendments

- F2** Word in [reg. 93](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2012 \(S.I. 2012/519\)](#), [regs. 1\(1\), 7](#)

[F³Modifications of TMA 1970

93A.—(1) TMA 1970 is modified as follows.

(2) In section 98(4E) (special returns etc.)—

- (a) in paragraph (a) for “trustees of an authorised unit trust” substitute “legal owner of an authorised investment fund”;
- (b) in paragraph (b)—
 - (i) for “trustees” substitute “legal owner”, and
 - (ii) for “do not comply” substitute “does not comply”; and
- (c) in paragraph (d) for “trustees” substitute “legal owner”.]

Textual Amendments

- F3** [Reg. 93A](#) inserted (6.4.2007) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/794\)](#), [regs. 1\(1\), 5](#)

Modifications of ICTA

94.—(1) ICTA is modified as follows.

(2) In section 402 (surrender of relief between members of groups and consortia) after subsection (3) the following subsection is treated as inserted—

“(3AA) For the purposes of this Chapter—

- (a) an open-ended investment company cannot be either the surrendering company or the claimant company, and
- (b) an authorised unit trust shall not be regarded as a company.”

(3) In section 413 (interpretation of Chapter 4), in subsection (2), the following definitions are treated as inserted at the appropriate places—

““authorised unit trust” has the meaning given by section 468(6);

“open-ended investment company” has the meaning given by section 468A(2);”

(4) In section 413 after subsection (3) the following subsection is treated as inserted—

“(3A) For the purposes of paragraph (a) of subsection (3) above an open-ended investment company cannot be the third company mentioned in that paragraph.”

[^{F4}(4A) After paragraph (b) of section 432A(1ZA) of ICTA (apportionment of income and gains), there is treated as inserted—

“(ba) income from property income distributions to which regulation 69Z15 of the Authorised Investment Funds (Tax) Regulations 2006 apply (property income distributions by an open-ended investment company.”]

(5) In section 832 (interpretation of the Tax Acts) after subsection (2) [^{F5}the following subsection is treated as inserted]—

“(2A) The definition of “ordinary share capital” does not include the issued share capital of an open-ended investment company.”

(6) In section 834 (interpretation of the Corporation Tax Acts), in subsection (3), the words “except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those Regulations ” are treated as substituted for the words from “except in so far as” to the end.

(7) In Schedule 20 (charities: qualifying investments and loans) after paragraph 6 the following paragraph is treated as inserted—

“**6A.** Shares in an open-ended investment company.”

Textual Amendments

F4 Reg. 94(4A) inserted (with effect in accordance with reg. 1(2)(4) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/3159\)](#), regs. 1(1), **28**

F5 Words in reg. 94(5) substituted (6.4.2007) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/794\)](#), regs. 1(1), **6**

Modifications of FA 1996

[^{F6}**95.**—(1) FA 1996 is modified as follows.

[^{F7}(1A) In section 297 (trading credits and debits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

“(1A) For the purposes of subsection (1) a “diversely owned AIF is treated as being party to all of its loan relationships other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) “diversely owned AIF” has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.”

(1B) In section 573 (trading debits and credits to be brought into account under Part 3) after subsection (1) the following subsections are treated as inserted—

“(1A) For the purposes of subsection (1) a diversely owned AIF is treated as being party to all of its derivative contracts other than for the purposes of a trade carried on by it.

(1B) In subsection (1A) “diversely owned AIF” has the meaning given by regulation 14E of the Authorised Investment Funds (Tax) Regulations 2006.”]

(2) In paragraph 4 of Schedule 10 (loan relationships: collective investment schemes: company holdings in unit trusts and offshore funds)—

- (a) in sub-paragraph (1)(a) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”,
 - (b) in sub-paragraph (1)(b) the word “, company” is treated as inserted after the word “scheme”,
 - (c) in sub-paragraph (4) the words “or open-ended investment company” are treated as inserted after the words “authorised unit trust”,
 - (d) in sub-paragraph (5) the words “scheme, fund or open-ended investment company” are treated as substituted for the words “scheme or fund”, and
 - (e) the following sub-paragraph is treated as inserted at the end—
 - “(7) In this paragraph “open-ended investment company” has the same meaning as in sub-paragraph (7A)(b) of paragraph 8 below; and sub-paragraphs (7A) to (7D) of that paragraph apply for the purposes of this paragraph as they apply for the purposes of paragraph 8.”.
- (3) In paragraph 8 of Schedule 10 (loan relationships: collective investment schemes: non-qualifying investments test)—
- (a) in sub-paragraph (1)—
 - (i) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”, and
 - (ii) the word “, company” is treated as inserted after the words “investments of the scheme”;
 - (b) in sub-paragraph (2)—
 - (i) the words “, open-ended investment company” are treated as inserted after the words “unit trust scheme”, and
 - (ii) the word “, company” is treated as inserted after the words “investments of the scheme”.]

Textual Amendments

- F6** Reg. 95 substituted (30.6.2008) by [The Authorised Investment Funds \(Tax\) \(Amendment No. 2\) Regulations 2008 \(S.I. 2008/1463\)](#), regs. 1, 2
- F7** Reg. 95(1A)(1B) inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, 30

Modifications of ITTOIA 2005

96.—(1) ITTOIA 2005 is modified as follows.

[^{F8}(1A) In the application of the provisions specified in paragraph (1B) in relation to a Property AIF and a Tax Elected Fund—

- (a) for “the total” substitute “an”, and
 - (b) the amount available for distribution as PAIF distribution (interest) or TEF distribution (non-dividend), as the case may be, shall be treated as the amount available for distribution as yearly interest.
- (1B) The specified provisions are—
- (a) section 373(1) (open-ended investment company interest distributions), and
 - (b) section 376(1) (authorised unit trust interest distributions).]

(2) The words “, except in so far as regulations made under section 17(3) of the Finance (No. 2) Act 2005 make other provision for dividends treated as paid by virtue of those regulations ” are treated as inserted at the end of each of the provisions specified in paragraph (3).

(3) The provisions specified are—

- (a) section 374(1) (date when open-ended investment company interest distributions made),
- (b) section [F9377(1)] (date when authorised unit trust interest distributions made),
- (c) section 387(1) (date when open-ended investment company dividend distributions made), and
- (d) section 390(1) (date when authorised unit trust dividend distributions made).

(4) In sections 375(1) (interpretation of sections 373 and 374) and 388(1) (interpretation of sections 386 and 387) the definition of “the OEIC Regulations” is treated as omitted.

(5) In those provisions, the following definitions are treated as substituted for the definitions of “open-ended investment company”, “owner of shares” and “umbrella company”—

““open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of FISMA 2000 applies,

“owner of shares”, in relation to an open-ended investment company, has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005, ^{F10}...

^{F10}

(6) In sections 375(3) and 388(3) the words “ regulations under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 6(2) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd])) ” are treated as substituted for the words from “Chapter 3 of Part 12 of ICTA” to the end.

Textual Amendments

- F8** Reg. 96(1A)(1B) inserted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **31(2)**
- F9** Word in reg. 96(3)(b) substituted (1.9.2009) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2009 \(S.I. 2009/2036\)](#), regs. 1, **31(3)**
- F10** Words in reg. 96(5) revoked (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

[^{F11}Modification of CTA 2009

96A.—(1) CTA 2009 is modified as follows.

(2) In section 490 (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights)—

(a) for subsection (2) the following subsection is treated as substituted—

“(2) The Corporation Tax Acts have effect for the accounting period in accordance with subsections (3) and (3A) as if—

- (a) the relevant holding were rights under a creditor relationship of the company, and
- (b) any distribution in respect of the relevant holding were not a distribution (and accordingly is within Part 5).”;

(b) after subsection (3) the following subsections are treated as inserted—

“(3A) To the extent that any distribution to which subsection (2)(b) applies relates to an unfranked part of a dividend distribution—

- (a) regulation 48(2)(b) of the Authorised Investment Funds (Tax) Regulations 2006 applies to determine the amount of the distribution and any tax treated as deducted from that distribution, and
- (b) regulations 48A and 48B of those Regulations apply to determine the amount of any foreign income and the foreign element of the tax treated as deducted.

(3B) For the purposes of subsection (3A)—

- (a) “dividend distribution” has the meaning given by regulation 22(3) of the Authorised Investment Funds (Tax) Regulations 2006, and
- (b) regulation 49 of those Regulations explains how to calculate the unfranked part of the dividend distribution.”; and

(c) subsections (4) and (5) are treated as omitted.]

Textual Amendments

- F11** Reg. 96A inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) \(Amendment\) Regulations 2012 \(S.I. 2012/519\)](#), regs. 1(1), 8

CHAPTER 3

MODIFICATIONS OF TCGA 1992

Preliminary

Introduction

97. In its application in relation to—

- (a) authorised investment funds,
- (b) shareholders or unit holders in authorised investment funds, and
- (c) transactions involving authorised investment funds

TCGA 1992 has effect with the modifications specified in regulations 98 to 110.

General

Application of TCGA 1992: general

98.—(1) TCGA 1992 has effect in relation to—

- (a) open-ended investment companies,
- (b) holdings in, and the assets of, such companies, and
- (c) transactions involving such companies,

in like manner as the manner in which it has effect in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.

(2) References in TCGA 1992 to companies, to holdings in, and the assets of, companies and to transactions involving companies accordingly have effect (or do not have effect as the case may be) in relation to open-ended investment companies, to holdings in, and the assets of, such companies, and to transactions involving such companies, in like manner as the manner in which they have effect

(or do not have effect) in relation to authorised unit trusts, to rights under, and the assets subject to, such trusts, and to transactions for purposes connected with such trusts.

(3) This regulation has effect subject to the other modifications contained in this Chapter.

General modifications of TCGA 1992

General modifications: introduction

99. The modifications specified in regulations 100 to 104 have effect subject to the modifications specified in regulations 105 to 110.

General modification: authorised unit trust

100.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

- (a) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (b) a unit trust scheme as denoting or including (whether expressly or by implication) an authorised unit trust (other than references in a definition of an authorised unit trust, an unauthorised unit trust or a unit trust scheme),
- (c) the trustees of an authorised unit trust within sub-paragraph (a) or of a unit trust scheme within sub-paragraph (b),

have effect as if they included references to an open-ended investment company.

(2) Paragraph (1) does not apply—

- (a) to references in any of the provisions specified in paragraph (3), or
- (b) to references to provisions which include reference, whether made expressly or by implication, to an open-ended investment company.

(3) The provisions specified are—

- (a) section 99(1) (application of Act to unit trust scheme),
- ^{F12}(b)
- (c) section 100(2) (exemption for units in unit trust scheme), and
- (d) section 272(5) (valuation of rights of unit holders).

Textual Amendments

F12 Reg. 100(3)(b) omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **14(a)** (with reg. 1(2))

General modification: manager of authorised unit trust

101.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the manager of an authorised unit trust or of a unit trust scheme within regulation 100(1)(b) have effect as if they included references to the authorised corporate director of the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 272(5) (valuation of rights of unit holders), or

- (b) to references in provisions which include reference, whether made expressly or by implication, to the authorised corporate director of an open-ended investment company.

General modification: unit in authorised unit trust

102.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to—

- (a) a unit or an interest in, or rights under, an authorised unit trust,
- (b) a unit or an interest in, or rights under, a unit trust scheme within regulation 100(1)(b), or
- (c) an entitlement to a share of, or in, the investments subject to the trusts of an authorised unit trust or a unit trust scheme within regulation 100(1)(b),

have effect as if they included references to a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- ^{F13}(b)
- (c) to section 272(5) (valuation of rights of unit holders), or
- (d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Textual Amendments
F13 Reg. 102(2)(b) omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **14(b)** (with reg. 1(2))

General modification: accumulation units in authorised unit trusts

103.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to accumulation units in an authorised unit trust or in a unit trust scheme within regulation 100(1)(b) have effect as if they included references to accumulation shares in an open-ended investment company.

(2) In paragraph (1) “accumulation shares in an open-ended investment company” means shares in the company in respect of which income is credited periodically to the capital part of the scheme property of the company.

General modification: holder of unit in authorised unit trust

104.—(1) The modifications specified in this regulation are that references, however expressed, in TCGA 1992 to the holder of a unit within regulation 102(1) (other than references in a definition of a unit holder) have effect as if they included references to the owner of a share in the open-ended investment company concerned.

(2) Paragraph (1) does not apply—

- (a) to section 99(1) (application of Act to unit trust scheme),
- ^{F14}(b)
- (c) to section 272(5) (valuation of rights of unit holders), or

(d) to references in provisions which include reference, whether made expressly or by implication, to shares in, or an owner of shares in, an open-ended investment company.

Textual Amendments

F14 Reg. 104(2)(b) omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **14(c)** (with reg. 1(2))

Specific modifications of TCGA 1992

Modification of section 99 of TCGA 1992

105. In section 99 of TCGA 1992 (application of Act to unit trust schemes)^{M8}, in subsection (2), the words “ sections 99A and 99AA ” are treated as substituted for “section 99A”.

Marginal Citations

M8 Section 99 was relevantly amended by section 118(2) of the [Finance Act 2004 \(c. 12\)](#).

Insertion of section 99AA of TCGA 1992

^{F15}**106.**

Textual Amendments

F15 Reg. 106 omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **14(d)** (with reg. 1(2))

Modification of section 170 of TCGA 1992

107. In section 170 of TCGA 1992 (groups of companies: interpretation), after subsection (4), the following subsection is treated as inserted—

“(4A) An open-ended investment company cannot be the principal company of a group.”.

Modifications of section 272 of TCGA 1992

108.—(1) Section 272 of TCGA 1992 (valuation: general) is modified as follows.

^{F16}(2)

(3) After subsection (5) the following subsection is treated as inserted—

“(5AA) In this Act “market value” in relation to shares of a given class in an open-ended investment company the prices of which are published regularly by the authorised corporate director of that company (whether or not those shares are also quoted in The Stock Exchange Daily Official List) shall mean an amount equal to the price so published on the relevant date, or if no price was published on that date, on the latest date before that date.”.

Textual Amendments

F16 Reg. 108(2) omitted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by virtue of [The Market Value of Shares, Securities and Strips Regulations 2015 \(S.I. 2015/616\)](#), regs. 1(1), 4 (with reg. 2(2))

Modifications of section 288 of TCGA 1992

109.—(1) Section 288 of TCGA 1992 (interpretation) ^{M9} is modified as follows.

(2) In subsection (1)—

^{F17}(a)

(b) the following definitions are treated as inserted at the appropriate places in alphabetical order—

““authorised corporate director” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”

““open-ended investment company” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 4 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”

““owner of shares” has the meaning given in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 8 of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/[abcd]));”.

Textual Amendments

F17 Reg. 109(2)(a) and word omitted (8.6.2013) by virtue of [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), 14(e) (with reg. 1(2))

Marginal Citations

M9 Section 288 was relevantly amended by section 118(4) of the Finance Act 2004.

Modification of Schedule A1 to TCGA 1992

110. In Schedule A1 to TCGA 1992 (application of taper relief), in paragraph 16(2) (special rules for postponed gains) ^{M10}, at the end of paragraph (f) the word “ , or ” is treated as added and the following paragraph is then also treated as added—

“(g) regulations 67(4) and 68(4) of the Authorised Investment Funds (Tax) Regulations 2006.”.

Marginal Citations

M10 Schedule A1 was inserted by Schedule 20 to the [Finance Act 1998 \(c. 36\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Authorised Investment Funds (Tax) Regulations 2006, PART 7.