STATUTORY INSTRUMENTS

2013 No. 2994

INCOME TAX

CORPORATION TAX

The Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2013

Made - - - - *27th November 2013*

Laid before the House of Commons *28th November 2013*

Coming into force in accordance with regulation 1(1)

The Treasury make the following Regulations in exercise of the powers conferred by sections 17(3)(a) and (b) and 18(1) of the Finance (No. 2) Act 2005(**a**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Authorised Investment Funds (Tax) (Amendment) (No. 2) Regulations 2012 and come into force for the purposes of regulations 7 to 11 on 6th April 2014 and for all other purposes on 19th December 2013.

(2) The amendments made by these Regulations have effect as follows—

(a) regulation 3(a) has effect from 19th December 2013,

(b) regulations 3(b) and 4 to 6 have effect in relation units acquired on or after19th December 2013;

(c) regulations 7 and 8 have effect for the purposes of a person's liability to income tax for the tax year 2014-15 and any subsequent tax year;

(d) regulations 9 to 11 have effect in relation to the making of declarations on or after 6th April 2014. Any declarations made before that date continue to have effect in respect of interest distributions made on or after that date as if those amendments had not been made.

Amendments to the Authorised Investment Funds (Tax) Regulations 2006

2. The Authorised Investment Funds (Tax) Regulations 2006(**b**) are amended as follows.

Gross payment of interest distributions

3. In regulation 26 (deduction of tax where interest distributions made)—

(a) in paragraph (2), for "section 349(2) of ICTA" substitute "section 874 of ITA 2007", and

(**a**) 2005 c. 22, section 18 was amended by paragraph 136 of Schedule 46 to the Finance Act 2013 (c. 29).
(**b**) S.I. 2006/964, relevant amending instruments are S.I. 2007/794, 2008/705 and 2009/2036.

(b) in paragraph (4)—

(i) at the end of sub-paragraph (c) omit "or", and

(ii) at the end insert—

", or

(f) the offshore marketing condition is met with respect to the class of units in relation to which the distribution is made (see regulation 33A).".

4. After regulation 33 insert—

"The offshore marketing condition

33A. The offshore marketing condition is met with respect to a class of units if—

(a) marketing of units of that class is not directed to investors resident in the United Kingdom, and

(b) before units of that class are acquired, information in relation to those units is available to investors to the effect that—

(i) no sum representing income tax will be deducted from any interest distribution in relation to those units, and

(ii) an investor must notify HM Revenue and Customs of any distribution in relation to such units if the investor is chargeable to income tax for the tax year in which the distribution date falls."

5. In regulation 46A (annual payments – duty to deduct income tax)(**a**), in paragraph (6), for the words after "believing" to the end substitute—

"that—

(a) the participant is not resident in the United Kingdom, or

(b) the payment is made in respect a class of units in relation to which of the offshore marketing condition in regulation 33A is met.".

6. In regulation 46B (consequences of reasonable but incorrect belief), in paragraph (1)(b) for "regulation 46A(6)" substitute "regulation 46A(6)(a)".

Ordinary residence

7. In regulation 27 (the reputable intermediary condition), in paragraph (3) omit "ordinarily".

8. In regulation 29 (consequences of reasonable but incorrect belief), in paragraph (5) omit "ordinarily".

9. In regulation 30 (the residence condition)—

(a) in paragraphs (2), (3)(b) and (4)(b) omit "ordinarily";

(b) in paragraph (5) for "he is either not ordinarily resident or, in the case of a company," substitute "the person is";

(c) in paragraph (6)(b) omit "either not ordinarily resident or, in the case of a beneficiary which is a company,".

10. In regulation 31 (residence declarations)—

(a) in paragraph (2)(b) omit "ordinarily";

(b) in sub-paragraphs (4)(c)(ii) and (iii) omit "ordinarily resident or, in the case of a company,".

(**a**) Regulation 46A and 46B were inserted by S.I. 2013/1772.

11. In regulation 33 (interest distributions: the position of the legal owner), in paragraphs (3) and (4) omit "or ordinarily resident".

Mark Lancaster
Sam Gyimah
27th November 2013 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964) which make provision about the treatment of authorised investment funds for tax purposes.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 introduces the amendments.

Regulations 3 and 4 amend regulation 26 and insert regulation 33A to extend the cases in which interest distributions may be paid without the deduction of income tax to cases where the units in a fund are not marketed to investors resident in the United Kingdom. Regulations 5 and 6 amend regulations 46A and 46B to permit rebates in relation to management charges in relation to such units to be made without deduction of tax.

Regulations 7 to 11 make amendments to remove references to 'ordinarily' resident as section 219 of, and Schedule 46 to, the Finance Act 2013 remove the concept of 'ordinary residence' from primary legislation for most tax purposes. These amendments have effect for the purposes of a person's liability to income tax for the tax year 2014-15 and any subsequent tax year, and to the making of declarations on or after 6th April 2014. The amendments do not affect declarations or undertakings made before that date, which will continue to operate on the basis of declaring and notifying changes to ordinary residence status.

A Tax Information and Impact Note relating to the gross payment of interest regulations will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. A separate Tax Information and Impact Note relating to the removal of ordinary residence in primary legislation and covering the relevant parts of this instrument was published on 11th December 2012 alongside the Finance Bill 2013 and is available on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

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