**EXPLANATORY MEMORANDUM TO**

**THE AUTHORISED INVESTMENT FUNDS (TAX) (AMENDMENT) REGULATIONS 2015**

**2015 No. 485**

**1.** This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 The Regulations amend the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964, "the AIF Regulations").

The instrument enables an Authorised Investment Fund (AIF) to include income from property in an interest distribution in so far as it meets the qualifying condition to do so.

2.2 These Regulations provide that no deduction for property income amounts included in the interest distribution will be available against profits chargeable to corporation tax**.** The effect of this is to charge the AIF corporation tax on the property income.

## 3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None

## 4. Legislative Context

4.1 These Regulations amend the AIF Regulations to remove the restriction in relation to making interest distributions where a fund receives property income and insert a provision which restricts the amount that can be deducted in calculating the profits of a fund by reference to any property income received by a fund.

4.2 This instrument is made following representations from the Investment Management Industry that the current Regulations caused practical difficulties for Funds and their managers.

## 5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

## 6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

### What is being done and why

7.1 Authorised Funds can invest in a range of assets. The nature of the returns from those assets determines the way that distribution can be made to investors. Some funds invest in Real Estate Investment Trusts (REITs) and Property Authorised Investment Funds (PAIFs) to produce income returns. The existing AIF Regulations denied the option of paying interest distributions where income included income from property, which included returns from REITs and PAIFs.

7.2 This instrument amends the AIF Regulations to remove a restriction on making interest distributions where an AIF receives property income. The instrument also inserts a new regulation restricting the amount that can be deducted in calculating the profits of an AIF by reference to any property income it receives. The effect of this is to charge the AIF corporation tax on the property income received therefore ensuring that the UK exchequer's right to a tax charge on property income arising in the UK is not circumvented by payment of such income offshore as an interest distribution.

### Consolidation

7.3 There are no plans to consolidate the revised Regulations in the immediate future.

## 8. Consultation outcome

8.1 These Regulations are considered to be urgently needed by industry and so they have been subject to a reduced four week consultation period. Industry responses have been supportive of the proposed changes. Representations received in industry responses are reflected in these final Regulations.

## 9. Guidance

9.1 Guidance on this change will be incorporated into a new Investment Funds manual that is expected to be published in Summer 2015. In the interim, AIFs and their advisors can contact the policy owner detailed at the foot of this document.

## 10. Impact

10.1 The regulations apply to Authorised Investment Funds. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

## 11. Regulating small business

11.1 The legislation applies to small business.

11.2 It is expected to have a negligible impact on small businesses. The very small segment of the Investment Management sector affected would need to familiarise themselves with the changes and in some cases correct their accounting methodologies. It is expected that these regulations will only be used to the extent industry perceives an advantage from them.

## 12. Monitoring & review

12.1 The impact of the instrument will be kept under review to ensure that the policy objectives set out in paragraph 7 are met. Regular communication with the industry will capture issues around implementation and ongoing compliance and administrative costs.

## 13. Contact

Hayley Moran at HM Revenue & Customs Tel: 03000 514 795 or email: hayley.moran@hmrc.gsi.gov.uk can answer any queries regarding the instrument.