Draft Regulations laid before Parliament under section 176(1) of the Social Security Contributions and Benefits Act 1992 and section 172(11A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No. 0000

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 5) Regulations 2014

Made - - - -	***
Coming into force - -	***

The Treasury make the following Regulations in exercise of the powers conferred by sections 18A(1) and (3), and 175(3) and (4), of the Social Security Contributions and Benefits Act 1992(**a**) and sections 18A(1) and (3), and 171(3) and (4), of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**).

A draft of this instrument has been laid before each House of Parliament in accordance with section 176(1) of the Social Security Contributions and Benefits Act 1992(**c**) and section 172(11A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**d**) and approved by resolution of each House.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 5) Regulations 2014.

(2) These Regulations come into force on the day after the day on which they are made, and have effect for the tax year 2014-15 and subsequent tax years.

Amendment of the Social Security (Contributions) Regulations 2001

2.—(1) The Social Security (Contributions) Regulations 2001(**e**) are amended as follows.

(2) After regulation 94A (exception from Class 4 liability in respect of certain amounts chargeable to income tax under Schedule D)(**f**) insert—

(**a**) 1992 c. 4. Section 18A was inserted by section 13(2) of the National Insurance Contributions Act 2014 (c. 7) (NICA 2014). Section 175(4) has been amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(**b**) 1992 c. 7. Section 18A was inserted by section 13(5) of NICA 2014.

(**c**) Section 176(1)(a) has been relevantly amended by section 13(3) of NICA 2014 (c. 7). There are other amendments but none is relevant.

(**d**) Section 172(11A) was inserted by paragraph 29(5) of Schedule 3 to S.I. 1999/671 and has been relevantly amended by section 13(6) of NICA 2014. There are other amendments but none is relevant.

(**e**) S.I. 2001/1004.

(**f**) Regulation 94A was inserted by regulations 2 and 4 of S.I. 2003/2958.

"**Liability of a partner in an AIFM firm for Class 4 contributions**

94B.—(1) This regulation applies if an AIFM firm makes an election under section 863H of ITTOIA 2005 (election for special provision for alternative investment fund managers to apply)(**a**).

(2) Where a partner ("P") in an AIFM firm allocates a profit ("the allocated profit") to that firm as provided for in section 863I(2) of ITTOIA 2005 (allocation of profit to the AIFM firm), no Class 4 contributions are payable in respect of that allocated profit by virtue of the allocation.

(3) Paragraph (4) applies if all or part of the allocated profit vests in P at a time when P is carrying on the AIFM trade (whether as a partner in the AIFM firm or otherwise).

(4) The amount treated as a profit under section 863J(2) and (5) of ITTOIA 2005 (vesting of remuneration represented by the allocated profit) is to be treated for the purposes of the Act(**b**) as if it were profits—

(a) to which section 15(1) of the Act (class 4 contributions recoverable under the Income Tax Acts)(**c**) applies; and

(b) made by P in the tax year in which that profit is chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005.

(5) In this regulation—

"AIFM firm" and "AIFM trade" have the meanings given in section 863H(3) and (4) of ITTOIA 2005; and

"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005.".

Name
Name
Date — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the principal Regulations") by modifying the way in which the liability of partners in AIFM firms for Class 4 contributions is determined. The amendments are made in connection with sections 863H to 863L of the Income Tax (Trading and Other Income) Act 2005 (c. 5) ("ITTOIA 2005") (inserted by paragraph 15 of Schedule 17 to the Finance Act 2014 (c. 26)), which make special provision for determining the income tax liability for profits of partners in AIFM firms where those profits are deferred in line with regulatory requirements in connection with the Alternative Investment Fund Managers Directive (2011/61/EU).

Regulation 1 provides for the citation, commencement and effect. These Regulations have effect for the tax year 2014-15 and subsequent tax years. The power to make the Regulations with retrospective effect is provided for in section 18A(3) of the Social Security Contributions and Benefits Act 1992 (c. 4) and section 18A(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(**a**) "ITTOIA 2005" is defined in paragraph 5 as the Income Tax (Trading and Other Income) Act 2005 (c. 5). Sections 863H to 863L were inserted by paragraph 15 of Schedule 17 to the Finance Act 2014 (c. 26).

(**b**) "The Act" is defined in regulation 1(2) as the Social Security Contributions and Benefits Act 1992 (c. 4). Regulation 156(3) provides that references to enactments applying only to Great Britain shall be construed as including a reference to corresponding enactments applying to Northern Ireland, which in this case is the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(**c**) Section 15(1) has been amended by sections 882(1) and 884 of, and paragraphs 423 and 424 of Schedule 1 to, and Schedule 3 to, ITTOIA 2005.

Regulation 2 amends the principal Regulations by inserting new regulation 94B which applies where an AIFM firm has made an election under section 863H of ITTOIA 2005. Paragraph (2) of new regulation 94B provides that where a partner in an AIFM firm allocates profits to that firm (see section 863I(2) of ITTOIA 2005) no Class 4 contributions shall be payable at the time of allocation in respect of those profits. Where all or part of the allocated profit vests in the partner at a time when the partner is carrying on the AIFM trade, paragraph (4) of new regulation 94B provides that Class 4 contributions are payable by the partner on that profit in the same tax year as that in which the profit is chargeable to income tax.

A Tax Information and Impact Note covering this instrument was published on 5 December 2013 and is available on the HMRC website at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263833/131205_NICs_Bill_Partnerships_TIIN.DOC. It remains an accurate summary of the impacts that apply to this instrument.

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