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STATUTORY INSTRUMENTS

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**2006 No. 964**

**The Authorised Investment Funds (Tax) Regulations 2006**

**PART 7**

**CONSEQUENTIAL AMENDMENTS AND MODIFICATIONS OF ENACTMENTS**

**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 96.

**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.”

(5) In section 832 (interpretation of the Tax Acts) after subsection (2) the following subsection is treated as insert—

“(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.”.

### **Modifications of FA 1996**

**95.**—(1) FA 1996 is modified as follows.

(2) In paragraph 4 of Schedule 10 (loan relationships: collective investment schemes: company holdings in unit trusts and offshore funds)(1)—

- (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”, and
- (c) in sub-paragraph (4) the words “or open-ended investment company” are treated as inserted after the words “authorised unit trust”.

### **Modifications of ITTOIA 2005**

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

(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 376(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, and

“umbrella company” has the meaning given by section 468A(2) of ICTA.”.

(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.

(1) Paragraph 4 was amended by paragraph 41 of Schedule 10 to the Finance Act 2004 (c. 12).

(2) Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).

