

**2012 No. 1783**

**CAPITAL GAINS TAX**

**CORPORATION TAX**

**The Authorised Investment Funds (Tax) (Amendment)  
Regulations 2012**

<i>Made</i> - - - -	<i>9th July 2012</i>
<i>Laid before the House of Commons</i>	<i>10th July 2012</i>
<i>Coming into force</i> - -	<i>1st August 2012</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 17(3) and 18(5) 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) Regulations 2012 and come into force on 1st August 2012.

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

- (a) for the purposes of capital gains tax, in relation to disposals made on or after 1st August 2012, and
- (b) for the purposes of corporation tax on chargeable gains, in relation to disposals made on or after 1st August 2012.

**Amendment of the principal Regulations**

2. The Authorised Investment Funds (Tax) Regulations 2006(b) (“the principal Regulations”) are amended in accordance with these Regulations.

**Amendment of regulation 69C**

3. After paragraph (3) of regulation 69C (key concepts) insert—

“(4) In this Part, a “dedicated feeder fund” in relation to a property AIF means a fund which—

- (a) is a unit trust scheme;
- (b) is dedicated to investment in the property AIF for which it is a feeder fund (in accordance with its prospectus); and

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(a) 2005 c. 22; section 18 was amended by paragraphs 603 and 605 of Schedule 1 to the Income Tax Act 2007 (c. 3) and paragraphs 668 and 669 of Schedule 1 to the Corporation Tax Act 2009 (c. 4).

(b) S.I. 2006/964, amended by S.I. 2008/705 and 2008/3159. Other amendments have been made but none are relevant to these Regulations. Part 4A (regulations 69A to 69Z41) of the principal Regulations was inserted by S.I. 2008/705.

- (c) holds at least 85% of its assets in the form of shares in that property AIF.”.

#### **Insertion of regulations 69Z24E – 69Z24H**

**4.** After regulation 69Z24D insert—

“Conversions and exchanges

#### **Conversion to property AIF**

**69Z24E.**—(1) This regulation applies if—

- (a) a fund (“the pre-conversion fund”) which is not a property AIF becomes, or intends to become, a property AIF,
- (b) the unit-holders in the pre-conversion fund dispose of the units which they hold in that fund (“the original units”) and, as part of an arrangement, acquire units of the same, or substantially the same, value as the original units in the fund which is, or is intended to become, the dedicated feeder fund for the property AIF, and
- (c) the further requirement of regulation 69Z24G is met.

(2) Sections 127 to 131 of TCGA(a) apply in relation to the disposal and subsequent acquisition of units specified in this regulation.

(3) A fund converting to a property AIF in accordance with this regulation shall be treated as meeting condition A in regulation 69K (the corporate ownership condition)(b) where the conditions in paragraph (4) are met, notwithstanding that the holding of a body corporate in the property AIF may exceed the percentage mentioned in regulation 69K(3)(a) during the relevant period.

(4) The conditions in this paragraph are that—

- (a) during the relevant period, no distributions are declared or made,
- (b) any distribution which was declared before the beginning of the relevant period is paid before the beginning of that period, and
- (c) the units held by the body corporate in the property AIF are exchanged for units in the dedicated feeder fund as soon as reasonably practicable.

(5) In this regulation, “the relevant period” is the period beginning with the time at which the fund becomes a property AIF and ending with the time at which the units in the dedicated feeder fund for the property AIF are issued to a participant which is a body corporate.

#### **Exchange of units**

**69Z24F.**—(1) This regulation applies if—

- (a) there is—
  - (i) an exchange of units in a dedicated feeder fund for shares in the property AIF for which that fund is the dedicated feeder fund, or
  - (ii) an exchange of shares in a property AIF for units in the dedicated feeder fund for that property AIF, and
- (b) the further requirement of regulation 69Z24G is met.

(2) The units to be exchanged in accordance with either paragraph (1)(a) or (b) must represent the same, or substantially the same, share of the net asset value of the property AIF as the units which are held immediately after the exchange.

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(a) Section 130 was amended by paragraph 8 of Schedule 26 and Part 6(5) of Schedule 27 to the Finance Act 2007 (c. 11).  
(b) Regulation 69K was inserted by S.I. 2008/705.

(3) Sections 127 to 131 of TCGA 1992 apply in relation to a disposal or acquisition of units or shares specified in paragraph (1).

**Further requirement**

**69Z24G.** The further requirement is that if a transaction involves the acquisition of units in a dedicated feeder fund, that it is undertaken with the agreement of the manager of the property AIF.

**Application of section 137 of TCGA**

**69Z24H.** Section 137 of TCGA (restriction on application of tax treatment) applies to any transaction specified in regulations 69Z24E or 69Z24F in the circumstances mentioned in that section.”.

**Amendment of Schedule**

5. In the table in Part 2 of the Schedule (index of defined expressions), insert at the appropriate alphabetical place—

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“Dedicated feeder fund	Regulation 69C(4)”
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*James Duddridge*  
*Michael Fabricant*

9th July 2012

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 Fund (Tax) Regulations 2006 (S.I. 2006/964, “the principal Regulations”) to make provision for certain transactions undertaken in relation to property authorised investment funds (“property AIFs”).

Regulation 3 inserts a new paragraph (4) into regulation 69C of the principal Regulations to define “dedicated feeder fund”.

Regulation 4 inserts regulations 69Z24E to 69Z24I into Part 4A of the principal Regulations. These regulations make provision as to the tax treatment of participants in property AIFs where reconstructions, conversions and exchanges take place, to ensure that no charge to capital gains tax or corporation tax arises.

New regulation 69Z24E provides that if a fund which is not a property AIF converts, or intends to convert, to being a property AIF, sections 127 to 131 of TCGA apply in relation to the disposal and acquisition of units in the fund as part of the process of it becoming a property AIF.

New regulation 69Z24F provides that if units in a dedicated feeder fund are exchanged for shares in a property AIF, or vice versa, sections 127 to 131 of TCGA apply in relation to the disposal and acquisition of the units or shares.

New regulation 69Z24G provides a further requirement that must be met in order for new regulations 69Z24E and 69Z24F to apply.

New regulation 69Z24H provides that section 137 of TCGA applies to a transaction specified by regulation 69Z24E or 69Z24F, where the circumstances mentioned in section 137 are present.

Regulation 5 amends Part 2 of the Schedule to the principal Regulations (index of defined expressions).

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>.

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