

EXPLANATORY MEMORANDUM TO THE

THE AUTHORISED INVESTMENT FUNDS (TAX) REGULATIONS 2006

2006 No. xxxx

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 These draft Regulations restate, consolidate and update the rules for the taxation of Authorised Investment Funds (Authorised Unit Trusts and Open-ended Investment Companies).

2.2 As well as consolidating the detailed rules for the taxation of authorised investment funds in the form of Regulations, they also provide for a different tax treatment to apply to certain investors in a Qualified Investor Scheme (QIS).

2.3 The draft Regulations also provide (from 6 April 2007) for UK residents who are non-taxpayers to be able to receive interest distributions from funds without deduction of tax.

2.4 They also incorporate and update an Extra Statutory Concession (ESC C30) which enabled funds, in some circumstances, to withhold distributions below a 'de minimis' level without tax consequences.

2.5 The regulations also put beyond doubt that authorised investment funds cannot form part of any group arrangements for tax purposes.

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

3.1 None.

4. Legislative Background

4.1 Taxation of Authorised Unit Trusts is currently provided for by section 468 and sections 468H to section 468Q of the Income and Corporation Taxes Act 1988 (ICTA). The taxation provisions relating to Open-ended investment companies are largely contained in Regulations.

4.2 Finance (No. 2) Act 2005 added section 468A ICTA in respect of Open-ended Investment Companies and provided for the repeal of sections 468H to 468Q.

4.3 Finance (No. 2) Act 2005 provides, at section 17(3), the powers for the Treasury to make regulations. These powers are subject to section 19, which provides that a draft of the first set of regulations must first be laid before and approved by resolution of the House of Commons.

4.4 The Financial Services Authority (FSA), acting under the Financial Services and Markets Act 2000, authorises and regulates both types of Authorised Investment Fund.

4.5 The FSA revised the regulatory regime for AIFs in 2004, which permitted a wider range of investment flexibility for authorised funds, and allowed for a new type of fund (a QIS) available only to institutional and sophisticated investors.

5. Extent

5.1 These Regulations apply throughout the United Kingdom.

6. European Convention on Human Rights

6.1 The Economic Secretary to the Treasury, Ivan Lewis, has made the following statement: In my view the provisions of these draft Regulations are compatible with the Convention rights.

7. Policy Background

7.1 The current rules are partly in primary and partly in secondary legislation; and in the Finance (No. 2 Act) the Treasury was given powers to rewrite the details of the regime in regulations. The main taxing and relieving provisions remain in primary legislation. This was done both to enable consolidation of existing rules and to provide the flexibility to make future amendments to enable, or in response to, developments in this fast-moving industry.

7.2 It is intended that consultation with the industry will continue in the future in order to ensure that the regulations reflect further developments.

8. Impact

8.1 A regulatory impact assessment has been prepared and is available on the HMRC website at <http://www.hmrc.gov.uk/ria/ria-aif.pdf>

9. Contact

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