

**CTM48860 – Property Authorised Investment Funds (Property AIFs):
deducting and accounting for tax from distributions: contents**

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CTM48861 - Property Authorised Investment Funds (Property AIFs): deducting and accounting for tax from distributions: contents

The first part of this chapter sets out the rules for the deduction of tax that a Property AIF is required to make to its participants from each of the distributions (CTM48662):

- property income distributions (PIDs)
- property AIF distributions (interest)
- property AIF distributions (dividends)

It also explains when participants should be paid distributions without deduction of tax, see CTM48862.

The second part of this chapter focuses on the statutory requirements that a Property AIF will need to satisfy when:

- providing certificates of deduction of tax when PIDs and or Property AIF distributions (interest) are made to participants (CTM48663)
 - delivering returns when distributions from which tax has been deducted have been made (CTM48664)
 - accounting for tax deducted from PIDs and distributions (interest) (CTM48665)
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CTM48862 - Property Authorised Investment Funds (Property AIFs): deducting and accounting for tax from distributions: deduction of tax from distributions made by Property AIFs

Deduction of tax from Property income distributions (regulation 69Z22 SI 2006/964)

A Property AIF will pay a Property income distribution (PID) net of the basic rate of income tax in force for the year in which it is made, unless regulation 69Z24 SI2006/964 applies so that a person is entitled to receive such payments gross, as discussed below. PIDs made to a non-resident participant must always be made under deduction of income tax.

The tax deducted from PIDs is treated as income tax paid by the recipient and is accordingly taken into account in determining the income tax or corporation tax payable by, or repayable to, the recipient.

Deduction of tax from Property AIF distributions (interest) (regulation 69Z23 SI 2006/964)

Interest distributions are treated as if they were payments of yearly interest, and accordingly section 874 ITA 2007 requires they will be paid net of income tax at the savings rate, subject to regulation 69Z24 SI 2006/964 (see below). As with PIDs, and unlike interest distributions from other Authorised Investment Funds, these distributions are always paid net of tax to non-residents.

Property AIF distributions (dividends)

Property AIF distributions (dividends) are treated in the same manner as distributions made by any other UK corporate and accordingly are paid with a one-ninth tax credit attached. No tax is deducted.

Entitlement of investors to receive gross distributions (regulation 69Z24 SI 2006/964)

A Property AIF will only make gross payments of PIDs and Property AIF distributions (interest) to a participator who satisfies the conditions required to receive both forms of distribution gross, that is:

- they would be entitled to receive a distribution out of the tax-exempt profits of a UK Real Estate Investment Trust (UK-REIT) gross (such entitlement being defined at regulation 7 SI 2006/2867 and explained in the page entitled 'Distributions: administration: gross payment' in the GREIT manual)
- they would be entitled to receive payments of yearly interest gross (such entitlement being defined at section 349B ICTA/1988)

It is not possible pay of one of these forms of distribution without deduction of tax but not the other (regulation 69Z24).

CTM48863 - Property Authorised Investment Funds (Property AIFs): deducting and accounting for tax from distributions: certificates of deduction of tax

Certificates of deduction of tax (regulation 69Z34 SI 2006/964)

Where a Property AIF deducts tax from a relevant distribution it must provide all recipients a written statement showing:

- the gross amount of the payment
- the tax deducted
- the actual (ie net) amount paid

The recipient of the payment is responsible for ensuring that such a statement is provided to them if required.

Similarly where a Property AIF makes a Property AIF distribution (dividends) it must provide a statement as required by regulation 69Z17 of SI 2006/964.

It is good practice to provide all three statements, relating to Property income distributions, Property AIF distributions (interest) and Property AIF distributions (dividends), in a combined statement.

CTM48864 - Property Authorised Investment Funds (Property AIFs): deducting and accounting for tax from distributions: submitting returns

Requirement to make a return (regulation 69Z29 SI 2006/964)

Where an open-ended investment company which is subject to the Property AIF regulations makes a relevant distribution (ie one which includes sums attributed to Property income distributions (PIDs), or to Property AIF distributions (interest), or both) to its participants it must make a return for the return period in question. These returns should be made using form CT61.

Returns should be made for each return period falling within the accounting period in question during which a relevant distribution is made. The return periods in question are:

- those ending on 'quarter days' – ie 31 March, 30 June, 30 September and 31 December
- any shorter period which:
 - starts on the first day of the accounting period and ends with the first, or only, quarter day in that accounting period
 - begins immediately after the last or only quarter day in that accounting period and ends on the last day of that accounting period
 - is an accounting period which starts and ends within a quarter

The manager must make the return for the Property AIF within 14 days of the day immediately following the end of the return period, and the return must show:

- the amount of any relevant distributions made during the return period
- the amount of tax (if any) payable in respect of those payments

When submitting its return for the return period which ends on the last day of the accounting period, the manager must include a reconciliation statement showing in relation to any distribution made during the accounting period amounts attributable to each of the following:

- PIDs up to the amount of the net income (tax exempt)
- Property AIF distributions (interest) up to the pre-distribution amount
- Property AIF distributions (dividends)

Property AIF's duty to submit an amended return (regulation 69Z35 SI 2006/964)

If the manager of the Property AIF becomes aware that a return delivered in accordance with the regulations contains any error, including anything omitted which ought to have been included, or anything included that ought not have been, then it must deliver an amended return to HM Revenue & Customs (HMRC) without delay.

On receipt of an amended return HMRC will issue any assessments required or make any adjustments or set-offs as necessary to ensure that the correct tax (and, if appropriate, interest) is charged.

CTM48865 - Property Authorised Investment Funds (Property AIFs): deducting and accounting for tax from distributions: collection and payment of tax

Collection and payment of tax (regulation 69Z35 SI 2006/964)

Any tax due in respect of a relevant distribution is due on the same date as that by which the return on which the distribution must be included is due, as noted above.

The tax due is equal to the sum which the Property AIF must deduct from Property income distributions and Property AIF distributions (interest).

The tax is due from the Property AIF making the relevant distributions, and it is payable without HM Revenue & Customs (HMRC) having to make any assessment on the Property AIF.

Assessments (regulations 69Z31 & 69Z32 SI 2006/964)

Under regulation 69Z31 SI 2006/964, if the Property AIF has not paid any tax due in accordance with a return by the proper due date HMRC may issue an assessment to the manager for it.

Under regulation 69Z32 SI 2006/964, HMRC will also raise assessments where it is believed that there has been a failure to return a relevant distribution, or where they believe that a return has otherwise been made incorrectly. The assessment will be issued using 'a best judgement' basis.

Time limits for assessments (regulation 69Z33 SI 2006/964)

The usual time limits for issuing an assessment to a company apply, including those relating to fraudulent or negligent conduct. Reference to a tax year means one in which the return period in question ends.
