Tax on Rebates FAQ's

Below is a list of the most common questions surrounding Tax on AMC/Trail Commission Rebates and the approach taken by UK Transfer Agents.

Question	Answer
What's changed?	HMRC issued a Technical Note and draft guidance, on 25th March 2013, confirming how fund rebates should be taxed and from 6th April 2013 basic rate income tax should be deducted at source from qualifying Annual Payments by the Payer before being paid to UK taxpaying investors.
Shouldn't tax have been deducted at source previously?	According to HMRC, yes it should. However, HMRC will not seek to collect unpaid tax retrospectively from payers or investors who should have deducted or declared this tax prior to 6th April 2013.
What was happening before then?	Historically the vast majority of rebate arrangements have been via Platforms/Supermarkets but they can sometimes exist elsewhere. Rebates may take the form of a cash rebate, a unit rebate or a direct reinvestment of trail/renewal commission. Prior to 6th April 2013 any rebates passed back to investors, in either cash or units, were typically paid gross. The investor was responsible for declaring their income via the self-assessment process.
What is an "Annual Payment"?	HMRC state that 4 characteristics define an Annual Payment; 1. It must be payable under a legal obligation 2. The obligation to make payments must extend for more than a year - the payments must be capable of recurring. But the obligation may be contingent – i.e. the frequency of the payments does not matter, even if they are made in some years but not in others 3. It must be income, not capital, in the hands of the recipient. A capital sum may be paid in instalments and would not be classed as an Annual Payment 4. It must represent pure income profit to the recipient. A sum is 'pure income profit' if - like interest - it comes to the recipient without them having to do anything in return. Source: http://www.hmrc.gov.uk/manuals/saimmanual/saim8020.htm
Who is classed as the "Payer"?	Contracted parties making onward payments to private individuals are classified by HMRC as the "Payer" – e.g. for a retail holding invested via a Fund Supermarket/Platform, the Platform is the "Payer" as they have a contract to pay the investor. For a Transfer Agent, while possible, it is quite unusual for such arrangements to exist on the product provider's main register.

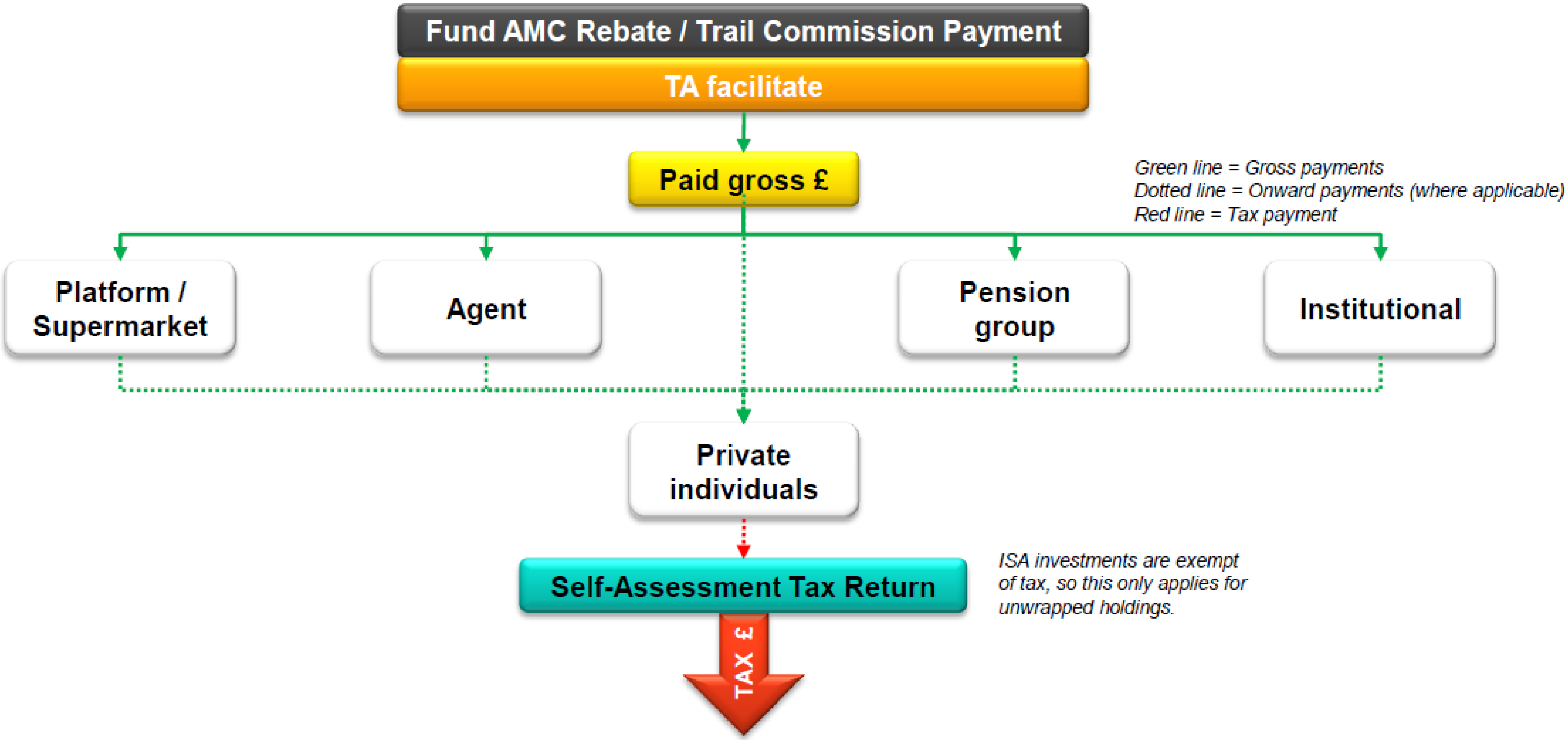
What about Higher Rate taxpayers?	For higher and additional rate taxpayers, any further tax liability must be declared via the self-assessment process.
What about offshore recipients?	HMRC have clarified that offshore recipients may be paid gross. Basic rate tax only needs to be deducted at source from retail UK taxpaying investors.
What about Corporates and private retail investors, e.g. ISAs or those with a valid R85?	These may be paid gross provided you have the appropriate supporting evidence/indemnities on file.
What are Transfer Agents doing on Cash rebates?	These rebate payments direct to private individuals from the fund (via TA) are no longer being supported as standard. The most common arrangement on the main register was Agents rebating or reinvesting trail commission. However, given the numbers of 'clean' share classes launched to support the post-RDR landscape, there should be a 'clean' class available that, excluding any charges for advice, should give the investor a lower annual management charge for the investment, eliminating the need for a rebate and any resulting tax issues. The alternative to a 'clean' share class solution is for the trail to be paid direct to the Agent and the agent then manages the tax obligations and net payments to their client. This is more appropriate as, for reinvestments of trail commission, the applicable contract arrangement for the rebate would be between the Agent and investor, not between the fund or TA with the investor. For Platforms and Supermarkets, any rebate/trail passed on to a qualifying investor would clearly need to have tax deducted by the Platform/Supermarket as they manage the sub-register etc. therefore the TA continues to pass on these payments gross to the "Payer". Pension groups and institutional investors are not impacted and may continue to be paid gross of tax under the new rules.
What are Transfer Agents doing on Unit rebates?	These rebate payments to Platforms and Supermarkets can still be supported where required. Unit rebates are facilitated by Platforms and Supermarkets and, under the new policy, a Fund (via their TA) is permitted to pay the wholesale value gross. The Platform/Supermarket then allocates and converts the rebate value into units and the same rationale applies as above – i.e. they are the "Payer" and manage the tax obligations.

THE TA FORUM

HISTORICAL POSITION (pre 6th April 2013)

Historically the vast majority of rebate arrangements have been via Platforms/Supermarkets but they can sometimes exist elsewhere. Rebates may take the form of a cash rebate, a unit rebate or a direct reinvestment of trail/renewal commission.

The diagram below shows a typical arrangement pre 6th April 2013 for unwrapped investments;



As you can see, no tax was deducted at source.

NEW POSITION (post 6th April 2013)

This diagram shows the new arrangements, with the "Payer" responsible for deducting basic rate tax at source. Note, rebate payments direct to Private Individuals from the Fund (via TA) are no longer supported;