
DRAFT STATUTORY INSTRUMENTS

2009 No.

The Offshore Funds (Tax) Regulations 2009

PART 3

**REPORTING FUNDS AND THE TREATMENT
OF PARTICIPANTS IN REPORTING FUNDS**

CHAPTER 8

THE TAX TREATMENT OF PARTICIPANTS IN REPORTING FUNDS

Disposals and deemed disposals of interests

Disposals of interests

99.—(1) If a participant has an interest in a reporting fund and disposes of the interest, the participant disposes of an asset for the purposes of tax in respect of chargeable gains.

(2) For the purposes of the disposal referred to in paragraph (1), an amount equal to the accumulated undistributed income is treated as expenditure—

- (a) given for the acquisition of the asset, and
- (b) falling within section 38(1)(a) of TCGA 1992 (acquisition and disposal costs).

(3) In paragraph (2) the “accumulated undistributed income” means the aggregate of amounts specified in regulation 94 on which the participant has been charged to tax under any of regulations 95 to 98.

(4) The expenditure mentioned in paragraph (2) is treated as incurred, in the case of each amount referred to in paragraph (3), on the fund distribution date for the reporting period in respect of which the amount is treated as distributed.

(5) But if the participant receives an amount in respect of the interest in the reporting fund which is chargeable to income tax, and that amount is received (or treated as received) after the date of the disposal referred to in paragraph (1), the amount is treated as received immediately before that disposal for the purposes of tax in respect of chargeable gains.

(6) This regulation is subject to regulation 17.

Deemed disposals of interests

100.—(1) This regulation applies if an offshore fund ceases to be a reporting fund and becomes a non-reporting fund.

(2) A participant in the fund may make an election to be treated for the purposes of TCGA 1992—

- (a) as disposing of an interest in the reporting fund at the end of that fund’s final period of account, and
- (b) as acquiring an interest in the non-reporting fund at the beginning of that fund’s first period of account.

This is subject to paragraph (3).

(3) The election mentioned in paragraph (2) may only be made if a report has been made available to the participant under regulation 90 for the reporting fund's final period of account.

(4) The disposal referred to in paragraph (2)(a) is treated as made for a consideration equal to the net asset value of the participant's interest in the fund at the end of the period of account for which the final reported income is reported to the participant.

(5) The acquisition referred to in paragraph (2)(b) is treated as made for the same amount as the disposal referred to in paragraph (2)(a).

(6) If the participant is chargeable to income tax, the election mentioned in paragraph (2) must be made by being included in a return made for the tax year which includes the disposal date.

(7) If the participant is chargeable to corporation tax, the election mentioned in paragraph (2) must be made by being included in the participant's company tax return for the accounting period which includes the disposal date.

(8) In this regulation—

“company tax return” has the same meaning as in Schedule 18 to the Finance Act 1998⁽¹⁾;

“disposal date” means the final day of the reporting fund's final period of account.

(1) 1998 c. 36.