DRAFT STATUTORY INSTRUMENTS

2009 No.

The Offshore Funds (Tax) Regulations 2009

PART 4

CONSEQUENTIAL AMENDMENTS

Amendment of the Inheritance Tax Act 1984

125. In section 174(1)(a) of the Inheritance Tax Act 1984(**1**) (income tax and unpaid inheritance tax) for "Chapter V of Part XVII of the Taxes Act 1988, arising on a disposal which is deemed to occur on the death by virtue of section 757(3) of that Act" substitute "regulations made under section 41(1) of the Finance Act 2008, arising on a disposal which is deemed, under such regulations (see regulation 34 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])), to occur on the death".

Amendment of ICTA

126.—(1) ICTA is amended as follows.

(2) In section 396(2)(**2**) (Case VI losses) for "section 761(1)(b)(ii)" substitute "regulation 18(4) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(3) In section 505(3)(b)(iii)(**3**) (charitable companies) for "section 761(6) below" substitute "regulation 31 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(4) In section 587B(9)(**4**) (gifts of shares, securities and real property to charities etc.), in the definition of "offshore fund", for "Chapter 5 of Part 17" substitute "section 40A of the Finance Act 2008".

(5) In section 834A(**5**) (miscellaneous charges relating to the former Case VI of Schedule D)—

(a) in Part 1 of the Table omit the entry relating to section 761(1)(b)(ii), and

(b) in Part 3 of the Table insert at the end—

"Regulation 18(4) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])	Offshore income gains"

(6) In section 842(3A)(**6**) (meaning of investment trust) for "section 761(1)(a)" substitute "regulation 18(1) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(**1**) 1984 c. 51. By virtue of section 100(1) and (2) of the Finance Act 1986 (c. 41), on and after 25th July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax except where the reference relates to a liability to tax arising before 25th July 1986. Section 174(1)(a) was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1).

(**2**) Section 396(2) was substituted by paragraph 112(3) of Schedule 1 to the Corporation Tax Act 2009 (c. 4).

(**3**) Section 505(3) was substituted by section 55(1) of the Finance Act 2006 (c. 25).

(**4**) Section 587B was inserted by section 43(1) of the Finance Act 2000 (c. 17) and the definition of "offshore fund" in subsection (9) was substituted by paragraph 10 of Schedule 26 to the Finance Act 2004 (c. 12).

(**5**) Section 834A was inserted by paragraph 274 of Schedule 1 to the Corporation Tax Act 2009.

(**6**) Section 842(3A) was inserted by section 57(3) of the Finance Act 2007 (c. 11).

Amendment of TCGA 1992

127.—(1) TCGA 1992 is amended as follows.

(2) In section 108(1)(c) (identification of relevant securities for corporation tax)—

(a) omit ", or have at any time been,", and

(b) for "material interests in a non-qualifying offshore fund, within the meaning of Chapter V of Part XVII of that Act" substitute "interests in a non-reporting fund, within the meaning of regulations made under section 41(1) of the Finance Act 2008 (see Part 2 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y]))".

(3) In section 212(**7**) (annual deemed disposal of holdings of unit trusts, etc.)—

(a) in subsection (1)(b) for "relevant interests in an offshore fund" substitute "interests in an offshore fund within the meaning of section 40A of the Finance Act 2008", and

(b) omit subsections (5) to (7).

(4) In paragraph 7 of Schedule 7AD(**8**) (gains of insurance company from venture capital investment partnership: disposal of partnership asset giving rise to offshore income gain)—

(a) in sub-paragraph (1) for "Chapter 5 of Part 17 of the Taxes Act (offshore funds)" substitute "regulations made under section 41(1) of the Finance Act 2008 (see the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y]))", and

(b) in sub-paragraph (2) for "that Chapter" substitute "such regulations".

Amendment of ITTOIA 2005

128.—(1) ITTOIA 2005 is amended as follows.

(2) In section 378A(7)(**9**), (offshore fund distributions), in the definition of "offshore fund", for "Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act)" substitute "section 40A of FA 2008".

(3) In section 632 (offshore income gains)—

(a) in subsection (2) for "section 761(1) of ICTA (charge to income tax of offshore income gain)" substitute "regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y]) (charge to tax)" , and

(b) in subsection (3) for "Chapter 5 of Part 17 of ICTA (charge to income tax of offshore income gains)" substitute "Chapter 5 of Part 2 of those Regulations".

(4) In section 830(4)(**10**) (meaning of "relevant foreign income") for paragraph (aa) substitute—

"(aa) regulation 19 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y]),".

Amendment of ITA 2007

129.—(1) ITA 2007 is amended as follows.

(2) In section 152(8)(**11**) (losses from miscellaneous transactions) for "section 761(1)(b)(i) of ICTA" substitute "regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(**7**) In section 212, subsections (5) to (7) were amended by section 91(2)(b) and (3) of the Finance Act 1993 (c. 34), section 134(6) and (7) of the Finance Act 1995 (c. 4), Part 3(12) of Schedule 43 to the Finance Act 2003 (c. 14) and paragraph 11 of Schedule 26 to the Finance Act 2004 (c. 12).

(**8**) Schedule 7AD was inserted by Schedule 31 to the Finance Act 2002 (c. 23).

(**9**) Section 378A was inserted by section 39(3) of the Finance Act 2009 (c. 10). Section 126(3) of that Act amends the table of abbreviations in Part 1 of Schedule 4 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) so that (among other matters) "the Finance Act 2008" may be abbreviated to "FA 2008".

(**10**) Section 830(4)(aa) was inserted by paragraph 96 of Schedule 7 to the Finance Act 2008 (c. 9).

(**11**) Section 152(8) was amended by section 57(5) of the Finance Act 2007 (c. 11).

(3) In section 482 (types of amount to be charged at special rates for trustees), in the description of "*Type 3*", for "section 761(1) of ICTA (offshore income gains)" substitute "regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(4) In section 535 (exemption for offshore income gains)—

(a) in subsection (3) for "Chapter 5 of Part 17 of ICTA (offshore funds) (see section 758 of, and Schedule 28 to, that Act)" substitute "Chapter 5 of Part 2 of the Offshore (Tax) Funds Regulations 2009 (S.I. 2009/[Y])", and

(b) in subsection (4) for "section 761(6B) of ICTA" substitute "regulation 31(3) to (5) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(5) In section 734(5)(**12**) (reduction in amount charged: previous capital gains tax charge) for "section 762 of ICTA" substitute "regulations 20 and 22 to 24 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])".

(6) In section 1016(2) (table of provisions to which this section applies), in Part 3 of the Table—

(a) omit the entry relating to section 761(1)(b)(i) of ICTA, and

(b) at the end insert—

"Regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])	Offshore income gains"

Amendment of FA 2008

130.—(1) Schedule 7 to FA 2008 (remittance basis) is amended as follows.

(2) In paragraph 100(1)(a)—

(a) for "section 762 of ICTA" substitute "regulation 20 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])",

(b) for "section 761 of ICTA" substitute "such regulations (regulation 17 of those Regulations".

(3) In paragraph 101(1)(b)—

(a) for "section 761 of ICTA" substitute "regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])",

(b) for "section 762 of ICTA" substitute "regulation 20 of those Regulations".

(4) In paragraph 102(1)(d)—

(a) for "section 762 of ICTA" substitute "regulation 20 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/[Y])",

(b) for "section 761 of ICTA" substitute "such regulations (regulation 17 of those Regulations".

Amendment of CTA 2009

131.—(1) CTA 2009 is amended as follows.

(2) For the text of section 489 (meaning of "offshore fund" etc.) substitute—

"Sections 40A to 40G of FA 2008 (meaning of "offshore fund" and application to parts of umbrella funds and classes of interests in offshore funds) apply for the purposes of this Chapter as they apply for the purposes of sections 40A to 42A of that Act."

(**12**) Section 734(5) was inserted by paragraph 97 of Schedule 7 to the Finance Act 2008 (c. 9).

(3) In section 490(1)(a)(iii) (holdings in OEICs, unit trusts and offshore funds treated as creditor relationship rights) for “a material interest” substitute “an interest”.