
STATUTORY INSTRUMENTS

2009 No. 3001

The Offshore Funds (Tax) Regulations 2009

PART 3

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

CHAPTER 2

ENTRY INTO THE REPORTING FUND REGIME

Procedure on applications

Response by HMRC to application

55.—(1) Within 28 days beginning with the day on which HMRC receive the application, HMRC must give notice to the person who made the application—

- (a) accepting the application,
- (b) rejecting the application, or
- (c) asking for further information in order to consider the application.

(2) HMRC must not accept an application if any item mentioned in regulation 53 is not supplied.

(3) HMRC must not accept an application if they consider that there will be a significant difference, in computing reportable income (see Chapter 5 [^{F1}or 6A]), between—

- (a) the result given by the use of international accounting standards, and
- (b) the result given by the use of the accounting practice specified in the application and by the use of the entries in the fund's accounts, specified in the application, that are considered to equate to “total comprehensive income for the period” as that expression is used in international accounting standards (see regulation 63).

[^{F2}(3A) Where the fund intends to make income adjustments on the basis of accounting income (see regulation 53(1)(l)), HMRC must not accept an application if they do not consider that it is reasonable to expect that the difference between the amount of [^{F3}reportable income] per unit calculated using this method and the amount of [^{F3}reportable income] per unit calculated on the basis of [^{F3}reportable income] will be 10% or less of the latter of those amounts.]

(4) Paragraph (5) applies if—

- (a) HMRC have given notice under paragraph (1)(c), and
- (b) the person who made the application provides further information within a period of 28 days beginning with the day on which HMRC ask for further information, or within such longer period as is agreed by HMRC.

(5) Within 28 days beginning with the day on which HMRC receive the further information, HMRC must give notice to the person who made the application—

Changes to legislation: There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Cross Heading: Procedure on applications. (See end of Document for details)

- (a) accepting the application, or
- (b) rejecting the application.

Textual Amendments

- F1** Words in reg. 55(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), **7(2)**
- F2** Reg. 55(3A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), **7(3)**
- F3** Words in reg. 55(3A) substituted (28.6.2013) by [The Offshore Funds \(Tax\) \(Amendment No. 2\) Regulations 2013 \(S.I. 2013/1411\)](#), regs. 1(1), **4** (with reg. 1(3)(4))

Appeal against rejection of application

- 56.**—(1) If HMRC reject an application, the person who made the application may appeal.
- (2) The notice of appeal must be given to HMRC within a period of 42 days beginning with the day on which the notice rejecting the application is given.
- (3) On an appeal, the tribunal may uphold or quash the rejection of the application.
- (4) If the tribunal quashes the rejection of the application, this Part applies as if HMRC had accepted the application in the form in which it was considered by the tribunal.

Changes to legislation:

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Cross Heading: Procedure on applications.