

2014 No. 1931

INCOME TAX

CORPORATION TAX

CAPITAL GAINS TAX

The Offshore Funds (Tax) (Amendment) Regulations 2014

<i>Made</i> - - - -	<i>21st July 2014</i>
<i>Laid before the House of Commons</i>	<i>22nd July 2014</i>
<i>Coming into force</i> - -	<i>12th August 2014</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 354 of the Taxation (International and Other Provisions) Act 2010(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Offshore Funds (Tax) (Amendment) Regulations 2014 and come into force on 12th August 2014.

(2) The Regulations have effect in relation to disposals made on or after that date.

Amendment to the Offshore Funds Regulations 2009

2.—(1) The Offshore Funds (Tax) Regulations 2009(b) are amended as follows.

(2) In regulation 17 (the charge to tax), after paragraph (4) insert—

“(4A) For the purposes of paragraph (4), where the asset was acquired on the vesting of variable remuneration represented by profit allocated under section 863I of ITTOIA 2005 (allocation of profit to the AIFM firm)(c), the date on which the variable remuneration was awarded is treated as the date on which consideration was given for the acquisition of the asset.

(4B) Terms used in paragraph (4A) which are also used in section 863I of ITTOIA 2005 have the same meaning as in that section.”

(3) In regulation 48 (consequences of conversion for participants)—

(a) in paragraph (2) for “paragraph (5)” substitute “paragraphs (5) and (5A)”,

(b) after paragraph (5) insert—

(a) 2010 c. 8.

(b) S.I. 2009/3001, amended by S.I. 2013/661; there are other amending instruments but none is relevant.

(c) The Income Tax (Trading and Other Income 2005 (c. 5) is defined as ITTOIA 2005 in Part 1 of Schedule 3 to the Offshore Funds (Tax) Regulations 2009; section 863I was inserted by paragraph 15 of Part 3 of Schedule 17 to the Finance Act 2014 (c. 26).

“(5A) If the interest owned by the participant represents variable remuneration represented by profit allocated under section 863I of ITTOIA 2005 (allocation of profit to the AIFM firm), an election may not be made under paragraph (2) if the fund ceases to be a non-reporting fund and becomes a reporting fund before the remuneration has vested in the participant.”

*Mark Lancaster
David Evennett*

21st July 2014

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Offshore Funds (Tax) Regulations 2009, which make provision for the tax treatment of participants in offshore funds.

The amendment to regulation 17 (the charge to tax) clarifies the application of that regulation where the interest in the offshore fund which is disposed of was acquired in consequence of an award of variable remuneration to an alternative investment fund manager which is represented by profit allocated under section 863I of the Income Tax (Trading and Other Income) Act 2005.

The amendment to regulation 48 (consequences of conversion for participants) provides that a participant whose interest represents such variable remuneration cannot elect to be treated as making a disposal and acquisition on a conversion of the fund from a non-reporting fund to a reporting fund prior to the vesting of that remuneration.

A Tax Information and Impact Note covering this instrument was first published on 5 December 2013 and is available on the HMRC website at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264620/4_Partners_hips.pdf This remains an accurate summary of the impacts that also apply to this instrument.

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