
STATUTORY INSTRUMENTS

2017 No. 1209

**The Co-ownership Authorised Contractual
Schemes (Tax) Regulations 2017**

PART 3

Investments in offshore funds

Interpretation: Part 3

10. In this Part, “non-reporting fund”, “reportable income”, “reported income” and “reporting fund” have the same meanings as in the Offshore Funds (Tax) Regulations 2009⁽¹⁾.

Investments in reporting offshore funds

11.—(1) This regulation applies if a CoACS has made an investment for the purposes of the scheme in a reporting fund.

(2) The excess (if any) of the reported income of the reporting fund in respect of the investment over the amount distributed by the reporting fund in respect of that investment is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.

(3) If the reporting fund does not make a report available in accordance with regulation 90(5) of the Offshore Funds (Tax) Regulations 2009—

- (a) the operator of the CoACS must estimate the amount of excess (if any) of the reportable income of the reporting fund in respect of the investment over the amount distributed by the reporting fund in respect of that investment, and
- (b) the estimated amount is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.

(4) Where paragraph (3) applies, in the first accounting period in which the operator has sufficient information to accurately determine the amount of any excess estimated under that paragraph, the operator must make any necessary corrections by adjusting the estimated amount for that accounting period.

(5) The additional income is treated as arising on the information reporting date in respect of the accounting period in which the excess is treated as made under the Offshore Funds (Tax) Regulations 2009.

Investments in non-reporting offshore funds: first case

12.—(1) This regulation applies if—

(1) [S.I. 2009/3001](#); relevant amending instruments are [S.I. 2011/1211](#) and [2013/1411](#). Part 2 of Schedule 3 to those Regulations contains an index of defined expressions.

- (a) a CoACS has made an investment for the purposes of the scheme in a non-reporting fund, and
 - (b) the conditions in paragraph (2) are met for an accounting period.
- (2) The conditions are that—
- (a) the CoACS has access to the accounts of the non-reporting fund,
 - (b) the CoACS has sufficient information about the non-reporting fund to enable it to prepare a computation of reportable income for the fund, and
 - (c) the CoACS can reasonably expect to rely on continued access to that information for the period in which it will hold the investment in the fund.
- (3) The amount that would be the excess (if any) of the reportable income of the non-reporting fund in respect of the investment over the amount distributed by the non-reporting fund in respect of that investment is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.
- (4) The additional income is treated as arising on the information reporting date in respect of the accounting period to which the excess relates.

Investments in non-reporting funds: second case

- 13.—**(1) This regulation applies if a CoACS has made an investment for the purposes of the scheme in a non-reporting fund, but the conditions in regulation 12(2) are not met for an accounting period.
- (2) The increase in fair value of the investment in the non-reporting fund in that period is treated for income tax and corporation tax purposes as additional income of the participants in the scheme in proportion to their rights in the scheme.
- (3) Decreases in the fair value of that interest in earlier accounting periods may be set against the increase referred to in paragraph (2) to reduce the amount of the increase, but—
- (a) not to below zero, and
 - (b) only to the extent that the decreases in fair value have not previously had the effect of reducing the amount of a fair value increase.
- (4) The additional income is treated as arising on the information reporting date in respect of the accounting period in which the fair value increase arises.
- (5) In this regulation “fair value” in relation to an interest in a non-reporting fund means the amount which, at the time the value is to be determined, is the amount for which the interest could be exchanged between knowledgeable and willing parties dealing at arm’s length.