
STATUTORY INSTRUMENTS

2009 No. 3001

The Offshore Funds (Tax) Regulations 2009

PART 2

THE TREATMENT OF PARTICIPANTS IN NON-REPORTING FUNDS

CHAPTER 2

CHARGES TO TAX ON PARTICIPANTS IN NON-REPORTING FUNDS

Offshore funds and the transfer of assets abroad

Application of transfer of assets abroad provisions

21.—(1) Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) applies in relation to an offshore income gain arising to a person resident or domiciled outside the United Kingdom as if the offshore income gain were income becoming payable to the person.

(2) Income treated as arising under that Chapter by virtue of paragraph (1) is regarded as “foreign” for the purposes of section 726, 730 or 735(1) of that Act.

(3) Paragraph (1) does not apply in relation to an offshore income gain if (and to the extent that) it is treated, by virtue of regulation 24, as arising to a person resident or ordinarily resident in the United Kingdom.

(4) The following provisions apply if regulation 20 applies in relation to an offshore income gain (the “relevant offshore income gain”).

(5) If—

(a) by virtue of regulation 20 an offshore income gain is treated as arising in a tax year to a person resident or ordinarily resident in the United Kingdom, and

(b) it is so treated by reason of the relevant offshore income gain (or part of it),

for that and subsequent tax years paragraph (1) does not apply in relation to the relevant offshore income gain (or that part).

(6) If, by virtue of paragraph (1) as it applies in relation to the relevant offshore income gain, income is treated under Chapter 2 of Part 13 of ITA 2007 as arising in a tax year, the OIG amount in question must be reduced (with effect from the following tax year) by the amount of the income.

(1) Section 726 was substituted by paragraph 165 of Schedule 7 to the Finance Act 2008; section 730 was substituted by paragraph 167 of Schedule 7 to the Finance Act 2008; and section 735 was substituted by paragraph 169 of Schedule 7 to the Finance Act 2008.