



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 8

OFFSHORE FUNDS [F¹ETC]

Supplementary

[F¹363A [F²Residence of undertakings for collective investment in transferable securities and alterative investment funds]

[F³(1) This section applies to—

- (a) a UCITS which is authorised in a foreign country or territory pursuant to Article 5 of the UCITS Directive, and
- (b) an AIF which is authorised or registered in a foreign country or territory, or is not authorised or registered but has its registered office in a foreign country or territory,

unless the UCITS or AIF is an excluded entity.

(2) If the UCITS or AIF is a body corporate which (apart from this section) would be treated as resident in the United Kingdom for the purposes of any enactment (within the meaning of section 354) relating to income tax, corporation tax or capital gains tax, the body corporate is instead to be treated as if it were not resident in the United Kingdom.

(2A) A UCITS or AIF is “an excluded entity” if it—

- (a) is a unit trust scheme the trustees of which are UK resident,
- (b) is resident in the United Kingdom by virtue of section 14 of CTA 2009,
- (c) is, or has been, an investment trust with respect to an accounting period, or
- (d) is or has been—

(i) a company UK REIT in relation to an accounting period, or

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 363A. (See end of Document for details)

(ii) a member of a group of companies at a time when the group is or was a group UK REIT in relation to an accounting period.

(2B) The Treasury may, by regulations, modify this section so as to—

- (a) add a description of UCITS or AIF as an excluded entity,
- (b) provide that a description of UCITS or AIF is no longer an excluded entity, or
- (c) vary a description of an excluded entity.]

(3) If, by virtue of section 99 ^{F4}... of TCGA 1992, that Act applies in relation to the [^{F5}UCITS or AIF] as if it were a company, that Act applies as if the company were [^{F6}not resident] in the United Kingdom (if it would not otherwise do so).

(4) In this section^{F7}—

"AIF" has the meaning given in regulation 3 of the Alternative Investment Fund Managers Regulations 2013,

"foreign country or territory" means a country or territory outside the United Kingdom,

"investment trust with respect to an accounting period" is to be construed in accordance with section 1158 of CTA 2010,

"UCITS" means an undertaking for collective investment in transferable securities,

"the UCITS Directive" means Directive [2009/65/EC](#) of the European Parliament and of the Council,

"company UK REIT in relation to an accounting period" and "group UK REIT in relation to an accounting period" are to be construed in accordance with section 527 of CTA 2010.]]

Textual Amendments

- F1** S. 363A inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), s. 59](#)
- F2** S. 363A heading substituted (retrospective to 5.12.2013) by [Finance Act 2014 \(c. 26\), s. 289\(5\)\(c\)\(6\)](#)
- F3** Ss. 363A(1)-(2B) substituted for s. 363A(1)(2) (retrospective to 5.12.2013) by [Finance Act 2014 \(c. 26\), s. 289\(2\)\(6\)](#)
- F4** Words in s. 363A(3) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\), regs. 1\(1\), 14](#)
- F5** Words in s. 363A(3) substituted (retrospective to 5.12.2013) by [Finance Act 2014 \(c. 26\), s. 289\(3\)\(6\)](#)
- F6** Words in s. 363A(3) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), Sch. 46 para. 146](#)
- F7** Words in s. 363A(4) substituted (retrospective to 5.12.2013) by [Finance Act 2014 \(c. 26\), s. 289\(4\)\(6\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 363A.