
STATUTORY INSTRUMENTS

2009 No. 3001

The Offshore Funds (Tax) Regulations 2009

PART 2

THE TREATMENT OF PARTICIPANTS IN NON-REPORTING FUNDS

CHAPTER 6

DEDUCTION OF OFFSHORE INCOME GAINS IN COMPUTING CHARGEABLE GAINS

Ambit of this Chapter

44.—(1) This Chapter applies if—

- (a) a material disposal gives rise to an offshore income gain, and
- (b) that disposal also constitutes the disposal of the interest concerned for the purposes of TCGA 1992.

(2) In this Chapter the disposal specified in paragraph (1)(b) is called the “TCGA disposal”.

Treatment of the TCGA disposal: general rules

45.—(1) This regulation applies for the purposes of the computation of the chargeable gain arising on the TCGA disposal.

(2) The provisions of this regulation have effect in relation to the TCGA disposal in substitution for section 37(1) of TCGA 1992 (deduction of consideration chargeable to tax on income).

(3) In the computation of the gain arising on the TCGA disposal, a sum equal to the offshore income gain shall be deducted from the sum which would otherwise constitute the amount or value of the consideration for the disposal.

(4) Paragraph (3) is subject to the following provisions of this Chapter.

(5) Paragraph (6) applies if the TCGA disposal is of such a nature that, by virtue of section 42 of TCGA 1992 (part disposals), an apportionment falls to be made of certain expenditure.

(6) No deduction is to be made by virtue of paragraph (3) in determining the amount or value of the consideration for the purposes of the fraction in section 42(2) of TCGA 1992.

Modification of section 162 of TCGA 1992

46.—(1) This regulation applies if the TCGA disposal forms part of a transfer to which section 162 of TCGA 1992 applies (roll-over relief on transfer of business in exchange wholly or partly for shares).

(2) For the purposes of subsection (4) of section 162 of TCGA 1992 (determination of the amount of the deduction from the gain on the old assets) “B” in the fraction in that subsection (the value of the whole of the consideration received by the transferor in exchange for the business) is to be taken to be what it would be if the value of the consideration other than shares so received by the transferor were reduced by an amount equal to the offshore income gain.

Application of section 128 of TCGA 1992

47.—(1) This regulation applies if there is a disposal to which this Part applies by virtue of—
[^{F1}(aa) regulation 36A (exchanges and schemes of reconstruction), or]
(c) regulation 37 (exchange of interests of different classes).

(2) TCGA 1992 has effect as if an amount equal to the offshore income gain to which that disposal gives rise were given (by the person making the exchange) as consideration for the new holding (within the meaning of section 128 of that Act (consideration given or received for new holding on a reorganisation)).

F1 Reg. 47(1)(aa) substituted for reg. 47(1)(a)(b) (8.6.2013) by [The Collective Investment Schemes \(Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction\) Regulations 2013 \(S.I. 2013/1400\)](#), regs. 1(1), **15(c)** (with reg. 1(2))

Changes to legislation:

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, CHAPTER 6.