STATUTORY INSTRUMENTS

2009 No. 3001

The Offshore Funds (Tax) Regulations 2009

PART 3

REPORTING FUNDS AND THE TREATMENT OF PARTICIPANTS IN REPORTING FUNDS

CHAPTER 5

THE COMPUTATION OF REPORTABLE INCOME

Adjustments for capital items ***[****[F1]and miscellaneous items****]***

Textual Amendments

F1 Words in reg. 64 cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Offshore Funds (Tax) (Amendment) Regulations 2017 (S.I. 2017/240), regs. 1(1), **2(2)(b)**

Treatment of capital items following IMA SORP

64.—(1) The capital items for which an adjustment is required are such profits, gains or losses as would fall to be dealt with under the heading "net capital gains/losses" in the statement of total return for the period of account if the accounts for that period were to be prepared in accordance with the IMA SORP.

(2) The amount specified in regulation 63(1) must be adjusted by—

(a) deducting gains that fall within the heading specified in paragraph (1), and

(b) adding losses that fall within that heading.

(3) A profit or loss from a trade may not be treated as a capital item for the purposes of this regulation. This paragraph is subject to regulation 80.

(4) For the purposes of paragraph (1) the IMA SORP applies to determine the "net capital gains/losses" of an offshore fund for a period of account in the same way that it applies to determine the "net capital gains/losses" of an authorised investment fund for an accounting period.

(5) In this regulation—

"authorised investment fund" has the meaning given in the Authorised Investment Funds (Tax) Regulations 2006 [M1];

"the IMA SORP" means, in relation to any period of account for which it is required or permitted to be used, the Statement of Recognised Practice relating to authorised investment funds issued by the Investment Management Association in November 2008, as from time to time modified, amended or revised.

Marginal Citations

M1 S.I. 2006/964, to which there are amendments not relevant to these Regulations.

Treatment of other capital items [F2and miscellaneous items]

65.—(1) The amount specified in regulation 63(1) must also be adjusted by adding the amounts specified in paragraph (2).

(2) Those amounts are—

(a) expenses directly related to acquisition or disposal of investments (other than those taken into account in arriving at the amounts specified in sub-paragraph (a) or (b) of regulation 64(2)), F3...

(b) costs relating to the setting up, merger or dissolution of the fund**[**F4, and

(c) sums payable or allocated to the manager of a fund calculated by reference to an increase in the net asset value of the fund or a formula designed to reward the manager's performance.**]**

Textual Amendments

F2 Words in reg. 65 heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Offshore Funds (Tax) (Amendment) Regulations 2017 (S.I. 2017/240), regs. 1(1), **2(2)(c)**

F3 Word in reg. 65(2)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Offshore Funds (Tax) (Amendment) Regulations 2017 (S.I. 2017/240), regs. 1(1), **2(3)(a)**

F4 Reg. 65(2)(c) and preceding word inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Offshore Funds (Tax) (Amendment) Regulations 2017 (S.I. 2017/240), regs. 1(1), **2(3)(b)**

Changes to legislation:
There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Cross Heading: Adjustments for capital items and miscellaneous items.