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STATUTORY INSTRUMENTS

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**2009 No. 3001**

**The Offshore Funds (Tax) Regulations 2009**

**PART 3**

**REPORTING FUNDS AND THE TREATMENT  
OF PARTICIPANTS IN REPORTING FUNDS**

**CHAPTER 7**

**REPORTS TO PARTICIPANTS**

**Report to participants for a reporting period**

**90.**—(1) A reporting fund must make a report available to each [<sup>F1</sup>relevant] participant for each reporting period.

(2) For the purposes of these Regulations a report is made available if the fund—

- (a) sends the report to a [<sup>F2</sup>relevant] participant by post,
- (b) sends the report to a [<sup>F2</sup>relevant] participant by means of an electronic communications service,
- (c) makes the report available on a website accessible to relevant participants and to HMRC, or
- (d) publishes the report in a newspaper which is published in English in the United Kingdom and readily available in all parts of the United Kingdom.

(3) In [<sup>F3</sup>this regulation] “relevant participants” means participants who—

- (a) are resident in the United Kingdom, or
- (b) are reporting funds,

during any part of the reporting period.

(4) If the fund does not provide the report to a [<sup>F4</sup>relevant] participant by sending it to the participant by post, the fund must, if so required by the participant, make the report available to the participant in some further manner (whether or not that further manner is also specified in regulation 90(2)) as the fund and the participant may agree.

(5) The reporting fund must make the report available within a period of six months beginning with the day immediately following the final day of the reporting period.

(6) The report must be in English.

**F1** Word in reg. 90(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), [39\(2\)\(a\)](#)

**F2** Word in reg. 90(2)(a)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), [39\(2\)\(b\)](#)

- F3** Words in reg. 90(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), **39(3)**
- F4** Word in reg. 90(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), **39(2)(c)**

### Meaning of “reporting period”

**91.** In these Regulations a “reporting period” of a reporting fund means a period determined in accordance with the following rules— *First rule* If the reporting fund's period of account is twelve months or less, the reporting period is the same as the period of account. *Second rule* If the reporting fund's period of account is more than twelve months, there are two reporting periods. The first reporting period is a period consisting of the first twelve months of the period of account. The second reporting period is a period consisting of the remainder of the period of account.

### Contents of report to participants<sup>[F5]</sup>: non-transparent funds]

**92.—(1)** <sup>[F6]</sup>In the case of reporting funds which are not transparent funds,] the report to participants for a reporting period must include the following information—

- (a) the amount actually distributed to participants per unit of interest in the fund in respect of the reporting period;
- <sup>[F7]</sup>(b) the amount per unit of any excess treated as additional distributions made to participants in the fund in respect of the reporting period; ]
- (c) the dates on which distributions were made;
- (d) the fund distribution date (see regulation 94(4));
- (e) a statement whether or not the fund remains a reporting fund at the date the fund makes the report available.
- <sup>[F8]</sup>(f) if the fund operates full equalisation arrangements and has not given a statement under regulation 50A(b)(i), the equalisation amount per unit of interest in the fund in relation to any interest acquired by way of initial purchase in the reporting period.]

(2) In these Regulations the “reported income” of a reporting fund for a reporting period means the reportable income of the fund for the reporting period, computed by or on behalf of the fund, and provided, in the report for the reporting period, to the participants in the fund.

(3) For the purposes of paragraph (1)—

- <sup>[F9]</sup>(a) the amount in paragraph (b) is the amount of any excess specified in regulation 94(1) divided by the number of units in the fund in issue at the end of the reporting period.]
- <sup>[F10]</sup>(b) the amount actually distributed to participants per unit of interest in the fund in respect of the reporting period must be computed at the time the distribution is made,
- (ba) subject to paragraphs (3A) and (3B), the fund may chose to calculate the equalisation amount per unit of interest in the fund either on the basis of—
  - (i) the sum of all the equalisation amounts in relation to all acquisitions by way of initial purchase in the reporting period divided by the total number of units acquired by way of initial purchase in the period, or
  - (ii) the equalisation amount in relation to the acquisition by the participant to whom the report is made available divided by the number of units acquired on that acquisition, and]
- (c) the amount per unit of interest in the fund must be expressed to at least four decimal places of a pound (or other currency unit) of value per unit.

[<sup>F11</sup>(3A) A fund cannot change the basis for calculating the equalisation amount per unit of interest in the fund more than once in three successive reporting periods.

(3B) In any reporting period all reports to participants must use the same basis for calculating the equalisation amount per unit of interest in the fund.]

(4) If the amount of the reported income per unit of interest in the fund for the reporting period is equal to, or less than, the amount actually distributed to participants per unit of interest in the fund in respect of the reporting period, the amount to be stated for the purposes of paragraph (1)(b) is nil.

(5) This regulation is subject to regulation 93.

<b>F5</b>	Words in reg. 92 heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211)</a> , regs. 1(1), <b>25(2)</b>
<b>F6</b>	Words in reg. 92(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211)</a> , regs. 1(1), <b>25(3)</b>
<b>F7</b>	Reg. 92(1)(b) substituted (28.6.2013) by <a href="#">The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411)</a> , regs. 1(1), <b>7(a)(i)</b> (with reg. 1(3)(4))
<b>F8</b>	Reg. 92(1)(f) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211)</a> , regs. 1(1), <b>10(2)</b>
<b>F9</b>	Reg. 92(3)(a) substituted (28.6.2013) by <a href="#">The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411)</a> , regs. 1(1), <b>7(b)</b> (with reg. 1(3)(4))
<b>F10</b>	Reg. 92(3)(a)-(ba) substituted for reg. 92(3)(a)-(b) (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211)</a> , regs. 1(1), <b>10(3)</b>
<b>F11</b>	Reg. 92(3A)(3B) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Offshore Funds (Tax) (Amendment) Regulations 2011 (S.I. 2011/1211)</a> , regs. 1(1), <b>10(4)</b>

**Funds which do not operate equalisation arrangements: income adjustments on the basis of reported income**

<sup>F12</sup>**92A.** . . . . .

<b>F12</b>	Reg. 92A omitted (28.6.2013) by virtue of <a href="#">The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411)</a> , regs. 1(1), <b>8</b> (with reg. 1(3)(4))
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**Funds which do not operate equalisation arrangements: income adjustments on the basis of accounting income**

<sup>F13</sup>**92B.** . . . . .

<b>F13</b>	Reg. 92B omitted (28.6.2013) by virtue of <a href="#">The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411)</a> , regs. 1(1), <b>8</b> (with reg. 1(3)(4))
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**Funds which do not operate equalisation arrangements: computation period**

<sup>F14</sup>**92C.** . . . . .

<b>F14</b>	Reg. 92C omitted (28.6.2013) by virtue of <a href="#">The Offshore Funds (Tax) (Amendment No. 2) Regulations 2013 (S.I. 2013/1411)</a> , regs. 1(1), <b>8</b> (with reg. 1(3)(4))
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[<sup>F15</sup>**Contents of reports to participants: transparent reporting funds**

**92D.** In the case of transparent reporting funds, the report to participants for a reporting period must—

- (a) contain sufficient information to enable those participants to meet their tax obligations in the United Kingdom with respect to their interests in the fund, and
- (b) include a statement whether or not the fund remains a reporting fund at the date the fund makes the report available.]

**F15** Reg. 92D inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2011 \(S.I. 2011/1211\)](#), regs. 1(1), **26**

**Lengthy periods of account where full information not available**

**93.**—(1) This regulation applies if a reporting fund—

- (a) has a period of account which is longer than twelve months, and
- (b) has difficulty in computing its reportable income for the reporting period constituting the first twelve months of that period of account (the “relevant reporting period”).

(2) For the purpose of preparing its report to participants for the relevant reporting period, the fund may elect—

- (a) to compute its reportable income based on such information as is reasonably available, or
- (b) to make a just and reasonable apportionment of the income of the period of account.

(3) The computation of reportable income for the reporting period following the relevant reporting period must include all amounts not accounted for in the relevant reporting period.

**Changes to legislation:**

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, CHAPTER 7.