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STATUTORY INSTRUMENTS

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**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 gains of non-resident settlements*

**Application to gains of non-resident settlements**

**20.**—(1) If an offshore income gain arises to a settlement in a tax year and the trustees of the settlement are [<sup>F1</sup>not] resident in the United Kingdom in the tax year, the gain is not regarded as income for the purposes of Chapter 5 of Part 5 of ITTOIA 2005 (settlements: amounts treated as income of settlor).

(2) If—

- (a) offshore income gains arise to the trustees of a settlement in a tax year, and
- (b) section 87 of TCGA 1992 <sup>M1</sup> (gains of non-resident settlements) applies to the settlement for that year,

the OIG amount for the settlement for that year is the amount of the offshore income gains.

(3) Sections 12, 87 to 90A and 96 to 98 of, and Schedule 4C to, TCGA 1992 <sup>M2</sup> apply in relation to OIG amounts as if—

- (a) references to section 2(2) amounts (except those in paragraph 7B(2)(b) and (4) of Schedule 4C) were to OIG amounts,
- (b) references to chargeable gains (except the one in paragraph 1(5) of Schedule 4C) were to offshore income gains,
- (c) references to anything accruing were to it arising (and similar references, except the one in paragraph 1(5) of Schedule 4C, were read accordingly),
- (d) sections 87(4), 88(2) to (5) and 97(6) and paragraphs 1(3A), 3 to 7 and 12 of Schedule 4C were omitted, and
- (e) regulation 21 did not apply.

(4) Section 87A of TCGA 1992 <sup>M3</sup> applies for a tax year by virtue of paragraph (3) before it applies for that year otherwise than by virtue of that paragraph.

(5) If this regulation applies, the person to whom the offshore income gain arises is treated as the person making the disposal.

### Textual Amendments

- F1** Word in reg. 20(1) substituted (6.4.2013) by [The Income Tax \(Removal of Ordinary Residence\) Regulations 2013 \(S.I. 2013/605\)](#), regs. 1, **7(2)** (with reg. 2(a))

### Marginal Citations

- M1** Section 87 was substituted by paragraph 108 of Schedule 7 to the Finance Act 2008.
- M2** Section 12 was substituted by paragraph 60 of Schedule 7 to the Finance Act 2008; sections 87 to 87C were substituted for section 87 by paragraph 108 of Schedule 7 to the Finance Act 2008; section 88 was amended by section 130(2) of the [Finance Act 1998 \(c. 36\)](#), **paragraph 35** of Schedule 12 to the [Finance Act 2006 \(c. 25\)](#), and by paragraph 6 of Schedule 2 and paragraph 109 of Schedule 7 to the Finance Act 2008; section 89 was amended by paragraph 110 of Schedule 7 to the Finance Act 2008; sections 90 and 90A were substituted for section 90 by paragraph 111 of Schedule 7 to the Finance Act 2008; section 96 was amended by section 127(3) of the Finance Act 1998, section 96 of, and paragraph 3 of Schedule 26 to, the [Finance Act 2000 \(c. 17\)](#); section 97 was amended by section 129(2) of the Finance Act 1998, paragraph 4 of Schedule 26 to the Finance Act 2000, paragraph 15 of Schedule 12 to the Finance Act 2006 and paragraph 302 of Schedule 1 to the [Income Tax Act 2007 \(c. 3\)](#); and section 98 was amended by paragraph 5 of Schedule 26 to the Finance Act 2000, paragraph 16 of Schedule 12 to the Finance Act 2006 and paragraph 303 of Schedule 1 to the Income Tax Act 2007. Schedule 4C was inserted by paragraph 1 of Schedule 26 to the Finance Act 2000. Paragraph 1 of Schedule 4C was substituted by paragraph 2 of Schedule 29 to the [Finance Act 2003 \(c. 14\)](#) and paragraph 7B of Schedule 4C, in its present form, was substituted by paragraph 137 of Schedule 7 to the Finance Act 2008.
- M3** Sections 87 to 87C were substituted for section 87 by paragraph 108 of Schedule 7 to the [Finance Act 2008 \(c. 9\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Section 20.