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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 7

THE CONVERSION OF A NON-REPORTING FUND INTO A REPORTING FUND

**Consequences of conversion for participants**

**48.**—(1) This regulation applies if an offshore fund ceases to be a non-reporting fund and becomes a reporting fund.

(2) A participant in the fund may make an election to be treated—

- (a) as disposing of the interest owned by the participant in the non-reporting fund at its market value on the disposal date, and
- (b) as acquiring a holding in the reporting fund at the beginning of the reporting fund's first period of account.

This is subject to [<sup>F1</sup>paragraphs (5) and (5A)].

(3) Chapter 5 of this Part applies to determine the offshore income gain arising on the deemed disposal referred to in paragraph (2)(a).

(4) The deemed acquisition referred to in paragraph (2)(b) is treated as made for the same amount as the deemed disposal referred to in paragraph (2)(a).

(5) An election may not be made under paragraph (2) unless the offshore income gain arising on the deemed disposal referred to in paragraph (2)(a) (determined in accordance with paragraph (3)) is greater than zero.

[<sup>F2</sup>(5A) If the interest owned by the participant represents variable remuneration represented by profit allocated under section 863I of ITTOIA 2005 (allocation of profit to the AIFM firm), an election may not be made under paragraph (2) if the fund ceases to be a non-reporting fund and becomes a reporting fund before the remuneration has vested in the participant.]

(6) If the participant is chargeable to income tax, the election mentioned in paragraph (2) must be made by being included in a return made for the tax year which includes the disposal date.

(7) If the participant is chargeable to corporation tax, the election mentioned in paragraph (2) must be made by being included in the participant's company tax return for the accounting period which includes the disposal date.

(8) In this regulation—  
“company tax return” has the same meaning as in Schedule 18 to the Finance Act 1998 <sup>M1</sup>; the  
“disposal date” means the final day of the last period of account before the fund becomes a reporting fund.

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**Changes to legislation:** There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Section 48. (See end of Document for details)

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**Textual Amendments**

- F1** Words in [reg. 48\(2\)](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2014 \(S.I. 2014/1931\)](#), regs. 1(1), **2(3)(a)**
- F2** [Reg. 48\(5A\)](#) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) \(Amendment\) Regulations 2014 \(S.I. 2014/1931\)](#), regs. 1(1), **2(3)(b)**
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**Marginal Citations**

- M1** 1998 c. 36.

**Changes to legislation:**

There are currently no known outstanding effects for the The Offshore Funds (Tax) Regulations 2009, Section 48.