

Status: Point in time view as at 16/06/1999. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Paragraph 5 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 27 **U.K.**

DISTRIBUTING FUNDS ^{M1}

Modifications etc. (not altering text)

- C1** Sch. 27 applied (with modifications) (22.10.2004 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Offshore Funds Regulations 2004 \(S.I. 2004/2572\)](#), **regs. 1(1), 4**

Marginal Citations

- M1** Source—[1984 Sch.19; 1986 s.50; 1987 (No.2) s.66]

PART I **U.K.**

THE DISTRIBUTION TEST

United Kingdom equivalent profits

- 5 (1) Any reference in this Schedule to the United Kingdom equivalent profits of an offshore fund for an account period is a reference to the amount which, on the assumptions in sub-paragraph (3) below, would be the total profits of the fund for that period on which, after allowing for any deductions available against those profits, corporation tax would be chargeable.
- (2) In this paragraph the expression “profits” does not include chargeable gains.
- [^{F1}[^{F2}(2A) In applying sub-paragraph (1) above the effect of the following shall be ignored, namely—
- (a) sections 125 to 133 of the Finance Act 1993 (exchange gains and losses), and
 - (b) sections 159 and 160 of, and paragraph 1 of Schedule 18 to, the Finance Act 1994 (treatment of profits and losses on interest rate and currency contracts).]]
- (3) The assumptions referred to in sub-paragraph (1) above are—
- (a) that the offshore fund is a company which, in the account period in question, but not in any other account period, is resident in the United Kingdom; and
 - (b) that the account period is an accounting period of that company; and
 - (c) that any dividends or distributions which, by virtue of section 208, should be left out of account in computing income for corporation tax purposes are nevertheless to be brought into account in that computation in like manner as if they were dividends or distributions of a company resident outside the United Kingdom.

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- (4) Without prejudice to any deductions available apart from this sub-paragraph, the deductions referred to in sub-paragraph (1) above include—
- (a) a deduction equal to any amount which, by virtue of paragraph 1(6) above, is allowed as a deduction in determining the income of the fund for the account period in question; and
 - (b) a deduction equal to any amount of tax (paid under the law of a territory outside the United Kingdom) which was taken into account as a deduction in determining the income of the fund for the account period in question but which, because it is referable to capital rather than income, does not fall to be taken into account by virtue of section 811.
- (5) For the avoidance of doubt it is hereby declared that, if any sums forming part of the offshore fund's income for any period have been received by the fund without any deduction of or charge to tax [^{F3} and have been so received by virtue of section 154(2) of the Finance Act 1996], the effect of the assumption in sub-paragraph (3)(a) above is that those sums are to be brought into account in determining the total profits referred to in sub-paragraph (1) above.

Textual Amendments

- F1** Sch. 27 para. 5(2A) inserted (27.7.1993) by Finance Act 1993 (c. 34), s. 170, **Sch. 18 para. 6**
F2 Sch. 27 para. 5(2A) substituted (3.5.1994) by Finance Act 1994 (c. 9), s. 176(2)
F3 Words in Sch. 27 para. 5(5) substituted (with effect in accordance with s. 154(9) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 28 para. 6**

Modifications etc. (not altering text)

- C1** Sch. 27 para. 5(1) modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), **Sch. 10 para. 3** (with Sch. 15) (and as that para. 3 is substituted (with effect in accordance with s. 82(2) of the 2002 amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 39**)

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