

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 16 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 28

#### COMPUTATION OF OFFSHORE INCOME GAINS <sup>M1</sup>

##### Modifications etc. (not altering text)

- C1** Sch. 28 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), 5**

##### Marginal Citations

- M1** Source—[1984 Sch.20.]

### PART II

#### DISPOSALS INVOLVING AN EQUALISATION ELEMENT

- 6 (1) Subject to paragraph 7 below, a disposal to which this Chapter applies by virtue of section 758(3) gives rise to an offshore income gain of an amount equal to the equalisation element relevant to the asset disposed of.
- (2) Subject to sub-paragraphs (4) to (6) below, the equalisation element relevant to the asset disposed of by a disposal falling within sub-paragraph (1) above is the amount which would be credited to the equalisation account of the offshore fund concerned in respect of accrued income if, on the date of the disposal, the asset which is disposed of were acquired by another person by way of initial purchase.
- (3) In the following provisions of this Part of this Schedule, a disposal falling within sub-paragraph (1) above is referred to as a “disposal involving an equalisation element”.
- (4) Where the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal after the beginning of the period by reference to which the accrued income referred to in sub-paragraph (2) above is calculated, the amount which, apart from this sub-paragraph, would be the equalisation element relevant to that asset shall be reduced by the following amount, that is to say—
- (a) if that acquisition took place on or after 1st January 1984, the amount which, on that acquisition, was credited to the equalisation account of the offshore fund concerned in respect of accrued income or, as the case may be, would have been so credited if that acquisition had been an acquisition by way of initial purchase; and
- (b) in any other case, the amount which would have been credited to that account in respect of accrued income if that acquisition had been an acquisition by way of initial purchase taking place on 1st January 1984.

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 16 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)*

- (5) In any case where—
  - (a) the asset disposed of by a disposal involving an equalisation element was acquired by the person making the disposal at or before the beginning of the period by reference to which the accrued income referred to in sub-paragraph (2) above is calculated, and
  - (b) that period began before 1st January 1984 and ends after that date,
 the amount which, apart from this sub-paragraph, would be the equalisation element relevant to that asset shall be reduced by the amount which would have been credited to the equalisation account of the offshore fund concerned in respect of accrued income if the acquisition referred to in paragraph (a) above had been an acquisition by way of initial purchase taking place on 1st January 1984.
  
- (6) Where there is a disposal involving an equalisation element, then, to the extent that any amount which was or would be credited to the equalisation account of the offshore fund in respect of accrued income, as mentioned in any of sub-paragraphs (2) to (5) above, represents profits from dealing in commodities, within the meaning of paragraph 4 of Schedule 27, one half of that accrued income shall be left out of account in determining under those sub-paragraphs the equalisation element relevant to the asset disposed of by that disposal.
  
- 7 (1) For the purposes of this Part of this Schedule, there shall be determined, in accordance with paragraph 8 below, the Part I gain (if any) on any disposal involving an equalisation element.
  
- (2) Notwithstanding anything in paragraph 6 above—
  - (a) if there is no Part I gain on a disposal involving an equalisation element, that disposal shall not give rise to an offshore income gain; and
  - (b) if, apart from this paragraph, the offshore income gain on a disposal involving an equalisation element would exceed the Part I gain on that disposal, the offshore income gain to which that disposal gives rise shall be reduced to an amount equal to that Part I gain.
  
- 8 (1) On a disposal involving an equalisation element, the Part I gain is the amount (if any) which, by virtue of Part I of this Schedule (as modified by sub-paragraphs (2) to (5) below), would be the offshore income gain on that disposal if it were a material disposal within the meaning of that Part.
  
- (2) For the purposes only of the application of Part I of this Schedule to determine the Part I gain (if any) on a disposal involving an equalisation element, subsections (5) and (6) of section 758 shall have effect as if, in subsection (5), the words “by virtue of subsection (3) above” were omitted.
  
- (3) If a disposal involving an equalisation element is one which, by virtue of any enactment other than section [F156, 57, 131 or 145 of the 1992 Act], is treated for the purposes of the [F11992] Act as one on which neither a gain nor a loss accrues to the person making the disposal, then, for the purpose only of determining the Part I gain (if any) on the disposal, that enactment shall be deemed not to apply to it (but without prejudice to the application of that enactment to any earlier disposal).

<sup>F2</sup>(4) . . . . .

---

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 16 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)*

---

<sup>F2</sup>(5) .....

---

**Textual Amendments**

- F1** Words in Sch. 28 para. 8(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(63)(c)** (with ss. 60, 101(1), 171, 201(3))
- F2** Sch. 28 para. 8(4)(5) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with ss. 60, 101(1), 171, 201(3), Sch. 11 paras. 22, 26(2), 27)

**Status:**

Point in time view as at 06/04/2008.

**Changes to legislation:**

Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 16 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.