
DRAFT STATUTORY INSTRUMENTS

2009 No.

The Offshore Funds (Tax) Regulations 2009

PART 3

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

CHAPTER 5

THE COMPUTATION OF REPORTABLE INCOME

Adjustments for equalisation arrangements

Treatment of reporting funds operating equalisation arrangements

72.—(1) This regulation applies if, in a period of account—

- (a) a reporting fund operates equalisation arrangements, and
- (b) a participant disposes of an interest in the fund.

(2) For the purposes of this regulation, an offshore fund operates equalisation arrangements if, and at a time when, arrangements are in existence which have the result that where—

- (a) a person (“X”) acquires by way of initial purchase an interest in the fund at some time during a period relevant to the arrangements, and
- (b) the fund makes a distribution for a period which begins before the date of X’s acquisition of that interest,

the amount of that distribution which is paid to X (assuming X still to retain that interest) will include a payment of capital which is debited to an account maintained under the arrangements (the “equalisation account”) and which is determined by reference to the income which had accrued to the fund at the date of X’s acquisition.

(3) For the purposes of this regulation, a person (“X”) acquires an interest in an offshore fund by way of initial purchase if—

- (a) X’s acquisition is by way of subscription for or allotment of new shares, units or other interests issued or created by the fund, or
- (b) X’s acquisition is by way of direct purchase from the managers of the fund and their sale to X is made in their capacity as managers of the fund.

(4) For the purposes of calculating reportable income, there must be a deduction of an amount equal to so much of the consideration for the disposal as represents the amount which would be credited to the equalisation account of the offshore fund if, on the same date, a holding of the same size were to be acquired by another person by way of initial purchase.

(5) But if the disposal mentioned in paragraph (4) is of a holding of units or shares which were issued within the same period of account as that in which the disposal takes place, the deduction must be limited to the income accrued or arising to those units or shares since issue.