

Offshore funds operating equalisation arrangements. FA90 s64 742.—(1) For the purposes of this Chapter, 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 acquires by means of initial purchase a material 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 the acquisition of that interest,

the amount of that distribution paid to the person (assuming the person is still retaining that interest) will include a payment of capital debited to an account and 20 referred to as “the equalisation account”) maintained under the arrangements and determined by reference to the income which had accrued to the fund at the date of the person's acquisition.

(2) For the purposes of this section, a person shall acquire an interest in an offshore fund by means of initial purchase if the person's acquisition is by—

(a) subscription for or allotment of new shares, units or other interests issued or created by the fund, or

(b) direct purchase from the persons concerned with the management of the fund and their sale to that person is made in their capacity as managers of the fund.

(3) Without prejudice to section 741 (1), this Chapter shall apply, subject to subsections (4) to (6), to a disposal by any person of an asset if—

(a) at the time of the disposal the asset constitutes a material interest in an offshore fund which at that time is operating equalisation arrangements,

(b) the fund is not and has not at any material time (7)) been a non-qualifying offshore fund, and

(c) the proceeds of the disposal are not to be taken into account as a trading receipt.

(4) This Chapter shall not by virtue of subsection (3) apply to a disposal if—

(a) the disposal takes place during the period mentioned in subsection (1)(a), and

(b) throughout so much of that period as precedes the disposal the income of the offshore fund concerned has been of the nature referred to in paragraph 3(1) of Schedule 19.

(5) An event which apart from section 584 (3) would constitute a disposal of an asset shall constitute such a disposal for the purpose of determining whether by virtue of subsection (3) there is a disposal to

which this Chapter applies.

(6) The reference in subsection (5) to section 584 (3) shall be deemed to include a reference to that section as applied by section 586 or 733 but not as applied by section 585.