Return Earned by Regulated Investment Managers

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Revenue
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Introduction

Revenue is aware that it is not unusual for an investment manager of a fund to invest in the funds in which it manages. Where the investment manager's management activities are taxed under Sch. D Case I, this raises the question as to whether or not the return earned on these investments forms part of the investment managers trading profits.

This manual outlines the specific scenarios in which Revenue views the return earned by an investment manager from an investment fund which it manages as taxable under Case I of Schedule D.

1 Investment Manager

For the purposes of this manual an "investment manager" means an investment manager authorised and regulated as an Alternative Investment Fund Manager or MiFID regulated investment firm by the Central Bank of Ireland.

2 Specific Scenarios

Outlined below are the three specific scenarios in which Revenue views investment managers as taxable under Case I of Schedule D on the return earned by them on investments in funds in which they manage.

2.1 Commercial Requirement

Potential investors may require the investment manager to hold an interest in the investment in question as a pre-condition to making their investment. This is to ensure there is a mutuality of interest between the investor and the investment manager in respect of the investment.

In addition, a commercial requirement can also arise in certain cases where a particular investor may be prohibited, for regulatory purposes, from holding an investment in a fund which exceeds a certain proportion of the overall investment held in the fund. The investment manager may then be commercially required to itself invest a certain amount in the fund to ensure that the investor does not breach any regulatory requirements.

2.2 Providing Seed Capital

It is common practice that an investment manager may be required to provide seed capital on the initial establishment of a fund. This seed capital is used to fund the running costs of the fund in advance of investor subscriptions. The investment by the investment manager may be required on a short-term basis until a sufficient level of investors are attracted and then redeemed by the investment manager. At times income and gains can arise to the investment manager in respect of its investment in the intervening period.

2.3 Ensuring Employee Remuneration Policy Compliance

Following the introduction of the AIFMD, at times investment managers utilise shares or units in the funds in which they manage as part of their employment remuneration policy. This can ensure that investment managers are in line with guidelines which have issued from the European Securities and Markets Authority which notes a strong recommendation for the remuneration packages of an investment manager's staff to be consistent with the risk profiles of the strategies of the fund which it manages. As a result, where an investment manager utilises shares or units in a fund in which it manages to remunerate employees, the investment manager will often purchase and hold the relevant units or shares. This can ensure that the investment manager can protect itself from the risk of a change in value of the underlying fund where the remuneration includes a variable component which is partly deferred and the investment manager does not physically hold the underlying fund for the purpose of meeting the future amount payable.

2.4 Capital Committed but not yet deployed

In scenarios 1 and 2 above it can often be clear to the investment manager for a period of time in advance of the capital requirement that such an investment will be required from the investment manager.

The investment manager would normally be required to commit to making a certain level of investment in the fund and would often segregate the capital to be committed so it is available to be deployed when required. This segregated capital may earn an investment return prior to being committed for the purposes of scenarios 1 or 2 above.

Subject to the investment manager being able to clearly demonstrate that it has committed to holding a future investment in one of the funds in which it managers, for the purposes of scenarios 1 and 2 above, any investment return earned on this segregated capital in the intermediary period will be taxable under Case I of Schedule D, subject to the following conditions –

a. The capital being deployed for the designated purposes without any undue delay and in any event the period in which it is otherwise utilised does not exceed six months.

b. In the event that the capital is not deployed for the intended purposes, any return on the utilisation of the capital during the period when it was segregated for such deployment will not qualify for tax treatment under Case I of Schedule D.

3 Conclusion

Revenue confirms that the scenarios above should not be regarded as having any particular impact on existing established tax principles for determining whether returns from other investment activity carried on by the investment manager would be subject to tax on trading account. Revenue simply accepts the scenarios outlined in this manual as meeting those principles for trading account status.

There will be situations where an investment will be made by an investment manager in a fund that it manages which will not fall within the specific scenarios that are subject to the confirmation of treatment outlined in this manual.

For information in relation to other situations in which Revenue accept deposit interest as a trading receipt please read: Tax and Duty Manual Part 02-02-07 - Deposit Interest - Whether a Trading Receipt.