

Offshore funds managed in Ireland

Part 27-05-01

This document should be read in conjunction with Chapter 5, Part 27, TCA 1997

Document last reviewed May 2018

1 Introduction

The purpose of this manual is to outline the tax treatment of certain offshore funds which are formed under the laws of a jurisdiction other than Ireland, but which are managed in Ireland.

2 Legislation

The relevant legislation is contained in section 747G, TCA 1997.

2.1 Relevant UCITS

The term 'UCITS Directive' refers to the European Union (EU) Undertakings for Collective Investment in Transferable Securities (UCITS) IV Directive, which was adopted across Member States in 2009 and transposed into Irish law in July 2011. The Directive provided for the co-ordination of laws, regulations and administrative provisions relating to UCITS. The legislation transposing the Directive allows for UCITS funds to be marketed across the EU and for the cross-border management of such funds in the EU. Consequently, UCITS formed under the laws of one Member State, may be managed by a management company regulated under the laws of another Member State, that is, a 'relevant UCITS'.

UCITS are generally regarded as 'retail' funds, that is, suitable for individual (non-professional) investors as well as professional investors.

2.2 Relevant AIFs

The Alternative Investment Fund Managers Directive (AIFMD) was transposed into Irish law in July 2013. The Directive regulates the management of collective investment funds that do not qualify as UCITS. The legislation transposing the Directive allows for Alternative Investment Funds (AIFs) formed under the laws of a jurisdiction other than Ireland to be managed by a manager authorised in Ireland, that is, a 'relevant AIF'. AIFs are funds that are suitable for professional investors and not for retail investors.

3 Tax treatment

3.1 General

The provisions of section 747G act to ensure that a fund (whether constituted as a Plc, an ICAV, a unit trust or suchlike), which would not otherwise be within the charge to tax in Ireland, is not brought within such a charge solely as a result of having an Irish manager.

3.1.1 Fund level

Section 747G(2) provides that —

- A UCITS formed under the law of an EU Member State, other than Ireland, will not be liable to tax in Ireland by reason only of having a management company that is authorised under Irish law

and

- An AIF formed under the laws of a jurisdiction, other than Ireland, will not be liable to tax by reason only of having a manager that is authorised under Irish law.

3.1.2 Investor level

Section 747G(3) provides that —

- Irish resident investors in a ‘relevant UCITS’ will be treated as unit holders in an offshore fund (refer to [TDM 27-02-01](#) and [TDM 27-04-01](#) for more details)

and

- Irish resident investors in a ‘relevant AIF’ will be treated as unit holders in an offshore fund.