

2017 No.

INCOME TAX

CAPITAL ALLOWANCES

CORPORATION TAX

CAPITAL GAINS TAX

**The Co-ownership Authorised Contractual Schemes (Tax)
Regulations 2017**

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| <i>Made</i> | - - - - | *** |
| <i>Laid before the House of Commons</i> | | *** |
| <i>Coming into force</i> | - - | *** |

The Treasury, in exercise of the powers conferred by [section *** of the Finance Act 2017(a)], make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Co-ownership Authorised Contractual Schemes (Tax) Regulations 2017 and come into force on **** 2017.

(2) Subject to paragraph (3), these Regulations have effect in relation to accounting periods of a CoACS beginning on or after that date.

(3) Regulations 2(1), 6(1), 6(3) and 7 to 11 have effect in relation to accounting periods of a CoACS beginning on or after 1st April 2017.

Interpretation

2.—(1) In these Regulations—

“CoACS” means co-ownership authorised contractual schemes

“HMRC” means Her Majesty’s Revenue and Customs;

“information reporting date”, in relation to a CoACS, means the date 6 months after the end of the accounting period of the CoACS;

(2) In these Regulations the following terms have the same meaning as in the Offshore Funds Regulations 2009(b)—

(a) 2017 c. *.

(b) S.I. 2009/3001; relevant amending instruments are S.I.[]. [Part 2 of Schedule 2 to those Regulations contains an index of defined expressions.]

- “non-reporting fund”(a);
- “reportable income”(b);
- “reported income”(c);
- “reporting fund”(d).

Investments in reporting offshore funds

3.—(1) This regulation applies if a CoACS has made an investment for the purposes of the scheme in a reporting fund.

(2) The excess (if any) of the reported income of the reporting fund in respect of the investment over the amount distributed by the reporting fund in respect of that investment is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.

(3) If the reporting fund does not make a report available in accordance with regulation 90(5) of the Offshore Funds Regulations 2009—

- (a) the operator of the CoACS must estimate the amount of excess (if any) of the reportable income of the reporting fund in respect of the investment over the amount distributed by the reporting fund in respect of that investment, and
- (b) the estimated amount is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.

(4) Where paragraph (3) applies, in the first later accounting period in which the operator has sufficient information to accurately determine the amount of any excess estimated under that paragraph, the operator must make any necessary corrections by adjusting the estimated amount for that later accounting period.

(5) The additional income is treated as arising on the information reporting date in respect of the accounting period in which the excess is treated as made under the Offshore Funds Regulations 2009.

Investments in non-reporting offshore funds: first case

4.—(1) This regulation applies if—

- (a) a CoACS has made an investment for the purposes of the scheme in a non-reporting fund, and
- (b) the conditions in paragraph (2) are met for an accounting period.

(2) The conditions are that—

- (a) the CoACS has access to the accounts of the non-reporting fund,
- (b) the CoACS has sufficient information about the non-reporting fund to enable it to prepare a computation of reportable income for the fund, and
- (c) the CoACS can reasonably expect to rely on continued access to that information for the period in which it will hold the investment in the fund.

(3) The amount that would be the excess (if any) of the reportable income of the non-reporting fund in respect of the investment over the amount distributed by the non-reporting fund in respect of that investment is treated for income tax and corporation tax purposes as additional income of the participants in the CoACS in proportion to their rights in the CoACS.

(4) The additional income is treated as arising on the information reporting date in respect of the accounting period to which the excess relates.

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- (a)
 - (b)
 - (c)
 - (d)

Investments in non-reporting funds: second case

5.—(1) This regulation applies if a CoACS has made an investment for the purposes of the scheme in a non-reporting fund, but the conditions in regulation 4(2) are not met for an accounting period.

(2) The increase in fair value of the investment in the non-reporting fund in that period is treated for income tax and corporation tax purposes as additional income of the participants in the scheme in proportion to their rights in the scheme.

(3) Decreases in the fair value of that interest in earlier accounting periods may be set against the increase referred to in paragraph (2) to reduce the amount of the increase, but—

- (a) not to below zero, and
- (b) only to the extent that the decreases in fair value have not previously had the effect of reducing the amount of a fair value increase.

(4) The additional income is treated as arising on the information reporting date in respect of the accounting period in which the fair value increase arises.

(5) In this regulation “fair value” in relation to an interest in a non-reporting fund means the amount which, at the time the value is to be determined, is the amount for which the interest could be exchanged between knowledgeable and willing parties dealing at arm’s length.

Information to be provided to participants

6.—(1) The operator of a CoACS must in relation to each accounting period provide sufficient information to participants in the scheme to enable those participants to meet their tax obligations in the United Kingdom with respect to their interests in the scheme.

(2) The information provided must include details of any additional income treated as made to participants on the information reporting date.

(3) The information must be provided on or before the information reporting date.

Information to be provided to other CoACS

7.—(1) This regulation applies where an investment is made for the purposes of a CoACS (the “investor scheme”) through one or more other CoACS (the “investee schemes”).

(2) The operator of the investee scheme must in relation to each accounting period provide sufficient information to the operator of the investor scheme to enable that operator to meet its obligations under regulation 6.

(3) The information must be provided on or before the information reporting date.

Information to be provided to HMRC

8.—(1) The operator of a CoACS must in relation to each accounting period provide the following information to HMRC—

- (a) the names and addresses of all the participants in the scheme,
- (b) the number and classes of units in the scheme at the end of the period,
- (c) the amount of income per unit for each class.

(2) The information required under paragraph (1) must be provided on or before the information reporting date.

Further information to be provided to HMRC

9. HMRC may give notice requiring the operator of a CoACS within such time, not being less than 42 days, as is specified in the notice, to provide to HMRC any information provided to the participants in the scheme in any accounting period which ended within five years of the notice being given.

Penalty for failing to provide information

10.—(1) An operator of a CoACS that fails to comply with regulation 6, 7 or 8 is liable to a penalty of £60 for each offence.

(2) But, in respect of offences connected with any accounting period, the total amount of any penalties imposed on a person under paragraph (1) will not exceed £600.

Penalty for failing to provide information following notice

11.—(1) An operator of a CoACS that fails to comply with regulation 9 is liable to a penalty not exceeding £3000 determined in accordance with section 100 TMA 1970(a).

(2) Sections 100A, 100B, 102, 103(4) and 118(2) of TMA 1970(b) apply to a penalty determined in accordance with paragraph (1).

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| | <i>Name</i> |
| | <i>Name</i> |
| Date | Two of the Lords Commissioners of Her Majesty's Treasury |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the [to be added]

(a)
(b)