

# Budget 2009



BN25

22 April 2009

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## OFFSHORE FUNDS

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### Who is likely to be affected?

1. UK investors in certain offshore arrangements.

### General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to change the definition of an offshore fund for UK tax purposes and amend the existing powers (in Finance Act (FA) 2008) to provide for the modernisation of the regime in regulations.
3. Transitional rules will provide “grandfathering” for investors in existing arrangements. Details of the transitional rules will be included in the primary legislation.
4. Draft legislation was published following the 2008 Pre-Budget Report and changes have been made following comments received during the consultation. The detailed rules for the operation of the offshore funds tax regime will be in regulations, as announced in Budget 2008.

### Operative date

5. In order to provide sufficient time for transition, the new regime will have effect on and after 1 December 2009.

### Current law and proposed revisions

6. Under current legislation, the definition of an investment in an offshore fund is based upon the regulatory definition of ‘collective investment scheme’ as set out in the Financial Services and Markets Act 2000, with modifications for tax purposes.

7. The new definition of an offshore fund uses a characteristics based approach which has been the subject of detailed consultation with the funds industry as set out in the relevant HM Treasury documents. There are also exceptions specified in the legislation to ensure that fixed share capital arrangements that do not mimic open-ended arrangements will remain outside the definition. This includes specific provisions for continuation votes and capital only arrangements.

**Further advice**

8. For further details of the development of the offshore funds regime and consultations to date please see the HM Treasury website.
9. If you have any questions about this change, please contact John Buckeridge on 020 7147 2560 (email: [john.buckeridge@hmrc.gsi.gov.uk](mailto:john.buckeridge@hmrc.gsi.gov.uk)). Information about Budget measures is available on the HM Revenue & Customs website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)