Offshore Funds

A Consultation Document

Issued by the Inland Revenue

on 22 April 2002

Comments are invited on the points raised in this consultation document and should be sent to

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to arrive no later than 31 July 2002.

Any comments or complaints about the consultation process itself should be sent to

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Please note that

- *respondents should give details of any organisation whose views they represent;*
- *unless respondents indicate to the contrary, it will be assumed that they have no objection to their response being made public.*

Code of practice on written consultation:
Consultation criteria.

- Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

- It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

- A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

- Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

- Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

- Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.

- Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

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1: Introduction and scope of the review

1.1 Offshore funds such as overseas unit trusts, open-ended investment companies and other similar collective investment schemes, have a long-established position of importance among the range of savings and investment products available to UK residents. Many of the providers of offshore funds are also UK-based and play a valued role in our economy.

1.2 The legislation that currently determines the way returns to UK investors in offshore funds are taxed dates from 1984. (This legislation in sections 757-764 and Schedules 27 and 28 Income and Corporation Taxes Act 1988 is referred to as 'the offshore funds regime'.) Its aim was to prevent investors using such funds to reduce, or even eliminate, the tax they would otherwise pay on their savings income. That aim remains today. The Government believes that UK residents should pay tax on their investments in offshore funds to the same extent as they do on comparable savings products such as UK-based unit trusts. But at the same time it recognises that the offshore funds regime, which has remained broadly unchanged since its introduction, may no longer be the best way of achieving that aim.

1.3 The challenge is to find a balance that addresses appropriately the needs and aspirations of Government, investment providers and the investors themselves – the key 'stakeholders'. That means, among other things, a system which encourages compliance and ensures that investors in offshore funds do not have an unfair tax advantage over those investing in UK funds and other savings and investment products.

1.4 But, allied to that, the tax regime for UK-resident investors should be easy to understand and comply with and give as much certainty of treatment as possible. It should also allow the fund management industry to promote funds without undue compliance burdens, not only in Europe but also in the other major international markets.

1.5 It is the Government's view that the design of an effective and appropriate regime is critically dependent on the full participation of investing and providing stakeholders. The Government has therefore asked the Inland Revenue to consider what improvements might be made to the current arrangements, and what other changes are desirable, in collaboration with fund managers and other interested parties.

1.6 This document initiates the consultation process by setting out the Government's objectives in commissioning the review, the reasons it believes that review is now necessary, and inviting comment on a range of issues relevant to the current regime and to possible legislative change.

1.7 The document also makes some initial assumptions about the regulatory impacts of change and raises particular questions about the costs and benefits that might be involved.

Timetable

1.8 Responses to this document should be made by 31 July 2002. Subject to consideration of those responses, a further document is planned for later this year to include recommendations and, if applicable, draft clauses for further consultation.

2: The Government's objectives are that

- UK investors are taxed fairly on their savings and investments;

- appropriate account is taken of market and business factors, and in particular the significant commercial developments since 1984 when the current offshore funds regime was introduced;

- the UK remains an attractive place for funds business;

- UK-based funds (as well as those based offshore) are not made uncompetitive;

- proper account is taken of other developments in UK tax legislation;

- as far as possible, any changes in tax law that are made as a result of the review are simple to understand and operate and that UK investors and fund managers are not faced with costly compliance pressures.

3: Background

3.1 The UK offshore funds regime was introduced in 1984 and since then only relatively minor changes have been made to it. It governs the taxation of all UK-resident investors in overseas collective investment schemes, referred to throughout this paper as 'offshore funds'. Broadly, its purpose is to counter the use of particular types of fund to convert income flows into capital gains. Prior to its introduction, a UK-resident investor could accumulate income in a particular type of offshore fund and, when the investment was realised, be subject only to capital gains tax rather than having to pay income tax on the accumulating (or 'rolling up') income. In 1984 the differences between capital gains tax and income tax were significant, and while there has been some convergence since then, the capital gains tax rules remain more generous to this day.

3.2 The offshore funds regime introduced the concept of 'qualifying' and 'non-qualifying funds'. Corporate taxpayers apart, investors in a qualifying fund are subject to income tax on income arising from the fund; and to capital gains tax on any gain they realise when they dispose of their interests in the fund. This broadly matches the treatment of investments in an equivalent UK fund.

3.3 However, investors in non-qualifying funds are subject to income tax when they make a disposal. No distinction is made between the income and capital accumulated in the fund. The purpose of the regime is to set aside the legal form of the realisation (disposal of an asset) and treat any realised gain as income.

3.4 In order to secure approval as a qualifying fund, and capital gains treatment for UK-resident investors on the disposal of their investments, the fund must make an application to the Inland Revenue for 'distributor' status. To be successful the fund must show that it has satisfied a range of conditions relating to the accounting period for which approval is sought.

3.5 Approval is only given retrospectively and must be applied for and obtained for each and every period of account for which it is required. UK-resident investors will only be able to obtain capital gains tax treatment for their holdings if the fund in which they have invested has met all the conditions for approval throughout their period of investment.

3.6 The same distinction between qualifying and non-qualifying funds may impact upon the taxation of companies. Though, by contrast, they pay corporation tax on their income and capital gains alike, capital treatment may still be advantageous to them and the legislation seeks to remove that advantage if their investment is in a non-qualifying fund. There are also rules for particular types of holding or companies which may lead to different treatment. For example, certain investments may fall within the separate set of rules that govern the taxation of 'loan relationships'. There are also specific provisions for life insurance companies.

3.7 Where a fund is constituted as an umbrella[1] fund, the fund as a whole and each class of interest in it must satisfy the required conditions before the fund can be approved as qualifying.

3.8 Currently in excess of 600 funds each year are seeking and obtaining qualifying status compared to around 400 funds ten years ago. Many of them are established in well-known fund management centres such as Luxembourg, Dublin and the Channel Islands.

[1]An umbrella fund is a type of collective investment scheme that has more than one sub-fund, each one having separately pooled investments. Shareholders (or unitholders) can exchange the rights in one sub-fund for rights in another. In the case of a UK-authorised umbrella scheme each sub-fund is regarded as a separate fund in its own right. However, in the case of an offshore umbrella structure the whole is regarded as the scheme for distributor status: each class of interests in it must therefore meet the distribution conditions if the fund as a whole is to qualify.

4: Why we are reviewing the offshore funds regime now

4.1 Much has changed since 1984 when the offshore funds regime was introduced. The business environment in which offshore – and UK-resident – funds are sold is now significantly different. In 1984, for example, it was not possible to market unit trusts and open-ended investment companies from one European Union country to another. However, the emergence of the European single market and development of the UCITS ('Undertaking for Collective Investment in Transferable Securities') Directive has opened up the market to cross-border selling.

4.2 Commercially this is attractive as it allows the providers to market an established local fund abroad rather than setting up a new one there. The downward pressures on management charges to investors mean that running separate funds for different territories is administratively burdensome and expensive. The use of existing products, often within umbrella structures, provides valuable economies of scale.

4.3 Not only have there been significant changes in the market but the regulatory environment in which funds are established and operated has also undergone, and continues to undergo, major change. This has seen the expansion of fund types including greater emphasis on the use of the corporate structure. There have also been changes in information-reporting, reflecting proposals for a European Savings Directive and the move away from withholding taxes.

4.4 Furthermore, the UK's tax environment has changed significantly. Self-assessment has been introduced for both individuals and companies. And the income tax and capital gains tax regimes have become more closely aligned. So while the taxation treatment of capital gains remains more advantageous than that of income, the differences that originally underpinned the 1984 legislation are not as great as they were.

4.5 There have also been important amendments to the tax rules for UK funds such as the introduction of special provisions relating to interest distributions, corporate streaming of distributions and regulations for open-ended investment companies.

4.6 Against this backdrop, the offshore funds regime has remained broadly unchanged. It is not clear that the current rules are sufficiently 'up to date' or deal adequately with the challenges and opportunities of the changing commercial and regulatory environment in which funds are sold. For that reason the Government has decided that the current regime needs review.

5: Issues and questions for comment

5.0.1 This part of the consultation document considers four different possibilities for the future of the offshore funds regime and invites comment on each. At one extreme there is the possibility that the law should remain unchanged; at the other that it should be abolished and that we return to the position we had in 1984 and before. These particular scenarios are covered in, respectively, sections 5.1 and 5.2.

5.0.2 The other two possibilities we outline are, in 5.3, for amendments to be made to the existing regime, and, in 5.4, for an alternative regime. In these sections we have identified certain issues relevant to the 'reform' and 'replacement' options and ask a number of questions that will help inform the ultimate direction we take. However, respondents are encouraged to range more widely in their comments if they feel that there are other points that warrant discussion.

5.0.3 There is a summary of the questions asked at Appendix I (Part 6 of the document).

5.1: *No substantive change to the offshore funds regime*

5.1.1 It may be that certain respondents are broadly content with the current offshore funds regime and believe that no substantive changes are necessary.

5.1.1a Should the current regime be retained? If so, why?

5.2: *Repeal of the offshore funds regime*

5.2.1 It has previously been suggested that the current rules should be abolished. So it would be surprising if no representations to this effect were made. But it should be noted that simply returning to the pre-1984 position is, in our view, an unattractive option. This is for two principal reasons.

5.2.2 First, there are the burdens that might in consequence be placed on taxpayers in establishing the level of and reporting their income as it arises from an offshore fund. The Government does not want to place additional compliance burdens on the investor where that can be avoided.

5.2.3 Second, we would be concerned that the use of offshore funds to convert income into capital gains, and thereby to gain an unfair tax advantage, would grow as it did in the early 1980s after the abolition of exchange controls.

5.2.3a Should the current regime be abolished and not replaced? If so, how can additional compliance burdens for investors be avoided?

5.2.3b If the regime is abolished without replacement, how can the use of particular types of offshore fund to convert income into capital gains be avoided?

5.3: *Reform of the offshore funds regime*

5.3.1 There is also the possibility that we retain the concepts underpinning the offshore funds regime, but amend particular aspects.

5.3.2 For our part we are looking for changes that will reduce the compliance costs of fund managers and improve their competitiveness, particularly if there are barriers in the existing regime to efficiency and enterprise. We recognise that compliance burdens on fund managers also impact upon investors through fees and management charges.

5.3.3 In addition, we want to see what can be done to improve taxpayers' certainty about the treatment of their investment gains and make the regime easier to comply with.

5.3.4 But proposed changes **should not**

- put managers of offshore funds in a better position than the managers of UK funds,
- increase the compliance burden of investors, or
- put the UK Exchequer at risk

and changes **should** be fully compliant with European (EC) law.

5.3.5 We cover five specific areas here in which we consider those policy objectives are most evident. The first four (5.3.6-5.3.13) are all geared towards helping fund managers and UK investors with their compliance obligations under the existing regime; the fifth (5.3.15-5.3.17) is concerned with the treatment of taxpayers who have invested in non-qualifying funds.

But the issues raised are not intended to be exhaustive; and there may of course be other relevant points that respondents will want to raise.

5.3.6 • relationship with self-assessment rules

The introduction of self-assessment has brought with it different timeframes from those that apply to the offshore funds regime. For example, if a particular fund makes up its accounts to 31 December 2001 and an investor has disposed of his or her interest in February of that year, that investor will have had to make a return of that transaction by 31 January 2002. But the fund will not normally be making its application for qualifying status until between 31 December 2001 and 30 June 2002 and approval may not be received until some time after that. In this case the investor is unlikely to know for certain how his or her disposal should be treated for tax purposes. If this is a source of real practical difficulty, and given that a key objective of the review is that any offshore funds regime gives investors as much certainty of their tax treatment as possible,

5.3.6a how can the current regime be improved to give investors greater certainty without affording special treatment to returns of offshore income or gains?

5.3.7 At present applications by funds for approval are not subject to any form of self-assessment procedure. If they were, such a change could ease the annual compliance burdens of fund managers. It would no longer be necessary to review each and every application as is the case now and there would be greater certainty about the process.

5.3.7a Would making the application process for approval a part of the self-assessment regime be a welcome change?

5.3.8 • investment restrictions

At present, funds must satisfy particular investment restrictions if they want to be approved as a qualifying fund. When the rules were introduced in 1984 they mirrored the regulatory investment restrictions imposed on UK-authorised unit trusts. But since then the respective rules have got somewhat out of step and respondents may believe that the tax regime criteria are no longer appropriate, especially if the product is subject to regulatory control in its home state. In particular, we recognise that the rules place a significant compliance burden on managers given that funds must satisfy the qualifying conditions throughout the whole of the period for which approval is sought.

5.3.8a Should the rules be changed? If so, what changes should be made and how best could the interests of UK investors be protected?

5.3.8b What safeguards would ensure that offshore funds were not put in a better position than their UK-based equivalents?

5.3.8c How far, and in what way, should the rules differentiate between regulated funds and funds that are unregulated (or practically so) in their home states?

5.3.9 • **calculation of 'United Kingdom Equivalent Profits' (UKEP)**

One of the conditions for gaining qualifying fund status is that a fund should pursue a 'full distribution policy'. This means that it has to distribute either 85% (or more) of its income and no less than 85% of its UKEP. The rules for calculating UKEP are complex and can lead to uncertainty about the status of the fund. There may be particular UKEP provisions that cause current difficulty.

5.3.9a Which current UKEP provisions (if any) cause fund managers difficulty? Why are they difficult?

5.3.9b How could they be modified?

5.3.10 We would also be interested in whether it might be possible to rely more on the financial accounts of the fund where they are prepared on the basis of General Accepted Accounting Practice (GAAP).

5.3.10a What reliance could be placed on the financial accounts of a fund, instead of a UKEP calculation, so that it might be easier for fund managers to comply with the regime while continuing to safeguard the Exchequer?

5.3.11 • **treatment of umbrella structures etc.**

Currently, where a fund is constituted as an umbrella structure, all classes of interest within that umbrella must satisfy qualifying conditions before the fund itself can obtain qualifying status. UK investors in a particular sub-fund, which on its own might have qualified, may therefore be disadvantaged if another sub-fund in

which they have no interest fails to reach the necessary qualifying standards. We recognise that the existing rule may limit the flexibility of fund managers to take advantage of the economies of scale that umbrella arrangements might otherwise offer.

5.3.11a Should the rules be changed so that the distribution conditions for qualifying status need only be met at the sub-fund level?

5.3.12 There is a second, related issue. We understand that, because of the UK's rules, many fund providers have to offer two different ranges of fund – accumulating funds for certain Continental European investors and distributing funds for UK investors – when it would be more cost-effective to offer just one. In the circumstances, it may not be sufficient merely to address the sub-fund problem.

5.3.12a Should the rules be changed to allow particular classes of interest within a single fund to qualify and others to be non-qualifying?

5.3.13 Our preliminary view is that, provided there are safeguards to the Exchequer and we are able to avoid excessive complexity, it might be possible to make changes that would address the competitiveness issues here. We would want, for example, all classes of interest to have equal rights in the scheme property and income. It might otherwise be possible for investors once again to turn their income into capital by 'skewing' their investments in particular ways.

5.3.14 • regulatory impacts of change

There is a focus in each of the four issues covered above on what can be done to reduce compliance burdens.

5.3.14a Are fund managers able to give some idea of the preferred rank order of any changes to the current regime that they would like to see?

5.3.15 • treatment of investors in non-qualifying funds

We begin with the assumption that the tax system has to compensate in some way for the tax loss which would follow if tax on investment income could be avoided by investment in overseas 'roll-up' funds. Retaining, in some form, the current regime and the distinction between capital gains tax and income tax treatment is one possibility. But we are concerned that the ability to defer liability – and the flexibility that deferral gives taxpayers, courtesy perhaps of their residence or domicile status – may offset any disadvantages that still remain in paying income tax on the disposal of units or shares in a non-qualifying fund. And those disadvantages, it needs to be said, are not what they were in 1984.

5.3.16 It may be that there are alternative ways of addressing the issue. For example, life insurance companies have their own rules in which for some purposes the value of their investments are taxed (or relieved) annually on a 'mark to market' basis.

5.3.17 We recognise that the onus might fall fully on an investor in a non-qualifying fund to calculate his or her share of taxable income from that fund on an annual basis, and that would be an

added compliance burden. However, the risks would be known in advance. We would also hope that the majority of investors would be more attracted towards investing in those funds that were approved as qualifying funds by the Inland Revenue.

5.3.17a Given the current difficulties we perceive with deferral of tax liabilities, what scope is there for investments in non-qualifying funds to be taxed on some form of a mark to market basis?

5.3.17b Are there alternatives which likewise would address these difficulties?

5.4: *Replacement of the offshore funds regime*

5.4.1 There is finally the possibility of repealing the current legislation (as in 5.2), but replacing it with an alternative regime. As with reform (5.3.4), any changes would need to be fully compliant with EC law. We consider that a replacement solution would have particular attractions if it followed in key respects the tax rules for investments in UK-authorised funds. In principle such an approach would meet our objectives of encouraging fund competitiveness, taxing UK investors fairly and giving them additional certainty. It would also dovetail with recent changes in UK tax legislation on the provision of information about interest which are intended to anticipate the introduction of the EC Savings Directive. There is at Appendix II (Part 7 of the document) a high-level model of what a replacement regime might look like.

5.4.2 A UK-authorised fund is obliged to provide vouched information to its investors showing their income arising during the year, whether distributed or not. That information is readily to hand and can easily be reported to the Inland Revenue.

5.4.2a What are the merits and practicalities of imitating the tax rules for UK-authorised funds by adopting a parallel approach to investment in offshore funds and inviting those funds to join a similar form of information-providing regime?

5.4.3 The following are all issues that might arise in the design of an alternative regime if it were to be based on the kind of rules and principles that already apply to UK-authorised funds. The list is not meant to be exhaustive and we would welcome comment on any other points of significance that can be identified.

5.4.4 • imputation (or deeming) of income

The already long-established position for investors in UK-authorised funds is that they can be taxed on income before they have actually received it. This will be the case for accumulation-type funds in particular – each investor in a fund will be taxable on his or her share of its income as it arises annually, even though the income may not physically be distributed for a number of years. As this approach is well-established and uncontroversial it would seem to offer a reasonable way forward in principle.

5.4.4a Are there problems in principle or in practice with the taxation of income from investments in offshore funds regardless of whether or not the income has actually been received?

5.4.5 • calculation of income

Given that accountancy standards and the regulatory environment will vary with the territory in which the fund is based,

5.4.5a can or should the current UKEP rules be adapted for the purpose of establishing annual income arising from the fund?

5.4.6 We would also be interested in whether it might be possible to rely more on the financial accounts of the fund where they are prepared on the basis of GAAP.

5.4.6a What reliance could be placed on the financial accounts of a fund, instead of a UKEP calculation, so that it might be easier for fund managers to comply with a new regime while continuing to safeguard the Exchequer?

5.4.7 • **identity of the beneficial owner and nominees**

Investments will often be held through nominees. In such circumstances fund managers will not always know the identity of the person who has the beneficial interest.

5.4.7a Where the beneficial owner is represented by a nominee, what particular practicalities are involved that would need to be taken account of if we were to link elements of tax treatment to the information obligations of the fund?

5.4.8 • **Inland Revenue 'clearance' of 'information-providing funds'**

We would, absent some other form of assurance, expect information-providing funds to be subject to some form of clearance process by the Inland Revenue if their investors were to have confidence that they would be taxed in the same way as investors in qualifying funds are now. We would expect clearance to involve a fund satisfying the Revenue of the nature of its information-provision to investors, its accounting policies and its home territory registration and regulatory controls. But there may be other ways in which the necessary assurance could be provided.

5.4.8a If the Revenue were to be able to confirm a fund as an 'information-provider', what would the clearance process entail and what assurances could be given?

5.4.9 We would expect any relaxation of the current annual application process to be welcomed. But we would also expect in such circumstances to be able to review the arrangements periodically to ensure that the standards necessary to meet the initial clearance were still being met.

5.4.10 • differentials in the tax treatment of investors

The question of how investors in currently non-qualifying funds are treated has already been covered at 5.3.15-5.3.17. And the same messages can be given here. If a fund does not provide sufficient information to its UK shareholders (or unitholders) to enable them to make an annual return of their share of taxable income from the fund, some alternative basis is required. Allowing those investors to be taxed only when they actually dispose of their interest in the fund may no longer be appropriate: the benefits of deferral may unfairly outweigh the disadvantages of losing capital gains tax treatment, which of course was the 1984 solution. The only obvious alternative would be to expose holdings in such funds to an annual income tax charge calculated on some form of a mark to market basis.

5.4.10a Given the current difficulties we perceive with deferral of tax liabilities, what scope is there for investments in funds that are not information-providers to be taxed on some form of a mark to market basis?

5.4.10b Are there alternatives which likewise would address these difficulties?

5.4.11 We would equally be interested in exploring ways in which it might be possible to improve the tax treatment of those invested in information-providing funds.

5.4.11a How might a new regime be 'incentivised' for investors?

5.4.12 • regulatory impacts of change

A change in regime could be expected to generate some one-off costs to fund managers in adapting systems and internal procedures such as training. But we would expect these to be absorbed by longer-term benefits; and most funds will already provide in some form particulars of their performance and return to investors.

5.4.13 In the absence of a detailed specification for an alternative regime respondents may be reluctant to comment in detail, but

5.4.13a are there any general or specific points that can be made about the regulatory impacts of a replacement, information-providing regime?

5.4.13b Is it possible to make any estimate of the costs and benefits to fund managers of change to an information-providing regime?

5.4.13c What kind of transitional period would be necessary if a new regime were implemented?

6: Appendix I: Summary of questions

5.1	**No change**
5.1.1a	Should the current regime be retained? If so, why?
5.2	**Repeal without replacement**
5.2.3a	Should the current regime be abolished? If so, how can additional compliance burdens for investors be avoided?
5.2.3b	How can the use of particular types of offshore fund to convert income into capital gains be avoided?
5.3	**Reform**
5.3.6	**Self-assessment**
5.3.6a	How can the current regime be improved to give investors greater certainty without affording special treatment to returns of offshore income or gains?
5.3.7a	Would making the application process for approval a part of the self-assessment regime be a welcome change?
5.3.8	**Investment restrictions**
5.3.8a	Should the rules be changed? If so, what changes should be made and how best could the interests of UK investors be protected?
5.3.8b	What safeguards would ensure that offshore funds were not put in a better position than their UK-based equivalents?
5.3.8c	How far, and in what way, should the rules differentiate between regulated funds and funds that are unregulated (or practically so) in their home states?
5.3.9	**UK Equivalent Profits**
5.3.9a	Which current UKEP provisions (if any) cause fund managers difficulty? Why are they difficult?
5.3.9b	How could they be modified?

5.3.10a	What reliance could be placed on the financial accounts of a fund, instead of a UKEP calculation, so that it might be easier for fund managers to comply with the regime while continuing to safeguard the Exchequer?
5.3.11	**Umbrella fund structures etc.**
5.3.11a 5.3.12a	Should the rules be changed so that the distribution conditions for qualifying status need only be met at the sub-fund level? Should the rules be changed to allow particular classes of interest within a single fund to qualify and others to be non-qualifying?
5.3.14	**Regulatory impacts of change**
5.3.14a	Are fund managers able to give some idea of the preferred rank order of any changes to the current regime that they would like to see?
5.3.15	**Treatment of investors in non-qualifying Funds**
5.3.17a 5.3.17b	Given the current difficulties we perceive with deferral of tax liabilities, what scope is there for investments in non-qualifying funds to be taxed on some form of a mark to market basis? Are there alternatives which would address these difficulties?
5.4	**Replacement**
5.4.2a	What are the merits and practicalities of imitating the tax rules for UK-authorised funds by adopting a parallel approach to investment in offshore funds and inviting those funds to join a similar form of information-providing regime?
5.4.4	**Deeming of taxpayers' income**
5.4.4a	Are there problems in principle or in practice with the taxation of income from investments in offshore funds regardless of whether or not the income has actually been received?
5.4.5	**Calculation of taxpayers' income**
5.4.5a	Can or should the current UKEP rules be adapted for the purpose of establishing annual income arising from the fund?

5.4.6a	What reliance could be placed on the financial accounts of a fund, instead of a UKEP calculation, so that it might be easier for fund managers to comply with a new regime while continuing to safeguard the Exchequer?
5.4.7	**Beneficial owners/nominees**
5.4.7a	Where the beneficial owner is represented by a nominee, what particular practicalities are involved that would need to be taken account of if we were to link elements of tax treatment to the information obligations of the fund?
5.4.8	**Revenue clearance of information-providing funds**
5.4.8a	If the Revenue were to be able to confirm a fund as an 'information-provider', what would the clearance process entail and what assurances could be given?
5.4.10	**Differentials in the tax treatment of investors**
5.4.10a 5.4.10b 5.4.11a	Given the current difficulties we perceive with deferral of tax liabilities, what scope is there for investments in funds that are not information-providers to be taxed on some form of a mark to market basis. Are there alternatives which likewise would address these difficulties? How might a new regime be 'incentivised' for investors?
5.4.12	**Regulatory impacts of change**
5.4.13a 5.4.13b 5.4.13c	Are there any general or specific points that can be made about the regulatory impacts of a replacement, information-providing regime? Is it possible to make any estimate of the costs and benefits to fund managers of change to an information-providing regime? What kind of transitional period would be necessary if a new regime were implemented?

7: Appendix II: Possible replacement regime

7.1 Investors in 'information-providing' funds are taxed annually on their income arising from the fund. The income is treated as an interest or dividend distribution in line with the rules in section 468 ICTA 1988, which apply for UK-resident taxpayers who have investments in UK-authorised funds. (But note the qualification at 7.7 below.)

7.2 On disposal of their interest, investors obtain capital gains tax treatment.

7.3 An information-providing fund is one

- whose managers provide UK investors, on an annual or shorter basis, with details of their share of the fund's income that is available either for distribution, or accumulation in the fund, for each distribution period;

- having some form of appropriate recognition or registration with an applicable regulator;

- meeting particular accounting standards

- that is a 'collective investment scheme'.

7.4 Funds may apply on a one-off basis for clearance by the Inland Revenue that they are an information-provider.

7.5 Investors in other funds return as taxable income any appreciation in the market value of the fund during the year, together with income actually distributed.

7.6 To the extent that a fund loses value during the year those investors may return a loss, but that loss can only be relieved against profits of a similar type, which either arise in the same or a later year.

7.7 Specific provisions such as the loan relationship and life assurance rules take precedence, where applicable, for corporate investors.