

Isle of Man

Taxation

HEDGE FUNDS 2009

Hedge fund managers/advisors

Taxation

Tax rates applying to hedge fund managers/advisors

If the fund manager/ advisor is an Isle of Man (IOM) company it will be taxable at a 0 percent rate. If the fund management, etc. company is owned by non-IOM resident persons, then there would be no further IOM direct tax consequences.

If the fund management etc company is wholly or partly owned by IOM resident individuals, then those individuals would need to consider the application of the Attribution Regime for Individuals (ARI). The ARI is a charging provision which, where it applies, charges to income tax IOM resident individual shareholders on their share of the attributed profits of the company. In order to avoid an attribution of income to IOM resident shareholders under the ARI, an IOM trading company would be ordinarily required to distribute 55 percent of its trading profits to shareholders.

The highest rate of personal income tax for an IOM resident individual is 18 percent, with the maximum IOM tax payable capped at GBP 100,000 (GBP 200,000 for married couples filing jointly). The ARI regime will be irrelevant to any shareholder who is already liability capped.

The effective tax rate usually suffered by hedge fund managers/advisors

If the fund manager is not beneficially owned by IOM residents, then the overall IOM effective tax rate will be 0 percent.

If the fund manager is locally owned, then the overall IOM maximum effective tax rate is 18 percent, albeit that the tax liability cap referred to above would reduce that if liability capped individuals are involved. The effective IOM tax rate for the IOM fund management etc company will be 0 percent.

Tax concessions, allowances, or exemptions specifically available to hedge fund managers/advisors

None

Details of anti-avoidance tax rules that could bring the profits of an offshore hedge fund into tax

None

Requirements to charge VAT (or equivalent sales tax) and rate

The services provided by IOM resident fund managers to IOM resident open ended funds are generally exempt from VAT.

Where the fund is located outside the EU (such as, British Virgin Islands or the Cayman Islands), the provision of investment management services by the IOM resident fund manager is likely to be outside the scope of IOM VAT with the right to recover input tax, unless the fund is regulated in the IOM or UK in which case it is treated in the same manner as an IOM fund.

Where VAT is chargeable in the IOM, the standard rate is 15 percent.

Hedge fund structures

Taxation

Tax rates applying to the fund

A fund located in the IOM will have no exposure to Manx income tax provided it is not in receipt of income from IOM land and property (which income would be taxable at 10 percent).

Access to double tax treaties

The IOM has entered into a number of international agreements in relation to taxation. However, in most situations, it is unlikely that the agreements would be of any practical use to an IOM fund.

Value-added tax registration and charging requirements

Generally the fund will be unable to register for VAT as most supplies will be exempt from VAT. However, if IOM Customs and Excise consider an IOM resident fund has received certain professional services in a business capacity from outside the UK/ IOM (such as, investment advice and legal services) then

the fund may have to register for VAT and self account VAT under the reverse charge procedure.

It is unlikely that much of the VAT self-charged, or incurred, will be available for recovery. Value-added tax would be charged/ accounted for at 15 percent.

Withholding tax on dividends or interest payments

None

Tax return requirements

An annual tax return has to be filed with the tax authorities.

Investors

Taxation

General Note

The IOM's tax rates are low, the regime is relatively benign and capital gains are not taxed. Accordingly, it is not possible to generalize regarding IOM resident investors' preferred investment vehicles; as such decisions would tend not to be driven by IOM tax considerations.

Specific anti-avoidance tax legislation applying to an investor in an onshore fund

None

Specific anti-avoidance tax legislation applying to an investor in an offshore fund

The IOM does not have any specific legislation in this area. However, if an IOM resident individual invests in an offshore fund considered by the tax authorities to be a roll-up fund, then any gain arising on disposal of shares/units in that fund may be taxed as income.

Tax information needs of investors

No specific requirements

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we

4 Isle of Man – Taxation

endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.