

C57 INVESTMENT MANAGEMENT SERVICES (sections 2(2), 66A, 122 and the Fourth Schedule)

Introduction

With effect from 1 January 2018, the company intermediate income tax rate (the “10% rate”) was extended to include the activity of investment management services where those services are provided to individual clients (whether that is to a natural person, partnership, trustee or company).

Income from the provision of investment management services to collective investment schemes (as defined for income tax purposes) continues to be subject to the company standard income tax rate (the “0% rate”).

For income tax purposes, “collective investment scheme” means a scheme whose purpose is to enable investor(s) to participate in, or receive profits or income arising from, the acquisition, holding, management or disposal of property. This may include a scheme with a single asset or a scheme with a single investor.

The term also covers vehicles that enable management, acquisition and funding of, or that enable the holding of interests in, or making co-investment alongside, such schemes as part of the collective investment scheme for these purposes. This may therefore include carried interest vehicles, co-investment vehicles, parallel investment vehicles, special purpose vehicles holding scheme investments and other vehicles of a similar nature if they comprise a part of the overall collective investment arrangements, so long as they would otherwise be eligible to claim exemption under the Income Tax (Exempt Bodies) (Guernsey) Ordinance 1989 (as amended).

The term would also generally include schemes, which by their very nature are an investment for the benefit of a wide base of individuals who do not have day to day control over its management, such as government and national schemes, sovereign wealth funds, non-Guernsey pension schemes and similar state managed schemes. This will generally be the case even though not all of these schemes are necessarily required to be regulated as collective investment schemes under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 (“POI Law”).

Where investment management services are provided to a “charity” or “non profit organisation” (“NPO”) wherever registered (as such terms are defined in The Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 as amended) the Director has considered that, owing to the constitution of charities and NPOs, the investment is for the benefit of a wide base of individuals who do not have day to day control over its management. As such, the management fees earned, accrued or received by the investment manager are also subject to income tax at 0%.

Investment management services means the provision, by a person licensed to carry on controlled investment business within the meaning of the POI Law, of services comprising the restricted activity of management in relation to an investment or in relation to assets underlying an investment. Management is given the meaning set out in Paragraph 5,

Schedule 2 of the POI Law, being exercising any managerial function in relation to an investment or in relation to the assets underlying an investment.

Any company having more than one class of income chargeable to income tax at more than one rate will compute its tax liability accordingly. This may include regulated investment managers whose client base comprises both collective investment schemes and other types of client such as natural persons, or regulated investment managers who (for example) earn other types of income such as from investment advisory services. Please refer to Statement of Practice C47 for further guidance on the principles to be applied in the tax computation where this applies.

Persons that are involved in the contract chain for the provision of such services, but who do not in substance actually carry out the investment management activities (as they have outsourced such services on an arm's length basis), would not be within the scope of the extension of the 10% rate in respect of income from those services.

Further explanation

Investment Management individual client services

As set out above, the extension of the 10% rate only applies to investment management services provided to individual clients. The Director considers that the term individual clients includes all natural persons, partnerships, trustees or companies, except collective investment schemes (as defined for income tax purposes) and charities and non profit organisations.

Example 1

An investment manager provides investment management services either to a collective investment scheme that is regulated by the Guernsey Financial Services Commission or the services are provided under The Licensees (Conduct of Business and Notification) (Non Guernsey Schemes) Rules 1994. As the services are provided to a collective investment scheme the management fees earned, accrued or received by the investment manager are subject to income tax at 0%.

Example 2

An investment manager provides investment management services to a company which is not, or is not related to, a collective investment scheme (for income tax purposes). The management fees earned, accrued or received by the investment manager for the services provided to that company, are subject to income tax at 10%. The taxation position for the investment manager would be the same whether the company or its shareholders were resident in Guernsey or a different jurisdiction.

Example 3

An investment manager provides investment management services in relation to a carried interest vehicle that is established solely for the purpose of enabling investment

into a collective investment scheme. As the investment management services are provided to the carried interest vehicle, which is part of a collective investment scheme for income tax purposes, the management fees earned, accrued or received by the investment manager are subject to income tax at 0%. This would also be the case where the vehicle enables investment into more than one collective investment scheme.

Example 4

An investment manager provides discretionary investment management services to a natural person. As part of the services, the investment manager makes an investment in a collective investment scheme on behalf of the natural person. Whilst the investment is in a collective investment vehicle, the services are provided to a natural person, therefore the management fees earned, accrued or received by the investment manager are subject to income tax at 10%.

This would also be the case if the natural person had instead established a personal investment company through which the investment was made, because that company is not enabling collective investment as it is not an integral part of the collective investment scheme structure (unlike the carried interest vehicle in Example 3).

Example 5

A Guernsey limited partnership (“LP”) is to be established as a “mandate” vehicle, whereby a number of investors (or just one investor) use the vehicle to invest in a single asset (or multiple assets). Once established, the LP will not be a collective investment scheme for the purposes of the POI Law. A Guernsey company acts as general partner (“GP”) to the LP and charges a management fee to the LP.

The GP is not required to be licensed under the POI Law in relation to activities it performs regarding the LP. Therefore the management fees earned, accrued or received by the GP from managing the LP are not investment management individual client services (as defined) and are therefore subject to income tax at 0%.

If the GP was already licensed under the POI Law (due to other activities) then the management fees earned, accrued or received by the GP from managing the LP would still not be investment management individual client services (as defined).

Example 6

An investment manager provides discretionary investment management services to natural persons (in Guernsey and elsewhere). The manager also provides services to sovereign wealth funds. The funds are treated as a collective investment scheme for income tax purposes. The management fees earned, accrued or received by the investment manager will be taxable at 10% in relation to services provided to natural persons, and at 0% in relation to services provided to the sovereign wealth fund.

Any company requiring further clarification concerning income streams liable at the 10% rate should contact the Director.

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