Investment Undertakings

Part 27-01A-02

This document should be read in conjunction with Chapter 1A, Part 27 of the Taxes Consolidation Act 1997

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1 Introduction

Section 58 of the Finance Act, 2000 introduced the gross roll-up taxation regime for investment undertakings. The legislation is contained in Part 27 – Chapter 1A – sections 739B to 739J of the Taxes Consolidation Act (TCA) 1997.

The general thrust of the regime is that there is no annual tax on income or gains arising to a fund. However, a fund has responsibility to deduct exit tax in respect of payments made to certain unit holders in that fund. Where exit tax is deducted by a fund the deduction represents a final liability to Irish tax for unit holders who are individuals. In the case of Irish resident corporates who have suffered exit tax on payments, including redemptions, the amount received by the corporate is treated as a net annual payment, grossed up accordingly and taxed, with credit given for the tax withheld by the fund.

This Tax and Duty Manual (TDM) provides general guidelines for fund administrators in relation to —

- the calculation of tax due on income and gains from investments in a domestic investment undertaking; and
- the completion of prescribed Declaration Forms.

Each reference to units and unit holders in this document is to be construed in accordance with section 739B(1) TCA 1997 so that references to units and unit holders include inter alia references to shares and shareholders.

2 Commencement of "gross roll-up regime"

The tax regime applies –

- from 1 April 2000 to IFSC funds which were in existence on 31 March 2000; and
- from the date of **first issue** of units by any fund, IFSC or domestic, where that issue took place on or after 1 April 2000. Non-IFSC funds (i.e. domestic funds), which were in existence prior to 1 April 2000, do not come within this regime. These domestic funds continue to be taxed annually on a measure of income and gains accruing to the fund at a rate of 20% up to 7 February 2012 and 30% thereafter[1].

3 Categories of funds to which the "gross roll-up" regime applies

The "gross roll-up" regime applies to certain categories of collective investment funds that fall within the definition of "investment undertaking" in section 739B. These are-

- a unit trust scheme that is or is deemed to be a currently authorised unit trust scheme under the Unit Trusts Act, 1990 but not special investment schemes as defined in section 737 or "exempt unit trusts" as defined in section 731(5)(a). Exempt unit trusts do not come within the terms of the regime because they are not authorised and are not deemed to be authorised. However, an exempt unit trust will come within the terms of the regime if it becomes authorised;

[1] Tax and Duty Manual Part 27-01-02 sets out the treatment of these funds.

- undertakings for collective investment in transferable securities (UCITS) authorised under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989, as amended or extended;[2]
- certain authorised investment companies within the meaning of Part 24 of the Companies Act, 2014;
- an authorised ICAV (within the meaning of the Irish Collective Asset-management Vehicles Act 2015);
- certain wholly owned companies of an investment undertaking categorised above.

The "gross roll-up" regime does not apply to all offshore funds (refer to TDM Part 27-02-01 and TDM Part 27-04-01 for details of how offshore funds are taxed).

Investment Limited Partnerships (ILPs) are not taxed within the gross roll-up regime, but rather on a transparent basis as set out in section 739J. Common Contractual Funds (CCFs) are taxed on a transparent basis as set out in section 739I[3].

3.1 Personal Portfolio Investment Undertaking

A Personal Portfolio Investment Undertaking (PPIU) is defined in section 739BA. Broadly it means an undertaking where the selection of the property of the undertaking was, or can be, influenced by the unit holder or certain connected persons. A PPIU arises only where the undertaking has individual Irish investors in the undertaking. A fund will not be regarded as a PPIU if the opportunity to select the property concerned is widely available to the public at the time the property is actually available for selection by the investor. This wide availability must be evidenced in marketing or promotional material published by the fund. To ensure that the exceptions cannot be exploited and the additional charge (see subparagraph 4.3.3 below) avoided, some additional requirements apply.

These additional requirements are that –

- the fund must deal with everyone interested in selecting the property on a non-discriminatory basis, and
- where the property to be selected is primarily land and buildings and the fund is seeking to raise a pre-determined amount in investments, each investment made by the individual is limited to 1% of the amount being sought by the fund.

The wording of section 739BA(2) referring to "in relation to an investor" applies on an investor by investor basis and the provisions do not operate to taint the investment undertaking itself and all its unit holders merely because one or more of the investors was involved in the selection of the property.

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[2] Chapter 1A, Part 27 TCA 1997 (Investment Undertakings) does not apply to UCITS Common Contractual Funds (CCFs) which are constituted under contract law where all of the investors are pension funds or investors other than individuals. In such a situation, the profits that arise to the UCITS CCF will be treated for tax purposes as arising to the investors.

[3] The Competent Authorities of Ireland and the United States entered into an agreement in 2006 concerning the treatment of CCFs under the Ireland-United States Double Taxation Convention. This agreement was entered at the request of Ireland to clarify the transparent nature of CCFs and in order to preserve the entitlement to benefits under the Convention of Irish resident unit holders in CCFs. The agreement is available on the Revenue website.

The provisions of subsection (2) of section 739BA essentially apply where the investor or a person connected with the investor or acting on behalf of the investor is able to select some or all of the assets in which the fund invests. If a fund is a PPIU under this rule, subsections (4), (5) and (6) of section 739BA provide for some exceptions. These include a case where, at the time that the property was available to be selected, the opportunity to select was available to the public.

In looking at availability to the public, Revenue would not take the view that a manager or director of a fund who invests in the fund and who might have had a role in selecting assets for the fund comes within the provisions so long as the fund is a public one and the directors' or manager's holding in it is comparable with the investment held by other unit holders in the fund. If this was not the case, then the holding by the director/manager could be regarded as a holding in a PPIU.

4 Deduction of exit tax by the investment undertaking

All investment undertakings should register for exit tax by contacting:

Customer Service Support
Large Corporates Division
2nd Floor Ballaugh House
73/79 Lower Mount Street
Dublin 2

Phone (01) 7383637 or
Fax (01) 6034445

and provide the following information:

If already registered for another tax –

- The current Tax Registration Number;
- The full name of the investment undertaking;
- Confirmation that the investment undertaking is an investment undertaking as defined in section 739B;
- Date of authorisation of the investment undertaking;
- Date the Business Activity commenced;
- Name and Address of Responsible Party or Person;
- Whether or not the investment undertaking is an Irish Real Estate Fund (refer to TDM Part 27-01B-02 for more details on the IREF regime).

If <u>NOT</u> already registered for another tax –

- Tax Registration Form TR1 or Form TR2;
- Name, Address and Contact details of Responsible Party or Person.

- Whether or not the investment undertaking is an Irish Real Estate Fund (refer to TDM Part 27-01B-02 for more details on the IREF regime).

If there is a change of Fund Manager -
To ensure that the register of investment undertakings and contact details are up to date, any change in Fund Manager and/or contact details for a fund must be notified in writing to - Office of the Revenue Commissioners, Financial Services (Financing & Investment Funds) Branch, Large Corporates Division, Geata na Cathrach, Fairgreen, Galway, H91 W36K.

4.1 When must the investment undertaking deduct exit tax?

In general, exit tax must be deducted on the occurrence of a chargeable event as defined in section 739B. Such chargeable events happen –

- on the making of a regular payment by a fund to a unit holder other than on the cancellation, redemption of units or repurchase of a unit (e.g. an annual dividend);
- on the making of any other payment by a fund to a unit holder (e.g. on redemption of units), including where a payment is made on the death of a unit holder;
- on the transfer by a unit holder of his or her entitlement to units in a fund, including where a payment is made on the death of a unit holder;
- on the appropriation or cancellation of units by a fund to discharge tax payable on a gain arising from a transfer of units by a unit holder;
- on the ending of an 8-year period beginning with the acquisition of a unit in a fund, and each subsequent 8-year period beginning when the previous one ends. This is commonly referred to as a deemed disposal.

The rates of exit tax applicable are as per Tables 1(a) to (c) in subparagraph 4.3.3.

Note: A chargeable event arose on 31 December 2000 in relation to all unit holders of a fund that either commenced on or after 1 April 2000 or was an existing IFSC fund on 31 March 2000. In the case of investors in IFSC funds, the fund was not required to deduct tax but the investors themselves were liable for the tax. (**see subparagraph 4.3.4 below**)

4.2 Exceptions to the requirements to deduct exit tax

Exit tax need not be deducted by an investment undertaking in the following circumstances–

4.2.1 Switching units

Under paragraph (I) of the definition of chargeable event in section 739B(1) exit tax is not required to be deducted on an exchange of units by a unit holder between sub-funds of an umbrella fund where no payment is made to the unit holder. A similar treatment, under paragraph (II), applies for switching between different classes of units/shares of a fund.

4.2.2 The Courts Service

Paragraph (IIa) of the definition of chargeable event in section 739B(1) provides that where funds which are held under the control or subject to the order of any Court are used to

acquire units in an investment undertaking, payments from the investment undertaking to the Courts Service in respect of these units may be made without deduction of the exit tax. In addition, the Courts Service will not be subject to exit tax in respect of a transfer of units resulting solely from the changing of investment managers. However, the Courts Service will be required to operate the exit tax when they allocate those payments to the beneficial owners.

4.2.3 Units held in a recognised clearing system (such as Exchange Traded Funds)

Paragraph (III) of the definition of chargeable event in section 739B(1) provides that any transaction in relation to, or in respect of, units which are held in a recognised clearing system[4] does not require the deduction of exit tax. This would be the case for an ETF where the units/shares in the underlying fund are bought and sold between investors on the stock market and are cleared through a recognised clearing system.

While the fund does not have to deduct exit tax, an Irish resident unit holder will be subject to tax on income and gains arising and must self-assess and include details of income and gains in a timely filing on their income tax return to Revenue. The unit holder will be subject to tax as set out in subparagraph 4.3.3.

Where the investor is subject to tax, they must account for the tax directly to Revenue as follows:

- Section 739G(2)(b) provides that where exit tax is not applied and the unit holder is an individual, the payment is treated as if it is a payment from an offshore fund (refer to TDM Part 27-04-01 for details regarding how to include such payments in a tax return).

- Section 739G(2)(f) provides that where exit tax is not applied and the unit holder is a company, the payment is treated as income taxable under Case IV, Schedule D.

4.2.4 The transfer of units between spouses or civil partners

Paragraph (IV) of the definition of chargeable event in section 739B(1) provides that the transfer by a unit holder of his/her entitlement to units in a fund will not give rise to a chargeable event where the transfer is between spouses or between civil partners. Neither will a transfer between spouses or former spouses or civil partners or former civil partners, where the transfer is by virtue of an order made following the granting of a divorce, dissolution or a judicial separation in the State or recognised as valid in the State. However, on a subsequent chargeable event, the then unit holder will be regarded as having acquired the units at the same cost as the original unit holder.

4.2.5 The transfer of units between nominees and beneficial owners

Provided there is no payment involved and the underlying beneficial owner remains the same, exit tax is not required to be deducted where a nominee transfers registered

[4] TDM Part 08-03-04 sets out what clearing systems are recognised clearing systems for the purposes of this provision.

ownership of units to the beneficial owner of those units or where a beneficial owner transfers its units to a nominee to be held on behalf of that beneficial owner. Neither is exit tax required to be deducted where a beneficial owner of units transfers registered ownership of those units from one nominee company to another nominee company. However, on a subsequent chargeable event, the then unit holder will be regarded as having acquired the units at the same date and the same cost as the original unit holder.

4.2.6 Certain resident entities

Exit tax is not required to be deducted if units are held by the following entities and the fund is in possession of an appropriate declaration before the chargeable event occurs (see paragraph 8 below). The entities are –

- a pension scheme;
- a life assurance company;
- another investment undertaking;
- an investment limited partnership;
- a special investment scheme;
- an exempt unit trust as defined in section 731(5((a);
- a charity;
- a qualifying management company;
- an approved retirement fund or an approved minimum retirement fund;
- a PRSA administrator;
- a credit union within the meaning of section 2 of the Credit Union Act 1997;
- a company that is within the charge to corporation tax in the case of money market funds;
- the National Asset Management Agency;
- the National Treasury Management Agency or a Fund investment vehicle (within the meaning of section 37 of the National Treasury Management Agency (Amendment Act 2014) of which the Minister for Finance is the sole beneficial owner, or the State acting through the National Treasury Management Agency;
- the Motor Insurers' Bureau of Ireland in respect of an investment made by it of moneys paid to the Motor Insurers' Insolvency Compensation Fund under the Insurance Act 1964 (amended by the Insurance (Amendment) Act 2018); and
- a securitisation company within the meaning of section 110 TCA 1997.

It should be noted that, although these entities are exempted from the deduction of exit tax at source in the circumstances outlined above, a liability to tax may nevertheless arise for some of the entities concerned.

4.2.7 Non-resident unit holders as at 31 March 2000

Exit tax is not required to be deducted in respect of unit holders in IFSC funds that were in existence on 31 March 2000, where the investor was not resident in Ireland and had invested in the fund on or before 31 March 2000, provided that –

- the IFSC fund had made a declaration to the Collector-General, on or before 30 June 2000, confirming the non-resident status of the unit holders in the fund, and
- the investor's name did not appear on the schedule that was to accompany the declaration to the Collector-General containing the names and addresses of all the Irish resident unit holders in the fund as at 1 April 2000.

4.2.8 Non-resident unit holders after 31 March 2000

Exit tax is not required to be deducted in respect of the following non-resident unit holders provided that the fund is in possession of an appropriate non-resident declaration prior to the chargeable event (**but see also paragraph 8 below**) –

- non-resident investors who invest for the first time in an IFSC fund which was in existence as at 31 March 2000, and
- non-resident investors who invest in a fund set up on or after 1 April 2000.

4.2.9 Reconstructions and amalgamations

Exit tax is not required to be deducted on the cancellation of units where it is part of a re-organisation of investment undertakings and all of the assets and liabilities of one fund are transferred to another fund in exchange for the issue by that other fund of new units to the unit holders in the old fund (see next subparagraph). This exemption also includes exchanges of units in one sub-fund of an umbrella fund for units in a sub-fund of another umbrella fund.

Revenue acknowledges that while section 739H provides that "all of its assets and liabilities" of the "old undertaking" should transfer across to the "new undertaking", from a legal perspective this rarely, if ever, occurs in practice. Instead, how an amalgamation or reconstruction typically works for legal and practical reasons (which is a feature distinct to common law jurisdictions) is that the net assets are transferred across to the new undertaking (subscription in-kind) with an amount of cash retained by the "old undertaking" to pay off certain liabilities of the old undertaking, such as termination expenses, outstanding services provider fees, legal/audit fees, etc. Should any cash amounts be left over when such expenses are subsequently paid off, then that remainder cash is typically transferred directly to the unit holders (as existed at the effective date of the reconstruction and amalgamation). As there is no overall gain or loss for the unit holders and the above is undertaken for legal and practical reasons, Revenue will regard the steps taken above as falling within the conditions as provided in section 739H.

4.2.10 Scheme of migration and amalgamation

Under a scheme of migration and amalgamation the assets of an offshore fund are transferred to an investment undertaking in exchange for the issue by the investment undertaking of units in the investment undertaking (i) to the persons who have an interest in the offshore fund or (ii) to the offshore fund itself. Such an exchange is not a chargeable event and the investment undertaking must make a declaration to Revenue that no units were issued to Irish resident investors.

4.2.11 Scheme of migration

Section 1408(1) of the Companies Act 2014 provides that an investment company migrating to Ireland from a relevant jurisdiction (Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man and Jersey) may apply to the Central Bank under section 1408(1) of the Companies Act 2014 for authorisation to carry on business in the State. Once authorised by the Central Bank, such an investment company falls within the definition of "investment undertaking" in section 739B TCA 1997. The Central Bank has determined that a similar process will apply to unit trusts migrating to Ireland. Under a scheme of migration, a chargeable event does not arise in respect of unit holders who are non-resident at the time of the scheme of migration and the investment undertaking must make a declaration to that effect to Revenue within 30 days of the migration taking place.

4.2.12 Scheme of amalgamation

Scheme of amalgamation means an arrangement whereby the assets of an investment undertaking are transferred to an offshore fund in an offshore state in return for the issue of a material interest in the offshore fund to the unit holders in the investment undertaking and as a result of which the value of those units becomes negligible. The cancellation of those units is not a chargeable event and the unit holder is regarded as acquiring the material interest in the offshore fund at the same date and cost as the units in the investment undertaking.

4.3 How much exit tax is deducted?

The amount of exit tax to be deducted is calculated by applying a rate of tax to the gain arising on a chargeable event. There are special rules for calculating the amount of the gain and the rate of tax to be applied. With effect from 1 January 2012, the rate of tax to be applied is also dependent on whether the unit holder is an individual or a company and if the company has made the appropriate declaration.

4.3.1 What gain is taxed?

The taxable gain arising on a chargeable event is-

- the amount of the distribution, where the chargeable event is the making of an annual distribution to a unit holder;
- the amount of the payment less the cost of acquisition of the units, where the chargeable event is the making of a payment to a unit holder on the cancellation, redemption or repurchase of units;
- the value of the units concerned at the time of transfer less their cost of acquisition, where the chargeable event is the transfer of ownership of units;
- the amount of the tax due grossed up for tax payable, where the chargeable event is the appropriation or liquidation of units in order to pay the tax due as a consequence of such a transfer;

- the value of the units at the time less their cost of acquisition, where the chargeable event is deemed to happen on 31 December 2000 **(but see subparagraph 4.3.4);**
- where the chargeable event is the ending of an 8-year period, the value of the units at the time less their cost of acquisition (if the investment undertaking so elects, the value of the units at 30 June or 31 December prior to the date of the chargeable event).

4.3.2 Cost of acquisition of units

In general, for the purposes of calculating a gain on disposal of units held by an investor in an investment undertaking, whether a single fund or an umbrella fund, the average cost of units is used. However, the legislation gives an investment undertaking the choice of electing to use the first-in first-out (FIFO) basis. The basis used on the first occasion of a disposal by an investor of units in an investment undertaking is the basis that must be used by the investment undertaking for all other disposals by all investors. The average cost basis or FIFO basis applies whether an investor invests in a single fund or an umbrella fund. Alternatively, in the case of an umbrella fund, an investment undertaking can apply the average cost basis or the FIFO basis as if each sub-fund of the umbrella fund were a single fund. However, since the investor in an umbrella fund is entitled to switch the investment between sub-funds of the umbrella fund without triggering a gain, it is necessary that the investment undertaking track the original cost of the units when such a switch occurs. Where the FIFO basis is being used such tracking is relatively simple. The example set out in **Appendix I(a)** shows how the tracking should be done where the average cost method is being used and each sub-fund of an umbrella fund is being treated as a single fund.

4.3.3 What exit tax rate applies to a gain arising on the happening of a chargeable event?

If the fund fails to deduct exit tax, an Irish resident unit holder will be subject to tax[5] on income (taxable under Case III) and gains (taxable under Case IV) arising and must self-assess and include details of income and gains in a timely filing of his/her income tax return to Revenue.

Similarly, a company will generally be subject to tax on income and gains arising, taxable under Case IV, Schedule D.

[5] Section 739G(2) provides that where a unit holder is not a company and exit tax has not been applied to the payment, the payment is treated as if it is a payment from an offshore fund to which the provisions of Chapter 4 apply. Section 747D provides for payments in respect of offshore funds and Section 747E provides for disposals of an interest in offshore funds.

That investor will be subject to exit tax as set out in the following tables –

Table 1(a) – Where the unit holder is an individual and the details are *correctly included* in a timely tax return to Revenue:

Chargeable event arising –	**Regular payment** (i.e. made annually or at shorter intervals)	**Non-regular payment**	**PPIU – see *section 739BA TCA 1997* – applicable from 20 February 2007**
Before 1 January 2009	Standard rate of income tax (20%)	Standard rate of income tax (20%) plus 3%	Standard rate of income tax (20%) plus 23%
Between 1 January 2009 and 7 April 2009	Standard rate of income tax (20%) plus 3%	Standard rate of income tax (20%) plus 6%	Standard rate of income tax (20%) plus 26%
Between 8 April 2009 and 31 December 2010	25%	28%	Standard rate of income tax (20%) plus 28%
Between 1 January 2011 and 31 December 2011	27%	30%	Standard rate of income tax (20%) plus 30%
Between 1 January 2012 and 31 December 2012	30%	33%	Standard rate of income tax (20%) plus 33%
Between 1 January 2013 and 31 December 2013	33%	36%	Standard rate of income tax (20%) plus 36%
Between 1 January 2014 and 31 December 2014	41%	41%	60%
On or after 1 January 2015 *	41%	41%	60%

*** See additional Note following Table 1(c) below.**

Table 1(b) – Where the unit holder is a company and the details are correctly included in a timely tax return to Revenue:

Where the chargeable event occurs -	**Relevant payment** (i.e. payment made annually or more frequently)	**Non-regular payment**	**Disposal**
On or after 1 January 2012	25%/30%~	25%/33%~	25%/33%~
On or after 1 January 2013	25%/33%~	25%/36%~	25%/36%~
On or after 1 January 2014	25%/41%~	25%/41%~	25%/41%~

~ Rate applicable if the company has not made the declaration referred to in s739E(1B)(b) TCA 1997. The declaration referred to is not a specific declaration form but rather a statement from the company on its letterhead. Where the chargeable event occurs before 1 January 2012, the rates applicable are as per Table 1(a).

Table 1(c) – Where the unit holder is an individual and the details are not correctly included in a timely tax return to Revenue:

Chargeable event arising —	**Not a PPIU**	**PPIU – see *section 739BA TCA 1997* – applicable from 20 February 2007**
Before 1 January 2009	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 20%
Between 1 January 2009 and 7 April 2009	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 23%
Between 8 April 2009 and 31 December 2010	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 25%
Between 1 January 2011 and 31 December 2011	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 27%
Between 1 January 2012 and 31 December 2012	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 30%
Between 1 January 2013 and 31 December 2013	Marginal rate (i.e. 20% or 41% as appropriate)	Marginal rate (i.e. 20% or 41% as appropriate) plus 33%
Between 1 January 2014 and 31 December 2014	41%	80%
On or after 1 January 2015	41%	80%

Note: With effect from 1 January 2015, the distinction between 'correctly included' and 'not correctly included' is removed for other than a PPIU, and, any payment, whether regular or non-regular, (excluding from a PPIU), will be liable to income tax at the rate of 41% (i.e. one percentage point higher than the higher rate of income tax (40%) that comes into effect from that same date).

4.3.4 Chargeable event occurring on 31 December 2000

As indicated in the **Note** to subparagraph 4.1 above, a chargeable event occurred on 31 December 2000 in two situations-

- a liability arose **for the fund** in relation to investors who acquired units in the period from 1 April 2000 to 31 December 2000 and who had not made a declaration. The

growth in value of their units from the date of acquisition to 31 December 2000 was liable to tax at the rate of 40%;

- investors in IFSC funds as at 1 April 2000 who were resident in the State and who had not made a declaration, were **themselves** liable to capital gains tax on the growth in value of their units from the date of acquisition to 31 December 2000.

4.4 Chargeable event occurring on the ending of an 8-year period (i.e. a "deemed" disposal)

Finance Act 2006 introduced a new chargeable event and provided that a disposal of units is deemed to occur on the ending of an eight-year period following the acquisition of the units. The legislation applies to all units in investment undertakings acquired on or after 1 January 2001. Therefore, the first such chargeable event could not occur before 1 January 2009.

4.4.1 De minimis limit

Section 39(1)(c) Finance Act 2008, amended section 739E, by inserting a new subsection (2A), which provides that an investment undertaking will not have to deduct exit tax in respect of this deemed disposal where the value of the chargeable units (i.e. those units held by unit holders to whom the declaration procedures do not apply) in the investment undertaking (or in the sub-fund within an umbrella scheme) is less than 10% of the value of the total units in the investment undertaking (or in the sub-fund) and the investment undertaking has made an election to report certain details in respect of each affected unit holder to Revenue (the "Affected Unit Holder") in each year that the *de minimis* limit applies.

The investment undertaking shall determine whether or not chargeable units are less than 10% of the total units in an investment undertaking on 30 June, or another date that the fund at its discretion may choose (the "Calculation Date") each year. On the choosing to use a Calculation Date, such date is to be used consistently, unless the Calculation Date does not fall on a business day, in which case the calculation shall be made on the last business day prior to the Calculation Date. An investment undertaking is deemed to have made the election to report once it has advised the Affected Unit Holders in writing that it will make the required report.

4.4.1.1 Format of de minimis Report

The report to Revenue, which shall be made (before 31 March each year in respect of the previous year of assessment) to the tax district dealing with the investment undertaking's tax affairs, shall be made on Form IU (3e) and shall contain the following details –

a. Name of the investment undertaking;

b. Tax Reference Number of the investment undertaking;

c. Name and Tax Reference Number of the Affected Unit Holder;

d. Account number of the Affected Unit Holder;

e. Address of the Affected Unit Holder; and

f. Valuation of the total net asset value of the holding at the calculation date or at the end of the chargeable period.

Although the fund does not have to deduct tax in the circumstances outlined above the Affected Unit Holder will be subject to tax on the gain arising on the deemed disposal and must include details of the gain in a timely filing of their income tax return to Revenue.

4.4.2 Valuation of units for the purposes of 8-year event

An investment undertaking can choose to value the units at the date of the chargeable event itself or at the 30 June or 31 December prior to the date of the chargeable event. The fund may also choose to value the units that have reached their eighth anniversary all on the one day in the six month period i.e. on one day for the period ended 30 June and on one day for the period ended 31 December. Once the valuation date is chosen, such date is to be used consistently, unless the valuation date does not fall on a business day, in which case the calculation shall be made on the last business day prior to the valuation date.

For example, the fund could choose to value all units which have reached their eighth anniversary in the period 1 January 2009 to 30 June 2009 as at 25 June 2009. This should give the fund enough time to redeem units as required so that the exit tax can be collected from the fund for remittance to Revenue. Once the election is made on the first occasion of an eight-year event it cannot be reversed. Where units that have reached their eighth anniversary are sold during the same 6 month period, then there will be no requirement to calculate the deemed chargeable event in respect of such units.

4.4.3 Switches

The fund may take the date of the switch as the acquisition date where the original acquisition date has not been tracked. **With effect from June 2009, the fund is required to keep track of the original acquisition date or the last known switch date, depending on the information available.**

4.4.4 Inheritance of historical information

Where the fund administrator has changed and the new fund administrator does not have all of the information with regard to the history of the units held by investors, the new fund administrator may rely on the information provided by the previous administrator in order to determine the acquisition date or the last known switch date, where relevant.

4.4.5 Offset of exit tax deducted

Exit tax already paid in connection with the ending of an 8-year period may be offset against exit tax due on a subsequent chargeable event. Where an overpayment of exit tax arises after such offset, the excess is repaid by the investment undertaking to the unit holder. The investment undertaking reduces its next payment to Revenue by the amount repaid to the

unit holder. If immediately before the subsequent chargeable event, the value of chargeable units in the investment undertaking (or in the sub-fund within an umbrella scheme) does not exceed 15% of the value of the total units, the investment undertaking (or sub-fund) may elect to have any excess exit tax arising repaid directly by Revenue to the unit holder. The investment undertaking is deemed to have made this election once it notifies the unit holder in writing that any repayment due will be made directly by Revenue on receipt of a claim by the unit holder.

4.4.6 Calculation of exit tax for the purposes of the deemed disposal calculations

Appendix I(b) sets out an example of how the exit tax may be calculated for the purposes of the deemed disposal event under a weighted average cost basis.

5 Returns and payment of exit tax

5.1 Mandatory e-filing of returns and payment of exit tax

An investment undertaking must make a return of appropriate tax (exit tax) to Revenue –

- in connection with chargeable events occurring between 1 January and 30 June in a particular year, by 30 July of that year, and
- in connection with chargeable events occurring between 1 July and 31 December in a particular year, by 30 January of the following year.

The return should specify where there is no appropriate tax due for the period. **Since 1 June 2012 such returns and payments are subject to the Mandatory e-Filing regulations.** Returns made by an investment undertaking may be subject to audit by Revenue through inspection of the records of the investment undertaking. An assessment can be raised if Revenue is dissatisfied with a return and/or appropriate tax is not paid on time.

5.2 Correction of errors

Generally, no refunds of exit tax incorrectly paid are available. However, where it can be proved to the satisfaction of Revenue that a return contains any amount of exit tax deducted in error, the Inspector can make any necessary adjustments or offsets to secure correct liability of the investment undertaking. Such a situation could arise where a fund inadvertently deducts exit tax from a payment to a unit holder (e.g. where the payment is not regarded as a chargeable event) and includes the exit tax deducted in a return as appropriate tax. In circumstances where a fund deducts and pays over exit tax to Revenue, but within one year of the making of the return, proves that the unit holder would not have been chargeable to exit tax had the fund been in possession of a declaration at the time of the chargeable event, such exit tax may be repaid to the unit holder. If such refunded amount (i) has already been paid to Revenue, the fund may adjust the next return to Revenue to reclaim such refunded amounts from Revenue or (ii) has yet to be paid to Revenue, the fund simply excludes such refunded amounts from the next return. In the majority of cases the fund may make the refunds without recourse to Revenue. However, in cases where there is an element of doubt as regards the entitlement to exemption, the matter should be submitted to the Inspector of Taxes for clearance. Each fund must ensure that there is adequate documentation in place to support any refund made in correction of an error.

6 The Courts Service

Where funds which are held under the control or subject to the order of any Court are used to acquire units in an investment undertaking, payments from the investment undertaking to the Courts Service in respect of these units can be made without deduction of the exit tax. However, the Courts Service will be required to deduct the exit tax when they allocate those payments to the beneficial owners. (Section 4 and 5 of these guidelines also apply to the Courts Service for the purpose of deducting the exit tax and returning appropriate tax to Revenue).

6.1 Electronic Return

In addition to the return to Revenue, the Courts Service must also make a further return to Revenue on or before 28 February each year, in respect of each year of assessment, which –

- specifies the total amount of gains arising in respect of the units that the Courts Service has acquired; and
- specifies in respect of each person who is or was beneficially entitled to those units –
    1. the name and address of the person (where available), and
    2. the amount of the gains to which the person has beneficial entitlement.

This return should be made in an electronic format which has been approved by the Revenue Commissioners.

7 Repayment of exit tax

Exit tax must always be deducted from payments to investors with the exception of those referred to in subparagraph 4.2. Apart from where errors are being corrected as outlined at 5.2 above the following categories of investor may be entitled to repayment of exit tax provided the conditions outlined in the following sections of the Taxes Consolidation Act 1997, are satisfied –

- a permanently incapacitated individual who is exempt from income tax under section 189 in respect of income arising from the investment of compensation payments in respect of personal injury claims;
- the trustees of a 'qualifying trust' within section 189A where the life policy is held as part of the trust fund (funds raised for the benefit of incapacitated individual(s) through public subscriptions) of the qualifying trust, provided that income from the trust or investment returns from investment of the trust funds is the sole or main income of the incapacitated individual;
- a thalidomide victim who is exempt from income tax under section 192 in respect of income arising from the investment of compensation payments made by the Minister for Health and Children or by the foundation Hilfswerk für behinderte Kinder;
- the income arises or is derived from the investment of a relevant payment by a relevant individual (as defined under section 205A, relating to Magdalen Laundry payments);
- a company within the charge to corporation tax.

The investment undertaking or Courts Service must deduct the exit tax in the normal manner, but the individual or trust may be entitled to a repayment of the exit tax. The exit tax can be reclaimed, where appropriate, when the annual tax return is submitted to Revenue.

8 Declaration forms/Equivalent measures

The tax regime provides for a declaration procedure which, when complied with, may exempt certain investors from the deduction of exit tax on the occurrence of a chargeable event. A charge to appropriate tax shall not apply to an investment undertaking in respect of a unit holder where a valid declaration is in place prior to the occurrence of a chargeable event, or, where exemption from this requirement to have a valid declaration in place has been given in writing by the Revenue Commissioners.

The issue of such approval will be subject to the relevant investment undertaking putting in place appropriate "equivalent measures" in place of the declaration procedure. The "equivalent measures" are provided for in section 739D(7B) TCA 1997 and are detailed in Appendix 1(c).

Any undertaking wishing to receive such approval should apply in writing to:

Office of the Revenue Commissioners
Financial Services (Financing & Investment Funds) Branch
Large Corporates Division
Geata na Cathrach
Fairgreen
Galway
H91 W36K

confirming compliance with the conditions set out in Appendix 1(c) and enclosing a copy of the proposed application form for Units.

Schedule 2B, TCA 1997, provides for declarations for various categories of investor and also details the content of those declarations. The texts of the various types of authorised declaration forms are contained in Appendix II. To facilitate the transition to the new declaration procedure Revenue agreed certain transitional arrangements.

8.1 Transitional Arrangements

The transitional arrangements are outlined in Appendix III. The arrangements applied only to IFSC funds that were in existence at 31 March 2000 and **where the fund's application form included a requirement that the applicant declared that he/she was not resident in Ireland.** Revenue agreed that such an application form, including the declaration of non-Irish residence, would suffice for any **new** investors subscribing for units before 1 October 2000. However, a condition of this agreement was that such funds were required to forward to the Collector General a form listing the names and addresses of all resident persons, if any, who were issued with units between 1 April 2000 and 1 October, 2000. These forms were issued from the Collector General's Office and should have been returned to that Office on or before 30 November 2000. Investors subscribing on or after 1 October 2000 for units in IFSC funds that existed at 31 March 2000 must adhere to the declaration procedure provided for in the legislation.

Aside from these transitional arrangements, the declaration procedure set out in the legislation **must** be adhered to if exit tax is not to be deducted from payments to investors, **unless the conditions – detailed in Appendix I(c) are met.** The legislation requires that investors complete a declaration that has been authorised by the Revenue Commissioners.

8.2 Authorised declaration forms for resident investors

The Revenue Commissioners have authorised a separate, single declaration form for use by each of the resident entities set out below –

- a pension scheme;
- a life assurance company;
- an investment undertaking;
- an investment limited partnership;
- a special investment scheme;
- an exempt unit trust to which section 731(5)(a) applies;
- a charity;
- a qualifying management company;
- an approved retirement fund, an approved minimum retirement fund or a PRSA administrator;
- a credit union.

As an alternative, a "resident entities composite declaration form" has also been authorised for inclusion in an application form that is used **at the time of subscription for units** by any of the above entities seeking to invest in a fund. (See subparagraph 8.5*)*

An intermediary acting on behalf of the above entities can complete a separate declaration form or the composite declaration form. (See subparagraph 8.9)

8.3 Declaration not on Revenue authorised form

The Revenue Commissioners are not required to authorise a declaration for use by –

- an Irish corporate investing in a money market fund;
- a section 110 securitisation company;
- The National Asset Management Agency;
- The National Treasury Management Agency or a Fund investment vehicle (within the meaning of section 37 of the National Treasury Management Agency (Amendment) Act 2014) of which the Minister is the sole beneficial owner or the State acting through the National Treasury Management Agency;
- The Motor Insurers' Bureau of Ireland in respect of an investment made by it of moneys paid to the Motor Insurers Insolvency Compensation Fund under the Insurance Act 1964 (as amended by the Insurance (Amendment) Act 2018).

Payments by the fund to these entities can be paid without deduction of exit tax subject to the following –

- the company must provide the fund with its tax reference number (within the meaning of section 885);
- the company must declare to the fund that it is a company within the charge to corporation tax in respect of payments made to it by the investment undertaking;
- in the case of the National Asset Management Agency it must make a declaration the fund to that effect;
- in the case of the National Treasury Management Agency or a Fund investment vehicle within the meaning of section 37 of the National Treasury Management Agency (Amendment) Act 2014 it must make a declaration to the fund to that effect; and
- in the case of the Motor Insurers' Bureau of Ireland in respect of an investment made by it of moneys paid to the Motor Insurers Insolvency Compensation Fund under the Insurance Act 1964 (as amended by the Insurance (Amendment) Act 2018) it must make a declaration to the fund to that effect.

8.4 Authorised declaration forms for other investors

Declaration forms have also been authorised for use by –

- an intermediary within the meaning of section 739B(1);
- a person who at the time of acquiring units in a fund is neither resident nor ordinarily resident in the State; and
- a person who at the time of acquiring units in a fund was resident or ordinarily resident in the State but subsequent to such acquisition becomes neither resident nor ordinarily resident in the State.

As an alternative, a "non-resident composite declaration form" has also been authorised for inclusion in an application form that is used **at the time of subscription for units** by an intermediary or an investor subscribing on his/her own behalf.

8.5 Composite declaration forms

Revenue has agreed, subject to certain conditions, that the texts of the authorised resident entities composite form and the authorised non-resident composite form can be an integral part of an investment undertaking's application form. It is accepted that a deviation from the prescribed form which does not materially affect the substance of the form or is not misleading in content or effect does not invalidate the form used[6].

Where the text of the **resident entities composite declaration** is included in the investment undertaking's application form the following conditions apply –

- the text should be located beside that part of the application form requiring signature; (see subparagraph 8.8)
- the application form should clearly identify the name and address of the person to whom the application form should be returned;

[6] Section 12, Interpretation Act 2005

- the definition of "intermediary" must be included in the prospectus which accompanies the investment undertaking's application form or in the application form itself. (see Appendix IV)

Where the text of the **non-resident composite declaration** is included in the undertaking's application from the following conditions apply –

- the text should be located beside that part of the application form requiring signature; (see subparagraph 8.8 below)
- the definitions of residence, ordinary residence, company residence and intermediary must be included in the prospectus which accompanies the investment undertaking's application form or in the application form itself – (see Appendix IV). Where the definitions are included in the application form, they must be located as close as possible to the declaration of non-residence;
- the application form should clearly identify the name and address of the person to whom the application form should returned; and
- the name of the party to whom any changes in the unit holder's residence status should be notified must be clearly stated in the body of the non-resident composite declaration.

8.6 Foreign language

The non-resident declaration may be translated into foreign languages on the understanding that the translations are done in good faith and in accordance with Section 12 Interpretation Act 2005, which provides that a deviation from the prescribed form will be accepted where the deviation from the form does not materially affect the substance of the form or is not misleading in content or effect, this does not invalidate the form used.

It should be noted that, in the context of the non-resident declaration, the terms "Ireland" or "Republic of Ireland" and the terms "not resident or ordinarily resident in Ireland" or "not resident or ordinarily resident in the Republic of Ireland", may be used in the text of the declaration.

8.7 To whom should a declaration be made?

Declarations should be made to the investment undertaking or to any person who is authorised to act on behalf of the undertaking and does so on a regular basis. Revenue does not accept that this requirement is met if, for example, the declaration is made to a person who is merely providing investment advice or performing functions of an analogous nature. The investment undertaking or any person authorised to act on behalf of the investment undertaking must ensure that the person responsible for making payments from the fund to investors has access to completed declarations and also has access to the most up-to-date information about the investor's circumstances (e.g. pension fund exemption, residence status etc.).

A person responsible for making payments from a fund to investors is required to deduct exit tax where a valid declaration has not been provided by an investor. In addition, **if that person has information that reasonably suggests that a declaration that has been provided to them is not materially correct or that the "non-resident" investor is resident or ordinarily resident in the State, exit tax should be deducted from the payment.**

8.8 Who should sign a declaration?

Declaration forms must be signed by the person who is entitled to the units or by an intermediary as defined in section 739B(1) acting on behalf of such a person. (See subparagraph 8.9 for intermediaries' obligations). They may also be signed by a person who holds a power of attorney from the person entitled to the units and in such a case, a copy of the power of attorney must be furnished in support of the declaration. Where the person entitled to the units is a company, the declaration must be signed by the company secretary or other authorised officer. In the case of an authorised officer, a copy of the resolution of authorisation should be obtained and retained by the person with responsibility for retaining declarations. The signature of the company secretary or authorised officer is required even in a case where the application form is executed under seal.

In addition to the foregoing, the following are also permitted to sign the declaration-

- the administrator, in the case of an exempt pension scheme;
- the person carrying on the business of granting annuities, in the case of a retirement annuity contract to which sections 784 and 785 apply;
- the trustees, in the case of a trust;
- the trustees or other authorised officer of a body of persons or trust established for charitable purposes only within the meaning of sections 207 and 208, in the case of a charity;
- the secretary or other authorised officer (provided that a copy of the resolution of authorisation is obtained and retained), in the case of an unincorporated entity like a club or association.

Finally, apart from the parties set out above who are permitted to sign a declaration, a person, generally a parent or guardian, acquiring units on behalf of a minor child/incapacitated person may also sign a declaration of non-residence, subject to the following conditions-

- the account is in the name of the minor child/incapacitated person;
- the units are owned solely by the minor child/incapacitated person;
- the person signing the declaration is declaring that the minor child/incapacitated person is non-resident.

8.9 Intermediaries

As referred to in subparagraph 8.8, an intermediary is permitted by the legislation to sign a declaration where they are acting for a non-resident investor who wishes to acquire units in a fund or on whose behalf they receive payments from a fund. Intermediaries are also permitted to sign a declaration on behalf of the following resident entities-

- a pension scheme;
- a life assurance company;
- an investment undertaking;
- an investment limited partnership;
- a special investment scheme;
- an exempt unit trust within the meaning of section 731(5)(a);
- a charity;
- a qualifying management company;
- an approved retirement fund, an approved minimum retirement fund;
- a personal retirement savings account;
- a credit union; and
- an Irish resident company within the charge to corporation tax which invests in an investment undertaking that is a money market fund.

An intermediary should sign a declaration on behalf of a non-resident investor, only, if at the time of signing the declaration, they are satisfied that, to the best of their knowledge and belief, the person on whose behalf they are signing the declaration is not resident in Ireland and not ordinarily resident in Ireland, where that person is an individual. Additionally, an intermediary is required to advise the investment undertaking immediately if they become aware that the person on whose behalf they have signed the declaration is resident, or ordinarily resident in the case of an individual, in Ireland. When signing on behalf of resident investors, intermediaries should satisfy themselves, where it is appropriate, as to the tax status of the investor e.g. tax exemption in the case of a pension fund or charity.

8.10 Form of declaration

Schedule 2B, TCA 1997, requires that declarations be made in writing to the investment undertaking. There are two exceptions to the "in writing" requirement-

8.10.1 Electronic version of declaration

Where an investment undertaking accepts a completed application for units/shares in an electronic format from an investor and regards this electronic document as a legally binding contract, the Revenue authorised declaration, which is an integral part of the application

form, will satisfy the requirements of the legislation, provided that the application form, including the declaration, is supported by electronic data which serve as a method of authenticating the purported identity of the investor. For this purpose, Revenue regards an electronic signature, within the meaning of the Electronic Commerce Act 2000, as providing assurance as to an investor's identity.

8.10.2 Faxed/Scanned declarations

Until July 2011 faxed declarations were accepted only in the case of investment in Money Market funds. Since July 2011 the Central Bank of Ireland is willing to allow managers/administrators of investment undertakings accept faxed applications for subscriptions and redemptions, without the requirement to receive original documentation. In line with this practice, Revenue is also prepared to accept faxed documentation. In addition and in line with the Electronic Commerce Act 2000 Revenue will also accept scanned declarations without the requirement to receive the original documentation.

The above is conditional that the manager/administrator is satisfied that there are appropriate controls and procedures in place to comply with the applicable anti-money laundering legislation and to mitigate the risk of fraud associated with the processing of transactions based on facsimile/scanned instructions. Where the manager/administrator is not requiring the receipt of original documentation, this procedure must be formally documented and approved by the relevant investment undertaking board or manager (in the context of a unit trust and common contractual fund).

8.11 How many declarations must an investor make?

The general rule as regards investors who acquire units in a fund which is established after 1 April 2000 or in an IFSC fund which existed on or before 31 March 2000, is that a declaration form which is completed upon the first acquisition of units in the fund will also suffice for –

- the unit holder's declaration obligations in relation to subsequent applications for units/shares in **that** fund,

  and

- the unit holder's declaration obligations in relation to applications for units/shares in any other fund which –

  (i) is set up and promoted by the entity which set up and promoted the fund in which the original investment was made or

  (ii) has the same manager, investment manager or administrator as the fund in which the original investment was made.

For this to apply to non-resident investors, the **Revenue authorised composite declaration form** ("non-resident" version) must be used in the relevant application form as this contains a statement to the effect that the completed declaration, if it is then still correct, will continue to apply in respect of subsequent acquisitions of units. In the case of resident investors who are entitled to complete a declaration, a fresh declaration is required each time that they acquire units in a fund unless the investor has completed the **revised**

Revenue authorised composite declaration ("resident entities" version) as this contains a statement to the effect that the completed declaration will continue to apply in respect of future acquisitions of units. The general rule set out above also applies where an investment undertaking requires an investor to complete one of the separate, single Revenue authorised declaration forms (non-composite version). However, this applies only where the **fund's application form** makes it clear that the completed declaration will continue to apply in respect of future acquisitions of units.

For investors, who had acquired units on or before 30 September, 2000 in IFSC funds that existed on or before 31 March, 2000 special rules apply. In these circumstances where the fund –

- has furnished a declaration to the Collector General by 30 June, 2000 together with any schedule of resident investors, or
- has availed of Revenue's transitional arrangements and furnished a list to the Collector General by 30 November, 2000 containing the names and addresses of any resident investors in the fund,

no further declarations are required in respect of any further acquisitions of units by those investors in the same fund or another fund that is set up and promoted by the same person.

8.11.1 Special arrangements for intermediaries acting on behalf of non-residents

The following agreed procedures will apply where, in all cases, the investment undertaking has put in place the arrangements set out at (1) below **and** where the conditions are satisfied as outlined at (2) below for the particular category applicable to the intermediary concerned.

The declaration will suffice for –

- the intermediary's declaration obligations in relation to subsequent applications for units/shares in that fund,

  and

- the intermediary's declaration obligations in relation to application for units/shares in any other fund which –

  (i) is set up and promoted by the entity which set up and promoted the fund in which the original investment was made

  or

  (ii) has the same manager, investment manager or administrator as the fund in which the original investment was made.

(1) Arrangements to be put in place by the investment undertaking

The investment undertaking must put arrangements in place which ensure that the trade confirmation which issues after a settlement contains the following important information-

It is condition of this trade that it is being made by, or on behalf of, a person(s) who is/are-

a) non-resident (where the person is a company), or

b) **neither resident nor ordinarily resident in Ireland (where the person is not a company) and, this is in accordance with the declaration which you have made to (Name of Investment Undertaking to whom declaration is made). If this is not the case you must inform the investment undertaking in writing immediately and failure to do so is a criminal offence.**

(2) Conditions applicable to various categories of Intermediaries

a) Intermediaries who sign the composite non-resident declaration form authorised on 19 December 2001 and to be incorporated in all application forms no later than 30 June 2002, together with the arrangements outlined at (1) above, may rely on this single declaration.

b) Intermediaries who had acquired units in a fund on or before 31 March 2000 may rely on the single declaration included in the first application to the fund provided that-

(i) the first application included a declaration to the effect that the units/shares were not being acquired on behalf of Irish residents, and

(ii) the application form contained a statement to the effect that it would apply to all future acquisitions provided the declaration is still correct.

These procedures continue to be agreed in the context of Revenue's understanding that the requirement to act **only** for non-residents was a key consideration between intermediaries and the fund prior to April 2000 and that this requirement to sign only one declaration at the time of application was on the understanding that all future trades would be with non-residents. Consequently, if an intermediary has subsequently acquired an Irish resident investor(s), then, the above agreed procedures would no longer apply to non-resident investors acquired after the first Irish resident investor was acquired.

c) Intermediaries who signed the Revenue composite declaration form incorporated in applications signed after 31 March 2000 and before 30 June 2002 where –

(i) the first application form contained a statement to the effect that the application would apply to all future acquisitions provided the declaration is still correct, and

(ii) it is the understanding of both the fund and the intermediary that, on the basis of the Revenue declaration signed, future trades must be with persons who are not resident or ordinarily resident in Ireland.

8.12 For how long should declarations be retained?

Completed declaration forms must be retained by the investment undertaking or by any person authorised to act on the investment undertaking's behalf, and regularly does so, for a period of six years from the time the unit holder in respect of which a declaration was made ceases to be both a unit holder in the fund or in a fund which is set up and promoted by the same entity that set up and promoted the fund in which the original investment was made.

9 Revenue audit/inspection

The power to conduct an audit of an investment undertaking derives from section 904D TCA 1997. This section empowers an authorised officer of the Revenue Commissioners to conduct an audit of the return of appropriate tax made by an investment undertaking. The authorised officer may also, through the inspection of the records of an investment undertaking –

- examine the procedures put in place by the investment undertaking to ensure compliance with all aspects of the law;
- examine all or a sample of the declarations made to the investment undertaking;
- examine a sample of investments to ensure that the correct amount of appropriate tax has been deducted and returned to the Revenue Commissioners.

Records in this context include all records used in the business of an investment undertaking and documents relevant to an investor's circumstances (e.g. pension fund exemption, residence status etc.). It is the duty of the investment undertaking or any person acting on behalf of the investment undertaking to ensure that original copies of declarations are safely held and are available for inspection.

Where the investment undertaking or an employee of an investment undertaking fails to comply with the requirements of the auditor they will be liable to penalties in accordance with section 904D TCA 1997.

An investment undertaking is liable for the tax that should have been deducted, whether or not it was deducted by it, on the happening of a chargeable event. It should be noted that the provisions of the Taxes Act in relation to-

- interest on late payments;
- penalties; and
- publication of the names of defaulters

apply where there is a failure to deduct and remit appropriate tax.

Appendix I(a)-Calculation of cost of units at sub-fund level using average cost

Fund	Date	Transaction Type	Amount	Price	No. units in trans	Base cost carried forward	Balance of Units forward	Gain(+) Loss (-)
A	1/1/01	sale	10,000	10.00	1,000	10,000	1,000	
A	3/1/01	sale	3,000	10.50	285.71	13,000	1,285.71	
A	4/1/01	switch (to B)	-5,000	12.00	-416.67	-4,213.01[1] 8,786.99	-416.67 869.04	
A	5/1/01	repurchase	-1,000	15.00	-66.67	8,112.89	802.38	325.90[2]
A	7/1/01	sale	6,000	14.00	428.57	14,112.89	1,230.95	
A	8/1/01	repurchase (all A)	18,464.25	15.00	-1230.95	0.00	0.00	4,351.36[3]
B	2/1/01	sale	22,000	50.00	440.00	22,000.00	440.00	
B	4/1/01	switch (from A)	5,000	53.00	94.34	4,213.01[4] 26,213.01	93.34 533.34	
B	6/1/01	repurchase	-3,000	60.00	-50.00	23,760.17	484.34	547.16[5]
B	9/1/01	sale	50,000	65.00	769.23	73,760.17	1,253.57	
B	10/1/01	repurchase(all B)	87,749.90	70.00	-1,253.57	0.00	0.00	13,989.73[6]

[1] Cost = (13000 x 416.67 / 1285.71) = 4213.01

[2] Cost = (8786.99 x 66.67 / 869.05) = 674.10, G/L = 1000 – 674.10 = 325.90

[3] Cost = (14112.89 x 1230.95 / 1230.95) = 14112.89, G/L = 18464.25 – 14112.89 = 4351.36

[4] Cost carried from switch out of fund A

[5] Cost = (26213.01 x 50 / 534.34) = 2452.84, G/L = 3000-2452.84 = 547.16

[6] AC = (73760.17 x 1253.57 / 1253.57) = 73760.17, G/L = 87749.90 – 73760.17 = 13989.73

Appendix I(b) – Calculation of gain on deemed disposal of units where fund using average cost

Date	Transaction Type	Amount	Price	No. units in trans	Base cost carried forward	Balance of units forward	Gain(+) Loss(-)	Note
1/1/01	Acquisition	10,000	10.00	1,000	10,000	1,000		A
3/10/03	Switch (from another sub fund)	4,000	10.50	380.95	13,000	1,380.95		B
4/1/05	Actual Disposal	-5,000	12.00	-416.67	-3,922.45 9,077.55	-416.67 964.28	1,079	C
1/1/09	Deemed Disposal	-8,750	15.00	-583.33	9,077.55	964.28	3,261	D
1/1/09	Forced Redemption to pay tax	-848	15.00	-56.53	-531.95 8,545.60	-56.53 907.75	316	E
3/10/11	Deemed Disposal	-9,524	25.00	-380.95	8,545.60	907.75	5,939	F
3/10/11	Forced Redemption to pay tax	-1,544	25.00	-61.76	-581.16 7,964.44	-61.76 845.99	963	G
2/1/12	Actual Redemption	-22,842	27.00	-845.99	-7,964.44 Nil	-845.99 Nil	14,881	H

Notes

A – On 1 January 2001, an investor purchased 1,000 units in this fund at a unit price of €10 per unit for a total subscription of €10,000.

B – On 3 October 2003, the same investor switched €4,000 from another sub fund. Based on a marked value of the units in this fund on 3 October 2003 of €10.50 per unit, the investment of €4,000 acquires 380.95 units. The original base cost of this investment was €3,000 and this remains the base cost going forward. As a result of this transaction the total base cost carried forward is €13,000 and the average cost per unit is €9.41.

C - On 4 January 2005, the investor redeemed units to the value of €5,000. This results in a chargeable event for tax purposes and as the market value per unit on 4 January 2005 is €12, the total number of units disposed of is 416.67. At an average cost per unit of €9.41, the total base cost disposed of is €3,922.4. The base cost carried forward is therefore €9,077.55 and the number of units is 964.28 with the average cost per unit remaining unchanged at €9.41 per unit. The gain arising on this disposal is therefore €1,078, which was subject to tax at that date at a rate of 23% giving rise to a tax liability of €248.

D – On 1 January 2009, there is a deemed disposal of the units acquired on 1 January 2001. If we treat the disposal of units on 4 January 2005 on a first out basis, of the 1,000 units

acquired on 1 January 2001, only 583.33 units remain on 1 January 2009. As the market value on this date is €15 per unit the value of the units subject to the deemed disposal is €8,750. The gain per unit is €5.59 and as a result, the total gain is €3,261. The tax arising thereon at a rate of 26% is €848. As there has been no actual disposal of units, the number of units and the base cost of those units carried forward remains the same.

E – In order to release the cash to pay the tax due of €848, the fund must exercise a forced redemption of units. As the cash required is €848, the number of units to be redeemed is 56.53. The gain arising is €316 on the basis of a gain per unit of €5.59. The tax on the gain at 26% is €82 but there is a credit available for the tax already paid on the deemed disposal. As a result, there is no additional tax due. The 56.53 units disposed of are taken from the same pool of units as those which are the subject of the deemed disposal and there is no impact on units acquired since that date i.e. the 583.33 units which were originally acquired on 1 January 2001 are reduced by 56.53 to 526.8 in order to take account of the forced redemption so that the amount of units carried forward which originally acquired on 1 January 2001 is 526.8.

Note: This example is prepared on the basis that the calculation of the deemed disposal and the forced redemption occur on the same date. In the event that the calculation of the gain arising on the deemed disposal and the gain arising on the forced redemption are not completed on the same day, then the credit available may not equal the tax paid and an additional tax payment may be required. As outlined in **subparagraph 4.4.2** of this TDM, the fund may choose to value the units on a particular date in the six-month period and this date does not have to correspond to the original acquisition date of the units. Once a particular date is chosen, this should be applied consistently on an on-going basis.

F – On 3 October 2011, there is deemed disposal of the units acquired by way of switch into the fund on 3 October 2003. As this investor has had no activity in relation to these units in the intervening years, the full amount of 380.95 units remain on 3 October 2011. As the market value on this date is €25 per unit the value of the units subject to the deemed disposal is €9,524. The gain per unit is €15.59 and as a result, the total gain is €5,939. The tax arising thereon at a rate of 26% is €1,544. As there has been no actual disposal of units, the number of units and the base cost of those units carried forward remains the same.

G – In order to release the cash to pay the tax due of €1,544, the number of units to be redeemed is 61.76. The gain arising is €963 on the basis of a gain per unit of €15.59. The tax on the gain at 26% is €250 but there is a credit available for the tax already paid on the deemed disposal. As a result, there is no additional tax due. The 61.76 units disposed of are taken from the same pool of units as those which are the subject of the deemed disposal and there is no impact on units acquired since that date i.e. the 380.95 units which were originally acquired on 3 October 2003 are reduced by 61.76 to 319.19 in order to take account of the forced redemption so that the amount of units carried forward which were originally acquired on 3 October 2003 is 319.19.

H – The final transaction for this investor in the fund is the total redemption of all units on 2 January 2012. The market value at this date is €27 per unit and the total number of units held is 845.99 with a base cost of €7,964.44. The gain arising is therefore €17.59 per unit and the total gain is €14,881. Tax on this gain at 26% is €3,869 less credit for the tax already paid on the various deemed disposals. The total tax paid to date is €848 - €82 + €1,544 - €250 = €2,060. The balance of tax due is €3,869 - €2,060 = €1,809.

Appendix I(c) – Non-resident declarations and Intermediary declarations: Equivalent measures

In order to obtain written notice of approval from the Revenue Commissioners to the effect that subsection (7) or (9) of section 739D of the Taxes Consolidation Act 1997 is deemed to be complied with as respects any unit holder or class of unit holders, an investment undertaking is required to confirm each of the following matters to a nominated officer of the Revenue Commissioners:[1]

1. The investment undertaking will verify an investor's identity by complying with applicable anti-money laundering procedures.
2. While an investment undertaking cannot prohibit Irish residents from subscribing for units, the investment undertaking will not actively promote the units concerned to Irish investors or in Ireland nor will it actively distribute in Ireland any offering material in connection with such units.
3. Every time an investor makes an initial application to subscribe for units in the investment undertaking (a) in its capacity as an investor on its own behalf or (b) in its capacity as intermediary, that application is required to be made by way of completion of an Application Form that must contain an address for the proposed investor that will be entered on the unit holder register of the investment undertaking (for this purpose the "Registered Address"). An investor may provide an additional address on the Application Form for other purpose, e.g. correspondence. If the investment undertaking receives an Application Form from an investor who provides a Registered Address that is Irish or an Irish address for any purpose, the investment undertaking will for Irish tax purposes treat that investor as if that investor were Irish resident, unless that investor provides the investment undertaking with a signed non-resident declaration or intermediary declaration, as the case may be, in the prescribed form and the investment undertaking is not in possession of any information which would reasonably suggest that the information contained in that declaration is not, or is no longer, materially correct.

   Each Application Form must contain terms and conditions which will include language to the effect that: "**Every applicant applying for units on the applicant's own behalf is hereby obliged to notify the Investment Undertakings or an agent of the Investment Undertaking appointed for this purpose, as the case may be, in writing if the applicant is or becomes resident or ordinarily resident in Ireland. An individual is ordinarily resident in Ireland if the individual has been resident in Ireland for each of the 3 preceding years of assessment (i.e. calendar years) and that individual continues to be ordinarily resident in Ireland until the individual has not been resident in Ireland in each of the 3 preceding years of assessment.**"

[1] Each reference to units and unit holders in this document is to be construed in accordance with section 739B(1) TCA 1997 so that references to units and unit holders include *inter alia* references to shares and shareholders. In particular, the language to be included in Applications Forms, as set out in paragraphs 3 and 5 of this document should refer to units or shares as appropriate.

4. Every investor is required to provide details of one or more bank accounts into which payments to that investor may be made. If an investor provides details of any Irish situate bank account, the investment undertaking will for Irish tax purposes treat that investor as if that investor were Irish resident, unless that investor provides the investment undertaking with a signed non-resident declaration or intermediary declaration, as the case may be, in the prescribed form and the investment undertaking is not in possession of any information which would reasonably suggest that the information contained in that declaration is not, or is no longer, materially correct.

5. Each intermediary with respect to the holding of units in the investment undertaking, is obliged from the time of completion of an Application Form, as a matter of contract, to notify in writing the investment undertaking or the administrator of the investment undertaking, as the case may be, if it is, or becomes, aware that a person who is beneficially entitled to any units issued by the investment undertaking to that intermediary may be resident or ordinarily resident in Ireland or may have become resident in Ireland. Where an intermediary makes such a notification, the investment undertaking will for Irish tax purposes treat the relevant investor as if that investor were Irish resident, unless that investor provides the investment undertaking with a signed non-resident declaration in the prescribed form and the investment undertaking is not in possession of any information which would reasonably suggest that the information contained in that declaration is not, or is no longer, materially correct.

   Each Application Form must contain terms and conditions which will include language to the effect that: "**Every applicant applying for units on behalf of another person is hereby obliged to notify in writing the Investment Undertaking or an agent of the Investment Undertaking appointed for this purpose, as the case may be, if the applicant is, or becomes, aware that any person who is beneficially entitled to any of those units may be resident or ordinarily resident in Ireland or may have become resident in Ireland. An individual is ordinarily resident in Ireland if the individual has been resident in Ireland for each of the 3 preceding years of assessment (i.e. calendar years) and that individual continues to be ordinarily resident in Ireland until the individual has not been resident in Ireland in each of the 3 preceding years of assessment.**"

6. The investment undertaking will comply fully with all of its obligations in accordance with the provisions of Irish tax law and Revenue practice, including but not limited to, its obligations in respect of all Irish resident or ordinarily resident investors; persons treated as Irish resident investors pursuant to each of 3, 4 and 5 above; and each unit holder in respect of whom it is in possession of any information which could reasonably suggest that the unit holder is resident or ordinarily resident in Ireland.

Appendix II(i) – Pension Scheme

Declaration for the purposes of Section 739D(6)(a),

Taxes Consolidation Act 1997

Name of pension scheme: _____

Pension scheme address: _____

Irish tax reference number of the pension scheme:_____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the above mentioned pension scheme is entitled to the units in respect of which this declaration is made, and I certify that, to the best of my knowledge and belief, the information contained in this declaration is true and correct.
- I declare that at the time of making this declaration, the person entitled to the units is a pension scheme.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by (i) the administrator (within the meaning of Section 770 TCA, 1997) in the case of an exempt approved scheme (within the meaning of section 774 TCA, 1997), or (ii) the person lawfully carrying on in the State the business of granting annuities on human life with whom the contract is made in the case of a retirement annuity contract to which section 784 or 785 TCA, 1997 applies, or the trustees in the case of a trust scheme to which section 784 or 785 TCA, 1997 applies, or (iii) a person who holds power of attorney from the pension scheme. A copy of the power of attorney should be furnished to support this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II(ii) – Company carrying on life business

Declaration for the purposes of Section739D(6)(b),

Taxes Consolidation Act 1997

Name of company carrying on life business: _____

Company address: _____

_____

Irish tax reference number of the company:_____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the above named company is entitled to the units in respect of which this declaration is made, and I certify that the information contained in this declaration is true and correct.
- I also declare that at the time when the declaration is made, the above named company which is entitled to the units is a company carrying on life business with the meaning of section 706 TCA, 1997.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by the company secretary or such other authorised officer of the company carrying on life business. It may also be signed by a person who holds the power of attorney from the company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (iii) – Investment Undertaking

Declaration for the purposes of Section 739D(6)(c),

Taxes Consolidation Act 1997

Name of investment undertaking: _____

Investment undertaking address: _____

_____

Irish tax reference number of the investment undertaking:

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the investment undertaking on whose behalf this declaration is being made, is entitled to the units in respect of which this declaration is made and I certify that the information contained in this declaration is true and correct.
- I also declare that at the time of making this declaration, the person entitled to the units is an investment undertaking.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by an authorised officer of the investment undertaking. Where the investment undertaking is a company, the declaration must be signed by the company secretary or such other authorised officer of the company. It may also be signed by a person who holds power of attorney form the investment undertaking/company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (iv) – Investment Limited Partnership

Declaration for the purposes of Section 739(6)(cc),

Taxes Consolidation Act 1997

Name of investment limited partnership: _____

Address of investment limited partnership:_____

Irish tax reference number of the investment limited partnership: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the investment limited partnership on whose behalf this declaration is being made, is entitled to the units in respect of which this declaration is made and I certify that the information contained in this declaration is true and correct.
- I also declare that at the time of making this declaration, the person entitled to the units is an investment limited partnership.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by an authorised officer of the investment limited partnership. It may also be signed by a person who holds power of attorney from the investment limited partnership. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (v) – Special Investment Scheme

Declaration for the purposes of Section 739D(6)(d),

Taxes Consolidation Act 1997

Name of special investment scheme: _____

Special investment scheme address: _____

_____

Irish tax reference number for the special investment scheme: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the investment limited partnership on whose behalf this declaration is being made, is entitled to the units in respect of which this declaration is made and I certify that the information contained in this declaration is true and correct.
- I also declare that at the time of making this declaration, the person entitled to the units is an investment limited partnership.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by an authorised officer of the investment limited partnership. It may also be signed by a person who holds power of attorney from the investment limited partnership. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (vi) – Unit Trust

Declaration for the purposes of Section 739D(6)(e),

Taxes Consolidation Act 1997

Name of unit trust: _____

Unit trust address: _____

_____

Irish tax reference number of the unit trust: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the above mentioned unit trust is entitled to the units in respect of which this declaration is made, and I certify that the information contained in this declaration is true and correct.
- I also declare that at the time of making this declaration, the person entitled to the units is a unit trust to which section 731(5)(a) TCA 1997 applies.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by the trustees of the unit trust or such other authorised officer. It may also be signed by a person who holds power of attorney from the unit trust. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (vii) – Charity

Declaration for the purposes of Section 739D(6)(f),

Taxes Consolidation Act 1997

Name of charity: _____

Address of charity: _____

_____

Charity exemption number (CHY) as issued by Revenue: _____

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the above mentioned charity is entitled to the units in respect of which this declaration is made, and is a person referred to in section 739D(6)(f)(i) TCA 1997.
- I also declare that at the time of making this declaration, the units in respect of which this declaration is made are held for charitable purposes only and form part of the assets of a body of persons or trust treated by the Revenue Commissioners as a body or trust established for charitable purposes only, or are, according to the rules or regulations established by statute, charter, decree, deed of trust or will, held for charitable purposes only and are so treated by the Revenue Commissioners.
- I undertake that, in the event that the person referred to in paragraph (7)(d) of Schedule 2B TCA 1997 ceases to be a person referred to in section 739D(6)(f)(i) TCA 1997, I will, by written notice, bring this fact to the attention of the investment undertaking accordingly.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by the trustees or other authorised officer of a body of persons or trust established for charitable purposes only within the meaning of section 207 and 208 TCA, 1997. Where a charity is a company, the declaration should be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney from the charity. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (viii) – Qualifying management company

Declaration for the purposes of Section 739D(6)(g),

Taxes Consolidation Act 1997

Name of company: _____

Address of company: _____

_____

Irish tax reference number of the company: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that the above named company is entitled to the units in respect of which this declaration is made.
- I also declare that at the time of making this declaration, the person entitled to the units is a qualifying management company, as defined in section 739(B)(1) as inserted by section 31(1)(a), Finance Act 2010.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by the company secretary or such other authorised officer of the qualifying management company. It may also be signed by a person who holds power of attorney from the company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (ix) – Qualifying fund manager or qualifying savings manager

Declaration for the purposes of Section 739D(6)(h),

Taxes Consolidation Act 1997

Name of qualifying fund/savings manager*:_____

Name of beneficial owner: _____

(beneficial owner is the person who is beneficially entitled to the units and on whose behalf the qualifying fund manager is acting)

Address of beneficial owner:_____

_____

Irish tax reference number of beneficial owner: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

I declare that at the time this declaration is made, the units in respect of which this declaration is made-

- are assets of an approved retirement fund/an approved minimum retirement fund,* and,
- are managed by the declarant for the above named individual who is beneficially entitled to the units.

I undertake that, if the units cease to be assets of the approved retirement fund/the approved minimum retirement fund or held in the special savings incentive account,* including a case where the units are transferred to another such fund or account, I will, by written notice, notify the investment undertaking accordingly. **(*Delete as appropriate and note that special savings incentive accounts are no longer in operation)**

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by a qualifying fund manager of an approved retirement fund/an approved minimum retirement fund or by a qualifying savings manager of a special savings incentive account. Where a qualifying fund manager or a qualifying savings manager is a company, the declaration must be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney from the declarant. A copy of the power of attorney should be furnished with this declaration.

2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (x) – PRSA Administrator

Declaration for the purposes of Section 739D(6)(i),

Taxes Consolidation Act 1997

Name of PRSA Administrator:_____

Name of Beneficial Owner: _____

(beneficial owner is the person who is beneficial entitled to the units and on whose behalf the PRSA Administrator is acting)

Address of Beneficial Owner: _____

_____

Irish tax reference number of the Beneficial Owner: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time this declaration is made, the units in respect of which this declaration is made-
    - are assets of a PRSA, and,
    - are managed by the declarer for the above named individual who is beneficially entitled to the units.
- I undertake that, if the units cease to be assets of the PRSA, including a case where the units are transferred to another PRSA, I will, by written notice, notify the investment undertaking accordingly.

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below): _____

Date: _____ / _____ / _____

IMPORTANT NOTES

1. This declaration must be signed by a PRSA administrator. Where a PRSA administrator is a company, the declaration must be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney from the declarant. A copy of the power of attorney should be furnished with this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II(xi) – Credit Union

Declaration referred to in Section 739D(6)(j),

Taxes Consolidation Act 1997

Name of Credit Union:_____

Address of Credit Union: _____

_____

Irish tax reference number of the Credit Union: _____

("tax reference number" in relation to a person, has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section)

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, the above named Credit Union is entitled to the units in respect of which this declaration is made.
- I declare that at the time this declaration is made, the person entitled to the units is a Credit Union within the meaning of section 2 of the Credit Union Act 1997.
- I also declare that the information contained in this declaration is true and correct.

Signature of Declare or Authorised Signatory (declarant):

_____

Capacity in which declaration is made (see note 1 below): _____

Date: ____ / ____ / ____

IMPORTANT NOTES

1. This declaration must be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney from the Credit Union. A copy of the power of attorney should be furnished with the declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Appendix II (xii) – Resident Entities Composite Declaration

Declaration referred to in Section 739D(6),

Taxes Consolidation

[It is important to note that this declaration, if it is then still correct, shall apply in respect of any subsequent acquisitions of shares/units.]

- I declare that the information contained in this declaration is true and correct.
- I also declare that I am applying for the shares/units on behalf of the applicant named below who is entitled to the units in respect of which this declaration is made and is a person referred to in Section 739D(6) of the Taxes Consolidation Act, 1997, being a person who is: (**please tick ☐ as appropriate***)*

a pension scheme;	
a company carrying on life business within the meaning of section 706 TCA 1997;	
an investment undertaking;	
an investment limited partnership;	
a special investment scheme;	
a unit trust to which section 731(5)(a) TCA 1997 applies;	
a charity being a person referred to in section 739D(6)(f)(i) TCA 1997;	
a qualifying management company;	
entitled to exemption from income tax and capital gains tax by virtue of section 784A(2) TCA, 1997* (see further requirement for Qualifying Fund Manager below);	
a PRSA Administrator;	
a credit union within the meaning of section 2 of the Credit Union Act 1997.	

Additional requirements where the declaration is completed on behalf of a Charity

- I also declare that at the time of making this declaration, the units in respect of which this declaration is made are held for charitable purposes only and
    - form part of the assets of a body of persons or trust treated by the Revenue Commissioners as a body or trust established for charitable purposes only, or
    - are, according to the rules or regulations established by statute, charter, decree, deed of trust or will, held for charitable purposes only and are so treated by the Revenue Commissioners.

- I undertake that, in the event that the person referred to in paragraph (7) of Schedule 2B TCA 1997 ceases to be a person referred to in Section 739D(6)(f)(i) TCA, 1997, I will, by written notice, bring this fact to the attention of the investment undertaking accordingly.

Additional requirements where the declaration is completed by a qualifying fund manager / PRSA Administrator

- I/we* also declare that at the time this declaration is made, the units in respect of which this declaration is made
    - are assets of *an approved retirement fund/an approved minimum retirement fund or a PRSA, and
    - are managed by the Declarant for the individual named below who is beneficially entitled to the units.
- I/we* undertake that, if the units cease to be assets of *the approved retirement

  fund/the approved minimum retirement fund or the PRSA, including a case where the units are transferred to another such fund or account, I/we* will, by written notice, bring this fact to the attention of the investment undertaking accordingly.

***Delete as appropriate**

Additional requirements where the declaration is completed by an Intermediary

- I/we* also declare that I am/we are* applying for shares/units on behalf of persons who
  - to the best of my/our* knowledge and belief, have beneficial entitlement to each of the shares/units in respect of which this declaration is made, and
  - is a person referred to in section 739D(6) TCA 1997.

- I/we* further declare that
  - Unless I/we* specifically notify you to the contrary at the time of application, all applications for shares/units made by me/us* from the date of this application will be made on behalf of persons referred to in section 739D TCA 1997, and
  - I/we* will inform you in writing if I/we* become aware that any person ceases to be a person referred to in section 739D(6) TCA 1997.

*** Delete as appropriate**

Name of applicant:_____

Irish tax reference number of applicant: _____

Authorised signatory: _____(declarant)

Title: (Mr/Ms. Etc.) _____

Capacity in which declaration is made: _____

Date: ____ / ____ / ____

IMPORTANT NOTES

1. This is a form authorised by the Revenue Commissioners which may be subject to inspection. It is an offence to make a false declaration.
2. Tax reference number in relation to a person has the meaning assigned to it by Section 885 TCA, 1997 in relation to a "specified person" within the meaning of that section. In the case of a charity, quote the Charity Exemption Number (CHY) as issued by Revenue. In the case of a qualifying fund manager, quote the tax reference number of the beneficial owner of the share/units.
3. In the case of, (i) an exempt pension scheme, the administrator must sign the declaration; (ii) a retirement annuity contract to which section 784 or 785 applies, the person carrying on the business of granting annuities must sign the declaration; (iii) a trust scheme, the trustees must sign the declaration. In the case of a charity, the declaration must be signed by the trustees or other authorised officer of a body of persons or trust established for charitable purposes only within the meaning of sections 207 and 208 TCA 1997. In the case of an approved retirement fund/an approved minimum retirement fund or a PRSA, it must be signed by a qualifying fund manager or PRSA administrator. In the case of an intermediary, the declaration must be signed by the intermediary. In the case of a company, the declaration must be signed by the company secretary or other authorised officer. In the case of a unit trust it must be signed by the trustees. In any other case it must be signed by an authorised officer of the entity concerned or a person who holds a power of attorney from the entity. A copy of the power of attorney should be furnished in support of this declaration.

Appendix II (xiii) – A Person (including a company) who is non-resident at the time of investing in units

Declaration for the purposes of Section 739D(7)(a)(i) or (ii),

Taxes Consolidation Act 1997

This declaration should be made on or about the time when the units are applied for or acquired, by the declarer.

Before completing this declaration, please consult the notes overleaf in relation to residence and ordinary residence.

Name of person entitled to the units: _____

Address of person entitled to the units: _____

_____

Description and number of units: _____

(in respect of which this declaration is being made)

Name of investment undertaking:_____

(to whom declaration is being made)

- I declare that the above named person is entitled to the units in respect of which this declaration is made.
- I declare that at the time of making this declaration, the above named person,
    a) in the case of an individual is neither resident nor ordinarily resident in the State
    b) in any other case, is not resident in the State.
- I undertake that if the above named person, becomes resident or ordinarily resident in the State I will, by written notice, bring this fact to the attention of the investment undertaking accordingly.

Authorised signatory: _____ **(declarant)**

Title (Mr./Ms. Etc.) _____

Capacity in which declaration is made (see note 1 below):_____

Date: ____ / ____ / ____

IMPORTANT NOTES

1. This declaration must be signed by the non-resident by the non-resident person entitled to the units. If the non-resident person entitled to the units is a company, it must be signed by the company secretary or such other authorised officer. It may also be signed by a person who holds power of attorney form the non-resident person or company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Notes in relation to residence / ordinary residence

Residence – Individual

An individual will be regarded as being resident in Ireland for a tax year if s/he;

1) spends 183 days or more in the State in that tax year; or
2) has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days spent in the State in the preceding year.

Presence in a tax year by an individual of not more than 30 days in the State will not be reckoned for the purpose of applying the two-year test. Up to 31 December 2008, presence in the State for a day means the personal presence of an individual at the end of the day (midnight). **From 1 January 2009, presence in the State for a day means the personal presence of an individual at any time during the day.**

Ordinary Residence – Individual

The term "ordinary residence" as distinct from "residence" relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity. An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which s/he is not resident. Thus, an individual who is resident and ordinarily resident in the State in 2004 and departs from the State in that year **will remain** ordinarily resident up to the end of the tax year in 2007.

Residence – Company

Prior to Finance Act 2014, company residence was determined with regard to the long-established common law rules based on central management and control. These rules were significantly revised in Finance Act 2014 to provide that a company incorporated in the State will be regarded as resident for tax purposes in the State, unless it is treated as resident in a treaty partner country by virtue of a double taxation treaty. While the common law rule based on central management and control remains in place, it is subject to the statutory rule for determining company residence based on incorporation in the State set out in the revised section 23A TCA 1997.

The incorporation rule for determining the tax residence of a company incorporated in the State applies to companies incorporated on or after 1 January 2015. For companies incorporated in the State before this date, a transition period will apply until 31 December 2020.

Appendix II (xiv) – An individual who becomes non-resident / non-ordinarily resident subsequent to investing in units

Declaration for the purposes of Section 739D(7)(a)(ii),

Taxes Consolidation Act 1997

Before completing this declaration, please consult the notes overleaf in relation to residence and ordinary residence.

Name of person entitled to the units:_____

Address of person entitled to the units:_____

_____

Description and number of units:_____

(in respect of which this declaration is being made)

Name of investment undertaking:_____

(to whom declaration is being made)

- I declare that I am entitled to the units in respect of which this declaration is made.
- I also declare that at the time this declaration is made, I am neither resident nor ordinarily resident in the State.
- I undertake that if I become resident in the State, I will, by written notice, bring this fact to the attention of the investment undertaking.

Authorised signatory: _____ (declarant)

Title (Mr./Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below):_____

Date: ____ / ____ / ____

Important Notes

1. This declaration must be signed by the person who is entitled to the units. It may also be signed by a person who holds power of attorney from the declarant. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

Notes in relation to residence / ordinary residence

Residence – Individual

An individual will be regarded as being resident in Ireland for a tax year if s/he;

1) spends 183 days or more in the State in that tax year; or
2) has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days spent in the State in the preceding year.

Presence in a tax year by an individual of not more than 30 days in the State will not be reckoned for the purpose of applying the two-year test. Up to 31 December 2008, presence in the State for a day means the personal presence of an individual at the end of the day (midnight). **From 1 January 2009, presence in the State for a day means the personal presence of an individual at any time during the day.**

Ordinary Residence – Individual

The term "ordinary residence" as distinct from "residence" relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity. An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which s/he is not resident. Thus, an individual who is resident and ordinarily resident in the State in 2004 and departs from the State in that year **will remain** ordinarily resident up to the end of the tax year in 2007.

Appendix II (xv) – Scheme of migration and amalgamation

Declaration for the purposes of Section 739D(8D),

Taxes Consolidation Act 1997

This declaration should be forwarded to the Office of the Revenue Commissioners, Financial Services (Financing and Investment Funds) Branch, Large Corporates Division, Geata na Cathrach, Fairgreen, Galway, H91 W36K within 30 days of a scheme of migration and amalgamation taking place.

Name of investment undertaking: _____

Address of investment undertaking:_____

_____

Irish tax reference number of the investment undertaking: _____

("tax reference number" in relation to a person, has the meaning assigned to it by section 885 TCA 1997 in relation to a "specified person" within the meaning of that section)

- I declare, to the best of my knowledge and belief, that at the time of the scheme of migration and amalgamation, the investment undertaking did not issue units to a person who was resident in the State at that time, other than such persons whose names and addresses are set out in the schedule which is attached to this declaration.

Authorised signatory: _____ **(declarant)**

Title (Mr./Ms. Etc.): _____

Capacity in which declaration is made (see note 1 below):_____

Date: ____ / ____ / ____

IMPORTANT NOTES

1. This declaration must be signed by an authorised officer of the investment undertaking. It may also be signed by a person who holds power of attorney from the declarant. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.
3. "Scheme of migration and amalgamation" means an arrangement whereby the assets of an offshore fund, are transferred to an investment undertaking in exchange for the issue by the investment undertaking of units to (i) each of the persons who have an interest in the offshore fund, in proportion to the value of that interest, and as result of which the value of that interest becomes negligible, or (ii) to that offshore fund.

Appendix II (xvi) – Scheme of migration

Declaration for the purposes of Section 739D(8E),

Taxes Consolidation Act 1997

This declaration should be forwarded to the Office of the Revenue Commissioners, Financial Services (Financing and Investment Funds) Branch, Large Corporates Division, Geata na Cathrach, Fairgreen, Galway, H91 W36K, within 30 days of a scheme of migration taking place.

Name of investment undertaking: _____

Address of investment undertaking:_____

_____

Tax Reference Number of the investment undertaking:_____

- I declare, to the best of my knowledge and belief, that, at date of migration, no units issued by the above named investment undertaking were held by a person who was resident in the State at that time, other than such persons whose names and addresses' are set out in the schedule which is attached to this declaration

Date of Migration: ____ / ____ / ____

Authorised signatory: _____ **(declarant)**

Title (Mr. / Ms. Etc): _____

Capacity in which declaration is made (see note 1 below): _____

Date: ____ / ____ / ____

Important Notes

1. This declaration must be signed by an authorised officer of the investment undertaking. It may also be signed by a person who holds power of attorney from the declarant. A copy of the power of attorney, where relevant, should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.
3. "Scheme of migration" means an arrangement, approved by the Central Bank, whereby an investment undertaking moves its residency to Ireland while maintaining its legal identity, including a company migration as provided for in Section 3(j) of the Companies (Miscellaneous Provisions) Act 2009.

Appendix II (xvii) – Intermediary acting on behalf of a non-resident individual or company

Declaration for the purposes of Section 739D(9)(a)

Taxes Consolidation Act 1997

Before completing this declaration, please consult the notes overleaf in relation to residence and ordinary residence.

Name of intermediary: _____

Address of intermediary: _____

_____

Description and number of units:_____

(in respect of which this declaration is being made)

Name of investment undertaking: _____

(to whom declaration is being made)

- I declare that at the time of making this declaration, to the best of my knowledge and belief, the person who have beneficial entitlement to each of the units in respect of which this declaration is made-
    - are not resident in the State, where those persons are a company, and
    - where those persons are not a company, that those persons are neither resident nor ordinarily resident in the State.
- I undertake that where I become aware, at any time, that this declaration is not, or is no longer correct, I will, by written notice, bring this fact to the attention of the investment undertaking.

Authorised signatory: _____**(declarant)**

Title (Mr./Ms. etc): _____

Date: ____ / ____ / ____

IMPORTANT NOTES

1. This declaration must be signed by the intermediary. Where the intermediary is a company, it must be signed by the company secretary or such other authorised officer of the company. It may also be signed by a person who holds power of attorney from the company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

* An **"intermediary"** means a person who-

- carries on a business which consists of, or includes, the receipt of payments from an investment undertaking resident in the State on behalf of other persons;
- holds units in an investment undertaking on behalf of other persons.

Notes in relation to residence / ordinary residence:

Residence – Individual

An individual will be regarded as being resident in Ireland for a tax year if s/he;

1) spends 183 days or more in the State in that tax year; or
2) has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days spent in the State in the preceding year.

Presence in a tax year by an individual of not more than 30 days in the State will not be reckoned for the purpose of applying the two-year test. Up to 31 December 2008, presence in the State for a day means the personal presence of an individual at the end of the day (midnight). **From 1 January 2009, presence in the State for a day means the personal presence of an individual at any time during the day.**

Ordinary Residence – Individual

The term "ordinary residence" as distinct from "residence" relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity. An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which s/he is not resident. Thus, an individual who is resident and ordinarily resident in the State in 2004 and departs from the State in that year **will remain** ordinarily resident up to the end of the tax year in 2007.

Residence – Company

Prior to Finance Act 2014, company residence was determined with regard to the long-established common law rules based on central management and control. These rules were significantly revised in Finance Act 2014 to provide that a company incorporated in the State will be regarded as resident for tax purposes in the State, unless it is treated as resident in a treaty partner country by virtue of a double taxation treaty. While the common law rule based on central management and control remains in place, it is subject to the statutory rule for determining company residence based on incorporation in the State set out in the revised section 23A TCA 1997.

The incorporation rule for determining the tax residence of a company incorporated in the State applies to companies incorporated on or after 1 January 2015. For companies incorporated in the State before this date, a transition period will apply until 31 December 2020.

Appendix II (xviii) – Intermediary acting on behalf of certain resident entities

Declaration for the purposes of Section 739D(9A)

Taxes Consolidation Act 1997

Name of intermediary:_____

Address of intermediary: _____

_____

Description and number of units:_____

(in respect of which this declaration is being made)

Name of investment undertaking:_____

(to whom this declaration is being made)

I/we* declare that I am/we are* applying for shares/units on behalf of persons who

- to the best of my/our knowledge and belief, have beneficial entitlement to each of the units in respect of which this declaration is made; and
- is a person referred to section [1]739D(6).

I/we* also declare that

- unless I/we* specifically notify you to the contrary at the time of application, all applications for shares/units made by me/us* from the date of this application will be made on behalf of persons referred to in section [1]739D(6); and
- I/we* will inform you in writing if I/we* become aware that any person ceases to be a person referred to in section [1]739D(6).

Authorised signatory: _____ **(declarant)**

Title: (Mr/Ms etc.) _____ **Date:** ___ / ____ / ____

IMPORTANT NOTES

[1]a pension scheme; a company carrying on a life business within the meaning of section 706 TCA 1997; an investment undertaking; an investment limited partnership; a special investment scheme; a unit trust to which section 731(5)(a) TCA 1997 applies; a charity being a person referred to in section 739D(6)(f)(i) TCA 1997; a person entitled to exemption from income tax and capital gains tax by virtue of section 784 A(2) TCA 1997; a PRSA administrator; a credit union; an Irish resident company within the charge to corporation tax who invests in a money market fund.

1. This declaration must be signed by the intermediary. Where the intermediary is a company, it must be signed by the company secretary or such other authorised officer of the company. It may also be signed by a person who holds power of attorney from the company. A copy of the power of attorney should be furnished in support of this declaration.
2. This is a form authorised by the Revenue Commissioners. It may be subject to inspection by Revenue. It is an offence to make a false declaration.

An "intermediary" means a person who

- carries on a business which consists of, or includes, the receipt of payments from an investment undertaking resident in the State on behalf of other persons;
- holds units in an investment undertaking on behalf of other persons.

Appendix II (xix) – Declaration of residence outside Ireland

Applicants resident outside Ireland are required by the Irish Revenue Commissioners to make the following declaration which is in a format authorised by them, in order to receive payment without deduction of tax. It is important to note that this declaration, if it is then still correct, shall apply in respect of any subsequent acquisitions of shares/units. Terms used in this declaration are defined in the Prospectus.

Declaration on own behalf

I/we* declare that I am/we are* applying for the shares/units on my own/our own behalf/on behalf of a company* and that I am/we are/the company* is entitled to the shares/units in respect of which this declaration is made and that

- I am/we are/the company is* not currently resident or ordinarily resident in Ireland, and
- Should I/we/the company* become resident in Ireland I will/we will* so inform you, in writing, accordingly.

***Delete as appropriate**

Declaration as Intermediary

I/we* declare that I am/we are* applying for shares/units on behalf of persons:

- who will be beneficially entitled to the shares/units; and
- who, to the best of my/our* knowledge and belief, are neither resident nor ordinarily resident in Ireland.

I/we* also declare that:

- unless I/we* specifically notify you to the contrary at the time of application, all applications for shares/units made by me/us* from the date of this application will be made on behalf of such persons; and
- I/we* will inform you in writing if I/we* become aware that any person, on whose behalf I/we* hold shares/units, becomes resident in Ireland.

***Delete as appropriate**

Name and address of applicant: _____

_____

Signature of applicant or authorised signatory:_____ **(declarant)**

Capacity of authorised signatory (if applicable):_____

Date: ____ / ____ / ____

Joint Applicants:

Names: _____ **Signatures:** _____

_____ _____

IMPORTANT NOTES

1. Non-resident declarations are subject to inspection by the Irish Revenue Commissioners and it is a criminal offence to make a false declaration.
2. To be valid, the application form (incorporating the declaration required by the Irish Revenue Commissioners) must be signed by the applicant. Where there is more than one applicant, each person must sign. If the applicant is a company, it must be signed by the company secretary or another authorised officer.
3. If the application form (incorporating the declaration required by the Revenue Commissioners) is signed under power of attorney, a copy of the power of attorney must be furnished in support of the declaration.

Appendix III – IFSC funds – transitional arrangements

To facilitate the IFSC funds industry to fully comply on an on-going basis with the gross roll-up regime introduced in Finance Act 2000, the transitional arrangements as set out below shall apply.

1. Where an IFSC fund is in existence at 31 March, 2000 and the fund's application from includes a requirement that the applicant declares that he/she is not resident in Ireland, that application form will suffice for subscriptions made before 1 October, 2000. However, on making a payment to a unit holder, section 739D(7)(b) will have relevance such that tax must be deducted if the fund is in possession of information which would reasonably suggest that the unit holder is resident or ordinarily resident in Ireland. Funds established on or after 1 April, 2000, however, are required to comply with the declaration procedures set out in Finance Act, 2000.

2. All funds must, however, take such reasonable steps as are necessary in order to comply with the declaration requirements of the gross roll-up regime, particularly as respects funds which are marketed in English-speaking countries where the extent of the difficulties encountered in implementing the declaration requirements is not as significant as with other countries.

3. As a quid pro quo for the arrangements outlined at paragraph 1. above, which on 31 March 2000, were specified collective investment undertakings had to forward to the Collector General a form containing the names and addresses of all resident persons (if any) who were issued with units after 1 April, 2000 and before 1 October, 2000. These forms issued from the Collector General's Office and had to be returned to the Office by 30 November, 2000.

4. Where resident investors as at 1 April, 2000 who, having made a declaration of a kind referred to in section 739D(6), would have been entitled to have payments made to them without deduction of tax, such declaration was to be in place by 30 June, 2000. Such resident persons, who become investors in a fund on or after 1 April, 2000 are required to make such a declaration at the time of application.

<u>Other points of clarification</u>

5. The legislation does not treat the switching between sub-funds of a fund as giving rise to a chargeable event. It is accepted that the similar transaction of switching between different classes of units/shares of a fund will likewise not give rise to a chargeable event on the understanding that when such an event does arise the gain shall be computed on the basis of the amount of the original investment.

6. Section 739D(5) requires a fund, which prior to 1 April, 2000 was a specified collective investment undertaking, to elect on that date as to whether it will use an average cost or first-in-first out method of computing a gain. As this election ahs no significance until the fund commences to issue units to person who are resident in the State, such an election may be postponed until that time.

Appendix IV – Definitions – Intermediary and Residence

Definition of intermediary

An "Intermediary" means a person who-

- carries on a business which consists of, or includes, the receipt of payments from an investment undertaking resident in the State on behalf of other person;
- holds units in an investment undertaking on behalf of other persons.

Residence - Individual

An individual will be regarded as being resident in Ireland for a tax year if s/he;

1) spends 183 days or more in the State in that tax year; or

2) has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days spent in the State in the preceding year.

Presence in a tax year by an individual of not more than 30 days in the State will not be reckoned for the purpose of applying the two-year test. Up to 31 December 2008, presence in the State for a day means the personal presence of an individual at the end of the day (midnight). **From 1 January 2009, presence in the State for a day means the personal presence of an individual at any time during the day.**

Ordinary Residence – Individual

The terms "ordinary residence" as distinct from "residence" relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity. An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which s/he is not resident. Thus, an individual who is resident and ordinarily resident in the State in 2004 and departs from the State in that year **will remain** ordinarily resident up to the end of the tax year in 2007.

Residence – Company

Prior to Finance Act 2014, company residence was determined with regard to the long-established common law rules based on central management and control. These rules were significantly revised in Finance Act 2014 to provide that a company incorporated in the State will be regarded as resident for tax purposes in the State, unless it is treated as resident in a treaty partner country by virtue of a double taxation treaty. While the common law rule based on central management and control remains in place, it is subject to the statutory rule for determining company residence based on incorporation in the State set out in the revised section 23A TCA 1997.

The incorporation rule for determining the tax residence of a company incorporated in the State applies to companies incorporated on or after 1 January 2015. For companies incorporated in the State before this date, a transition period will apply until 31 December 2020.