

[38.3.7] Third Party Returns

Section 896, Taxes Consolidation Act, 1997, Offshore Funds

Reviewed: March 2017

1. Part 38, Chapter 3, Taxes Consolidation Act (TCA) 1997

Under the provisions of **Part 38, Chapter 3, TCA 1997** information returns required under certain specified provisions must be made on a self-assessment basis (generally referred to as “automatic reporting”).

2. Statement of Practice

[Statement of Practice SP - IT/1/92](#) “Returns of Certain Information - Third Party Returns” sets out the specific provisions to which the automatic reporting applies and gives full details of the return making requirements.

3. Section 896, TCA 1997

Section 896, TCA 1997 provides for the extension to offshore funds of the automatic reporting arrangements. It requires returns to be made for acquisitions by persons who are resident or ordinarily resident in the State (Irish residents) of material interests in certain offshore funds.

4. Offshore Fund

For the purposes of **Section 896, TCA 1997**, an offshore fund is:

- (a) a company which is resident outside the State, or
- (b) a unit trust scheme the trustees of which are not resident in the State, or
- (c) any arrangements which do not fall within paragraph (a) or (b), which take effect by virtue of the law of a territory outside the State and which, under that law, create rights in the nature of co-ownership.

Part 27, Chapter 2, TCA 1997 (Sections 740 - 747 TCA 1997) deals with the taxation of such offshore funds. Broadly, gains arising on the disposal of material interests in certain offshore funds after 5 April 1990 are chargeable to income tax under Case IV of Schedule D.

5. Material Interest

An interest is a material interest if it is capable of realising an amount equal in value to the proportion of the underlying assets of the offshore fund as represented by that interest.

6. Who must make the Return?

Intermediaries

Persons, who, in the ordinary course of their trade or business, provide a service whereby they act as an intermediary on behalf of Irish residents in, or in connection with, the acquisition of material interests in offshore funds, are required to make returns of:

- the full name and permanent address of the Irish resident
- the Irish resident's tax reference number
- the full name and address(es) of the institution(s) in which the interest(s) was (were) acquired
- the cost of the acquisition of each interest.

Taxpayers

Irish resident persons who acquire material interests in offshore funds must furnish the above information to the intermediary acting on their behalf.

Irish resident persons must include in their annual returns of income:

- details of acquisitions of material interests in offshore funds in the chargeable period,
- and**
- details of gains arising from disposals of material interests in offshore funds in the chargeable period.

7. Effective Dates

Section 896, TCA 1997 applies to material interests in offshore funds acquired *after 1 June 1995*. In the case of persons and bodies of persons (other than companies chargeable to corporation tax), returns of such material interests are required for the year of assessment 1995/96 and subsequent years. In the case of companies chargeable to corporation tax, returns of such material interests are required in respect of accounting periods ending *on or after 1 June 1995*. These dates apply whether the persons are making the return in their capacity as an intermediary or in their own right.

8. How to make this return

Form 8D can be downloaded from the Revenue website and should be filed using the 'MyEnquiries' facility on www.revenue.ie to the 3rdPartyReturns@revenue.ie address. Business customers who have a ROS digital certificate will be able to access 'MyEnquiries' through their ROS account. Business customers who do not have an active ROS digital certificate can either register for 'myAccount' or register for ROS in order to use the 'MyEnquiries' service. Further details are available on the Revenue website at www.revenue.ie/en/online/myenquiries.html.