



Spotlight on:

Taxation of Irish Investors in
Irish & Offshore Funds

Introduction

The taxation treatment of Irish tax resident investors in Irish and foreign (offshore) funds depends on a number of factors. This discussion covers the key determinants which drive the applicable tax treatment in Ireland for an investor.



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This document has been prepared based on the prevailing legislation in place at 1 May 2025. In this regard, it is important to note that the Funds Sector 2030 report includes several recommendations which could impact a number of the rules noted below. The extent to which such recommendations will result in legislative changes (including the timing for such changes) is unclear however where there have been recommendations made, we have referenced briefly below where relevant.

Investments in Irish domiciled funds

The taxation treatment of Irish investors in Irish regulated funds is reasonably clearly established. However, the legal form of the fund is relevant.



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“The taxation treatment of Irish investors in Irish and offshore funds is surprisingly complicated and requires careful attention.”

Gareth Bryan, Partner, Tax, KPMG in Ireland

Opaque funds

A special tax regime applies to Irish regulated funds which are constituted as:



Investment companies
(formed under Part 24,
Companies Act 2014)



Irish Collective
Asset-management
Vehicles ("ICAVs")



Unit Trusts
(authorised under the
Unit Trust Act 1990)

Under this taxation regime, the fund is liable to account for investment undertaking tax ("IUT" aka "exit tax") on the happening of a "chargeable event". For these purposes, chargeable events include:

- dividends and distributions;
- redemption or repurchase of units;
- transfer of units;
- cancellation of units; and
- each eight-year period that the investment in the investment undertaking is held by an investor (more commonly referred to as an "eight year deemed disposal event").

There are various reliefs that can apply in some circumstances (e.g. on certain reorganisations or when switching between sub-funds).

While exit tax is a liability of the fund, the relevant legislation gives the fund the authority to recoup the tax from the unitholder (by withholding in the case of payments made by the fund to an investor on the occurrence of a chargeable event). Furthermore, on the occurrence of an eight-year deemed disposal event, a fund will normally redeem a sufficient number of an investor's units to finance the payment of the associated exit tax liability arising. In practice, therefore, the tax liability is borne by the investor.

For individual investors (and other non-corporate investors), exit tax applies at a rate of 41% on all chargeable events. Provided exit tax is correctly deducted at source by the fund, there should be no requirement for an individual investor to disclose the investment return in their income tax return, unless there is an eight-year deemed disposal event or the fund is a Personal Portfolio Investment Undertaking ("PPIU") (discussed below). However, there is a requirement for the fund to return details in respect of the investor to Irish Revenue on an annual basis.

For corporate investors, the exit tax rate is reduced to 25% where the investor provides the fund with a prescribed declaration evidencing its corporate status. There is a requirement on corporate investors to disclose the gross return from Irish funds (i.e. before deduction of exit tax) in their corporation tax return, claiming a credit for any exit tax deducted. As a result, where the investment is held as part of an Irish resident company's trade, the effective rate of tax should be 12.5%, given that the gross return will be assessable at 12.5%, with a credit for 25% exit tax deducted at source. Where the investment is not held as part of a trade, no additional tax should be payable however there is still a requirement to include the transaction in the corporation tax return. The taxing mechanism noted above means that any return from a fund will, in principle, be subject to surcharge where the investor is a close company for Irish tax purposes.



There are special rules for investments in Personal Portfolio Investment Undertakings (“PPIUs”) which are funds in which the investor or certain connected people can influence the investment choices made by the fund. Where these rules apply, the rate of IUT is 60% for both corporate and individual investors (and other non-corporate investors).

As noted above, a disposal is deemed to occur for an investor on each eight-year anniversary of an investment in a fund. Exit tax at applicable rates noted above is payable on the uplift in the value of the investment fund. Given there is no payment from which the fund can deduct tax, in practice most funds will force a redemption of an investor’s units to fund the exit tax liability arising on the occurrence of an eight-year deemed disposal event. There is a mechanism to ensure an investor can claim a credit for any tax paid on an eight-year deemed disposal event, when the units are ultimately disposed of.

Irish individual investors (and other non-corporate investors) in Irish funds are not able to use tax losses arising on these investments to shelter other taxable income or gains (including income or gains in respect of other funds) with those losses, nor can they shelter fund income or gains with losses from other investments.

The Funds Sector 2030 report included the following broad recommendations in respect of the rules noted above:

- Removal of the eight year deemed disposal rules
- Align the rate of exit tax applicable to exit events with the capital gains tax rate (currently 33%)
- Allow for a limited form of loss relief

The report recommends a phased introduction of these changes, so exact timing is not clear.

“Every eight-years, investors are deemed to dispose of their investment in a fund, triggering tax based on the investment’s then market value. This undermines the gross roll-up nature of the investment and makes Irish funds less attractive than offshore funds for long-term investors”

Gareth Bryan, Partner, Tax, KPMG in Ireland

Irish ETFs

Exit tax is not required to be operated by funds whose units are held through a recognised clearing system, which in practice includes most Irish regulated exchange traded funds (“ETFs”). Instead, the investors in these funds must self-assess the relevant tax in the same manner as an investor in an offshore fund (see following page).



Transparent funds

Irish regulated funds which are formed as Investment Limited Partnerships ("ILPs") are not chargeable to tax. Instead, they are treated as tax transparent and, consequently, the income and gains of an ILP are treated as accruing directly to the unit holders (with the income and gains allocated proportionately between the investors based on the value of the units held by them).

Similarly, Irish regulated funds which are formed as Common Contractual Funds ("CCFs") are not chargeable to tax. Instead, they are treated as tax transparent and, consequently, the income and gains of a CCF are treated as accruing directly to the unit holders (with the income and gains allocated proportionately between the investors based on the value of the units held by them).

Investment in Irish Real Estate Funds

Finance Act 2016 introduced a new 20% withholding tax, which is applicable to investments made by certain investors in opaque Irish regulated funds which hold Irish real estate investments, such funds being designated as Irish Real Estate Funds ("IREFs").

A fund will be treated as an IREF where at least 25% of the market value of its assets is derived (directly or indirectly) from IREF assets. IREF assets are broadly defined to include:

- A direct holding in Irish property;
- Shares in an Irish REIT;
- Shares in a company which derive their value (or the greater part of their value) directly or indirectly from either of the above;
- Units in another IREF;
- Loans secured on and which derive their value (or greater part of their value) directly or indirectly from Irish property.

IREFs are responsible for operating the new IREF withholding tax on the occurrence of certain taxable events. This new tax is separate from the existing exit tax regime which applies to Irish regulated funds (though an investor should not suffer both exit tax and IREF withholding tax).

A detailed discussion of the IREF withholding tax regime is not included here.

"A separate withholding tax regime applies to Irish Real Estate Funds (IREFs). This regime applies along side the IUT / exit tax regime but investors subject to IUT should not also be subject IREF withholding tax."

Gareth Bryan, Partner, Tax, KPMG in Ireland

Investments in offshore funds

The tax treatment of investors who have an interest in foreign funds (aka “offshore funds”) is dependent on a number of factors.

For these purposes, an interest in any of the following may be an interest in an offshore fund:



A company resident outside of Ireland;



A unit trust scheme the trustees of which are resident outside of Ireland;
or

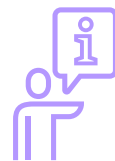


Any other arrangements which take effect by virtue of the law of a territory outside of Ireland and which create legal rights of a kind with co-ownership.

In their guidance on offshore funds, Revenue have confirmed that arrangements which are treated as transparent for tax purposes and where the investor is taxed on the income as it arises, do not come within the offshore funds legislation. Returns from such funds will be taxed based on general principles, with investors usually being subject to Irish tax on the return earned by the foreign transparent fund as it arises to the fund (i.e., irrespective of whether it is paid onwards by the fund), with income and gains arising to the fund retaining their character for Irish tax purposes. There is specific published Revenue guidance which outlines the key characteristics which should be considered in assessing whether a non-Irish vehicle is transparent for Irish tax purposes.

The specific taxing regime applicable to returns from an offshore fund depends on the following factors:

- Whether the investor has a “material interest” in the fund;
- Where the investor has a “material interest”, whether the fund is established in a “good” jurisdiction; and
- Where the investor has a “material interest” and the fund is established in a “good” jurisdiction, whether the fund is considered equivalent to an Irish regulated fund.



Each of these concepts is discussed separately on the next page, with the corresponding tax analysis also discussed



Material interest

Firstly, it is necessary to determine whether the investor has a “material interest” in the offshore fund. For these purposes, an investment in an offshore fund is considered to be a “material interest” if, within a seven-year period from the date of acquisition, it could reasonably be expected that the investor could realise an amount which approximately represents the investor’s share in the underlying assets of the fund. Where the market value of the investor’s interest in the fund exceeds the market value of the investor’s share in the underlying assets, the interest will not be considered to be a “material interest”.

In their published guidance, Revenue suggests that where a taxpayer has invested in an offshore product through an intermediary, the taxpayer should ask the intermediary whether or not they have invested in a material interest in an offshore fund. The rationale underpinning this is that an intermediary will have reporting obligations where they assist with the making of an investment in an offshore fund and, consequently, they should be able to inform the taxpayer. This may be true for intermediaries operating in Ireland though their willingness to stand over this assessment may make them reticent in this regard. Revenue do say that in other circumstances, a careful examination of the terms of the investment should be made including examining the prospectus, offering memorandum, financial statements and marketing material. That said, Revenue state that, in general terms, an interest in either:

- an open-ended investment fund, or any variable capital company; or
- a close ended investment fund with a predetermined redemption / termination date within 7 years

is likely to constitute a material interest in an offshore fund (with the qualification that it is necessary to look at the terms of the investment).

Revenue do also state that an investment in an Exchange Traded Fund (“ETF”) will generally represent a material interest in an offshore fund but say that investments in Exchange Traded Commodities (“ETCs”) can vary and may be a debt security (in which case general taxation principles would apply).

As a practical matter, an investment in an open-ended fund with liquid, frequently traded assets, such as currency, equities, traded debt,



commodities, etc. is more likely to be treated as a material interest, as the value of a unit held in such funds would typically track the value of the fund’s assets. However, investments in funds with illiquid assets (such as property funds), or which are closed ended in nature (with a maturity beyond 7 years), are less likely to constitute a material interest as the value of the units is less likely to closely track the value of the fund’s assets, and it may not be reasonable to expect that investors can realise value within seven years of investment.

Where the investment in the offshore fund is not considered a material interest, the Irish investor is taxed under the normal rules for foreign income and capital gains.

For individuals, this means that marginal rate income tax and Universal Social Charge (“USC”) arises on income received, with capital gains tax at the rate of 33% applicable to chargeable gains. In the case of corporate investors, corporation tax at a rate of 12.5% applies to income and gains where the investment is held as part of the investor’s trade and, in other cases, corporation tax at a rate of 25% applies to income received, with capital gains subject to an effective rate of 33%.

Where the investor has a material interest, the next matter which must be considered is whether the fund is a “good” or “bad” offshore fund:

Investments in “good” offshore funds

An investor who has a material interest in an offshore fund established in another EU/EEA member State or an OECD country with which Ireland has a double tax treaty will be taxed under the special rules for so-called “good” offshore funds, with the specific tax treatment depending on whether the fund is considered equivalent similar to an Irish fund (discussed below).

If a fund is not established in one of the above jurisdictions, it is considered a “bad” offshore fund, in which case equivalence is irrelevant to tax treatment. The tax treatment of “bad” offshore funds is discussed further below. In either case, the investor, whether a corporate or individual, is required to disclose in their tax return in the year the investment is acquired details of the material interest acquired, including the name and address of the offshore fund, the date the interest was acquired and the amount of capital invested.

Equivalent “good” offshore funds

The equivalency test was introduced with the broad intention of aligning the tax treatment applicable to investments in offshore funds and similar regulated Irish funds. As a result, an “equivalent” fund is defined as one which is similar in all material respects to an Irish regulated fund (conversely an offshore fund which is not similar is a “non-equivalent” offshore fund). The offshore fund legislation references the following Irish funds in the context of the equivalency test:

- Authorised UCITS funds;
- Investment companies (formed under Part 24, Companies Act 2014);
- Unit Trusts (authorised under the Unit Trust Act 1990); and
- ILPs

Notably absent from this list are ICAVs; this may have been due to an oversight given that the ICAV only became available after the legislation was published. Nevertheless, in their guidance Revenue state that the ICAV is not included as an Irish vehicle to which an offshore fund should be compared because an investment in an ICAV would be considered to be similar, in all material respects, to an investment in a Part 24 investment company.

In an attempt to address any potential uncertainty regarding tax treatment, due to the subjectivity of the equivalence test in the context of non-UCITS funds, Revenue previously issued guidance in relation to their view on the equivalence question with respect to certain types of offshore funds. Unfortunately, these views and confirmation have since been withdrawn. Instead, Revenue have published a non-exhaustive list of general legal and regulatory criteria that should be considered to assist in establishing whether the threshold of ‘similar in all material respects’ is met. These include:

- Whether the legal form of the fund is similar to the aforementioned forms of Irish funds.
- Whether the offshore fund regulated as an AIF or under a regime that is comparable to AIFMD in its home jurisdiction and if that regulatory authority corresponds to the Central Bank of Ireland.
- Whether the offshore fund required to have a regulated depositary / administrator / investment manager.
- Whether the offshore fund required to issue a prospectus.

Revenue also say that in assessing equivalence, consideration should be given to factors such as the objectives and purpose of the vehicle, applicable diversification requirements (and applicable investment restrictions), the nature of applicable governance and oversight, the regulation it is subject to and the relevant regulatory bodies, local approval requirements; sanctions mechanisms for non-compliance, the mechanism for trading shares / units, as well as whether the public may invest in the fund. Revenue note that not all characteristics will have equal weighting and there will be an element of subjectivity in forming a view in cases where there is not a strong pattern of indicators to one particular conclusion. In light of this, the determination of whether a fund is similar in all material respects to an Irish fund is (with the exception of UCITS funds) subjective and in many cases requires a taxpayer to either seek advice or take a position. The Funds Section 2030 report includes a recommendation to simplify and consolidate the offshore funds regime, which will hopefully result in a removal of this subjectivity.

Taxation treatment of return from equivalent “good” offshore funds

Under the offshore fund tax regime, an Irish investor with a “material interest” in an equivalent “good” offshore fund will be taxed in a broadly similar manner to an Irish investor investing in an Irish fund.

For an individual this means tax at a rate of 41% on income and gains and, for corporates, tax at a rate of 12.5% or 25% on income and gains depending on whether the investment is held as part of the investor’s trade or is held as a passive investment. This tax is collected on a self-assessment basis. As with Irish funds, a higher rate of tax of 60% applies to investments in PPIUs (increased to 80% where the investor does not properly disclose their income / gains in the appropriate tax return).

A disposal is deemed to occur on each eight-year anniversary of a material interest acquisition. Income tax at applicable rates noted above is payable on the uplift in the value of the investment fund at the time of the eight-year deemed disposal event. There is a mechanism to ensure an investor can claim a credit for any tax paid on an eight-year deemed disposal event, when the units are ultimately disposed of.

Irish individual investors (and other non-corporate investors) in equivalent “good” offshore funds are not able to use tax losses arising on these investments to shelter other taxable income or gains (including income or gains in respect of other funds) with those losses, nor can they shelter fund income or gains with losses from other investments. Unlike a corporate investor in an Irish fund, a corporate investor in a “good” offshore fund is subject to similar

Taxation treatment of return from non-equivalent “good” offshore funds

An offshore fund which is a “non-equivalent” fund falls outside of the offshore fund rules (both the “good” offshore fund rules and the “bad” offshore rules). Consequently, income and gains earned by Irish individual investors (and other non-corporate investors) in such funds are taxed under the ordinary income tax and capital gains tax rules.

For individuals, this means that dividends and distributions received from such funds are subject to the marginal rate of income tax and USC (with the result that the total tax payable is more than the rate applicable to “good” offshore funds) and capital gains realised on such investments are only taxed at the rate of 33%. In the case of corporate investors, corporation tax at a rate of

12.5% applies to income and gains where the investment is held as part of the investor’s trade and, in other cases, corporation tax at a rate of 25% applies to income received and on capital gains at an effective rate of 33%.

Unlike with investments in offshore funds which fall within the offshore fund regime, there are no special restrictions on income or capital losses arising from investments in these types of non-equivalent funds. This benefit combined with the lower tax on gains (33 % compared to 41%) can make this type of fund relatively more attractive for some investors.

Investments in “bad” offshore funds

Irish investors who have a material interest in an offshore fund which is not established in one of the above-mentioned “good” jurisdictions will be taxed under the so-called “bad” offshore fund rules. The taxation treatment which applies depends on whether or not the fund concerned is certified as a “distributing fund”. A fund may apply to the Revenue Commissioners to be certified as a distributing fund where, broadly speaking, it distributes 85%+ of its income for the year (provided that this is not less than 85%+ of the fund’s profits if they were computed under the Irish corporation tax rules).

Where the fund is not a “distributing fund”, individual investors (and other non-corporate investors) are subject to income tax at their marginal rate on both income and gains. For corporate investors, corporation tax at a rate of 25% applies to both income and gains.

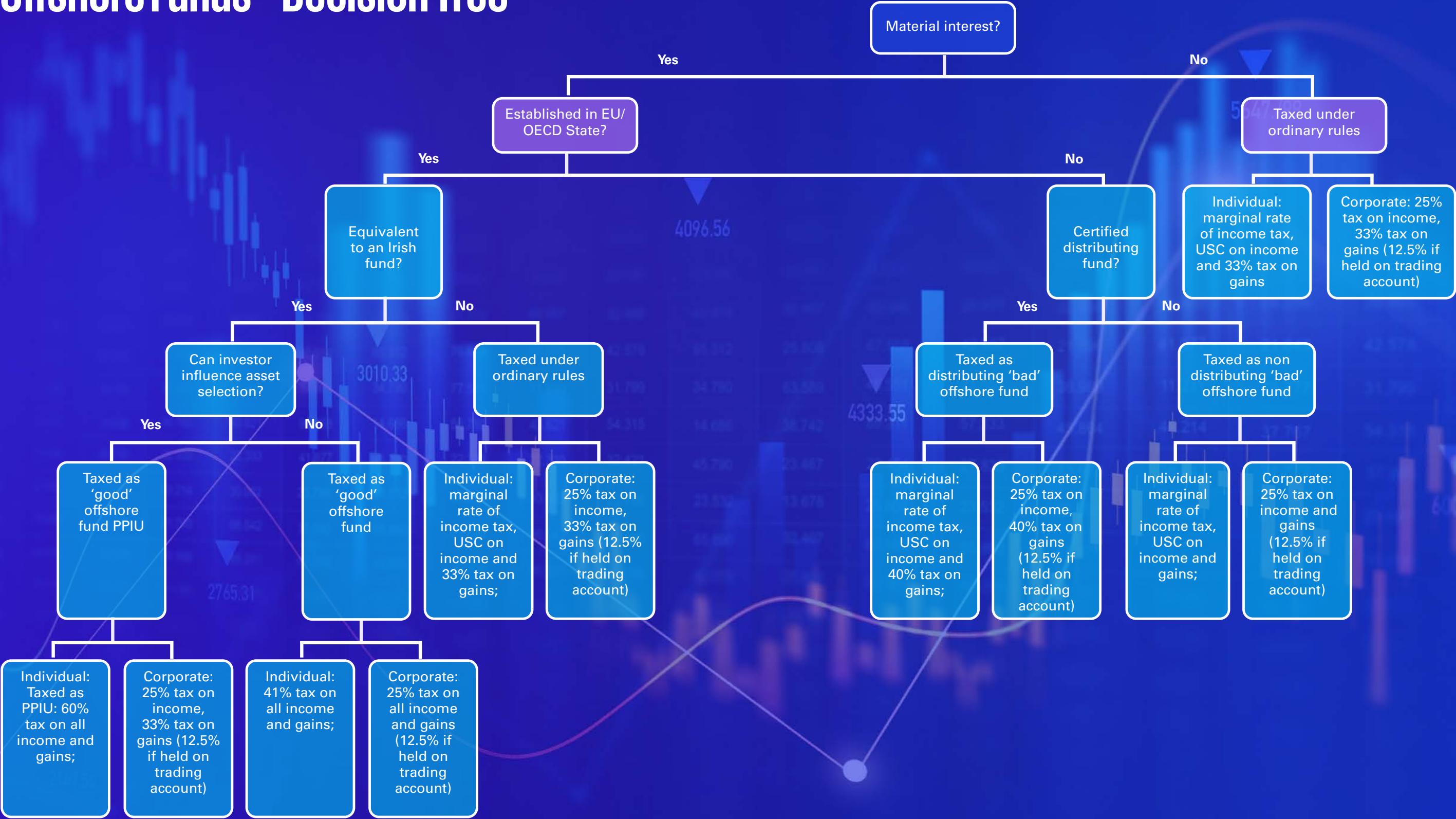
Where the fund is a “distributing fund”, individual investors (and other non-corporate investors) are subject to income tax at their marginal rate on income received and capital gains are taxed at a rate of 40%. Corporate investors are subject to corporation tax at the 25% rate on income received with capital gains taxed at a rate of 40%.

KPMG’s decision tree, positioned at the bottom of this article, illustrates the different types of funds and the taxation of Irish investors (both individuals and corporates) investing in such funds.



If you would like to discuss the tax implications of an investment, please feel free to get in touch with your usual KPMG contact.

Taxation of Irish Investors in Offshore Funds – Decision Tree



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Produced by: KPMG's Creative Services. Publication Date: July 2025. (11618)