IMR

The term Investment Manager Regime (IMR) denotes tax and regulatory frameworks developed by financial centres to attract the development of asset management businesses. The United States (US), United Kingdom (UK), Australia, Singapore and Hong Kong, among other jurisdictions, have adopted rules to facilitate investment managers to establish businesses there. The basic premises are regulatory compliance, administrative convenience and the governing principle of tax neutrality.

What are the key distinctive characteristics?

- Investment managers are typically based in major financial centres in order to raise capital from local investors, trade in local time zones, and research investment in local markets while having easy access to other sources of capital and financial markets.
- The IMR will recognise that an investment manager could, on general principles, constitute an agent of a non-resident customer so that it has a taxable permanent establishment. The IMR will set clear safe harbours within which the investment manager may operate. These will, broadly, build on the concept of independent agent found in double tax treaties or domestic legislation and/or may be a specific statutory regime.
- Additionally, specific exemptions may be included in the IMR to ensure that non-residents are not directly assessable themselves to tax so that they will be taxed only where they are resident in respect of their income and capital gains.

Existing regimes

United States - The US provides a safe harbour under Section 864(b)(2)(A) IRC that provides a certain level of comfort to foreign fund activities conducted through a US fund manager.

Australia - The IMR in Australia provides concessions which exempt from tax investment transactions made by non-residents either directly in certain assets or indirectly through an Australian fund manager, provided that certain conditions are met.

UK – The investment management exemption (IME) applies to specific (but broad) classes of **investment transactions** provided that:

- The investment manager is carrying on a business of **providing investment management services**;
- The investment transaction is carried on the **ordinary course of the manager's business**;
- The investment manager acts in an **independent capacity**, dealing on arm's length terms;
- The **20% rule** effectively limits the level of the fund manager's (together with those connected to it) participation, or interest, in the fund;
- the remuneration that the investment manager receives is not less than **customary remuneration**;

Singapore and Hong Kong – these have adopted IMRs to enable an investment manager to manage portfolios for non-residents while limiting (to some extent) the participation of resident investors.

AIMA efforts

AIMA encourages the introduction of IMRs to enable the growth of the asset management sector and alternative investment management in particular. AIMA also works with tax authorities to ensure that existing IMRs meet the requirements of the asset management sector as it evolves.

Where can I find more information?

On the AIMA website you will find:

- Australia – IMR bill (June 2015)
- AIMA response to Australian Treasury (IMR3)
- IME SP1/01
- UK investment transaction (2014)

Please contact AIMA's tax team for more detail on any aspect of the new rules.