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Where the fund has obtained such status, gains will be taxed under capital gains tax rates which are currently at 18%.

'Qualifying status' currently means UK distributor status. It is expected that from 1 December 2009 this will change to the proposed 'reporting status'.

## Is UK distributor status an option for the fund?

A number of hedge funds are considering whether they could obtain UK distributor status ('UKDS') for 2009. However, this will not assist existing UK investors in such funds, unless late applications for UKDS could be made for previous periods.

The main distributor status requirement is essentially that the fund must calculate net income per the accounts, compare this with net income under UK tax principles, and then physically distribute at least 85% of the higher of the two numbers within six months of the period end.

Whilst there are two exemptions from cash distribution this can be an issue for hedge funds which typically do not make distributions.

## What about reporting status?

Reporting status is due to replace UKDS for fund accounting periods beginning on or after 1 December 2009.

Reporting status will require UK taxable income to be calculated and then reported to UK resident investors in the fund at the period end (it no longer matters whether or not a cash distribution is paid). The report would need to be issued within six months of the account period end of the fund. UK investors would then be taxed on this 'deemed' or 'reported' distribution whether or not they have received any cash.

The removal of the cash requirement means a number of hedge funds can seek UK reporting fund status. Some are already considering their investment portfolios and strategies in order to be ready to calculate UK reportable income.

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The removal of the cash requirement means a number of hedge funds can seek UK reporting fund status. Some are already considering their investment portfolios and strategies in order to be ready to calculate UK reportable income. UK investors are also beginning to ask fund managers whether they will be ready for the changes, and what their intentions are.

Like UKDS, if the fund were to be deemed a financial trader for UK tax purposes then all returns would be income and therefore require reporting.

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