

**4. BILL FOR SECOND READING**

**4.1. Income Tax Legislation (Amendment) Bill 2019 –  
Second Reading approved**

Mr Cannan to move:

*That the Income Tax Legislation (Amendment) Bill 2019 be read a second time.*

**The Speaker:** Item 4, Bill for Second Reading – Income Tax Legislation (Amendment) Bill 2019.  
I call on Mr Cannan to move.

**Mr Cannan:** Mr Speaker, this Bill amends and confirms two temporary taxation orders (TTOs) and confirms a third. It also makes a number of amendments to the Income Tax Act 1970.

I will now give Hon. Members an overview of the Bill.

One of the main purposes of this Bill is to confirm three temporary taxation orders which were approved by Tynwald as part of the 2018 Budget. Two of these orders are also amended by the Bill.

Before I provide you with an outline of the orders, I would like to remind you of the temporary taxation order process. A temporary taxation order is used by the Treasury to amend and introduce primary Income Tax legislation. It is mainly used to react quickly to international changes or to introduce measures for the Budget. The order has the same power as primary statute and has immediate effect once approved by Tynwald. However, it will cease to have effect within 12 months of the day on which it was approved by Tynwald, unless this House reads a Bill confirming the order for a second time.

So the first of these orders extends the existing tax relief available for nursing expenses so that it can include the costs of engaging a qualified physiotherapist in certain circumstances. The second temporary taxation order introduces legislation enabling a new type of pension scheme to be offered by pension providers, which will allow scheme members greater freedom to access their pension funds. It also makes a small number of amendments to both the Income Tax (Retirement Benefits Schemes) Act 1978 and the Income Tax Act 1989.

The third temporary taxation order amends section 2PA of the Income Tax Act 1970 to clarify the definition of 'distribution'. It also introduces an anti-avoidance measure aimed at limiting the tax loss that can occur when Isle of Man companies are used to convert taxable income into capital gains which are not taxable in the Isle of Man.

Lastly it updates section 105AA of the Income Tax Act 1970 to clarify an existing provision regarding the appointment of authorised officers by the Assessor and their powers.

The Bill provides that confirmation of the pensions order and the anti-avoidance order are both subject to amendments contained in the Bill. The amendments to the temporary taxation order providing for the new pension scheme are intended to make the scheme both easier to operate and more flexible and also contain a measure to encourage pension providers to keep fees to a reasonable level. The Bill provides for the amendments to have come into operation at the same time as the original order.

Meanwhile the amendments to be made to the temporary taxation order introduced in the anti-avoidance measure will help ensure that three specific and completely legitimate scenarios will not be unintentionally caught by this measure. The Bill also provides for these amendments to have come into operation at the same time as the original order.

The other main purpose of the Bill is to make three amendments to the Income Tax Act 1970. The first of these concerns the Income Tax Commissioners and introduces a requirement in section 88 of the Act for at least one commissioner to be suitably qualified and experienced to be appointed as deputy chairman of the commissioners. The second amendment expands the definition of tax position in section 120 of the Income Tax Act 1970, so that it also includes

compliance with the Common Reporting Standard, which is the OECD's standard for automatic exchange of financial account information. This will enable existing inspection powers to be used to investigate suspected cases of non-compliance with the standard.

The third and final amendment inserts a new section 63CA into the Act and is intended to address a recommendation made in the peer review of the Island undertaken by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. The new section introduces a requirement for a foreign company that is tax resident in the Island to ensure the information on the legal owners of the company is held by a person resident on the Island. It also introduces penalties for non-compliance.

I beg to move the Second Reading.

**The Speaker:** I call the Hon. Member for Middle, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

I beg second and reserve my remarks.

**The Speaker:** Hon. Member for Garff, Mrs Caine.

**Mrs Caine:** Thank you, Mr Speaker.

With reference to the first measure under clause 2, I welcome extending tax relief to physiotherapy, but I feel it stops short of what is required. Can I inquire of the Hon. Treasury Minister whether any thought was given to extending tax relief on essential social care, enabling elderly or infirm people to remain in their own homes?

One constituent has almost round-the-clock carer/companion assistance along with agency cover for days off and holiday time, with the main carer costing in excess of £30,000 a year. Would it be possible to extend tax relief measures to encompass this?

At present my constituent is taxed on the interest on savings, a significant part of which are withdrawn from the bank to pay carers and a homecare company. I would like to ask the Minister if it would be possible for this to be considered under this amendment Bill for the forthcoming Budget; and secondly, could the Minister please clarify who the tax relief applies to. Is it the person receiving the care or would it also be available for a family member if they are contributing to the costs?

Thank you.

**The Speaker:** Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

Firstly, I would just like to thank the Treasury Minister. It has been welcomed that there has been some positive engagement with industry around these changes. I would, however, like to take this opportunity to remind Treasury about the new Agency structure within the Department for Enterprise. The Agencies themselves are eager and willing to engage with Treasury on proposed changes to Income Tax legislation that reflects and impacts on their business sectors.

These amendments are quite welcome and they do address some of the issues and concerns that were raised when the original TTO was brought to Tynwald last year. I would just welcome a few comments from the Treasury Minister on some specific sections of the changes to section 61L of the Income Tax Act. My reading of this section is that going forwards, the change will be that 40% of each individual withdrawal will be tax free, but also a person could elect to withdraw just over 40% of the total balance to take the entire tax-free amount out at once, leaving all the taxable portion of the pension safe and secure inside the pension scheme. I would just like to get some clarity if that understanding is correct.

I have heard some concerns also regarding the ability to register these Isle of Man Pension Freedom Schemes (PFSs) as Registered Overseas Pension Schemes with HMRC in the UK. I am just curious, if the Treasury Minister knows: can these PFS schemes ... are they eligible for registration at the moment? If they are not, will these changes enable them to be eligible for registration with HMRC as Registered Overseas Pension Schemes?

I would also like confirmation from the Treasury Minister that these amendments themselves will be applied retrospectively back to the date of the original temporary taxation order.

**The Speaker:** I call on the mover to reply, Mr Cannan.

**Mr Cannan:** Thank you, Mr Speaker.

I will deal with the Hon. Member for Garff first. What I would point out to her ... She is asking to extend basically the tax relief to further cases, particularly including the cost of caring for an elderly person in their own home. So before I say that we have not considered that, I want to explain or point out to Hon. Members that in 2015 Treasury looked carefully at the Carer's Allowance that was being paid and Hon. Members should recognise, it was increased from £61.35 per week to £112.10 per week and currently stands at £116.60 per week. So I just want to reassure Hon. Members, there are significant allowances in place and those allowances were increased – effectively almost doubled – three years ago.

That payment is made when a person gives up work or reduces their working hours to care for a severely disabled person and in the majority of cases we think that is more appropriate than giving tax relief. So Treasury has not considered extending tax relief to include the cost of caring for an elderly person to remain in their own home. Primarily this would go well beyond the current Nursing Expenses Allowance, which is restricted to those who are severely disabled, either physically or mentally, and who require frequent and continued supervision day and night by a nurse. So at this time we are not in favour of that proposal, Mr Speaker, but I would be happy to continue to discuss it going forward.

Turning to the Hon. Member for Ramsey, the part of his question ... I cannot comment on HMRC at the moment and what view they are taking of these schemes. I really would ask Hon. Members, where questions take on that sort of complexity that requires significant consideration of the question that is being asked, that we do have some sort of prior knowledge about that so I can give a reasoned answer on the floor. But I think his question about the 40% in terms of the tax-free allowance is correct. If he wishes some clarification on that, again I am happy to provide it, but what he was asking was essentially correct.

I hope that satisfies Hon. Members. Thank you, Mr Speaker.

**The Speaker:** The question is that the Income Tax Legislation (Amendment) Bill 2019 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes the business on our Order Paper for today. The House will stand adjourned until 5th February at 10 o'clock in our own Chamber.

Thank you.

*The House adjourned at 11.28 a.m.*