



INCOME TAX BILL

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, the Hon. Mr R P Braidwood MHK. They do not form part of the Bill.

INTRODUCTION

The Income Tax Bill 2008 confirms certain temporary taxation orders and makes miscellaneous amendments to the Income Tax Acts.

This Bill contains 21 clauses and 2 schedules.

Clause 1 provides for the Bill's interpretation. Clauses 2 to 5 confirm 10 Temporary Taxation Orders. Clauses 6 to 17 make miscellaneous amendments to the Income Tax Acts of 1970, 1995 and 2003. Clauses 18 to 20 make minor miscellaneous amendments to the Income Tax Acts. Clause 21 contains the short title and provides for the commencement of the Bill.

OVERVIEW OF CLAUSES

Part 1 - Preliminary

Clause 1 - Interpretation

Clause 1 provides the interpretation for the Bill.

Part 2 - Confirmation of Temporary Taxation Orders

Clause 2 – Confirmation of the order in respect of the Attributed Profits for Individuals Regime

Clause 2 confirms the Income Tax (Attributed Profits) (Temporary Taxation) Order 2007 (Statutory Document 928/07).

This order replaced the distributable profits charge (“DPC”) with the new attributable profits regime for individuals (“ARI”).

Clause 3 – Confirmation of the order in respect of individuals

Clause 3 confirms the Income Tax (Individuals) (Temporary Taxation) Order 2008 (Statutory Document 29/08).

This order introduced an age allowance of £2,000 for resident individuals who are over the age of 65. The order also abolished training relief and life insurance premium relief for individuals from 6 April 2008.

Clause 4 – Confirmation of Orders in respect of the Nordic Territories

Clause 4 confirms the following Orders:

- (a) Income Tax (Denmark) (Temporary Taxation) Order 2008 (Statutory Document 60/08);
- (b) Income Tax (Faroes) (Temporary Taxation) Order 2008 (Statutory Document 63/08);
- (c) Income Tax (Finland) (Temporary Taxation) Order 2008 (Statutory Document 66/08);
- (d) Income Tax (Greenland) (Temporary Taxation) Order 2008 (Statutory Document 69/08);
- (e) Income Tax (Iceland) (Temporary Taxation) Order 2008 (Statutory Document 72/08);
- (f) Income Tax (Norway) (Temporary Taxation) Order 2008 (Statutory Document 75/08); and
- (g) Income Tax (Sweden) (Temporary Taxation) Order 2008 (Statutory Document 78/08).

These orders were introduced to implement the arrangements negotiated between the Governments of the Isle of Man and the respective Nordic Territories in connection with the adjustment of profits of associated enterprises.

Clause 5 – Confirmation of the Order in respect of Ireland

Clause 5 confirms the Income Tax (Ireland) (Double Taxation Arrangement) (Temporary Taxation) Order 2008 (Statutory Document 360/08).

This order was introduced to implement the arrangement negotiated between the Government of the Isle of Man and the Government of Ireland for affording relief for double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises.

Part 3

Miscellaneous Amendments

Benefits in kind – cars and fuel

Clauses 6 to 8 – Amendment of sections 2I, 2J of and Schedule 1B to the 1970 Act

These clauses amend the cash equivalent value for car and fuel benefits provided by an employer.

The substituted table included in Schedule 1B to the 1970 Act is based solely on the cylinder capacity of the car and the bands are aligned with the new simplified annual vehicle duty bands used by the Department of Transport.

The supplementary provisions have also been amended accordingly. These deal with interpretation, the periods where the vehicle is not available, the reduction for contributions made by the employee and the provision of additional cars.

Deductions in prescribed cases

Clause 9 – Amendment of section 31A of the 1970 Act

Two amendments have been made to section 31A of the 1970 Act. The first is to enable the Treasury to prescribe a deduction for the accounting period of a company and the other is to allow for the deduction to be from a liability to income tax. An order under this section will require Tynwald approval.

International arrangements

The changes made in clauses 10 and 11 are designed to streamline the ratification process for international tax agreements.

Clause 10 – Amendment of section 54 of the 1970 Act

When a double taxation agreement is signed by the Governments of the Isle of Man and the other territory it must be ratified by Tynwald before it comes into operation. Clause 10 modifies section 54 of the 1970 Act to widen the ratification powers and will remove the need for agreements to be ratified by a temporary taxation order.

Clause 11 – Amendment of sections 19 and 20 of the 2003 Act etc

This clause makes a number of amendments to sections 19 and 20 of the Income Tax Act 2003 (which deal with tax information exchange agreements).

All tax information exchange agreements must be approved by Tynwald.

Personal allowance credit

Within the 2008 Budget the calculation for personal allowance credits was amended – the abatement factor is no longer applied. Any individual whose income is below the upper income point will receive the personal allowance credit in full.

Clause 12 – Amendment of section 15 of the 1995 Act

Clause 12 amends section 15 of the Income Tax Act 1995 to widen the temporary taxation order powers. This will enable the Treasury to make changes to the personal allowance credit system by temporary taxation order.

Clauses 13 and 14 – Amendment of sections 5 and 6 of the 2003 Act

Clauses 13 and 14 repeal the personal allowance credit calculation and make the necessary consequential amendments to the 2003 Act.

Time limits for default assessments

The Bill introduces an extension to the period within which default assessments can be revised. Currently it is 6 months after the issue of the default assessment for both individuals and corporate taxpayers.

Clauses 15 and 16 – Amendment of sections 86 and 86A of the 1970 Act

Clause 15 extends the revision period for individuals to 6 years from the end of the year to which the default assessment relates.

Clause 16 extends the revision period for corporate taxpayers to 4 years from the end of the accounting period to which the default assessment relates.

Information Gathering

Clause 17 – Amendment of section 105I of the 1970 Act etc

Clause 17 amends an error in a cross-reference in the Assessor's information gathering powers within section 105I of the 1970 Act. The amendment is also made in a number of orders under which section 105I is applied.

Minor Amendments

Clause 18 - Amendment of section 116 of the 1970 Act

Clause 18 substitutes the word 'Treasurer' for 'Treasury' in section 116 of the 1970 Act.

Clause 19 – Repeal of the 1988 Act

Clause 19 repeals the 1988 Act which is no longer relevant.

Clause 20 - Amendment of section 7 of the 2008 Act

Clause 20 replaces the incorrect margin note in section 7(5) of the Income Tax (Amendment) Act 2008.

Part 4

Supplementary

Clause 21 – Short title and commencement

Clause 21(1) provides the short title.

Subsections (2) to (5) provide for the commencement of the sections within this Bill.

Schedule 1

Part 1

Part 1 of Schedule 1 substitutes new sections 12 to 13M of the 1970 Act (which relate to the ARI) for existing sections 12 to 13K (which relate to the outgoing DPC).

Clause 12 – Includes a number of definitions used within the original temporary taxation order, where possible these definitions have been taken from existing legislation.

Clause 13 – This clause introduces a new income tax charging provision for attributed profits. Only an individual resident on the Island who is a member of an Isle of Man company will be liable to the new charge.

Clause 13A – Deals with the calculation of attributable profits. This clause allows for regulations for the calculation of the attributable amount and to specify circumstances in which no amount is to be attributable. It also provides for the amount to be apportioned when an individual is not resident on the Island for the whole of the relevant accounting period.

Clause 13B – Deals with a certificate of the profit attributed which is to be issued by a company to an individual resident on the Island. This certificate must contain information which will be prescribed by order and a copy must also be sent to the Assessor. A company that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding £5,000.

Clause 13C – This clause ensures that where an individual is already liable to income tax on the attributed profit of a company there will be no further charge when an actual distribution from those profits is received.

Clause 13D – The individual will be liable to income tax on the attribution of profits in the assessment year 12 months after the end of the accounting period of the company. If the individual leaves the Island or dies the attribution will be included in the assessment on the date of death or the day the individual ceased residence.

Clause 13E – This allows the Assessor to include any expected attribution of profit into a payment on account notice.

Clause 13F – This clause will ensure that the loans to participator rules under Section A108 of the Income Tax Act 1970 will not apply where the loan does not exceed the profit of a company that has been attributed.

Clause 13G – Allows for additional information required for the calculation of the attribution of profits to be requested by the Assessor within the annual tax return form of the company.

A resident individual must also declare the amount of profit attributed within their annual tax return form.

Clause 13H – Allows for the Assessor to request certain documents to ensure the correct charge to income tax can be made. This requirement was previously contained within the income tax legislation relating to the distributable profits charge which will be repealed by this Bill.

Clause 13I – Allows for the Assessor to request information in relation to the beneficial ownership of a company for the purpose of raising the attributable profits charge.

Clause 13J – Provides for an offence where a person intentionally falsifies, conceals or destroys any document that was required by the Assessor under Clause 13H.

Clause 13K – Allows for the Treasury to make regulations for the treatment of groups. The regulations must not come into operation unless they are approved by Tynwald.

Clause 13L – Allows for the Treasury to make regulations for the application of the attributed profits regime to the trustees of certain trusts with Isle of Man resident beneficiaries. The regulations must not come into operation unless they are approved by Tynwald.

Clause 13M – This clause enables the Assessor to assess, in such a manner as appears necessary, the members of a corporate taxpayer or the corporate taxpayer, where it appears to the Assessor that arrangements exist, a purpose of which is to reduce the tax liability of a person resident on the Island.

Part 2

Part 2 of Schedule 1 deals with the consequential repeals relating to the DPC.

Schedule 2

Part 1

Part 1 of Schedule 2 makes the necessary amendments to the 1970 Act to introduce the age allowance and to repeal the relief for life insurance and training relief. It makes necessary amendments to Sections 61, 65H and 65I of the 1970 Act, which allow for the transfer of allowances and deductions in the year of marriage and in the year of death and provide that certain allowances are not available to non-residents.

Part 2

Part 2 of Schedule 2 deals with the consequential repeals.