



**HOUSE OF KEYS  
OFFICIAL REPORT**

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**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Wednesday, 1st February 2006**

**Present:**

The Speaker (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba);  
 Hon. A R Bell and Mrs A V Craine (Ramsey); Mr W E Teare (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel);  
 Hon. S C Rodan (Garff); Mr R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle);  
 Mr J R Houghton (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South);  
 Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Mr D F K Delaney (Douglas West);  
 Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Hon. P A Gawne (Rushen);  
 with Mr M Cornwell-Kelly, Secretary of the House

**Business transacted**

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*The House adjourned at 4.04 p.m.*

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## House of Keys

*The House met at 2.30 p.m.*

### PRAYERS

*The Chaplain of the House of Keys*

### LEAVE OF ABSENCE GRANTED

**The Speaker:** Now, Hon. Members, as I advised yesterday, I have granted leave to the Hon. Member for Douglas North, Mr Henderson.

Also, Hon. Members, I have to advise you that the Hon. Member for Onchan, Mr Karran, has advised that he is unwell. He, therefore, will not be attending the sitting, as I have granted leave for him.

I can advise the House that Mr Karran has advised that he does not wish to hold up the Income Tax Bill and, therefore, he is content that his amendments will not be pursued, while he is not here. *(Laughter and interjections)*

### BILLS FOR SECOND READING

#### Insurance Companies (Amalgamations) Bill Second Reading approved

6.5. Mr Teare to move:

*That the Insurance Companies (Amalgamations) Bill be read the second time.*

**The Speaker:** Hon. Members, if we move on to the Item as on our adjourned Order Paper, from yesterday, Item 6, Bills for Second Reading. We have Item 6.5, Insurance Companies (Amalgamations) Bill. Hon. Member for Ayre, Mr Teare.

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

The purpose of the Bill is to provide a framework for the amalgamation of insurance companies. Subsequently, more detailed provisions will be introduced via Orders and Regulations, which will be the subject of further consultation.

The Bill also makes minor changes to the Insurance Act 1986, to simplify and broaden the scope for insurance companies to be transferred between domiciles.

The Bill has the support of the insurance industry here and, in particular, the captive insurance market, where such provisions may be especially relevant, in view of the continuing trend for mergers and acquisitions in the international corporate sector from which the Isle of Man derives much of its captive business.

There have been instances where a newly emerged parent organisation, finding itself with more than one subsidiary captive insurer, has sought to consolidate these captives into one company, and chosen against the Isle of Man as a

location for the continuing company, for the reasons already outlined.

The Bill has been the subject of a consultation exercise with interested parties. The detailed Regulations are currently being drafted, and are based on provisions in other jurisdictions that have been in place for some time.

The types of matters that are envisaged to be covered by the Regulations include: limiting the use of the amalgamation process to insurance companies incorporated and authorised to conduct insurance business on the Island; notification and approval provisions protecting the interests of the various stakeholders involved, for example shareholders and creditors; provisions setting out the form of application to be used, including the content of financial projections, requirements for companies and directors to make declarations as to each participating company's legal status and financial standing prior to amalgamation, and their agreements to common terms; requirements for independent audit, actuarial or legal review to be undertaken; provisions for the amalgamation approval process, such as authority to grant approval, review of such decisions and corresponding jurisdiction of the courts; clarification of the effective amalgamation in particular the legal status of participating and ongoing companies and their officers, to ensure the appropriate continuation of ownership, ongoing liabilities and obligations, so that the amalgamation process is without prejudice to any pending or continuing legal actions; a short form of process applicable to the amalgamation of wholly-owned subsidiaries.

Mr Speaker, I beg to move the Second Reading of the Insurance Companies (Amalgamations) Bill.

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

**Mr Bell:** I beg to second and reserve my remarks, Mr Speaker.

**The Speaker:** Hon. Members, the motion before the House is that the Insurance Companies (Amalgamations) Bill be now read a second time. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

### BILL FOR CONSIDERATION OF CLAUSES

#### Income Tax (Amendment) (No 2) Bill Clauses considered

7.1. Mr Bell to move.

**The Speaker:** Now, Hon. Members, we move on to 'Bill for Consideration of Clauses', and we move to the Income Tax (Amendment) (No 2) Bill. I call on the Hon. Member for Ramsey, Mr Bell, clause 1, Hon. Member.

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

Mr Speaker, just before I start, could I mention two things, briefly: firstly, could I thank Hon. Members for agreeing to come back this afternoon to consider this very important legislation, and a number of other Bills –

**The Speaker:** Hon. Member, just take your seat. Can I

ask that the background noise reduces, please?

Right, Mr Bell.

**Mr Bell:** I thank Hon. Members for agreeing to come back this afternoon and disrupting their schedules to see through this legislation, Mr Speaker, and also to, in a way, apologise for the length of time it has taken to come back with the clauses stage, after the Second Reading.

This was to enable us to pick up on a number of the points that were raised both by Members and by the industry, generally, and there has been an extensive period of consultation with the industry, for the last few months.

As a result, I think there is now a general agreement with the content of this Bill, and there will be a number of amendments to these various clauses, moved on behalf of Treasury, to rectify the various shortcomings which were identified by the industry and, indeed, as I say by one or two Members.

So, I thank the Hon. Members for their forbearance with this.

Mr Speaker, clause 1 inserts sections 14A to 14D into the 1970 Income Tax Act.

Section 14A introduces the new corporate charge which will be payable annually by every corporate taxpayer, other than exempted taxpayers, who will be paying fees. This section outlines the position where a company becomes or ceases to be resident in the Island, is incorporated, established or constituted in the Island and lists the exemption that are allowed. Treasury will, by Order and with the approval of Tynwald, be able to add to the list of exemptions.

Section 14B directs that the administration of income tax, with regard to the collection of tax, confidentiality, interest charge for late payment, etc, will apply to a charge under this part.

Section 14C allows for the charge to be set off against income tax charge in any year during which the corporate taxpayer is subject to both an income tax charge and a corporate charge, under this part.

Section 14D provides for an order of set off, where a corporate taxpayer makes a payment and is liable to both income tax and the charge. Any unpaid corporate charge will be cleared first.

Mr Speaker, I beg to move that clause 1 stand part of the Bill.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

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

Mr Speaker, Hon. Members, the amendment to –

**The Speaker:** No, no, Hon. Member, sorry. My apologies. Do we have a seconder, first?

**Mr Delaney:** I rise to second, Mr Speaker.

**The Speaker:** Right, Mr Delaney. Hon. Member, Mr Teare. Thank you.

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

Mr Speaker, Hon. Members, the amendment to omit subsections (2) and (3) from 14D will allow the introduction of the corporate charge for the year 2006-07. A corporate charge will still require an Order approved by Tynwald, under section 16 of this Bill, before it can have effect.

Mr Speaker, I beg to move, sir:

*Clause 1*

*Page 5; lines 5 to 11: omit subsections (2) and (3).*

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second and reserve my remarks.

**The Speaker:** You cannot reserve, Hon. Member, for an amendment.

**Mr Corkill:** No, I beg to second.

**The Speaker:** Hon. Member, Mr Teare, do you wish to add anything else?

**Mr Teare:** No, thank you.

**The Speaker:** Hon. Member for Ramsey, Mr Bell, to reply.

**Mr Bell:** I have nothing further to add, Mr Speaker, other than to say that the amendment moved by my colleague is fully supported by Treasury.

I beg to move.

**The Speaker:** Hon. Members, the motion before the House is that clause 1 do stand part of the Bill. To that we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 1, as amended. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Member for Ramsey, clause 2 and schedule, please.

**Mr Bell:** Mr Speaker, clause 2 directs that the current position, where aggregation of income is automatic, shall cease to have effect in respect of the years of assessment commencing with the year 2006-07.

This clause, together with parts 1 and 2 of the schedule to the Bill, provides for consequential amendments and repeals to the Income Tax Acts that are necessary for the smooth transition into the new system.

The consequential amendments within part 1 of the schedule are: an amendment to section 21A that deals with the exemption from income tax of interest on certain government securities; an amendment to section 35 that grants a personal allowance to a single person, persons who are married and jointly assessed and persons who are married but assessed separately; an amendment to section 35B(4) that provides for additional allowance for disabled persons, ensuring the link with the definition of living together is not broken; an amendment to section 49(8) that provides for relief in respect of retirement annuity premiums, ensuring that the income of a married woman is not treated as the income of her husband or that the husband's income is not treated as the income of his wife; the amendment to section 17(6) of the Income Tax Act 1989 that provides for relief in respect of personal pension contributions, mirroring the amendment to section 49(8) mentioned previously; and finally, an amendment to the 2003 Act, ensuring that the calculation of a personal allowance credit is not affected by

the change being proposed within this Bill.

Mr Speaker, I beg to move that clause 2 and the schedule stand part of the Bill.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

**Mr Teare:** Mr Speaker, I beg to second, sir, and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 2 and the schedule do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Hon. Member.

**Mr Bell:** Clause 3, Mr Speaker, substitutes section 65 and directs that income tax be assessed and charged on a husband and wife as separate individuals.

All of the sections of the Income Tax Acts, including the Income Tax (Instalment Payments) Act 1974, are to apply as if they were separate individuals. Both parties will be required to file a return of their own income. Each will receive an assessment of that income, and each will be required to pay the tax on that assessment or, if overpaid, would receive the repayment of tax computed by that assessment.

Failure to make a return or to pay income tax will be a failure of that individual alone, and the assessor would only pursue that individual in respect of that failure.

Mr Speaker, I beg to move clause 3 stand part of the Bill.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

**Mr Teare:** Thank you, Mr Speaker. I beg to second, sir, and to reserve my remarks.

**The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

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

I would just like to ask the hon. mover: in the Bill, it says that the section shall have effect in respect of the year of assessment commencing 6th April 2006 and subsequent years – if there is a delay in the passing of the legislation, will that assessment still kick in for that particular date?

**The Speaker:** Hon. Member for Douglas West, Mr Delaney.

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

Mr Speaker, can I ask the Minister if he is aware of a letter I circulated – myself and my colleague for West Douglas, Mr Shimmin – which brings in certain questions in relation to this Bill. As we are getting through clause 3, can I ask the Minister if he could address some of the points I raised in that letter by one of my constituents?

**The Speaker:** Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** Could the Minister give an assurance that the fully-transferable allowances will still be enforced, notwithstanding that there are separate income tax returns?

**The Speaker:** Hon. Member for Ramsey, Mr Bell, to reply to the debate.

**Mr Bell:** Mr Speaker, it is our hope and expectation that this Bill, Members permitting, will be receiving Royal Assent within the life of this House, and, therefore, will be triggered at the start of the financial year April 2006-07. So, we do not see any problem with that.

Mr Cannan, Member for Michael: yes, nothing will change the allowances. That will be exactly the same. This whole measure here is to ensure that the legislation today is brought up to date and fully complies with Human Rights, whereby the husband and wife can be treated as separate individuals.

As far as the Hon. Member for West Douglas is concerned, Mr Speaker, I am at a bit of a loss as to what, in fact, the Hon. Member means, because the only letter I have had relating to a constituent of his relates to the distribution profits clause, which is not actually clause 3 at all. As far as I am aware, his constituent did not make any mention at all about the separate treatment of husband and wife, so I cannot really comment on that, in the context of this clause, Mr Speaker.

**Mr Cannan:** Point of order, Mr –

**Mr Delaney:** Clarification, Mr Speaker, can I just ask the Member –

**The Speaker:** Mr Delaney.

**Mr Delaney:** – did he receive the letter of 23rd January that I circulated to Members of the House?

**The Speaker:** Mr Bell.

**Mr Bell:** Yes, I did and, as I say, I do not have the letter with me. I do have a note on it, which makes no reference to the separate treatment of husband and wife.

**Mr Delaney:** Yes, it does.

**Mr Bell:** It just really is to do with the distributable profits charge, Mr Speaker, and not to do with the separate treatment of husband and wife for taxation purposes.

But frankly, Mr Speaker, we have looked at this letter, the individual has been in touch with the Assessor of Income Tax separately, and we can find no basis to the argument the Member's constituent is putting forward.

He is, essentially, arguing that the distributable profits charge should not be included in an Income Tax Bill, because he does not see that it is an income tax item. We would totally disagree with that – that is why we put it in in the first place. But we have listened to the Hon. Member, we have researched it and we do disagree with the conclusion that his constituent has raised.

I am sorry, but I still cannot see any reference in his letter to the separate treatment, so I cannot give any further information on that.

**Mr Delaney:** Just to clarify it, just as a general principle of the Bill, as we are getting into the Bill, I just wanted the Member to answer any of the points raised.

Would he then write back to that particular person and clarify?

**Mr Bell:** I am sorry, Mr Speaker, yes, that, I think, has already been done. If not, it is on the way, (**Mr Delaney:** Thank you.) but we can find no basis to his arguments, even though we have read the letter.

So, I beg to move.

**The Speaker:** Hon. Member for Michael, Mr Cannan, clarification, sir.

**Mr Cannan:** Clarification, Mr Speaker, because this is desperately important legislation.

Can the Minister give the unequivocal assurance...? He just said that the allowances will be the same. The fully transferable allowance between husband and wife, will that be retained, sir?

**Mrs Hannan:** Of course it will.

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

**Mr Bell:** I did answer that, Mr Speaker.

**Mr Cannan:** Well, it is still a non-answer. Yes...

**The Speaker:** Would you like to clarify it, Mr Bell?

**Mr Bell:** I have, Mr Speaker, very clearly said yes, it will still remain.

**Mr Cannan:** Thank you.

**A Member:** Yes means yes.

**Mr Cannan:** He didn't.

**Mrs Hannan and another Member:** He did!

**The Speaker:** Hon. Members, I think that Hon. Members maybe need to be a little bit more alert. Afternoon sittings are not usual.

**Several Members:** Hear, hear.

**Mr Cannan:** Oh yes, we are alert, alright! We are alert. (*Interjections*)

**Mr Delaney:** It is very taxing this, you know!

**The Speaker:** Now, Hon. Members. Hon. Member for Michael, thank you.

Hon. Members, the motion before the House is that clause 3 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Hon. Member.

**Mr Bell:** Mr Speaker, clause 4 substitutes sections 65A and 65B of the 1970 Act, and inserts new sections 65C to 65J inclusive.

Section 65A provides for the election for joint treatment and directs that, where a joint election is in force, the husband and wife shall together be treated as a single individual and shall be jointly and severally liable to pay income tax and any other amount falling to be paid by them under the Income Tax Acts.

The treatment as a single individual would ensure that allowances, lower rate threshold and deductions are utilised fully, notwithstanding that one spouse may have insufficient income to utilise their own allowance, lower rate threshold or deductions.

Section 65B sets out the conditions that must be satisfied before a joint treatment election may be made. The election is only available to persons resident in the Isle of Man – a married couple who are non-resident are assessed separately in all cases – and the husband and wife must be living together for the whole of the year.

This section also provides for the situation where a couple commence residence in the Island and were married before their arrival and for the situation where a jointly assessed couple cease to be regarded as resident in the Island. In each case, providing that the joint election is in place, the couple will be assessed jointly for the part of the year during which they were resident for tax purposes.

Section 65C outlines the election that is to be made. Regulations made by Treasury and approved by Tynwald will be required, covering the form of the election, the timing of an election, information that may be required and any other statements that may be necessary.

Both husband and wife will be required to sign the election. Cheques and other correspondence can be used in both names but, if required, either spouse may be named for the purpose of receiving cheques or general correspondence. Documents such as annual returns, assessment notices and demands will always be used in joint names.

Section 65D deals with property that is held jointly and directs that property shall be treated as being owned equally, unless the Assessor is satisfied that entitlement to the income of that property is not equal.

Section 65E provides for the meaning of 'living together'. Hon. Members should be aware that this meaning was previously contained within section 64 of the Income Tax Act and has not been changed. That section, through clause 3 of this Bill, shall cease to have effect, making the inclusion of this section necessary for the effective application of this part.

Section 65F provides for the revocation of a joint treatment election. Unlike the initial election, the election may be revoked by either spouse. Again, regulations made by Treasury and approved by Tynwald will be required, which will outline the form the notice of revocation should take. This section also outlines the treatment of ITIP and subcontractor payments made by the husband or wife, and how those payments are to be allocated in the year when notice of revocation is received.

Section 65G deals with the cessation of joint election that occurs following separation, cessation of residence by one spouse or following the death of one spouse. Effectively, the joint treatment election shall not apply in the relevant year, and each spouse shall be assessed as a single person in that year.

Section 65H is supplemental to the previous section and provides for the transfer of any unused allowances and deductions in the year of death.

Currently, Income Tax Division, by concession, allow for the transfer of any unused allowances and deductions to the widow in the form of a widow's bereavement allowance. This section brings into primary law that concession, but also extends the benefits to a widower if, following the death of his wife, allowances and deductions were not used.

Where a couple marry during the year, any election

for joint treatment can only have effect from 6th April immediately following the marriage. The new section 65I provides for the transfer of any unused allowances and deductions that are available in the year of marriage.

Therefore, during the year of marriage and following an election for joint treatment, if one spouse is unable to utilise their own allowance or deductions, their spouse can deduct from their income an amount equal to the unused amount. This again brings into primary law a concession that has already been applied by Treasury.

Further supplementary provisions are contained in section 65J that allow for Treasury Orders, approved by Tynwald, that may be necessary to give effect to the sections contained within part 2 of the Bill or to modify other provisions within the Income Tax Acts and the Income Tax (Instalment Payments) Act 1974 in the application of this part.

Transitional arrangements are contained within clause 4(3) to ensure that persons who are jointly assessed under the current provisions will continue to be jointly assessed in future.

Mr Speaker, I beg to move that clause 4 stand part of the Bill.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

**Mr Teare:** Thank you, Mr Speaker. I beg to second, sir, and to reserve my remarks.

**The Speaker:** Hon. Member for Peel, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder.

I welcome this clause in the Income Tax Bill. Members might be interested: about 19 years ago, when I was first elected, this was one of the issues that I raised very early on. It was said to be well-nigh impossible, at that particular time, but, because we now have Human Rights legislation, it is something that we can now do. Of course, we are a little bit more sophisticated than we were 19 years ago.

But I do welcome this. I have no problem with being taxed along with my partner, but I think there are other people who do have concerns. They might have a little bit of money stashed away that they do not... And it could be on both sides, but the Treasury know about it, and if individuals are taxed separately, and elect to be taxed separately, they can keep that little bit separate.

I think lots of families have always worked on that premise. A lot of it is to do with housekeeping and, if a saving is made, that can be put to one side, to save maybe for luxuries such as family holidays and the like, and maybe if the husband knew about it, or the other partner knew about it, it might not be there.

So, these are the sorts of things that have gone on for a very long time, but Treasury know about these things, so it is very difficult then to have this sort of separation.

But I welcome this. I do see this as a major step forward in respecting, in lots of ways, privacy, but in other ways, the confidence of couples jointly to be taxed together, but choosing to be taxed together.

So, I see this as a major step forward, and I congratulate Treasury on bringing this clause forward.

**The Speaker:** Hon. Member for Rushen, Mr Gill.

**Mr Gill:** Yes, thank you, Vainstyr Loayreyder.

Just really for some reassurance, sir, if I may. The term 'living together' which is guided by section 65E: could the mover advise us if, for example, there is a couple and one of the couple was in the armed forces and their duties took them away from the Island for over a year, what would the response of the Treasury be to their application, given these guidelines?

I think, in the normal course, one would expect and hope that the Treasury would accept that that is one of the demands of service life and, indeed, there are other jobs which might take people away for prolonged periods, but there would not be separation of a couple. So, perhaps, if the mover could just give us some reassurance and guidance on that.

**The Speaker:** The Minister to reply to the debate, Mr Bell.

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

Mr Speaker, I thank Mrs Hannan for her support. I think the fact that this clause is included shows that Treasury really does listen. It may have taken 19 minutes... (*Laughter*) 19 years for Treasury to respond to it, but we did listen carefully to what she said 19 years ago, and it has now gone through the system, and I am delighted to be able to present it to her today here. (**Mrs Hannan:** Thank you.)

As far as the Hon. Member for Rushen is concerned, my understanding is that unless the separation is deemed to be permanent, the treatment of husband and wife, whether they are in the forces or any other occupation which might cause long-term separation, will have no effect at all, that the husband and wife will be treated in exactly the same way.

I beg to move.

**The Speaker:** Hon. Members, the motion before the House is that clause 4 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Hon. Member, Mr Bell.

**Mr Bell:** Clause 5 of the Bill substitutes sections 12 to 13A of the Income Tax Act with new sections 12 to 13J.

Section 12 makes the provision that the corporate taxpayers are to account for income tax due by the resident members of the company. The charge is to be known as the distributable profits charge, and will be a charge due in respect of distributable profits of the company.

Having accounted for the charge, corporate taxpayers will be required to issue a credit voucher that will provide for the set-off of the amount paid against the income tax liability ultimately due by the member.

Section 12 provides for a definition of corporate taxpayer, members and interest. Anti-avoidance provisions are contained to prevent the avoidance of the charge that may result where the interest to a person can be traced through a series of companies, partnerships, trusts, agreements or any other arrangement.

Corporate taxpayers accounting for this charge will be categorised as either a distributing company or a non-distributing company. The effect of that categorisation will be explained in more detail later, but the definition of 'distributing company' can be found in subclause (8).

A distributing company is one that pays income tax at a rate that is at least of 10 per cent on every pound of its distributable profit or is a company that distributes a

prescribed amount of its profit or is a company of such other description as specified in regulations made by Treasury.

The amount of profits that is to be prescribed for this purpose is 60 per cent for trading profits and 100 per cent for non-trading profits and any regulations required by this part must be approved by Tynwald.

Mr Speaker, an amendment will be proposed by Treasury to reduce the 60 per cent to 55 per cent for trading companies. This has the effect of reducing the effective charge to 9.9 per cent, therefore reducing the percentage to a rate that is lower than the current rate of income tax.

Section 13 directs that the distributable profits charge shall be paid by all corporate taxpayers other than distributing companies, in respect of and in proportion to the amount of distributable profit attributable to members who are resident in the Island.

If the Assessor is not satisfied that the company is a distributing company, a charge shall be imposed and, for the avoidance of doubt, this charge does not affect the liability of any person to income tax.

Section 13A provides for the calculation of the charge. A trading company will be required to account for the charge and the charge shall be based on, as is printed in the Bill, Mr Speaker, 60 per cent, as amended, I hope, 55 per cent of the distributable profits, at a rate of 18 per cent.

A non-trading company will also be required to account for the charge, but in such cases the charge shall be based upon 100 per cent of the distributable profits, at a rate of 18 per cent. The rationale for including 100 per cent of the distributable profits of a non-trading company is that the resulting charge would be the equivalent to that which would be due if the investments were held by an individual, and is the equivalent to the tax rate applying to non-trading companies, at the present time.

All of the percentage rates applicable within this part may be amended by Tynwald resolution, as part of the annual Budget process. In determining the amount of distributable profits, a company may deduct capital allowances, available losses, group relief, and any other amount or proportion of the profits, as prescribed in an Order made by Treasury.

Section 13B sets out the additional information that will be required when the corporate taxpayer makes a return to the Division. The additional information includes the income for that year, the amount of distributable profits that would be payable, the amount of profit not distributed, identification of members resident in the Island and the charge calculated in respect of the resident members.

Section 13B also provides for the making of a default assessment to protect the revenue where a return has not been made or where a return does not include all relevant information. A company that has been subject to a default assessment: that company may, within six months, make and deliver a return that complies with the requirement of this Act and, having made that return, the default assessment will be replaced by the appropriate distributable profits charge.

Section 13C directs that the distributable profits charge shall be due and payable on the same date on which the income tax is payable. This section also requires the payment of a charge on the date of a distribution, where the distribution takes place before the normal due date for tax.

If a charge is accounted for, on the making of a distribution, the amount of the charge is to be deducted from the total charge that would be payable on the normal income tax due date. The deduction would ensure that tax

is not accounted for twice.

Section 13D deals with certain special cases, where it appears to the Assessor that arrangements exist that reduce the tax liability or where the corporate taxpayer is not a distributing company. In such cases, the Assessor may adjust assessments of the person, of the corporate taxpayer or its members, and he may impose any distributable profits charge which appears necessary for the protection of the revenue.

A person receiving a notice under section 13D is able to appeal against the charge and an appeal would be made in the same manner as an appeal against an income tax assessment.

Section 13E will allow the Assessor to call for documents from corporate service providers or from any other person who holds the position of secretary of a corporate taxpayer. Documents called for are those that contain information relevant to any interest that another person may have in a corporate taxpayer or the resident status of that person.

A person must be given a reasonable opportunity to deliver and make available the documents before a notice is served and, having been served with a notice, the person should be given the reasons for that notice. If having been served with a notice, a person fails to comply then that person shall be guilty of an offence. Upon summary conviction, the person shall be liable to a fine not exceeding £5,000 or to custody for a term not exceeding six months.

Section 13F provides for an offence and on summary conviction for a fine of £5,000 or for custody for a term not exceeding two years, where a person intentionally falsifies, conceals, destroys or disposes of documents that are subject of a notice under section 13E.

Section 13G deals with the requirement on a corporate taxpayer to send a distribution credit voucher to every member that is resident on the Island, and the information that is to be contained on that voucher is to be prescribed in regulations that require approval by Tynwald.

Section 13H sets out the formula that should be used to determine the value of the distribution credit. The formula takes into account the rates of tax and the relevant proportion of profits that applied, at the time the profits arose, and not at the time the distribution is actually made. This will ensure that the credit available to the person receiving the distribution reflects the charge actually paid by the company on his behalf.

Whilst section 13I directs that the value of the credit shall be deducted from the tax due and payable by the recipient in the year of the assessment in which the distribution is paid, the final section within this part, section 13J deals with the areas of appeals and confirms that an appeal shall lie to the Commissioners with respect to any liability to a distributable profits charge or a decision made by the Assessor in certain special cases.

Hon. Members, clause 5 shall have effect in respect of the year of assessment commencing on 6th April 2006, subject to royal approval, and to subsequent years.

Mr Speaker, I beg to move that clause 5 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker. I beg to second the clause.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

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

Hon. Members, after considerable consultation with professionals and following further consultation by working parties, specifically constituted to look at the administration of this new clause, a number of amendments to clause 5 have been identified:

*Clause 5*

*Page 13; after line 11: insert –*

*‘(4) For the purposes of the sections, income tax due by members in respect of distributions includes income tax that may fall due in respect of distributions and future distributions and no account shall be taken of the fact that there is no assessment to income tax at the relevant time.*

*(5) In the sections, “distributable profits” are the distributable profits of the corporate taxpayer that are liable to be assessed to income tax in the year of assessment.*

*(6) For the purposes of the sections –*

*(a) the distributable profits of a corporate taxpayer that are attributable to a member are those profits that would have been payable to the member if the corporate taxpayer had distributed them; and*

*(b) the amount so attributable is the amount that the Assessor estimates, on reasonable grounds, is likely to be paid to the member concerned if the profits were so distributed.’,*

*and re-number the subsequent subsections and cross-references.*

*Page 15; after line 2 insert –*

*‘(14) The Treasury may by regulations make provision for the application and the operation of the sections in respect of companies that are members of a group of companies.*

*(15) Without prejudice to the generality of subsection (14), regulations under that subsection may also provide –*

*(a) that one company (“A”) in a group of companies shall be liable for the payment of the distributable profits charge in respect of all the companies in the group and the circumstances in which and the conditions on which A shall be so liable;*

*(b) for the aggregation of the distributable profits of all the companies in the group for the purpose of determining whether A satisfies the requirements of subsection (11)(b), section 13A(1), (2) or (8) and the other provisions of the sections;*

*(c) for the necessary adjustments to be made in respect of the treatment of each company within the group;*

*(d) for other conditions that A must comply with to be treated as a distributing company in respect of the group;*

*(e) for the prevention of the avoidance of the distributable profits charge and the protection of the revenue;*

*(f) for such incidental or consequential matters as seem to the Treasury to be necessary;*

*(g) for the modification of the sections in their application to a group of companies;*

*(h) for the definition of “group”, “holding company” and “subsidiary” for the purposes of this subsection and subsection (14) and for the purposes of the regulations.*

*(16) Subsections (14) and (15) are without prejudice to the generality of subsections (12) and (13).’, and re-number the subsequent subsection.*

*Page 15; lines 8 to 11 for subsection (2) substitute –*

*‘(2) The distributable profits charge shall be paid in each year of assessment by every corporate taxpayer in respect of the income tax due by resident members in respect of distributable profits that are attributable to those members.*

*(3) For the purposes of subsection (2), a person is a resident member if that member is or has been resident in the Island during the accounting period of the corporate taxpayer by reference to which its distributable profits are calculated for assessment to income tax in a year of assessment.*

*(4) The distributable profits charge shall be calculated on the basis of the distributable profits of a corporate taxpayer disclosed in the accounts, reports and returns produced for the purpose of the assessment of the corporate taxpayer to income tax and in accordance with regulations under section 13B.’,*  
*and re-number the subsequent subsection and cross-references.*

*Page 15; line 25 : for ‘60’ substitute ‘55’.*

*Page 15; after line 33 insert –*

*‘(3) The Treasury may by regulations make special provision for circumstances in which the income of a corporate taxpayer consists of both trading and other income.*

*(4) Without prejudice to the generality of the power in subsection (3), such regulations may provide for the distributable profits charge to be charged and payable –*

*(a) in accordance with the regulations;*

*(b) on such proportion of the distributable profits as is attributable to trading income and the proportion attributable to other income;*

*(c) on such proportion of the total distributable profits as are attributable to members resident in the Island as is so prescribed; and*

*may define bodies corporate that are to be treated as trading corporate taxpayers for purposes of this section and the regulations.*

*(5) Regulations under subsections (3) and (4) shall not come into operation unless they are approved by Tynwald.*

*(6) Where a member (“A”) of a corporate taxpayer is resident in the Island for part of the relevant period of account, the corporate taxpayer shall be liable to pay only a proportion of the distributable profits charge attributable to A and that portion shall be calculated in accordance with subsection (7).*

*(7) The proportion of the distributable profits charge attributable to A for the purposes of subsection (6) shall be determined in accordance with the formula –*

$$\frac{X}{Z} \times Y$$

*where :*

*“X” = the number of days during the relevant accounting period in which A was resident in the Island;*

“Y” = the amount of distributable profits charge (calculated in accordance with this section) that would have been attributable to A had A been resident in the Island for the whole of the relevant accounting period; “Z” = 365 or, where the period includes a February in a leap year, 366.’, and re-number the subsequent subsections.

Page 18; after line 17 : add –

‘(5) If the Assessor is satisfied that any return of income containing the information required by section 13B is a true and correct return, the Assessor shall determine the amount of distributable profits charge payable by the corporate taxpayer and shall send to the corporate taxpayer a statement showing –

(a) the amount of distributable profits charge due and payable; and  
(b) the date on which it is due and payable.

(6) Sections 98A, 98B and 111A shall apply with the necessary modifications in respect of distributable profits charge as they apply in respect of tax charged by an assessment to income tax.’.

Page 20; after line 18 : insert –

‘Power to call for information relating to beneficial ownership

13F. (1) The powers conferred by this section may be used for the purpose of enquiring into the identity of members of a corporate taxpayer for the purposes of the proper determination and collection of distributable profits charge.

(2) The Assessor may by notice in writing require any person whom the Assessor has reasonable cause to believe to have or to be able to obtain any information as to –

(a) the present and past members of a corporate tax payer;

(b) the names and addresses of those members; or

(c) any person who acts or has acted (in any capacity) on behalf of a member of a corporate tax payer, to give any such information to the Assessor.

(3) Without prejudice to subsection (4) or section 84, the powers conferred on the Assessor by section 13B(3) may be exercised where a person fails to give information required of that person under this section, or who in giving such information makes any statement which he knows to be false in a material particular.

(4) A person who fails to give information required of that person under this section, or who in giving such information makes any statement which he knows to be false in a material particular, is liable on summary conviction to custody for a period not exceeding 6 months or to a fine not exceeding £5,000.’,

and re-number the subsequent sections and cross-references.

Page 21; lines 12 to 19: for subsections (3) and (4) substitute –

‘(3) A distribution credit shall not be allowed in respect of a distribution from reserves if no distributable profits charge is due and payable in respect of the distributable profits from which the reserves are derived.

(4) Accordingly, distribution credit shall apply in respect of a distribution from reserves if, and only if, –

(a) the distributable profits charge is paid in respect of distributable profits from which the reserves are derived; and  
(b) those reserves are distributed.’.

Page 21; lines 28 to 34: for the definitions of ‘P’ and ‘R’ substitute –

“P” = the relevant proportion prescribed for the purposes of subsection (1) or (2) or (3), as the case may be, of section 13A.

“R” = the rate of distributable profits charge payable by the corporate taxpayer under subsection (1) or (2) or (3), as the case may be, of section 13A.’.

Page 22; lines 1 to 3 : for the words in brackets substitute –

‘For example, a gross distribution of £1,000 to a member results in a credit of £99 where the proportion is 55% and the rate of tax is 18%’.

The first amendment to clause 5 to consider is the insertion of a number of new subsections to clause 12. The first, which is to be numbered subsection (4), will ensure that the distributable profits charge will still be due, regardless of whether or not the member has been assessed to income tax at that time.

This new subsection recognises the fact that the company is required to account for the income tax before any distribution is made to and assessed on the member of the company.

The second, which will be numbered subsection (5), provides for the charge to be calculated on the same basis as income tax. This will ensure that there is no mismatch between income tax and the distributable profit charge.

The third, which will be numbered subsection (6)(a) and (b), provides certainty that the distributable profits attributed to a member are those profits that would have been payable to the member, if the company had distributed them.

The amount attributable is the amount the Assessor estimates on reasonable grounds would be paid to the member, if the profits were distributed.

The fourth, fifth and sixth, which will be numbered subsections (14), (15) and (16), provide for the ability to make regulations in respect of groups of companies. This has, historically, been a complex area within income tax and it is, therefore, prudent to allow for regulations which should simplify the distributable profits charge for groups of companies.

Should these new subsections be supported, there will be a consequential renumbering of the remaining subsections to section 12.

Mr Speaker, I beg to move the amendment standing in my name, sir.

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second, Mr Speaker.

**The Speaker:** Hon. Member for Ramsey, Mrs Craine.

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

With regard to the corporate charge, I wonder whether the Treasury Minister is in a position, yet, to indicate what level that is to be fixed at, or whether that is, in fact, going

to come through in further regulations. My understanding is that there is some uncertainty within the industry as to the pitch of that.

Would he further advise the House if there is still to be a continuation of a filing fee, in respect of annual returns, to the Companies Registry, and does he feel that, if there is to be both situations, is that Treasury taking two bites of the cherry and does that leave us competitive with other jurisdictions? Do they have a similar charge?

**The Speaker:** Hon. Member for Ayre, Mr Teare, do you wish to comment any further on your amendment, sir?

**Mr Teare:** No, thank you, sir.

**The Speaker:** Hon. Member for Ramsey, Mr Bell, to reply.

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

Mr Speaker, I thank the Hon. Member, my colleague for Ramsey, for her comment. I would point out, though, that the first question that she has asked about the level of corporate charge does, in fact, apply to clause 1 and not to clause 5.

I do recognise that there has been – and still is, indeed – some uncertainty within the industry as to what level the charge will be fixed at, but I would say that there has been extensive consultation, particularly on this issue, between income tax officers and the industry at large. We have now settled on a figure which we believe will be very competitive, whilst enabling Treasury to fill the gap in revenues which the loss of the exempt companies may cause.

I cannot, Mr Speaker, divulge that figure today, but it certainly will be announced in the Budget in three weeks, when it comes to Tynwald.

As far as the filing fee is concerned, Mr Speaker, the filing fee will continue, but as with all these fees, we very much have more than one eye on the competitive nature of the Isle of Man and its various charges. We are in a fiercely competitive world market, now, for financial services, and it is very important that the Isle of Man does not, in any way, fall out of line with our competitor jurisdictions.

So, we will be watching, as we always do, on an annual basis, a regular basis, the level of these various fees, and ensure that they will remain on a very competitive footing with our competitors.

I beg to move, Mr Speaker.

**The Speaker:** Hon. Members, the motion before the House is that clause 5 do stand part of the Bill. To that we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 5 as amended. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Hon. Member.

**Mr Bell:** Mr Speaker, clause 6 inserts new sections 35C, 35D, 35E and 11A in the Income Tax Act 1970.

Section 35C allows a non-resident individual to deduct £2,000 from total income for the purpose of ascertaining taxable income. The amount of the allowance may be amended by Tynwald resolution, and will be reviewed annually as part of the budget process.

Sections 35D and E deal with the situation where an

individual ceases to be regarded as a non-resident, or where he ceases to be regarded as a resident. In each case, the non-resident allowance will be restricted, with the apportionment being based on the number of days of non-residence or residence, as the case may be.

The provisions contained within these sections are in line with current provisions that restrict the resident's personal allowance on the event of commencement of residence or following cessation of residence. The restriction of the personal allowance in this way will ensure that the individual receives no more than the resident personal allowances during any year where such a change in circumstances takes place.

Clause 6 also inserts a new section 11A in the Income Tax Act that will limit income chargeable to non-residents. This clause introduces the concept of excluded income, and limits the income tax due where a person receives income that is classified as excluded.

A list of excluded income sources is contained within the clause, and includes dividends paid by Manx companies, deposit interest paid by banks and building societies on the Island, interest or dividends paid on Government and local government bonds, social security benefit and national insurance retirement pensions, and any other income prescribed in a Treasury Order.

In essence, apart from income in the form of remuneration, trading income and rents which will be charged to income tax in the normal way, the non-resident tax liability will be limited to tax deducted at source.

An Order made under this part must be approved by Tynwald, before coming into operation. Whilst income may be classified as excluded income for the purposes of non-resident assessment, certain excluded income groups, for example Manx company dividends, will remain subject to a deduction of tax at source, currently at 10 per cent, but being reviewed in line with the Taxation Strategy commitment to move to a zero rate per cent.

The limit on income chargeable is based upon the lower of the following calculations: (1) the liability computed in the normal way, that is, computing the liability on all Manx income sources, allowing a deduction of the non-resident personal allowance and applying the relevant rate of tax; and (2) the liability computed on income which is not excluded without deduction of the non-resident personal allowance plus the tax deducted at source on excluded income.

Mr Speaker, I beg to move that clause 6 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Mr Speaker, I beg to second the clause. *(Laughter)*

**The Speaker:** Hon. Member for Ayre, Mr Teare.

**Mr Teare:** Well, thank you, Mr Speaker.

The insertion of a new subsection into section 11A will ensure that tax deducted under the Income Tax (Retention of Tax and Exchange of Information) Order 2005 is not tax deducted to which this section refers.

Mr Speaker, I beg to move this amendment standing in my name, sir:

*Clause 6  
Page 25; after line 38: add –*

*'(7) For the avoidance of doubt, in subsection (1)(b) reference to "tax deducted" shall not include any retention tax deducted under the Income Tax (Retention of Tax and Exchange of Information) Order 2005 pursuant to a retention agreement entered into between the Island and a member State within the meaning of the European Communities (Isle of Man) Act 1973.'*

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second, sir.

**The Speaker:** Hon. Member for Ramsey, Mr Bell, do you wish to comment, sir?

**Mr Bell:** No, sir.

**The Speaker:** Hon. Members, the motion before the House is that clause 6 do stand part of the Bill. To that, we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 6 as amended. All those in favour of clause 6 as amended, say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Hon. Member for Ramsey.

**Mr Bell:** Mr Speaker, clause 7 substitutes existing sections 1(2), (2A) and (3) and makes a number of minor consequential amendments to the Income Tax Act that are required to bring into effect the principal changes included within this part.

The existing sections, subclauses 1(2), (2A) and (3), establish the standard rate of tax, the higher rate of tax and the threshold within which the standard rate applies and restricts the application of those rates and thresholds to individual taxpayers liable to Manx income tax.

The application of two rates of tax and one threshold has proved restrictive, and this clause has been included within the Bill to provide greater flexibility when setting rates of tax and thresholds. This clause allows for a lower rate of tax to be applied to resident individuals, and a prescribed rate of tax that will apply against income in excess of the lower rate threshold, or when computing the liability of non-resident individuals.

There may be more than one prescribed rate of tax and a prescribed rate may be applied against a specific income source. Orders will be required to determine the lower rate of tax, any threshold that applies and the level of the prescribed rates of tax. All Orders will not come into operation until Tynwald approval has been received.

Mr Speaker, an Appointed Day Order will be required to activate the amendment contained within this clause.

I beg to move clause 7 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

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

The insertion of a new subsection (d) into clause 7(1)(3B) is to ensure a greater flexibility within rates of tax. Any amendment to rates of tax will require Tynwald approval, sir.

I beg to move the amendment standing in my name:

*Clause 7*

*Page 27; after line 20 : insert –*

*'(d) may, where a zero rate is specified under paragraph (c), specify an alternative rate to apply in place of the zero rate in the event that such circumstances as are specified in the order arise;'*,  
*and re-number the subsequent paragraphs.*

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second, sir.

**The Speaker:** Hon. Members, the motion before the House is that clause 7 do stand part of the Bill. To that, we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 7, as amended. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Hon. Member for Ramsey.

**Mr Bell:** Mr Speaker, clause 8: this part of the Bill has been subject to a great deal of scrutiny over the last few months and Treasury has acted positively, regarding perceived shortcomings in the clause.

The clause was originally included within the Bill in order to ensure that income from deep discount securities was taxable, following an appeal case that was held against the Assessor. Although this type of security is not common, allowing the position to remain unchecked is not an option and will provide for tax planning opportunities.

Mr Speaker, the proposed amendments to this clause have been subject to extensive consultation, to which the response has been favourable, and the amendments replace the whole of the existing clause.

So for this point, Mr Speaker, I just beg to move, formally, clause 8 of the Bill.

**The Speaker:** Hon. Member for Peel, Mrs Hannan.

**Mrs Hannan:** I beg to second and reserve my remarks.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

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

Clause 8 introduces legislation which provides certainty for the taxation of discounted securities. Following reservations made in this House in February 2005, further consultation has been carried out with the profession. Treasury has, therefore, taken these views into account when drafting these amendments:

*Clause 8*

*Page 28; after line 30 to page 31 line 17: substitute –*  
*'Charge to tax on realised profit comprised in discount P1996/8/Sch13 para.1*

*2Q. (1) Where a person realises the profit from the*

discount on a relevant discounted security, that person shall be charged to income tax on that profit.

(2) For the purposes of this section and sections 2R to 2Z (referred to collectively in this section and those sections as "this Part") a person realises the profit from the discount on a relevant discounted security where –

(a) that person transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and

(b) the amount payable on the transfer or redemption exceeds the amount paid by that person in respect of the acquisition of the security.

(3) For the purposes of this Part the profit shall be taken –

(a) to be equal to the amount of the excess reduced by the amount of any relevant costs; and

(b) to arise, for the purposes of income tax, in the year of assessment in which the transfer or redemption takes place.

(4) In this section "relevant costs", in relation to a security that is transferred or redeemed, are all the following costs –

(a) the costs incurred in connection with the acquisition of the security by the person making the transfer or, as the case may be, the person entitled to a payment on the redemption; and

(b) the costs incurred by that person in connection with the transfer or redemption of the security;

and for the purposes of this Part costs falling within paragraph (a) shall not be regarded as amounts paid in respect of the acquisition of a security.

Meaning of "relevant discounted security" P1996/8/Sch13 para.3

2R.(1) Subject to subsection (2) and section 2X(1), in this Part "relevant discounted security" means any security which (whenever issued) is such that –

(a) taking the security as at the time of its issue, and

(b) assuming redemption in accordance with its terms, the amount payable on redemption is an amount involving a deep gain or might be an amount which would involve such a gain.

(2) The following are not relevant discounted securities for the purposes of this Part –

(a) shares in a company;

(b) gilt-edged securities that are not strips;

(c) excluded indexed securities;

(d) life assurance policies;

(e) capital redemption policies; and

(f) subject to section 2V, securities issued (at whatever time) under the same prospectus as other securities which have been issued previously but (disregarding that section) are not themselves relevant discounted securities.

(3) For the purposes of this Part the amount payable on redemption of a security involves a deep gain if –

(a) the issue price is less than the amount so payable; and

(b) the amount by which it is less represents more than the relevant percentage of the amount so payable.

(4) In this section "the relevant percentage", in relation to the amount payable on redemption of a security, means –

(a) the percentage figure equal, in a case where the period between the date of issue and the date of redemption is

less than thirty years, to one half of the number of years between those dates; and

(b) in any other case, 15 per cent;

and for the purposes of this section the fraction of a year to be used for the purposes of paragraph (a) in a case where the period mentioned in that paragraph is not a number of complete years shall be calculated by treating each complete month, and any remaining part of a month, in that period as one twelfth of a year.

(5) References in this section to redemption –

(a) do not include references to any redemption which may be made before maturity otherwise than at the option of the holder of the security; but

(b) in the case of a security that is capable of redemption at the option of the holder before maturity, shall have effect as references to the earliest occasion on which the holder of the security may require the security to be redeemed.

(6) For the purposes of this section the amount payable on redemption shall not be taken to include any amount payable on that occasion by way of interest.

Meaning of "transfer" P1996/8/Sch13 para.4

2S. (1) Subject to subsection (2), in sections 2Q to 2Z references to a transfer, in relation to a security, are references to any transfer of the security by way of sale, exchange, gift or otherwise.

(2) Where an individual who is entitled to a relevant discounted security dies, then for the purposes of this Part –

(a) that individual shall be treated as making a transfer of the security immediately before death;

(b) that individual shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer; and

(c) that individual's personal representatives shall be treated as acquiring the security for that amount on the death of the individual.

(3) For the purposes of this Part a transfer or acquisition of a security made in pursuance of an agreement shall be deemed to take place at the time when the agreement is made, if the person to whom the transfer is made, or who makes the acquisition, becomes entitled to the security at that time.

(4) If an agreement is conditional, whether on the exercise of an option or otherwise, it shall be taken for the purposes of this section to be made when the condition is satisfied (whether by the exercise of the option or otherwise).

(5) This section is without prejudice to section 2X(2) to (4).

Redemption to include conversion P1996/8/Sch13 para.5

2T. (1) This section applies where a relevant discounted security is extinguished by being converted, in pursuance of rights conferred by the security, into shares in a company or into any other securities (including other relevant discounted securities).

(2) For the purposes of this Part the conversion shall be deemed –

(a) to constitute the redemption of the security which is extinguished; and

(b) to involve a payment on redemption of an amount equal to whatever, at the time of the conversion, is the market value of the shares or other securities into which

the security in question is converted.

(3) This section does not apply to an exchange to which section 2X applies.

Other transactions deemed to be at market value P1996/8/Sch13 para.9

2U. (1) This section applies where a relevant discounted security is transferred from one person to another in a case in which –

(a) the transfer is made for a consideration which consists of or includes consideration not in money or money's worth; or

(b) the transfer is made otherwise than by way of a bargain made at arm's length.

(2) For the purposes of this Part –

(a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and

(b) the person to whom the transfer is made shall be treated as paying in respect of the acquisition of the security an amount equal to that market value.

Issue of securities in separate tranches P1996/8/Sch13 para.10

2V. (1) In a case where –

(a) none of the securities issued on the occasion of the original issue of securities under a particular prospectus would be a relevant discounted security apart from this section,

(b) some of the securities subsequently issued under the prospectus would be relevant discounted securities apart from section 2R(2)(f), and

(c) there is a time (whether before, at or after the beginning of the year of assessment commencing on 6 April 2005) when the aggregate nominal value as at that time of the securities falling within paragraph (b) exceeds the aggregate nominal value as at that time of the securities which have been issued under the prospectus and do not fall within that paragraph, subsection (2) shall apply in relation to every security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c)).

(2) As regards any event occurring in relation to the security after the time mentioned in subsection (1)(c), this Part shall have effect as if the security –

(a) were a relevant discounted security; and

(b) had been acquired as such (whatever the time of its acquisition).

(3) For the purposes of subsection (2) events, in relation to a security, include anything constituting a transfer, redemption or acquisition for the purposes of this Part. Excluded indexed securities P1996/8/Sch13 para.13

2W. (1) For the purposes of this Part a security is an excluded indexed security if the amount payable on redemption is linked to the value of assets.

(2) For the purposes of this section an amount is linked to the value of assets if, in pursuance of any provision having effect for the purposes of the security, it is equal to an amount determined by applying a relevant percentage change in the value of assets to the amount for which the security was issued.

(3) In subsection (2) the reference to a relevant percentage change in the value of assets is a reference to the amount of the percentage change (if any) over the relevant period in the value of assets of any particular description or in

any index of the value of any such assets.

(4) In subsection (3) "the relevant period" means –

(a) the period between the time of the issue of the security and its redemption; or

(b) any other period in which almost all of that period is comprised and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under the security.

(5) If –

(a) there is a provision which, in the case of the amount payable on the redemption of any security, falls within subsection (2),

(b) that provision is made subject to any other provision applying to the determination of that amount,

(c) that other provision is to the effect only that that amount must not be less than a specified percentage of the amount for which the security is issued, and

(d) the specified percentage is not more than 10 per cent,

that other provision shall be disregarded in determining for the purposes of this section whether the amount payable on redemption is linked to the value of assets.

(6) For the purposes of this section neither –

(a) the retail prices index, nor

(b) any similar general index of prices published by the government of any country or territory or by the agent of any such government,

shall be taken to be an index of the value of assets.

Gilt strips P1996/8/Sch13 para.14

2X. (1) Every strip is a relevant discounted security for the purposes of this Part.

(2) For the purposes of this Part, where a person exchanges a gilt-edged security for strips of that security, the person who receives the strips in the exchange shall be deemed to have paid, in respect of the acquisition of each strip, the amount which bears the same proportion to the market value of the security as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.

(3) For the purposes of this Part, where strips are consolidated into a single gilt-edged security by being exchanged by any person for that security, each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value.

(4) The Treasury may by order provide that this Part is to have effect with such modifications as it may think fit in relation to any relevant discounted security which is a strip.

(5) An order made by the Treasury under this section may –

(a) make provision for the purposes of subsections (2) and (3) as to the manner of determining the market value at any time of any security;

(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(6) Subject to any order under subsection (5), references in subsections (2) and (3) to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.

Realised losses on discounted securities P1996/8/Sch13 para 2

2Y. (1) Subject to the provisions of sections 2Q to 2X and 2Z, where –

(a) a person sustains a loss in any year of assessment from the discount on a relevant discounted security, and

(b) makes a claim for the purposes of this paragraph before the end of 12 months from the 31st January next following that year of assessment, that person shall be entitled to relief from income tax on income chargeable for that year under section 2Q for that year equal to the amount of the loss.

(2) Unused relief under this section cannot be carried forward or back.

(3) For the purposes of this section a person sustains a loss from the discount on a relevant discounted security where –

(a) he transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and

(b) the amount paid by that person in respect of his acquisition of the security exceeds the amount payable on the transfer or redemption.

(4) For the purposes of this section the loss shall be taken –

(a) to be equal to the amount of the excess increased by the amount of any relevant costs; and

(b) to be sustained for the purposes of this section in the year of assessment in which the transfer or redemption takes place.

(5) Section 2Q(4) applies for the purposes of this section as it applies for the purposes of that section.

General interpretation P1996/8/Sch13 para.15

2Z. (1) In this Part –

“deep gain” shall be construed in accordance with section 2R(3);

“excluded indexed security” has the meaning given by section 2W;

“market value” (except in section 2X) means the price that the relevant security might reasonably be expected to fetch on a sale in the open market;

“relevant discounted security” has the meaning given by sections 2R and 2X(1);

“strip” means anything which is a strip of a gilt-edged security.

(2) Where a person, having acquired and transferred any security, subsequently re-acquires it, references in this Part to that person’s acquisition of the security shall have effect, in relation to-

(a) the transfer by that person of that security, or

(b) the redemption of the security in a case where that person becomes entitled to any amount on its redemption,

as references to that person’s most recent acquisition of the security before the transfer or redemption in question.’

Page 31; lines 18 to 20 : substitute –

‘(2) This Part shall have effect in respect of the year of assessment commencing on 6 April 2005 and subsequent years in respect of any profit from the discount on a relevant discounted security realised on or after 6 April 2005.’

Section 2Q introduces an income tax charge for the

realised profit from a discount on a relevant discounted security. This clause also allows for any relevant costs to be deducted from the chargeable amount.

Section 2R(1) gives the definition of ‘relevant discounted security’.

Section 2R(2) lists the exclusion to relevant discounted securities, such as the maturity of life insurance policies and the disposal of shares in a company.

Section 2R(3) clarifies the amount payable on redemption of a security.

Section 2R(4) gives the definition of ‘relevant percentage’.

Section 2R(5) and (6) deal with the redemption of a relevant discounted security.

Section 2S provides for the definition of transfer on which the income tax charge will be due, including sale, exchange, gift on the death of the individual. This section also deals with the timing of the exercise of the option.

Section 2T provides for the circumstances that may arise with deep discounted securities on the conversion into company shares.

Section 2U ensures that the charge to income tax is made at the market value of the gain in the circumstances whereby it has not been transferred in an arm’s-length agreement.

Section 2V ensures that the correct amount is charged in instances where the securities are issued in separate tranches.

Section 2W excludes index securities which are payable on redemption that are linked to the value of assets.

Section 2X provides for the treatment of gilt strips.

Section 2Y provides for the losses on deep discounted securities to be offset against any profits from such securities in the same year.

Section 2Z provides definitions of the various types of securities contained within this part of the Bill.

I beg to move the amendment standing in my name, Mr Speaker.

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second, sir.

**The Speaker:** Hon. Member, Mr Bell, do you wish to reply, sir?

**Mr Bell:** No, sir.

**The Speaker:** Hon. Members, the motion before the House is that clause 8 do stand part of the Bill. To that, we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 8, as amended. All those in favour of clause 8, as amended, standing part of the Bill, say aye; against, no. The ayes have it. The ayes have it.

Clause 9, Hon. Member.

**Mr Bell:** Mr Speaker, clause 9 confirms the Income Tax (Non-Resident Tax Rates) (Trading Income) (Temporary Taxation) Order 2004, in accordance with the provisions contained in section 15(4)(a) of the Income Tax Act 1995.

This temporary taxation Order was approved by Tynwald on 16th March 2004 and established the trading rate for non-resident corporate taxpayers of 10 per cent.

Mr Speaker, I beg to move clause 9 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 9 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10, Hon. Member for Ramsey.

**Mr Bell:** Mr Speaker, clause 10 amends section 57 of the Income Tax Act, which deals with the computation of relief in respect of tax suffered in other territories.

The first amendment deals with the situation where a taxpayer has foreign taxed income and has received income in the form of a company loan that has been released or written off and, in such cases, confirms that the total amount of income tax payable includes tax payable in respect of the amount of the loan released.

The second amendment to section 57 clarifies the situation where a person receives income from more than one overseas source and different rates of foreign tax have been applied against each source. Presently, relief is computed with reference to the income suffering tax at the highest rate first, followed by the next highest, with the lowest rate being considered last. Relief computed in this way provides the greatest level of relief to the taxpayer.

The amendment in this part will provide statutory support to a computation that the Income Tax Division has, in fact, applied for a number of years.

So, Mr Speaker, I beg to move clause 10 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** I beg to second and reserve my remarks, Mr Speaker.

**The Speaker:** Hon. Members, the motion before the House is that clause 10 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11, Hon. Member.

**Mr Bell:** Mr Speaker, clause 11: the Income Tax (Amendment) Act 2004 includes provisions that prevent the avoidance of income tax where a company extends the benefits of a loan to a participator and then allows for the release or write-off of the loan. Following the introduction of those provisions, certain loans advanced by a company are subject to an 18 per cent income tax charge on the advance.

If the loan is then written off or released, Treasury retains the tax paid and, by way of assessment, the participator is charged to income tax on the amount released. If the participator pays income tax at a rate that is less than 18 per cent, then no further income tax would be due.

The amendment included in this clause is designed to provide certainty to the taxpayer regarding which part of the total income tax liability is attributed directly to the released loan. This is achieved by computing the tax attributable in the

same way in which double taxation relief is computed.

Having established the tax attributable to the loan, the Income Tax Division will then be able to grant the maximum amount of credit that results from the original payment of the tax that was made when the loan was originally advanced.

Mr Speaker, I beg to move clause 11 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 11 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12, Hon. Member for Ramsey.

**Mr Bell:** Mr Speaker, in June 2004, with the approval of Treasury, the Income Tax Division issued a document entitled 'A Strategy for Managing Customer Compliance in the Isle of Man in the 21st Century'. The document set out details of the approach to customer compliance adopted by the Income Tax Division. The key expectations addressed the timely submission of complete and accurate returns and the prompt payment of income tax that may be due.

Clause 12 of this Bill extends the surcharge rate of interest and ensures that where income tax is not paid on time, due to an understatement or omission from a return, interest may be charged at the surcharge rate during the period beginning on the date the tax should have been paid and ending on the date that the tax was paid. This will be used in conjunction with the current interest and penalties regime.

Mr Speaker, I beg to move that clause 12 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Mr Speaker, I beg to second and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 12 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13, Hon. Member.

**Mr Bell:** Mr Speaker, clause 13 deals with limitation periods and how they apply with regard to income tax.

Income Tax Division, through the application of the Income Tax Acts, has operated on the basis that an income tax assessment may be open for revision, if the year in question is no older than the current tax year minus six years.

Looking at the current tax year, 2005-06, the years of assessment 1999-2000 to 2005-06 would be open to revision. The Income Tax Division and the taxpayers of the Isle of Man have been able to rely on that position for a great many years.

However, following a ruling in the European courts, and in the light of amendments to UK legislation, reliance on that position could no longer be maintained. Potentially, therefore, income tax assessments could be open to amendments for years prior to 1999-2000.

This clause inserts the new section 118A into the Income Tax Act, that directs that section 30(1)(c) of the Limitations Act 1984 does not apply in relation to a mistake of law relating to a taxation matter under the Income Tax Acts.

The result of this change is that the Income Tax Division can, where a mistake of law is identified, rely on the fact that only assessment years for the current year or for the six preceding years will be amended.

Mr Speaker, I beg to move that clause 13 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Mr Speaker, I beg to second and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 13 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Mr Teare:** Mr Speaker.

**The Speaker:** Now, Hon. Member for Ayre, Mr Teare, we have a new clause in your name, which is on the Order Paper identified as new clause Q, and I invite you now to present the principle of that. If the principle is approved by the House, you will then go back and present the detail of that new clause. Hon. Member, Mr Teare.

**Mr Teare:** I apologise, sir.

Clause 13 introduces an amendment to confirm the Income Tax (Exchange of Information) (Temporary Taxation) Order, sir. This Order was originally approved by Tynwald in April of this year – sorry, last year – I am thinking ahead, sir, trying to use a bit of foresight – and was required to meet the Island's commitment to the European Union's Savings Directive and this will clarify it and carry forward the legislation that is already in place, sir:

*New clause*

*(It is suggested that the new clause be inserted after clause 13)*

*'Confirmation of order*

*[Q].(1) The Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005 ("the order") [S.D. 150/05] is confirmed.*

*(2) The Order shall, from the date on which this Act is passed, continue in operation as a permanent order.*

*(3) Subsections (3) to (6) of section 15 of the Income Tax Act 1995 ("the 1995 Act") [c.12], (expiry of orders) do not have effect in respect of this section or the Order.*

*(4) For the avoidance of doubt, the Treasury may amend the Order in accordance with the provisions of subsections (1) (enabling powers) and (2) (Tynwald approval) of section 15 of the 1995 Act and may exercise the powers in those provisions to revoke and replace the Order.*

*(5) This section shall come into operation on the date on which this Act is passed.'*

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

**Mr Bell:** I beg to second, Mr Speaker.

**The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

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

Whilst accepting the case presented to the House by the hon. mover, I still have not heard a case to be made for actually making it a permanent Order. At the moment, the new clause, it is suggested, will continue in operation as a permanent Order and then, of course, there are later caveats to that, which say that, unless Tynwald want to amend it, in which case it will have to come forward for Tynwald approval...

I wonder why we are wishing to make this a permanent Order. I was under the impression, at the moment, that because we moved it last year, the way in which we moved it, the Order would need to come back each year for Tynwald approval. I just wonder. I have not heard a reason why we should, in fact, make this a permanent Order and why in fact it needs to be confirmed. It is, in fact, a new amendment.

I just have not actually heard a case to be made for considering it and approving it, so I would like a little bit more information, please.

**The Speaker:** Member for Onchan, Mr Corkill.

**Mr Corkill:** I would just ask Hon. Members to support this new clause. I think it has always been envisaged that, along with the changes in our taxation and our Taxation Strategy, there was a need for anti-avoidance and a number of measures to be implemented, to make sure that the new structure of taxation, as is being put to us by Treasury in this Bill, was as robust as it has been previously. It seems to me that it is quite an ordinary move by Treasury, on an annual basis, to come forward with a number of temporary taxation Orders and the system is such that these Orders come forward in anticipation of primary legislation being changed.

It is a special facility that this Hon. House permits the Treasury, to have to allow the taxing authorities within the Isle of Man to introduce something pretty much straight away, but on the understanding that the primary law will, at a later date, be updated. The way I have read this amendment, this is really formalising something that is already agreed in principle.

So, I would ask Hon. Members not to be suspicious of it, but, really, look to see that this is a routine way of dealing with tax business.

**The Speaker:** Member, Mr Teare, to reply to the debate.

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

I would like to thank the Hon. Member for Onchan who has just resumed his seat for his very helpful comments.

If I could elaborate further, because the original was a temporary tax Order, it requires approval within 12 months. So, the opportunity has now been taken to seek the approval of this Hon. House, to confirm the exchange of information Order.

**The Speaker:** Hon. Members, the motion before the House is that the new clause identified as Q be approved in principle. All those in favour, say aye; against, no. The ayes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Mr Anderson  
Mr Teare  
Mr Gill  
Mr Gawne  
Mr Houghton  
Mr Cretney  
Mr Duggan  
Mr Braidwood  
Mr Delaney  
Mrs Hannan  
Mr Bell  
Mrs Craine  
Mr Corkill  
Mr Earnshaw  
Capt. Douglas  
The Speaker

**AGAINST**

Mrs Cannell

**The Speaker:** Hon. Members, the motion carries, with 16 votes for and 1 vote against.

I invite the Hon. Member for Ayre now to present that clause in detail. Hon. Member.

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

The new clause set out as clause Q on our Order Paper includes an amendment to confirm the Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005. This Order was originally approved by Tynwald in April 2005, and was required to meet the Island's commitment to the European Union, with regard to the application of the Savings Tax Directive.

I beg to move this amendment standing in my name, sir.

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

**Mr Bell:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that the new clause Q, as identified Q on our Order Paper, be approved in detail. All those in favour, say aye; against, no. The ayes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Mr Anderson  
Mr Teare  
Mr Quayle  
Mr Gill  
Mr Gawne  
Mr Houghton  
Mr Cretney  
Mr Duggan  
Mr Braidwood  
Mr Delaney  
Mrs Hannan  
Mr Bell  
Mrs Craine  
Mr Corkill  
Mr Earnshaw  
Capt. Douglas  
The Speaker

**AGAINST**

Mrs Cannell

**The Speaker:** Hon. Members, the new clause carries, with 17 votes for, 1 vote against.

Hon. Members, we move on to clause 14. Hon. Member for Ramsey, Mr Bell.

**Mr Bell:** Mr Speaker, clause 14 makes four minor amendments to the Income Tax Act and, within clause 14(2), extends the temporary taxation Order provisions, contained in the Income Tax Act 1995, to include Orders required for the implementation of international agreements.

The minor amendments correct cross reference errors relating to the payment on account system of paying income tax that were identified during the drafting of this Bill. These amendments do not change the operation of that system.

Mr Speaker, I beg to move clause 14 stand part of the Bill.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Hon. Member for Ayre, Mr Teare.

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

Clause 14 deals with the confidentiality of information obtained from the Assessor by authorised persons. Section 106(5) makes it clear that it is the disclosure of information.

Mr Speaker, I beg to move this amendment standing in my name, sir:

*Clause 14*

*Page 34; after line 24 : insert new subsections –  
‘[( )] In section 61 of the 1970 Act, for “35 to 35B” substitute “35 to 35E”.*

*[( )] In section 106(5) of the 1970 Act –*

*(a) for paragraph (c) substitute –*

*“(c) if the disclosure is required or authorised by order of a court in the Island;”;*

*(b) for paragraph (e) substitute –*

*“(e) if the disclosure is required or authorised by any statutory provision (including a provision in this Act);”.*

**The Speaker:** Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** I beg to second, sir.

**The Speaker:** Hon. Member for Ramsey, Mr Bell, do you wish to respond, sir?

**Mr Bell:** No, sir.

**The Speaker:** Hon. Members, the motion before the House is that clause 14 do stand part of the Bill. To that, we have an amendment in the name of the Hon. Member for Ayre, Mr Teare. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 14, as amended. All those in favour of clause 14, as amended, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, I just wish to move back to an item on our Order Paper for the introduction of a new clause in the name of the Hon. Member for Douglas North, Mr Houghton. That clause is identified on our Order Paper as new clause P.

Hon. Members may be aware the Hon. Member was not present when we got to that stage of the Bill, as it was

identified to be moved after clause 4.

Hon. Members, I propose that now the Hon. Member be invited to move that clause at this stage, and if the clause is approved, then it will be slotted into the Bill at the appropriate place, which would, of course, be after clause 4.

So, Hon. Member, if I can invite you to move the clause in principle. Hon. Member Douglas North, Mr Houghton.

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

Mr Speaker, can I thank you and all Hon. Members of the House and apologise for my absence at the appropriate time in this Bill.

Mr Speaker, I do wish to move in principle the new clause that is standing in my name:

*New clause*

*Unmarried partners: transfer of unused relief  
(Suggested after Clause 4)*

*[P] After section 35 of the 1970 Act insert –*

*'Unmarried partners: transfer of unused relief  
35AA. (1) This section applies to a man and a woman who, for the whole of the relevant year of assessment, –  
(a) are co-habiting as husband and wife and have done so for the whole of each of the 5 years of assessment immediately preceding the relevant year; and  
(b) neither is married to another and treated as living together with that other under section 65E.*

*(2) If this section applies and the allowance of the man or woman under section 35(3)(a) is not exhausted, the unused balance of that allowance may be transferred to the other and shall be added to and form part of the allowance of that other.*

*(3) Any transfer under subsection (2) shall be made by the Assessor.'*

*(4) This section shall have effect in respect of the tax year commencing on 6 April 2006 and subsequent years.'*

It deals – if I can put it simply this way – with the equalisation of the ability to transfer tax allowances between unmarried partners, just as if they currently are able to now, already in tax law, when they have a child.

In the case of these unmarried couples, I would set out in my speech, Mr Speaker, good arguments stating why it would be appropriate for this Hon. House to consider those unmarried couples who have resided together, and can be proved that they have resided together, for at least 5 years.

So, therefore, Mr Speaker, I beg leave to move, in principle, the House listening to my moving the clause proper, as set out in the Bill, sir. Thank you.

**The Speaker:** Hon. Member for Douglas South, Mr Duggan.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** Hon. Member for Peel, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder.

I will not be supporting this amendment or this addition to the Bill. My reason for not is that, if this was bringing in equality for any couple having children, not necessarily co-habiting male and female, I could understand introducing this, but I see this as being discriminatory. So, therefore, I will not be supporting it.

I feel this particular piece of legislation is an extremely good piece of legislation in relation to tax relief for husband and wife, but this introduces a new aspect to it. A man and woman living together are free to get married, and if they have children, they are free to get married. There is nothing stopping them from getting married to get the tax relief.

If the mover was saying that any two people living together and have lived together for five years and have got children should get tax relief, I could go along with that, because that brings in equality of treatment. This does not. It discriminates and, therefore, I think it would be wrong to bring in this legislation, at this particular time.

As I said, if it was two people living together, co-habiting and with children, I could support that, but because it relates to just a section of the community, when they can, actually, make a legal and binding contract, so that they can get tax relief, I think it is wrong to bring in this sort of stipulation at this particular time.

So, I shall be voting against the introduction of this and, if it is approved by the House, vote against the clause when it is moved.

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

**Mr Bell:** Mr Speaker, I fully understand where the Hon. Member for North Douglas' concerns lie in this matter, and we have discussed this a number of times, over this last year or so. So, in many ways, I do share the concerns of the hon. mover.

This, though, is not as straightforward as it seems, on the surface. The Hon. Member for Peel has raised one obvious anomaly in this situation, but there are a number of other difficulties and we have, in fact, I think, carried out a consultation process in relation to trying to identify an effective working solution to this and, unfortunately, we have not made the progress that I hoped we might have done, in actually coming to a conclusion.

There is one element to this which is still missing and that is if we were to pursue the route as suggested by the Hon. Member for North Douglas, we would, because of its discriminatory basis, immediately fall foul of the Human Rights legislation, insofar as a relief of this nature would need to apply to all couples. That is not just heterosexual couples; it would need to apply to same-sex partnerships in the same manner.

Now, the reason, Mr Speaker, for the delay in coming forward with a comprehensive solution to this issue is the fact that the civil partnerships legislation which is currently being drafted in the General Registry, and I think has been under the auspices, initially, of the Chief Secretary's Division, is not yet ready for presenting to the House. If we bring in the civil partnerships legislation, it will be very much easier to bring a measure of this nature in, because it will apply to all sections of our community.

By not doing so, by doing it in advance of this legislation coming in, as I say, Mr Speaker, it will immediately be introducing discriminatory legislation which is contrary to our Human Rights legislation and requirements.

So, though totally understanding what the Member is trying to achieve, I would ask Hon. Members to be patient at this stage, to reject this particular clause and enable us to bring back a more comprehensive piece of legislation, which will, in fact, be Human Rights compliant, and will not only achieve what the Hon. Member for North Douglas

is trying to achieve, but also encompass the concerns of the Hon. Member for Peel and, indeed, the requirements of the Human Rights legislation.

It is not such an easy thing, Mr Speaker, just to say that we set an arbitrary figure of five years of couples living together, and then they could qualify for this. You have to decide why a period of five years is appropriate.

Equally, Mr Speaker, you have to prove or discover how to prove couples have lived together for five years, because many partners –

**Mr Houghton:** Same way as with a child, currently.

**Mr Bell:** Many partnerships change even with children, Mr Speaker, during that period of time and, therefore, it is not as straightforward as the Hon. Member has suggested.

So, Mr Speaker, as I say, repeating myself, I do understand exactly what the Hon. Member is trying to achieve, but I would ask Hon. Members in this case, please, understand this is not a straightforward piece of legislation. It is quite complex and it is bound up inextricably with our commitment to the Human Rights ethos.

Therefore, I would ask Hon. Members at this juncture to reject the new clause put forward by Mr Houghton, but also to accept my reassurance that we are doing all we can to hasten the arrival of the civil partnerships legislation, which will enable us then, in the not-too-distant future, to resolve this issue once and for all, but in the round.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

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

I will be brief on this. I just wanted to add to the comments made by the two speakers who have just resumed their seats.

I, too, agree that Mr Houghton has got a genuine concern here. I do not think any of us who know him would doubt that, but my question to him, really, is: this is rather a subjective area. I think if couples were married, the evidence is there that there is a legal partnership, but the mover talks about couples living together for a period of five years. I just wonder if he could answer me how you can evidentially and conclusively prove that matter.

I think it will introduce – if we adopt this clause – a difficulty for the Assessor to be able to assess accurately whether that has taken place.

**Mr Houghton:** That's easy.

**The Speaker:** Hon. Member for Douglas North, Mr Houghton, to reply to the debate.

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

It is very sad, Mr Speaker, really, that Hon. Members do not really approve the principle of the Bill. The principle is reasonable, so that we can get into the actual debate of the Bill proper, because I do have a speech that I was willing to read out for the clause proper, of course.

But in response to the Hon. Members, Speaker, it sounds to me like this will not be supported this afternoon, and I am very sorry and sad to see that, because I have been pursuing the Treasury for this for no less than five years.

**Mrs Hannan:** That is no time, at all.

**Mr Houghton:** I pursued the Treasury Minister for all this time. I have *met* with him on numerous occasions and discussed the matter in full, and any, what I would call, darn fool arguments that were put forward, that have been done by the Treasury Minister and his Member for the Treasury this afternoon were easily proved to be quite without foundation.

I will say that, again, in answer to the Hon. Member, Mr Earnshaw, shortly.

The comments from Mrs Hannan do not surprise me at all, because she cannot wait to see a civil partnership thing and see society go down the tubes –

**Mrs Craine:** Rubbish!

**Mrs Hannan:** Don't be so silly!

**Mr Houghton:** – completely and forever.

**Mrs Hannan:** Don't be so stupid!

**Mr Houghton:** Same sex couples getting married.

**Mrs Hannan:** No, it is not getting married, it is a partnership.

**Mr Houghton:** For God's sake, the Lord's sake, we saw it all at Christmas and in the new year, with Sir Elton John and others. Do we want to see it over here? Well, I am sorry, I do not, and I shall be voting against.

**The Speaker:** Well, Hon. Member, can I just remind you, we are not talking about that. What we are talking about is your new clause and I think if you concentrated on that that would be helpful.

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

But we have to say this argument of civil partnership legislation drawn up by the General Registry at this time, in argument as to what Mr Bell, the Hon. Member, had stated as part of his argument, must be looked at. If we want to continue going down the nick, like the United Kingdom is, yes, I am sure we will all vote for that. One who will not will be me.

It may become an election issue. I hope it does, because the three people who have spoken on this will certainly hang themselves on that point alone, Mr Speaker.

**Mrs Craine:** Inflammatory language!

**Mrs Hannan:** Don't be silly! (*Interjections*)

**Mr Houghton:** Mr Speaker, the Hon. Member, Mr Bell, of course, said, 'Yes, this is not... We are stuck with Human Rights legislation.'

We are stuck with human rights legislation because of the arguments that he had given under the issue of legislation coming forward under the Civil Partnerships Bill. Everything has to be Human Rights compliant – we know that – to the detriment of what is good and what is right on the Isle of Man. Is it not time we stood up in this Hon. House, against all of these things that are 'right'?

Let us have a little bit of decency round here, a bit of public decency –

**Mrs Hannan:** It is a judgement of what is decent.

**Mr Houghton:** – rather than fairness to those areas that I do not think would have any real support outside this Hon. House, Mr Speaker.

**Mrs Hannan:** Don't you believe it.

**Mr Houghton:** Can I deal with the Hon. Member for Onchan, Mr Earnshaw's issue. I am surprised because I have got a very great regard for Mr Earnshaw, but he states how, evidentially, will this prove to the Assessor of Income Tax. It is quite simply proven by the fact that each separate party already fills in his or her own tax form, sends it in – to where? The Assessor.

He has got to do nothing, only look at the file, look back, 'Oh yes, he's been living at number 7 Cotswold Close, Onchan, for...' It is simple, isn't it? It is not hard. It is not hard to trace someone's address these days, with all the computerisation that we have got and so on.

**Mr Cretney:** There is not a Cotswold Close.

**Mr Houghton:** Yes, Mr Cretney has just corrected me: there is not a Cotswold Close in Onchan: no, of course. That is what we are up against in this Hon. House.

So, quite easily, Mr Speaker, it is easily proven that these people have lived together for that time, and that then knocks out any problem where cohabiting couples are in and out of relationships for periods of time less than five years.

But once that is proven... because there are many people in such relationships, Mr Speaker. (**A Member:** Hear, hear.) There are at least, to the Treasury's reckoning, some 800 and they have already caved in, two years ago, in a Budget, that, of course, cohabiting couples with a child would then be able to share their tax relief between one party or another.

Now, how can they do that for one with a child and how do we know the child belongs to the couple? It may belong to one of the couple and not both, but that is harder to verify than the information I am asking for here, and what is unfair about that?

No, we want to park it all up in the Civil Partnerships Bill, because 'We know best, and you should do as we in the Treasury tell you.'

The Hon. Member for Ramsey, Mr Speaker, knows that I am quite supportive of many issues in the Treasury, but I cannot do with all this spin and lies and misleading that goes on –

**Mr Bell:** Point of order, Mr Speaker.

**The Speaker:** Take your seat, please, Hon. Member for Douglas North. Hon. Member for Ramsey.

**Mr Bell:** I object, strongly, to being accused of lying. We are simply stating the facts, as exist in Treasury's mind, at this moment. (*Interjection*)

**The Speaker:** Hon. Member for Douglas North, I would ask you to withdraw the remark.

**Mr Houghton:** Mr Speaker, I will not withdraw the remark, because I did not call Mr Bell, on this occasion, a liar.

I said I object to the lies and the spin we get from these Departments. I did not call the Hon. Member a liar, so I am not going to apologise for something I did not do, sir.

**The Speaker:** Hon. Member, I think with the greatest respect, your inference is that people are lying, and you are doing that in response to the Hon. Member for Ramsey. I think you should consider very carefully whether or not that is an appropriate thing to say at this stage, or at any stage.

**Mr Houghton:** Mr Speaker, it is well known by me and anybody else who looks at the truth in the way I do – many other Hon. Members – that we are being lied to and deceived many times in this Hon. House and the Court of Tynwald on numerous occasions.

**The Speaker:** Well, I think, Hon. Member, if you take your seat... I think, Hon. Member, as you are making such a serious accusation, you should provide me with evidence of that. I will give you a week to do that and, if you cannot, I will expect you to apologise.

Continue, Hon. Member.

**Mr Houghton:** Thank you, Mr Speaker. Oh, Mr Speaker, that is the way it goes in this place, isn't it?

**The Speaker:** Hon. Member, please reply to your new clause. I do not think you are doing yourself any favours by going into other tangents. Please respond.

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

I know that I have lost this motion this afternoon, Mr Speaker. That is the reason why I am speaking in the way that I am.

**The Speaker:** Well, it does not help.

**Mr Houghton:** Every Hon. Member can see that, sir, and so can you, but sometimes things have to be said in this hon. place.

It is alright. The issue is that if one thing suits one person or the Tax Department and another thing is that when private Members many times bring issues, they are despised, because they have thought of it ahead of that Government Department.

I am finding that now in another place, and I would be willing to tell you about that, too, if you wish to hear that, sir.

**The Speaker:** I am presiding officer here, Hon. Member, not in another place. Please continue.

**Mr Houghton:** Indeed. Thank you, Mr Speaker. That is all I have to say.

I thank all Hon. Members for their indulgence this afternoon, and I beg to move.

**The Speaker:** Hon. Members, the motion before the House is that new clause, identified as P on the Order Paper, is accepted. All those in favour of that principle, say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Mr Cannan  
Mr Houghton  
Mr Duggan  
Mrs Cannell  
Mr Delaney  
Mr Earnshaw

**AGAINST**

Mr Anderson  
Mr Teare  
Mr Rodan  
Mr Quayle  
Mr Rimington  
Mr Gill  
Mr Gawne  
Mr Cretney  
Mr Braidwood  
Mrs Hannan  
Mr Bell  
Mrs Craine  
Mr Corkill  
Capt. Douglas  
The Speaker

sorry. I need to put: those in favour of clause 16, say aye; against, no. The ayes have it. The ayes have it.

**Income Tax (Amendment) (No 2) Bill**  
**Standing Order 158(1) suspended**  
**to take Third Reading**

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

**Mr Bell:** Yes, Mr Speaker.

Bearing in mind the expressions mentioned round the Chamber and the fact that this is a very important Bill which we need to get through quickly, could I crave the indulgence of this Hon. Chamber, (**Mr Delaney:** Hear, hear.) Mr Speaker, to suspend Standing Orders, to enable the Third Reading of this Bill to be taken, at this time?

I move:

*That Standing Order 158(1) be suspended to allow the Third Reading of the Income Tax (Amendment) (No 2) Bill to be taken at this sitting.*

**Mr Cannan, Mr Houghton and another Member:** No.

**Mrs Craine:** Yes.

**The Speaker:** Proposed, Mr Bell. Do we have a seconder? Hon. Member for Ayre, Mr Teare.

**Mr Teare:** I beg to second, Mr Speaker. Thank you.

**The Speaker:** Hon. Members, I put the motion to the House, which requires 16 votes in favour as a suspension of Standing Orders, that this Bill now be read a third time. That is the Income Tax (Amendment) (No 2) Bill. All those in favour of the suspension of Standing Orders, say aye; against, no. The noes have it.

*A division was called for and voting resulted as follows:*

**FOR**

Mr Anderson  
Mr Teare  
Mr Rodan  
Mr Quayle  
Mr Rimington  
Mr Gill  
Mr Gawne  
Mr Houghton  
Mr Cretney  
Mr Duggan  
Mr Braidwood  
Mr Delaney  
Mrs Hannan  
Mr Bell  
Mrs Craine  
Mr Corkill  
Mr Earnshaw  
Capt. Douglas

**AGAINST**

Mr Cannan  
Mrs Cannell  
The Speaker

**Mr Delaney:** I thought I was the only liar in here, as well!

**The Speaker:** Hon. Members, the motion fails to carry, with 6 votes for and 15 votes against.

I think, Hon. Members, that one of the arts of trying to persuade the House to give support is not to necessarily attack Members or attack the House or say things that have no foundation. I will speak with the Hon. Member after the sitting.

Hon. Members, we move on to the next item, clause 15. Hon. Member for Ramsey, Mr Bell.

**Mr Bell:** Mr Speaker, clause 15 is merely an interpretive clause, and I beg to move.

**The Speaker:** Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that clause 15 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, clause 16. Hon. Member for Ramsey.

**Mr Bell:** Finally, Mr Speaker, clause 16 provides for the short title construction and commencement of this Bill.

Can I take this opportunity for thanking Hon. Members, once again, for their forbearance in the speedy passage of this Bill. It is a very important Bill and, again, I thank them for giving up their Wednesday afternoon for this.

I beg to move.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

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

I would just like to echo the sentiments of the mover, Mr Bell.

**The Speaker:** And I presume you are seconding.

**Mr Earnshaw:** I will second. *(Laughter)*

**Mr Delaney:** Why don't we take the next Reading?

**The Speaker:** Hon. Members, that concludes... Oh,

**The Speaker:** Hon. Members, the motion carries, with 18 votes for and 3 votes against.

**Income Tax (Amendment) (No 2) Bill**  
**Third Reading approved**

**The Speaker:** Therefore, we move on to the Third Reading. Hon. Member, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker, and can I thank Hon. Members for their support on this.

Mr Speaker, very briefly, as we have just gone through the clauses stage, this Income Tax (Amendment) (No 2) Bill has been very long in gestation. It has had one of the most extensive ranges of consultation with the industry that any Income Tax Bill has had for quite some time, and has the full support of the industry in going forward with its recommendations today.

Essentially, Mr Speaker, as Hon. Members are now aware, the Bill deals with the corporate taxpayers' annual charge, the extent of which will be identified in the Budget, later this month. It deals with the tax treatment of married couples, the very important companies' distributable profits charge, which is an anti-avoidance measure, which is essential for the introduction of the final stages of the Tax Strategy and the move to zero rate of corporate tax. It deals with the taxation of non residents, the variation in rates of income tax and the treatment of deep discounts, and gives clarification on a number of these issues which have been in question to date.

Mr Speaker, I do not think there are any points outstanding from the clauses stage which I need to answer at this point. Simply, Mr Speaker, I would like to, again, thank Hon. Members for their support and indulgence on this Bill, and beg to move:

*That the Income Tax (Amendment) (No 2) Bill be read the third time and be sent to the Council*

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Mr Speaker, I beg to second and reserve my remarks.

**The Speaker:** Hon. Members, the motion before the House is that the Income Tax (Amendment) (No 2) Bill be now read a third time. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Attendance of the House**  
**Statement by the Speaker**

**The Speaker:** Now, Hon. Members, before I adjourn the House, can I just remind Hon. Members that it was a decision of the House to have extra sittings on a Wednesday. Can I also remind Hon. Members, it is their duty to be in attendance at this House, unless they have leave given by myself.

I have to say, for our first sitting on a Wednesday afternoon, too many Members have been absent for too long.

I do expect Members, as the House does, to attend (**Two Members:** Hear, hear.) and I will take action if Members continue to be absent for too long.

Hon. Members, the House will now stand adjourned until Tuesday next, 7th February, at 10 a.m.