



**HOUSE OF KEYS**  
**Y Chiare as Feed**

**ORDER PAPER**  
**Claare Obbyr**

**Douglas**  
**Tuesday 31<sup>st</sup> January 2006**  
**10.00 am**

**1. QUESTIONS FOR ORAL ANSWER**

- 1. The Hon Member for Onchan (Mr Karran) to ask the Chief Minister -**

**In view of the stalemate regarding the recommendations of the Commission reporting on Legal Aid being implemented, would you consider covering professional indemnity of advocates that do a certain amount of pro-bono work for the less well off in our society, to be able to facilitate access to justice?**

- 2. The Hon Member for Onchan (Mr Karran) to ask the Chief Minister -**

**What progress has been made with setting up the Churches Conservation Trust?**

- 3. The Hon Member for Douglas North (Mr Houghton) to ask the Minister for the Treasury -**

**In view of the UK Office for National Statistics' decision to reclassify the TV Licence fee as a tax, what are the implications for this with respect to the IOM Treasury, or will the Manx public be exempt from the liability to pay this UK stealth tax?**

4. The Hon Member for Onchan (Mr Karran) to ask the Minister -

- (1) What is the current financial position of the IRIS Project; and
- (2) have the new pumps at White Hoe been a success?

5. The Hon Member for Onchan (Mr Karran) to ask the Minister for Transport -

In view of your Department's recent objection to a planning application for the conversion of stables off Scollag Road, Onchan -

- (a) based on the fact that there have been three head on collisions on that road; and
- (b) in view of the independent Inspector's statement that the road is dangerously sub-standard for heavy traffic -

are you satisfied that all relevant standards requirements have been complied with?

6. The Hon Member for Ramsey (Mrs Craine) to ask the Minister for Transport -

Following the lengthy discussions, when is your Department going to introduce a scheme of displayed insurance discs or some other means of paid insurance identification in respect of all motor vehicles?

7. The Hon Member for Michael (Mr Cannan) to ask the Minister for Local Government and the Environment -

Can you justify the press release "Where will our Waste go" issued on 23<sup>rd</sup> January 2006 by your Department?

8. The Hon Member for Onchan (Mr Karran) to ask the Minister for Local Government and the Environment -

What progress has been made following your survey of the Island's churches with the modification of the redundant churches legislation to protect such buildings?

9. The Hon Member for Michael (Mr Cannan) to ask the Minister for Tourism and Leisure -

How does your Department intend to respond to the unacceptable and scurrilous attack on the Isle of Man by A A Gill in an article in the Sunday Times magazine dated 22<sup>nd</sup> January 2006?

10. The Hon Member for Onchan (Mr Karran) to ask the Chairman of the Office of Fair Trading -

Will you investigate whether the Isle of Man Law Society Indemnity Scheme works in the interests of the consumer and does not represent an anti-competitive arrangement?

## 2. QUESTIONS FOR WRITTEN ANSWER

1. The Hon Member for Onchan (Mr Earnshaw) to ask the Chief Minister -

- (1) Who owns the Joey Dunlop Memorial site at the Bungalow;
- (2) who is responsible for care of the site and maintenance of the Memorial;
- (3) do you agree sites such as these, which are a significant attraction to many visitors should be maintained to a high standard; and
- (4) will you use your influence to ensure appropriate repairs are effected prior to TT 2006 and consideration is given to installing a regular care programme for this and similar sites around the Island?

2. The Hon Member for North Douglas (Mr Henderson) to ask the Minister for the Treasury -

- (1) What is the length of the lease for offices at No 1 Cornhill, London; and
- (2) what are the costs involved to the Manx taxpayer for -
  - (a) the lease; and
  - (b) the opening ceremony, inclusive of travel arrangements and plaque?

3. **The Hon Member for Malew and Santon (Capt Douglas) to ask the Minister for Health and Social Security -**

**For the last five years -**

- (a) **what is the value of the annual monetary grant to Hospice made by your Department; and**
- (b) **what other benefits do they receive?**

### **3. LEAVE TO INTRODUCE**

1. **The Hon Member for Douglas North (Mr Houghton) to move -**

**That leave be given to introduce a Bill to amend the High Court Act to permit limited companies and individuals to make application directly to the Small Claims Court without the assistance of Legal Council.**

### **4. PAPERS TO BE LAID**

1. **Report of the Select Committee on Voluntary Euthanasia**

### **5. BILL FOR FIRST READING**

1. **Disability Discrimination Bill**

**Mr Rodan**

### **6. BILLS FOR SECOND READING**

1. **Sex Offenders Bill**

**Mr Houghton**

2. **Minerals (Amendment) Bill**

**Mr Quayle**

3. **Representation of the People (Amendment) Bill**

**Mr Cretney**

4. **Public Health (Tobacco) Bill**

**Mr Rodan**

5. **Insurance Companies (Amalgamations) Bill**

**Mr Teare**

## 7. BILL FOR CONSIDERATION OF CLAUSES

### 1. Income Tax (Amendment)(No 2) Bill

Mr Bell

#### *Tabled Amendments*

Clause 1	(Mr Teare)
<u>After clause 4</u>	
New clause [A]	(Mr Karran)
New clause [B]	(Mr Karran)
New clause [C]	(Mr Karran)
New clause [D]	(Mr Karran)
New Clause [E]	(Mr Karran)
New clause [F]	(Mr Karran)
New Clause [G]	(Mr Karran)
New Clause [P]	(Mr Houghton)
Clause 5	(Mr Teare)
New Clause [H]	(Mr Karran)
Clause 6	(Mr Teare)
<u>After clause 6</u>	
New Clause [I]	(Mr Karran)
Clause 7	(Mr Teare)
<u>After clause 7</u>	
New Clause [J]	(Mr Karran)
New Clause [K]	(Mr Karran)
New Clause [L]	(Mr Karran)
New Clause [M]	(Mr Karran)
New Clause [N]	(Mr Karran)
New Clause [O]	(Mr Gill)
Clause 8	(Mr Teare)
<u>After clause 13</u>	
New Clause [Q]	(Mr Teare)
Clause14	(Mr Teare)

*The House may be asked to suspend Standing Orders to take further stages of the above Bills.*

*Unless the House otherwise determines, the above business will be considered in the order shown.*

**Malachy Cornwell-Kelly**  
**Secretary of the House**

## INCOME TAX (AMENDMENT) (NO 2) BILL

### NEW CLAUSES TO BE MOVED BY MR KARRAN

#### **Qualification for credit: individuals**

*(Suggested after Clause 4)*

[A] For the purposes of section 2 of the Income Tax Act 2003, an individual is not qualified to claim credit if that individual's capital exceeds £25,000.

#### **Qualification for credit: joint assessment of married couples**

*(Suggested after Clause 4)*

[B] For the purposes of section 3 of the Income Tax Act 2003, a married couple are not qualified to claim credit if the combined capital of the couple exceeds £50,000.

#### **Credit: individuals**

*(Suggested after Clause 4)*

[C] (1) In section 5(1) of the Income Tax Act 2003 for "£6,000" substitute "£8,000" and for "£200" substitute "£500".

(2) In section 5(2) of the Income Tax Act 2003 for "£8,000" substitute "£10,000", for "£10" substitute "£4" and for "10" substitute "4".

#### **Credit: married couples**

*(Suggested after Clause 4)*

[D] (1) In section 6(2) of the Income Tax Act 2003 for "£12,000" substitute "£16,000" and for "£400" substitute "£1,000".

(2) In section 6(3) of the Income Tax Act 2003 for "£12,000" substitute "£16,000", for "£16,000" substitute "£20,000", for "£10" substitute "£4" and for "10" substitute "4".

#### **Calculation of credit where obligation to submit return suspended**

*(Suggested after Clause 4)*

[E] In section 7(2) of the Income Tax Act 2003 for "£200" substitute "£500" and for "£400" substitute "£1,000".

#### **Personal Allowance Credit: Regulations**

*(Suggested after Clause 4)*

[F] In section 14 of the Income Tax Act 2003 insert -

"(f) for the calculation of a person's capital for the purposes of sections [A] and [B], and for those purposes the regulations may specify the assets that may or may not be taken into account in the calculation;

(g) for amending the amounts specified in sections [A] and [B].”

[G] Sections [A] to [E] shall have effect in respect of the tax year commencing on 6 April 2006 and subsequent years.

**Share issues**

*(Suggested after Clause 5)*

[H] (1) In the Income Tax Act 1970 after section 2P insert –  
**“Bonus share issues, etc.**

2Q. (1) This section applies in respect of the issue of any shares in a body corporate if –

- (a) there is no consideration given by the person to whom the shares are issued, or the consideration (if any) is less than the cash equivalent of the shares; and
- (b) the issue is funded out of the profits of the company.

(2) Such an issue of shares shall be treated as income accruing to the person to whom the shares are issued and accordingly chargeable to income tax in respect of an amount equal to whatever is the cash equivalent of the shares.

(3) The cash equivalent of a share is either –

- (a) calculated by reference to the value of the body corporate shown in the last annual accounts of the body; or
- (b) the amount that a willing purchaser would pay for such share in an arm’s length transaction,

whichever is the greater.

(4) This section does not derogate from any other provision of the Income Tax Acts that provides for the taxation of share issues.”.

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

(2) In the Income Tax Act 1970 after section 2Q insert -

**“Purchase of own shares by bodies corporate.**

2R. (1) This section applies in respect of the purchase by a body corporate of any of its own shares from a member who is -

- (a) a participator in the body; or
- (b) an associate of a participator; or
- (c) an officer of the body; or

- (d) an associate of an officer of the body,  
otherwise than in the ordinary course of business carried on by the body.
- (2) Expressions used in paragraphs (a) to (d) of subsection (1) have the same meaning as in sections A108 to J108 of this Act (inserted by Schedule 3 to the Income Tax (Amendment) Act 2004).
- (3) The consideration for such a purchase shall be treated as income accruing to the person from whom the shares are purchased and accordingly chargeable to income tax in respect of the net amount.
- (4) The “net amount” is the gross consideration given by the body corporate for the purchase of the shares less any consideration given by the member in respect of the member’s acquisition of the shares.
- (5) The “gross consideration” is the amount paid to the member by the body corporate for the shares or the cash value of any other consideration given in respect of the shares.
- (6) The “cash value” is the amount that would be paid in respect of any asset or right that represents the consideration by a willing purchaser in an arm’s length transaction.
- (7) This section does not derogate from any other provision of the Income Tax Acts that provides for the taxation of the consideration for the purchase by a body corporate of its own shares.
- (8) The purchase of its own shares by a body corporate is in the ordinary course of its business if it is a collective investment scheme within the meaning of section 30 of the Financial Supervision Act 1988”.
- (2) This section shall have effect in respect of the tax year commencing on 6 April 2006 and subsequent years.”.

**Deduction of tax from rental payments to non-residents.**  
*(Suggested after Clause 6)*

- [I] (1) After section 71 of the 1970 Act insert -

**“Deduction of tax from rental payments to non-residents.**

- 71A.** (1) The Assessor shall exercise the powers conferred under section 71 in every case where a taxable payment represents rents of land in the Island.
- (2) Any notice to be given under section 71(1) in respect of such a payment may, at the discretion of the Assessor, be given by means of a public notice printed in two newspapers published and circulating in the Isle of Man and shall have effect as if delivered personally to each person concerned.

- (2) This section shall have effect in respect of the income tax year commencing on 6 April 2006 and subsequent years."

**Powers exercisable in support of environment.**

*(Suggested after Clause 7)*

"[J] (1) After section 31A(2) of the 1970 Act add -

- (3) The powers conferred by this section may be exercised for the purpose of promoting the conservation or enhancement of the environment.
- (4) The Treasury shall exercise the powers conferred on it under this section so as to provide for special deductions to be allowed in respect of payments for the purchase of biodiesel for use exclusively in the course of such trades or professions as are prescribed by the order."
- (5) In subsection (4), "biodiesel" has the same meaning as in section 2AA of the Hydrocarbon Oils Duties Act 1986 [c. 38] and includes "bioblend" as defined in section 6AB(2) of that Act.

(2) After section 35B of the 1970 Act insert -

**"Allowance for individuals in respect of environment friendly expenditure.**

- 35C. (1) Subject to the following provisions of this section, an individual shall be entitled, for the purpose of ascertaining taxable income, to a deduction from his total income if he proves that he has made payments wholly and exclusively in respect of environment friendly works or services.
- (2) The Treasury shall make such regulations as are necessary to give effect to this section and, but without prejudice to the generality of that power, regulations shall make provision as to -
    - (a) the amount of deductions under this section;
    - (b) the method of calculation of deductions;
    - (c) whether deductions shall be made in the year in which the payment is made or in any other year;
    - (d) the conditions and restrictions which are applicable to the making of deductions.
  - (3) In this section, "environment friendly works or services" means works or services that are classified in regulations as promoting the conservation or enhancement of the environment.

- (4) Regulations under this section shall not come into operation unless they are approved by Tynwald.”
- (3) This section shall have effect in respect of the income tax year commencing on 6 April 2006 and subsequent years.

**Manx language allowance.**  
(Suggested after Clause 7)

[K] (1) After section 35C of the 1970 Act insert -

**“Allowance for individuals gaining Manx language qualifications.**

35D. Subject to the following provisions of this section, an individual shall be entitled, for the purpose of ascertaining taxable income, to a deduction of £100 from his total income if he proves that he has passed a General Certificate of Secondary Education examination in Manx language studies or an examination which the Assessor is satisfied is of an equivalent standard.

- (2) This section shall have effect in respect of the income tax year commencing on 6 April 2006 and subsequent years.”

**Child Care**  
(Suggested after Clause 7)

[L] After section 35B of the 1970 Act insert –

**“Relief in respect of certain child care payments.**

37A. (1) If a claimant proves that

- (a) a child of his is received to be looked after at premises, or by a person, registered under section 1 of the Nurseries and Child-Minders Regulation Act 1974 [c.12]; and
- (b) the claimant pays, wholly or partly at his own expense, a fee which is charged in respect of that service,

the claimant shall be allowed a deduction from his total income of an amount equal to the cost to the claimant of such fee but such deduction shall not in any case exceed £1,500 or such greater sum as the Treasury may by order prescribe.

- (2) In subsection (1), the reference to a child of the claimant means-

- (a) a child who is a marital child of the claimant;
- (b) a stepchild of the claimant; and
- (c) a child who is wholly maintained by the claimant at the claimant's own expense.

(3) An order under subsection (1) shall not come into operation unless it is approved by Tynwald.

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

### **Education**

*(Suggested after Clause 7)*

[M] After section 37B of the 1970 Act insert –

#### **“Relief in respect of fees for tertiary education.**

**37C.** (1) If a claimant proves that he is of or over the age of 18 years and has been in receipt of instruction at or from an educational establishment, the claimant shall be allowed a deduction from his total income of an amount equal to the cost to the claimant of fees charged by such educational establishment in respect of the course of instruction.

(2) In this section -

“educational establishment” means any university, college, school or other educational establishment;

“course of instruction” means any course (whether full-time, part-time or by distance learning) leading to a degree, certificate of higher education, diploma of higher education or other award and includes training for any trade, profession or vocation.

(3) The amount of tax relief available under this section shall be reduced by the amount of any grant paid by any public authority in respect of the fee for the relevant course.

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

### **Special charges**

*(Suggested after Clause 7)*

[N] (1) After section 1A of the 1970 Act insert –

#### **“Rental income.**

**1B.** (1) Income arising or accruing from the annual profits of or in respect of any dwelling in the Isle of Man shall be charged at double the higher rate on every pound of taxable income so arising or accruing.

(2) In subsection (1), “the higher rate” has the meaning given in section 1(2A).

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

(2) After section 1B of the 1970 Act insert –

**“Development income.**

**1C.** (1) The owner of land shall be charged income tax on the notional value of any dwelling that is built or to be built on land owned by him.

(2) The tax shall be charged from the commencement of building works until the date on which the dwelling is sold to an arm’s length purchaser for value.

(3) In this section –

“built” includes works of conversion;

“commencement of building works” means the date on which the laying of foundations was commenced or the first works of conversion were commenced;

“dwelling” means a building or part of a building intended for human habitation;

“notional value” means the gross rental that a willing tenant might be expected to pay in respect of the dwelling when completed.

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

**NEW CLAUSE TO BE MOVED BY MR GILL**

**Governor’s salary**

*(Suggested after Clause 7)*

[O] (1) Section 24 of the 1970 Act shall cease to have effect from such date (which may be during a year of assessment) as the Council of Ministers may by order appoint, and such order shall not come into operation unless it is approved by Tynwald.

(2) Where an order under subsection (1) of this section takes effect from a date falling within a year of assessment, it shall have effect only in respect of taxable income actually received after that date.

**NEW CLAUSE TO BE MOVED BY MR HOUGHTON**

**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.”.

**Amendments to be moved by: Mr Teare**

#### **CLAUSE 1**

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

#### **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%”.

## 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.”.

## 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.

## 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 6April 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."

**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);”.

### **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.”.