

## Income Tax Bill 2012 Clauses considered

4.2. Mr Henderson to move.

**The Deputy Speaker:** I move on Item 4.2, the Income Tax Bill 2012, and call upon the Member for the Treasury, Mr Henderson.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Lhiass-loayreyder, this Bill contains 17 clauses and confirms six Temporary Taxation Orders, repeal of certain spent Income Tax legislation, makes a number of amendments to the Income Tax Act 1970 and an amendment to the Income Tax Act 1989.

Sir, clause 1 provides the short title of the Act. I beg to move that clause 1 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

**Mr Teare:** I beg to second, Mr Deputy Speaker.

**The Deputy Speaker:** The clause is seconded that clause 1 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 2 confirms six Temporary Taxation Orders. The first of these is the Income Tax (Repeal of the Attribution Regime for Individuals) Order 2011 [*SD 0847/11*], which was approved by Tynwald in October 2011. This Order repealed the Attribution Regime for Individuals (ARI), and prevents possible avoidance of the regime provisions during the period of transition. The decision to repeal ARI was taken following the European Union Code of Conduct Group ruling that the Zero-10 corporate tax system, together with ARI, had a harmful affect. The decision was announced in the 2011 Budget and later that year, the EU Code of Conduct Group, which monitors compliance with the EU Code of Conduct for Business Taxation, agreed in principle that the Zero-10 corporate tax system would no longer be considered helpful if the abolishing of ARI was implemented. ECOFIN, the EU's Economic and Financial Affairs Council subsequently confirmed this in December of last year.

The second Order is the Income Tax (Deductions) (Temporary Taxation) Order 2012 [*SD 48/12*]. The Order was approved by Tynwald in this year's Budget and provides that the deductions in respect of nursing expenses, medical insurance relief and donations by individuals to charities will reduce liability to Income Tax, instead of reducing total income. In addition, the tax relief for these deductions will only be allowed at a rate equal to the lower rate of tax so that all taxpayers receive the same treatment. This, in conjunction with a separate Order also forming part of the Budget, will provide that the majority of reliefs are now only at the lower rate.

The third is the Income Tax (Exempt Income) (Temporary Taxation) Order 2012 [*SD 50/12*]. This Order was also approved by Tynwald in February's Budget and prevents maintenance payments received from being treated as taxable income. This Order, together with another Budget Order which abolishes tax relief for making maintenance payments, simplifies an area of taxation that has been difficult to administer.

The fourth is the Income Tax (Personal Allowance Credit) (Temporary Taxation) Order 2012, [*SD 51/12*] – a further Order approved as part of this year's Budget. This reduces the amount of personal allowance credit payable from £700 to £500 for a single individual and from £1,400 to £1,000 for a jointly assessed couple, in order to reduce the rising cost of the personal allowance credit system. Simply put, it is no longer sustainable.

It also simplifies further changes by enabling the amount payable to those taxpayers, who are not required to submit an annual income tax return, to be amended by regulations, instead of by Tynwald resolution, and confirms that those regulations may have effect in respect of the year of assessment in which they are made.

The fifth Order is the Income Tax (Employers) (Temporary Taxation) Order 2012 [*SD 52/12*], which was also improved in February's Budget. The Order requires employers to undertake their Income Tax transactions using the on-line service provided by the Income Tax Division. Introduction of the requirements will be phased, applying to employers with more than 100 employees from 6th April 2012. All employers will be included from 6th April 2014, apart from those falling into an exemption category.

The sixth and final Order to be confirmed by the Bill is the Income Tax (Individuals) (Temporary Taxation) Order 2012, [*SD 0098/12*]. The Order, which was approved by Tynwald in March of this year, restores some information gathering powers of the assessor, which had been removed by the repeal *en bloc* of the ARI provisions and which are required in order for the Island to continue to meet its international obligations. It also

amends provisions regarding loans to participators in order that they apply to corporate taxpayers and will therefore cover foundations.

Lhiass-loayreyder, I beg to move that clause 2 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been proposed and seconded that clause 2 do stand part of the Bill. All those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson.

**Mr Henderson:** Clause 3 repeals a number of Income Tax Acts or provisions of Income Tax Acts that have come fully into operation and are therefore spent. The repeal of these Acts and provisions does not affect their previous operation. The main reason for the repeals is to remove dead wood from the Income Tax part of the Island's statute book, thereby making it easier to find items of current legislation.

This will produce an ongoing cost saving to Government of not having to reprint such Acts and provisions. However, they will always be accessible in the annual volumes and in previous reprints produced under the Reprints Act 1981.

I beg to move that clause 3 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 3 do stand part of the Bill. All those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 4.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 4 amends section 15 of the Income Tax Act 1995 concerning Temporary Taxation Orders (TTOs). It provides that a TTO will apply to all future tax years unless it states otherwise; also, that once confirmed by an Act, a TTO becomes permanent but can still be amended by a future TTO.

The inclusion of these provisions in section 15 will remove the need for them to be included in each individual TTO and confirmatory Act, as has been the case to date, and will make the drafting of those documents [*Inaudible*]. The clause also provides that any Act or any provision of an Act that confirms a TTO will be automatically repealed on the day after the Act's promulgation, by which time they will be considered to be spent.

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

**The Deputy Speaker:** Mr Teare.

**Mr Teare:** I beg to second that clause 4 stand part of the Bill and reserve my remarks, sir.

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 4 do stand part of the Bill. All those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 5.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 5 moves the amended section 15, concerning TTOs, from the Income Tax Act 1995 into the Income Tax Act 1970, the main Income Tax Act, where it forms new section 115A. The section sits more comfortably in the main Act and is tidier legislatively, as the remainder of the Income Tax Act 1995 has been repealed by clause 3 of this Bill.

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

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 5 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 6.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
Clause 6 confirms that part 6 of the Bill amends the Income Tax Act 1970.  
I beg to move that clause 6 do stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 6 do form part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 7.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
Clause 7 amends sections 11A and 48B of the Income Tax Act 1970 by replacing references to the Department of Health and Social Security with the Department of Social Care to reflect the changes in Government structure introduced in 2010.  
I beg to move that clause 7 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 7 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 8.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
Section 32A of the Income Tax Act 1970 provides for a deduction to be applied to the collection of class 4 contributions. However, as the deduction is no longer applied, clause 8 will repeal this section.  
Sir, I beg to move that clause 8 stand part of the Bill.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 8 do stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 9.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
Following the coming into effect of the Civil Partnership Act 2011, clause 9 amends section 65A of the Income Tax Act 1970 concerning the election for joint tax treatment by replacing a reference to ‘husband and wife’s’ with ‘spouses’ or civil partners’.  
Sir, I beg to move clause 9 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 9 do stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson, clause 10.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
When the Assessor of Income Tax is carrying out an inquiry into a taxpayer’s affairs, he has the power to request certain information from another person which relates to that taxpayer under inquiry. The Assessor will initially issue a request to that other person, and if the information is not made available after a reasonable time, the Assessor issues a written notice to that person requiring the information to be produced.

The Assessor must also, at that point, notify the taxpayer under inquiry by providing another copy of the written notice and a summary of the reasons for its issue. This obligation currently applies regardless of whether or not the taxpayer's address or whereabouts are known by the Assessor.

In cases where these details are not known and this obligation therefore cannot be met, the legislation currently does not make provision for the Assessor not to comply with the obligation. This is particularly important where an information request has been made under an international agreement and the taxpayer is not resident in the Island. Clause 10 will remove this requirement in cases where the Assessor is not aware of the addresses of the taxpayer under investigation.

I beg to move that clause 10 do stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 10 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, clause 11.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 11 inserts two new sections into the Income Tax Act 1970 which concern depositions for international exchange agreements. The Isle of Man has now signed 32 international tax agreements. Six of these are Double Taxation Agreements, while 26 are Tax Information Exchange Agreements. When these agreements have been ratified in both countries and are in force, requests for information can be made by either party in accordance with the terms of the agreement.

In some countries which are signatories to a tax agreement with the Isle of Man, information is only admissible in court proceedings when produced by a sworn deposition. If this cannot be produced, the person providing the information could be required to attend court in the requesting country in person. The Assessor of Income Tax currently does not have the power to request information to be provided by means of a sworn deposition. Therefore, in order to help simplify the process of complying with a request, the first of the two new sections, 105P, introduces this power in cases where the information is requested under the terms of an international tax agreement. The second new section, 105Q, makes it an offence for the person requested to provide the information by a sworn deposition to notify the taxpayer under investigation or to disclose to anyone any information which is likely to prejudice the inquiry.

Sir, I beg to move that clause 11 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, moved and seconded that clause 11 do stand part of the Bill. All those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, move clause 12.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 12 amends the statutory information gateway that currently exists between the Assessor and the Collector of Customs and Excise. Under the current terms of the gateway, the Assessor may disclose information to the Collector that is required to assist him in the performance of his duties. However, unlike a number of other existing gateways, it does not allow the Collector to forward information obtained in this way to a third party. This clause therefore updates the terms of the gateway to allow the Collector to forward information obtained through it, provided that the Assessor gives his consent. It also makes it an offence for information obtained in this way to be forwarded without consent.

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

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 12 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson to move clause 13.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 13 also amends the terms of the statutory information gateway. This exists between the Assessor and both the Collector of Customs and Excise and the Department of Social Care, and allows the Collector and the Department of Social Care to disclose information to the Assessor for the purpose of assisting him in the performance of his duties under the Income Tax Acts. However, as in the previous case, the gateway does not allow any information provided to be forwarded to a third party. This amendment will allow the Assessor to disclose the information obtained via the gateway to a third party, providing the consent of the disclosing body is given. Also, as in the previous clause, it will be an offence for information obtained in this way to be disclosed without consent.

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

**The Deputy Speaker:** Mr Teare.

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

I beg to second and to reserve my remarks, sir.

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 13 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

**Mr Henderson:** Mr Henderson to move clause 14.

**The Deputy Speaker:** Gura mie eu, Lhiass-loayreyder.

Earlier in this Bill, clause 5 provided for the relocation of section 15 of the Income Tax Act 1995, concerning Temporary Taxation Orders, into the Income Tax Act 1970. Clause 14 inserts a new cross-heading into the 1970 Act to introduce the new Temporary Taxation Order section at 115A.

Sir, I beg to move that clause 14 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 14 do stand part of the Bill. All those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson to move clause 15.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 15 inserts schedule 3 into the Income Tax Act 1970 and consists of two paragraphs.

Paragraph (1) provides savings provisions to ensure the ongoing effect of any transitional provisions contained in those Income Tax Acts and provisions repealed in clause 3.

The second paragraph of the schedule makes provisions regarding section 115A of the Income Tax Act 1970, which is inserted by clause 5.

Sir, I beg to move that clause 15 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 15 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.

Mr Henderson, move clause 16.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.

Clause 16 amends section 12 of the Income Tax Act 1989 by replacing a reference to 'Department of Health and Social Security' with 'Department of Social Care' to reflect the changes in Government structure introduced in 2010.

I beg to move that clause 16 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

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

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 16 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Mr Henderson to move clause 17.

**Mr Henderson:** Gura mie eu, Lhiass-loayreyder.  
Clause 17 provides for this Act to expire on the day after its promulgation, by which time it will be spent. This will help to restrict the contents of the Income Tax parts of the Island's statute book to current legislation.  
Sir, I beg to move that clause 17 stand part of the Bill.

**The Deputy Speaker:** Mr Teare.

**Mr Teare:** I beg to second, sir, but I would also like to thank my hon. colleague in Treasury for the work that he has done in promoting and moving the very heavy load of legislation that is coming forward through Treasury at the moment.

**Mrs Cannell:** Hear, hear.

**The Deputy Speaker:** Hon. Members, it has been moved and seconded that clause 17 do stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Thank you, Hon. Members.