

### 3.3. Income Tax Bill 2015 – Second Reading approved

Mr Teare to move:

*That the Income Tax Bill 2015 be read a second time.*

**The Speaker:** Income Tax Bill.

I call on the mover, the Hon. Member for Ayre, Mr Teare.

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

This Bill confirms two temporary taxation orders, makes various amendments to the Income Tax Act 1970 and one amendment to the Income Tax Act 1989. The Bill is divided into four parts and has 12 clauses. I will now give Hon. Member an overview of the Bill.

The first part of the Bill contains clauses 1 to 3.

Clause 1 provides the short title of the Act.

Clause 2 provides the interpretation.

Clause 3 provides for the expiry of the Act.

The second part of the Bill contains clause 4, which confirms two temporary taxation orders. Before I provide you with an outline of the Orders, I would like to explain the temporary taxation order process. A temporary taxation order is used by the Treasury to amend and introduce primary income tax legislation. It is mainly used to react quickly to international changes or to introduce measures for the Budget. The Order has the same power as primary statute and has immediate effect once approved by Tynwald; however, it will cease to have effect within 12 months of the day on which it was approved by Tynwald unless this House reads a Bill confirming the Order for a second time.

The two temporary taxation orders to be approved by this Bill were approved by Tynwald as part of the 2014 Budget. The first of these Orders changed the tax cap system that was introduced in 2006. Under the new system an individual or jointly assessed couple must elect for the cap to be applied and if the election is approved it will apply for five consecutive years at the amount applying to the first year.

The second Order enabled appropriate income tax data to be provided for specific economic purposes to assist Government. It also made it an offence for the information to be disclosed other than the purpose for which it was supplied.

Part 3 of the Bill contains seven clauses which make a number of amendments to the Income Tax Act 1970. The first of these, clause 5, introduces part 3 of the Bill. The sixth clause amends the tax cap legislation to ensure that a person, who was elected for the five-year cap to apply, will not pay more income tax as a result of the election.

The seventh clause makes a number of amendments to the international arrangements provided for by part 9 of the 1970 Act. These update wording, make a consequential amendment, substitute a section, make a grammatical correction and replace out-of-date cross references.

Clause 8 amends part 11 of the 1970 Act. It replaces the heading, inserts a new section enabling Treasury to make regulations about the keeping of accounting records and also makes a number of minor amendments to section 105D.

Clause 9 makes a number of amendments to part 12 of the Act. These include changes to section 105K, which will help to prevent certain actions that frustrate an investigation into an individual's tax affairs. They also remove a few words from section 105L and make a number of largely grammatical changes to section 105M.

Clause 10 inserts a new part 12A into the 1970 Act. The new part will amend parts 11 and 12 of the Act for the purposes of exchanging information under an international arrangement. This will

remove the need for such changes to be made in each separate ratification order and will apply them to all current and future international arrangements.

Finally, clause 11 inserts a new definition into section 120 of the 1970 Act.

Part 4 of the Bill contains clause 12. This amends section 5A of the Income Tax Act 1989 so as to require Tynwald approval for regulations made under that section.

Mr Speaker, I beg to move the Second Reading of this Bill.

**The Speaker:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

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

**The Speaker:** Hon. Member, Mr Thomas.

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

Can the Treasury Minister please tell us more about clause 6 which seems to amend the tax cap arrangements quite substantially, inasmuch as I think it would be assumed previously up until this point that if you elected to pay the tax cap you were agreeing to pay £120,000 per year; but now with this amendment you are having the right *not* to pay £120,000 a year as you have previously agreed, because if you earn less than the tax cap amount you do not have to pay the £120,000.

So perhaps the Treasury Minister can tell us a bit more about that change, please.

I also wanted to ask more generally why that change is being introduced in terms of primary legislation, when we have the possibility of a temporary taxation order either at the budget, or perhaps we could have amended or annulled the previous taxation order without extending it permanently here with this legislation? I need to understand a bit more from the Minister about the thinking behind the use of legislation to correct something, and a temporary taxation order to bring something in.

A final point I wanted to make is: will the Minister confirm that he still thinks it is appropriate to bring in profound changes to tax policy through these temporary taxation orders?

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

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

I am just curious to build slightly on that, just to understand a bit more from the Treasury Minister the impact of the changes, in terms of how it will impact in receipts into Treasury, in respect of ironing out the anomalies whereby previously an individual may have simply applied for the tax cap in one particular year as a one-off – in other words, perhaps rolled up dividends or rolled up bonus payments due to them from companies, and therefore have previously received the benefit of the tax cap but, in actual fact, were not previously tax cappers.

I would just be interested as to whether the Treasury Minister can give the Court a feel for what additional revenues will be raised as part of this.

Also, just to further build on the £120,000 for an individual and £240,000 for a jointly assessed married couple or civil partners: is the Treasury Minister able to indicate from the tax cap how many of our tax-cappers are assessed under the jointly assessed married couple or civil partners band?

**The Speaker:** Hon. Member, Mrs Beecroft.

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

I have similar queries to the previous two speakers, really. The five-year buy-in and sign-up for the tax cap: we were given to believe that this was to give Treasury certainty of the income going

forward of what it was going to receive; but it would seem now that people can elect to opt out of this if it proves not to be to their benefit.

It just seems a bit strange, so clarity on that would be appreciated.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I would just like to ask the Shirveishagh Tashtee on the issue of whether there should be some sort of economic impact as part of this tax cap mechanism. Does he feel that it needs to be primary legislation, or does he feel that he could do it through secondary legislation as far as bringing in an economic impact factor as far as these people coming with a tax cap?

Whilst, Vainstyr Loayreyder, I have an awful lot of sympathy as far as the fact that, if somebody finds themselves in the horrific situation of being a very wealthy man and then finding they have lost everything the following year, there does need to be some flexibility, as far as that is concerned – there by the grace of God go I.

I have dealt with cases of that over the almost 30 years of being in here. But the thing is, it does somewhat undervalue his argument as far as the five-year continuity impact, as far as the money was going to come in every year for five years if we have this cap – that is a certainty.

The other thing that I would like to ask is: is the thinking behind the flexibility not so much the social side of somebody actually losing their money – which does happen from time to time, even extremely wealthy people could do so – but, is it some way of giving flexibility to some sort of windfall, as far as the Island is concerned, that they would have money that would be designated as income in one year? Once they have got that income in they would turn it into a different way of generating income for them through capital gains.

I would be interested to know what the Shirveishagh's thinking is, as far as that is concerned?

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

**Mr Teare:** Thank you very much, sir.

The questions really have been very similar with respect, in the main they follow a common theme. Following the introduction of the new Tax Cap Election at last year's budget, both the Assessor and myself received comments regarding the change. The amendment now being introduced follows on from a discussion with the Tax Liaison Committee and with some of the large *[Inaudible]* agents.

I think Hon. Members will agree with me that everybody should pay the correct amount of tax. However, under the new tax regime it is possible that an individual who has elected for the cap and, for instance, pays the cap for five years, may later discover that they would have actually paid less income tax if they had not elected for the cap. Under the amendment the individual will now be able to apply to be reassessed normally. This will enable them to pay the correct amount of tax on their income.

Applying to be reassessed normally may mean that, in some years, the individual is liable to income tax in excess of the £120,000 cap, but that in other years they pay less. Overall, though, the liability for the five years in question would be below £600,000.

The cap is intended to be an incentive to attract wealthy entrepreneurs. It is not supposed to be a mechanism to tax more than is actually due. I have been assured by the Assessor that this measure will not lead to abuse.

What I would stress here is that we are at the outset asking people to sign up for a five-year period. It is very difficult to tell at that outset whether their circumstances will not change during the five-year period; and it may be that in years four and five there is a change in circumstances, for example they may sell their business and the income stream which came from that business would

go with that sale. They may then decide that they need to look into their tax affairs once again. So I do not really have a major issue with that.

The reason for asking people to sign up for a five-year commitment was to give some confidence to us that those funds will be available. I acknowledge that there is an argument by agreeing to this we are not going to have that same surety; but also, too, there was evidence before that the previous tax cap system was open to abuse because a person could declare themselves a tax-capper in one year, take a big dividend from the company which they were beneficial owner or controlling shareholder in, and then the following year, or in subsequent years there was no tax liability at all.

So this really is intended to actually deal with one potential avenue which we needed to close off, as it were.

Mr Karran asked what was the economic impact for tax cappers, whether any economic impact has been done. Well, I think certainly as part of the budget presentation last year I did make it abundantly clear that tax-capping had worked, and worked very well, for the Island. It has brought very significant economic benefits both in terms of direct revenue to the Exchequer and also employment opportunities for our young people.

Mr Karran asked whether it was possible to turn income into capital. What we will say is that if people do use a company to in effect roll up profits, then when the profits are in effect dispersed from that company, there is a tax liability due at that time and we will be there to hand, as it were, looking for the taxpayers' share.

Mr Thomas asked me to clarify why it was appropriate to bring forward these changes now and why do we have to use a temporary taxation order. Well, the changes in the Budget are delivered or they announced subject to the approval of Tynwald in February each year. The effects of that approval by Tynwald come into effect on 1st April – a matter of weeks later. So for the purpose of certainty for the industry, the financial advisers etc, we need to give them clarity by having the legislation *vires* to bring it in straight away, because if we had waited for the legislative process to bring forward primary legislation then we are looking at a six-month process. So really I think it is appropriate and the method that we have now works and works well.

The Hon. Member for Michael, Mr Cannan, asked about the effect on receipts. Actually the tax cap that we have had has had a positive effect on receipts. As I did say earlier, it does reduce any opportunity for tax planning. There was also a question asked about how many jointly assessed couples we had under the tax cap scheme and I am lead to believe, and I think off the top of my head, it was only one at the time.

So with that I think that this is a positive move. It confirms the budgets of last year. It also demonstrates that we have listened to the industry and have taken on board their comments. We agree with the logic of their argument and hope that Hon. Members will also agree to the logic by supporting the Second Reading of this Bill.

With that, Mr Speaker, I move the Second Reading.

**The Speaker:** Hon. Members, I put the question that the Income Tax Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Mrs Beecroft:** Divide!