

**4.2. Income Tax Bill 2019 –
Clauses considered**

750 **The Speaker:** We turn next to Item 4.2, the Income Tax Bill 2019, I call on Mr Cannan to move.

Mr Cannan: Thank you, Mr Speaker, and Hon. Members.

This Bill contains three clauses. It confirms two Temporary Taxation Orders and it also makes an amendment to the Income Tax Act 1970.

755 During this reading my colleague, Mr Shimmins, will move an amendment, with Mr Speaker's permission. This will amend clause 2 to confirm three additional Temporary Taxation Orders, two of which formed part of this February's budget and one which, in light of the COVID-19 pandemic, was required in respect of the disclosure of information.

760 Mr Speaker and Hon. Members, turning to the Bill: clause 1 provides the short title of the Act. I beg to move that clause 1 stand part of the Bill.

The Speaker: Hon. Member for Rushen, Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

765 I beg to second and reserve my remarks.

The Speaker: I put the question that clause 1 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated the motion therefore carries

770 Clause 2, Mr Cannan.

Mr Cannan: Clause 2 confirms two Temporary Taxation Orders that were approved in December 2018 and February 2019.

775 The first of these is the Income Tax (Substance Requirements) Order 2018. This Order fulfilled a commitment made to the European Union in December 2017 to introduce legislation by December 2018 which addressed their concerns about the lack of a requirement for companies in certain business sectors to have adequate substance in the Island.

780 Those companies are required to demonstrate that they have adequate substance in the Island by: being directed and managed in the Island; conducting core income generating activity in the Island; and having adequate people, premises and expenditure in the Island.

This Order was amended in July by the Income Tax (Substance Requirements) (Amendment) Order 2019. This Order modified some of the original definitions and in particular expanded the definition of a 'foreign tax official' to reflect the move from a European to an international standard.

785 Mr Speaker, an amount of £200,000 has already been allocated within this year's budget for a compliance team to deal with economic substance within the Income Tax Division.

This and the approval of this Order in this Bill will continue to demonstrate the Island's dedication to meeting international standards and ensuring that we can continue to play our part in the global move to ensure fair taxation.

790 The second Temporary Taxation Order to be confirmed by this Bill is the Income Tax (Periodical Payments) (Temporary Taxation) Order 2019. This Order addresses the tax treatment of damages awarded by the High Court for future pecuniary loss in respect of personal injury, where those damages are awarded in the form of periodical payments.

795 Mr Speaker, the High Court in the Island may order that damages awarded for future pecuniary loss in respect of personal injury are wholly or partly to take the form of periodical payments.

800 This Order provides that periodical payments awarded in these circumstances will not be taxable income when they are received by the individual entitled to the damages, or by a person or a trustee who receives the payment on their behalf. It further provides that if the injured person receives payments under a lifetime trust or if payments from such a trust are made for the benefit of the injured person then those payments will not be taxable income.

805 The introduction of this measure follows the approval in another place, in December 2014, of a conclusion contained in a report prepared by the Economic Policy Review Committee, that periodic payments should be made a feature of Manx awards along the same lines as in England and Wales, where judges can impose them without the consent of both parties, and that such payments should be tax free.

I beg to move that clause 2 stand part of the Bill.

810 **The Speaker:** Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

I beg to second and reserve my remarks.

815 **The Speaker:** Thank you.

Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

820 As the Treasury Minister has explained, this amendment to clause 2 will confirm three further Temporary Taxation Orders, two of which were approved in another place in February, as part of the Budget, and one in April in relation to the COVID-19 pandemic .

The purpose of the amendment is to save on administration and the costs of producing a further Bill over the next 12 months that would otherwise be necessary to confirm these Orders.

The first Temporary Taxation Order is the Income Tax (Tax Cap) (Temporary Taxation) Order 2020 (SD 2020/0026). This Order is made under section 115A of the Income Tax Act 1970.

825 The effect of this order is to introduce a new 10-year tax cap election which can be applied for from the 20-21 year of assessment and subsequent years. The current five-year tax cap election will also remain available.

830 If an election is approved by the Assessor of Income Tax, it will apply for five or 10 consecutive years of assessment following the year in which the election is made, at the amount applicable for the first year of the election.

The amount of the tax cap for the 2020-21 year of assessment is £200,000 for an individual and £400,000 for a jointly-assessed married couple or civil partners.

The second Order is the Income Tax (Key Employee) (Temporary Taxation) Order 2020 (2020/0027). This Order is also made under section 115A of the Income Tax Act 1970.

835 The effect of this Order is to insert a new section, section 2(d) to the Income Tax Act 1970. This provides for a special treatment for certain key employees who are or will be new residents and who are essential to the implementation and the operation of new business in the Island with effect from 6th April 2020 and subsequent years. These key employees will be taxed in a similar way to a non-resident individual for a maximum period of up to three years.

840 Mr Speaker, both the tax cap and the special treatment of key employees will be essential tools to help boost the Island's economy as we rebuild following lock down. Both are aimed at attracting individuals and investment to the Island that will create employment.

The third Order is the Income Tax (Disclosure of Information) (Temporary Taxation) Order 2020 (2020/0238). This Order is also made under section 115A of the Income Tax Act 1970.

845 The effect of this Order is to amend the Income Tax Act 1970 to ensure that relevant income tax data can be shared with Treasury in respect of its functions including but not limited to the implementation of the recently approved support schemes in relation to the COVID-19 pandemic.

I beg to move the amendment standing in my name:

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Amendment to clause 2

On page 5 —

(a) line 11, omit “and”;

(b) line 13, for the full stop substitute “;”; and

(c) line 14, before section 2(2), insert —

“(c) the Income Tax (Tax Cap) (Temporary Taxation) Order 2020;

(d) the Income Tax (Key Employee) (Temporary Taxation) Order 2020; and

(e) the Income Tax (Disclosure of Information) (Temporary Taxation) Order 2020.”.

The Speaker: Hon. Member for Douglas North, Mr Peake.

Mr Peake: Thank you, Mr Speaker.

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I beg to second the amendment to clause 2.

The Speaker: Thank you.

Mr Hooper.

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Mr Hooper: Thank you very much, Mr Speaker.

I just have a very quick question for the Minister and the Member moving this Bill. I appreciate why it is being done in this way. It seems very unusual to be amending a previous Bill to kind of shoehorn these Temporary Taxation Orders into it. My question really is in respect of the Disclosure of Information Order that was brought in very specifically in relation to the coronavirus issues and in relation to the schemes that were brought in, specifically I think it was in relation to the Salary Support Scheme, if I remember rightly. I would just be grateful for an explanation as to whether the Treasury considered ... obviously they do consider that this is a necessary and desirable permanent change to Income Tax law, but I would just like to understand on what basis that decision has been made.

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Thank you.

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The Speaker: No other Member wishing to speak, I will ask first Mr Shimmins if he wishes to sum up with regard to his amendment.

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Mr Shimmins: Thank you, Mr Speaker, and I am grateful for Mr Hooper’s query.

In terms of the Order, the taxation section of the Accessor holds data which is very helpful when assessing how we can support businesses and individuals, and I think we would all agree that there has been a lot of support provided over the last few weeks in very short order.

The Treasury’s view is that actually it would be sensible to take account of the data which is held by taxation in assessing future support schemes because actually that will enable us to respond more quickly to people who need help. So I hope that helps Mr Hooper in terms of his query and I beg to move.

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Thank you.

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The Speaker: Now, Mr Hooper, you indicated you wished to intervene. Mr Shimmins, are you content to take the intervention? Or it may be more applicable for Mr Cannan to take it, but I think you still have the floor technically, Mr Shimmins.

Mr Shimmins: I am happy to pass the floor on to Mr Hooper.

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The Speaker: Mr Hooper, for your intervention, and then I am sure that Mr Shimmins or Mr Cannan can work out which one between them will answer it.

Mr Hooper: Thank you, Mr Speaker.

895 It is only a brief one; I may have the wrong end of the stick here; my understanding of the
Temporary Taxation Order was to allow information to be disclosed to the Assessor, not the
other way round. The section of the Income Tax Act that is being amended is 106B, disclosure of
information by Treasury to the Assessor rather than the following section which relates to
disclosure of information by the Assessor to the Treasury. So I would just like to get some clarity
because Mr Shimmins seemed to be talking about it the other way around, as in the Assessor
900 sharing information with Treasury, whereas it seems to me that the Temporary Taxation Order
actually does the reverse.

So again, just a bit of clarity, and I might have the wrong end of this stick here.

The Speaker: Mr Shimmins.

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Mr Shimmins: I am grateful for Mr Hooper's interjection. That is something that we will
investigate carefully. Clearly it makes sense when looking at providing support to individuals if
we access the data that is available to us. But we will certainly look into the point that has been
raised.

910 Thank you.

The Speaker: Mr Cannan to sum up regarding the clause.

Mr Cannan, do you wish to exercise your right to sum up regarding clause 2?

915 **Mr Cannan:** Apologies, Mr Speaker, I was having trouble unmuting myself.

Yes, just in response to the Hon. Member for Ramsey, as far as we can see the sharing of data
does work both ways, both to the Assessor from Treasury and from the Assessor to the Treasury.

We are intending keeping this in place, Mr Speaker, because it demonstrably has speeded up
processes and ensures that we have a speedier and quicker reaction to the needs both of
920 business and the community. So I hope that answers the Hon. Member's particular question.

The Speaker: Okay.

In which case I will put first the amendment in the name of Mr Shimmins. I will presume that
the motion will be carried unless any Member indicates dissent, which they should do now. No
925 dissent being indicated that amendment therefore carries.

I put to you clause 2 as amended stand part of the Bill. Again, I will presume that the motion
will be carried unless any Member indicates dissent, which they should do now. No dissent being
indicated the motion therefore carries.

Clause 3, Mr Cannan.

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Mr Cannan: Mr Speaker, Article 27 of the Double Taxation Agreement with the United
Kingdom deals with the assistance in the collection of taxes.

This Article is reciprocal and requires both jurisdictions to assist each other in the collection
of tax. It means that the Isle of Man will collect certain outstanding UK debts on behalf of the UK
935 and that the UK will collect certain Isle of Man debts on behalf of the Island. However, legislation
will be required before this can be achieved. This clause introduces a new section to enable the
Treasury, with Tynwald approval, to introduce regulations for the recovery of debts relating to
foreign tax.

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

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The Speaker: Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

I beg to second.

945 **The Speaker:** I call on the Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I believe the Treasury Minister just said there that this allows the collection of tax on the Isle of Man for the UK and the other way around. I understand that was already the case. I am just wondering, however, in the UK they certainly they certainly have a much more stringent paper-based way of that ensuring that happens for Manx residents. Can the Treasury Minister confirm that we will be following the same process?

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The Speaker: I call on the Treasury Minister to reply.

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Mr Cannan: Yes, thank you, Mr Speaker, and I thank the Hon. Member for her question.

I can say that we will be following the collection of debt in accordance with Manx law, and not in accordance with UK law and procedure. I hope that answers the Hon. Member's question and I beg to move.

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The Speaker: Thank you very much.

The question is that clause 3 stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated the clause therefore carries.