
INCOME TAX BILL 2012

Explanatory Memorandum

1. This Bill is promoted by the Treasury.
2. Part 1 (*clause 1*) provides for the resulting Act's short title. As the Bill has no commencement provision, the resulting Act will commence when Royal Assent is announced to Tynwald.
3. Part 2 (*clause 2*) confirms certain temporary taxation orders ("TTOs") which are to continue in operation as permanent orders.
4. Part 3 (*clause 3*) repeals certain Acts, and provisions of Acts, about income tax which have come fully into operation and are therefore spent.
5. Part 4 (*clauses 4 and 5*) amends and relocates section 15 of the Income Tax Act 1995, which provides for TTOs.

Clause 4 amends section 15 to clarify the current operation of its provisions in several respects and to provide for the automatic expiry of Acts or provisions of Acts whose only function is to confirm TTOs.

Clause 5 relocates section 15 as amended to the Income Tax Act 1970. The rest of the Income Tax Act 1995 is spent and is to be repealed under clause 3(2).

6. Part 5 (*clauses 6 to 15*) amends the Income Tax Act 1970.

Clause 6 provides that Part 5 amends the Income Tax Act 1970.

Clause 7 makes a minor consequential amendment for Departmental changes under the Transfer of Functions (New Departments) (No. 2) Order 2010.

Clause 8 repeals section 32A (which is about the reduction of Class 4 contributions).

Clause 9 amends section 65A to make a consequential amendment for the Civil Partnership Act 2011.

Clause 10 amends section 105D concerning the Assessor's powers to call for documents relating to a taxpayer.

Clause 11 inserts new sections 105P and 105Q. New section 105P will permit the High Bailiff, on the Assessor's application, to summons persons to give information on oath for exchange under international information exchange agreements. New section 105P will make it an offence for the person summonsed to disclose information relating to the examination, subject to certain exemptions.

Clause 12 amends section 106A to allow information obtained from the Assessor or the Collector of Customs and Excise to be disclosed in certain circumstances

with consent. It also creates an offence for the recipient of the information to further disclose such information without specific consent for purpose of the disclosure.

Clause 13 amends section 106B to allow information obtained from the Department of Social Care or the Collector of Customs and Excise by the Assessor to be disclosed in certain circumstances with consent. It also creates an offence for the recipient of the information to further disclose such information without specific consent for purpose of the disclosure.

Clause 14 inserts the cross-heading “Temporary taxation orders” into the Income Tax Act 1970 after Section 115, under which heading the TTO provisions are being relocated under clause 5.

Clause 15 inserts a new Schedule 3. Paragraph 1 of Schedule 3 provides for savings provisions to continue the effect of transitional provisions in the Acts and provisions repealed under Clause 3. Paragraph 2 of Schedule 3 contains transitional provisions for the relocation of the TTO provisions under Clause 5.

7. Part 7 (*clauses 16 and 17*) contains other provisions.

Clause 16 makes a minor consequential amendment to the Income Tax Act 1989 for Departmental changes under the Transfer of Functions (New Departments) (No. 2) Order 2010.

Clause 17 provides that the resulting Act is to expire on the day after its promulgation.

8. The Treasury does not anticipate that implementation of the provisions contained in the Bill will require any significant additional resources, but that any necessary control or enforcement action required would be resourced from the existing budget, and using the existing staffing, of the Treasury.
9. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Ellan Vannin

INCOME TAX BILL 2012

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Ellan Vannin

INCOME TAX BILL 2012

- 1 **A BILL** to confirm temporary taxation orders; to repeal certain spent Acts and
 2 provisions of Acts about income tax; to amend the Income Tax Act 1970 and the
 3 Income Tax Act 1989; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

4 **PART 1 – INTRODUCTION**

5 **1 Short title**

6 The short title of this Act is the Income Tax Act 2012.

7 **PART 2 – CONFIRMATION OF TEMPORARY TAXATION** 8 **ORDERS**

9 **2 Confirmations**

10 The following are confirmed —

- 11 (a) the Income Tax (Repeal of the Attribution Regime for Individuals)
 12 Order 2011;
- 13 (b) the Income Tax (Deductions) (Temporary Taxation) Order 2012;
- 14 (c) the Income Tax (Exempt Income) (Temporary Taxation) Order
 15 2012;
- 16 (d) the Income Tax (Personal Allowance Credit) (Temporary
 17 Taxation) Order 2012;
- 18 (e) the Income Tax (Employers) (Temporary Taxation) Order 2012;
 19 and
- 20 (f) the Income Tax (Individuals) (Temporary Taxation) Order 2012¹.

¹ SD 0847/11, SD 48/12, SD 50/12, SD 51/12, SD 52/12 and SD 0098/12 respectively

PART 3 – REPEAL OF SPENT ACTS AND PROVISIONS

3 Repeals

- (1) The following Acts are repealed –
- (a) the Income Tax Act 1973;
 - (b) the Income Tax Act 1974;
 - (c) the Income Tax Act 1976;
 - (d) the Income Tax Act 1978;
 - (e) the Income Tax (Amendment) Act 1979;
 - (f) the Income Tax Act 1981;
 - (g) the Income Tax Etc. (Amendment) Act 1985;
 - (h) the International Business Act 1994;
 - (i) the International Business (Amendment) Act 1994;
 - (j) the Income Tax Act 2000;
 - (k) the Income Tax Act 2001;
 - (l) the Income Tax (Amendment) Act 2004;
 - (m) the Income Tax (Amendment) Act 2006;
 - (n) the Income Tax (Amendment) Act 2008;
 - (o) the Income Tax (Pensions) Act 2008;
 - (p) the Income Tax Act 2009; and
 - (q) the Income Tax Act 2010².
- (2) The following are repealed –
- (a) section 5 and Schedule 3 to the Income Tax Act 1980;
 - (b) sections 1 to 3, 4(1) and 5 to 17 and 21 and Schedules 1 and 2 to the Income Tax (Amendment) Act 1986;
 - (c) sections 57 to 80 and Schedules 1 and 3 to the Income Tax Act 1989;
 - (d) sections 1 to 10, 13 and 14 of the Income Tax Act 1991;
 - (e) all provisions of the Income Tax Act 1995, except section 15 (temporary taxation orders);
 - (f) Part 2 and sections 24 to 28 of the Income Tax Act 2003; and
 - (g) sections 1 to 9 and 11 to 19 and the Schedule to the Income Tax (Corporate Taxpayers) Act 2006³.

² c2, c9, c13, c12, c2, c31, c22, c3, c4, c6, c15, c5, c4, c4, c6, c2 and c12 respectively

³ c16, c25, c10, c17, c12, c11 and c8 respectively



**PART 4 — AMENDMENT AND RELOCATION OF
TEMPORARY TAXATION ORDER PROVISIONS**

4 Section 15 of Income Tax Act 1995 amended

- (1) This section amends section 15 of the Income Tax Act 1995.
- (2) Subsection (1), after “order”, insert “(a “TTO”)”.
- (3) Subsections (2), (4) and (5), for “An order under this section”, substitute “A TTO”.
- (4) Subsection (3), for “an order under this section”, substitute “a TTO”.
- (5) Subsection (6), for “an order has been made under this section”, substitute “a TTO has been made”.
- (6) After Subsection (6), add —
- “ (7) Subsection (8) applies, subject to subsections (3) to (6), if a TTO (or a provision of the TTO or an amendment under it) applies to or from the commencement of, or during, a stated income tax year.
- (8) Unless the TTO otherwise provides, the TTO, provision or amendment applies for all subsequent income tax years as well.
- (9) On the coming into operation of a confirmatory Act or confirmatory provision for a TTO —
- (a) subsections (3) to (6) cease to apply to the TTO;
- (b) the TTO continues in operation, but as a permanent order;
- (c) the Treasury may exercise powers under subsection (1) to amend, revoke or replace —
- (i) the permanent order;
- (ii) an amendment to an enactment made by the permanent order; or
- (iii) an amendment to the permanent order made by the confirmatory Act or confirmatory provision.
- (10) A confirmatory Act or confirmatory provision is automatically repealed on the day after —
- (a) for a confirmatory Act, its promulgation; or
- (b) for a confirmatory provision contained in an Act (the “Act in question”) that is not a confirmatory Act, the promulgation of the Act in question.
- (11) The automatic repeal does not —
- (a) revive any Act or TTO the confirmatory Act or confirmatory provision amended as the amended Act operated before the amendment commenced;

1 (b) revive anything not in operation or existing when the
2 amendment took effect; or

3 (c) affect the continuing operation of the amendment.

4 (12) Despite the automatic repeal, the effect of a savings provision,
5 transitional provision or validating provision under the
6 confirmatory Act or confirmatory provision continues as if it were
7 still in operation.

8 (13) To avoid any doubt, this section does not limit sections 15 (effect
9 of repeal, etc.) and 30 (enactment always speaking) of the
10 Interpretation Act 1976⁴ for the automatic repeal.

11 (14) In this section —

12 “confirmatory Act”, for a TTO, means an Act only of all or any
13 provisions of the following types —

14 (a) its long title;

15 (b) provisions about its citation or commencement;

16 (c) a confirmatory provision for the TTO;

17 (d) provisions amending the TTO or amending or repealing an
18 enactment;

19 (e) another provision (for example, a part heading) that only
20 identifies (or groups) provisions; or

21 (f) a savings provision, transitional provision or validating
22 provision;

23 “confirmatory provision”, for a TTO, means a provision of an Act the
24 only effect of which provision is to confirm the TTO (with or
25 without amending it);

26 “savings provision” means a provision —

27 (a) made or expressed to be made for a saving purpose; or

28 (b) that makes provision consequential on a provision
29 mentioned in paragraph (a);

30 “transitional provision” means a provision —

31 (a) made, or expressed to be made, for a transitional purpose;
32 or

33 (b) that makes provision consequential on a provision
34 mentioned in paragraph (a); and

35 “validating provision” means a provision —

36 (a) made or expressed to be made to validate something that is
37 or may be invalid; or

⁴ c.20



- 1 (b) that makes provision consequential on a provision
2 mentioned in paragraph (a).”

3 **5 Relocation to Income Tax Act 1970**

4 Section 15 of the Income Tax Act 1995, as amended under this Part, relocate to
5 the Income Tax Act 1970⁵ (under the cross-heading after section 115 inserted
6 under section 14 of this Act), and renumber as section 115A.

7 **PART 5 — AMENDMENTS TO INCOME TAX ACT 1970**

8 **6 Act amended**

9 This Part amends the Income Tax Act 1970.

10 **7 Sections 11A and 48B amended**

11 In sections 11A(2)(g) (limit on income chargeable on non-residents) and
12 48B(4)(c) (statutory redundancy payments), for “Department of Health and
13 Social Security” substitute “Department of Social Care”.

14 **8 Section 32A repealed**

15 Section 32A (reduction of Class 4 contributions) is repealed.

16 **9 Section 65A amended**

17 In section 65A(2A) (election for joint treatment), for “husband and wife’s”
18 substitute “spouses’ or civil partners”.

19 **10 Section 105D amended**

20 In section 105D(4) (power to call for documents relating to taxpayer), for the
21 words from “when” to “concerned” substitute “if the Assessor is aware of the
22 taxpayer’s address or whereabouts, the Assessor must give the taxpayer”.

23 **11 New sections 105P and 105Q**

24 After section 105O, add —

25 **“105P Depositions for international information exchange agreements**

- 26 (1) This section applies if another country (the “requesting country”)
27 is a party to an international information exchange agreement,
28 and, under the agreement, the country has asked the Assessor to
29 disclose information to it.

⁵ XXI p.260

- 1 (2) The High Bailiff may, on the Assessor's application, summon a
 2 stated person (the "witness") to attend before the High Bailiff (the
 3 "hearing") to —
- 4 (a) give on oath stated information, or information about a
 5 stated matter, relevant to the request; and
- 6 (b) produce a sworn deposition that —
- 7 (i) exhibits any documented part of the information;
 8 and
- 9 (ii) states the deposition is given in response to the
 10 summons.
- 11 (3) The High Bailiff has the same powers to secure the witness's
 12 attendance as in proceedings before a court of summary
 13 jurisdiction.
- 14 (4) If the stated person is a body corporate or unincorporate, the body
 15 is taken to comply with the summons if an individual (also the
 16 "witness") attends the hearing on its behalf and swears to be its
 17 duly authorised officer or representative.
- 18 (5) The witness —
- 19 (a) must bear the witness's costs of attending the hearing;
- 20 (b) has the right to be represented at the hearing by an
 21 advocate; and
- 22 (c) is not compellable to give evidence that would not be
 23 compellable in criminal proceedings —
- 24 (i) in a court of summary jurisdiction; or
- 25 (ii) in the requesting country, if the witness's claim to
 26 be exempt from giving the evidence has been
 27 conceded by a court, tribunal or authority from the
 28 requesting country.
- 29 (6) The High Bailiff may, at the Assessor's request, adjourn the
 30 hearing from time to time.
- 31 (7) In this section —
- 32 "information" includes documents and evidence; and
- 33 "international information exchange agreement" means applicable
 34 arrangements specified in an order approved by Tynwald under
 35 section 19 of the Income Tax Act 2003.

36 **105Q Offence: unlawful disclosure of protected information**

- 37 (1) This section applies if someone (the "witness") has been
 38 summonsed under section 105P.

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- (2) A person who unlawfully discloses any of the following information (“protected information”) commits an offence and is liable on summary conviction to custody for 6 months, a fine not exceeding £5,000, or both –
- (a) any of the following facts –
- (i) that the relevant requesting country under section 105P(1) has asked the Assessor to disclose information to it;
- (ii) that an investigation to which the request relates is being carried out; or
- (iii) that, under the request, information has been, is to be or may be, given to the requesting country; or
- (b) documents, evidence, information or a matter (“prejudicial material”) likely to prejudice the investigation or the performance of the Assessor’s functions relating to it or under any international information exchange agreement as defined under section 105P(7).
- (3) However, subsection (2) does not apply to the Assessor or anyone performing functions for the Assessor.
- (4) Protected information is unlawfully disclosed if the disclosure is to anyone except –
- (i) if the witness is not an individual, to an employee or officer of the witness and the disclosure is necessary to comply with the summons;
- (ii) to a supervisory authority within the meaning of *Part 3 of the Proceeds of Crime Act 2008*⁶, if the witness is a financial institution within the meaning of that Part;
- (iii) to the Assessor or anyone performing functions for the Assessor; or
- (iv) in compliance with the summons or as required by law.
- (5) In a proceeding for an offence against subsection (2), it is a defence for the defendant to prove that –
- (a) all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence by the defendant and everyone under the defendant’s control; or

⁶ c13

- (b) the protected information concerned is prejudicial material and the defendant did not know or reasonably suspect it was prejudicial material.”.

12 Section 106A amended

- (1) This section amends section 106A (disclosure of information between the Assessor and the Collector of Customs and Excise).
- (2) In subsection (1) —
- (a) delete “or an officer authorised by the Assessor”; and
- (b) for “or an officer authorised by him”, substitute “(the “Collector”)”.
- (3) For subsection (2) substitute —
- “(2) Information obtained under subsection (1) must not be disclosed to anyone except —
- (a) to the Collector;
- (b) for proceedings connected with a matter for which the Collector performs functions; or
- (c) with the Assessor’s consent.
- (2A) The consent may be given for a particular disclosure or in circumstances stated or described in the consent.”.
- (4) After subsection (4), add —
- “(5) Subsection (6) applies if a person receives information by a disclosure authorised under subsection (2).
- (6) If the person discloses the information to anyone else the person commits an offence, unless the disclosure is for a specific purpose authorised by the Assessor.
- (7) In this section —
- “Assessor” includes an officer authorised by the Assessor; and
- “Collector” includes an officer authorised by the Collector.”.

13 Section 106B amended

- (1) This section amends 106B (disclosure of information by Department of Social Care etc.).
- (2) In subsection (1), after “Excise”, insert “(either the “disclosing body”, as the case may be)”.
- (3) For subsection (2) substitute —
- “(2) Information obtained under subsection (1) must not be disclosed to anyone except —

- 1 (a) to the Assessor;
- 2 (b) for proceedings connected with a matter for which the
- 3 Assessor performs functions; or
- 4 (c) with the disclosing body's consent.
- 5 (2A) The consent may be given for a particular disclosure or in
- 6 circumstances stated or described in the consent.”.
- 7 (4) After subsection (4), add —
- 8 “(5) Subsection (6) applies if a person receives information by a
- 9 disclosure authorised under subsection (2).
- 10 (6) If the person discloses the information to anyone else the person
- 11 commits an offence, unless the disclosure is for a specific purpose
- 12 authorised by the disclosing body.
- 13 (7) In this section —
- 14 “Assessor” includes an officer authorised by the Assessor; and
- 15 “disclosing body” includes an officer authorised by the disclosing
- 16 body.”.

17 **14 New cross-heading after s 115**

18 After section 115, add —

19 *“Temporary taxation orders”.*

20 **15 New Schedule 3**

21 After Schedule 2A, insert —

22 **“SCHEDULE 3**

23 **SAVINGS AND TRANSITIONAL PROVISIONS FOR INCOME TAX ACT 2012**

24 **1. Savings for repeals**

- 25 (1) This paragraph applies for the repeal of —
- 26 (a) the Income Tax Act 2012 (a “repealed enactment”) under
- 27 that Act itself (the “2012 Act”);
- 28 (b) other Income Tax Acts, or provisions of other Income Tax
- 29 Acts, repealed by the 2012 Act (each also a “repealed
- 30 enactment”); and
- 31 (c) an amendment to a provision of an Income Tax Act or a
- 32 temporary taxation order under a repealed enactment.
- 33 (2) The repeal does not —

- 1 (a) revive a repealed enactment or the provision as it operated
2 before the amendment commenced;
- 3 (b) revive anything not in operation or existing when the
4 amendment commenced; or
- 5 (c) affect the continuing operation of the amendment.
- 6 (3) Subparagraph (4) applies if the repealed enactment included a
7 provision that states, or is to the effect that, the amendment or a
8 repealed enactment applies from a certain income tax year and
9 subsequent income tax years.
- 10 (4) Despite the repeal, the provision as amended or the repealed
11 enactment continues to apply, according to its terms, for all of
12 those years.
- 13 (5) Despite the repeal of transitional provisions under the repealed
14 enactments, the effect of those provisions continues as if they
15 were still in operation.
- 16 (6) To avoid any doubt, this paragraph does not limit sections 15
17 (effect of repeal, etc.) and 30 (enactment always speaking) of the
18 Interpretation Act 1976.
- 19 (7) In this section, “transitional provisions”, under the repealed
20 enactments, means any of their provisions —
- 21 (a) made, or expressed to be made, for a transitional purpose;
22 or
- 23 (b) that makes provision consequential on a provision
24 mentioned in paragraph (a).

25 **2 Transitional provisions for s 115A**

- 26 (1) An order under section 15 of the repealed Income Tax Act 1995
27 (“section 15”) becomes a permanent order under section 115A.
- 28 (2) If the context permits, a reference in an enactment or other
29 document to —
- 30 (a) section 15 is taken to be a reference to section 115A; and
- 31 (b) a TTO or an order under section 15 is taken to be a
32 reference to a TTO or permanent order (as the case
33 requires) under section 115A.
- 34 (3) Section 115A(7) to (14) applies for a TTO under a repealed
35 enactment as defined under paragraph 1(1)(a) or (b).
- 36 (4) In this section, “TTO” means temporary taxation order.”.

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PART 6 – OTHER PROVISIONS

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16 Amendment to Income Tax Act 1989

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In section 12(1)(c) (restriction on contributors) of the Income Tax Act 1989, for “Department of Health and Social Security” substitute “Department of Social Care”.

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17 Expiry of this Act

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This Act expires on the day after its promulgation.

IN THE KEYS

INCOME TAX BILL 2012

A **BILL** to confirm temporary taxation orders; to repeal certain spent Acts and provisions of Acts about income tax; to amend the Income Tax Act 1970 and the Income Tax Act 1989; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR HENDERSON

JUNE 2012