



Isle of Man

Ellan Vannin

INCOME TAX BILL 2015

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Explanatory Memorandum

1. This Bill is promoted by the Treasury and amends the Income Tax Act 1970 and the Income Tax Act 1989.

PART 1 – INTRODUCTION

2. *Clause 1* gives the resulting Act its short title and *clause 2* provides that “the 1970 Act” means the Income Tax Act 1970: accordingly a reference (without more) to a numbered Part or section is a reference to the corresponding provision of the 1970 Act.
3. *Clause 3* provides for the resulting Act (other than provisions automatically repealed by section 115A(10) of the 1970 Act) to expire on the day after its promulgation. The repeal does not affect the continuing effect of the changes made by the Act (see subsection (2)).

PART 2 – TEMPORARY TAXATION ORDERS CONFIRMED

4. *Clause 4* confirms as permanent orders the Income Tax (Resident Individuals) (Income Tax Cap) (Temporary Taxation) Order 2014 and the Income Tax (Disclosure of Information) (Temporary Taxation) Order 2014.

PART 3 – AMENDMENT OF THE 1970 ACT

5. Part 3 amends the 1970 Act and *clause 5* introduces the amendments.
6. *Clause 6* amends section 2ZA (election for tax cap to be applied).
7. *Clause 7* amends Part 9 (international arrangements).
8. *Clause 8* amends Part 11 (obtaining information and evidence). Subsection (3) inserts a new section 105BB which enables the Treasury to make record-keeping regulations.
9. *Clause 9* amends Part 12 (court orders to deliver documents, etc).
10. *Clause 10* inserts a new Part 12A which contains supplementary provisions for international arrangements.
11. *Clause 11* inserts a definition of “record-keeping regulations” (see new section 105BB inserted by clause 8).
12. The Part also includes a number of minor amendments to correct mistakes which have crept into the 1970 Act at various points in the past.

PART 4 – AMENDMENT OF THE INCOME TAX ACT 1989

13. *Clause 12* amends section 5A of the Income Tax Act 1989 (payment of trivial commutation lump sum).

FINANCIAL IMPLICATIONS AND HUMAN RIGHTS

14. The Bill is expected to be revenue-neutral.
15. In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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INCOME TAX BILL 2015

- 1 **A BILL** to confirm certain temporary taxation orders and to amend the Income
2 Tax Act 1970 and the Income Tax Act 1989.

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:—

3 **PART 1 — INTRODUCTION**

4 **1 Short title**

5 The short title of this Act is the Income Tax Act 2015.

6 **2 Interpretation**

7 In this Act “**the 1970 Act**” means the *Income Tax Act 1970* and a reference
8 without more to a numbered Part or section is a reference to the corresponding
9 provision of the 1970 Act so numbered.

10 **3 Expiry**

11 (1) The provisions of this Act, other than those automatically repealed by
12 section 115A(10), expire on the day after its promulgation.

13 (2) The expiry does not —

14 (a) revive the 1970 Act or the Income Tax Act 1989 as those Acts
15 operated before the amendments made by this Act commenced;

16 (b) revive anything not in operation or existing when those
17 amendments commenced; or

18 (c) affect the continuing operation of the amendments.

1 PART 2 — TEMPORARY TAXATION ORDERS CONFIRMED

2 4 TTOs confirmed

3 The following are confirmed (and in accordance with section 115A continue as
4 permanent orders) —

- 5 (a) the Income Tax (Resident Individuals) (Income Tax Cap)
6 (Temporary Taxation) Order 2014¹ (“**the Income Tax Cap**
7 **Order**”); and
8 (b) the Income Tax (Disclosure of Information) (Temporary Taxation)
9 Order 2014².

10 PART 3 — AMENDMENT OF THE 1970 ACT

11 5 Amendment of the 1970 Act

12 The 1970 Act is amended in accordance with this Part.

13 6 Section 2ZA amended — election for tax cap to be applied

14 In section 2ZA (inserted by the Income Tax Cap Order³) at the end insert —

- 15 “(10) Subsection (11) applies if it is proved to the satisfaction of the
16 Assessor that, in consequence of the election, an individual’s total
17 income tax liability for all of the years of assessment to which the
18 election has applied is greater than the individual’s total income
19 tax liability would have been for those years of assessment if the
20 election had not been made.
- 21 (11) If this subsection applies, an individual may apply to be assessed
22 to income tax for all of the years of assessment to which the
23 election has applied as if the election had not been made (and
24 those assessments may be amended accordingly).
- 25 (12) An application under subsection (11) must be in the form and
26 manner required by the Assessor.”

27 7 Part 9 amended — international arrangements

- 28 (1) Part 9 is amended as follows.
- 29 (2) In section 104B(1)(b) omit “necessary or”.
- 30 (3) In section 104C(1) —
31 (a) in paragraph (a)(i) omit “necessary or”; and

¹ SD 2014/0019

² SD 2014/0048

³ See article 3 of the Income Tax Cap Order



- 1 (b) omit paragraph (b)(i).
 2 (4) For section 104G substitute —

3 **“104G Outgoing information**

- 4 (1) A Manx tax official must only disclose information, or authorise
 5 the use or further disclosure of information, in accordance with
 6 the international arrangement under which the information is
 7 provided.
 8 (2) Information provided to the Assessor in pursuance of a
 9 requirement imposed under international arrangements may not
 10 be used in any criminal proceedings against the person who
 11 furnished it to the Assessor except proceedings for an offence of
 12 perjury or any similar offence.”
 13 (5) For section 104H(1) substitute —
 14 “(1) This section applies if —
 15 (a) another country (the “requesting country”) is a party to an
 16 international arrangement; and
 17 (b) under the arrangement, the country has asked the Assessor
 18 to disclose information to it.”
 19 (6) In section 104I —
 20 (a) for subsection (1) substitute —
 21 “(1) This section applies if someone (the “witness”) has been
 22 summoned under section 104H.”; and
 23 (b) in subsection (2)(a)(i) for “section 105P(1)” substitute “section
 24 104H(1)”.

25 **8 Part 11 amended — obtaining information and evidence**

- 26 (1) Part 11 is amended as follows.
 27 (2) For the heading to the Part substitute “**INFORMATION AND**
 28 **EVIDENCE**”.
 29 (3) Before section 105C insert —

30 **“105BB Regulations about record-keeping**

- 31 (1) The Treasury may by regulations (“**record-keeping regulations**”)
 32 make such provision as appears to it to be appropriate about —
 33 (a) the keeping of accounting records by persons to whom this
 34 section applies (“a relevant person”);
 35 (b) the adequacy of such records, and their preservation;

- 1 (c) the production of such records and the duties of a relevant
 2 person in connection with their production (including the
 3 production of records kept outside the Island);
- 4 (d) penalties for the negligent or fraudulent furnishing of false
 5 or incorrect accounts or records;
- 6 (e) the imposition of fixed penalties by the Assessor for non-
 7 compliance with the regulations, not exceeding £2,500; and
- 8 (f) appeals against fixed penalties imposed by virtue of
 9 paragraph (e).

10 (2) Relevant persons are —

- 11 (a) non-corporate taxpayers;
- 12 (b) corporate taxpayers (other than foundations) and their
 13 officers;
- 14 (c) partners, in respect of a partnership of which they are
 15 members;
- 16 (d) trustees, in respect of trusts for which they are responsible;
 17 and
- 18 (e) for a foundation, its registered agent, enforcer and
 19 members of its council.

20 Terms used in paragraph (e) have the same meaning there as they
 21 have in the *Foundations Act 2011*.

22 (3) Record-keeping regulations may make any provision that might
 23 be made by an Act of Tynwald.

24 Accordingly, so far as is necessary or expedient in consequence of
 25 provision made under subsection (1), they may —

- 26 (a) amend any Act of Tynwald, and
- 27 (b) modify, in its application to the Island, any Act of
 28 Parliament so applied under an Act of Tynwald.

29 (4) Record-keeping regulations must be approved by Tynwald before
 30 coming into operation.”

31 (4) In section 105D —

- 32 (a) in subsection (3) for “document” (wherever occurring) substitute
 33 “documents”; and
- 34 (b) in subsection (6)(a) after “in such form” insert “and in such
 35 manner”.

36 (5) For the marginal note to section 105D substitute “**Power to call for
 37 documents or information relating to taxpayer**”.

38 9 Part 12 amended — court orders to deliver documents, etc

39 (1) Part 12 is amended as follows.

- 1 (2) In section 105K —
- 2 (a) for subsection (2) substitute —
- 3 “(2) A person (“P”) who has been given notice of intention to apply for
- 4 an order under section 105H or 105I must not —
- 5 (a) at any time before the latest of —
- 6 (i) the abandonment of the application;
- 7 (ii) the determination of the application; or
- 8 (iii) the conclusion of the investigation,
- 9 conceal, destroy, alter or dispose of any document to which
- 10 the application relates, or conceal or alter any information
- 11 to which the application relates, or
- 12 (b) at any time before the abandonment of the application or
- 13 the conclusion of the investigation, disclose to any person
- 14 (other than P’s professional legal adviser or tax adviser)
- 15 information or any other matter likely to prejudice the
- 16 investigation of the offence to which the application
- 17 relates.
- 18 (2A) The obligation under subsection (2) ceases if the Assessor gives
- 19 notice to P to that effect.
- 20 (2B) Subsections (2) and (2A) are subject to any provision of record-
- 21 keeping regulations requiring the continued retention of
- 22 documents or information to which the application relates.
- 23 (2C) The Assessor must give notice to P if —
- 24 (a) the Assessor decides to abandon the application;
- 25 (b) the application (or any part of it relating to P) is refused by
- 26 the High Court, unless P appeared at the hearing of the
- 27 application; or
- 28 (c) the investigation is concluded.”; and
- 29 (b) in subsection (3)—
- 30 (i) in paragraph (a) for “Court” substitute “High Court”; and
- 31 (ii) in paragraph (b) omit “authorised for the purpose”.
- 32 (3) In section 105L(2)(a) omit “authorised for the purpose”.
- 33 (4) Section 105M is amended as follows —
- 34 (a) for subsection (1)(b) substitute —
- 35 “(b) evidence of it may be found on premises specified
- 36 in the application,”;
- 37 (b) in subsection (4) —

(i) in the words preceding paragraph (a) for “under this section the Assessor may” substitute “under this section, the Assessor may”;

(ii) in paragraph (b) for “any thing” substitute “anything”; and

(iii) in paragraph (c) for “things” substitute “thing”; and

(c) for subsection (9) substitute —

“(9) Where entry to premises has been made with a warrant under this section, and the person making the entry has seized things under the authority of the warrant, the person must attach to the warrant, or endorse upon it, a list of the things seized.”.

10 New Part 12A inserted — international arrangements: supplementary provisions

After Part 12 insert —

“PART 12A — INTERNATIONAL ARRANGEMENTS: SUPPLEMENTARY PROVISIONS

105OA Modification of Parts 11 and 12 for international arrangements

(1) Parts 11 and 12 apply to an international arrangement (whenever made) subject to the modifications in this Part.

(2) For the sake of clarity, the provisions of this Part have effect, in relation to any international arrangement in operation when this Part commences, in place of any previous provision in connection with that arrangement relating to the modification of Parts 11 and 12.

105OB Modification of Part 11

(1) At the end of section 105C(5) (power to call for documents or information) insert —

“(either in the Island or in a country to which the international arrangement relates)”.

(2) In section 105D —

(a) in subsection (1) for the words following “(“the taxpayer”)” substitute —

“for the purpose of responding to a request made by the country to which the international arrangement relates in accordance with that arrangement.”; and

- 1 (b) in subsection (6)(a)⁴ for “in such form and in such manner”
 2 substitute “in such form and authenticated in such
 3 manner”.
- 4 (3) In section 105E –
- 5 (a) for subsection (1) substitute –
- 6 “(1) A notice under section 105D(2) must name the taxpayer with
 7 whose liability the Assessor is concerned unless the Assessor is
 8 satisfied –
- 9 (a) that the notice relates to a taxpayer whose identity is not
 10 known to the Assessor, or to a class of taxpayers whose
 11 individual identities are not so known; or
- 12 (b) that there are reasonable grounds for believing that the
 13 taxpayer or any of the class of taxpayers to whom the
 14 notice relates may have failed or may fail to comply with
 15 any provision of the Income Tax Acts.
- 16 This is subject to subsection (1A).
- 17 (1A) The Assessor may only give a notice under section 105D(2) by
 18 virtue of subsection (1) if –
- 19 (a) the information; or
- 20 (b) the information which is likely to be contained in the
 21 documents,
 22 to which the notice relates is not readily available from another
 23 source.”;
- 24 (b) after subsection (2) insert –
- 25 “(2A) In determining a reference under subsection (2), the
 26 Commissioners must have regard to the requirements of the
 27 international arrangement in question.”; and
- 28 (c) omit subsections (5) to (7).
- 29 (4) Omit section 105F.
- 30 (5) In section 105G –
- 31 (a) after subsection (1) insert –
- 32 “(1A) In the case of a company that has ceased to exist any requirement
 33 to provide information or documents may be directed to –
- 34 (a) the administrator, liquidator, official receiver or other
 35 person dealing with the affairs of the company, or
 36 (b) any former director or other officer of the company.

⁴ S. 105D(6)(a) is amended by section 8(4)(b) of this Act.

(1B) In the case of an individual who has died any requirement to provide information or documents may be directed to the administrator or executor of that individual's estate.”; and

(b) in subsection (3) for “105F” substitute “105E”.

105OC Modification of Part 12

(1) In section 105I(1)(c) for the words following “likely” substitute “to have been, or to be, prejudicial to the determination of a person's liability to income tax.”.

(2) In section 105K —

(a) in subsection (1) omit “seriously”;

(b) in subsection (2)(b) omit “or tax adviser”⁵;

(c) omit subsection (5); and

(d) in subsection (6) for “Subsections (4) and (5) do not” substitute “Subsection (4) does not”.

(3) In section 105O —

(a) insert the following definitions at the appropriate points in the alphabetical list —

“**country**” has the meaning given in section 104A;

“**income tax**” includes any tax to which the international arrangement in question relates (and “**tax**” is to be construed accordingly);

“**Income Tax Acts**” includes —

(a) the laws of the Island; or

(b) the laws of the country to which the international arrangement relates,

insofar as those laws relate to any tax to which the arrangement in question relates (and references to “**this Act**” are to be construed accordingly);

“**international arrangement**” has the meaning given in section 104B(4);

“**liability to income tax**” includes —

(a) determination, administration, assessment and collection of income tax;

(b) recovery and enforcement of tax claims; and

(c) investigation or prosecution of offences related to tax

(and “**liability**” is to be construed accordingly);

“**taxpayer**” includes a person who is the subject of a request made under an international arrangement.”;

⁵ S. 105K(2) is amended by section 9(2)(a) of this Act.

- 1 (b) for the definition of “information” substitute —
 2 | “**information**” means information foreseeably relevant to a liability to
 3 | income tax, and includes —
 4 | (a) matters within an individual’s knowledge or belief; and
 5 | (b) information contained in a document or other form of
 6 | record (whether physical or electronic) within a person’s
 7 | possession, custody or control;” and
 8 (c) omit the definition of “tax adviser”.”.

9 **11 Section 120 amended — definitions**

10 In section 120(1) insert the following definition at the appropriate point in the
 11 alphabetical list —

12 | “**record-keeping regulations**”: see section 105BB;”.

13 **PART 4 — AMENDMENT OF THE INCOME TAX ACT 1989**

14 **12 Section 5A of the Income Tax Act 1989 amended — payment of trivial**
 15 **commutation lump sum**

16 At the end of section 5A of the *Income Tax Act 1989* insert —

17 | “(3) Regulations under this section must not come into operation
 18 | unless they are approved by Tynwald.”.

IN THE KEYS

INCOME TAX BILL 2015

A **BILL** to confirm certain temporary taxation orders and to amend the Income Tax Act 1970 and the Income Tax Act 1989.

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

MR TEARE

JANUARY 2015