



Isle of Man

Ellan Vannin

AT 9 of 2019

**INCOME TAX LEGISLATION
(AMENDMENT) ACT 2019**



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INCOME TAX LEGISLATION (AMENDMENT) ACT 2019

Signed in Tynwald: 8 October 2019
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AN ACT to confirm certain temporary taxation orders; to amend the Income Tax Act 1970; 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:—

1 Short title

The short title of this Act is the Income Tax Legislation (Amendment) Act 2019.

2 Confirmation of temporary taxation orders

The following are confirmed as permanent orders —

- (a) the Income Tax (Nursing Expenses)(Temporary Taxation) Order 2018¹;
- (b) the Income Tax (Pensions)(Temporary Taxation) Order 2018² (“the pensions TTO”), subject to the amendments to it that are specified in section 3;
- (c) the Income Tax (Non-Corporate Taxpayers)(Temporary Taxation) Order 2018³ (“the avoidance TTO”), subject to the amendments to it that are specified in section 4.

¹ SD 2017/0374

² SD 2017/0375

³ SD 2017/0377

3 Amendments to the pensions TTO

- (1) The amendments subject to which the pensions TTO is confirmed by section 2 are as specified in the remainder of this section.

Those amendments are subject to subsection (3).

- (2) Amend article 3 of the pensions TTO –

- (a) by substituting, for paragraph (b) of the therein contained section 61H(4) of the *Income Tax Act 1970*, the following –

61H (b) the purpose of which is the provision of relevant benefits for the individual and the individual's –

- (i) surviving spouse or surviving civil partner;
- (ii) surviving child;
- (iii) surviving dependant; or
- (iv) personal representative; **61I**;

- (b) by substituting, for paragraph (b) of the therein contained section 61H(5) of the *Income Tax Act 1970*, the following –

61H (b) the purpose of which is the provision of relevant benefits in respect of a person's employment in the trade or undertaking, being benefits payable to –

- (i) the employee;
- (ii) the employee's surviving spouse or civil partner;
- (iii) the employee's surviving child or dependant; or
- (iv) the employee's personal representative; **61I**;

- (c) by omitting subsection (8) from the therein contained section 61H of the *Income Tax Act 1970*;

- (d) by substituting the following for section 61L of the *Income Tax Act 1970* –

61L **Withdrawal of funds during life of member**

Subject to section 61H(4)(c), (5)(d) and (6), a member of a pension scheme approved under section 61H(2) may elect to receive –

- (a) a single lump sum payment in commutation of all the funds in the pension scheme to which the member is entitled;
- (b) payments consisting of –
 - (i) an initial single lump sum payment of not less than 40% of the value of all the funds in the pension scheme to which the member is entitled; and
 - (ii) subsequently, the remainder of the funds in such amounts and at such times as specified

- by the member until all the funds in the pension scheme to which the member is entitled have been extinguished; or
- (c) payments of all the funds in the pension scheme to which the member is entitled in such amounts and at such times as specified by the member until those funds have been extinguished. **22**;
- (e) by substituting, for subsection (1) of section 61N of the *Income Tax Act 1970*, the following —
- 22** (1) Subject to subsection (3) —
- (a) where a single lump sum payment is made under section 61L(a), 40% of the payment shall not be chargeable to income tax;
- (b) where an initial single lump sum payment of not less than 40% of all the funds in the pension scheme to which the member is entitled is made under section 61L(b)(i), an amount of that payment equal to 40% of all the funds in the pension scheme to which the member is entitled shall not be chargeable to income tax; or
- (c) 40% of each amount of the funds that is paid to the member under section 61L(c) shall not be chargeable to income tax. **22**;
- (f) in the therein contained section 61N(3) of the *Income Tax Act 1970*, by substituting **22** subsection (1)(a), (b) or (c) **22** for “subsection (1)(a) or (b)”;
- (g) by substituting, for subsection (4) of section 61N of the *Income Tax Act 1970*, the following —
- 22** (4) Where in accordance with this section, a single lump sum is paid under section 61L(a), an initial single lump sum is paid under section 61L(b) or the first payment is made under section 61L(c), the administrator must, within 30 days of the date on which the payment is made, give notice of the payment to the Assessor in such form and containing such information as the Assessor may require. **22**;
- (h) in the therein contained section 61P(1) of the *Income Tax Act 1970*, by substituting **22** under section 61L(b) or (c) **22** for “under section 61L(b)”;
- (i) by substituting, for subsection (2) of section 61P of the *Income Tax Act 1970*, the following —
- 22** (2) Where subsection (1) applies and —

- (a) the member does not have a surviving spouse or civil partner, or surviving children, or any other dependant or a personal representative, the member's pension shall be commuted in full within 2 years of the date of death of the member;
- (b) the member has a surviving spouse or civil partner, or surviving children, or any other dependant, or a personal representative —
 - (i) the member's pension may be commuted in full within 2 years of the date of the death of the member, in accordance with scheme rules; or
 - (ii) in the same manner in which the member would have been entitled to do if the member were alive, the spouse or civil partner, or children or dependants, or a personal representative, in accordance with the scheme rules, may claim, and on so claiming is entitled to receive, payments from what remains of the funds in the pension scheme to which the member is entitled. **22**;
- (j) by inserting into the *Income Tax Act 1970*, immediately after section 61P of that Act, the following —

61PA Regulations regarding exit and transfer fees

The Treasury may make regulations restricting the amount of exit and transfer fees that may be imposed by the trustees or administrators, as the case may be, of a pension scheme introduced under Part 5A.

Tynwald procedure – approval required **22**.

- (3) Upon the coming into operation of the amendments specified in subsection (2), all schemes then already approved by the Assessor will continue to be so approved without the need for any re-approval consequent on the implementation of any measures attributable to such amendments.
- (4) The amendments specified in subsection (2) are deemed to have come into operation at the same time at which the pensions TTO came into operation and to have been in operation continuously since then.

4 Amendments to the avoidance TTO

- (1) The amendments subject to which the avoidance TTO is confirmed by section 2 are as specified in the remainder of this section.

- (2) In article 4 insert, immediately after subsection (1) of the therein contained section 2PB of the *Income Tax Act 1970*, the following —
- (1A) This section does not apply where the Assessor is satisfied, on the basis of evidence presented to the Assessor, that —
- (a) the sale of unquoted shares has taken place via a share for share exchange only, with no resulting payments or debt being owed to the participant;
- (b) the sale of unquoted shares does not create an untaxed extraction of undistributed profits either at the time of sale or at any time in the future; or
- (c) on the sale of unquoted shares, any payments made or debt owed to the participant from that sale directly correspond with the amount of consideration paid by an unconnected third party.
- (3) The amendments specified in subsection (2) are deemed to have come into operation at the same time at which the avoidance TTO came into operation and to have been in operation continuously since then.

5 Amendments to the Income Tax Act 1970

- (1) The *Income Tax Act 1970* is amended as follows.
- (2) In section 88(2), for paragraph (c) substitute the following —
- (c) eight other commissioners, also appointed by the Appointments Commission, at least one of whom must be a barrister, advocate or solicitor (in each case, of not less than 7 years' standing).
- (3) In section 120, in the definition of “tax position” —
- (a) omit “and” from immediately after the semicolon at the end of paragraph (f);
- (b) for the full stop at the end of paragraph (g), substitute “; and”; and
- (c) insert the following immediately after paragraph (g) —
- (h) compliance with the standard for automatic exchange of financial account information in tax matters and its commentaries, developed by the Organisation for Economic Co-Operation and Development (“the OECD”);
- (4) Immediately after section 63C, insert the following —
- 63CA Requirement to have a nominated officer**
- (1) This section applies to companies which —

- (a) are resident in the Island for income tax purposes; and
 - (b) are incorporated in a jurisdiction other than the Island.

A company meeting those criteria is referred to in this section as “a foreign company”.
- (2) Every foreign company must nominate an individual, referred to as “a nominated officer”, who —
 - (a) meets the criterion specified in subsection (6); and
 - (b) whose duty it is to perform the functions specified in subsection (7).
- (3) A foreign company that fails to nominate a nominated officer within 90 days of becoming resident in the Island for tax purposes commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (4) If a foreign company convicted under subsection (3) fails to nominate a nominated officer within 90 days of that conviction, the foreign company commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) If —
 - (a) a foreign company commits an offence under subsection (4); and
 - (b) section 54 of the *Interpretation Act 2015* applies,

the maximum penalty for which an individual would be liable on conviction of the offence is custody for 6 months.
- (6) In order to be qualified to be a nominated officer, a person must be resident in the Island for income tax purposes.
- (7) The functions of a nominated officer are —
 - (a) to hold information on the legal owners of the foreign company; and
 - (b) in a timely manner, to furnish that information (or any part of it) to the Assessor on the Assessor’s request.

- (8) A nominated officer who fails to comply with subsection (7)(a) or (b) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale. **22**.
- (9)