

CHAPTER No. 8

**INCOME TAX  
(CORPORATE TAXPAYERS)  
ACT 2006**

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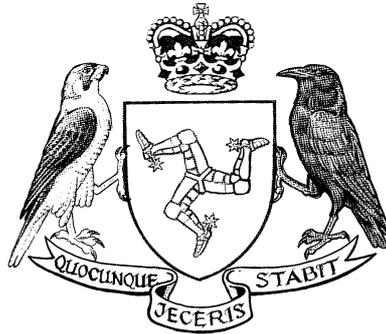
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# **INCOME TAX (CORPORATE TAXPAYERS) ACT 2006**

## **Arrangement of Sections**

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Isle of Man } Signed in Tynwald: 11th July 2006  
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## AN ACT

to amend the Income Tax Acts in respect of the taxation of corporate taxpayers; and for connected purposes.

**WE**, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say):—

**1.** (1) For section 81 of the Income Tax Act 1970 (in this Act referred to as "the 1970 Act") substitute —

"Basis of assessment, etc. for corporate taxpayers

**81.** (1) Income tax shall, in accordance with this Act, be assessed and charged on the income of corporate taxpayers received or accrued in any year of assessment but assessments to income tax will be made on corporate taxpayers by reference to accounting periods.

Income tax  
in respect of  
corporate  
taxpayers

[XXI p.260]

(2) The amount of income tax chargeable on a corporate taxpayer (after making all proper deductions) on income received or accrued in an accounting period will, where necessary, be apportioned between the years of assessment in which the accounting period falls.

(3) In any year of assessment, assessments for accounting periods of a corporate taxpayer falling wholly or partly in that year or in the preceding year may, although income tax has not at the time been charged for the year in question, charge tax for so much of the period as falls within that year according to the rate of tax last determined.

(4) Where any charge under subsection (3) is subject to later necessary adjustment it may be by discharge or repayment of tax or by further assessment.

(5) If the Treasury makes an order determining the rate of income tax in respect of corporate taxpayers for any year of assessment, any subsequent assessment to tax made under this section may be made in accordance with the order.”.

(2) The following consequential repeals shall have effect —

- [c.25] (a) in Schedule 2 to the Income Tax (Amendment) Act 1986, entry 4 is repealed;
- [c.10] (b) in Schedule 4 to the Income Tax Act 1989, entry 1 is repealed;
- [c.5] (c) in the Income Tax (Amendment) Act 2004, section 1(3) is repealed.

Accounting periods

**2.** (1) After section 119D of the 1970 Act insert —

“Beginning and ending of accounting periods  
1988/1/  
12(2),(3),  
(5)-(7)

**119E.** (1) An accounting period of a corporate taxpayer begins whenever —

- (a) the corporate taxpayer, not then being within the charge to income tax, comes within it, whether by the corporate taxpayer becoming resident in the Island or acquiring a source of income, or otherwise; or
- (b) an accounting period of the corporate taxpayer ends without the corporate taxpayer then ceasing to be within the charge to income tax.

(2) An accounting period of a corporate taxpayer ends on the first occurrence of any of the following —

- (a) the expiration of 12 months from the beginning of the accounting period;
- (b) an accounting date of the corporate taxpayer or, if there is a period for which the corporate taxpayer does not make up accounts, the end of that period;
- (c) the corporate taxpayer beginning or ceasing to trade or to be, in respect of the trade or (if

more than one) of all the trades carried on by it, within the charge to income tax;

- (d) the corporate taxpayer beginning or ceasing to be resident in the Island;
- (e) the corporate taxpayer ceasing to be within the charge to income tax.

(3) Subject to subsection (4), if a corporate taxpayer carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the corporate taxpayer's activities —

- (a) subsection (2)(b) applies with reference to the accounting date of such one of the trades as the Assessor may determine; but
- (b) if the accounting date of each of the trades is more than 12 months from the beginning of the accounting period, the Assessor may make an assessment on the corporate taxpayer in respect of such period, not exceeding 12 months, as appears to the Assessor to be appropriate.

(4) If the Assessor is of the opinion on reasonable grounds, that no appropriate date can be determined for the purposes of subsection (3), the Assessor may make an assessment on the corporate taxpayer in respect of such period, not exceeding 12 months, as appears to the Assessor to be appropriate.

(5) If a corporate taxpayer is wound up, its accounting period ends and a new one begins with the commencement of the winding up, and each subsequent accounting period does not end otherwise than by —

- (a) the expiration of 12 months from its beginning; or
- (b) the completion of the winding up,

and subsections (1) to (3) will not apply in such a case.

(6) For the purposes of subsection (5), winding up commences —

- (a) on the passing by the corporate taxpayer of a resolution for the winding up of the taxpayer; or

- (b) on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition; or
- (c) on the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Acts 1931 to 2004.

(7) A corporate taxpayer resident in the Island, if not otherwise within the charge to income tax, shall be treated as coming within the charge to income tax at the time when it commences to carry on business.

Powers of  
Assessor  
in doubtful  
cases

**119F.** (1) If the Assessor is of the opinion that the beginning or end of any accounting period of a corporate taxpayer is uncertain, the Assessor may make an assessment on the corporate taxpayer in respect of such period, not exceeding 12 months, as appears to the Assessor to be appropriate.

(2) The period under subsection (1) will be treated for all purposes as an accounting period of the corporate taxpayer unless either —

- (a) on further facts coming to the Assessor's knowledge, the Assessor sees fit to revise it; or
- (b) on an appeal against the assessment in respect of some other matter the corporate taxpayer shows the true accounting periods.

(3) If on an appeal against an assessment under this section the corporate taxpayer shows the true accounting periods, the assessment appealed against will, as regards the period to which it relates, have effect as an assessment or assessments for the true accounting periods, and there may be made such other assessments for any such periods or any of them as might have been made at the time when the assessment appealed against was made.”.

(2) The following repeals shall have effect —

- (a) in the 1970 Act, sections 3, 4, 6 and 7 are repealed;
- (b) in the Income Tax (Amendment) Act 1979, section 1 is repealed;
- (c) in Schedule 2 to the Income Tax (Amendment) Act 1986, entries 2 and 3 are repealed;

[c.2]

[c.25]

(d) section 6(1) of the Income Tax (Amendment) Act 2004 [c.5] is repealed.

3. (1) For section 96 of the 1970 Act substitute —

“Time for payment of tax by corporate taxpayers

**96.** (1) Income tax due by a corporate taxpayer for an accounting period is due and payable on the day following the expiry of 12 months from the end of that accounting period whether or not a notice of assessment is issued and if a notice is issued no matter when it is issued.

Time for payment of tax by corporate taxpayers

(2) If income tax for an accounting period of a corporate taxpayer is due under subsection (1) without the making of an assessment —

(a) the amount shown in a return by the corporate taxpayer under section A66 as the income tax due and payable for the period will be treated for the purposes of the Income Tax Acts as tax charged and due and payable under an assessment on the corporate taxpayer; and

(b) references in the Income Tax Acts to assessed and assessment shall be construed accordingly.”.

(2) In the 1970 Act —

(a) in section 102, after “assessment of any income” insert “of a non-corporate taxpayer”;

(b) in section 120, before the definition of “Assessor” insert —

““assessment” and “assessed” shall, in relation to corporate taxpayers, be construed in accordance with section 96(2);”.

(3) Section 2(4) of the Income Tax (Amendment) Act 2004 [c.5] is repealed.

4. (1) Before section 84 of the 1970 Act insert —

“Enquiries into returns : corporate taxpayers

**A84.** (1) In respect of a return of a corporate taxpayer, the Assessor may enquire into the return and exercise the powers conferred by section 84 if the Assessor gives written notice of enquiry to the corporate taxpayer within the time allowed.

Returns : corporate taxpayers

(2) In this section, “the time allowed” is the period of 12 months starting from —

- (a) the date on which the return is delivered to the Assessor;
- (b) the date on which a notice of amendment is given under subsection (4),

whichever is the later.

(3) An enquiry under this section may be undertaken and the powers conferred by section 84 may be exercised in respect of a corporate taxpayer at any time after the notice of enquiry has been given.

(4) A corporate taxpayer may amend its tax return by giving written notice to the Assessor within the time allowed and the notice must contain such information and be accompanied by such statements and documents as the Assessor may require.

Verification  
of returns :  
general  
powers

**B84.** (1) The Assessor may require any person to produce such information or documents —

- (a) in support of a return or anything contained in a return;
- (b) about things that the Assessor believes should be included in the return;
- (c) about tax payable by, or any liability to tax on the part of, the corporate taxpayer for other accounting periods;
- (d) about tax payable by, or any liability to tax on the part of, other corporate taxpayers for any accounting periods;
- (e) about claims, reliefs or elections,

as the Assessor may require.

(2) If the Assessor is not satisfied with the return made by any person, or a person fails to produce the information or documents required, or the Assessor is not satisfied with anything that has been furnished, the Assessor shall make an assessment on the person concerned in such sum as, according to the best of the Assessor’s judgment, ought to be charged on that person.

(3) This section is subject to section 84A and does not affect any other powers in the Income Tax Acts for the production of information or documents.

(4) Where any person is required to produce information or documents to the Assessor under this section, that person shall be guilty of an offence if —

- (a) that person fails without reasonable cause to comply with the requirement; or
- (b) in producing the information which is required —
  - (i) makes any statement knowing it to be false in a material particular; or
  - (ii) recklessly makes any statement which is false in a material particular;
- (c) in producing a document which is required —
  - (i) produces a document knowing it to be false in a material particular; or
  - (ii) recklessly produces a document which is false in a material particular.

(5) A person guilty of an offence under this section shall be liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.”.

(2) The following repeals shall have effect —

- (a) in the 1970 Act, section 93 is repealed;
- (b) in the Income Tax (Amendment) Act 2004, section 2(3) [c.5] is repealed.

**5.** (1) In section 84A of the 1970 Act —

Additional assessments

- (a) in subsection (2), for the words from “not later” substitute —

“ —

- (a) in the case of a corporate taxpayer, not later than 4 years after the end of the accounting period or, as the case may be, the accounting period to which the assessment relates; or

(b) in the case of a non-corporate taxpayer, not later than 6 years after the end of the year of assessment to which the assessment relates.”;

(b) in subsection (3), for the words “at any time” substitute —  
“ —

(a) in the case of a corporate taxpayer, at any time not later than 12 years after the end of the accounting period to which the assessment relates; or

(b) in the case of a non-corporate taxpayer, at any time.”.

(2) Subsection (1)(a) shall not have effect in relation to any year of assessment commencing before the date on which this section comes into operation.

Assessment  
in default :  
corporate  
taxpayers

**6.** (1) After section 86 of the 1970 Act insert —

“Assessment  
in default :  
corporate  
taxpayers **86A.** (1) Where for any accounting period a return in respect of the income of any corporate taxpayer has not been filed within the time limited by or under the provisions of this Act, the Assessor may make an assessment (in this section referred to as “an assessment in default”) to the best of the Assessor’s judgment of the income of the corporate taxpayer for the accounting period in respect of which the default was made.

(2) Any corporate taxpayer who is assessed under subsection (1) may, within 6 months from the date of the service of the notice of such assessment, file the return of income for the period in respect of which the assessment in default was made.

(3) Subject to the following provisions of this section, an assessment under subsection (1) shall be treated by the Assessor as being final and conclusive and such assessment shall be entered in the assessment list or supplementary list, as the case may require, and payment of income tax shall be made on such assessment.

(4) Where a return of income is made and delivered within the extension of time granted under this section, the income of the corporate taxpayer shall be assessed thereon in accordance with this Act and the assessment under subsection (1) which it replaces shall cease to have effect.

(5) An assessment under subsection (1) or (4) shall be deemed to have become due and payable on the date on which income tax should have been paid under section 96 of this Act.

(6) Where a corporate taxpayer has paid more in respect of an assessment under subsection (1) than is payable under the assessment under subsection (4) which replaces it, the Assessor shall, after taking account of such assessments to income tax or any other amounts that are due and payable by the taxpayer under the Income Tax Acts, repay the difference to the corporate taxpayer.

(7) Nothing in this section shall be construed so as to affect the duty of any person to make and deliver a return in the time and manner required by any other provision of this Act.”.

(2) In section 86 of the 1970 Act, at the end add —

“(10) This section does not apply in respect of corporate taxpayers.”.

7. (1) After section 101 of the 1970 Act insert —

Errors, etc, in assessment

“Error or mistake in assessment : corporate taxpayers

**101A.** (1) Where, in respect of a corporate taxpayer, any error, omission, or mistake has been made in the preparation or production of any return or assessment in respect of an accounting period it shall be lawful for the Assessor to amend the same within 4 years from the end of the accounting period to which the return or, as the case may be, assessment relates.

(2) The Assessor may make an additional assessment charging the corporate taxpayer liable in respect of the amount represented by an error, omission, or mistake mentioned in subsection (1).

(3) The corporate taxpayer so assessed shall be entitled to contest the additional assessment, and shall have the same right of appeal as in the case of a first assessment.”.

(2) In section 101 of the 1970 Act, at the end add “This section does not apply in respect of corporate taxpayers.”.

8. In section 107(2) of the 1970 Act, after “assessment” insert “in respect of a non-corporate taxpayer and within 4 years from the end of the accounting period to which the assessment relates in respect of a corporate taxpayer”.

Repayment of tax

Corporate taxpayers : distributed income

9. (1) For section 25 of the 1970 Act substitute —

“Corporate taxpayers no deduction for distributed income **25.** A corporate taxpayer’s profits shall be computed for the purposes of income tax without any deduction in respect of any distribution of its income among its shareholders or stockholders, members or associates, by way of dividend, bonus, interest, or share in profit.”.

(2) For section 25A of the 1970 Act substitute —

“Distributed income : tax credit voucher **25A.** (1) Subject to subsections (3) and (5), as soon as practicable after a distribution is paid by a corporate taxpayer it shall send a tax credit voucher to every member who was included in the distribution.

(2) A tax credit voucher shall contain such information and be in such form as may be prescribed.

(3) No tax credit shall be allowed in respect of a distribution from reserves accumulated before 6 April 2006 and in such a case no tax credit voucher shall be issued.

(4) Where distribution credit is allowed under section 13H in respect of a distribution, this section shall not apply to so much of the distribution as is subject to distribution credit.

(5) This section shall not apply when the rate of the income tax charged on the profits of the corporate taxpayer at the time the profits out of which the distribution was derived were received or accrued is zero.

(6) The Treasury may make regulations to give full effect to this section.

(7) Regulations under this section shall not come into operation unless they are approved by Tynwald.

Value of a tax credit voucher

**25B.** (1) The value of a tax credit voucher shall be determined in accordance with the formula —

$$G \times R$$

where :

“G” = the gross amount of income distributed to the member determined in accordance with subsection (2); and

“R” = the rate of the income tax charged on the profits of the corporate taxpayer at the time the profits out of which the distribution was derived were received or accrued.

(2) In determining the gross amount of income distributed to the member no account shall be taken of any payment of income tax or distribution credit, nor of any credit due to the member as distribution credit under section 13H or tax credit, and the amount shall be determined in accordance with the following —

$$\text{The amount of income distributed} \times \frac{100}{100 - R}$$

where R has the same meaning as in subsection (1).

(3) Subject to section 25A(3), the profits of a corporate taxpayer out of which a distribution is derived shall be treated on a first in first out basis.

Voucher  
a credit  
against  
income  
tax

**25C.** (1) The value of a tax credit voucher shall be deducted from the amount of tax due and payable by the recipient of the credit voucher in respect of the year of assessment in which the distribution is paid.

(2) In respect of a tax credit voucher that is received by a non-corporate taxpayer, any unused balance of the value of the tax credit voucher shall be refundable except where the distribution in respect of which the voucher applies is excluded income under section 11A(2).

(3) In respect of a tax credit voucher that is received by a corporate taxpayer, any unused balance of the value of the tax credit voucher shall not be refundable nor shall it be carried forward.”.

(3) The following are repealed —

- (a) section 1 of the Income Tax Act 1976; [c.13]
- (b) section 1(2) of the Income Tax (Amendment) Act 1988; [c.13]
- (c) section 7(2)(b) of the Income Tax (Amendment) Act 2006. [c. 4]

**10.** (1) In the 1970 Act —

- (a) in section 13B —

Distributable  
profits charge :  
consequential  
amendments

- (i) in subsection (1)(a), for “year of assessment” substitute “accounting period”;
  - (ii) in subsection (1)(b), for “year” substitute “accounting period”;
  - (iii) in subsection (2), for “year” substitute “accounting period”;
  - (iv) in subsection (4), for “year” substitute “accounting period”;
- (b) in section 13C —
- (i) in subsection (1), for “year of assessment” substitute “accounting period”;
  - (ii) subsection (5) is repealed;
  - (iii) in subsection (6), after “Sections” insert “96,”;
- (c) for section 13J(1) substitute —
- “(1) The value of a distribution credit voucher shall be deducted from the amount of tax due and payable by the recipient of the credit in respect of —
- (a) in the case of a non-corporate taxpayer, the year of assessment in which the distribution is paid; or
  - (b) in the case of a corporate taxpayer, the accounting period in which the distribution is paid.”;
- (d) in section 13J(2), after “appropriate year” insert “or accounting period”.
- (2) In the 1970 Act —
- (a) in section 14A —
- (i) at the end of subsection (1), add “and such sum shall be determined by reference to accounting periods ending in the year of assessment”;
  - (ii) after subsection (1) insert —
- “(1A) Where the accounting period of a corporate taxpayer ends on a date other than 6 April in any year of assessment, the corporate charge shall be the prescribed sum having effect on the date on which the accounting period ends.”;

(iii) for subsection (4) substitute —

“(4) Subject to subsection (6), the corporate charge is due and payable for an accounting period on the day following the expiry of 12 months from the end of that accounting period.”;

(iv) for subsection (5) substitute —

“(5) Where an accounting period is less than 12 months, the corporate charge shall be reduced proportionately using the following formula —

$$\frac{\text{Corporate Charge}}{365} \times \text{number of days in the accounting period.}”;$$

(b) in section 14C(3), for “relevant year” and “that year” substitute “relevant accounting period” and “that period” respectively;

(c) in section 14D, for “relevant year” and “that year” substitute “relevant accounting period” and “that period” respectively.

11. (1) In section 27A of the 1970 Act —

Reliefs and  
deductions :  
corporate  
taxpayers

(a) in subsection (2), for paragraphs (a) and (b) substitute —

“(a) permit reliefs and allowances to be carried forward from one period to subsequent periods;

(b) permit reliefs and allowances to be carried back from one period to previous periods;”;

(b) in subsection (3), for “year of assessment” substitute “period”;

(c) after subsection (4), add —

“(5) In this section, period means —

(a) in the case of the taxation of non-corporate taxpayers, a year of assessment; and

(b) in the case of the taxation of corporate taxpayers, an accounting period.”.

(2) In section 61D of the 1970 Act —

(a) in subsection (1), for “year of assessment” and “that year” substitute “accounting period” and “that accounting period” respectively;

(b) in subsection (3) —

(i) for “year of assessment” substitute “accounting period”;

(ii) for paragraph (a) substitute —

“(a) the sum which, at the end of the relevant accounting period, is prescribed under section 61F(1)(b) of this Act; or”.

[c.17] (3) Section 9(4) of the Income Tax Act 1991 is repealed.

Group relief [c.16] **12.** (1) In Schedule 2 to the Income Tax Act 1980, at the beginning insert —

“General interpretation **A1.** In this Schedule —

(a) references to a year of assessment shall be construed as references to a accounting period and, except in paragraph 16, references to “year” shall be construed accordingly;

(b) references to companies and to bodies corporate shall be construed as references to corporate taxpayers.”.

(2) After section 1(3B) of the 1970 Act insert —

“(3BA) An order under this section may include provision for the protection of the revenue and for the exclusion of group relief in cases where any income of a surrendering company is assessed to income tax at a different rate to any income of a claimant company and accordingly, such an order may modify the operation of Schedule 2 to the Income Tax Act 1980.”.

Loans to participators : minor consequential amendments **13.** In the 1970 Act —

(a) in section A108(3), for “year of assessment” where it first occurs substitute “accounting period”;

(b) in section B108(6), for “6” and “year of assessment” substitute “4” and “accounting period” respectively.

**14.** In the 1970 Act —

Double taxation :  
minor  
consequential  
amendments

- (a) in section 54(3) (relief from double taxation), after “year of assessment” insert “or, in the case of a corporate taxpayer, accounting period”;
- (b) in section 55 (tax credits) —
  - (i) after “year of assessment”, wherever occurring, (except in subsection (8)) insert “or, in the case of a corporate taxpayer, accounting period”;
  - (ii) in subsection (8), after “year of assessment” insert “or period”;
  - (iii) in subsection (10), after “six years” insert “in the case of a non-corporate taxpayer or four years in the case of a corporate taxpayer”;
- (c) in section 57 (relief in respect of tax in other territories) —
  - (i) after “year of assessment”, wherever occurring, insert “or, in the case of a corporate taxpayer, accounting period”;
  - (ii) in subsection (1), after “that year” insert “or, as the case requires, period”.

**15.** (1) Before section 66 of the 1970 Act insert —

Returns :  
consequential  
amendments

“Corporate  
taxpayers :  
returns

**A66.** (1) Every corporate taxpayer shall on or before the due day make and deliver to the Assessor a true and correct return of that taxpayer’s whole income for each accounting period.

- (2) A return shall —
  - (a) give particulars of the items and sources of the corporate taxpayer’s income; and
  - (b) specify the items of income in respect of which income tax is payable by law elsewhere, and the rate and amount of such income tax in the prescribed form; and
  - (c) the particulars as to the amount of such income distributed by way of dividend and the amount otherwise applied.
- (3) In this section the “due day” is —

(a) the day following the expiry of 12 months from the end of every accounting period, or

(b) such later date as the Treasury may by order determine.

(4) Every return for an accounting period must include a computation of the amount of tax which is payable by the corporate taxpayer for that period —

(a) on the basis of the information contained in the return; and

(b) taking into account any relief, deduction or allowance for which a claim is included in the return or which is required to be given in relation to that accounting period.

(5) Every corporate taxpayer shall be supplied by the Assessor, on request, with a copy of the appropriate form on which the return is to be made, either by prepaid post or otherwise.”.

(2) At the end of section 62 of the 1970 Act insert —

“(7) This section shall not apply to corporate taxpayers.”.

Enforcement, interest and repayment supplements : amendments

**16.** In the 1970 Act —

(a) in section 97 (tax a debt due to Crown), after “income tax” insert “and the distributable profits charge”;

(b) for section 99 of the 1970 Act substitute —

**99.** (1) The Assessor shall institute such legal proceedings as may be necessary for the recovery of unpaid income tax or the distributable profits charge.

(2) Proceedings for the recovery of income tax or the distributable profits charge may be taken at any time after it becomes due and payable.

(3) Where the Assessor is satisfied that the amount or balance of any assessment or distributable profits charge is irrecoverable the Assessor may write it off with the consent of the Treasury.

(4) If the Assessor is satisfied that any amount or balance written off under subsection (3) has for any

reason ceased to be irrecoverable, the Assessor may institute such legal proceedings as may be necessary for its recovery.

(5) Proceedings for the recovery of unpaid income tax or the distributable profits charge may be conducted by —

- (a) an officer of the Treasury (whether or not an advocate) who is authorised by the Assessor; or
- (b) a person (whether or not an advocate) who is a member of the Attorney General's Chambers and is authorised by, the Attorney General.

(6) A person authorised under subsection (5) shall have a right of audience in any court and, when acting in accordance with the authorisation, shall not be in contravention of any provision of the Advocates Act 1976, the Legal Practitioners Registration Act 1986 or any other enactment relating to the provision of legal services or rights of audience. [c.27]  
[c.15]

(7) Where the amount or balance of any assessment —

- (a) is written off under subsection (3); or
- (b) having been written off, ceases to be irrecoverable under subsection (4),

the Assessor may make the necessary alterations to the assessment list or supplementary assessment list.”;

(c) for section 111B of the 1970 Act substitute —

“Interest on tax recovered to make good loss due to taxpayer's default

**111B.** (1) This section applies where an assessment has been made for the purpose of making good a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person.

(2) The tax charged by the assessment, or as the case may be such part of the assessment as corresponds to the part so attributable, shall carry interest under section 111A from —

- (a) in the case of a non-corporate taxpayer, 6 January following the year of assessment to which the assessment relates until payment; and

- (b) in the case of a corporate taxpayer, the day following the expiry of 12 months from the end of the accounting period to which the assessment relates.”;

(d) for section 107A substitute —

Repayment  
supplements :  
corporate  
taxpayers **107A.** (1) Subject to the provisions of this section,  
where —

- (a) income tax has been paid by or on behalf of a body corporate for an accounting period; and
- (b) a repayment of that tax of not less than £250 is made by the Treasury after the end of 12 months following the end of that period,

the repayment shall be increased under this section by an amount (a “repayment supplement”) equal to interest on the amount repaid at the rate of 3 per cent. per annum (calculated on a daily basis) for the period (if any) between the relevant time and the date on which repayment is made.

(2) For the purposes of subsection (1) —

- (a) if the repayment is of tax that was paid after the end of the 12 months following the date on which the tax was due and payable, the relevant time is the date on which that tax was paid;
- (b) in any other case, the relevant time is the end of the 12 months mentioned in that subsection.

(3) Subject to subsection (4), where a repayment to which subsection (1) applies is of tax paid in respect of two or more accounting periods, the repayment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid in a later rather than an earlier period among those periods.

(4) Where in consequence of an assessment for any year of assessment there is made by the Treasury a repayment of income tax of not less than £250 to a corporate taxpayer, being an amount which takes account of tax overpaid or remaining unpaid for one or more earlier accounting periods, then —

- (a) the repayment shall for the purposes of this subsection be attributable to such of the

periods in question, and in such proportions, as may be determined in accordance with regulations made under and for the purposes of this subsection by the Treasury; and

- (b) subsections (1) to (3) shall have effect in relation to so much of the repayment as is by virtue of paragraph (a) attributed to any particular accounting period as if in subsection (1) the words “of not less than £250” were omitted.

(5) The Treasury may by regulations from time to time increase or decrease the rate of interest by reference to which repayment supplements are calculated under this section.

(6) A repayment supplement shall not be payable under this section in respect of a repayment or payment made in consequence of an order or judgment of a court having power to allow interest on the repayment or payment.

(7) This section shall not apply in respect of a repayment of income tax that falls due by reason of —

- (a) a claim made under section 27A of this Act under which the whole or any part of a loss incurred in any period is set off against profits of an earlier period; or
- (b) a claim for any group relief under Schedule 2 to the Income Tax Act 1980 under which a body corporate in the same group as the claimant surrenders trading losses or other amounts eligible for relief from income tax for the benefit of the claimant. [c.16]

(8) If a corporate taxpayer —

- (a) is liable to a civil penalty under section 112A on the grounds that it has not made and delivered a return of income; or
- (b) is not so liable and an assessment in default of a return of income is made under section 86A,

no repayment supplement shall be due to that taxpayer in the case of any repayment of tax in respect of the accounting period to which the relevant return relates.

(9) A repayment supplement paid to any person under this section shall not be income of that person for any tax purposes.

(10) Regulations under this section shall be laid before Tynwald.

(11) No supplement shall be paid under this section in respect of any period preceding the date on which this section comes into operation.”;

(e) for section 100 of the 1970 Act substitute —

“Assessor’s certificate evidence of taxes and charges in arrear

**100.** (1) For the purpose of recovering income tax or distributable profits charge, or any balance thereof, in any court, a certificate signed by the Assessor certifying that the person named in such certificate has made default in payment of the tax or charge, shall be sufficient evidence of the sum for tax or charge therein mentioned having been duly charged and assessed, and of the same being due and owing and in arrear and unpaid to the Crown.

(2) A certificate under this section shall be deemed to be authentic, and no proof shall be required of the signature or of the official character of the person signing the same as Assessor.”;

(f) the following consequential repeals shall have effect —

- [c.12] (i) section 5 of the Income Tax Act 1978;
- [c.31] (ii) in Schedule 1 to the Income Tax Act 1981, entries 4, 5 and 13 are repealed;
- [c.25] (iii) in Schedule 2 to the Treasury Act 1985, entry 201 is repealed;
- [c.25] (iv) section 14 of the Income Tax (Amendment) Act 1986 is repealed;
- [c.10] (v) section 79 of the Income Tax Act 1989 is repealed;
- [c.5] (vi) section 4(3) and (4) and 15(6) of the Income Tax (Amendment) Act 2004 are repealed.

Corporate taxpayers : civil penalties

**17.** In the 1970 Act, after section 112 insert —

*“Corporate taxpayers - civil penalties*

Initial default **112A.** If, by the day following the expiry of 12 months from the end of the accounting period, a corporate

taxpayer has not made and delivered a return as required by section A66, the corporate taxpayer shall be liable to a civil penalty.

Extended  
default

**112B.** (1) If a corporate taxpayer has not made and delivered a return as required by section A66 by the day following the expiry of 18 months from the end of the accounting period the corporate taxpayer shall be liable to a civil penalty.

(2) The penalty under this section is additional to any penalty under section 112A.

Mitigation  
of penalties  
under  
sections  
section 112A  
or 112B

**112C.** (1) Where a corporate taxpayer is liable to a penalty under section 112A or 112B the Assessor or, on appeal, the Commissioners may reduce the penalty to such amount (including nil) as they think proper.

(2) In the case of a penalty reduced by the Assessor under subsection (1), the Commissioners, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Assessor.

(3) The Assessor or the Commissioners shall not be entitled to take into account in exercising their powers under this section —

- (a) the insufficiency of the funds available to any person for paying any income tax due, any amount due in respect of distributable profits charge or for paying the amount of the penalty;
- (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss to the revenue;
- (c) the fact that the corporate taxpayer liable to the penalty or a person acting on that taxpayer's behalf has acted in good faith.

Section 112A  
or 112B :  
supplementary

**112D.** (1) A penalty under section 112A or 112B shall not arise if the corporate taxpayer satisfies the Assessor or, on appeal, the Commissioners that there is a reasonable excuse for having failed to make and deliver the return.

(2) For the purpose of subsection (1) —

- (a) an insufficiency of funds to pay any income tax due is not a reasonable excuse; and

(b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness on the part of the person relied upon is a reasonable excuse.

(3) Where by reason of having failed to make and deliver a return a corporate taxpayer is convicted of an offence under section 112I of this Act, the failure shall not also give rise to a penalty under section 112A or 112B.

Amount of penalty

**112E.** (1) Subject to section 112F, the amount of the penalty under section 112A or 112B shall be such sum as the Treasury may prescribe by order.

(2) An order under subsection (1) shall not come into operation unless it is approved by Tynwald.

Amount of penalty : successive defaults

**112F.** (1) The amount of the penalty under section 112A or 112B is increased to such sum as the Treasury may prescribe by order where the corporate taxpayer has been liable to a penalty under either or both of those sections in respect of the two accounting periods immediately preceding the accounting period in respect of which the amount under this section is to be applied.

(2) An order under subsection (1) shall not come into operation unless it is approved by Tynwald.

Penalty notice

**112G.** (1) Subject to sections 112C and 112D, where the Assessor is satisfied on reasonable grounds that a penalty is or may be due under section 112A or 112B, the Assessor may issue a penalty notice to the corporate taxpayer and the penalty specified in a penalty notice shall be recoverable accordingly.

(2) The Assessor shall be treated as having reasonable grounds for the purposes of subsection (1) if the Assessor has reason to believe that the default referred to in either section 112A or 112B has arisen or for any reason is likely to arise.

(3) A penalty notice under this section shall have the same effect as a certificate under section 112H.

Collection of penalty

**112H.** (1) A penalty under section 112A or 112B shall be recoverable as a debt due to the Assessor from the corporate taxpayer in respect of whom the return should have been made.

(2) A certificate of the Assessor that a penalty is payable under section 112A or 112B and that payment of the penalty has not been made, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Assessor.

(3) A certificate under this section shall be deemed to be authentic, and no proof shall be required of the signature or of the official character of the person signing the same as Assessor.

(4) A penalty under section 112A or 112B shall be treated as a debt due to the Crown or to any person on behalf of the Crown for the purposes of section 3 of the Preferential Payments Act 1908.

[VIII p.143]

(5) A penalty payable under section 112A or 112B shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any income tax purposes.

Criminal  
offence:  
failure to  
make return

**112I.** (1) If a corporate taxpayer has not made and delivered a return as required by section A66 within 24 months of the end of the relevant accounting period, the taxpayer shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or custody for a term not exceeding 6 months, or to both.

(2) If any non-corporate taxpayer is convicted of an offence under subsection (1), the court may order the non-corporate taxpayer to take such action as is necessary to rectify such failure.

(3) Subsections (4) to (6) apply where an offence under subsection (1) is committed by a corporate taxpayer and it is proved that the offence —

- (a) was committed with the consent or connivance of an officer of the corporate taxpayer, or
- (b) was attributable to neglect on the part of an officer of the corporate taxpayer.

(4) The officer, as well as the corporate taxpayer, shall be guilty of the offence.

(5) Where an officer is convicted of an offence under subsection (1) by virtue of subsection (4), that officer shall be liable on summary conviction to a fine not exceeding £5,000 or custody for a term not exceeding 6 months, or to both.

- (6) In this section “officer” includes —
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary,
  - (c) if the affairs of the body are managed by its members, a member.

Appeals **112J.** (1) An appeal shall lie to the Commissioners with respect to —

- (a) any liability to a penalty under section 112A or 112B; or
- (b) a decision of the Assessor under section 112C,

and the Commissioners may confirm, vary or reverse the penalty or, as the case may be, decision.

(2) The procedure with respect to an appeal under subsection (1) shall, with the necessary modifications, be the same as that for an appeal against an assessment.”.

Interpretation **18.** In this Act, “the 1970 Act” means the Income Tax Act 1970.  
[XXI p.260]

Amendments and repeals **19.** (1) For section 5 of the 1970 Act substitute —

“Assessment of new resident non-corporate taxpayers **5.** Where a non-corporate taxpayer becomes resident in the Isle of Man during the year of assessment, the Assessor shall allow only a proportion of all the allowances and deductions corresponding to the proportion which the period during which the taxpayer was resident in the Isle of Man in the year of assessment bears to the year.”.

(2) The enactments specified in the Schedule are repealed to the extent specified in column three of that Schedule.

Short title and appointed day **20.** (1) This Act may be cited as the Income Tax (Corporate Taxpayers) Act 2006.

(2) This Act shall come into operation on such day and have effect in respect of such year of assessment as the Treasury may by order appoint and different days and years may be so appointed for different provisions and for different purposes.

(3) An order under subsection (2) may —

- (a) include transitional provision and saving provisions and may modify the application of a provision of an enactment pending the commencement of, or pending the doing of anything under, a provision of another enactment;
- (b) repeal or amend any enactment passed before this Act that appears to the Treasury to be inconsistent with, or to have become unnecessary or to require modification in consequence of, this Act; and
- (c) contain such supplemental and consequential provisions.

(4) If the Treasury brings into force a repeal effected by this Act it may by order —

- (a) save, with or without modification, a provision repealed by this Act;
- (b) make provision of a kind similar to provision made by a provision repealed by this Act;
- (c) modify a provision of this Act for such a purpose;
- (d) modify a provision of an enactment (including a provision which amends another enactment) so as to reflect a provision of this Act.

Section 19(2).

## SCHEDULE

## REPEAL OF ENACTMENTS

<i>Volume/Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
<i>Exempt Insurance Companies</i>		
1981 c.17	Income Tax (Exempt Insurance Companies) Act 1981	The whole Act.
1985 c.25	Treasury Act 1985	In Schedule 2, entries 336 and 337.
1986 c.24	Insurance Act 1986	In Schedule 5, entry 7.
1986 c.25	Income Tax (Amendment) Act 1986	Section 18.
1989 c. 6	Statute Law Revision Act 1989	In Schedule 1, entry 49(1)(n).
1989 c.10	Income Tax Act 1989	In section 55(1), the words “the Income Tax (Exempt Insurance Companies) Act 1981,”.
<i>Exempt Companies</i>		
1984 c.10	Income Tax (Exempt Companies) Act 1984	The whole Act.
1985 c.25	Treasury Act 1985	In Schedule 2, entry 370.
1986 c.25	Income Tax (Amendment) Act 1986	Section 19.
1989 c.10	Income Tax Act 1989	In Schedule 4, entry 7.
1991 c.17	Income Tax Act 1991	Section 12.
1991 c.18	Investment Business Act 1991	In Schedule 2, entry 3.
1998 c.4	Banking Act 1998	In Part I of Schedule 1 entry 1.
<i>International Businesses</i>		
1994 c.3	International Business Act 1994	Sections 1 to 14, 17 to 19 and Schedule 2.
1994 c.4	International Business (Amendment) Act 1994	Section 1.
1998 c.4	Banking Act 1998	In Part 1 of Schedule 1, entries 10 to 13.

*Managed Banks*

XXI p.260	Income Tax Act 1970	Sections 20A to 20F.
1989 c.10	Income Tax Act 1989	Section 59. Schedule 2.

*Limited Liability Companies*

1996 c.19	Limited Liability Companies Act 1996	Chapter 1 of Part 3.
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*Non-Resident Company Duty*

1986 c.50	Non-Resident Company Duty Act 1986	The whole Act.
2000 c.3	Companies (Transfer of Functions) Act 2000	In Schedule 2, entry 34 and the cross-heading relating to that entry.
2000 c.6	Income Tax Act 2000	Section 2.