

# INCOME TAX ACT 2009

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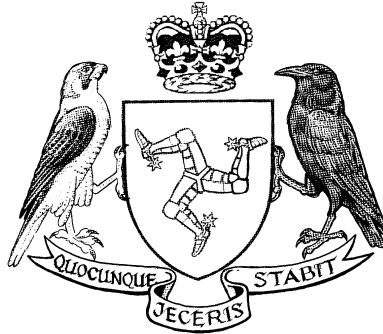
## SUPPLEMENTARY

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Isle of Man } Signed in Tynwald: 21st April 2009  
 to Wit } Received Royal Assent: 21st April 2009  
 Announced to Tynwald: 21st April 2009

## AN ACT

to confirm certain temporary  
 taxation orders; to amend the  
 Income Tax Acts; and for  
 connected purposes.

**B**E 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:—

### PART 1

#### PRELIMINARY

1. In this Act — Interpretation
- “1970 Act” means the Income Tax Act 1970; [XXI p.260]
- “1988 Act” means the Income Tax (Amendment) Act 1988; [c.13]
- “1989 Act” means the Income Tax Act 1989; [c.10]
- “1995 Act” means the Income Tax Act 1995; [c.12]
- “2001 Act” means the Income Tax Act 2001; [c.15]
- “2003 Act” means the Income Tax Act 2003; [c.11]
- “2004 Act” means the Income Tax (Amendment) Act 2004; [c.5]  
 and
- “2008 Act” means the Income Tax (Amendment) Act 2008. [c.4]

## PART 2

## CONFIRMATION OF TEMPORARY TAXATION ORDERS

*Attributed profits*

Confirmation  
of  
S.D. 928/07

**2.** (1) The Income Tax (Attributed Profits) (Temporary Taxation) Order 2007 is confirmed for the purposes of section 15(4)(a) of the 1995 Act.

(2) The order in subsection (1) continues as a permanent order from the date on which this section comes into operation.

(3) Subsections (3) to (6) of section 15 of the 1995 Act (expiry of orders) do not have effect in respect of this section or the order in subsection (1).

(4) The amendments and repeals in Schedule 1 have effect.

(5) The provisions of the enactments amended or repealed by Schedule 1 continue to have effect to the extent necessary to allow the distributable profits charge (within the meaning of section 13 of the 1970 Act, before that section was substituted by Schedule 1 to this Act) to be calculated, charged and collected in accordance with those provisions in respect of corporate taxpayers for accounting periods —

(a) ending before 6 April 2008;

(b) beginning before 6 April 2008 and ending on or after 6 April 2008.

(6) Without limiting subsection (5), where a corporate taxpayer has paid the distributable profits charge in respect of a year of assessment and subsequently pays a distribution to a member who is resident in the Island in relation to those distributable profits, the provisions of sections 13H to 13J of the 1970 Act (before those sections were substituted by Schedule 1 to this Act) apply in relation to that distribution and, in particular —

(a) the value of the distribution credit voucher is to be deducted from the amount of tax due and payable by the recipient of the credit in respect of the year of assessment in which the distribution is paid; and

(b) where the value of the distribution credit voucher is not offset against tax in the appropriate year, the unused balance is to be refunded to the recipient of the distribution credit.

(7) Public documents made under the order in subsection (1) before this section comes into operation continue to have effect

as if they had been made under the corresponding provision of sections 12 to 13M of the 1970 Act (as substituted by Schedule 1 to this Act).

### *Individuals*

**3.** (1) The Income Tax (Individuals) (Temporary Taxation) Order 2008 is confirmed for the purposes of section 15(4)(a) of the 1995 Act. Confirmation of S.D. 29/08

(2) The order in subsection (1) continues as a permanent order from the date on which this section comes into operation.

(3) Subsections (3) to (6) of section 15 of the 1995 Act (expiry of orders) do not have effect in respect of this section or the order in subsection (1).

(4) The amendments and repeals in Schedule 2 have effect.

### *Agreements with Nordic territories*

**4.** (1) The following orders are confirmed for the purposes of section 15(4)(a) of the 1995 Act — Confirmation of S.D.s 60/08, 63/08, 66/08, 69/08, 72/08, 75/08 and 78/08

(a) the Income Tax (Denmark) (Temporary Taxation) Order 2008; [S.D. 60/08]

(b) the Income Tax (Faroes) (Temporary Taxation) Order 2008; [S.D. 63/08]

(c) the Income Tax (Finland) (Temporary Taxation) Order 2008; [S.D. 66/08]

(d) the Income Tax (Greenland) (Temporary Taxation) Order 2008; [S.D. 69/08]

(e) the Income Tax (Iceland) (Temporary Taxation) Order 2008; [S.D. 72/08]

(f) the Income Tax (Norway) (Temporary Taxation) Order 2008; [S.D. 75/08]

(g) the Income Tax (Sweden) (Temporary Taxation) Order 2008. [S.D. 78/08]

(2) The orders in subsection (1) continue as permanent orders from the date on which this section comes into operation.

(3) Subsections (3) to (6) of section 15 of the 1995 Act (expiry of orders) do not have effect in respect of this section or the orders in subsection (1).

(4) The Treasury may exercise the enabling powers in subsections (1) and (2) of section 15 of the 1995 Act to amend, revoke or replace an order in subsection (1), and subsection (3) of this section applies in respect of any such exercise of those enabling powers.

#### *Agreements with Ireland*

Confirmation  
of  
S.D. 360/08

**5.** (1) The Income Tax (Ireland) (Double Taxation Arrangement) (Temporary Taxation) Order 2008 is confirmed for the purposes of section 15(4)(a) of the 1995 Act.

(2) The order in subsection (1) continues as a permanent order from the date on which this section comes into operation.

(3) Subsections (3) to (6) of section 15 of the 1995 Act (expiry of orders) do not have effect in respect of this section or the order in subsection (1).

(4) The Treasury may exercise the enabling powers in subsections (1) and (2) of section 15 of the 1995 Act to amend, revoke or replace the order in subsection (1), and subsection (3) of this section applies in respect of any such exercise of those enabling powers.

### PART 3

#### MISCELLANEOUS AMENDMENTS

##### *Benefits in kind - cars and fuel*

Amendment  
of section 2I  
of the 1970  
Act

**6.** (1) For section 2I(2) of the 1970 Act substitute —

“(2) Subject to the provisions of this section, the cash equivalent of that benefit is to be ascertained from the table in Part I of Schedule 1B.”.

(2) For section 2I(4) of the 1970 Act substitute —

“(4) The Treasury may by order taking effect from the beginning of any income tax year after it is made —

(a) amend the table in Part I of Schedule 1B or substitute a different table; or

(b) provide for the cash equivalent of a benefit under this section or section 2J to be ascertained in accordance with the provisions of the order (by reference to any criteria prescribed in the order or otherwise) and not in accordance with the table in Part I of Schedule 1B.”.

(3) In section 2I(5)(a) of the 1970 Act, for “Tables” substitute “table”.

(4) In section 2I(5)(b) of the 1970 Act the words “, or the use of it has been preponderantly business use,” are repealed.

7. (1) For section 2J(2) of the 1970 Act substitute —

Amendment  
of section 2J  
of the 1970  
Act

“(2) Subject to the provisions of this section, unless an order under section 2I(4) provides for the cash equivalent of a benefit under this section to be ascertained in accordance with the order, the cash equivalent of that benefit is to be ascertained from the table in Part I of Schedule 1B.”.

(2) Subsections (4) and (7) of section 2J of the 1970 Act are repealed.

(3) In section 2J(5) of the 1970 Act, for “paragraph 2 or 3 of Part II of Schedule 1B” substitute “paragraph 2 of Part II of Schedule 1B”.

8. (1) For Schedule 1B to the 1970 Act substitute —

Substitution  
of Schedule  
1B to the  
1970 Act etc

“Sections 2I and 2J

SCHEDULE 1B

TAXATION IN RESPECT OF CARS AND FUEL

*Part I*

*Table of cash equivalents*

Cylinder capacity of car (in cubic centimetres)	Cash equivalent in respect of car for purposes of section 2I	Cash equivalent in respect of fuel for purposes of section 2J
Electric car (regardless of cylinder capacity)	Nil	Nil
1,000 or less	£800	£800
1,001 to 1,200	£1,100	£950
1,201 to 1,800	£3,600	£1,500
1,801 to 2,500	£5,000	£1,750
2,501 to 3,500	£7,000	£2,000
3,501 to 5,000	£10,000	£2,250
More than 5,000	£12,000	£2,500

## Part II

## Supplementary provisions

- Interpretation **1.** For the purposes of the table —
- (a) where a car derives its motive power wholly from an internal combustion engine worked by —
- (i) a cylinder or cylinders; or
- (ii) a rotor or rotors,
- its cylinder capacity is the cylinder capacity of its engine calculated as for the purposes of the Licensing and Registration of Vehicles Act 1985; and
- (b) “electric car” —
- (i) means a vehicle intended for use on any public road, where the only source of power is electricity, usually provided by rechargeable batteries, but may also be provided by photovoltaic (solar) cells or a fuel cell; and
- (ii) does not include “hybrid” cars where more than one type of fuel or source of power can be used.
- [c.21]
- Reduction for periods when car not available for use **2.** (1) If, for any part of the relevant year, the car was unavailable, the cash equivalent of the benefit of the car is to be reduced by an amount which bears to the full amount of the equivalent (ascertained under Part I) the same proportion as the number of days in the year on which the car was unavailable bears to 365.
- (2) The car is to be treated as being unavailable on any day if —
- (a) it was not made available to the employee until after that day, or it had ceased before that day to be available to the employee; or
- (b) it was incapable of being used at all throughout a period of not less than 30 consecutive days of which that day was one.
- Reduction for employee paying for use of car **3.** If in the relevant year the employee was required, as a condition of the car being available for the employee’s private use, to pay any amount of money (whether by way of deduction from emoluments or otherwise) for that use, the cash equivalent of the benefit of the car —
- (a) is to be reduced (or, if already reduced under paragraph 2, further reduced) by the amount so paid by the employee in or in respect of the year; or
- (b) if that amount exceeds the equivalent shown in the table in Part I, is nil.
- Additional cars **4.** (1) If in any year a person is taxable under section 21 in respect of two or more cars which are made available concurrently, the cash equivalent in respect of each car —



- (a) derived from the table in Part I; and
- (b) where appropriate, reduced in accordance with paragraphs 2 and 3,

is to be aggregated with the cash equivalent in respect of each other car.

(2) If in any year a person is taxable under section 2J in respect of fuel provided for two or more cars which are made available concurrently, the cash equivalents derived from the table in Part I in respect of the fuel for each of those cars are to be aggregated.”.

- (2) Part 2 of Schedule 1 to the 1989 Act is repealed.
- (3) Section 5(1) of the 2001 Act is repealed.
- (4) The Income Tax (Car Benefits) Order 2007 is revoked. [S.D. 177/07]

#### *Deductions in prescribed cases*

**9.** (1) In section 31A(1) of the 1970 Act, for “in respect of any income tax year” substitute “in respect of any year of assessment or, in the case of a corporate taxpayer, any accounting period”.

Amendment  
of section 31A  
of the 1970 Act

- (2) For section 31A(1)(a) of the 1970 Act substitute —
  - “(a) provide, in respect of such payments as may be prescribed, that persons shall be entitled —
    - (i) for the purpose of ascertaining taxable income, to have such deductions as are specified in the order to be made from their total income; or
    - (ii) for the purpose of ascertaining liability to income tax, to have such deductions as are specified in the order to be made from the liability to income tax that would have arisen but for the specified deduction;”.

(3) In section 31A(1)(b) of the 1970 Act, for “year in which the payment is made or in any other year” substitute “year or period in which the payment is made or in any other year or period”.

(4) In section 31A(2)(a) of the 1970 Act, for “in respect of such income tax year (not being before the 1988-89 year)” substitute “in respect of such year of assessment or, in the case of a corporate taxpayer, such accounting period”.

*International arrangements*

Amendment  
of section 54  
of the 1970  
Act etc

**10.** (1) For section 54(1) of the 1970 Act substitute —

“(1) If the Council of Ministers by order declares that arrangements specified in the order (“applicable arrangements”) have been made with the government of any other territory with a view to preventing the imposition of, or otherwise affording relief from, double taxation in relation to —

- (a) the domestic laws of the Island concerning income tax and any other taxes to which the arrangements relate; and
- (b) the laws of the other territory concerning any taxes to which the arrangements relate,

and that it is expedient that those arrangements should have effect, then those arrangements shall have effect notwithstanding anything in any enactment.

(1A) Applicable arrangements need not be concerned exclusively with the matters referred to in subsection (1) and may make provision for other matters including, but not limited to, the matters specified in subsection (1B).

(1B) Applicable arrangements may make provision for —

- (a) the attribution or adjustment of income, profits or gains for the purposes of the taxes to which the arrangements relate;
- (b) the exchange of information necessary or foreseeably relevant for —
  - (i) carrying out the arrangements; or
  - (ii) administering and enforcing —
    - (A) the domestic laws of the Island; or
    - (B) the laws of the other territory, concerning taxes of every kind and description which may be imposed under those laws;
- (c) questions or disputes concerning the interpretation or application of the

arrangements to be dealt with in accordance with the arrangements;

(d) incidental and supplemental matters.

(1C) An order under this section may modify the effect of sections 62A and sections 105C to 105O for the purposes of implementing or otherwise giving effect to the applicable arrangements.

(1D) An order under this section may include incidental, supplemental, transitional and saving provisions.

(1E) Subsections (1A) to (1D) do not limit subsection (1).

(1F) The provisions of sections 19(2), 20 and 21 of the Income Tax Act 2003 apply in respect of the disclosure of information under applicable arrangements within the meaning of this section in the same manner and to the same extent as they apply in respect of the disclosure of information under arrangements referred to in section 19 of the Income Tax Act 2003. [c.11]

(1G) An order under this section must not come into operation unless it is approved by Tynwald.”.

(2) In section 54(3) of the 1970 Act, for “shall cease to have effect for any year of assessment or, in the case of a corporate taxpayer, accounting period for which the arrangements are expressed to apply” substitute “ceases to have effect in relation to any income in respect of which relief from double taxation is afforded in accordance with the arrangements”.

(3) After section 54(4) of the 1970 Act insert —

“(5) Regulations under subsection (4) must not come into operation unless they are approved by Tynwald.”.

(4) For section 57(6) of the 1970 Act substitute —

“(6) This section does not apply in relation to income in respect of which relief from double taxation is afforded in accordance with arrangements made under section 54, except in so far as the arrangements otherwise provide.”.

(5) Orders made under section 54 of the 1970 Act before this section comes into operation, and the arrangements to which those orders relate, continue to have effect.

Amendment  
of sections 19  
and 20 of the  
2003 Act etc

- 11.** (1) In section 19(1) of the 2003 Act —
- (a) the words “(“the mutual assistance country”)” are repealed;
  - (b) after “necessary” insert “or foreseeably relevant”;
  - (c) after “concerning income tax” insert “and any other taxes to which the arrangements relate”;
  - (d) for “the laws of the mutual assistance country” substitute “the laws of the other country”.
- (2) In section 19(1A) of the 2003 Act, for “Without prejudice to the generality of subsection (1), an order under this section” substitute “An order under this section”.
- (3) After section 19(1A) of the 2003 Act insert —
- “(1B) An order under this section may include incidental, supplemental, transitional and saving provisions.
- (1C) Subsections (1A) and (1B) do not limit subsection (1).”.
- (4) In section 19(2) of the 2003 Act, for “a mutual assistance country” substitute “a country with whose government applicable arrangements have been made”.
- (5) In section 19(3) of the 2003 Act, for “shall not have effect” substitute “must not come into operation”.
- (6) In section 20 of the 2003 Act, for “a mutual assistance country” substitute “another country”.
- (7) Orders made under section 19 of the 2003 Act before this section comes into operation, and the arrangements to which those orders relate, continue to have effect.

### *Personal allowance credit*

Amendment  
of section 15  
of the 1995  
Act

- 12.** In section 15 of the 1995 Act —
- (a) after subsection (1)(b) insert —
- “(ba) the provision, calculation, credit (as an allowance against income tax or otherwise), payment and administration of taxation credits (including, but not limited to, personal

allowance credit within the meaning of section 1 of the Income Tax Act 2003 );”]; [c.11]

(b) in subsection (1)(c), after “existing tax” insert “or taxation credit”.

**13.** (1) In section 5(1) of the 2003 Act, the expression “(“the maximum credit”)” is repealed. Amendment of section 5 of the 2003 Act

(2) Section 5(2) of the 2003 Act is repealed.

**14.** (1) In section 6(2) of the 2003 Act, the expression “(“the maximum credit”)” is repealed. Amendment of section 6 of the 2003 Act

(2) Section 6(3) of the 2003 Act is repealed.

#### *Time limits for default assessments*

**15.** In section 86(2) of the 1970 Act, for “within 6 months from the date of the service of the notice of such assessment” substitute “within 6 years from the end of the year of assessment in respect of which the assessment in default was made”. Amendment of section 86 of the 1970 Act

**16.** In section 86A(2) of the 1970 Act, for “within 6 months from the date of the service of the notice of such assessment” substitute “within 4 years from the end of the accounting period in respect of which the assessment in default was made”. Amendment of section 86A of the 1970 Act

#### *Information gathering*

**17.** (1) In section 105I(1)(a) of the 1970 Act, for “section 105D(1)” substitute “section 105D(2)”. Amendment of section 105I of the 1970 Act etc

(2) Subsection (3) applies in respect of each of the following orders —

(a) the Income Tax (Netherlands) Order 2006; [S.D. 168/06]

(b) the Income Tax (USA) Order 2006; [S.D. 169/06]

(c) the Income Tax (Denmark) Order 2008; [S.D. 59/08]

(d) the Income Tax (Faroes) Order 2008; [S.D. 62/08]

(e) the Income Tax (Finland) Order 2008; [S.D. 65/08]

(f) the Income Tax (Greenland) Order 2008; [S.D. 68/08]

- [S.D. 71/08] (g) the Income Tax (Iceland) Order 2008;
- [S.D. 74/08] (h) the Income Tax (Norway) Order 2008;
- [S.D. 77/08] (i) the Income Tax (Sweden) Order 2008; and
- [S.D. 359/08] (j) the Income Tax (Ireland) Order 2008.

(3) In Schedule 2 to each order (sections 105C to 105O of the 1970 Act, as modified), in section 105I(1)(a) of the 1970 Act (as set out in that Schedule), for “section 105D(1)” substitute “section 105D(2)”.

### *Minor amendments*

- Amendment of section 116 of the 1970 Act **18.** In section 116(1) of the 1970 Act, for “Treasurer” substitute “Treasury”.
- Repeal of the 1988 Act **19.** The 1988 Act is repealed.
- Amendment of section 7 of the 2008 Act **20.** In section 7(5) of the 2008 Act, for the marginal note to new section 2PA of the 1970 Act substitute “Meaning of distribution”.

## PART 4

### SUPPLEMENTARY

- Short title and commencement **21.** (1) This Act may be cited as the Income Tax Act 2009.
- (2) Sections 1 to 5, 10, 11, 17 and this section come into operation on, and have effect from, the date this Act is passed.
- (3) Section 15 comes into operation on the date this Act is passed and has effect in respect of any return of income made and delivered after 6 April 2008 by a person who has been assessed under section 86(1) of the 1970 Act.
- (4) Section 16 comes into operation on the date this Act is passed and has effect in respect of any return of income made and delivered after 6 April 2008 by a corporate taxpayer who has been assessed under section 86A(1) of the 1970 Act.
- (5) Sections 6 to 9, 12 to 14 and 18 to 20 come into operation on the date this Act is passed and have effect in respect of the income tax year commencing on 6 April 2009 and subsequent years.

## Section 2(4)

## SCHEDULE 1

## ATTRIBUTED PROFITS - AMENDMENTS AND REPEALS

*Part 1**Amendments to the Income Tax Act 1970*

For sections 12 to 13K of the 1970 Act (including the cross heading immediately before section 12) substitute —

*“Attributed profits*

**12.** (1) In sections 13 to 13M (“the attributed profits sections”) —

Interpretation  
of sections  
13 to 13M

“accounting period” has the same meaning as in section 81;

“attributed profits” means, subject to section 13A(6), the distributable profits of a corporate taxpayer which is a relevant company that would have been payable to an individual member if the corporate taxpayer had distributed them, calculated in accordance with section 13A;

“certificate of attributed profits” means the certificate sent in accordance with section 13B(1);

“contractual interest” includes, in respect of a corporate taxpayer, the interest of a person (“A”) under an agreement or arrangement where —

- (a) A is entitled or permitted to vote in respect of any share or stock of the corporate taxpayer;
- (b) the exercise of any of the rights of another person interested in the corporate taxpayer or its shares or stock requires A’s consent; or
- (c) other persons interested in the corporate taxpayer can be required or are accustomed to exercise their rights in accordance with A’s instructions;

“corporate taxpayer”—

- (a) has the meaning given by section 120; and
- (b) includes a body corporate registered under Part XI of the Companies Act 1931;

[XIII p.235]

“distributable profits” means the distributable profits of the corporate taxpayer which are liable under this Act to be assessed to income tax in respect of an accounting period;

“interest”, in respect of a corporate taxpayer, is to be construed in accordance with subsections (2) and (3);

“member” includes a shareholder, stockholder, member or associate and a person is to be treated as a member of a corporate taxpayer if that

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person has any legal, equitable or contractual interest in the corporate taxpayer or in any share or stock of the corporate taxpayer;

“relevant company” means a corporate taxpayer unless the corporate taxpayer is prescribed by order of the Treasury as not being a relevant company.

(2) In order to ascertain whether a person has an interest in a corporate taxpayer, the interest may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description and, for that purpose, subsection (3) applies (subject to the necessary modifications) in determining whether a person has an interest in each company, partnership, trust, agreement or arrangement through which the interest in the corporate taxpayer is traced.

(3) For the purposes of the attributed profits sections, “interest” includes an interest that arises under a trust, or may in future arise under a trust, as a result of —

- (a) the exercise of a discretion by the trustees or other persons in accordance with the terms of the trust (whether or not with the consent of another); or
  - (b) the passage of time; or
  - (c) a change of residence.
- (4) The Treasury may by order —
- (a) amend the definition of “attributed profits”, “interest” or “member”;
  - (b) prescribe companies or classes of company which are not to be treated as relevant companies for the purposes of the attributed profits sections.

(5) An order under subsection (4) must not come into operation unless it is approved by Tynwald.

Attributed profits to be taxed

**13.** (1) Attributed profits are income in respect of which income tax is imposed by this Act.

- (2) An individual who —
  - (a) is resident in the Island; and
  - (b) is a member (during an accounting period or any part of that period) of a corporate taxpayer which is a relevant company,

must pay income tax on the attributed profits of that member.

Calculating attributed profits

**13A.** (1) Unless regulations under subsection (6) provide otherwise, the amount to be attributed under section 13(2) is the amount of distributable profits that would have been payable to the member if the corporate taxpayer had distributed them.

(2) Where an individual member of a relevant company is resident in the Island for only part of the accounting period of the relevant company, the



proportion of distributable profits attributable to that member is to be determined in accordance with the formula — SCH. 1

$$\frac{X}{Y} \times Z$$

where —

“X” = the number of days during the accounting period when the individual was a member of the relevant company and was resident in the Island;

“Y” = the number of days in the accounting period;

“Z” = the amount of distributable profits that would have been attributed to the member in accordance with subsection (1) had the member been resident in the Island for the whole of the relevant accounting period.

(3) In determining a corporate taxpayer’s distributable profits for the purposes of calculating attributed profits under this section —

- (a) any relief or allowance permitted to be deducted or allowed under section 27A (reliefs and allowances for trading losses and capital expenditure);
- (b) any relief permitted to be allowed under section 29 (relief for capital expenditure);
- (c) group relief; and
- (d) such amount or proportion of the profits as is prescribed in an order made by the Treasury,

may be deducted or allowed against the amount of profits.

(4) For the purposes of subsection (1), the Assessor may estimate, on reasonable grounds, the amount that is likely to be paid to the member if the profits were to be distributed.

(5) Without limiting section 87 (right to contest assessment), an estimate of the Assessor under subsection (4) is final and conclusive.

(6) The Treasury may by regulations provide for the attributed profits of a relevant company to be calculated in accordance with the regulations.

(7) Without limiting subsection (6), regulations under subsection (6) may provide that no amount is to be attributed under section 13(2) in respect of such persons or in such circumstances as are specified in the regulations.

(8) An order under subsection (3)(d) and regulations under subsection (6) must not come into operation unless they are approved by Tynwald.

**13B.** (1) A corporate taxpayer which is a relevant company must send a certificate of attributed profits to each individual member who is resident in the Island. Certificate of attributed profits

SCH. 1

(2) The corporate taxpayer must —

- (a) send a copy of the certificate referred to in subsection (1) to the Assessor at the same time as it sends the certificate to the member; and
- (b) retain a copy of the certificate.

(3) The certificate must be sent within 12 months from the end of the accounting period of the corporate taxpayer to which the attributed profits relate.

(4) The certificate must contain the information and be in the form which is prescribed by order of the Treasury.

(5) An order under subsection (4) must not come into operation unless it is approved by Tynwald.

(6) A corporate taxpayer which fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding £5,000.

Further income tax not to be imposed on amounts distributed

**13C.** (1) Attributed profits are to be computed for the purposes of income tax without any reduction in respect of a distribution by a relevant company of its distributable profits.

(2) Where a relevant company distributes attributed profits to an individual member, further income tax is not to be imposed on the member in respect of the distribution.

(3) Subsection (2) applies notwithstanding the provisions of sections 2 (income on which tax is payable) and 2PA (meaning of distribution).

Assessment of attributed profits to income tax

**13D.** (1) Notwithstanding section 81A, for the purposes of assessing income the Assessor is to treat attributed profits as income accruing to the individual member on the earliest of the following —

- (a) the day expiring 12 months from the end of the accounting period of the relevant company to which the attributed profits relate;
- (b) the day on which the member dies;
- (c) the day on which the member ceases to be resident in the Island.

(2) Without limiting section 87, the decision of the Assessor as to the year of assessment in respect of which attributed profits are to be assessed under subsection (1) is final and conclusive.

Payment on account of income tax on attributed profits

**13E.** (1) Where —

- (a) an individual member of a relevant company is liable to pay income tax on attributed profits; and
- (b) the payment on account notice given under section 96B(4) does not specify an amount which includes the amount falling to be paid on account of tax on those attributed profits,

the Assessor may give a revised payment on account notice which includes the amount falling to be paid on account of tax on those attributed profits. SCH. 1

(2) The provisions of section 96B apply to a notice given under subsection (1) in the same manner as they apply to a notice given under section 96B(4).

**13F.** Where a relevant company makes a loan or advance in circumstances where section A108(3) would otherwise apply, section A108(3) does not apply if — Loans to participators where tax paid on attributed profits

- (a) the amount of the loan or advance does not exceed the amount of the distributable profits of the company which have previously been attributed to the individual members of the company who are resident in the Island in accordance with the provisions of the attributed profits sections; and
- (b) each of those members is required to pay, and does pay, income tax on those attributed profits in accordance with the provisions of those sections.

**13G.** (1) The return of income of a corporate taxpayer which is delivered in accordance with this Act must also specify — Returns: additional information

- (a) the distributable profits of the corporate taxpayer during the accounting period to which the return relates;
  - (b) the amount of the distributable profits that would have been payable to each member if the corporate taxpayer had distributed the whole of its distributable profits during the accounting period;
  - (c) the amount of distributable profits that has not been distributed among the members during the accounting period;
  - (d) the amount of distributable profits actually distributed during the accounting period; and
  - (e) the members of the corporate taxpayer, identifying those who are resident in the Island.
- (2) The return of income of an individual taxpayer who —
- (a) is resident in the Island; and
  - (b) is a member (during an accounting period or any part of that period) of a corporate taxpayer which is a relevant company,

which is delivered in accordance with this Act must also specify the amount of distributable profits of the corporate taxpayer that would have been payable to the member if the corporate taxpayer had distributed them.

**13H.** (1) The Assessor may by notice in writing require a person specified in subsection (2) to deliver to the Assessor or, if so required by the Assessor, to make available for inspection by the Assessor documents which are in that person's possession or power and which (in the Assessor's reasonable opinion) contain, or may contain, information relevant to — Power to call for documents

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- (a) any interest that another person may have in a corporate taxpayer;
  - (b) the residence status of that other person for the purposes of this Act.
- (2) The persons specified for the purposes of subsection (1) are —

[c.8]

- (a) a person licensed under section 7 of the Financial Services Act 2008 in respect of the provision of corporate services; and
  - (b) a person, other than a person mentioned in subsection (a), who is the secretary of a corporate taxpayer.
- (3) Before a notice is given under subsection (1), the person to whom the notice is to be given must have been given a reasonable opportunity to deliver or make available the documents in question.
- (4) When the Assessor gives a notice under subsection (1), the Assessor must also give to the person to whom the notice is given —
- (a) a copy of the notice; and
  - (b) a written summary of the reasons for giving the notice.
- (5) Subsection (4) does not require the disclosure of any information which would, or might, identify any person who has provided the Assessor with any information which has been taken into account in deciding whether to give the notice.
- (6) As an alternative to delivering documents to comply with a notice under subsection (1), copies of documents may be delivered instead of the originals; but —
- (a) the copies must be in the form which the Assessor reasonably requires; and
  - (b) if required by the Assessor in the case of any documents specified in the requirement, the originals must be made available for inspection by the Assessor in accordance with the requirement,

and failure to comply with a requirement under this subsection counts as failure to comply with the notice.

(7) A person who fails to comply with a requirement of the Assessor under subsection (1) commits an offence and is liable on summary conviction to custody for a period not exceeding 6 months or to a fine not exceeding £5,000.

Power to call for information relating to beneficial ownership

**13I.** (1) The powers conferred by this section may be used for the purpose of enquiring into the identity of members of a corporate taxpayer for the purposes of the proper attribution of distributable profits to individual members and collection of income tax from those members in respect of attributed profits.

(2) The Assessor may by notice in writing require any person whom the Assessor has reasonable cause to believe to have or to be able to obtain any information as to —

- (a) the present and past members of a corporate taxpayer;

(b) the names and addresses of those members; or

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(c) any person who acts or has acted (in any capacity) on behalf of a member of a corporate taxpayer,

to give any such information to the Assessor.

(3) A person who fails to give information required under this section, or who in giving such information makes any statement which that person knows to be false in a material particular, commits an offence and is liable on summary conviction to custody for a period not exceeding 6 months or to a fine not exceeding £5,000.

**13J.** (1) Subject to subsection (2), it is an offence for a person intentionally to falsify, conceal, destroy or otherwise dispose of, or cause or permit the falsification, concealment, destruction or disposal of, a document which that person — Falsification,  
etc of  
documents

(a) has been required by a notice under section 13H(1); or

(b) has been given an opportunity in accordance with section 13H(3),

to deliver or make available for inspection.

(2) A person does not commit an offence under subsection (1) if that person acts —

(a) with the written permission of the Assessor;

(b) after the document has been delivered or inspected in accordance with section 13H(1); or

(c) after a copy has been delivered in accordance with section 13H(6) and the original has been inspected.

(3) A person guilty of an offence under subsection (1) is liable —

(a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;

(b) on summary conviction, to a fine not exceeding £5,000.

**13K.** (1) The Treasury may by regulations make provision for the application and operation of the attributed profits sections in respect of companies which are members of a group of companies. Groups

(2) Without limiting subsection (1), regulations under subsection (1) may provide —

(a) that the individual members of one company in a group of companies are to be liable for the payment of income tax in respect of the distributable profits of all the companies in the group and the circumstances in which and the conditions on which those members are so liable;

(b) for the aggregation of the distributable profits of all the companies in the group for the purpose of determining attributed profits in relation to an individual member of one company within the group;

- SCH. 1
- (c) for the necessary adjustments to be made in respect of the treatment of each company within the group;
  - (d) for the prevention of the avoidance of income tax and the protection of the revenue;
  - (e) for any incidental or consequential matters which the Treasury considers necessary;
  - (f) for the modification of the provisions of the attributed profits sections in their application to a group of companies;
  - (g) for the definition of “group”, “holding company” and “subsidiary” for the purposes of this section and regulations made under it.
- (3) Regulations under subsection (1) must not come into operation unless they are approved by Tynwald.

- Trusts
- 13L.** (1) The Treasury may by regulations make provision for the application and operation of the attributed profits sections in circumstances where an individual is a member of a relevant company by virtue of an interest that arises, or may in the future arise, under a trust.
- (2) Without limiting subsection (1), regulations under subsection (1) may provide —
- (a) that the trustee of the trust must or may pay the income tax on the attributed profits of the member;
  - (b) for any incidental or consequential matters which the Treasury considers necessary;
  - (c) for the modification of the provisions of the attributed profits sections in their application and operation in the circumstances referred to in subsection (1);
  - (d) for the definition of “trust” for the purposes of this section and regulations made under it.
- (3) Regulations under subsection (1) must not come into operation unless they are approved by Tynwald.

- Attributed profits: anti-avoidance
- 13M.** (1) The Assessor may exercise the powers in subsection (2) if it appears to the Assessor that arrangements relating to any corporate taxpayer exist or have existed, a purpose of which is to reduce the tax liability of a person (“A”) who is resident in the Island.
- (2) The Assessor may assess A, the corporate taxpayer and its members or make adjustments to the assessments of A, the corporate taxpayer and its members in such manner as appears to the Assessor to be necessary for the protection of the revenue.
- (3) The Assessor must give notice of assessment or adjustment under subsection (1) in writing to the persons affected, and the corporate taxpayer and each other person affected may contest that assessment in accordance with section 87.”.

## Part 2

SCH. 1

*Repeals*

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal</i>
XXI p.260	Income Tax Act 1970	Section 25A(4).  In section 97, the words “and the distributable profits charge”.  In section 99(1) and (2), the words “or the distributable profits charge”.  In section 99(3), the words “or distributable profits charge”.  In section 99(5), the words “or the distributable profits charge”.  In section 100(1), the words “or distributable profits charge” and the words “or charge” (on each occasion they appear).  In section 112C(3)(a), the words “, any amount due in respect of distributable profits charge”.
2006 c.4	Income Tax (Amendment) Act 2006	Section 5.
2006 c.8	Income Tax (Corporate Taxpayers) Act 2006	Sections 10(1) and 16(a).

## Section 3(4)

## SCHEDULE 2

## INDIVIDUALS - AMENDMENTS AND REPEALS

*Part 1**Amendments to the Income Tax Act 1970*

- |                              |  |
|------------------------------|--|
| Insertion of new section 43B | <p><b>1.</b> After section 43A insert —</p> <p>“Age allowance <b>43B.</b> (1) Where an individual is 65 years or over for the whole of the year of assessment, that person is entitled to a deduction of £2,000, or such other sum as is prescribed by order of the Treasury, from his or her total income.</p> <p style="padding-left: 40px;">(2) Where a valid election made in accordance with section 65C (a “joint treatment election”) is in force, the deduction or, as the case may be, both deductions shall be aggregated under section 65A(3).</p> <p style="padding-left: 40px;">(3) An order under subsection (1) must not come into operation unless it is approved by Tynwald.”</p> |
| Amendment of section 44A     | <p><b>2.</b> In section 44A, for the words from “the tax payable by him” to the end of the section substitute “his total income reduced by a deduction, representing the amount paid by him or deducted from his salary or stipend”.</p>   |
| Amendment of section 52      | <p><b>3.</b> In section 52(5)(b), for “sections forty-four or fifty of this Act (which respectively relate to deductions in respect of life insurance premiums and the nature and amount of relief for qualifying premiums)” substitute “section 50 of this Act (which relates to the nature and amount of relief for qualifying premiums)”.</p>   |
| Amendment of section 61      | <p><b>4.</b> In section 61, for “35 to 35E, 39A, 39AA, 39B, 39C, 39D, 43A and 44 inclusive of this Act” substitute “35, 35A, 35B, 35D, 35E, 39A, 39AA, 39B, 39C, 39D, 43A and 43B of this Act”.</p>  |
| Amendment of section 65H     | <p><b>5.</b> In section 65H(2), for “31A, 31D, 35, 35A, 35B, 39AA, 44, 44A, 48C and 61E of this Act” substitute “31A, 35, 35A, 35B, 39AA, 43B, 44A, 48C and 61E of this Act”.</p>  |
| Amendment of section 65I     | <p><b>6.</b> In section 65I(3), for “31A, 31D, 35, 35A, 35B, 39AA, 44, 44A, 48C and 61E of this Act” substitute “31A, 35, 35A, 35B, 39AA, 43B, 44A, 48C and 61E of this Act”.</p>  |



## Part 2

SCH. 2

*Repeals*

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal</i>
XXI p.260	Income Tax Act 1970	Section 31D.  Section 44.  In section 50(9), the words “; and references in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section”.  In section 52(6), the words “(and the references to section forty-four of this Act shall be construed accordingly)”.
1978 c.9	Income Tax (Retirement Benefit Schemes) Act 1978	Section 3(5).  In section 4(2), the words “and relief shall not be given under section 44 of the principal Act in respect of any contribution allowable as a deduction under this subsection”.  Section 5(1)(b).
1989 c.10	Income Tax Act 1989	Section 30(2).
1991 c.17	Income Tax Act 1991	Section 4.
1995 c.12	Income Tax Act 1995	Section 5.
2004 c.5	Income Tax (Amendment) Act 2004	Section 15(2).
2006 c.4	Income Tax (Amendment) Act 2006	Section 15(2).