

INCOME TAX ACT 2011

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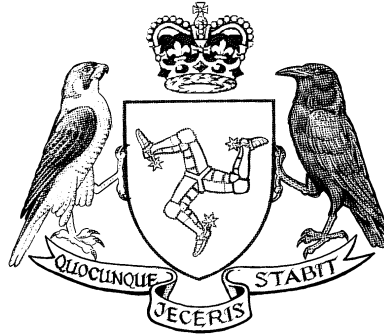
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Isle of Man } Signed in Tynwald: 12th July 2011
 to Wit } Received Royal Assent: 12th October 2011
 Announced to Tynwald: 18th October 2011

AN ACT

to confirm certain temporary
 taxation orders and to amend the
 Income Tax Act 1970.

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:—

PART 1

OPENING PROVISIONS

1. The short title of this Act is the Income Tax Act 2011. Short title
2. (1) Sections 1 to 9 come into operation on the day this Act is passed. Commencement
 (2) Section 10 comes into operation on the day this Act is passed or, if later, on the day the Civil Partnership Act 2011 is passed.
3. In this Act, “the Principal Act” means the Income Tax Act 1970. Interpretation
[XXI p.260]

PART 2

CONFIRMATION OF TEMPORARY TAXATION ORDERS

4. (1) The following (“the Orders”) are confirmed — Confirmation of
Orders
 - (a) the Income Tax (Instalment Payments) (Temporary Taxation) Order 2010; [SD 21/10]

- [SD 22/10] (b) the Income Tax (Personal Allowance Credit) (Temporary Taxation) Order 2010;
- [SD 291/10] (c) the Income Tax (Exchange of Information) (Temporary Taxation) Order 2010;
- [SD 474/10] (d) the Income Tax (Production and Auditing of Accounts) (Temporary Taxation) Order 2010; and
- [SD 807/10] (e) the Income Tax (Pensions) (Temporary Taxation) Order 2010.
- (2) The Orders continue in operation as permanent orders.
- [c.12] (3) The Treasury may exercise the powers contained in subsection (1) of section 15 of the Income Tax Act 1995 (temporary taxation orders) to amend, revoke or replace the Orders.
- (4) Subsections (3) to (6) of that section (expiry of temporary taxation orders) do not apply to the Orders or to any exercise of the powers referred to in subsection (3) in respect of the Orders.

PART 3

AMENDMENTS TO THE PRINCIPAL ACT

Relief in respect of tax in other territories

Section 57
amended

- 5.** (1) Section 57 of the Principal Act (relief in respect of tax in other territories) is amended as follows.
- (2) At the beginning insert —
- “(A1) This section only applies in respect of foreign tax mentioned in subsection (1) which has been paid in a territory outside the Island on income arising from a source within the territory in which the foreign tax is paid.
- (B1) In claiming a deduction under this section, the amount of foreign tax to be used for the purposes of calculating the relief from Manx tax a person mentioned in subsection (1) may claim is the amount of foreign tax which would have been paid in the territory outside the Island had all reasonable steps been taken —
- (a) under the law of the territory;
- (b) under double taxation arrangements made in relation to the territory,

to minimise the amount of tax payable in the territory.

(C1) The steps mentioned in subsection (B1) include —

- (a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances; and
- (b) making elections for tax purposes.

(D1) For the purposes of subsection (B1), a question as to the steps which it would have been reasonable for a person to take is to be determined on the basis of what the person might reasonably be expected to have done in the absence of relief from Manx tax under this section.”

(3) In subsection (1) —

- (a) at the beginning insert “Subject to subsections (A1) to (D1),”;
- (b) for “he has paid, by deduction or otherwise, or is liable to pay, foreign tax for that year” substitute “he has paid, by deduction or otherwise, foreign tax for that year”.

(4) The amendments made by this section operate for all years of assessment commencing on or after 6 April 2011.

Inspector of Income Tax

6. Section 105(b) of the Principal Act (appointment of Inspector of Income Tax) is repealed. Section 105 amended

Delivery of documents

7. (1) Section 105D of the Principal Act (power to call for documents relating to taxpayer) is amended as follows. Section 105D amended

(2) After subsection (3) insert —

“(3A) Subsection (3C) applies if, on the application of the Assessor, 2 members of the Income Tax Commissioners’ panel give their written consent that it is to apply.

(3B) Consent shall not be given under subsection (3A) unless both Commissioners are satisfied that the

Assessor has reasonable grounds for suspecting the taxpayer of fraud.

(3C) When giving a person a reasonable opportunity to deliver or make available documents under subsection (3), the Assessor may direct the person —

- (a) not to inform the taxpayer, or cause or permit the taxpayer to be informed, that the person has been given the opportunity to deliver or make available the documents in question; and
- (b) not to disclose to any person, or cause or permit to be disclosed to any person (including the taxpayer), any information or matter which is likely to prejudice the inquiry to which the documents in question relate or the performance of the Assessor’s functions.”.

Section 105E
amended

8. (1) Section 105E of the Principal Act (notices under section 105D: further provisions) is amended as follows.

(2) In subsection (13), after “subsection (12)” add “or a direction under section 105D(3C)”.

(3) In subsection (16)(b), after “subsection (12)(b)” add “or a direction under section 105D(3C)(b)”.

Amendments to
certain orders
consequential
upon sections
7 and 8

9. (1) Subsection (2) applies in respect of each of the following (each an “Order”) —

[SD 168/06]

(a) the Income Tax (Netherlands) Order 2006;

[SD 169/06]

(b) the Income Tax (USA) Order 2006;

[SD 59/08]

(c) the Income Tax (Denmark) Order 2008;

[SD 62/08]

(d) the Income Tax (Faroese) Order 2008;

[SD 65/08]

(e) the Income Tax (Finland) Order 2008;

[SD 68/08]

(f) the Income Tax (Greenland) Order 2008;

[SD 71/08]

(g) the Income Tax (Iceland) Order 2008;

[SD 74/08]

(h) the Income Tax (Norway) Order 2008;

[SD 77/08]

(i) the Income Tax (Sweden) Order 2008;

- (j) the Income Tax (Ireland) Order 2008; [SD 359/08]
- (k) the Income Tax (United Kingdom) Order 2008; [SD 825/08 as am
by SD 459/09]
- (l) the Income Tax (Australia) Order 2009; [SD 151/09 as am
by SD 459/09]
- (m) the Income Tax (Germany) Order 2009; [SD 224/09 as am
by SD 459/09]
- (n) the Income Tax (France) Order 2009; [SD 260/09 as am
by SD 459/09]
- (o) the Income Tax (Estonia) (Double Taxation) Order
2009; [SD 409/09]
- (p) the Income Tax (Belgium) (Double Taxation) Order
2009; [SD 665/09]
- (q) the Income Tax (New Zealand) Order 2009; [SD 666/09]
- (r) the Income Tax (Malta) (Double Taxation) Order 2009; [SD 886/09]
and
- (s) the Income Tax (Portugal) Order 2010. [SD756/10]

(2) The amendments in sections 7 and 8 apply in respect of the text of sections 105C to 105O of the Principal Act, as modified for the purposes of the applicable arrangements specified in each Order, and set out in Schedule 2 to each Order.

(3) Schedule 2 to each Order is amended accordingly.

Civil partnerships

10. After section 119F of the Principal Act (powers of Assessor in doubtful cases) insert — Section 119G
inserted

119G. (1) A reference in a public document made under the Income Tax Acts to marriage is to be construed as including a reference to civil partnership.

“Public documents to take account of civil partnerships

(2) In particular —

- (a) a reference to a husband, wife, spouse or married person is to include a reference to a civil partner;
- (b) a reference to a widow or widower is to include a reference to a surviving civil partner;
- (c) a reference to a former husband, former wife or former spouse is to include a reference to a former civil partner;

- (d) a reference to a married couple is to include a reference to the partners of a civil partnership; and
- (e) a reference to marrying or getting married is to include a reference to forming a civil partnership.

(3) In this section, “civil partnership” and “civil partner” each has the same meaning as in section 1 of the Civil Partnership Act 2011.”.