



Isle of Man

Ellan Vannin

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INCOME TAX ACT 2013



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**Isle of Man***Ellan Vannin*

INCOME TAX ACT 2013

Signed in Tynwald: 19 February 2013
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AN ACT to confirm temporary taxation orders; to repeal certain spent Acts and provisions of Acts about income tax; to amend the Income Tax Act 1970 and the Income Tax Act 1989; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 — INTRODUCTION

1 Short title

The short title of this Act is the Income Tax Act 2013.

PART 2 — CONFIRMATION OF TEMPORARY TAXATION ORDERS

2 Confirmations

The following are confirmed —

- (a) the Income Tax (Repeal of the Attribution Regime for Individuals) Order 2011;
 - (b) the Income Tax (Deductions) (Temporary Taxation) Order 2012;
 - (c) the Income Tax (Exempt Income) (Temporary Taxation) Order 2012;
 - (d) the Income Tax (Personal Allowance Credit) (Temporary Taxation) Order 2012;
 - (e) the Income Tax (Employers) (Temporary Taxation) Order 2012;
- and

- (f) the Income Tax (Individuals) (Temporary Taxation) Order 2012¹.

PART 3 — REPEAL OF SPENT ACTS AND PROVISIONS

3 Repeals

- (1) The following Acts are repealed —
- (a) the Income Tax Act 1973;
 - (b) the Income Tax Act 1974;
 - (c) the Income Tax Act 1976;
 - (d) the Income Tax Act 1978;
 - (e) the Income Tax (Amendment) Act 1979;
 - (f) the Income Tax Act 1981;
 - (g) the Income Tax Etc. (Amendment) Act 1985;
 - (h) the International Business Act 1994;
 - (i) the International Business (Amendment) Act 1994;
 - (j) the Income Tax Act 2000;
 - (k) the Income Tax Act 2001;
 - (l) the Income Tax (Amendment) Act 2004;
 - (m) the Income Tax (Amendment) Act 2006;
 - (n) the Income Tax (Amendment) Act 2008;
 - (o) the Income Tax (Pensions) Act 2008;
 - (p) the Income Tax Act 2009; and
 - (q) the Income Tax Act 2010².
- (2) The following are repealed —
- (a) section 5 and Schedule 3 to the Income Tax Act 1980;
 - (b) sections 1 to 3, 4(1) and 5 to 17 and 21 and Schedules 1 and 2 to the Income Tax (Amendment) Act 1986;
 - (c) sections 57 to 80 and Schedules 1 and 3 to the Income Tax Act 1989;
 - (d) sections 1 to 10, 13 and 14 of the Income Tax Act 1991;
 - (e) all provisions of the Income Tax Act 1995, except section 15 (temporary taxation orders);
 - (f) Part 2 and sections 24 to 28 of the Income Tax Act 2003; and
 - (g) sections 1 to 9 and 11 to 19 and the Schedule to the Income Tax (Corporate Taxpayers) Act 2006³.

¹ SD 0847/11, SD 48/12, SD 50/12, SD 51/12, SD 52/12 and SD 0098/12 respectively

² c2, c9, c13, c12, c2, c31, c22, c3, c4, c6, c15, c5, c4, c4, c6, c2 and c12 respectively

PART 4 – AMENDMENT AND RELOCATION OF TEMPORARY TAXATION ORDER PROVISIONS

4 Section 15 of Income Tax Act 1995 amended

- (1) This section amends section 15 of the Income Tax Act 1995.
- (2) Subsection (1), after “order”, insert **“a TTO”**.
- (3) Subsections (2), (4) and (5), for “An order under this section”, substitute **“A TTO”**.
- (4) Subsection (3), for “an order under this section”, substitute **“a TTO”**.
- (5) Subsection (6), for “an order has been made under this section”, substitute **“a TTO has been made”**.
- (6) After Subsection (6), add —
 - (7)** Subsection (8) applies, subject to subsections (3) to (6), if a TTO (or a provision of the TTO or an amendment under it) applies to or from the commencement of, or during, a stated income tax year.
 - (8) Unless the TTO otherwise provides, the TTO, provision or amendment applies for all subsequent income tax years as well.
 - (9) On the coming into operation of a confirmatory Act or confirmatory provision for a TTO —
 - (a) subsections (3) to (6) cease to apply to the TTO;
 - (b) the TTO continues in operation, but as a permanent order;
 - (c) the Treasury may exercise powers under subsection (1) to amend, revoke or replace —
 - (i) the permanent order;
 - (ii) an amendment to an enactment made by the permanent order; or
 - (iii) an amendment to the permanent order made by the confirmatory Act or confirmatory provision.
 - (10) A confirmatory Act or confirmatory provision is automatically repealed on the day after —
 - (a) for a confirmatory Act, its promulgation; or
 - (b) for a confirmatory provision contained in an Act (the “Act in question”) that is not a confirmatory Act, the promulgation of the Act in question.
 - (11) The automatic repeal does not —

³ c16, c25, c10, c17, c12, c11 and c8 respectively

- (a) revive any Act or TTO the confirmatory Act or confirmatory provision amended as the amended Act operated before the amendment commenced;
- (b) revive anything not in operation or existing when the amendment took effect; or
- (c) affect the continuing operation of the amendment.

(12) Despite the automatic repeal, the effect of a savings provision, transitional provision or validating provision under the confirmatory Act or confirmatory provision continues as if it were still in operation.

(13) To avoid any doubt, this section does not limit sections 15 (effect of repeal, etc.) and 30 (enactment always speaking) of the Interpretation Act 1976⁴ for the automatic repeal.

(14) In this section —

“confirmatory Act”, for a TTO, means an Act only of all or any provisions of the following types —

- (a) its long title;
- (b) provisions about its citation or commencement;
- (c) a confirmatory provision for the TTO;
- (d) provisions amending the TTO or amending or repealing an enactment;
- (e) another provision (for example, a part heading) that only identifies (or groups) provisions; or
- (f) a savings provision, transitional provision or validating provision;

“confirmatory provision”, for a TTO, means a provision of an Act the only effect of which provision is to confirm the TTO (with or without amending it);

“savings provision” means a provision —

- (a) made or expressed to be made for a saving purpose; or
- (b) that makes provision consequential on a provision mentioned in paragraph (a);

“transitional provision” means a provision —

- (a) made, or expressed to be made, for a transitional purpose; or
- (b) that makes provision consequential on a provision mentioned in paragraph (a); and

“validating provision” means a provision —

⁴ c.20

- (a) made or expressed to be made to validate something that is or may be invalid; or
- (b) that makes provision consequential on a provision mentioned in paragraph (a).⁵

5 Relocation to Income Tax Act 1970

Section 15 of the Income Tax Act 1995, as amended under this Part, relocate to the Income Tax Act 1970⁵ (under the cross-heading after section 115 inserted under section 14 of this Act), and renumber as section 115A.

PART 5 – AMENDMENTS TO INCOME TAX ACT 1970

6 Act amended

This Part amends the Income Tax Act 1970.

7 Sections 11A and 48B amended

In sections 11A(2)(g) (limit on income chargeable on non-residents) and 48B(4)(c) (statutory redundancy payments), for “Department of Health and Social Security” substitute ~~the~~ Department of Social Care ~~is~~.

8 Section 32A repealed

Section 32A (reduction of Class 4 contributions) is repealed.

9 Section 65A amended

In section 65A(2A) (election for joint treatment), for “husband and wife’s” substitute ~~the~~ spouses’ or civil partners’ ~~is~~.

10 Section 105D amended

In section 105D(4) (power to call for documents relating to taxpayer), for the words from “when” to “concerned” substitute ~~the~~ if the Assessor is aware of the taxpayer’s address or whereabouts, the Assessor must give the taxpayer ~~is~~.

11 New sections 105P and 105Q

After section 105O, add —

~~the~~ 105P Depositions for international information exchange agreements

- (1) This section applies if another country (the “requesting country”) is a party to an international information exchange agreement,

⁵ XXI p.260

- and, under the agreement, the country has asked the Assessor to disclose information to it.
- (2) The High Bailiff may, on the Assessor's application, summon a stated person (the "witness") to attend before the High Bailiff (the "hearing") to —
- (a) give on oath stated information, or information about a stated matter, relevant to the request; and
 - (b) produce a sworn deposition that —
 - (i) exhibits any documented part of the information; and
 - (ii) states the deposition is given in response to the summons.
- (3) The High Bailiff has the same powers to secure the witness's attendance as in proceedings before a court of summary jurisdiction.
- (4) If the stated person is a body corporate or unincorporate, the body is taken to comply with the summons if an individual (also the "witness") attends the hearing on its behalf and swears to be its duly authorised officer or representative.
- (5) The witness —
- (a) must bear the witness's costs of attending the hearing;
 - (b) has the right to be represented at the hearing by an advocate; and
 - (c) is not compellable to give evidence that would not be compellable in criminal proceedings —
 - (i) in a court of summary jurisdiction; or
 - (ii) in the requesting country, if the witness's claim to be exempt from giving the evidence has been conceded by a court, tribunal or authority from the requesting country.
- (6) The High Bailiff may, at the Assessor's request, adjourn the hearing from time to time.
- (7) In this section —
- "information" includes documents and evidence; and
- "international information exchange agreement" means applicable arrangements specified in an order approved by Tynwald under section 19 of the Income Tax Act 2003.

105Q Offence: unlawful disclosure of protected information

- (1) This section applies if someone (the “witness”) has been summonsed under section 105P.
- (2) A person who unlawfully discloses any of the following information (“protected information”) commits an offence and is liable on summary conviction to custody for 6 months, a fine not exceeding £5,000, or both —
 - (a) any of the following facts —
 - (i) that the relevant requesting country under section 105P(1) has asked the Assessor to disclose information to it;
 - (ii) that an investigation to which the request relates is being carried out; or
 - (iii) that, under the request, information has been, is to be or may be, given to the requesting country; or
 - (b) documents, evidence, information or a matter (“prejudicial material”) likely to prejudice the investigation or the performance of the Assessor’s functions relating to it or under any international information exchange agreement as defined under section 105P(7).
- (3) However, subsection (2) does not apply to the Assessor or anyone performing functions for the Assessor.
- (4) Protected information is unlawfully disclosed if the disclosure is to anyone except —
 - (i) if the witness is not an individual, to an employee or officer of the witness and the disclosure is necessary to comply with the summons;
 - (ii) to a supervisory authority within the meaning of *Part 3 of the Proceeds of Crime Act 2008*⁶, if the witness is a financial institution within the meaning of that Part;
 - (iii) to the Assessor or anyone performing functions for the Assessor; or
 - (iv) in compliance with the summons or as required by law.
- (5) In a proceeding for an offence against subsection (2), it is a defence for the defendant to prove that —
 - (a) all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence by

⁶ c13

- the defendant and everyone under the defendant's control;
or
- (b) the protected information concerned is prejudicial material and the defendant did not know or reasonably suspect it was prejudicial material. **22**.

12 Section 106A amended


- (1) This section amends section 106A (disclosure of information between the Assessor and the Collector of Customs and Excise).
- (2) In subsection (1) —
 - (a) delete “or an officer authorised by the Assessor”; and
 - (b) for “or an officer authorised by him”, substitute **23**(the “Collector”) **22**.
- (3) For subsection (2) substitute —
 - 23** (2) Information obtained under subsection (1) must not be disclosed to anyone except —
 - (a) to the Collector;
 - (b) for proceedings connected with a matter for which the Collector performs functions; or
 - (c) with the Assessor's consent.
 - (2A) The consent may be given for a particular disclosure or in circumstances stated or described in the consent. **22**.
- (4) After subsection (4), add —
 - 23** (5) Subsection (6) applies if a person receives information by a disclosure authorised under subsection (2).
 - (6) If the person discloses the information to anyone else the person commits an offence, unless the disclosure is for a specific purpose authorised by the Assessor.
 - (7) In this section —
 - “Assessor” includes an officer authorised by the Assessor; and
 - “Collector” includes an officer authorised by the Collector. **22**.

13 Section 106B amended

- (1) This section amends 106B (disclosure of information by Department of Social Care etc.).
- (2) In subsection (1), after “Excise”, insert **23**(either the “disclosing body”, as the case may be) **22**.
- (3) For subsection (2) substitute —

- (c) an amendment to a provision of an Income Tax Act or a temporary taxation order under a repealed enactment.
- (2) The repeal does not —
 - (a) revive a repealed enactment or the provision as it operated before the amendment commenced;
 - (b) revive anything not in operation or existing when the amendment commenced; or
 - (c) affect the continuing operation of the amendment.
- (3) Subparagraph (4) applies if the repealed enactment included a provision that states, or is to the effect that, the amendment or a repealed enactment applies from a certain income tax year and subsequent income tax years.
- (4) Despite the repeal, the provision as amended or the repealed enactment continues to apply, according to its terms, for all of those years.
- (5) Despite the repeal of transitional provisions under the repealed enactments, the effect of those provisions continues as if they were still in operation.
- (6) To avoid any doubt, this paragraph does not limit sections 15 (effect of repeal, etc.) and 30 (enactment always speaking) of the Interpretation Act 1976.
- (7) In this section, “transitional provisions”, under the repealed enactments, means any of their provisions —
 - (a) made, or expressed to be made, for a transitional purpose; or
 - (b) that makes provision consequential on a provision mentioned in paragraph (a).

2 Transitional provisions for s 115A

- (1) An order under section 15 of the repealed Income Tax Act 1995 (“section 15”) becomes a permanent order under section 115A.
- (2) If the context permits, a reference in an enactment or other document to —
 - (a) section 15 is taken to be a reference to section 115A; and
 - (b) a TTO or an order under section 15 is taken to be a reference to a TTO or permanent order (as the case requires) under section 115A.
- (3) Section 115A(7) to (14) applies for a TTO under a repealed enactment as defined under paragraph 1(1)(a) or (b).
- (4) In this section, “TTO” means temporary taxation order. 

PART 6 – OTHER PROVISIONS

16 Amendment to Income Tax Act 1989

In section 12(1)(c) (restriction on contributors) of the Income Tax Act 1989, for “Department of Health and Social Security” substitute **“**Department of Social Care**”**.

17 Expiry of this Act

This Act expires on the day after its promulgation.

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