

CHAPTER No. 4

**INCOME TAX
(AMENDMENT)
ACT 2006**

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INCOME TAX (AMENDMENT) ACT 2006

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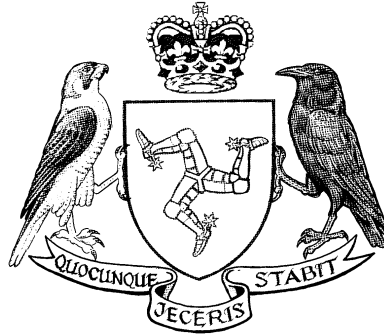
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Isle of Man } Signed in Tynwald: 11th July 2006
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AN ACT

to introduce a corporate charge; to amend the law relating to the taxation of married couples; to make new provision for a charge on the distributable profits of companies; to change the law relating to the taxation of non-residents; to amend the law relating to the setting of rates of income tax; to make provision with respect to discounts on securities; to make miscellaneous amendments to the Income Tax Acts; 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):—

PART 1

CORPORATE TAXPAYERS - CORPORATE CHARGE

1. After section 14 of the 1970 Act, insert —

"Corporate charge.

14A. (1) Every corporate taxpayer (other than an exempted taxpayer) shall, in every year of assessment, pay such sum as may be prescribed by an order made by the Treasury (to be known as "the corporate charge").

Corporate charge.

(2) The corporate charge shall be paid by corporate taxpayers that are —

- (a) resident in the Island; or
- (b) incorporated, established or constituted under the law of the Island; or
- (c) registered under Part XI of the Companies Act 1931,

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for the whole or any part of the year of assessment.

(3) The Treasury may by order apply this section and sections 14B to 14D to corporate taxpayers that do not fall within paragraphs (a) to (c) of subsection (2) and to other associations, with such adaptations and modifications as may be specified in the order.

(4) Subject to subsections (5) and (6), the corporate charge shall be due and payable on 1 January in respect of the year of assessment ending on 5 April next ensuing.

- (5) If a corporate taxpayer —
- (a) commences residence in the Island; or
 - (b) is incorporated, established or constituted under the law of the Island; or
 - (c) is registered under Part XI of the Companies Act 1931,

after 1 January in any year of assessment, the corporate charge shall be due and payable not later than 30 days after the date of such commencement, incorporation, establishment, constitution or registration.

- (6) If a corporate taxpayer —
- (a) ceases residence in the Island; or
 - (b) is wound up, liquidated, dissolved, transfers its domicile or otherwise ceases to be incorporated, established or constituted under the law of the Island; or
 - (c) ceases to be registered under Part XI of the Companies Act 1931,

the corporate charge shall become due and payable immediately before the relevant event referred to in paragraphs (a) to (c).

(7) The corporate charge shall be in the care and management of the Treasury and shall be paid to the Treasury.

(8) The corporate charge payable under this section shall form part of the general revenue of the Island.

(9) In subsection (1), “an exempted taxpayer” is —

- (a) a company that pays or is liable to pay non-resident duty under section 3 of the Non-Resident Company Duty Act 1986 in the relevant year of assessment; [c.50]
- (b) a limited liability company that pays or is liable to pay a fee under section 39 of the Limited Liability Companies Act 1996 in the relevant year of assessment; [c.19]
- (c) a managed bank that pays or is liable to pay a fee under section 20E of this Act in the relevant year of assessment;
- (d) an exempt insurance company that pays or is liable to pay a fee under section 6 of the Income Tax (Exempt Insurance Companies) Act 1981 in the relevant year of assessment; [c.17]
- (e) an exempt company that pays or is liable to pay a fee under section 3(2)(ii) of the Income Tax (Exempt Companies) Act 1984 in the relevant year of assessment; [c.10]
- (f) an international company that pays or is liable to pay the minimum tax charge under section 3(2)(ii) of the International Business Act 1994 in respect of the relevant year of assessment; [c.3]
- (g) a corporate taxpayer of such other description as the Treasury by order designates for the purposes of this subsection.

(10) An order under this section shall not come into operation unless it is approved by Tynwald.

(11) The corporate charge is additional to income tax.

(12) Except where expressly provided, this section and sections 14B to 14D are without prejudice to the operation of the Income Tax Acts in respect of the assessment, charge, liability, collection and enforcement of income tax in respect of corporate taxpayers.

Application of administrative, etc provisions. **14B.** (1) Without prejudice to the operation (apart from this section) of the provisions of this Act specified in subsection (2), those provisions shall apply —

- (a) with the necessary modifications, for the purposes of corporate charge as they apply for the purposes of income tax; and
- (b) as if references in those provisions to income tax or tax were construed as including corporate charge.

(2) The provisions of this Act referred to in subsection (1) are sections 97, 98A, 99(1) and (2), 100, 103, 106 to 106B, 110, 111A, 114 and 118.

Income tax off-set and refunds. **14C.** (1) The Treasury shall not remit nor refund the whole or part of any corporate charge payable by a corporate taxpayer under section 14A.

(2) The corporate charge shall not be reduceable by reference to any other factor (for example, any trading losses of a company or its associates).

(3) Where a corporate taxpayer is —

- (a) assessed to income tax in respect of a year of assessment in which corporate charge falls due in respect of that taxpayer (“the relevant year”); and
- (b) the corporate charge is paid,

the amount of corporate charge paid in respect of the relevant year shall be set-off against the amount of income tax which is due and payable in respect of that year.

Order of application of payments.

14D. Any sum paid by a corporate taxpayer in respect of corporate income tax in a relevant year shall be applied first in respect of any unpaid corporate charge due in respect of that year.”

PART 2

MARRIED COUPLES

2. (1) Section 64 of the 1970 Act (which treats the income of a woman living with her husband as his income for income tax purposes) shall cease to have effect.

Abolition of automatic aggregation of income.

(2) The enactments specified in Part 1 of the Schedule are amended in accordance with that Schedule.

(3) The enactments mentioned in column 1 of Part 2 of the Schedule are repealed to the extent specified in column 3 of that Schedule.

(4) This section shall have effect in respect of the year of assessment commencing on 6 April 2006 and subsequent years.

3. (1) For section 65 of the 1970 Act substitute —

Separate treatment.

“Husband and wife - separate treatment.

65. (1) Income tax shall be assessed and charged on, and payable by, a husband and wife as separate individuals.

(2) All the provisions of the Income Tax Acts, the Income Tax (Instalment Payments) Act 1974 and any public document made under those Acts shall, subject to any order made under section 65J, apply as if the husband and wife were separate individuals.

[c.7]

(3) Subsection (2) shall not affect the operation of any provision referred to in that subsection that expressly provides for circumstances where individuals are married.

(4) This section is subject to sections 65A to 65J (election for joint treatment).”

(2) This section shall have effect in respect of the year of assessment commencing on 6 April 2006 and subsequent years.

4. (1) For sections 65A and 65B of the 1970 Act substitute —

Joint treatment by choice.

“Election
for joint
treatment.

65A. (1) If a valid election made in accordance with section 65C (“a joint treatment election”) is in force, the income, deductions and reliefs of a husband and wife shall be aggregated for the purposes of the assessment, charge and payment of income tax.

(2) If a joint treatment election is in force, the husband and wife shall make, sign and deliver to the Assessor a joint return of their aggregated income and claims for deductions and reliefs.

(3) If a joint treatment election is in force, the husband and wife shall, for the purposes of the Income Tax Acts, together be treated as a single individual and shall be jointly and severally liable to pay —

- (a) income tax in respect of the aggregated income; and
- (b) any penalty, interest or other amount falling to be paid by them under the Income Tax Acts.

Conditions
for joint
treatment.

65B. (1) An election will be valid in respect of a year of assessment only if one of the conditions set out in subsection (2) is satisfied.

(2) The conditions are that the husband and wife —

- (a) must —
 - (i) live together (within the meaning of section 65E) for the whole of the year of assessment; and
 - (ii) both be resident in the Island for the whole of the year; or
- (b) must, if they both commence residence in the Island during the year, —
 - (i) be married before the commencement of residence in the Island; and
 - (ii) both be resident in the Island for the whole of the remainder of the year; and
 - (iii) live together (within the meaning of section 65E) for the whole of the remainder of the year.

Elections. **65C.** (1) An election shall be in writing and —

- (a) shall be made at such time; and
- (b) shall be in such form; and
- (c) may require such information; and
- (d) contain such statements,

as may be prescribed by regulations made by the Treasury.

(2) Without prejudice to the generality of subsection (1), an election shall —

- (a) be signed by both the husband and the wife;
- (b) specify which spouses' name is to be used on cheques (if any) if not issued in both spouses' names and any such cheque shall be treated as payment of any amount due jointly to both the husband and the wife;
- (c) specify the spouse to whom correspondence may be addressed if not addressed to both spouses and any correspondence delivered to that spouse shall, for all purposes, be treated as delivered to both the husband and the wife;
- (d) be sufficient authority for the Assessor or any officer of the Treasury who has any official duty under or in respect of the Income Tax Acts to disclose documents and information relating to the income, deductions or reliefs claimed by one spouse to the other spouse.

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

Jointly
held
property.

65D. (1) If a joint treatment election is in force, income arising from property held in the names of a husband and wife shall, for the purposes of income tax, be regarded as income to which they are beneficially entitled in equal shares.

(2) Subsection (1) shall not apply in respect of any such income if either the husband or the wife satisfies the Assessor that they are not beneficially entitled to such income in equal shares.

Meaning
of “living
together”.

65E. (1) For the purposes of, and subject to the provisions of the Income Tax Acts which apply this section, a husband and wife shall be treated as living together unless —

- (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation; or
- (b) they are in fact separated in such circumstances that the separation is likely to be permanent.

(2) Where a married woman is living with her husband and either —

- (a) one of them is not or both of them are not, resident in the Island for a year of assessment, or
- (b) both of them are resident in the Island for a year of assessment, but one of them is, and the other is not, absent from the Island throughout that year,

the same consequences shall follow for income tax purposes as would have followed if, throughout that year of assessment they had been in fact separated in such circumstances that the separation was likely to be permanent.

(3) A husband and wife shall not be treated as living together in respect of the year of assessment in which —

- (a) they marry; or
- (b) they cease to be treated as living together under subsection (1).

(4) Subsection (3)(a) applies only in respect of a husband and wife who are resident in the Island when they marry and is without prejudice to 65B(2)(b).

Revocation
of joint
treatment
election.

65F. (1) This section applies if, in respect of any year of assessment in respect of which there is a joint treatment election in force, a notice of revocation is served in accordance with this section.

(2) A joint treatment election may be revoked by either the husband or the wife.

(3) Notice of revocation shall be served on the Assessor in such form as may be prescribed by regulations made by the Treasury.

(4) A revocation may be made under this section in respect of —

- (a) the year of assessment in which the revocation is served on the Assessor; or
- (b) the year of assessment immediately preceding the year referred to in paragraph (a),

in this section each of those years is referred to as “the relevant year”.

(5) The joint treatment election shall not apply in respect of the relevant year and accordingly section 65 shall apply in respect of that year and subsequent years as if there had been no joint treatment election.

(6) Subject to subsections (7) and (8), any payment falling to be made under the Income Tax Acts and made to the Assessor in respect of the relevant year shall, if made before the notice of revocation is served on the Assessor, be regarded as a payment to which the husband and wife contributed equally.

(7) But any deduction in respect of income tax under —

- (a) the Income Tax (Instalment Payments) Act 1974; or [c. 7]
- (b) Part 3 of the Income Tax Act 1989 (deduction of tax, etc. from payments to sub-contractors), [c.10]

which is made in respect of the relevant year shall, if made before the notice of revocation is served on the Assessor, be regarded as a deduction to which the husband and wife did not contribute equally.

(8) Subsection (6) shall not apply in respect of any such payment if the Assessor is satisfied that the husband and wife did not contribute equally to the payment.

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

Cessation of joint treatment election.

65G. (1) This section applies if, during any year of assessment (“the relevant year”) in respect of which there is a joint treatment election in force —

- (a) a husband and wife cease to be treated as living together under section 65E(1);
- (b) one spouse ceases to be resident in the Island and the Assessor is satisfied that the circumstances are such that the cessation is likely to be permanent; or
- (c) one spouse dies.

(2) The joint treatment election shall not apply in respect of the relevant year and accordingly section 65 shall apply in respect of that year as if there had been no joint treatment election.

(3) Subject to subsections (4) and (5), any payment falling to be made under the Income Tax Acts and made to the Assessor in respect of the relevant year shall, if made before the relevant event referred to in subsection (1)(a) to (c), be regarded as a payment to which the husband and wife contributed equally.

(4) But any deduction in respect of income tax under —

[c. 7]

- (a) the Income Tax (Instalment Payments) Act 1974; or

[c.10]

- (b) Part 3 of the Income Tax Act 1989 (deduction of tax, etc. from payments to sub-contractors),

which is made in respect of the relevant year shall, if made before the relevant event referred to in subsection (1)(a) to (c), be regarded as a deduction to which the husband and wife did not contribute equally.

(5) Subsection (3) shall not apply in respect of any such payment if the Assessor is satisfied that the husband and wife did not contribute equally to the payment.

Transfer of unused allowances, etc. in year of death.

65H. (1) This section applies where section 65G applies by virtue of section 65G(1)(c).

(2) If the allowances to which the deceased spouse was entitled to under sections 31A, 31D, 35, 35A, 35B, 39AA, 44, 44A, 48C and 61E of this Act exceed the total income of that spouse in respect of the year of assessment in which he or she died, the surviving spouse shall be entitled to a deduction from his or her total income for that year of an amount equal to the excess.

Transfer of unused allowances in year of marriage.

65I. (1) This section applies where during any year of assessment (“the relevant year”) —

- (a) a man and a woman are married and begin to live together (within the meaning of section 65E); and
- (b) continue to live together for the whole of the relevant year; and
- (c) have made a joint treatment election in accordance with section 65C in respect of the next following year of assessment.

(2) Subject to subsection (3), during the relevant year income tax will continue to be assessed and charged on, and payable by, the man and the woman in accordance with section 65.

(3) If the allowances to which either the man or the woman was entitled to under sections 31A, 31D, 35, 35A, 35B, 39AA, 44, 44A, 48C and 61E of this Act exceed the total income of that individual in respect of the relevant year, the other individual shall be entitled to a deduction from his or her total income in respect of the relevant year of an amount equal to the excess.

Supplementary provisions.

65J. (1) The Treasury may by order —

- (a) make such provision as seems necessary or expedient to give effect to the purposes of sections 65 to 65I;
- (b) modify the provisions of the enactments referred to in section 65(2) in their application to circumstances affected by sections 65 to 65I or an order under paragraph (a).

(2) An order under subsection (1) may be made retrospective and shall be deemed to have had effect in

respect of such income tax year (not being a year commencing before the 6th April in the year in which the order is made) as may be specified in the order.

(3) An order under subsection (1) shall not come into operation unless it has been approved by Tynwald.”.

(2) This section shall have effect in respect of the year of assessment commencing on 6 April 2006 and subsequent years.

(3) Where immediately before 6 April 2006 —

- (a) the income of a wife is treated as the income of her husband under section 64 of the 1970 Act (as it then had effect); and
- (b) no election was made under section 65 (as it then had effect) before 31 December 2005; and
- (c) the requirements of section 65B(2)(a) of the 1970 Act (inserted by this section) are satisfied in respect of the year of assessment commencing on 6 April 2006,

the husband and wife shall be treated for the purposes of the Income Tax Acts as if they had made a joint treatment election under section 65A of the 1970 Act (inserted by this section) in respect of the year of assessment commencing 6 April 2006.

PART 3

COMPANIES

Distributable profits.

5. (1) For sections 12 to 13A of the 1970 Act, substitute —

“Distributable Profits

Sections 13 to 13K :
purpose,
application
and
preliminary.

12. (1) This section and sections 13 to 13K (“the sections”) make provision —

- (a) for corporate taxpayers to account by means of a distributable profits charge for income tax due by their members in respect of distributions;
- (b) for the issue by corporate taxpayers of credit vouchers to members when distributions are paid; and
- (c) for the value of the credit vouchers to be offset against income tax due by members in respect of distributions and other income.

(2) The sections apply in respect of every corporate taxpayer.

(3) For the purposes of the sections, “corporate taxpayer” includes a body corporate registered under Part XI of the Companies Act 1931.

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(4) For the purposes of the sections, income tax due by members in respect of distributions includes income tax that may fall due in respect of distributions and future distributions and no account shall be taken of the fact that there is no assessment to income tax at the relevant time.

(5) In the sections, “distributable profits” are the distributable profits of the corporate taxpayer that are liable to be assessed to income tax in the year of assessment.

(6) For the purposes of the sections —

- (a) the distributable profits of a corporate taxpayer that are attributable to a member are those profits that would have been payable to the member if the corporate taxpayer had distributed them; and
- (b) the amount so attributable is the amount that the Assessor estimates, on reasonable grounds, is likely to be paid to the member concerned if the profits were so distributed.

(7) For the purposes of the sections, “members” includes shareholders, stockholders, members or associates and a person shall be treated as a member of a corporate taxpayer if that person has any legal, equitable or contractual interest in the corporate taxpayer or in any share or stock of the corporate taxpayer.

(8) In this section, “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 effluxion of time; or
- (c) a change of residence.

(9) Without prejudice to the generality of subsection (7), a person (“A”) has a contractual interest where, under an agreement or arrangement, —

- (a) A is entitled or permitted to vote in respect of any share or stock; or
- (b) the exercise of any of the rights of other persons 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.

(10) 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 (8) shall apply (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.

(11) Subject to regulations under subsections (12) and (13), for the purposes of the sections, a “distributing company” is a corporate taxpayer that —

- (a) pays tax at a rate that is not less than 10% on every pound of the whole of its distributable profits; or
- (b) distributes a prescribed proportion of its distributable profits; or
- (c) is of such other description as is specified in regulations made by the Treasury,

and complies with the requirements of regulations made under subsections (12) and (13).

(12) The Treasury may by regulations make provision with respect to criteria for the treatment of a corporate taxpayer as a distributing company.

(13) Without prejudice to the generality of the power in subsection (12), regulations may —

- (a) impose conditions that a corporate taxpayer must comply with to be a distributing company;

- (b) make different provisions for different classes of corporate taxpayer;
- (c) in the case of companies falling within subsection (11)(b), prescribe the proportion of profits that must be distributed;
- (d) amend the percentage specified in subsection (11)(a);
- (e) make provision for fluctuations in the amount of distributions over specified periods;
- (f) make provision generally to give effect to the sections in respect of the distribution of profits;
- (g) amend the definition of “distributing company”, “member” and “interest”.

(14) The Treasury may by regulations make provision for the application and the operation of the sections in respect of companies that are members of a group of companies.

(15) Without prejudice to the generality of subsection (14), regulations under that subsection may also provide —

- (a) that one company (“A”) in a group of companies shall be liable for the payment of the distributable profits charge in respect of all the companies in the group and the circumstances in which and the conditions on which A shall be so liable;
- (b) for the aggregation of the distributable profits of all the companies in the group for the purpose of determining whether A satisfies the requirements of subsection (11)(b), section 13A(1), (2) or (8) and the other provisions of the sections;
- (c) for the necessary adjustments to be made in respect of the treatment of each company within the group;
- (d) for other conditions that A must comply with to be treated as a distributing company in respect of the group;

- (e) for the prevention of the avoidance of the distributable profits charge and the protection of the revenue;
- (f) for such incidental or consequential matters as seem to the Treasury to be necessary;
- (g) for the modification of the sections in their application to a group of companies;
- (h) for the definition of “group”, “holding company” and “subsidiary” for the purposes of this subsection and subsection (14) and for the purposes of the regulations.

(16) Subsections (14) and (15) are without prejudice to the generality of subsections (12) and (13).

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

Distributable profits charge. **13.** (1) A charge, to be known as “the distributable profits charge” shall be charged in accordance with this section and sections 13A to 13K.

(2) The distributable profits charge shall be paid in each year of assessment by every corporate taxpayer in respect of the income tax due by resident members in respect of distributable profits that are attributable to those members.

(3) For the purposes of subsection (2), a person is a resident member if that member is or has been resident in the Island during the accounting period of the corporate taxpayer by reference to which its distributable profits are calculated for assessment to income tax in a year of assessment.

(4) The distributable profits charge shall be calculated on the basis of the distributable profits of a corporate taxpayer disclosed in the accounts, reports and returns produced for the purpose of the assessment of the corporate taxpayer to income tax and in accordance with regulations under section 13A.

(5) Distributable profits charge shall not be imposed where the Assessor is satisfied that a corporate taxpayer is a distributing company and in sections 13A to 13K “corporate taxpayer” shall be construed accordingly.

(6) If for any reason, the Assessor is not satisfied as required by subsection (5), distributable profits charge shall be imposed in respect of the corporate taxpayer concerned.

(7) For the avoidance of doubt, distributable profits charge does not, except where expressly provided, affect the liability of any person to income tax.

Calculation
of
distributable
profits
charge.

13A. (1) In respect of a trading corporate taxpayer, the distributable profits charge shall be payable at the rate of 18 per cent on every pound of the distributable profits of the corporate taxpayer up to and including 55 per cent of the total distributable profits that are attributable to members resident in the Island.

(2) In respect of a corporate taxpayer that is not a trading corporate taxpayer, the distributable profits charge shall be payable at the rate of 18 per cent on every pound of the distributable profits of the corporate taxpayer up to and including 100 per cent of the total distributable profits that are attributable to members resident in the Island.

(3) The Treasury may by regulations make special provision for circumstances in which the income of a corporate taxpayer consists of both trading and other income.

(4) Without prejudice to the generality of the power in subsection (3), such regulations may provide for the distributable profits charge to be charged and payable —

- (a) in accordance with the regulations;
- (b) on such proportion of the distributable profits as is attributable to trading income and the proportion attributable to other income;
- (c) on such proportion of the total distributable profits as are attributable to members resident in the Island as is so prescribed; and

may define bodies corporate that are to be treated as trading corporate taxpayers for purposes of this section and the regulations.

(5) Regulations under subsections (3) and (4) shall not come into operation unless they are approved by Tynwald.

(6) Where a member (“A”) of a corporate taxpayer is resident in the Island for part of the relevant period of account, the corporate taxpayer shall be liable to pay only a proportion of the distributable profits charge attributable to A and that portion shall be calculated in accordance with subsection (7).

(7) The proportion of the distributable profits charge attributable to A for the purposes of subsection (6) shall be determined in accordance with the formula —

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

where :

“X” = the number of days during the relevant accounting period in which A was resident in the Island;

“Y” = the amount of distributable profits charge (calculated in accordance with this section) that would have been attributable to A had A been resident in the Island for the whole of the relevant accounting period;

“Z” = 365 or, where the period includes a February in a leap year, 366.

(8) In determining the amount of distributable profits for the purposes of 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.

(9) A resolution of Tynwald under section 119 may amend the rate of charge, and the percentage of the distributable profits, specified in subsections (1) and (2).

Returns:
additional
information.

13B. (1) The return of income of a corporate taxpayer which is delivered in accordance with this Act shall also specify —

- (a) the income of the corporate taxpayer during the year of assessment;
- (b) the amount of the distributable profits that would have been payable to each of the members of the association if it had distributed the whole of its distributable profits during the year to which the return relates;
- (c) the amount of such profits that has not been distributed among the members of the corporate taxpayer;
- (d) the members of the corporate taxpayer, identifying those who are resident in the Island; and
- (e) the distributable profits charge calculated to be payable in respect of its members who are resident in the Island.

(2) Where for any year a return in respect of income of any corporate taxpayer —

- (a) has not been made and delivered by such taxpayer, or any person on the taxpayer's behalf, within the time limited by or under the provisions of this Act; or
- (b) has been made and delivered but does not include the information required by subsection (1),

the Assessor may exercise the powers conferred by subsection (3).

(3) The Assessor may —

- (a) assess the corporate taxpayer and its members or make such adjustments to the assessments of the corporate taxpayer and its members; and
- (b) require the corporate taxpayer to pay a distributable profits charge or make such adjustments to any distributable profits charges paid or to be paid by the corporate taxpayer,

in such manner as appears to the Assessor to be necessary for the protection of the revenue (in this section such assessment and requirement is referred to as “an assessment in default”).

(4) Any person who is the subject of an assessment in default under subsection (3) may within 6 months from the date of the service of the notice of such assessment make and deliver a return for the relevant year that complies with the requirements of this Act.

(5) Subject to the following provisions of this section, any assessment in default under subsection (3) shall be treated by the Assessor as being final and conclusive and the Assessor shall record such assessment as required by this Act, and payment of income tax or, as the case may be, distributable profits charge shall be made on such assessment.

(6) Where a return of income is made and delivered within the extension of time granted under this section, the income of the taxpayer shall be assessed thereon and the distributable profits charge determined in accordance with this Act and the assessment in default under subsection (3) which it replaces shall cease to have effect.

(7) An assessment under subsection (6) above shall be deemed to have become due and payable on the same date as the assessment in default under subsection (3) which it replaces.

(8) Where a taxpayer has paid more in respect of an assessment in default under subsection (3) than is payable under the assessment under subsection (6) which replaces it, the Assessor shall, after taking account of such interest as may be due under section 111A of this Act, repay the difference to the taxpayer.

(9) 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.

Distributable profits charge: payment. **13C.** (1) In respect of any year of assessment, distributable profits charge shall be due and payable on or before the same date as income tax under section 96.

(2) Subsection (1) is subject to subsections (3) and (4).

(3) The amount due and payable in respect of a year under subsection (1) shall be reduced by the amount paid under subsection (4) in respect of that year.

(4) If any distribution (whether interim or final) is made before the due date referred to in subsection (1), distributable profits charge shall be due and payable to the Treasury on the date of the distribution and shall be calculated by reference to the amount distributed.

(5) If the Assessor is satisfied that any return of income containing the information required by section 13B is a true and correct return, the Assessor shall determine the amount of distributable profits charge payable by the corporate taxpayer and shall send to the corporate taxpayer a statement showing —

- (a) the amount of distributable profits charge due and payable; and
- (b) the date on which it is due and payable.

(6) Sections 98A, 98B and 111A shall apply with the necessary modifications in respect of distributable profits charge as they apply in respect of tax charged by an assessment to income tax.

Companies: undistributed profit, special cases. **13D.** (1) The Assessor may exercise the powers contained in subsection (3) if it appears to the Assessor —

- (a) that arrangements relating to any corporate taxpayer exist or have existed, the main purpose of which or one of the main purposes of which, is to reduce the tax liability of a person (“A”) who is resident in the Island; or
- (b) that the corporate taxpayer concerned is not a distributing company.

(2) Paragraph (b) of subsection (1) is without prejudice to the generality of paragraph (a) of that subsection.

(3) The Assessor may —

- (a) assess A, the corporate taxpayer and its members or make such adjustments to the assessments of A, the corporate taxpayer and its members; and

- (b) impose a distributable profits charge on the corporate taxpayer or make such adjustments to the distributable profits charges imposed on the corporate taxpayer,

in such manner as appears to the Assessor to be necessary for the protection of the revenue.

(4) The Assessor shall give notice of assessment or adjustment under subsection (1) in writing to the persons affected, and the corporate taxpayer and each other person affected shall be entitled to appeal therefrom as provided in section 87.

Power to
call for
documents.

13E. (1) The Assessor may by notice in writing require —

[c.13]

- (a) any person licensed under section 3 of the Corporate Service Providers Act 2000; and
- (b) any person, other than a person mentioned in paragraph (a), who is the secretary of a corporate taxpayer,

to deliver to the Assessor or, if so required by the Assessor, to make available for inspection by the Assessor, such documents as are in such a person's possession or power and as (in the Assessor's reasonable opinion) contain, or may contain, information relevant to —

- (i) any interest that another person ("B") may have in a corporate taxpayer);
- (ii) B's residence status for the purposes of this Act.

(2) Before a notice is given under subsection (1), the person to whom the notice is given must have been given a reasonable opportunity to deliver or make available the documents in question.

(3) When the Assessor gives a notice under subsection (1), the Assessor shall 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.

(4) Subsection (3) 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.

(5) 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 such form as the Assessor may reasonably require; and
- (b) if so 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.

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

Power to call for information relating to beneficial ownership

13F. (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 determination and collection of distributable profits charge.

(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 tax payer;
- (b) the names and addresses of those members; or
- (c) any person who acts or has acted (in any capacity) on behalf of a member of a corporate tax payer,

to give any such information to the Assessor.

(3) Without prejudice to subsection (4) or section 84, the powers conferred on the Assessor by section 13B(3) may be exercised where a person fails to give information required of that person under this section, or who in giving such information makes any statement which he knows to be false in a material particular.

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

Falsification,
etc. of
documents.

13G. (1) Subject to subsections (2) to (4), 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 —

- (a) has been required by a notice under section 13E; or
- (b) has been given an opportunity in accordance with section 13E(2),

to deliver, or 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 authorised for the purpose; or
- (b) after the document has been delivered or inspected in accordance with section 13E(1), or
- (c) after a copy has been delivered in accordance with section 13E(5) and the original has been inspected.

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

- (a) on summary conviction, to a fine not exceeding £5,000;
- (b) on conviction on indictment, to custody for a term not exceeding 2 years or to a fine or to both.

Distribution
credit
voucher.

13H. (1) Subject to subsection (3), as soon as practicable after a distribution is paid by a corporate taxpayer it shall send a distribution credit voucher to every member that is resident in the Island.

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

(3) A distribution credit shall not be allowed in respect of a distribution from reserves if no distributable profits charge is due and payable in respect of the distributable profits from which the reserves are derived.

(4) Accordingly, distribution credit shall apply in respect of a distribution from reserves if, and only if, —

- (a) the distributable profits charge is paid in respect of distributable profits from which the reserves are derived; and
- (b) those reserves are distributed.

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

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

Value of a
distribution
credit
voucher.

13I. (1) The value of a distribution credit voucher shall be determined in accordance with the formula —

$$P \times R \times A$$

where :

“P” = the relevant proportion prescribed for the purposes of subsection (1) or (2) or (8), as the case may be, of section 13A.

“R” = the rate of distributable profits charge payable by the corporate taxpayer under subsection (1) or (2) or (8), as the case may be, of section 13A.”.

“A” = the gross amount of the distribution to which the distribution credit voucher applies.

(For example, a gross distribution of £1,000 to a member results in a credit of £99 where the proportion is 55% and the rate of tax is 18%).

(2) In determining the value of a distribution credit voucher under subsection (1), the relevant proportions and rates shall be those applicable at the time the distributable profits charge became due and payable.

Voucher
a credit
against
income
tax.

13J. (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 the year of assessment in which the distribution is paid.

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

Appeals.

13K. (1) An appeal shall lie to the Commissioners with respect to —

(a) any liability to distributable profits charge;
or

(b) a decision of the Assessor under section 13D,

and the Commissioners may confirm, vary or reverse the charge 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.”.

[c. 6]

(2) Section 5 of the Income Tax Act 2000 (insertion of section 13A) shall cease to have effect.

(3) This section shall have effect in respect of the year of assessment commencing on 6 April 2006 and subsequent years.

PART 4

TAXATION OF NON-RESIDENTS

Personal
allowances:
non-residents.

6. (1) After section 35B of the 1970 Act insert —

“Personal
allowance
for non-
residents.

35C. (1) An individual who is not resident in the Island shall be entitled, for the purpose of ascertaining taxable income in any year of assessment, to a deduction of £2,000 from total income from all sources within the Island (“Manx total income”).

(2) The allowance under this section in respect of a married claimant shall be the same as it is for a single claimant.

Cessation of non-residence.

35D. Where an individual ceases to be regarded as non-resident and commences residence in the Island during the year of assessment, the Assessor shall allow only a proportion of the deduction under section 35C in respect of that individual corresponding to the proportion which the period during which the individual was non-resident in the year of assessment bears to the year.

Cessation of residence.

35E. Where an individual ceases to be regarded as resident in the Island during the year of assessment, the Assessor shall allow only a proportion of the deduction under section 35C in respect of that individual corresponding to the proportion which the period during which the individual was non-resident in the year of assessment bears to the year.”.

(2) After section 11 of the 1970 Act insert —

“Limit on income chargeable on non-residents.

11A. (1) Notwithstanding any other section of this Act, the income tax chargeable for any year of assessment on the total income of any individual who is not resident in the Island for the whole of that year shall not exceed the sum of the following amounts —

- (a) the amount of income tax which, apart from this section, would be chargeable on that total income if the amount of that income were reduced by the amount of any excluded income; and
- (b) the amount of tax deducted from so much of any excluded income as is income the tax on which is deducted at source,

and for the purposes of calculating the limit of income tax under this subsection, personal allowance under section 35C shall be left out of account.

(2) For the purposes of this section income arising for any year of assessment to an individual who is not resident in the Island for the whole of that year is excluded income if it represents —

- (a) dividends paid by a company incorporated under the Companies Acts 1931 to 2004 or

- [XIII p.235] registered under Part XI of the Companies Act 1931;
- [c. 4] (b) deposit interest paid by a banking institution within the meaning of the Banking Act 1998;
- [c. 7] (c) interest or dividends paid by a building society authorised under section 2 or 4A of the Building Societies Act 1986;
- [c. 6] (d) interest or dividends paid by the Government in respect of bonds issued under the Isle of Man Loans Act 1974;
- [c.24] (e) interest or dividends paid by a local authority in respect of securities issued under section 50 of the Local Government Act 1985;
- (f) income from social security benefits that are chargeable to income tax under section 48;
- (g) national insurance retirement pensions paid by the Department of Health and Social Security; or
- (h) income of such other description as the Treasury by order designates for the purposes of this subsection,

but where that individual is chargeable in the name of another (“the representative”) under section 70(1)(a) in respect of income from a trade or profession carried on in the Island, through the representative or at or from a branch in the Island, such income shall not be excluded income.

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

- (a) may amend paragraphs (a) to (g) of subsection (2); and
- (b) shall not come into operation unless it is approved by Tynwald.

(4) This section shall not apply to the income tax chargeable for any year of assessment on the income of trustees not resident in the Island if there is a relevant beneficiary of the trust who is either —

- (a) an individual resident in the Island, or
- (b) a company resident in the Island.

(5) In subsection (4), the reference to a relevant beneficiary, in relation to a trust, is a reference to any person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either —

- (a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or
- (b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust;

and for the purposes of this subsection references, in relation to a trust, to income under the trust shall include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income.

(6) In subsection (1)(b) —

- (a) the reference to excluded income the tax on which is deducted at source is a reference to excluded income from which an amount in respect of income tax is or is treated as deducted, on which any such amount is treated as paid or in respect of which there is a tax credit, and
- (b) the reference, in relation to any such income, to the amount of income tax deducted shall accordingly be construed as a reference to the amount which is or is treated as deducted or which is treated as paid or, as the case may be, to the amount of the credit.

(7) For the avoidance of doubt, in subsection (1)(b) reference to “tax deducted” shall not include any retention tax deducted under the Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005 pursuant to a retention agreement entered into between the Island and a member State within the meaning of the European Communities (Isle of Man) Act 1973.”

[S.D. 150/05]

[c.14]

(3) Section 12 of the Income Tax (Amendment) Act 2004 is repealed.

[c. 5]

(4) This section shall have effect in respect of the year of assessment commencing on 6 April 2006 and subsequent years.

PART 5

RATES OF INCOME TAX

Rates of
income tax.

7. (1) For section 1(2), (2A) and (3) of the 1970 Act substitute —

“(2) In the case of an individual who is resident in the Island, income tax shall be payable in respect of every income tax year —

- (a) at the lower rate on every pound of taxable income up to and including the threshold; and
- (b) at a prescribed rate on every pound of taxable income in excess of the threshold.

(2A) All other persons who are resident in the Island shall pay income tax at the prescribed rate on every pound of taxable income.

(3) In the case of a person who is not resident in the Island, income tax shall be payable in respect of every income tax year at the prescribed rate on every pound of Manx income.

(3A) In this section —

“the lower rate” mean such rate of income tax as may be determined by order made by the Treasury as being the lower rate;

“Manx income” means income derived from any trade, profession, employment or vocation carried on in the Island and from any other source whatsoever within the Island;

“prescribed rate” means such rate of income tax as may be determined by order made by the Treasury;

“the threshold” means such amount of taxable income as may be determined by order made by the Treasury as being the threshold for the payment of the prescribed rate under subsection (2).

(3B) An order under this section —

- (a) may specify different rates for different provisions, purposes or different classes of person and in respect of income of different classes, amounts or sources;

- (b) may require that tax shall be payable at such rate as is specified in the order in respect of the income of a person even if a provision of the Income Tax Acts or any other enactment (which shall be specified in the order) —
 - (i) exempts or enables the exemption of such person or income from payment of income tax (for example managed banks and exempt insurance companies); or
 - (ii) prescribes or enables the prescription of a rate of income tax in respect of such person or income different to that specified in the order (for example international companies);
- (c) may specify a zero income tax rate;
- (d) may, where a zero rate is specified under paragraph (c), specify an alternative rate to apply in place of the zero rate in the event that such circumstances as are specified in the order arise;
- (e) may make the application of any rate subject to conditions;
- (f) may include supplemental and transitional provisions.

(3C) An order under this section may include provision repealing or amending any provision of an enactment (other than this section) —

- (a) which is inconsistent with, or is unnecessary or requires modification in consequence of, the order; or
- (b) without prejudice to the generality of paragraph (a), which is specified in an order under subsection (3B)(b) or is supplementary to such a provision.

(3D) Subsection (3B) shall not limit the operation of section 26 of the Interpretation Act 1976 (construction of provisions as to exercise of powers and duties). [c.20]

(3E) An order under this section shall not come into operation unless it is approved by Tynwald.”.

- (2) In the 1970 Act —
- (a) in section 2H(10), for “higher rate” substitute “rate prescribed for the purposes of this section under section 1 of this Act”;
 - (b) in section 25(1), for “the relevant higher rate” substitute “the rate prescribed for the purposes of this section under section 1 of this Act and which is”;
 - (c) in section A108(1), for “less than the higher rate determined under section 1(2A) of the 1970 Act for the purposes of section 1(2)(b) of that Act” substitute “less than the rate prescribed for the purposes of this section under section 1 of this Act”.
- (3) The following enactments are repealed —
- (a) section 1A of the 1970 Act;
 - [c.13] (b) in the Income Tax Act (Amendment) Act 1988 section 1(1);
 - [c. 6] (c) in the Income Tax Act 2000 —
 - (i) section 4;
 - (ii) in the Schedule, paragraph 1;
 - [c.11] (d) section 23 of Income Tax Act 2003.

(4) This section shall have effect in respect of the year of assessment commencing on 6 April in such year as may be specified in an order made by the Treasury and subsequent years.

(5) An order under subsection (4) may specify the year of assessment in which the order is made and this section shall accordingly have effect in respect of the whole of the specified year of assessment.

PART 6

DISCOUNTS, ETC.

Discounts,
etc. on
securities.

8. (1) After section 2P of the 1970 Act insert —

“Charge
to tax on
realised
profit
comprised
in discount

2Q. (1) Where a person realises the profit from the discount on a relevant discounted security, that person shall be charged to income tax on that profit.

P1996/8/
Sch13
para.1

(2) For the purposes of this section and sections 2R to 2Z (referred to collectively in this section and those sections as “this Part”) a person realises the profit from the discount on a relevant discounted security where —

- (a) that person transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and
- (b) the amount payable on the transfer or redemption exceeds the amount paid by that person in respect of the acquisition of the security.

(3) For the purposes of this Part the profit shall be taken —

- (a) to be equal to the amount of the excess reduced by the amount of any relevant costs; and
- (b) to arise, for the purposes of income tax, in the year of assessment in which the transfer or redemption takes place.

(4) In this section “relevant costs”, in relation to a security that is transferred or redeemed, are all the following costs —

- (a) the costs incurred in connection with the acquisition of the security by the person making the transfer or, as the case may be, the person entitled to a payment on the redemption; and
- (b) the costs incurred by that person in connection with the transfer or redemption of the security;

and for the purposes of this Part costs falling within paragraph (a) shall not be regarded as amounts paid in respect of the acquisition of a security.

Meaning of
“relevant
discounted
security”

2R. (1) Subject to subsection (2) and section 2X(1), in this Part “relevant discounted security” means any security which (whenever issued) is such that —

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para.3

- (a) taking the security as at the time of its issue, and

- (b) assuming redemption in accordance with its terms,

the amount payable on redemption is an amount involving a deep gain or might be an amount which would involve such a gain.

(2) The following are not relevant discounted securities for the purposes of this Part —

- (a) shares in a company;
- (b) gilt-edged securities that are not strips;
- (c) excluded indexed securities;
- (d) life assurance policies;
- (e) capital redemption policies; and
- (f) subject to section 2V, securities issued (at whatever time) under the same prospectus as other securities which have been issued previously but (disregarding that section) are not themselves relevant discounted securities.

(3) For the purposes of this Part the amount payable on redemption of a security involves a deep gain if —

- (a) the issue price is less than the amount so payable; and
- (b) the amount by which it is less represents more than the relevant percentage of the amount so payable.

(4) In this section “the relevant percentage”, in relation to the amount payable on redemption of a security, means —

- (a) the percentage figure equal, in a case where the period between the date of issue and the date of redemption is less than thirty years, to one half of the number of years between those dates; and
- (b) in any other case, 15 per cent;

and for the purposes of this section the fraction of a year to be used for the purposes of paragraph (a) in a

case where the period mentioned in that paragraph is not a number of complete years shall be calculated by treating each complete month, and any remaining part of a month, in that period as one twelfth of a year.

(5) References in this section to redemption —

- (a) do not include references to any redemption which may be made before maturity otherwise than at the option of the holder of the security; but
- (b) in the case of a security that is capable of redemption at the option of the holder before maturity, shall have effect as references to the earliest occasion on which the holder of the security may require the security to be redeemed.

(6) For the purposes of this section the amount payable on redemption shall not be taken to include any amount payable on that occasion by way of interest.

Meaning of
“transfer”

P1996/8/
Sch13
para.4

2S. (1) Subject to subsection (2), in sections 2Q to 2Z references to a transfer, in relation to a security, are references to any transfer of the security by way of sale, exchange, gift or otherwise.

(2) Where an individual who is entitled to a relevant discounted security dies, then for the purposes of this Part —

- (a) that individual shall be treated as making a transfer of the security immediately before death;
- (b) that individual shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer; and
- (c) that individual’s personal representatives shall be treated as acquiring the security for that amount on the death of the individual.

(3) For the purposes of this Part a transfer or acquisition of a security made in pursuance of an agreement shall be deemed to take place at the time when the agreement is made, if the person to whom the transfer is made, or who makes the acquisition, becomes entitled to the security at that time.

(4) If an agreement is conditional, whether on the exercise of an option or otherwise, it shall be taken for the purposes of this section to be made when the condition is satisfied (whether by the exercise of the option or otherwise).

(5) This section is without prejudice to section 2X(2) to (4).

Redemption
to include
conversion

P1996/8/
Sch13
para.5

2T. (1) This section applies where a relevant discounted security is extinguished by being converted, in pursuance of rights conferred by the security, into shares in a company or into any other securities (including other relevant discounted securities).

(2) For the purposes of this Part the conversion shall be deemed —

- (a) to constitute the redemption of the security which is extinguished; and
- (b) to involve a payment on redemption of an amount equal to whatever, at the time of the conversion, is the market value of the shares or other securities into which the security in question is converted.

(3) This section does not apply to an exchange to which section 2X applies.

Other
transactions
deemed
to be at
market
value

P1996/8/
Sch13
para.9

2U. (1) This section applies where a relevant discounted security is transferred from one person to another in a case in which —

- (a) the transfer is made for a consideration which consists of or includes consideration not in money or money's worth; or
- (b) the transfer is made otherwise than by way of a bargain made at arm's length.

(2) For the purposes of this Part —

- (a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and
- (b) the person to whom the transfer is made shall be treated as paying in respect of the

acquisition of the security an amount equal to that market value.

Issue of securities in separate tranches

P1996/8/
Sch13
para.10

2V. (1) In a case where —

- (a) none of the securities issued on the occasion of the original issue of securities under a particular prospectus would be a relevant discounted security apart from this section,
- (b) some of the securities subsequently issued under the prospectus would be relevant discounted securities apart from section 2R(2)(f), and
- (c) there is a time (whether before, at or after the beginning of the year of assessment commencing on 6 April 2005) when the aggregate nominal value as at that time of the securities falling within paragraph (b) exceeds the aggregate nominal value as at that time of the securities which have been issued under the prospectus and do not fall within that paragraph,

subsection (2) shall apply in relation to every security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c)).

(2) As regards any event occurring in relation to the security after the time mentioned in subsection (1)(c), this Part shall have effect as if the security —

- (a) were a relevant discounted security; and
- (b) had been acquired as such (whatever the time of its acquisition).

(3) For the purposes of subsection (2) events, in relation to a security, include anything constituting a transfer, redemption or acquisition for the purposes of this Part.

Excluded indexed securities

P1996/8/
Sch13
para.13

2W. (1) For the purposes of this Part a security is an excluded indexed security if the amount payable on redemption is linked to the value of assets.

(2) For the purposes of this section an amount is linked to the value of assets if, in pursuance of any

provision having effect for the purposes of the security, it is equal to an amount determined by applying a relevant percentage change in the value of assets to the amount for which the security was issued.

(3) In subsection (2) the reference to a relevant percentage change in the value of assets is a reference to the amount of the percentage change (if any) over the relevant period in the value of assets of any particular description or in any index of the value of any such assets.

(4) In subsection (3) “the relevant period” means —

- (a) the period between the time of the issue of the security and its redemption; or
- (b) any other period in which almost all of that period is comprised and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under the security.

(5) If —

- (a) there is a provision which, in the case of the amount payable on the redemption of any security, falls within subsection (2),
- (b) that provision is made subject to any other provision applying to the determination of that amount,
- (c) that other provision is to the effect only that that amount must not be less than a specified percentage of the amount for which the security is issued, and
- (d) the specified percentage is not more than 10 per cent,

that other provision shall be disregarded in determining for the purposes of this section whether the amount payable on redemption is linked to the value of assets.

(6) For the purposes of this section neither —

- (a) the retail prices index, nor

- (b) any similar general index of prices published by the government of any country or territory or by the agent of any such government,

shall be taken to be an index of the value of assets.

Gilt strips
P1996/8/
Sch13
para.14

2X. (1) Every strip is a relevant discounted security for the purposes of this Part.

(2) For the purposes of this Part, where a person exchanges a gilt-edged security for strips of that security, the person who receives the strips in the exchange shall be deemed to have paid, in respect of the acquisition of each strip, the amount which bears the same proportion to the market value of the security as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.

(3) For the purposes of this Part, where strips are consolidated into a single gilt-edged security by being exchanged by any person for that security, each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value.

(4) The Treasury may by order provide that this Part is to have effect with such modifications as it may think fit in relation to any relevant discounted security which is a strip.

(5) An order made by the Treasury under this section may —

- (a) make provision for the purposes of subsections (2) and (3) as to the manner of determining the market value at any time of any security;
- (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(6) Subject to any order under subsection (5), references in subsections (2) and (3) to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.

Realised
losses on
discounted
securities
P1996/8/
Sch13
para 2

2Y. (1) Subject to the provisions of sections 2Q to 2X and 2Z, where —

- (a) a person sustains a loss in any year of assessment from the discount on a relevant discounted security, and
- (b) makes a claim for the purposes of this paragraph before the end of 12 months from the 31st January next following that year of assessment,

that person shall be entitled to relief from income tax on income chargeable for that year under section 2Q for that year equal to the amount of the loss.

(2) Unused relief under this section cannot be carried forward or back.

(3) For the purposes of this section a person sustains a loss from the discount on a relevant discounted security where —

- (a) he transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and
- (b) the amount paid by that person in respect of his acquisition of the security exceeds the amount payable on the transfer or redemption.

(4) For the purposes of this section the loss shall be taken —

- (a) to be equal to the amount of the excess increased by the amount of any relevant costs; and
- (b) to be sustained for the purposes of this section in the year of assessment in which the transfer or redemption takes place.

(5) Section 2Q(4) applies for the purposes of this section as it applies for the purposes of that section.

General
interpretation

2Z. (1) In this Part —

P1996/8/
Sch13
para.15

“deep gain” shall be construed in accordance with section 2R(3);

“excluded indexed security” has the meaning given by section 2W;

“market value” (except in section 2X) means the price that the relevant security might reasonably be expected to fetch on a sale in the open market;

“relevant discounted security” has the meaning given by sections 2R and 2X(1);

“strip” means anything which is a strip of a gilt-edged security.

(2) Where a person, having acquired and transferred any security, subsequently re-acquires it, references in this Part to that person’s acquisition of the security shall have effect, in relation to —

(a) the transfer by that person of that security, or

(b) the redemption of the security in a case where that person becomes entitled to any amount on its redemption,

as references to that person’s most recent acquisition of the security before the transfer or redemption in question.”.

(2) This Part shall have effect in respect of the year of assessment commencing on 6 April 2005 and subsequent years in respect of any profit from the discount on a relevant discounted security realised on or after 6 April 2005.

PART 7

MISCELLANEOUS

9. (1) The Income Tax (Non-Resident Tax Rates)(Trading Income) (Temporary Taxation) Order 2004 (“the temporary order”) is confirmed for the purposes of section 15(4)(a) of the Income Tax Act 1995.

Confirmation of orders.

[S.D. 147/04]
[c.12]

(2) Notwithstanding section 15(5)(b) of the Income Tax Act 1995, the temporary order shall continue in operation until an order is made under section 1(3) of the 1970 Act (inserted by this Act) which contains a declaration that it replaces the temporary order, and the temporary order shall cease to have effect on such date as is specified in that declaration.

(3) Article 2(3) of the temporary order (limitation of section 1(3) of 1970 Act) shall not operate in respect of section 1(3) of the 1970 Act as inserted by this Act.

(4) This section shall come into operation on the date on which this Act is passed.

Relief in respect of tax in other territories.

10. In section 57 of the 1970 Act (relief in respect of tax in other territories) —

(a) after subsection (2) insert —

“(2A) For the purposes of subsection (2), the references to the total amount of income tax payable or which would be payable by a person shall include the amount of income tax payable or which would be payable in respect of any sum treated as income received by that person by virtue of section D108(1)(a) (effect of release of loan).”;

(b) after subsection (3) insert —

“(3A) The successive application of subsection (1) in respect of income from more than one source shall be in order of the amount of foreign tax for which the relevant person is liable in respect of each such source, the largest being taken first.”.

Effect of release of a loan to a participator, etc.

11. In section D108 of the 1970 Act —

(a) in subsection (1)(a), for the words in brackets substitute —

“(of such amount as was paid or payable by the company under section A108(3) in respect of the amount of the loan or advance that is released or written off)”;

(b) after subsection (1) insert —

“(1A) If in respect of a year of assessment —

(a) an amount is treated as income received by a person under subsection (1)(a); and

(b) that person has paid or is liable to pay income tax under the Income Tax Acts on that income,

that person shall be entitled to relief from income tax paid or payable on the said income of an amount equal to the lesser of the two following amounts —

(a) the amount of income tax as was paid or payable by the company under section

A108(3) in respect of the amount of the loan or advance that is released or written off; and

(b) the marginal amount.

(1B) In subsection (1A), “marginal amount” means the amount obtained by the formula —

$$A - B$$

where —

“A” is the total amount of the income tax payable by a person under this Act for any year of assessment; and

“B” is the total amount of income tax which would be payable by that person under this Act in respect of that year of assessment if the amount treated as income received under subsection (1)(a) were to be disregarded.”.

12. (1) In section 111B of the 1970 Act, at the end add —

“and subsection (9) of that section shall apply for the purposes of this section as if the reference to subsection (1A)(b) of that section included a reference to this section”.

Surcharge
interest : fraud,
wilful default
or neglect.

(2) This section shall have effect in respect of any payment of interest due in respect of the year of assessment commencing on 6 April 2005 and subsequent years.

13. After section 118 of the 1970 Act insert —

Limitation
periods.

“Exclusion
of extended
limitation
period.

[c.18]

118A. (1) Section 30(1)(c) of the Limitation Act 1984 (postponement of limitation period) does not apply in relation to a mistake of law relating to a taxation matter under the Income Tax Acts.

(2) Subsection (1) has effect in relation to actions brought on or after 1 January 2005.

(3) If, before 1 January 2005, —

(a) an action is brought in relation to which a defence of limitation would have been available if subsection (1) had been in force; or

- (b) a claim is made on or after that date that by virtue of section 32 of the Limitation Act 1984 is treated as an action brought before that date and that claim would not have been allowed if subsection (1) had been in force,

the action (or so much of it as relates to a cause of action in respect of which a defence of limitation would have been available or, as the case may be, a claim would not have been allowed) shall be deemed to be discontinued on the passing of this Act and any payment made by the Treasury or the Assessor in or towards meeting their liability in the action (or so much of the action as so relates) may be recovered by them (with interest from the date of the payment).

(4) Nothing in this section affects a claim made before the 1 January 2005.

(5) The provisions of this section apply to any action or claim for relief from the consequences of a mistake of law, whether expressed to be brought on the ground of mistake or on some other ground (such as unlawful demand or *ultra vires* act).

(6) This section shall be construed as one with the Limitation Act 1984.”.

Confirmation
of order
[S.D. 150/05]

14. (1) The Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005 (“the Order”) is confirmed.

(2) The Order shall, from the date on which this Act is passed, continue in operation as a permanent order.

[c.12]

(3) Subsections (3) to (6) of section 15 of the Income Tax Act 1995 (“the 1995 Act”), (expiry of orders) do not have effect in respect of this section or the Order.

(4) For the avoidance of doubt, the Treasury may amend the Order in accordance with the provisions of subsections (1) (enabling powers) and (2) (Tynwald approval) of section 15 of the 1995 Act and may exercise the powers in those provisions to revoke and replace the Order.

(5) This section shall come into operation on the date on which this Act is passed.

Minor
amendments.

15. (1) In the 1970 Act —

- (a) in section 81, for “96A” substitute “96B”;
 - (b) in section 107B, for “96A”, wherever occurring, substitute “96B”;
 - (c) in section B108(8), for “(3)(b)” substitute “(3)(c)”;
 - (d) in section 111A(1A)(a), for “96A” substitute “96B”.
- (2) In section 61 of the 1970 Act, for “35 to 35B” substitute “35 to 35E”.
- (3) In section 106(5) of the 1970 Act —
- (a) for paragraph (c) substitute —
 - “(c) if the disclosure is required or authorised by order of a court in the Island;”;
 - (b) for paragraph (e) substitute —
 - “(e) if the disclosure is required or authorised by any statutory provision (including a provision in this Act);”.
- (4) After section 15(1)(ab) of the Income Tax Act 1995 (implementation of international agreements) insert —
- “(ac)authorising the making of regulations and other instruments for the purpose of implementing or complying with any agreement, arrangement, obligation, regulation, directive, code or standard referred to in paragraph (aa);
 - (ad) authorising the making of regulations for the purpose of giving effect to a document which provides for the modification of such an agreement, arrangement, obligation, regulation, directive, code or standard.”.
- (5) Subsection (4) shall be treated as coming into operation on 1 January 2005.

PART 8

GENERAL

16. In this Act, “the 1970 Act” means the Income Tax Act 1970.

Interpretation.
[XXI p.260]

Short title and commencement.

17. (1) This Act may be cited as the Income Tax (Amendment) Act 2006 and shall be construed as one with the 1970 Act.

(2) Except where this Act otherwise provides, this Act shall have effect in respect of the income tax year commencing on 6 April in such year as may be specified in an order made by the Treasury and subsequent years.

(3) An order under subsection (2) may specify different commencement years for different provisions and for different purposes.

(4) The Treasury may by order make such transitional provisions or savings as it may consider necessary in connection with the commencement of any provision of this Act.

(5) An order under subsection (4) may have effect in respect of the whole of the year of assessment in which the order is made.

Section 2.

SCHEDULE

PART 1

CONSEQUENTIAL AMENDMENTS

Income Tax Act 1970 (XIX p.260)

1. In section 21A(1), for the words from “where, by virtue of section 64” to the end of the subsection, substitute “where a valid election is in force under section 65A of this Act for the aggregation of the income of a husband and wife, be determined separately by reference to the income of the husband and wife before aggregation.”.

2. In section 35 of the 1970 Act —

(a) for subsection (1) substitute —

“(1) Subject to the provisions of this section, where a valid election is in force under section 65A of this Act for the aggregation of the income, deductions and reliefs of a husband and wife, they shall be entitled, for the purpose of ascertaining taxable income in any year of assessment, to a deduction of £16,450 from their total income.”;

(b) for subsection (5) (transfer of allowances not allowed in cases of separate assessment) substitute —

“(5) Subsection (4) shall apply if, and only if, a valid election is in force under section 65A of this Act for the aggregation of the income, deductions and reliefs of a husband and wife.”;

(c) in subsection (7), for the words “section 64(3)” substitute “section 65E(2)”;

3. In section 35B(4), for the words “Section 64(2)” substitute “Section 65E(1)”.

4. For section 49(8), substitute —

“(8) Notwithstanding that a valid election is in force under section 65A of this Act (election for joint assessment), for the purposes of this section and sections 50 and 50A, an individual’s relevant earnings shall not include any income of the husband or, as the case may be, wife of that individual.”.

Income Tax Act 1989 (c. 10)

5. For section 17(6), substitute —

“(6) Notwithstanding that a valid election is in force under section 65A of the 1970 Act (election for joint assessment), for the purposes of this Part, an individual’s relevant earnings shall not include any income of the husband or wife of that individual.”.

Income Tax Act 2003 (c.11)

6. In section 3, for the words “section 64” substitute “section 65A”.
7. In section 4(2), for the words “section 64(2) and (3)” substitute “section 65E(1) and (2)”.

PART 2

REPEAL OF ENACTMENTS

<i>Vol/Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
XIX p.260	Income Tax Act 1970	Section 35(2)(b). Section 35A(2). In section 35B, subsection (2) and (3)(b). In section 95A, the words “65(1)”.
1989 c.10	Income Tax Act 1989	Section 69. Section 70.
2003 c.11	Income Tax Act 2003	Section 25(2).
2004 c.5	Income Tax (Amendment) Act 2004	Section 15(3).