



INCOME TAX BILL 2012

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr R W Henderson, MHK. They do not form part of the Bill.

INTRODUCTION

The Income Tax Bill 2012 confirms six temporary taxation orders, repeals certain income tax Acts and provisions of income tax Acts, makes a number of amendments to the Income Tax Act 1970 and a miscellaneous amendment to the Income Tax Act 1989.

This Bill contains 17 clauses.

OVERVIEW OF CLAUSES

Part 1 – Introduction

Clause 1 – Short title

Clause 1 provides for the short title of the Act.

Part 2 - Confirmation of Temporary Taxation Orders

Clause 2 – Confirmations

Clause 2 confirms the Orders.

The Income Tax (Repeal of the Attribution Regime for Individuals) Order 2011 (Statutory Document SD 0847/11) repeals the provisions of the Income Tax Act 1970 which set out the attribution regime for individuals (“ARI”). The Order also introduces measures to prevent the possible avoidance of ARI during the period of transition.

The Income Tax (Deductions) (Temporary Taxation) Order 2012 (Statutory Document SD 48/12) amends the Income Tax Act 1970 to provide that certain deductions will reduce liability to income tax instead of reducing total income. In addition, those deductions will only be allowed at a rate equivalent to the lower rate of income tax.

The Income Tax (Exempt Income) (Temporary Taxation) Order 2012 (Statutory Document SD 50/12) amends the Income Tax Act 1970 to provide that income from maintenance payments will not be taken into account when calculating the recipient's taxable income.

The Income Tax (Personal Allowance Credit) (Temporary Taxation) Order 2012 (Statutory Document SD 51/12) amends the Income Tax Act 2003 to decrease the amount of personal allowance credit payable. It also enables the amount of credit payable to taxpayers who are not required to submit an annual income tax return to be amended by regulations.

The Income Tax (Employers) (Temporary Taxation) Order 2012 (Statutory Document SD 52/12) amends the Income Tax (Instalment Payments) Act 1974 to require employers to carry out their income tax transactions via the online service provided by the Income Tax Division.

The Income Tax (Individuals) (Temporary Taxation) Order 2012 (Statutory Document SD 0098/12) amends the Income Tax Act 1970 to enable the Assessor to ask taxpayers for information that is required in order for the Island to continue to meet international standards of tax co-operation and information exchange. It also extends the sections regarding loans to participators to apply to corporate taxpayers and replaces references to "the relevant higher rate" in the loans to participators legislation with "the higher rate for individuals".

Part 3 – Repeal of Spent Acts and Provisions

Clause 3 – Repeals

Clause 3 repeals a number of income tax Acts and provisions of income tax Acts that have fully come into operation and are therefore "spent".

Part 4 – Amendment and Relocation of Temporary Taxation Order Provisions

Clause 4 – Section 15 of Income Tax Act 1995 amended

Clause 4 amends the Temporary Taxation Order ("TTO") provisions to ensure that, unless otherwise provided, a TTO will apply to all future tax years. It also clarifies that once confirmed by an Act, a TTO becomes permanent but can still be subject to amendment by a future TTO. In addition, it provides for the automatic repeal of confirmatory Acts or provisions.

Clause 5 – Relocation to Income Tax Act 1970

Clause 5 removes Section 15 of the Income Tax Act 1995 from that Act and inserts it into the Income Tax Act 1970 as Section 115A.

Part 5 – Amendments to Income Tax Act 1970

Clause 6 – Act amended

Clause 6 confirms that this Part of the Act makes amendments to the Income Tax Act 1970.

Clause 7 – Sections 11A and 48B amended

Clause 7 replaces references to “Department of Health and Social Security” in Sections 11A(2)(g) and 48B(4)(c) with “Department of Social Care”.

Clause 8 – Section 32A repealed

Clause 8 repeals section 32A, the reduction of Class 4 contributions.

Clause 9 – Section 65A amended

Clause 9 amends section 65A to replace the reference to “husband and wife’s” with “spouses’ or civil partners”.

Clause 10 – Section 105D amended

Clause 10 amends section 105D concerning the Assessor’s powers to call for documents relating to a taxpayer. If the Assessor does not know the whereabouts of a taxpayer who is under investigation, he will not be required to give that taxpayer a copy of a notice requiring another person to make documents relating to the taxpayer available to the Assessor or to give the taxpayer a written summary of his reasons for giving the notice.

Clause 11 – New sections 105P and 105Q

Clause 11 inserts sections 105P and 105Q into the Income Tax Act 1970. Section 105P amends the Assessor’s powers to obtain information for income tax purposes by introducing the power for the Assessor to request information relating to a taxpayer under investigation to be provided by means of a sworn deposition when the information is requested under the terms of an international tax agreement. Section 105Q makes it an offence for the person providing the information in accordance with section 105P to notify the taxpayer under investigation or to disclose to anyone any information which is likely to prejudice the inquiry.

Clause 12 – Section 106A amended

Clause 12 amends section 106A of the Income Tax Act 1970. The amendments allow information obtained from the Assessor by the Collector of Customs and Excise, via

an existing statutory gateway, to be forwarded to another person provided that the consent of the Assessor is given for it to be forwarded. They also make it an offence for the information obtained via the gateway to be disclosed without the Assessor's authorisation.

Clause 13 – Section 106B amended

Clause 13 amends Section 106B of the Income Tax Act 1970. The amendments allow information obtained from the Department of Social Care and the Collector of Customs and Excise, by the Assessor, via an existing statutory gateway, to be forwarded to another person provided that the consent of the disclosing body is given for it to be forwarded. They also make it an offence for the information obtained via the gateway to be disclosed without the disclosing body's authorisation.

Clause 14 – New cross-heading after s 115

Clause 14 inserts the cross-heading "Temporary taxation orders" into the Income Tax Act 1970 after Section 115.

Clause 15 – New Schedule 3

Clause 15 inserts Schedule 3 into the Income Tax Act 1970.

Paragraph 1 of Schedule 3 provides savings provisions to ensure the ongoing effect of any transitional provisions contained in those Acts and provisions repealed in Clause 3; for example, sections 2(2) (insertion) and 3(2) (amendments) of the Income Tax Act 1981, sections 73(2) and (3) (particulars of payments liable to tax) of the Income Tax Act 1989, section 13(2)(c) (pensions: amendments) of the Income Tax Act 1991, section 11 (benefits in kind) of the Income Tax Act 2000, section 7 (non-corporate taxpayers: transition to current year base) of the Income Tax (Amendment) Act 2004, section 4 (joint treatment by choice) of the Income Tax (Amendment) Act 2006, sections 2(2) and 6(2) (amendments) of the Income Tax (Amendment) Act 2008, and sections 2(5) to (7) (confirmation of SD 928/07) of the Income Tax Act 2009.

Paragraph 2 of Schedule 3 makes provisions regarding section 115A of the Income Tax Act 1970 which is inserted by Clause 5.

Part 6 – Other Provisions

Clause 16 – Amendment to Income Tax Act 1989

Clause 16 makes a consequential amendment to Section 12 of the Income Tax Act 1989. The amendment replaces the reference to "Department of Health and Social Security" in Section 12(1)(c) with "Department of Social Care.

Clause 17 – Expiry of this Act

Clause 17 provides for the Act to expire on the day after it is promulgated.