



INCOME TAX BILL 2022

EXPLANATORY NOTES

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

INTRODUCTION

The Income Tax Bill 2022 [amends and] confirms a temporary taxation order, and makes amendments to the *Income Tax Act 1970*.

This Bill contains 9 clauses.

OVERVIEW OF CLAUSES

Clause 1- Short title

Clause 1 provides for the short title of the resulting Act.

Clause 2 – Confirmation of temporary taxation order

Clause 2 confirms the following temporary taxation order:

This Order was made under section 115A of the Income Tax Act 1970 (“the Act”).

It is made pursuant to the recommendations of the EU Code of Conduct Group on Business Taxation. The Order amends the Act so as to introduce a substance test for certain Isle of Man relevant partnerships.

The Order requires the registration of partnerships on the Island and submission of further information from relevant partnerships in order for the Assessor to determine whether the partnership has substance in the Island. The amendments to the Act provide that all relevant partnerships carrying on relevant activities will be required to meet the same substance requirements as relevant sector companies.

The Order also amends the Partnership Act 1909 and the Limited Liability Companies Act 1996 to provide that receipt of a notice from the Assessor by the Department for Enterprise can require a limited partnership, or as the case may be, a limited liability company to be struck off the relevant register.

Clause 3 – Amendment to temporary taxation order

Clause 3 also includes subsequent amendments to the temporary taxation order which are intended to clarify the definitions, in section 80B, and to correct a circularity issue on the place of effective management in section 80E.

These amendments ensure that the economic substance legislation is applied correctly.

Clause 4 – Amendment to the Income Tax Act 1970

Clause 4 introduces the amendments to the Income Tax Act 1970.

Clause 5 – Amendment to section 2ZA of the Income Tax Act 1970

This clause amends section 2ZA to ensure that despite section 84A, any amendments to assessments as a result of an application under subsection (11) can be made for all of the years of assessment to which an election applied provided such a claim is made within 3 months of the end of last tax year to which the tax cap applied.

Clause 6 – Amendments to section 104I of the Income Tax Act 1970

Clause 6 makes an amendment to section 104I to provide clarity where a witness is notified in advance of a summons being issued.

The clause ensures that when the Assessor approaches the witness, in advance of the summons being delivered to the witness, to establish the witness's availability to attend court, that the disclosure of "protected information" in a manner likely to prejudice the outcome of the investigation is an offence in the same way as it is when a summons has been issued. It also adds a provision into section 104I to provide, by way of application to the Assessor, assurance to witnesses in respect of contact to appropriate persons (risk managers, insurers, legal advisers, and previous TCSP officers) who are not an employee or officer of the witness, after receipt of the notification.

Clause 7 – Amendments to section 105 of the Income Tax Act 1970

Clause 7 makes an amendment to section 105 (2) to update the legislative reference from the Interpretation Act 1976 to the Interpretation Act 2015.

Clause 8 – Amendments to section 105K of the Income Tax Act 1970

Clause 8 makes an amendment to section 105K (1) to provide for an option where there is good reason and the high court are satisfied for not affording a person with 14 days' notice or the right to appear and be heard in civil tax matters as well as criminal investigations.

Clause 9 – Amendments to section 106 of the Income Tax Act 1970

Clause 9 makes an amendment to section 106 of the Income Tax Act to ensure that documents and information can be disclosed to-

- a) the income tax commissioners in certain cases; and
- b) to international organisations or bodies that the island is required to divulge to meet the island's international obligations.