

INCOME TAX BILL 2022

Explanatory Memorandum

1. This Bill is promoted on behalf of the Treasury by Hon. David Ashford, M.H.K. in the House of Keys and William Henderson, M.L.C. in the Legislative Council.
2. *Clause 1* specifies the Short Title of the resulting Act.
3. *Clause 2* confirms the Income Tax (Substance Requirements) Order 2021 (“the Order”), the Income Tax (Allowance for Disabled Persons) (Temporary Taxation) Order 2022 and the Income Tax (T.T. Homestay Scheme Allowance) (Temporary Taxation) (No. 2) Order 2022 and provides that all three orders continue as permanent orders. The confirmation of the Order is subject to amendments.
4. *Clause 3* specifies the amendments subject to which the Order is confirmed by clause 2 and provides that the amendments are deemed to have come into effect at the commencement of the Order.
5. *Clause 4* announces that the *Income Tax Act 1970* (“the Act”) is amended as specified in the clauses that follow.
6. *Clause 5* amends section 2ZA of the Act by inserting a new subsection, i.e. subsection (11A), which allows for the making of a request that specified amendments be made for all the years of assessment to which an election applies. It also specifies the circumstances within which this can be done and the applicable time limit.
7. *Clause 6* makes assorted amendments to section 104I of the Act.
8. *Clause 7* amends section 105 of the Act by substituting the equivalent reference in the *Interpretation Act 2015* for the outdated reference to the *Interpretation Act 1976*.
9. *Clause 8* amends section 105K(1) of the Act by removing words which unduly narrow the scope of the section.
10. *Clause 9* amends section 106 of the Act by inserting an additional circumstance in which, and purposes for which, specified documents or information can be disclosed to specified persons.
11. The Bill is not expected to have any human resources or financial implications.
12. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.



Ellan Vannin

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INCOME TAX BILL 2022

- 1 **A BILL** to confirm the Income Tax (Substance Requirements) Order 2021; to
 2 amend the Income Tax Act 1970; and for connected purposes.

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

3 **1 Short title**

4 The short title of this Act is the Income Tax Act 2022.

5 **2 Temporary Taxation Orders confirmed**

6 (1) The Income Tax (Substance Requirements) Order 2021¹ (hereafter in this
 7 Act referred to as “the Order”) —

8 (a) is confirmed subject to the amendments in section 3; and

9 (b) in accordance with section 115A of the *Income Tax Act 1970*,
 10 continues as a permanent order.

11 (2) The following Orders are confirmed and, in accordance with section 115A
 12 of the *Income Tax Act 1970*, continue as permanent orders —

13 (a) the Income Tax (Allowance for Disabled Persons) (Temporary
 14 Taxation) Order 2022²;

15 (b) the Income Tax (T.T. Homestay Scheme Allowance) (Temporary
 16 Taxation) (No. 2) Order 2022³.

17 **3 Temporary Taxation Order amended**

18 (1) The amendments referred to in section 2(1)(a) are as follows —

19 (a) in article 3(5) of the Order, omit paragraph (b);

20 (b) in article 3(5)(f) of the Order —

¹ SD 2021/0156

² SD 2022/0007

³ SD 2022/0051



- 1 (i) in paragraph (a) of the definition of “**high risk IP entity**”,
2 for “a” substitute “its”;
- 3 (ii) in paragraph (b) of the definition of “**high risk IP entity**”,
4 (A) for “a” where it first occurs, substitute “its”;
5 (B) for “by a foreign” substitute “overseas by a member
6 of its”;
- 7 (c) in article 3(7)(e) of the Order, in the inserted subsection (4) omit “is
8 not a relevant sector partnership and”;
- 9 (d) in article 3(8)(b) of the Order, in the substituted paragraph (a) of
10 section 80E(1) for “has a place of effective management on the
11 Island” substitute “is managed in the Island in relation to the
12 activity”; and
- 13 (e) in article 3(8)(f) of the Order, in paragraph (b) of the substituted
14 section 80E(4) for “has a place of effective management on the
15 Island” substitute “is managed in the Island in relation to the
16 activity”.
- 17 (2) The amendments are deemed to have come into effect at the
18 commencement of the Order.

19 *Amendment of the Income Tax Act 1970*

20 **4 Income Tax Act 1970 amended**

21 The *Income Tax Act 1970* is amended as specified in sections 5 to 9.

22 **5 Amendment of section 2ZA**

23 In section 2ZA (election for income tax cap to be applied) of the *Income Tax Act*
24 *1970*, insert the following after subsection (11) —

25 | “(11A) Despite section 84A (additional assessments), —

- 26 | (a) where subsection (11) applies; and
27 | (b) amendments have been made to the assessments in
28 | accordance with that subsection,

29 | those amendments may, upon a written request, be made for all
30 | the years of assessment to which the election applies; provided the
31 | request is made within 3 months of the end of the last tax year to
32 | which the income tax cap applies.”.

33 **6 Amendment of section 104I**

34 In section 104I (offence: unlawful disclosure of protected information) of the
35 *Income Tax Act 1970* —

- 36 (a) for subsection (1) substitute the following —

- 1 | “(1) This section applies if someone (the “witness”) has been —
- 2 | | (a) notified by the Assessor that the Assessor intends to
- 3 | | apply to the High Bailiff for the witness to be
- 4 | | summoned;
- 5 | | (b) summoned,
- 6 | | under section 104H.”;
- 7 | (b) in subsection (4) —
- 8 | | (i) for paragraph (a) substitute the following —
- 9 | | | “(a) (if the witness is not an individual) an employee or
- 10 | | | officer of the witness, provided that the disclosure is
- 11 | | | necessary to comply with the summons;”;
- 12 | | | (ii) omit “to” from paragraphs (b) and (c);
- 13 | | | (iii) omit the “or” that appears after the semicolon;
- 14 | | | (iv) for paragraph (d) substitute the following —
- 15 | | | | “(d) a person to whom, by the summons or any other
- 16 | | | | legal obligation, it is required to be disclosed; or”;
- 17 | | | | and
- 18 | | | (v) insert the following after paragraph (d) —
- 19 | | | | “(e) a risk manager, insurer, legal adviser or other
- 20 | | | | professional —
- 21 | | | | | (i) who the Assessor is satisfied can provide
- 22 | | | | | necessary assistance to the witness in the
- 23 | | | | | witness’s preparation to attend the hearing
- 24 | | | | | under section 104H(2); and
- 25 | | | | | (ii) to whom the Assessor has, on written
- 26 | | | | | application, in writing authorised the witness
- 27 | | | | | to disclose the protected information.”.

28 | 7 Amendment of section 105

29 | In section 105(2) (assessor and other officers) of the *Income Tax Act 1970*, for

30 | “section 21 of the *Interpretation Act 1976*” substitute “section 80 of the

31 | *Interpretation Act 2015*”.

32 | 8 Amendment of section 105K

33 | In section 105K(1) (ss 105H and 105I: notices and procedures) of the *Income Tax*

34 | *Act 1970*, omit “of the offence”.

35 | 9 Amendment of section 106

36 | In section 106(5) (information confidential) of the *Income Tax Act 1970*, for

37 | paragraph (a) substitute the following —

1
2
3

(a) for the purpose of an objection or appeal before, or an application to, the Commissioners or the Staff of Government Division;



IN THE COUNCIL

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Brought from the Keys on 29 March 2022 and reprinted to incorporate amendments made by the Keys.

MR HENDERSON

29 MARCH 2022