Statutory Document No 0013/13

INCOME TAX ACT 1970

INCOME TAX (RATES OF INCOME TAX) (RESIDENT AND NON-RESIDENT CORPORATE TAXPAYERS) ORDER 2013

Approved by Tynwald *19th February 2013*
Coming into operation *6 April 2013*

The Treasury makes this Order under section 1(3B), 1(3BA) and 27A of the Income Tax Act 1970.

1 Title

This Order is the Income Tax (Rates of Income Tax) (Resident and Non-Resident Corporate Taxpayers) Order 2013.

2 Commencement

If approved by Tynwald[1], this Order comes into operation on 6 April 2013 and shall have effect in respect of income tax years commencing 6 April 2013 and subsequent years.

3 Interpretation

In this Order –
"the Act" means the Income Tax Act 1970;
"retail business" means the sale of goods for consumption or use, whether or not by the buyer, for purposes unconnected with a trade or business; and any ancillary activity;
"small company limit" is £500,000.

4 Retail business

All corporate taxpayers who carry on retail business in the Isle of Man shall pay income tax in respect of every pound of taxable income at the prescribed rate of 10% in respect of that business.

[1] As required by section 1(3E) and section 27A(4) of the Income Tax Act 1970.

5 Small companies

Despite article 4, if, in any accounting period of a corporate taxpayer, the taxable income in respect of the retail business does not exceed the small company limit, income tax at the standard rate of 0% will apply in respect of every pound of that taxable income.

6 Small company limit for accounting periods less than 12 months

If a corporate taxpayer has an accounting period of less than 12 months the small company limit should be determined by the formula –

$$\frac{\pounds 500{,}000 \times T}{365}$$

where –

T is the number of days in the relevant accounting period.

7 Small company limit - associated companies

(1) If a corporate taxpayer has one or more associated companies at any time in the accounting period, the small company limit is:

$$\frac{S}{1 + \text{number of associated companies}}$$

where –

S is the small company limit determined by article 6.

(2) In applying the small company limit to any accounting period of a corporate taxpayer, an associated company which has not carried on retail business in the Island at any time in that accounting period shall be disregarded for the purposes of this Order.

(3) A company is an associated company of another at any given time for the purposes of this Order if, at that time, one of the two has control over the other or both are under the control of the same person or persons.

8 Avoidance

(1) If it appears to the Assessor that in any income tax year arrangements exist or have existed that have reduced or postponed the liability of the corporate taxpayer, the Assessor may assess the corporate taxpayer and its members, or make adjustments to the assessments of the corporate taxpayer and its members, in such a manner as appears to the Assessor to be necessary for the protection of the revenue, including assessing the whole of the corporate taxpayer's income at the prescribed rate of 10%.

(2) The Assessor must give notice of assessment or adjustment under subsection (1) in writing to the persons affected, and the corporate taxpayer and each other person affected may contest that assessment in accordance with section 87 of the Act.

9 Transition

In the first accounting period of a corporate taxpayer that ends after 6 April 2013, the small company limit should be determined by the formula –

$$\frac{A \times T}{365}$$

where –

A is the small company limit determined by proportionately reducing £500,000 by the number of companies associated with the corporate taxpayer at any time in the accounting period; and

T is the number of days in the accounting period which fall on or after 6 April 2013.

10 Group relief

Group relief is only available from a surrendering company under Schedule 2 of the Income Tax Act 1980 against retail business taxable at the prescribed 10% rate, if the loss to be surrendered is from a trade or business that would be subject to a 10% rate of income tax.

11 Losses

A loss may only be offset against the taxable profit from retail business if it is derived from retail business.

MADE 23rd January 2013

W E TEARE
Minister for the Treasury

EXPLANATORY NOTE

(*This note is not part of the Order*)

This Order introduces a 10% rate of income tax for retail business carried on by corporate taxpayers that have a taxable income of more than £500,000 from that business. The £500,000 is reduced proportionately for corporate taxpayers that have associated companies that have carried on retail business and where the accounting period is less than 12 months.