



INCOME TAX (INTERNATIONAL AGREEMENTS) (TEMPORARY TAXATION) ORDER 2013

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Statutory Document No. 0190/13



Income Tax Act 1970

INCOME TAX (INTERNATIONAL AGREEMENTS) (TEMPORARY TAXATION) ORDER 2013

Approved by Tynwald: 9th July 2013
Coming into Operation: 12 July 2013

The Treasury makes the following Order under section 115A of the Income Tax Act 1970.

1 Title

This Order is the Income Tax (International Agreements) (Temporary Taxation) Order 2013.

2 Commencement and effect

- (1) If approved by Tynwald, this Order comes into operation on 12 July 2013.
- (2) This Order has effect for the income tax year commencing on 6 April 2013 and subsequent tax years.

3 Income Tax Act 1970: section 54 amended

- (1) Section 54 of the Income Tax Act 1970 (relief from double taxation) is amended as follows.
- (2) In subsection (1B) after paragraph (c) insert—
 - ca) giving effect to any agreement which modifies or supplements those arrangements;
- (3) For subsection (4) substitute —
 - (4) The Treasury may make regulations for the purpose of —
 - (a) carrying out any arrangements having effect under this section;
 - (b) giving effect to, or enabling effect to be given to, arrangements having effect under this section or any agreement which modifies or supplements those arrangements.

- (4A) Regulations under subsection (4) may, in particular —
- (a) authorise the Assessor to require persons specified for the purposes of this paragraph (“relevant financial entities”) to provide the Assessor with information of descriptions so specified;
 - (b) require the information to be provided at such times and in such manner as may be specified;
 - (c) impose obligations on relevant financial entities;
 - (d) make provision (including provision imposing penalties) about contravention of, or non-compliance with, the regulations;
 - (e) make provision about appeals in relation to the imposition of any penalty.
- (4B) Regulations under subsection (4) may also contain provision consequentially amending any enactment (including one contained in this Act).
- (4C) The power conferred by subsection (4) is not limited by, and does not limit, any power conferred by or under any other enactment. **22**.

4 **Income Tax Act 2003: section 19 amended**

- (1) Section 19 of the Income Tax Act 2003 (international information exchange) is amended as follows.
- (2) In subsections (1A) and (1B) for “this section” substitute **23** subsection (1) **22**.
- (3) After subsection (1C) insert —
- 23**(1D) The Treasury may make regulations for the purpose of —
- (a) carrying out any arrangements having effect under this section;
 - (b) giving effect to, or enabling effect to be given to, arrangements having effect under this section or any agreement which modifies or supplements those arrangements.
- (1E) Regulations under subsection (1D) may, in particular —
- (a) authorise the Assessor to require persons specified for the purposes of this paragraph (“relevant financial entities”) to provide the Assessor with information of descriptions so specified;
 - (b) require the information to be provided at such times and in such manner as may be specified;

- (c) impose obligations on relevant financial entities;
 - (d) make provision (including provision imposing penalties) about contravention of, or non-compliance with, the regulations;
 - (e) make provision about appeals in relation to the imposition of any penalty.
- (1F) Regulations under subsection (1D) may also contain provision consequentially amending any enactment (including one contained in this Act).
- (1G) The power conferred by subsection (1D) is not limited by, and does not limit, any power conferred by or under any other enactment. **22**.
- (4) For subsection (3) substitute —
- 23**(3) An order or regulations under this section may only come into operation if approved by Tynwald. **22**.

5 **Income Tax (Exchange of Information) (Temporary Taxation) Order 2010 amended**

In article 3 of the Income Tax (Exchange of Information) (Temporary Taxation) Order 2010 in the definition of “**exchange agreement**” for “match” substitute **24** appear to the Treasury to have a corresponding effect to **22**.

6 **Disclosure facility: obligation on financial intermediaries**

- (1) A financial intermediary must —
- (a) before 31 December 2013, contact its current clients whom it knows to be relevant persons to make them aware of the disclosure facility; and
 - (b) in the period of six months ending on 30 September 2016, remind the current clients whom it knows to be relevant persons of the disclosure facility.
- (2) In this article —
- “**disclosure facility**” means the disclosure facility set out in Schedule 2 to the MOU;
- “**financial intermediary**” means a person who holds, or is required to hold, a licence under the *Financial Services Act 2008*;
- “**MOU**” means the Memorandum of Understanding entered into between the Government of the Island and Her Majesty’s Revenue and Customs

relating to co-operation in tax matters concluded on 19 February 2013¹;
and

“**relevant person**” has the meaning given in Schedule 1 to the MOU.

MADE 24th May 2013

W E TEARE
Minister for the Treasury

¹ The text of the MOU is accessible at <http://www.hmrc.gov.uk/offshoredisclosure/isleofman-memorandum.pdf>.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Income Tax Act 1970 and the Income Tax Act 2003.

Articles 1 and 2 deal with citation and commencement.

Article 3 amends section 54 of the 1970 Act to extend the scope of the Council of Ministers' powers to declare that international double taxation arrangements are to have effect to make provision by permitting the inclusion within the declaration provision giving effect to any agreement which modifies or supplements those arrangements. It also permits the making of regulations to carry out, or give effect to, the arrangements.

Article 4 makes amendments to section 19 of the 2003 Act that correspond to those made by article 3 to section 54 of the 1970 Act.

Article 5 amends the Income Tax (Exchange of Information) (Temporary Taxation) Order 2010 to broaden the scope of disclosure that may be made under the Order to include cases where the information exchange agreement appears to the Treasury to have an effect which corresponds with that of the model agreement (even if not expressed in precisely the same words or including additional incidental provision).

Article 6 imposes obligations upon financial intermediaries to inform their current clients about the international disclosure facility provided by HM Revenue and Customs ("HMRC") under a Memorandum of Understanding entered into between the Isle of Man Treasury and HMRC on 19 February 2013.