

Statutory Document No. 2016/0024

*Income Tax Act 1970*

INCOME TAX (INDIVIDUALS) (TEMPORARY TAXATION) ORDER 2016

Approved by Tynwald: 16 February 2016
Coming into Operation: 6 April 2016

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

1 Title

This Order is the Income Tax (Individuals) (Temporary Taxation) Order 2016.

2 Commencement

If approved by Tynwald¹, this Order comes into operation on 6 April 2016 and, except for article 5(b), shall have effect in respect of the income tax year commencing 6 April 2016 and all subsequent years. For article 5(b) it shall have effect in respect of assessments raised for tax years or accounting periods commencing on or after 6 April 2016.

3 Amendment of the Income Tax Act 1970

After section 62 (returns to be returned annually) insert –

62AA Suspension of requirement to submit annual return

- (1) Where the Assessor has reason to believe that a person is not liable to pay income tax, the obligation of that person to make and deliver an annual return of their income in accordance with section 62 may be suspended.
- (2) The Assessor will notify the person in writing of a suspension under subsection (1).
- (3) A person who has been notified under subsection (2) must, in any year of assessment in which their obligations are suspended under subsection (1), notify the Assessor in writing of any change

¹ Tynwald approval is required by section 115A(2) of the Income Tax Act 1970

in their circumstances which could affect their tax position, including ceasing to be regarded as resident in the Isle of Man.

- (4) If it is discovered at a later date that the person did have taxable income in excess of the personal allowance provided by section 35 and was liable to income tax in any year or years of assessment in which their obligations were suspended under subsection (1) –
- (a) the Assessor may make an assessment of income for each year of assessment in which a liability occurred;
 - (b) the tax charged by an assessment made under paragraph (a) shall be deemed to have become due and payable on the date on which the tax would have been due and payable under section 96A had the person's obligations not been suspended under subsection (1); and
 - (c) the provisions of the Income Tax Acts will apply accordingly. **22**.

4 Amendment of the Income Tax (Retirement Benefit Schemes) Act 1978

In section 10B (charge to tax on trivial commutation lump sums) –

- (a) delete subsections (2) to (7);
- (b) after subsection (8) insert –
 - 23**(9) For the purposes of the *Income Tax (Instalment Payments) Act 1974*, the payment of a trivial commutation lump sum shall be treated as the payment of remuneration by an employer and for that purpose the obligations falling on an employer under that Act shall fall on the scheme administrator, subject to subsection (1). **22**.

5 Amendment of the Income Tax Act 1980

In Schedule 1 to the Income Tax Act 1980 (power of assessor to make assessment to prevent avoidance of income tax) –

- (a) in paragraph 2 at the end insert **24** subject to paragraph 2A **22**;
- (b) after paragraph 2 insert –
 - 24**2A Despite paragraph 2 –
 - (a) the Assessor may impose a civil penalty on the person of an amount not exceeding 60% of the tax assessed as due and payable in an assessment or additional assessment made on him under paragraph 1; and
 - (b) the tax charged by the assessment or additional assessment made under paragraph 1 will carry interest under section 111A of the 1970 Act from –

- (i) in the case of a non-corporate taxpayer, 6 January following the year of assessment to which the assessment or additional assessment relates until payment unless section 96B of the 1970 Act already applies to that year of assessment; and
- (ii) in the case of a corporate taxpayer, the day following the expiry of 12 months from the end of the accounting period to which the assessment or additional assessment relates until payment. ².

6 Amendment of the Income Tax Act 1989

In section 22B (charge to tax on trivial commutation lump sum) –

- (a) delete subsections (2) to (5);
- (b) after subsection (7) insert –
 - ²(8) For the purposes of the *Income Tax (Instalment Payments) Act 1974*, the payment of a trivial commutation lump sum under subsection (1) shall be treated as the payment of remuneration by an employer and for that purpose the obligations falling on an employer under that Act shall fall on the scheme administrator. ².

7 Revocation

The Income Tax (Approved Pension Schemes) (Rate of Tax on Trivial Commutation Lump Sums) Order 2008² is revoked.

MADE 25TH JANUARY 2016

WE TEARE
Minister for the Treasury

² SD 509/08

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Income Tax Act 1970 in order to allow the Assessor to temporarily suspend the requirement for a person to submit an annual tax return if the Assessor is satisfied that they have no liability to income tax. It also allows the Assessor to raise an assessment if it is later found that the person did have an income tax liability in one or more of the years in which they were suspended.

In addition, the Order amends the Income Tax (Retirement Benefit Schemes) Act 1978 and the Income Tax Act 1989 so as to provide that a payment of a trivial commutation lump sum from an approved pension scheme will be treated as taxable income of the member in the year of assessment in which it is received and, for tax purposes only, will be treated as remuneration from an employer.

The Order also amends Schedule 1 to the Income Tax Act 1980 to introduce a penalty of up to 60% of the tax charged by an assessment that is raised by the Assessor under the Schedule, for tax years or accounting periods commencing on or after 6 April 2016, if the Assessor believes that the purpose or one of the purposes of any transaction is the avoidance or reduction of a person's liability to income tax. It further amends Schedule 1 to provide for the tax charged by such an assessment to carry interest.

Lastly, the Order revokes the Income Tax (Approved Pension Schemes) (Rate of Tax on Trivial Commutation Lump Sums) Order 2008 (SD 509/08).