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Reiltys Ellan Vannin

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1 Introduction

This guide contains information on all aspects of the 'pay and file' system of taxation that applies to corporate taxpayers in the Isle of Man.

This new system was introduced by the Income Tax (Corporate Taxpayers) Act 2006 with effect from 6 April 2007 and applies to all "corporate taxpayers".

For ease of reading, this guide will refer to 'company' throughout. A definition of corporate taxpayer can be found in the glossary at section 14.

Over the past year or so the Assessor has issued the following documents advising of the coming changes and giving details of how the transition into the new regime will take place:

Document Name	Number	Date of Issue
Corporate Income Tax Regime Proposal Document	N/A	3 October 2005
Corporate Income Tax Regime Consultation Response Document	N/A	27 February 2006
Repeal of Special Company Income Tax regimes from 6 April 2007	PN 135/06	28 June 2006
Corporate Income Tax Regime – the New Basis of Assessment	PN 139/06	23 November 2006

These documents can all be found on the Income Tax Division website at www.gov.im/incometax.

1.1 Summary of Main Changes

The main changes introduced with effect from 6 April 2007 are:

- The introduction of an accounting period basis of assessment, which includes:
    - The end of company assessments made for a year of assessment.
        - The final return of income to be made for a year of assessment basis is the return for year ended 5 April 2007.
        - This will be used to raise a preceding year (PY) basis assessment for the 2007/2008 year or a current year (CY) basis assessment for the 2006/2007 year as applicable for the company.
    - A due date of no later than 12 months and one day after the end of each accounting period for filing of company tax returns and payment of tax.
    - The introduction of penalties where company tax returns are filed late.
    - The charging of interest on late payment calculated from 12 months and one day after the end of the accounting period, no matter when the charge was issued.
- The repeal of special company income tax regimes (e.g. Exempt Companies, Exempt Insurance Companies, International Companies, Non-Resident Company Duty).
    - These companies will lose their special status and revert to normal resident companies for income tax purposes from 6 April 2007.
- The ending of tax relief for dividends paid
    - This change is effective for the year of assessment commencing 6 April 2007, so will apply to all 2007/2008 preceding year basis assessments as well as accounting periods in the pay and file regime.
- The introduction of tax credits where dividends are paid from income taxed at 10%
    - The tax credit will be offset against the recipient's liability in the assessment and, for Manx resident non-corporate recipients only, any credit balance will be refundable.

More detailed information on each of these main changes is given in the remaining sections of this guide.

2 Overview of the Pay and File Regime

This section provides a brief overview of the operation of the pay and file regime. Later sections will provide more detail on the specific operation of each aspect of the regime.

In the pay and file regime companies will be assessed and charged to income tax by reference to accounting periods rather than income tax years.

An accounting period for pay and file purposes can be no more than 12 months long.

Accounting periods determine the due date for the filing of income tax return forms and for the payment of any income tax liability or distributable profits charge (DPC).

The due date for filing of income tax returns is **12 months and one day** after the end of an accounting period.

This is also the due date by which payment of any income tax liability or DPC must be made.

Income tax return forms can, of course, be filed and payments can be made before the due date.

If the return is not filed by the due date, a late income tax return penalty will be charged. A second penalty will be charged if the return is still outstanding six months after the due date.

Interest may be charged on any income tax liability or DPC that is not paid by the due date and will be calculated from the due date.

There is also a 12 month period from the date a company tax return form is filed during which the company can amend the return and the Assessor can make an enquiry into the return.

3 Accounting Period Basis of Assessment

Accounting periods can be no more than 12 months long, although a company may still prepare accounts for longer or shorter periods. The period of time covered by the accounts prepared by the company is known as a period of account.

It is important to note that there is a difference in the meaning of the terms 'period of account' and 'accounting period' (see the Glossary at section 14 for full definitions).

Where a company prepares accounts for a period of more than 12 months, for tax purposes that period will be divided into separate accounting periods of no more than 12 months.

An accounting period is the portion of a period of account for which a company will be charged to any or all of the following:

- Income tax
- Distributable Profits Charge
- Loans to Participators Charge

An assessment to any of the above will be referred to as being for the accounting period ended dd/mm/yy (e.g. 30/06/07).

3.1 Rates of Tax applicable to Accounting Period Assessments

Rates of tax and capital allowances will continue to be set for a year of assessment commencing on 6 April (the fiscal year).

Where an accounting period begins in one year of assessment and ends in the following year of assessment and there is a change in rates or allowances, there will be two separate computations of tax payable for that period.

4 Accounting Periods

An accounting period begins when a company becomes chargeable to income tax following commencement of residence in the Isle of Man, incorporation in the Isle of Man or acquiring a source of income in the Isle of Man.

For companies that were chargeable to income tax before the commencement of the pay and file regime on 6 April 2007, the first accounting period will be the one ending on or after 6 April 2007.

Where there are no changes in accounting dates, a new accounting period begins following the end of the previous 12 month accounting period if a company continues to be chargeable to income tax.

4.1 End of Accounting Periods

Section 119E Income Tax Act 1970 prescribes that an accounting period ends on the earlier of:

- 12 months after the beginning of the accounting period; or
- on the accounting date of a company; or
- when trading ceases; or
- when residence in the Island ceases; or
- when a company ceases to be within the charge to income tax.

4.1.1 Winding–Up

When a company commences winding-up proceedings, its accounting period ends and a new one begins on the date of commencement of winding-up.

Companies can be wound-up voluntarily by making a declaration of dissolution or by the appointment of a liquidator.

When winding-up is commenced by the appointment of a liquidator, the date of appointment of the liquidator starts a new accounting period.

Accounting periods during liquidation can be no more than 12 months long, but may be shorter if the liquidation is completed earlier.

Where a company makes a voluntary declaration of dissolution after ceasing to trade or carry on any activity, the cessation will trigger the end of an accounting period.

The next accounting period will run from the day after cessation until the earlier of completion of the voluntary dissolution process or the expiration of 12 months.

4.2 Accounting Periods and Income Tax Returns

Accounting periods will determine the periods for which income tax return forms are required and the date when they have to be submitted by.

A return for an accounting period will be issued shortly after the end of an accounting period and has to be submitted no later than **12 months and one day** after the end of that period.

As stated earlier, companies will continue to be able to prepare accounts for a period of longer than 12 months.

A period of account that is more than 12 months long ('a long period') will be split into two accounting periods.

The first accounting period is the 12 months beginning at the start of the period of account and the second accounting period is the remainder to the end of the period of account. Each of the two accounting periods will require a tax return.

Accounts prepared for a period which is less than 12 months ('a short period') will be one accounting period with one return.

Example 4.1 – Short Period of Account

Company A has been preparing accounts to 31 March for each year but after accounts to 31 March 2008 have been prepared it is decided to move the accounting date to 31 December.

Accounts are prepared for the 9 month period to 31 December 2008 and for 12 month periods to 31 December thereafter.

Company A's accounting periods are as follows:

Period Start	Period End	Duration
1 April 2007	31 March 2008	12 months
1 April 2008	31 December 2008	9 months
1 January 2009	31 December 2009	12 months

Example 4.2 – Long Period of Account

Company B has been preparing accounts annually up to 30 September 2007 then changes accounting date to 31 March.

Accounts are prepared for the 18 month period from 1 October 2007 to 31 March 2009 and for 12 month periods to 31 March thereafter.

Company B's accounting periods are as follows:

Period Start	Period End	Duration	Notes
1 October 2006	30 September 2007	12 months	
1 October 2007	30 September 2008	12 months	This is the 18 month long period of account split into two accounting periods
1 October 2008	31 March 2009	6 Months	
1 April 2009	31 March 2010	12 months	

The 18 month accounts to 31 March 2009 will be required to support the 12 and six month period tax returns but, if they have not been finalised by the date the first tax return is due to be filed, they can be submitted with provisional figures. These figures must be clearly marked as provisional.

4.3 Treatment for Companies that have not Notified the Assessor of their Accounting Date

Where the Division has not been notified of a company's accounting date, a provisional accounting date will be used.

The provisional date will be based on the company circumstances as follows:

- Companies incorporated before 6 April 2006 will have a provisional date of 5 April 2008, which is 12 months from the start of the pay and file regime.
- Companies incorporated or registered after 5 April 2006 will have a provisional date that is 12 months after their incorporation or registration date.

4.4 Cases where the Accounting Date is not Clear

If a company carrying on more than one trade makes up accounts for any of the trades to different dates and does not make up general accounts for the whole of the company's activities, the Assessor will determine which one of the trades will be used as the accounting date of the company.

If the accounts for each of the trades are prepared for a period of more than 12 months, the Assessor may determine a period of no longer than 12 months that appears to him to be appropriate.

Where the Assessor is of the opinion, on reasonable grounds, that the beginning or end of any accounting period is uncertain, he may determine a period, not longer than 12 months, as appears to him to be appropriate.

Example 4.3 - A new company

Newco Limited is incorporated on 15 June 2006 and, until the actual accounting date is known, the Assessor will determine a provisional accounting date of 14 June 2007.

Using the provisional accounting date, the first accounting period will be the 12 months ended 14 June 2007. The tax return for that period will be issued shortly after that date and must be submitted by 15 June 2008.

Newco submits the return in March 2008 stating that it remained dormant until 31 October 2007 and started to trade on 1 November 2007. The first accounts will be drawn up for the 14 month period from commencement of trade to 31 December 2008 and annually from then on.

Newco's accounting periods will be as follows:

Period Start	Period End	Duration	Notes
15 June 2006	14 June 2007	12 months	Company remained dormant for the whole of this period.
15 June 2007	31 October 2007	4.5 months	Company remained dormant for this period, but the commencement of trade triggers the start of a new accounting period
1 November 2007	31 October 2008	12 months	A tax return for the 12 month accounting period will be issued soon after 31 October 2008 - due date for filing is 1 November 2009.
1 November 2008	31 December 2008	2 months	A tax return for the two month accounting period will be issued soon after 31 December 2008 – due date for filing is 1 January 2010.
1 January 2009	31 December 2009	12 months	The tax return for this period will be issued 31 December 2009 – due date for filing is 1 January 2011.

The accounting period from 15 June 2007 to 14 June 2008 is no longer valid and will be replaced by the correct periods in the table above.

However, although a return for the accounting period from 15 June 2007 to 31 October 2007 is strictly due, the Assessor will accept the return for the 12 month period from 15 June 2006 to the provisional date of 14 June 2007 confirming dormancy up to 31 October 2007 as being that return.

The accounts for Newco Limited's first period of account from 1 November 2007 to 31 December 2008 are signed off by 15 September 2009.

In October 2009, Newco Limited completes the return forms for the 12 month accounting period to 31 October 2008 and the two month period to 31 December 2008.

It calculates that it has no payment to make, as all of its income is taxable at 0% and it has distributed 55% of its distributable profit, so it files both returns with a copy of its accounts for the 14 month period ended 31 December 2008 on 20 October 2009.

Both returns are filed before their due dates (1 November 2009 and 1 January 2010) so no late return form penalties will be incurred.

4.5 Informing the Assessor of Accounting Dates and Changes

A company can notify the Assessor of its accounting date, or a change of accounting date, at any time; it does not need to wait for a return to be issued or filed in order to do so.

It is important to inform the Assessor as soon as possible, otherwise a late return penalty may be charged when the correct accounting periods are established.

The most common time for a change of accounting period will be when trade or activity commences or ceases.

There will be a section on the company tax return form which can be used to notify us of a planned change of accounting date, but notification of changes can be made in writing at any time and must be signed by a director or an authorised agent. Notification by telephone or email will not be accepted.

5 Tax Returns and Payments

A return of income for an accounting period must be submitted on or before **12 months and one day** after the end of that accounting period.

Any amount of income tax, distributable profits charge or loans to participators charge must also be paid **12 months and one day** after the end of that accounting period.

The 12 months and one day following the end of the accounting period will be referred to as the "due date" for the remainder of this section.

5.1 Tax Returns

A tax return must be a true and correct return of a company's whole income and in particular shall include:

- details of each source of income and the amount received from that source
- the rate and amount of tax paid on income taxed by another tax authority
- details of dividends paid
- the amount of tax payable.

A return must also include, where applicable, computations of amounts payable in respect of:

- income tax
- distributable profits charge
- loans to participators charge

A new company income tax return form will be issued for accounting periods in the pay and file regime.

In the pay and file regime not all companies receiving income will be required to submit accounts but they may have to provide details of dividends and other payments made.

There is a separate guide, 'Company Return Form Guidance Note', GN 39, which provides full information about how to complete the new company tax return, including when accounts are required to be submitted and when tax returns may be unacceptable and sent back.

This guide will be available on our website but a paper copy will also be issued with every company tax return form.

The practice of marking a return 'see accounts submitted' will no longer be acceptable. Under the pay and file regime, when a company is required to make a return all the required sections **must** be completed. However, there will be some relaxation to allow the attachment of a full tax computation instead of completing that section of the return.

5.1.1 Return Form Penalties

The pay and file regime introduces penalties for tax returns that have not been filed by the due date.

The penalties for failure to submit returns are introduced by sections 112A to 112J of the Income Tax Act 1970, which were inserted by the Income Tax (Corporate Taxpayers) Act 2006.

There are two civil penalties that will be charged. The amounts have been set by the Treasury in the 'Income Tax (Corporate Taxpayers)(Civil Penalties) Order 2007' – SD 460/07. The penalties are charged as follows:

- first penalty of £250 will be charged if a return is not filed by 12 months and one day following the end of an accounting period (i.e. the due date)
- second penalty of £500 will be charged if the return is not filed by 18 months and one day following the end of an accounting period. This second penalty is additional to the first penalty.

Example 5.1 – First Late Return Form Penalty

Company A's accounting periods and dates of filing are as follows:

Period Start	Period End	Due Date	Filed
1 April 2007	31 March 2008	1 April 2009	1 June 2009
1 April 2008	31 December 2008	1 January 2010	1 June 2009

The return for the period to 31 March 2008 was not filed by 1 April 2009 so a first late return penalty of £250 will be issued shortly after.

The return for the period to 31 December 2008 has been filed before its due date so no late return penalty will be issued.

Example 5.2 – Second Late Return Form Penalty

Company A's accounting periods and dates of filing are as follows:

Period Start	Period End	Due Date	Filed
1 April 2007	31 March 2008	1 April 2009	31 October 2009
1 April 2008	31 December 2008	1 January 2010	1 February 2010

The return for the period to 31 March 2008 was not filed by the due date of 1 April 2009 so a first late return penalty of £250 will be issued shortly after, nor was it filed by the 18 month and one day due date of 1 October 2009 so a second late return penalty of £500 will be issued shortly after that date.

This makes a total of £750 in penalties charged if a return is not filed within 18 months and one day following the end of an accounting period.

The return for the period to 31 December 2008 was not filed before the 1 January 2010 due date so a first late return penalty of £250 will be issued shortly after that date.

Penalties are charged by issuing notices that are payable immediately and which are collectable in the same manner as income tax.

Unlike late return form penalties for individuals, the first penalty will not be reduced to the amount of income tax payable if that is lower than the amount of the penalty charged.

An appeal against either of the above penalties can be made within 30 days of their date of issue to either the Assessor or the Income Tax Commissioners.

When considering an appeal, the Assessor or the Commissioners shall not take any of the following into account:

- insufficient funds to pay the income tax, distributable profits charge or late return form penalty due
- the fact that the late delivery of the return has not resulted in any loss of revenue
- the fact that the company acted in good faith (e.g. was not aware that a return form was required because one had not been issued).

Payment of a late return form penalty is not an allowable deduction when computing taxable profits or losses of the company.

It is a criminal offence not to submit a return for an accounting period within 24 months of the end of that accounting period.

An officer of a company can be convicted in addition to the conviction of the company. An officer of a company includes:

- a director, manager or secretary
- a person purporting to act as a director, manager or secretary
- a member, if the affairs of company are managed by its members.

5.1.1.1 Repeated Late Submission

The amounts of the civil penalties may be increased when a company has been charged penalties for the previous two accounting periods (i.e. when the third consecutive return is not submitted by the due date).

Example 5.3 – Increased Late Return Penalties

Company A's accounting periods are as follows:

Period Start	Period End	Due Date	Return Filed
1 April 2007	31 March 2008	1 April 2009	1 May 2009
1 April 2008	31 December 2008	1 January 2010	5 July 2010
1 January 2009	31 December 2009	1 January 2011	1 February 2011

The return for the period to 31 March 2008 was not filed by the due date of 1 April 2009 so a first late return penalty was charged.

The return for the period to 31 December 2008 was not filed before the 1 January 2010 due date, or by the 18 month and one day due date, so both a first and second late return penalty were charged.

The return for the period to 31 December 2009 was not filed by the due date and late return penalties have been charged for both of the previous accounting periods, so an increased first late return penalty will be charged.

Once an increased late return penalty has been charged, the increased late return penalty will continue to be charged for every consecutive accounting period after that where a return form is filed late.

As soon as a tax return is filed on or before the due date, the amount of penalty charged for any subsequent late submission will be reduced to the lower amount, increasing again on the third consecutive late submission.

Treasury has not yet set the level of the increased penalty for repeated late submission. This guide will be update to include the amount as and when the amount is agreed and the Order is approved by Tynwald.

5.2 Enquiries into Returns

The Assessor will continue to be able to enquire into a return that is made and require additional information to be provided using the powers of section 84 Income Tax Act 1970. To support the pay and file regime, where the return is considered to be the assessment even if no assessment is actually issued, section A84 has been added to the Income Tax Act 1970.

Section A84 allows an enquiry into a return to be commenced by writing to a company or its agent within a period of 12 months from the date on which the return is received.

The company also has a period of 12 months from the date the return is received to make an amendment to that return (e.g. it wishes to amend a capital allowance claim made or there is an error on the return).

Amendments must be made in writing and, if accepted, the Assessor has a further 12 months from the receipt of the amendment to open an enquiry into the amended return.

There is no statutory time limit for the Division to complete an enquiry after it has started one.

During an enquiry, the Assessor may require any 'person' to produce information or documents to support a return made.

The term 'person' means a company or an individual, so it may require a company and /or its directors or shareholders to produce information or documents. It is an offence for a person not to supply information that has been requested, or for false information or documents to be provided.

If the Assessor is not satisfied with a return made, or information requested is not provided or accepted, he may issue an assessment on 'the person concerned' (i.e. a company or individuals connected with it) according to the best of his judgement.

Additional tax due will be payable immediately, with interest running from the due date. An appeal can be made within 30 days from the issue date of the assessment.

In the case of a discovery as defined by section 84A(1), the time limit for the Division to make an additional assessment *on a company* is reduced from 6 years to a period not exceeding 4 years after the end of an accounting period.

Where any form of dishonesty or negligence has been committed according to section 84A (3), the time limit to make an additional assessment *on a company* is reduced from 'at any time' to a period not exceeding 12 years after the end of an accounting period.

The time limits for 'non-corporates' (e.g. individuals) remains as 6 years and 'at any time' respectively.

5.3 Payments & Interest

5.3.1 Interest on Late Payment

Any income tax, distributable profits charge or loans to participator charge must be paid by the due date and interest will be charged on any payment made late.

The due date for payment is also 12 months and one day after the end of an accounting period. See page 60 for methods of payment.

Payment may be made before the due date if the return is being filed early, or can be left until the due date.

The due date applies even if the return is filed late. The Assessor is not required to issue an actual notice of assessment or notice of charge for any amount stated to be payable on the due date.

Where payment is made but no assessment or notice of charge is issued, interest will be calculated and charged from the due date to the date of payment, based on the amount of payment made.

Where a notice of assessment or charge notice is subsequently issued, the interest will be recalculated to take account of any changes in the amount due.

- If the assessment/charge reduces the amount payable and creates a credit balance, then any interest charge raised will be revised.

- If the assessment/charge increases the amount payable and creates an additional balance payable, then interest will be recalculated from the due date until the date full payment has been made.

Example 5.4 – Due Date for Payment

Pay & File Limited has an accounting period from 1 July 2007 to 30 June 2008 with a due date of 1 July 2009.

The following table shows the dates of filing and payment and the key dates for the resulting interest charge on late payment.

Return Filed	30/04/2009 (before the due date)	Tax Payable:	£1000	Tax Paid on:	30/04/2009 (before the due date)
Revised Assessment Issued	30/09/2009	Balance Payable:	£1500	Balance Paid on:	31/10/2009
Interest Charged on	£1500	From:	01/07/2009 (the due date)	To:	31/10/2009

5.3.2 Repayment Supplement

The Division compensates taxpayers when a refund is triggered by an overpayment of tax or charges by paying repayment supplement (often referred to as RPS) calculated in accordance with published rates. The RPS rates are changed from time to time by Treasury to take account of movements in general interest rates.

RPS is paid when an amount of £250 or more is refunded to a company.

The calculation of RPS runs from 12 months from the end of the company's accounting period, even if the tax had been paid before this date, until the date that the refund is made. However, if the tax is paid more than 12 months after the due and payable date, RPS will run from the date the tax was actually paid until the date of the refund.

RPS is not paid in the following circumstances:

- The reason for the refund is loss relief carried back to an earlier accounting period.
- The reason for the refund is the surrendering of losses via group relief.
- The company has become liable to a Late Return Penalty on the grounds that it has not made and delivered a return of income on time.
- A default assessment has been issued in respect of the accounting period, even if that assessment is subsequently revised.

RPS is not paid in relation to any refund of the distributable profits charge or the loans to participators charge.

5.3.3 Tax Deducted at Source

Tax is deducted at source from, for example, payments made by a contractor to a sub-contractor in the construction industry scheme, or from Manx rental income paid to a non-resident.

Returns of relevant payments and tax deducted at source must be made by the payer on a tax year basis; so where payments are made to a company there will be a difference in the basis of assessment between the company and the payer.

For the purposes of calculating interest and RPS, where a company receives payments during an accounting period that have had tax deducted at source by the payer, the tax deducted at source will be deemed to have a "relevant date" that is the same as the due and payable date for tax in respect of the latest accounting period ending in the tax year during which the tax was deducted.

Where accounting periods straddle tax years and tax has been deducted from payments falling into both periods, the company can ask for the tax deductions which were made during the earlier accounting period to be allocated to this earlier accounting period using its "relevant date".

Transitional arrangements for 2007/2008

In the circumstances where a company has both a previous year basis assessment for 2007/2008 and an accounting period ending in 2007/2008, tax deducted at source from payments made to the company will be credited in the following order:

- To the 2007/2008 previous year basis assessment
- To the accounting basis period ending in 2007/2008
- If there are two accounting basis periods ending in 2007/2008 then the credit will go to the **later** accounting period.

6 Assessments

The Income Tax (Corporate Taxpayers) Act 2006 amended section 96 of the Income Tax Act 1970, which now treats the amount of tax shown in a tax return as being due and payable as if it were charged under an assessment.

As this change means that there is no longer a requirement for an assessment to be issued in order for tax and other charges to become due and payable, the Assessor has taken the opportunity to review how assessments and charge notices for companies are dealt with.

For accounting periods ending on or after 6 April 2007, it is intended that the following approach will be taken:

- Assessments based on the income details and computation in the return filed by the company will **not** be issued because they simply confirm the computation made by the company.
    - The computation will be recorded in the Income Tax Division's system and dated the day that the company's return was received by the Assessor, and can be viewed via Income Tax Online Services if the company or its agent is enrolled for those services.
- DPC notices based on the income details, dividend and distribution details and computation in the return filed by the company will **not** be issued because they simply confirm the computation made by the company.
    - The computation will be recorded and dated the day that the company's return was received by the Assessor.
- We **will** continue to issue any revised assessments and charge notices that are necessary; but always following direct contact from the Division about the reason for the revision.
- We **will** continue to issue any default assessment or charge notices that are necessary.

The Assessor appreciates that a company may need to demonstrate to another country's tax authorities that it is liable to tax in the Isle of Man. In these circumstances, a company may ask for an assessment or charge notice to be issued, even when it would not ordinarily be issued.

6.1 Default Assessments

If a company that is receiving income taxable at 10%, or that has elected to pay tax at 10%, does not submit its return for an accounting period by the due date, the Assessor may issue an estimated assessment, known as a 'default' assessment.

The default assessment provisions of section 86 remain essentially the same but with appropriate modifications for the accounting period basis that now applies to companies. The balance on any default assessment will be due and payable from the due date of 12 months and one day from the end of the accounting period.

Default assessments are not issued until after the corresponding return form is late. The due and payable date will remain the date on which the tax was due, i.e. 12 months and one day after the end of the accounting period, and interest will be accruing on any amount payable.
If the outstanding return is submitted within 6 months from the issue date of a default assessment, the default assessment will be replaced by an assessment based on the amounts shown on the return.

The due and payable date of a replacement assessment (called a revised assessment) is also the original due date if there is tax payable.

The same rules apply to a default distributable profit charge notice which may be made.

6.2 Errors or Omissions

Where it comes to the attention of the Assessor that any error, omission, or mistake has been made in a return or assessment, he can issue an additional assessment for the accounting period concerned.

However, for corporate taxpayers an additional assessment cannot be issued for this reason later than 4 years after the end of the accounting period to which it relates.

An appeal can be made against an additional assessment within 30 days of the date of its issue.

Where a corporate taxpayer proves to the satisfaction of the Assessor that the amount paid on any assessment is in excess of the amount properly chargeable eg as a result of an error or omission, a replacement assessment will be issued provided that a claim is made within 4 years after the end of the accounting period to which it relates.

7 Computation of Profit

Other than the change in tax treatment for dividends paid, which is covered in detail in section 11, the Income Tax (Corporate Taxpayers) Act 2006 does not change the way in which taxable profit or income for an accounting period is calculated.

Taxable profit or income is the accounting profit or loss adjusted for tax purposes.

For example:

> add back any expense not allowable for tax purposes, e.g. depreciation, purchase of goodwill,

Assessments no longer use the same profits in consecutive years on different bases of assessment (e.g. commencement years 2 and 3 on actual and previous year fiscal basis) so profits of an accounting period are not used more than once or left out of an assessment.

Computations for commencements and cessations of trade and changes of accounting date are now simplified, as are capital allowances and losses computations.

7.1 Capital Allowances

The basis period for capital allowances is the accounting period so all qualifying assets in use in the period and any additions or disposals in the period can be included in a capital allowances claim.

If an accounting period is less than 12 months, writing down and fixed annual allowances (e.g. industrial buildings allowance) are reduced proportionately.

There is no reduction made to a balancing adjustment in respect of a disposal but, equally, there is no reduction in a 100% first year allowance when there is a qualifying addition during a short period.

Example 7.1 – Capital Allowance Claim

Company A has a short accounting period of 35 weeks.

It purchases plant and machinery for £10,000, but makes no disposals during the period.

Capital allowances are computed for the accounting period as follows:

Written Down Value	50000		
Additions	10000		
First Year Allowance (100%)			(10000)
Disposals	-		
Writing Down Allowance (25%)		25% x 35/52 x 50000	(8413)
Total Capital Allowance for period			**18413**

7.2 Losses and Group Relief

A trading loss for an accounting period can be carried back to reduce the taxable and distributable profit of the accounting period immediately before it or it can be carried forward.

If a company is a member of a group of companies, a trading loss can be surrendered to another group member. A surrendered loss can be claimed to reduce the taxable profit of another member ('the claimant company') and the distributable profit of the group for the same accounting period in which the loss arose or for the accounting period immediately before it.

The Treasury may make an order that prevents the surrender of losses if the income giving rise to the loss is assessed to income tax at a different rate to the income of the claimant company.

A company has to be a group member for the whole of the same accounting period for which a loss is being surrendered or claimed or for the whole of the period between its incorporation to the end of that period.

8 Transitional Provisions

Practice Note PN 139/06 'Corporate Income Tax Regime – The new basis of assessment' issued in November 2006 gave details of how companies making returns to 5 April 2007 and earlier, or that were in one of the special tax regimes that ended on 5 April 2007, will make the transition to the new pay and file regime.

It includes details of transitional payment arrangements for income tax and DPC and should be read in conjunction with these guidance notes. PN 139/06 is reproduced at appendix 1 for ease of reference.

Since the publication of the transitional provisions covered in PN 139/06, a number of other transitional matters have arisen.

8.1 Relief for Falling Income Claims up to 5 April 2007

A company that commenced activity prior to 6 April 2004 which makes a successful claim for relief for falling income under section 3(3) Income Tax Act 1970, will be charged to income tax on the profits actually received in the first four years of assessment up to 5 April 2007.

In order to avoid an overlap of profits between those assessed in 2006/2007 and the first accounting period ending after 6 April 2007, the Assessor will treat the first accounting period for the pay and file regime as starting on 6 April 2007.

Example 8.1 – Relief for Falling Income Claim

Company F makes up accounts to 30 September annually. It makes a successful relief for falling income claim for the 2006/2007 year.

Following the claim, the profits from the accounts to 30 September 2006, 2007 and 2008 are assessed as follows:

Accounts Assessed	Period	Basis	Comments
6/12 of accounts to 30/09/2006 and 6/12 of accounts to 30/09/2007	6/4/2006 to 5/4/2007	2006/2007 Actual	Last tax year based assessment
6/12 of accounts to 30/09/2007	6/4/2007 to 30/9/2007	Accounting Period	Short accounting period
12 months to 30/09/2008	1/10/2007 to 30/09/2008	Accounting Period	12 month accounting period

8.2 Distributions from Reserves Charged to Income Tax during Opening Years

GN 36, Distributable Profits Charge, details how reserves accumulated before 2006/07 can be distributed, either as capital or with non refundable tax credits of 12% or 10%, depending upon the amount of tax that was originally paid on an amount being distributed:

- reserves that were taxed for 2000/01 or earlier years have been taxed at 14% or higher and can be distributed as capital

- reserves taxed for 2001/02 can have a tax credit of 12% attached and reserves for any of the years 2002/03 to 2005/006 can have a tax credit of 10% attached.

GN 36 did not specifically detail the treatment for distributions made from reserves that have been used as the basis of more than one assessment, which happened in the opening years when a commencement basis of assessment was used.

Example 8.2 – Opening Years Distribution from Reserves

Company G commenced trading during year ended 5 April 2002.

The basis of assessment for each of the 3 opening years was:

	Year	Basis
1.	2001/02	CY
2.	2002/03	CY
3.	2003/04	PY

Profits for year ended 5 April 2003 were 10,000 and taxed:

Year	Basis	Profit Assessed	Tax Rate	Tax Payable
2002/03	CY	10,000	@ 10%	£1,000
2003/04	PY	10,000	@ 10%	£1,000
Tax paid on those profits				£2,000

The effective rate of tax paid on the profits is 20% (2,000/10,000 x 100).

The profits are not distributed so are put to reserves. When they are distributed, they can be distributed as capital in recognition of the payment of an effective rate of tax in excess of 14%.

8.3 Payments of Dividends to Non-Residents during Year Ended 5 April 2007

This section should be read in conjunction with section 11, which provides details on the change in treatment of dividends paid.

A company with income subject to Manx income tax at 10%, which pays dividends to non-resident shareholders during year ended 5 April 2007, is required to deduct withholding tax (WHT) at a rate of 10%.

Provided the company claims tax relief for those dividends in its income tax assessment for 2006/07, the year in which the dividends are actually paid, the company pays no tax on the dividend so the WHT deduction stands and no tax credit vouchers are to be issued in respect of those dividends.

Example 8.3 – Dividend Paid to Non-Resident (Actual Dividend Relief)

Company H is a trading company that has elected to pay tax at 10% and it is assessed to income tax on a preceding year basis for 2006/2007. It claims actual dividend relief for dividends paid during the 2006/2007 year of assessment.

Profits and dividends are as follows:

Adjusted Profit (accounts y/e 31/12/05)	12,000	
Less dividends paid 15/02/07	9,000	
Taxable Profit	3,000	
Tax payable @ 10%	300	
WHT deducted	900	(9,000 @ 10%)
Total Paid (Tax and WHT)	£1,200	

The next example illustrates the position if the company does not claim relief for the dividends it paid during 2006/07 in the 2006/2007 assessment. There will be no tax relief for dividends paid from 2007/2008 onwards, so there will be an element of double payment between tax and WHT.

Example 8.4 – Dividend Paid to Non-Resident (No Dividend Relief)

Adjusted Profit (accounts y/e 31/12/06)	18,000	
Taxable Profit	18,000	
Tax payable @ 10%	1,800	
Dividends paid 15/02/07	9,000	
WHT deducted	900	(9,000 @ 10%)
Total Paid (Tax and WHT)	£2,700	

The 10% tax on the dividends is paid twice, once as WHT when the dividend was paid and once as income tax on the company in the 2007/2008 PY assessment.

If this circumstance arises, the company should issue tax credit vouchers to the non-resident shareholders as per section 12.2 (which will be non-refundable) and also request the repayment of the WHT from this Division.

8.4 Effect on DPC of Difference in Basis of Assessment for New Group Members

This issue arises when the parent company of a group acquires new subsidiary companies that commence to trade after 5 April 2004.

The issue is that the parent company is being assessed on a PY basis, the subsidiary companies are subject to the transitional current year (CY) accounts basis and DPC for the group is determined by comparing total group distributable profits for **the same year of assessment** with the distribution made by the nominated company (normally the Manx parent).

This is not possible where there are new group members and not all companies in the group are assessed for the same year of assessment, even though all profits may be for the same period of account.

To resolve this issue, by concession, the Assessor will aggregate distributable profits of the same period of account for the purposes of the DPC distribution test, notwithstanding that those profits are not assessed to income tax for the same year of assessment.

9 Payments to Non-Residents and Withholding Tax

The requirement to withhold income tax in respect of taxable payments made to non-resident taxpayers is contained in section 71 of the Income Tax Act 1970.

The tax return issued to a company by the Assessor of Income Tax refers specifically to payments to non-residents and acts as a notice to deduct withholding tax for the purposes of section 71 (1).

To determine if tax is to be withheld, the following questions must be answered:

1) What is the nature of the income being paid?
2) Is the non-resident recipient a company or an individual?

The answer to these questions will, in most cases, indicate the rate of tax to be withheld from the payment being made. If there is any doubt, the company should contact the Division and seek confirmation regarding the relevant rate of tax applicable.

9.1 Payments from Companies Subject to Tax at the Standard 0% Rate

Dividends paid by a company having its income taxed at the standard 0% rate to a non-resident company or individual will not suffer withholding tax.

Similarly, loan interest paid to a non-resident company or individual will not suffer withholding tax.

Rents in respect of Manx land and property will be subject to a 10% withholding tax if paid to a non-resident company and 18% if paid to a non-resident individual.

Certain directors' and consultancy fees will not be subject to ITIP or withholding tax:

- no ITIP or withholding tax is due in respect of directors' and consultancy fees where the duties are wholly performed **outside** the Isle of Man or where directors' fees are paid solely in respect of statutory duties such as attending board meetings in the Isle of Man; but
- if the directors' fees are paid in respect of executive directors' duties in the Isle of Man in addition to statutory duties, then the whole of the fees are subject to tax and the rate to be withheld via the ITIP system is 18%.

Other Manx-source income paid to a non-resident individual will be subject to 18% withholding tax.

9.2 Payments from Companies Subject to Tax at the 10% Rate

Dividends paid by a company having its income taxed at the 10% rate to a non-resident company or individual, paid out of the profits of an accounting period ending on or before 5 April 2007, will be subject to a 10% withholding tax.

With effect from the tax year beginning on 6 April 2007, and for subsequent years, dividends are no longer deductible when computing taxable profits but will carry a tax credit equal to the rate of tax paid by the company. Full details of this tax credit system can be found in section 11 of this guidance note.

Dividends paid by a company having its income taxed at the 10% rate to a non-resident company or individual out of the profits of an accounting period ending on or after 6 April 2007 will not be subject to withholding tax as this will be seen as having been met by the 10% tax credit attached to the dividend which will be non-refundable.

Rents in respect of Manx land and property will be subject to a 10% withholding tax if paid to a non-resident company and 18% if paid to a non-resident individual.

Loan interest paid to a non-resident company will not suffer withholding tax.

Loan interest paid from a company with income from Manx land and property to a non-resident individual will be subject to 18% withholding tax.

Certain directors' and consultancy fees will not be subject to ITIP or withholding tax:

- no ITIP or withholding tax is due in respect of directors' and consultancy fees where the duties are wholly performed **outside** the Isle of Man or where directors' fees are paid solely in respect of statutory duties such as attending board meetings in the Isle of Man; but,
- if the directors' fees are paid in respect of executive directors' duties in the Isle of Man in addition to statutory duties, then the whole of the fees are subject to tax and the rate to be withheld via the ITIP system is 18%.

Any other forms of payment to a non-resident company will not suffer withholding tax.

Other Manx-source income paid to a non-resident individual will be subject to 18% withholding tax.

9.3 European Union Savings Tax Directive – Retention Tax

This guidance note deals only with withholding tax chargeable under section 71 of the Income Tax Act 1970; it does not cover tax retained from savings interest under the European Union Savings Tax Directive.

For further information on retention tax please refer to the EU Savings Directive section of the Division's website (www.gov.im/incometax) or Practice Note 118/05 issued by the Division which can also be found on the website or by contacting the Division.

10 Income Distributions

The Companies Act 2006 gave companies incorporated under that Act a wide range of choices when making distributions to shareholders. As '2006 Act companies' can make distributions in more ways than companies formed under the Companies Act 1931, changes in income tax law were needed, and were made via the Income Tax (Corporate Taxpayers) (Temporary Taxation) Order 2006 ("the Order") which came into operation on 1 November 2006.

The Order introduced new definitions of 'distribution' and 'income distribution' to provide clarity for all companies. It also strengthened the scope of the charging provision in respect of income distributions paid by a resident corporate taxpayer to any person resident for income tax purposes in the Isle of Man.

In the Order, a distribution is defined as:

- the direct or indirect transfer of any assets of a corporate taxpayer, other than the corporate taxpayer's own shares, to or for the benefit of a member of the corporate taxpayer; or

- the incurring of a debt by a corporate taxpayer to or for the benefit of a member of the corporate taxpayer, in relation to shares held by a shareholder, or entitlements to distributions of a member who is not a shareholder, and whether by means of-

    - the payment of a dividend;
    - the purchase of an asset;
    - the purchase, redemption or other acquisition of shares or
    - the transfer or assignment of indebtedness.

An income distribution is a distribution made from the corporate taxpayer's income from the current accounting period or from undistributed income from a previous accounting period. By virtue of the definition above, distributions *in specie* (i.e. the transfer of assets other than cash) and the amount paid to a shareholder for the purchase of their shares in the company (i.e. a share buyback or redemption) are income distributions.

Where an income distribution takes a non-monetary form, an amount equal to the cash equivalent of the income distribution will be chargeable to income tax. The cash equivalent will be the market value of the asset at the time the distribution was made.

All income distributions, including those derived from the cash equivalent of an asset transfer or payment made to or on behalf of a shareholder, may carry non-refundable tax credits, DPC or tax credits depending on the accounting period and income they are paid from.

11 Tax Treatment of Dividends Paid in Company Assessment

The Income Tax (Corporate Taxpayers) Act 2006 changes section 25 of the Income Tax Act 1970 to say that the taxable profit of a company is arrived at **without** any deduction for dividends paid.

This change comes into effect on 6 April 2007, which means the change will affect 2007/2008 PY basis assessments. The final year of assessment for which tax relief for dividends paid is available is 2006/07.

The change will not have a material effect for income subject to Manx tax at 0% but it will simplify computations by making the taxable and distributable profit figure the same in the majority of cases.

The change will affect companies with any income subject to Manx tax at 10% because in previous years the dividend paid was used to reduce the taxable profit figure.

Example 11.1 – Dividend Paid Deducted from Taxable Profit

Company B's taxable profit for the 2006/2007 PY basis year of assessment is calculated as follows:

Profit per accounts	60,000
Less: dividend paid (15/02/2007)	(45,000)
Taxable Profit	15,000
Tax Payable @ 10%	**£1,500**

The shareholder will declare the £45,000 dividend they receive as income in their return for the year ending 5 April 2007 and will be taxed on the amount they receive.

Using the same amounts, the taxable profit for the 2007/2008 PY basis year of assessment is calculated as follows:

Profit per accounts	60,000	
Taxable Profit	60,000	No deduction for dividend paid
Tax Payable @ 10%	**£6,000**	
Dividend paid (15/03/2008)	(45,000)	

In order to recognise the fact that a company will be subject to tax on the whole of the profit, with no deduction for dividends paid, new sections 25A to 25C have been added to the Income Tax Act 1970 to bring in a system that will give recognition for

the tax already suffered by the company on the dividends it pays to the shareholders.

The following sections of this guide explain how the tax credit system will operate.

11.1 Tax Credits

New sections 25A to 25C Income Tax Act 1970 have been introduced to provide for a tax credit with the dividend payment, to be given as a credit against income tax in the dividend recipient's assessment.

Relief for the tax paid by the company will be given in the form of a tax credit in the assessment of the recipient and the value of the tax credit will be deducted from the amount of tax payable by the recipient in the year of assessment that the dividend was received. Section 11.1.1. explains how the value of the tax credit is calculated.

Where the value of the tax credit exceeds the amount of tax payable by the recipient, the excess is refundable only where the recipient is a Manx resident non-corporate taxpayer (e.g. an individual or a trust).

There will be no refunds where dividends are paid to companies or to a non-resident.

The rate of tax charged on a company in receipt of a dividend paid from a company subject to tax at 10% (with a corresponding tax credit) is 10%.

If the rate of tax on dividends with a tax credit was 0% (as it is for other dividend income) a company with no income chargeable to tax at 10% would not be able to use the tax credit or pass it on to its shareholders. The rate being set at 10% enables the tax credit to be passed up through a group of companies which, where the ultimate owner is a resident non-corporate taxpayer, will enable the credit to be offset and refunded if appropriate.

11.1.1 Tax Credit Vouchers

When the dividend is paid from company profits charged to tax at 10%, a tax credit voucher should be issued to the recipient. The content of the tax credit voucher is prescribed in SD108/07 Income Tax (Corporate Taxpayers) (Tax Credit Voucher) Regulations 2007 and a specimen tax credit voucher is shown at appendix 2.

The three amounts that appear on a tax credit voucher are:

gross	the amount to be declared as income by the recipient
tax rate	the rate of tax charged on the profits of the company
tax credit	the value of the tax credit voucher

The formula for finding the gross amount is prescribed in section 25B (2) as:

$$G = A \times \frac{100}{100 - R}$$

where G is the gross amount, A is the amount paid and R is the rate of tax.

The value of the tax credit is the gross amount x the rate of tax charged.

Example 11.2 – Tax Credit Voucher

Using Company B from example 9.1 above, the net dividend of £45,000 was paid to its Manx resident shareholder on 15 March 2008 and the tax credit voucher should be issued as follows:

The gross amount is:

Amount	**x**	**100/100-R**	**= Gross**
45,000	x	$\frac{100}{90}$	= 50,000

The value of the tax credit at 10% is:

Gross	**x**	**R/100**	**= Tax Credit**
50,000	x	10/100	= 5,000

The tax credit voucher issued shows:

Gross dividend	**Tax rate**	**Amount of Tax Credit**
£50,000	10%	£5,000

The recipient actually receives payment of the net amount as follows:

Gross dividend	**Tax Credit**	**Amount received**
£50,000	£5,000	£45,000

The shareholder should declare the gross amount on their income tax return and attach the tax credit voucher to the return.

In 2006/2007 the company paid £1,500 tax and, taking marginal tax rates into account, the shareholder would have paid at least £4,500 on the £45,000

dividend they received, making a total of at least £6,000 charged on £60,000 of profit.

The tax credit system in 2007/2008 maintains that position, with the £6,000 being charged on the company and credits being issued to the dividend recipient to prevent double taxing of the income.

11.1.2 Dividends Qualifying for Tax Credits

Tax credit vouchers should only be given with dividends paid from profits subject to income tax at 10% after 6 April 2007, not where a distribution is made either:

- from reserves accumulated before 6 April 2006, or
- from reserves that have been subject to a distributable profits charge, or
- out of profits charged at 0% rate of tax.

Profits are treated as distributed on a first in first out basis, so earlier profits should be distributed first.

11.2 Relief for Tax Credits in Recipient's Tax Assessment

Dividends paid from company profits subject to Manx tax at 10% will be included in the recipient's tax assessment for the year of receipt under the income description "Dividend with Tax Credit".

Where dividends are received from more than one company, the amount of gross dividends on the vouchers will be added together.

Where the shareholder receiving the dividend is subject to payment on account, the amount of tax credit received with a dividend in a year of assessment will be taken into consideration when computing the shareholder's payment on account in respect of the following year of assessment.

11.2.1 Manx Resident Non-Corporate Recipients

When a tax credit voucher is submitted with an income tax return the value of the tax credit stated on the voucher will first be verified by cross reference to the paying company records held by the Assessor.

Verified tax credits will be allocated to the year of assessment by way of an adjustment which will be allocated below the "Total Tax" line of the assessment, in the same place as any payments of ITIP.

After taking into account the total tax less any other payments, any remaining credit will be refunded, subject to a review of the recipient's overall balance position.

11.2.2 Corporate and Non-Resident Recipients

When a tax credit voucher is submitted with an income tax return, the value of the tax credit stated on the voucher will first be verified by cross reference to the paying company records held by the Assessor.

Verified tax credits will be allocated to the year of assessment by way of a "Company Credit" adjustment between the "Total Liability" and "Total Tax" lines of the assessment.

This treatment will ensure the amount of the credit will be fully utilised against the tax liability of the recipient to reduce the total tax but will not generate a refund of the credit if it is more than the liability.

If the tax credit has reduced the total tax to less than the value of any other payments made, those other payments will be refunded, subject to a review of the recipient's overall balance position.

12 Dividends and Distributions

A company can pay profits to its members by way of a dividend from profits of the current accounting period or by a distribution from accumulated reserves from earlier accounting periods. This section gives details of how distributions from reserves are classed according to the source of the reserves, when the reserves arose and when a distribution is made.

In addition to the tax credits detailed in section 11, since 6 April 2006 a number of different measures have been implemented which affect how dividends or distributions are treated in the hands of the recipient.

In summary these measures are:

- DPC credits introduced with the Distributable Profits Charge.

- If paid before 6 April 2008 - concessional treatment of distributions from accounting reserves in the accounts forming the basis of the 2005/2006 assessment as capital and/or with non-refundable tax credits.

- If paid after 5 April 2008 - concessional treatment of all distributions from accounting reserves in the accounts forming the basis of the 2005/2006 assessment as capital.

- If paid after 5 April 2009 or made from accounting periods ended after that date - the requirement to distribute 100% of distributable profits before distributing as capital from accounting reserves in the accounts forming the basis of the 2005/2006 assessment .

Treatment of taxed reserves described in this section is dependent on the company having a retained earnings/profit in its accounts forming the basis of the 2005/2006 assessment. Where there are retained losses in those accounts, this section cannot apply.

The term "distribution from reserves" refers to distributions made that are matched back to the retained earnings/profit in the accounts forming the basis of the 2005/2006 assessment.

As detailed in section 11, the payment of a dividend no longer reduces the amount of income tax payable by a company as it did when there was a positive rate of tax and dividends paid were a deduction from taxable profits. The non-refundable tax credits and distributions as capital were introduced in order to prevent a double tax charge arising when distributions are made from pre 2006/07 reserves.

The operation of DPC on the company is covered in detail in GN 36, Distributable Profits Charge, but GN 36 only provides high level information on the allocation of the credit to the shareholder.

This section provides more detailed information on how DPC and non-refundable tax credits operate in the assessment of the shareholder.

12.1 DPC Credits

DPC credit vouchers are only to be issued to Manx resident shareholders and only Manx residents can claim relief for a DPC credit in their tax assessment.

Dividends paid from company profits subject to DPC are included in the recipient's tax assessment for the year of receipt under the income description "Dividend with DPC Credit".

Where the DPC credit exceeds the liability, the balance is refundable to all Manx resident recipients, including companies.

12.1.1 Manx Resident Non-Corporate Recipients

When a DPC credit voucher is submitted with an income tax return, the value of the DPC credit stated on the voucher is verified by checking the paying company records held by the Assessor.

Verified DPC credits are then allocated to the year of assessment by way of a "DPC Posting" which appears below the "Total Tax" line of the assessment.

After taking into account the total tax less any other payments, any remaining DPC credit is refunded, subject to a review of the recipient's overall balance position.

Where the shareholder receiving the dividend is subject to payment on account, the amount of DPC credit received with a dividend in a year of assessment is taken into consideration when computing the shareholder's payment on account in respect of the following year of assessment.

12.2 Distributions from Reserves Paid before 6 April 2008

Distributions paid before 6 April 2008 are treated as made from 'taxed reserves,' which are taxed profits from periods of account forming the basis of the income tax assessment for 2005/06 or earlier.

Distributions can be made from taxed reserves in preference to meeting the distribution requirement of DPC, or after 55% is allocated to meet that requirement.

(Applies from 6 April 2006 to 5 April 2009 - see section 4.4 of GN 36 'Distributable Profits Charge'.)

Distributions of taxed reserves are made from profit and loss accounting reserves at the balance sheet date of the accounts forming the basis of the income tax assessment for 2005/06. The amounts of the taxed reserves and accounting reserves may not match because of adjustments made to accounting profits and relief for capital allowances to arrive at taxable profits.

Where the total amount of taxed reserves is more than the amount of the accounting reserves, the maximum amount that can be distributed with non-refundable tax credits is restricted to the amount of the accounting reserves available for distribution. If the accounting reserves are more than the taxed reserves, the excess is an income dividend and is subject to income tax in the normal manner.

A distribution of reserves which have been taxed at 14% or higher is treated as a capital distribution. Where the rate of tax paid was 12% or 10%, distributions are income dividends but carry a non-refundable tax credit, calculated in the same way as the tax credit detailed in section 11 (i.e. Gross, Tax Credit, Amount Received). These concessional tax credits are equivalent to the rate of tax paid on the profits in the year they were assessed and are intended to prevent double taxation of the company profits.

The non-refundable tax credit is a notional credit so, similar to double taxation relief, the credit only covers the recipient's liability to income tax on the dividend income. It does not reduce the liability to tax on any other income sources the recipient has.

Dividends paid from taxed reserves are included in the recipient's tax assessment for the year of receipt under the income description "Distribution from Reserves". A tax credit with a distribution from reserves can be claimed by any recipient; it is not restricted to Manx residents or to individuals.

Practice note PN 94/02 confirmed that accounting reserves held up to 5 April 2000 can be distributed as capital. Taxed reserves available are the sum of the taxed profits for the years of assessment 2001/02 to 2005/06 inclusive added to the accounting reserves at the balance sheet date of the accounts forming the basis of the 2000/01 assessment.

Example 12.1 shows how to calculate taxed reserves for the purpose of this section.

Example 12.1 Calculation of Taxed Reserves

A company prepares its accounts to 31 December annually. The 2000/01 assessment was based on accounts for year ended 31 December 1999. Accounting reserves as at 31 December 1999 were £50,000. Taxed profits for the following years to 31 December 2004 were:

Basis year	31/12/2000	31/12/2001	31/12/2002	31/12/2003	31/12/2004
Tax year	**2001/02**	**2002/03**	**2003/04**	**2004/05**	**2005/06**
Taxable profit	12,000	15,000	18,000	14,000	20,000
Tax 12%	1,440				
Tax 10%		1,500	1,800	1,400	2,000
Taxed Profit	10,560	13,500	16,200	12,600	18,000
Cumulative	10,560	24,060	40,260	52,860	**70,860**

The amount of taxed reserves available is:

	Accounting reserves at 31/12/1999 (2000/01)	50,000
Add:	Cumulative taxed profit 2001/02 to 2005/06	70,860
		120,860

Distributed as:

Capital	50,000
Income with 12% tax credit (Gross 12,000)	10,560
Income with 10% tax credit (Gross 67,000)	60,300
	120,860

Scenario 1- Accounting reserves as at 31 December 2004 were £110,000

The total amount that can be distributed as taxed reserves is restricted to the accounting reserves of £110,000. **F**irst **I**n **F**irst **O**ut applies and the reserves taxed at 10% are restricted to £49,440 (Gross £54,933, tax credit £5,493).

The company cannot distribute more than was available to distribute as at 31 December 2004 with non-refundable tax credits, therefore all taxed reserves have been distributed after (or if) the accounting reserves have been distributed.

Scenario 2 - Accounting reserves as at 31 December 2004 were £130,000.

The total amount that can be distributed as taxed reserves is £120,860 with credits as outlined above. The remaining balance of £9,140 will be an income dividend when distributed.

12.2.1 Distributions from Reserves Paid between 6 April 2008 and 5 April 2009

Distributions paid since 6 April 2008 are treated as made from the accounting reserves at the balance sheet date of the accounts forming the basis of the income tax assessment for 2005/06. Non-refundable tax credits are no longer required and all distributions from those reserves are treated as capital and no income tax is payable by shareholders.. This change to practice was announced in GN41 Attribution Regime for Individuals.

The option to make distributions from reserves in preference to meeting the distribution requirement of DPC / ARI, or after 55% has been allocated to meet that requirement is only available for distributions made from accounting periods ended before 6 April 2009.

This treatment does not apply to distributions paid before 6 April 2009 from accounting periods that ended after 5 April 2009. See section 12.2.3 below for details.

12.2.2 Distributions from Reserves Paid after 5 April 2009 and accounting periods ended after 5 April 2009

All distributions from accounting reserves at the balance sheet date of the accounts forming the basis of the income tax assessment for 2005/06 are classed as capital distributions.

There is no longer an option to treat the whole of a distribution as a distribution from reserves in preference to meeting the distribution requirement of DPC / ARI, or after 55% has been allocated to meet that requirement. The whole of the distributable profit of an accounting period must be distributed before an excess can be treated as a distribution from reserves under the Assessor's revised practice.

A distribution paid after 5 April 2009 can still be 'referred back' within 12 months of the end of an accounting period which ended before 6 April 2009, but only the amount which exceeds 100% of the distributable profit can be distributed from reserves.

This change also applies to corporate income taxable at 10% (including cases where an election to be taxed at 10% has been made). The whole of the taxable profit must be distributed with tax credit vouchers before any distribution from reserves can be claimed.

Full details and examples of this change in practice are given in Practice Note PN156/09 which is reproduced in full at **Appendix 3**.

NOTE: This revised practice only applies to distributions from reserves as defined in the glossary (i.e. up to the value of accounting reserves accumulated prior to 2006/2007). A company that has been subject to tax at 10%, or has paid a DPC charge on behalf of its resident shareholders since 2006/2007 still has the flexibility to treat part or all of distributions paid from 6 April 2009 as coming from those reserves. (See section 12.3 below for details.)

The ARI will apply to all accounting periods ending after 5 April 2009. Please see Guidance Note GN 41 for details of how the ARI operates.

12.3 Distributions from Profits subject to tax at 0% or 10% for 2006/2007 and later

Reserves accumulated since 2006/07 have been taxed at 0% or 10% and can be distributed at any time. A distribution paid from these reserves may:

- Enable DPC credits to be claimed. The distribution should be grossed up and a credit voucher provided.
- Be a distribution of the retained 45% profits for a year where sufficient distributions were made.
- Enable 10% tax credits on earlier years to be claimed. The distribution should be grossed up and a credit voucher provided.

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All of these distributions are income for tax purposes. However, where the distribution is of profits previously attributed, these payments are not treated as an income distribution.

12.4 Distributions of Capital Gains and Taxed Income

Gains which have been agreed by the Assessor as arising from a capital receipt can be distributed as a capital distribution at any time. Typically, such a gain would be from the sale of a long held fixed asset of property.

A gain cannot be anticipated; an unrealised gain from a revaluation of property that creates a balance sheet capital reserve cannot be distributed. A gain must have crystallised before it can be distributed.

Income or profits arising outside of the Isle of Man which have been taxed by another tax authority at a rate of 18% or higher can also be distributed as capital at any time. The tax paid elsewhere must be irrecoverable, and the income is excluded from distributable profits.

12.5 Tax Credits with Distributions from Taxed Reserves

Although now an historic treatment which ceased to apply to distributions made after 5 April 2008, this section could still apply to a return which is submitted late.

There was no specific voucher to be issued when a distribution from reserves was made, but the company was required to provide the recipient with sufficient information to show the gross amount of the dividend and the value of the tax credit.

Verified tax credits are allocated to the year of assessment by way of a "Company Credit" adjustment between the "Total Liability" and "Total Tax" lines of the assessment.

The amount of credit allocated is restricted to the lower of the tax credit or the income tax due on the distribution. This treatment ensures the amount of the credit covers the income tax due on the distribution but does not generate a refund of the credit if it is more than the liability. A restriction applies where the recipient is an individual and the distribution falls between the lower and higher rate bands in their assessment.

12.5.1 Holding Companies and Distributions from Taxed Reserves

This section became an historic treatment after 5 May 2008 (5 April + 30 days) and no longer applies. It is included here for information only.

When a distribution from taxed reserves was paid to a company, it would be income of the receiving company taxed at the standard rate of 0%, and so there was no tax liability to set the non-refundable credit against. This could create difficulties where a holding company was owned by a Manx resident individual.

In recognition of this, where a distribution from taxed reserves was paid via a holding company to an Isle of Man resident individual, the Assessor, on application, 'looked through' the holding company and treated the distribution as having been received directly by the resident individual.

In order for this treatment to apply, a written application signed by both the company and the recipient individual had to be approved by the Assessor prior to the payment of the distribution.

A condition for approval was that the distribution was paid to the individual within 30 days of it having been received by the holding company.

For approved applications, the holding company was treated as though no distribution had been received by it and therefore there were no income tax or DPC consequences to the holding company in respect of the distribution.

The gross amount of the distribution was assessed as income in the hands of the Isle of Man resident individual and the non-refundable tax credit was available to set against the individual's tax liability in respect of the distribution (see section 12.1.1 for details of how the credit was offset in the assessment).

If the holding company did not apply for approval, if approval was not granted, or the distribution was not paid to the individual within 30 days of its receipt by the holding company, the distribution from reserves was treated as income in the hands of the holding company for income tax purposes. As the tax liability in respect of the distribution was NIL, the non-refundable tax credit was, in effect, lost at the level of the holding company, as it could not be offset against the tax payable in respect of any other income.

When calculating the distributable profit of the holding company, the distribution from taxed reserves with non-refundable tax credit was treated in the same way as foreign income taxed at less than 18%; so only the net distribution was included in the distributable profit of the company.

The revised practice to treat distributions from reserves as capital now applies to groups as it would to any other company. Any distribution made under this practice is capital and will not form part of the taxable income of the holding company in the year of receipt. Future distributions of this amount to the ultimate owners of the group will also be capital.

12.6 Composite Company Distribution Voucher

It is a statutory requirement to complete vouchers to accompany distributions that have DPC or 10% tax credits attached to them, and a statutory requirement to complete certificates of attributed profit for the resident members of all relevant companies. In addition, the issue of a voucher with distributions from reserves, although not statutory, will assist shareholders to identify payments received. In many cases this could require the completion of several vouchers/certificates for each shareholder for a single payment.

To reduce the need for multiple vouchers/certificates, a 'universal' voucher/certificate is now available for completion. It is called the 'Composite Company Distribution Voucher and/or Certificate of Attributed Profit' and an example is shown at **Appendix 4**.

The notes on the reverse provide guidance on its completion. Use of this voucher will avoid repetition of the company and shareholder details where a single payment consists of two or more of the different types of distribution. This will also assist shareholders to identify income payments received and they may submit vouchers as a schedule to their income tax returns.

In summary, the voucher can be used for the following:

- The payment of what is now termed a gross dividend. This is a 'normal' income dividend paid from current year profits, or from 0% reserves not subject to DPC or ARI. The amount to be declared as income is the amount received and no credit is attached. This voucher is not a statutory requirement but completion is recommended for shareholders' records.

- The payment of a dividend with a DPC credit. This will apply to the distribution of post 2005/06 reserves of profits that have been subject to the Distributable Profits Charge. The amount to be declared as income is the 'grossed up' amount, not the amount received. This voucher is a statutory requirement.

- The payment of a dividend with a Tax Credit. This will apply to the distribution of income/profits subject to tax at the 10% rate. Distributions can be made from current year income/profits, or from post 2005/06 reserves taxed at the 10% rate. The amount to be declared as income is the 'grossed up' amount, not the amount received. This voucher is a statutory requirement.

- The payment of a distribution from pre 2006/07 reserves. The amount received is not taxable and should not be declared as income, although it may be clearly noted as a capital receipt on a shareholder's return form for information, e.g. to demonstrate how living expenses were met. This voucher is not a statutory requirement but completion is recommended for shareholders' records.

- The payment of a distribution from reserves of profits taxed at 0% that have been attributed to shareholders. The amount received is not taxable and the voucher should clearly note that the distribution is from the company's reserve of attributed profits.

- As a certificate of attributed profits of a relevant company. This certificate is a statutory requirement.

13 Examples - Dividends with Tax Credits, DPC Credits and Distributions from Reserves

This section of the guide contains examples of the application of the dividends with tax credits, DPC credits and distributions from reserves on both the company and the shareholders.

The examples in this section demonstrate how important it is for a company to keep records of the sources of profits it puts to reserves when they are not fully distributed in the accounting period they arise in.

When reserves are distributed in the future, the company will need to be able to identify their source to determine if a tax credit voucher or a distributable profit credit voucher has to be issued, or if an amount is distributed gross, also if it is a distribution from reserves with a non-refundable tax credit, or if an amount can be distributed as capital.

13.1 Dividends with Tax Credits

Example 13.1 – Trading Company

A trading company that has elected to pay tax at 10% has the following tax computation for the accounting period ended 30 September 2007:

Profit per accounts	17,600
Add: depreciation	900
Adjusted profit	18,500
Taxable profit	**18,500**
Tax @ 10%	£1,850

The company distributes £15,750, which is the accounting profit after tax, on 30 March 2007. There is only one shareholder.

The tax credit voucher issued to the shareholder with the dividend from the trading profits will be calculated as follows:

Amount	**x**	**100/100-R**	**= Gross**
15,750	x	$\frac{100}{90}$	= 17,500

The value of the tax credit at 10% is:

Gross	x	R/100	= Tax Credit
17,500	x	10/100	= 1,750

The tax credit voucher issued shows:

Gross dividend	Tax Credit	Amount received
£17,500	£1,750	£15,750

The shareholder is a single Manx resident individual and the dividend is their only income source for the year of assessment.

Their assessment for 2006/2007 would be calculated as follows:

Dividend with Tax Credit	17,500		
Total Income	**17,500**		
Single Allowance	(8670)		
Taxable Income	**8830**		
Total Liability	8830	@ 10%	830
Less: adjustment			(1750)
Tax Payable			**(920)**

The value of the tax credit exceeds the total tax payable for the 2006/2007 assessment so, subject to a review of the shareholder's overall balance position, the excess credit will be refunded.

Example 13.2 – Mixed Income Company

Nestegg Limited is a family investment holding company with two Manx resident individual shareholders, each owning 50% of the shares.

For the 12 month accounting period ended 31 March 2008 it has a total taxable income of £49,500 made up as follows:

Source	Income	Manx Tax Rate	Tax Paid
Rents from Manx property	25,000	10%	
Untaxed investment income	9,500	0%	
UK rents (taxed)	15,000	0%	22% in UK £3,300
Taxable Profit	**49,500**		

Nestegg Limited will be due to file its return and pay the tax for the accounting period ended 31 March 2008 on 1 April 2009.

Nestegg distributes all of the profit for the accounting period ending 31 March 2008 on 15 May 2008.

The income tax computation is:

Income chargeable @ 0%	24,500	0.00
Income chargeable @ 10%	25,000	2,500.00
		2,500.00
Double taxation relief 15,000 @ 0%		0.00
Tax payable		**2,500.00**

The distributable profit charge computation is:

Taxable profit	49,500	
Less:		
Income taxed @ 10%	(25,000)	
Taxed income > 18%	(15,000)	
Distributable profit	9,500	
Amount Distributed	9,500	100%

The distributable profit is fully distributed so there is no DPC payable for the accounting period.

The net amount of dividend paid is allocated as follows:

From income taxed at 10%	22,500	This will carry a tax credit of 10%.
From distributable profit	9,500	This amount carries no tax credit, so is paid gross.
From UK taxed rents	11,700	This is the UK rents less 22% tax paid and so will be treated as a capital distribution.
Total Dividend Paid	43,700	

£21,850 is paid to each of the two resident shareholders but, in order for the shareholder to declare the income and claim the tax credit correctly, the payment will need to be broken down into the three separate elements.

The tax credit voucher issued to each shareholder with the dividend from the Manx rents will be calculated as follows:

Amount	**x**	**100/100-R**	**= Gross**
11,250	x	$\frac{100}{90}$	= 12,500

The value of the tax credit at 10% is:

Gross	**x**	**R/100**	**= Tax Credit**
12,500	x	10/100	= 1,250

The tax credit voucher issued shows:

Gross dividend	**Tax Credit**	**Amount received**
£12,500	£1,250	£11,250

Each shareholder will be required to declare on their income tax return:

- £12,500 gross dividend with a £1,250 tax credit
- £4,750 dividend with no tax credit.

The £5,850 share from the UK taxed rents is a capital distribution and, as such, is not required to be declared on the income tax return.

The taxable dividends should be declared on returns for year ended 5 April 2009 for assessment in 2008/2009, payable on 6 January 2010.

The shareholders are Manx resident single individuals who each receive a salary of £30,000 in addition to the dividends.

Assuming no change in allowances, rates or thresholds, and that ITIP has been deducted using an SB code, the 2008/2009 tax assessment for each shareholder would be as follows:

Salary	30,000		
Dividend with tax credit	12,500		
Dividend (gross)	4,750		
Total Income	**47,250**		
Single Allowance	(8670)		
Taxable Income	**38,580**		
Total Liability	10,500	@ 10%	1,050
	28,080	@ 18%	5,054
			6,014
Less: ITIP			(3,000)
Less adjustment			(1,250)
Tax Payable			**1,854**

The tax credit reduces tax payable for the year but does not generate a refund because the tax credit is 10% but the income is fully taxable on the shareholder at 18%.

Where dividends with tax credits are assessable at 18% and the tax code in operation for any salary is accurate, except in cases where other payments have been made for the year (such as POA), there will be no refund of the tax credit.

13.2 Dividends with DPC Credits

The examples in this section show how payments of dividends with DPC credits operate on both the paying company and the shareholders.

See GN 36, Distributable Profits Charge, for more information about the operation of the DPC regime.

Example 13.3 - Trading Company

A trading company had the following results for the 2006/2007 and 2007/2008 year of assessment.

The company is owned by a single Manx resident shareholder.

2006/2007

Trading distributable profit	50,000	
Dividend Paid	0	0%
DPC Payable: 50,000 x 55% x 18%	**4950**	

2007/2008

Trading distributable profit	60,000	
Dividend Paid (31/10/2007)	75,000	125%
DPC Payable: 50,000 x 55% x 18%	**0**	

The dividend of £75,000 paid on 31 October 2007 can be separated into two parts, the first part to satisfy the distribution test for 2007/2008 (minimum is 55%, which is £33,000) and the second part can be taken from the 2006/2007 profits with DPC credit.

The company chooses to pay £40,000 from the 2007/2008 profits, which is 67%, so no DPC is payable for 2007/2008. The £40,000 is paid to the shareholder with no DPC or tax credit.

The remaining £35,000 is paid from the 2006/2007 profits, which have been subject to a DPC charge and so will carry a DPC credit.

The amount will first need to be grossed up using the following formula:

Amount	**x**	**100/100-R**	**= Gross**
35,000	x	$\frac{100}{90.1}$	= 38,846

The value of the DPC credit is calculated:

Gross	**x**	**P X R**	**= DPC Credit**
38,846	x	55% x 18%	= 3,846

The DPC credit voucher issued shows:

Gross dividend	**DPC Credit**	**Amount received**
£38,846	£3,846	£35,000

The shareholder will be required to declare on their income tax return for the year ended 5 April 2008:

- £38,846 gross dividend with a £3,846 DPC credit
- £40,000 dividend with no tax credit.

The shareholder is a Manx resident single individual who receives a salary of £30,000 in addition to the dividends.

Assuming no change in allowances, rates or thresholds, and that ITIP has been deducted using an HR code, the 2007/2008 tax assessment for each shareholder would be as follows:

Salary	30,000		
Dividend with DPC credit	38,846		
Dividend (gross)	40,000		
Total Income	**108,846**		
Single Allowance	(8670)		
Taxable Income	**100,176**		
Total Liability	10,500	@ 10%	1,050
	89,676	@ 18%	16,142
			17,192
Less: ITIP			(5,400)
Less: DPC Posting			(3,846)
Tax Payable			**7,946**

The tax payable will be due and payable on 6 January 2009 or 30 days after the issue of the assessment if later.

Example 13.4 – Mixed Income Company

A trading company had the following results for the 2006/2007 year of assessment.

The company is owned by a single Manx resident shareholder.

2006/2007

Trading distributable profit	50,000	
Dividend Paid	0	0%
Non-trade distributable profit	25,000	
Dividend Paid	0	0%
Trading DPC Payable: 50,000 x 55% x 18%	**4,950**	
Non-Trade DPC Payable: 25,000 x 100% x 18%	**4,500**	
Total DPC	**9,450**	

The company pays a net dividend of £45,000 on 10 May 2007 and chooses for the whole amount to be taken from the 2006/2007 profits that have been subject to a DPC charge.

The maximum amount that can be taken from the non-trade distributable profit is £25,000, which will carry a DPC credit as follows:

Gross	**x**	**P X R**	**= DPC Credit**
25,000	x	100% x 18%	= 4,500

The DPC credit voucher issued for the non-trade distribution shows:

Gross dividend	**DPC Credit**	**Amount received**
£25,000	£4,500	£20,500

The remaining net dividend £24,500 is paid from the trade distributable profit and will first need to be grossed up using the following formula:

Amount	**x**	**100/100-R**	**= Gross**
24,500	x	$\frac{100}{90.1}$	= 27,192

The value of the DPC credit is calculated:

Gross	**x**	**P X R**	**= DPC Credit**
27,192	x	55% x 18%	= 2,692

The DPC credit voucher issued with the trade distribution shows:

Gross dividend	**DPC Credit**	**Amount received**
£27,192	£2,692	£24,500

The shareholder will be required to declare on their income tax return for the year ended 5 April 2008:

- £52,192 gross dividend with a £7,192 DPC credit. (This is the total of the two DPC credit vouchers.)

The shareholder is a Manx resident single individual and the dividend is their only source of income for 2007/2008.

Assuming no change in allowances, rates or thresholds, the 2007/2008 tax assessment for the shareholder would be as follows:

Dividend with DPC credit	52,192		
Total Income	**52,192**		
Single Allowance	(8670)		
Taxable Income	**43,522**		
Total Liability	10,500	@ 10%	1,050
	33,022	@ 18%	5,944
			6,994
Less: DPC Posting			(7,192)
Tax Payable			**(198)**

The DPC credit satisfies the full tax liability and, subject to a review of the shareholder's overall balance position, the £198 will be refunded.

13.3 Tax Credits – Corporate and Non-Resident Shareholders

When dividends with tax credits are paid to companies or to non-residents, the tax credit is non-refundable, so there can never be a refund of overpaid tax credits.

However, the tax credit can be used to satisfy the shareholder's liability to tax on other income sources so, where there have been other payments credited; the overpaid amounts from these can be refunded.

Example 13.5 – Trading Company Non-Resident Shareholder

A trading company that has elected to pay tax at 10% has the following tax computation for the accounting period ended 30 September 2007:

Profit per accounts	17,600
Add: depreciation	900
Adjusted profit	18,500
Taxable profit	**18,500**
Tax @ 10%	£1,850

The company distributes £15,750, which is the accounting profit after tax, on 30 March 2007. There are two non-resident shareholders and they receive £7,875 each.

The total tax credit voucher issued to each shareholder with the dividend will be calculated as follows:

Amount	**x**	**100/100-R**	**= Gross**
7,875	x	$\frac{100}{90}$	= 8,750

The value of the tax credit at 10% is:

Gross	**x**	**R/100**	**= Tax Credit**
8,750	x	10/100	= 875

The tax credit voucher issued shows:

Gross dividend	**Tax Credit**	**Amount received**
£8,750	£875	£7,875

Shareholder A's only Manx source income is the dividend.

Using the non-resident tax computation with no limitation (see PN 130/06, Taxation of Non-Resident Individuals, for details) their assessment for 2006/2007 would be calculated as follows:

Dividend with Tax Credit	8,750		
Total Income	**8,750**		
NR personal allowance	(2,000)		
Taxable Income	**6,750**		
Total Liability	6,750	@ 18%	1,215
Less: Company Credit			(875)
Tax Payable			**340**

Using the non-resident tax computation with the limit calculation, the assessment is:

Dividend with Tax Credit	8,750		
Less excluded income	(8,750)		
Total income	0		
Total liability	0	@ 18%	0
Add tax withheld (from excluded income)			0
Total tax			**0**

Non-resident tax payable is the lower of the two computations, therefore no tax is payable (but the tax credit is not refunded).

Shareholder B's Manx source income comprises the dividend and rental income. Gross rents of £13,889 have been subject to withholding tax at 18% i.e. £2,500. Allowable property expenses of 3,889 reduce the taxable rent to 10,000.

Using the non-resident tax computation with no limitation their assessment for 2006/2007 would be calculated as follows:

Manx rents	10,000		
Dividend with Tax Credit	8,750		
Total Income	**18,750**		
NR personal allowance	(2000)		
Taxable Income	16,750		
Total Liability	16,750	@ 18%	**3,015**
Less: Company Tax Credit			*(875)*
Less: Withholding tax			*(2,500)*
Tax Overpaid			***(360)***

Using the non-resident tax computation with the limit calculation, the assessment is:

Manx rents	100,000		
Dividend with Tax Credit	8,750		
Less excluded income	(8,750)		
Total income	10,000		
Total liability	10,000	@ 18%	**1 800**
Add tax withheld (from excluded income)			0
Total tax			1, 800
Less withholding tax paid			(2,500)
Tax overpaid			**(700**)

The total liability is limited to the lower of the two computations, i.e. £1,800 and, subject to a review of the shareholder's overall balance position, £700 will be refunded.

Note - The computation with no limitation gives credit for both the withholding tax and the company tax credit because the assessment includes total Manx source income. The order of set off is the tax credit first, therefore the overpayment is made up from the WHT and £360 would be refundable if that computation were used.

The tax credit is not refundable to a non resident in any circumstance. The computation with the limit calculation ignores the tax credit because the income to which the credit is attached is excluded from that computation (and the tax credit **is not** withholding tax).

Example 13.6 – Trading Company Group Member

A trading company that has elected to pay tax at 10% has the following tax computation for the accounting period ended 30 September 2007:

Profit per accounts	19,100
Add: depreciation	900
Adjusted profit	20,000
Taxable profit	**20,000**
Tax @ 10%	£2,000

The company distributes £17,100, which is the accounting profit after tax, on 30 March 2007. The company is a wholly owned subsidiary of a group, and the dividend is paid to the group parent.

The total tax credit voucher issued with the dividend will be calculated as follows:

Amount	**x**	**100/100-R**	**= Gross**
17,100	x	$\frac{100}{90}$	= 19,000

The value of the tax credit at 10% is:

Gross	**x**	**R/100**	**= Tax Credit**
19,000	x	10/100	= 1,900

The tax credit voucher issued shows:

Gross dividend	**Tax Credit**	**Amount received**
£19,000	£1,900	£17,100

The group parent company assessment for 2007/2008 will be as follows:

Dividend with Tax Credit	19,000		
Total Income	**19,000**		
Taxable Income	**19,000**		
Total Liability	19,000	@ 10%	1,900
Less: Company Credit			(1,900)
Tax Payable			**0**

Dividends received from a company with income subject to Manx tax at 10% are also subject to Manx tax at 10%, so the accompanying tax credit satisfies the group parent company's tax liability on the dividend income.

When the group parent company distributes that income as a dividend it will also carry a tax credit, which will be credited to the shareholder and relieved in their assessment according to whether they are resident or non-resident.

13.4 Distributions from Taxed Reserves

NOTE: This example is now historic but illustrates how non-refundable tax credits were treated.

From 6 April 2006 the Assessor extended a concession to enable a company to make distributions from taxed reserves accumulated prior to 6 April 2006 with a non-

refundable tax credit, which will be offset in the recipient's assessment to cover **only** the tax payable on the distribution.

This concession is covered in detail in GN 36, Distributable Profits Charge, but the main points are as follows:

- any reserves that were subject to income tax at 14% or more can be distributed as capital

- any reserves that were subject to income tax at between 12% and 10% are to be distributed as income with a non-refundable tax credit.

The value of the non-refundable tax credit is calculated in the same way as the tax credits detailed in 11.1.1.

Example 13.7 – Trading Company

A trading company commenced on 1 June 1999 and has the following reserves:

Tax Year	**99/00**	**00/01**	**01/02**	**02/03**	**03/04**	**04/05**	**05/06***
Taxable Profit	10,300	6,500	10,800	8,500	9,600	2,500	10,400
Tax 20%							
18%							
15%	1,545						
14%		910					
12%			1,296				
10%				850	960	250	0
Taxed Profit	8,755	5,590	9,504	7,650	8,640	2,250	10,400
Cumulative Taxed Reserves	8,755	14,345	23,849	31,499	40,139	42,389	52,789

*The company carried on a trade that qualified for a concessional tax rate of 0% in 2005/06.

The company distributes £50,000 from reserves in May 2006, which is made up of the reserves grossed up as follows:

Tax Year	Amount	x	100/100-R	= Gross	
99/00	8,755		N/A	8,755	Capital Distribution
00/01	5,590		N/A	5,590	Capital Distribution
01/02	9,504		100/88	10,800	
02/03	7,650		100/90	8,500	
03/04	8,640		100/90	9,600	
04/05	2,250		100/90	2,500	
05/06	7,611		100/0	7,611	Distribution is > 55% so no DPC for 2005/2006

The non-refundable tax credits are calculated as follows:

Tax Year	Gross Distribution	x	R/100	Non-refundable credit	
99/00	8,755		N/A	-	Capital Distribution
00/01	5,590		N/A	-	Capital Distribution
01/02	10,800		12/100	1,296	
02/03	8,500		10/100	850	
03/04	9,600		10/100	960	
04/05	2,500		10/100	250	
05/06	7,611		0/100	0	Gross Income Distribution

The shareholder will be required to declare:

- £31,400 gross distribution with a non-refundable tax credit of £3,356
- £7,611 gross distribution with no tax credit.

£14,345 is a capital distribution and does not need to be declared as income.

If the shareholder was a Manx resident individual, the 2006/2007 assessment would be as follows:

Distribution from Reserves	31,400		
Dividend	7,611		
Total Income	**39,011**		
Less: Deed of Covenant	(5,000)		
Less: Personal Allowance	(8,670)		
Taxable Income	**25,341**		
Total Liability	10,500	@ 10%	1,050
	14,841	@ 18%	2,671
			3,271
Less: Company Credit			(3,356)
Tax Payable			**0**

Where the shareholder is a Manx resident individual and the distribution from reserves is chargeable part at 10% and part at 18%, the amount of the non-refundable tax credit in the assessment will be restricted to the lower of the credit or amount of tax payable on the dividend income.

If the shareholder is a non-resident non-corporate taxpayer, the non-refundable tax credit will be allocated in full because the non-resident tax rate is 18%, so the non-refundable tax credit rate will always be lower.

13.5 Combination of Tax and DPC Credits

Example 13.8 – Trading Company

A trading company commenced on 1 May 2005, making up accounts to 31 December 2005 and annually thereafter. It made an election to pay tax at 10% for the accounting period ended 31 December 2007.

It has reserves as follows:

Tax Year		05/06	06/07	Accounting Period ended 31/12/2007
Taxable/Distributable Profit		10,400	12,000	15,000
Tax	10%	(1,040)	0	(1,500)
DPC	9.9%		(1,188)	0
Profit after Tax/DPC		9,360	10,812	13,500
Cumulative Reserves		9,360	20,172	33,672

In March 2008 it made a distribution of £33,672 from reserves to its Manx resident shareholder.

The distribution is made up from:

- 2005/2006 CY reserves that were subject to tax at 10%, with a **non-refundable** tax credit.
- 2006/2007 CY reserves that were subject to DPC, with a DPC credit.
- 2007/2008 reserves that were subject to 10%, with a refundable tax credit.

The distribution is made up of the reserves grossed up as follows:

Tax Year	Amount	x	100/100-R	= Gross
05/06	9,360		100-90	10,400
06/07	10,812		100-90.1	12,000
07/08	13,500		100-90	15,000

The tax and DPC credits are calculated as follows:

Tax Year	Gross Distribution	x	R/100	Credit	Type
05/06	10,400		10/100	1,040	Non-Refundable Tax Credit
06/07	12,000		9.9/100	1,188	DPC Credit
07/08	15,000		10/100	1,500	Tax Credit

The company should issue a DPC credit voucher for the £12,000 gross dividend, a tax credit voucher for the £15,000 gross dividend, and written confirmation of the reserves and tax rate paid for the £10,400 distribution from reserves.

Note: If the distribution in this example had been made currently rather than in March 2008, the 2005/06 amount paid of £9,360 would be a capital distribution and the composite company distribution voucher could be used for all three component parts of the distribution.

The shareholder is a Manx resident and receives a salary of £40,000 as well as the dividends in the year to 5 April 2008. The 2007/2008 tax assessment for the shareholder would be as follows:

Salary	40,000		
Dividend with tax credit	15,000		
Dividend with DPC credit	12,000		
Distribution from Reserves	10,400		
Total Income	**77,400**		
Single Allowance	(8850)		
Taxable Income	**68,550**		
Total Liability	10,500	@ 10%	1,050
	58,050	@ 18%	10,449
			11,499
Less: DPC Posting			(1,188)
Company Credit			(1,500)
Company Credit (non-refundable)			(1,040)
Tax Payable			**7,771**

No ITIP is shown in this example, but would be deducted last, i.e. from 7,771 tax payable after the various tax credits. ITIP overpaid would be refunded.

14 Glossary

"Period of Account"

The period between the start and end dates of a set of accounts prepared by a company.

It can be for any length of time, subject to any restrictions in Company law in the jurisdiction where the company is incorporated.

"Accounting Date"

The date on which a company's period of account ends.

"Accounting Period"

The portion of a period of account, not exceeding 12 months, for which a company will be charged to any or all of the following:

- income tax
- distributable profits charge
- loans to participators charge.

An assessment to any of the above will be referred to as being for the accounting period ended dd/mm/yy.

The events triggering the beginning and end of an accounting period are prescribed in the new section 119E Income Tax Act 1970. (ITA 1970)

"Corporate taxpayer"

An association that includes:

- a limited company
- an investment club
- a members' club.

A full definition is given at section 120 ITA 1970. It does <u>not</u> include a Limited Liability Company (LLC), which is treated as a partnership for income tax purposes.

"Association"

"Any company, corporate or unincorporate, fraternity, fellowship, society, or association of persons." [Section 120 ITA 1970]

"Distribution from Reserves"

The term "Distribution from Reserves" refers to distributions of old reserves that are subject to various concessional treatments depending on the date of payment. The various treatments recognise the fact that tax will have been paid by the company in the years when rates were more than 0%.

For the purposes of these concessional treatments, distributions made are matched back to the retained earnings/profit in the accounts forming the basis of the 2005/2006 assessment. If there are retained losses for that year, there are no reserves available for distribution under any of the various concessional practices.

"Due Date"

"The day following the expiry of 12 months from the end of every accounting period." [Section A66 (3) (a)]

"Dormant"

A period during which no significant accounting transaction occurs, as defined by section 12A (3) Companies Act 1982.

"Taxed Reserves"

Taxed profits from periods of account forming the basis of the income tax assessment for 2005/06 or earlier. When claiming non-refundable tax credits, the maximum credit is capped at the lower of the taxed profit or the accounting revenue reserves. (See also "Distribution from Reserves".)

15 How to Make a Payment to Income Tax Division

Income tax payments can be made in the following ways (a receipt will only be issued if requested):

1. **In person at the Income Tax Division**
   The public counter is on the 2nd Floor, Government Office, Buck's Road, Douglas. Please bring the payment counterfoil with you.

2. **By Post**
   Address to Income Tax Division, Government Office, Douglas, Isle of Man, IM1 3TX ensuring that the payment counterfoil is enclosed. Cash sent through the post should be sent by registered post only.

3. **By Debit Card**
   If you have a debit card, you can pay either over the phone or at the counter. Please ring (01624) 686420, ensuring that you have your card details and payment counterfoil with you.

4. **By Bank Giro Credit**
   Present the payment counterfoil with your payment at any bank. A bank account is not required to use this facility.

5. **Cheques and Postal Orders**
   Cheques should be made payable to the Isle of Man Government and crossed. Post-dated cheques are not acceptable.

6. **Online**
   You can pay online with a credit or debit card after registering and enrolling for Online Tax Services at www.gov.im/incometax.

16 Contact Information

Address	The Treasury Income Tax Division Second Floor Government Office Buck's Road Douglas Isle of Man IM1 3TX	
Telephone	(01624) 685400	
Fax	(01624) 685351	
E-mail	incometax@itd.treasury.gov.im	
Website	www.gov.im/incometax	
Opening Hours	Monday to Thursday Friday	9.15 am – 5.00 pm 9.15 am – 4.30 pm

17 Appendix 1 – PN 139/06

PRACTICE NOTE

PN 139/06 **Date: 23 November 2006**

CORPORATE INCOME TAX REGIME
THE NEW BASIS OF ASSESSMENT

Introduction

This Practice Note sets out the transitional arrangements for corporate taxpayers moving onto the new accounting period basis of assessment commencing from 6 April 2007.

The accounting period basis introduces a "pay and file" regime, where the tax return and payment of computed tax liability and/or distributable profits charge ("DPC") are due on the same date.

The majority of corporate taxpayers are companies so the word "companies" is used in this document, but the term "corporate taxpayers" includes more than just companies. A full definition can be found in section 120 (e) Income Tax Act 1970.

There are a number of different tax treatments for companies in operation at present and these will continue until 5 April 2007. The transitional arrangements are slightly different depending on the treatment of the company up to 5 April 2007.

This Practice Note includes detailed guidance on the following topics:

1 Accounting period end dates

1.1 Companies where the accounting period date is already known

1.2 Companies where the accounting period date is not known

1.3 Notification of accounting period end date

TRANSITION

2 Companies on a preceding year basis of assessment for 2006/2007

2.1 Transitional payment arrangements for income tax and DPC

3 Companies on a current year basis of assessment for 2006/2007

4 Companies commencing after 6 April 2006

5 Companies holding special tax status to 5 April 2007

5.1 International Companies assessed on a current year basis for 2006/2007

6 Miscellaneous issues

6.1 Limited Liability Companies

1 Accounting period end dates

The new corporate income tax "pay and file" regime uses the accounting period end date to determine the due date for payment of income tax and distributable profits charge and the due date for filing the income tax return.

The due date for both will be 12 months and one day after the end of each accounting period.

As part of the transition to the new accounting period basis, an accounting period end date will be needed to trigger the issue of the first income tax return form and set the due and payable date.

The paragraphs below explain the treatment that will be applied for the first year.

1.1 Companies where the accounting period date is already known

Where a company has been submitting accounts annually, or has provided an accounting period date in another way, the Assessor will assume that the first set of accounts ending after 6 April 2007 will be prepared to the same annual date.

This date will be used as the end of the first accounting period for the pay and file regime.

1.2 Companies where the accounting period date is not known

If a company has not been required to submit accounts annually, or has not provided an accounting period date in another way, the Assessor will use a default date. This default date will be determined according to the type of company.

Companies that held a special tax status until 5 April 2007 will become resident on 6 April 2007 and, in the absence of an actual accounting period date, a default date of 5 April 2008 will be used. This is 12 months from both the company coming within the mainstream income tax system and the commencement of the pay and file regime.

For companies incorporated after 6 April 2006, a default date of 12 months from the date of incorporation will be used, in the absence of an actual accounting period date.

In any other case where the actual accounting period date is not known, a default date of 5 April 2008 will be used. This is 12 months from the commencement of the pay and file regime and also 12 months from the issue of the last "old style" income tax return to 5 April 2007.

1.3 Notification of accounting period end date

If you have not already notified the Division of your company's annual accounting date, or if your company is preparing accounts to a different date than usual, it is important that you notify the Assessor of the actual date, in writing, as soon as possible.

Late notification of an accounting period end date may result in late return form penalties being charged and, if there is a tax liability or DPC charge to pay for the accounting period, the charging of interest from the due and payable date.

TRANSITION

2 Companies on a preceding year basis of assessment for 2006/2007

These companies will receive an income tax return for the year to 5 April 2007, which should be completed in respect of the accounting period ending in the year to 5 April 2007.

This return will be the basis of a preceding year ("PY") income tax assessment and, if applicable, a DPC for the 2007/2008 year of assessment.

The filing date for that return will be 6 October 2007, and the date for payment of any tax and/or DPC will be 1 January 2008, or 30 days after the issue of the assessment notice if later.

The accounting period ending after 6 April 2007 will be the first that will be assessed on the new basis.

The first "pay and file" basis return will cover the 12 month accounting period ending after 6 April 2007, and the due date for filing will be 12 months and one day after that.

Example

2007/2008 Year of Assessment

Company A makes up accounts to 30 September 2006, which form the basis of the 2007/2008 PY assessment.

The tax return to 5 April 2007 is filed on 30 September 2007 and the assessment/DPC is issued on 17 October 2007. The date for payment of any tax and/or DPC will be 1 January 2008.

Pay and File Basis

Company A's accounts to 30 September 2007 will be the first pay and file basis accounting period.

The tax return will cover the period 1 October 2006 to 30 September 2007 and will be issued to the company shortly after this date. The due date for filing the return will be 1 October 2008.

2.1 Transitional payment arrangements for income tax and DPC

Transitional payment arrangements have been introduced in recognition of the fact that, depending on the accounting period end date, the first payment date for income tax and DPC under "pay and file" may be less than 12 months after the payment date related to the preceding basis period.

The transitional payment arrangements will allow a company to pay a proportion of both tax and DPC due on the new due and payable date and an extension until 1 January 2009 for the balance to be paid.

These transitional arrangements apply to the first accounting period ending after 6 April 2007 only and the affected accounting period end dates are those between 6 April 2007 and 30 November 2007. (Appendix 1 is a table showing the transitional payment proportions for the affected accounting period end dates.)

Example

Company B has an annual accounting date of 31 May.

Accounts to	Old Due and Payable Date	New Due and Payable Date	Transitional Payment (due 1 June 2008)	Balance (due 1 Jan 2009)
31 May 2006	1 January 2008	N/A	N/A	N/A
31 May 2007	N/A	1 June 2008	5/12	7/12

Companies that are entitled to transitional payment arrangements will not have to make a claim; the Division will automatically postpone collection of the relevant proportion of tax and/or DPC until 1 January 2009.

However, if the balance of tax and/or DPC is not paid in full by 1 January 2009, the late payment will be subject to interest charges that will be calculated from the new statutory due and payable date, not 1 January 2009.

The Assessor reserves the right to withdraw these transitional payment arrangements in cases where it is believed that the accounting period date has been changed to take advantage of the extended payment time.

3 Companies on a current year basis of assessment for 2006/2007

These companies will receive an income tax return for the year to 5 April 2007, which should be completed in respect of the accounts ending in the year to 5 April 2007.

This return will be the basis of a current year (“CY”) income tax assessment and, if applicable, a DPC for the 2006/2007 year of assessment.

The filing date for that return will be 6 October 2007 and the date for payment of any tax and/or DPC will be 30 days after the issue of the assessment notice.

The accounting period ending after 6 April 2007 will be the first that will be assessed on the new basis.

The first “pay and file” basis return will cover the accounting period ending after 6 April 2007, and the due date for filing will be 12 months and one day after that.

Example

2006/2007 Year of Assessment

Company C makes up accounts to 30 June 2006, which form the basis of the 2006/2007 CY assessment.

The tax return to 5 April 2007 is filed on 30 September 2007, and the assessment/DPC is issued on 17 October 2007. The date for payment of any tax and/or DPC will be 17 November 2007.

Pay and File Basis

Company C’s accounts to 30 June 2007 will be the first pay and file basis accounting period.

The tax return will cover the period 1 July 2006 to 30 June 2007 and will be issued to the company shortly after this date. The due date for filing the return will be 1 July 2008.

Transitional payment arrangements are not available to companies that are on a CY basis of assessment immediately preceding the introduction of the “pay and file” regime.

The reasoning behind this is that these companies are in their opening years and, to assist in smooth transition, have been assessed on a concessional CY accounts basis, so have not been subject to the income tax commencement provisions and the associated overlap of profits charged in the first years of assessment on a statutory basis.

4 Companies commencing after 6 April 2006

For the majority of companies commencing after 6 April 2006, the first tax return due will be for the 12 month accounting period ending after 6 April 2007.

An accounting period cannot exceed 12 months so, if the first accounts are made up for a period of longer than 12 months, they will be divided into two separate accounting periods; one for the first 12 months, and one for the remainder. A tax return will be required for each period.

Example

Company D commences trading on 1 June 2006 and makes up a 16 month set of accounts to 30 September 2007.

The first accounting period will be 12 months, from 1 June 2006 and 31 May 2007. The due date for filing the return and the payment of any tax and/or DPC will be 1 June 2008.

The second accounting period will be 4 months, from 1 June 2007 to 30 September 2007. The due date for filing the return and the payment of any tax and/or DPC will be 1 October 2008.

If the final figures have not been determined by the due date for filing the return for the first 12 month period, the return can be completed and submitted using provisional figures. There is a 12 month period during which the return can be amended to show the final figures which, in practice, will most likely be at the time the return for the remaining short period is submitted.

If a company commencing after 6 April 2006 makes up a short set of accounts to a date before 6 April 2007 these accounts will form the basis of a CY basis assessment for 2006/2007, and the company’s subsequent set of accounts will be the first on the pay and file basis.

5 Companies holding special tax status to 5 April 2007

All special company tax regimes cease on 5 April 2007 and the specific legislation is repealed with effect from 6 April 2007.

Practice Note PN 135/06 set out the details of how these companies will move from the special tax status into the pay and file regime from 6 April 2007.

5.1 International Companies assessed on a current year basis for 2006/2007

International Companies that have applied to be assessed on a CY basis for 2006/2007 will be required to provide an actual taxable profit figure to replace the provisional figure stated on the application form submitted.

The actual figure can be provided in a letter rather than on an application form. The letter should include all of the following information, and should be signed by a director of the company:

Permitted Manx Source Income	£	**Tax Computation**		
Other Manx Source Income	£	Taxable Income	£	
Other Income	£	Other Deductions	£	
Gross Income	£	Taxable Profit	£	
Less: Expenses	£	Tax Rate Applicable		%
Profit Before Taxation	£	Tax Payable	£	

The figure provided will be used to issue a revised assessment reflecting the actual taxable profit of the company for the 2006/2007 year of assessment.

Failure to provide the actual figure by 30 September 2007 will result in the provisional assessment being revised based on the actual taxable profit for the previous year.

6 Miscellaneous issues

6.1 Limited Liability Companies

The definition of "corporate taxpayers" in section 120 (e) Income Tax Act 1970 includes Limited Liability Companies ("LLCs"), but section 2M of the same Act states:

> (1) Notwithstanding the provisions of the Income Tax Acts relating to the taxation of a body corporate, for the purposes of those Acts-
>
> (a) a limited liability company shall be treated in all respects as if it is a partnership; and
> (b) each member of a limited liability company shall be treated as a partner.

Accordingly, LLCs will not move into the "pay and file" regime for corporate taxpayers.

Their income tax returns will continue to be issued on a tax year basis, and will remain due for submission by 6 October, or six months after the date of issue if later.

The members of Manx LLCs will be subject to income tax on their share of profits in the same way as if they were partners in a Manx partnership.

All Manx registered LLCs holding International Limited Liability Company status up to 5 April 2007 will become resident for tax purposes on 6 April 2007.

M Couch

Assessor of Income Tax

This Practice Note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.

Appendix 1 of PN 139/06

Transitional provisions for Corporate Clients on PY Basis of Assessment for 12 month Accounts ending between 1 April 2006 and 31 March 2007

Accounts ending after 31 March 2007 will fall into the corporate tax regime and will be assessed on an accounting period basis.

Blue shaded column represents the due and payable date for the final periods of account assessed on PY basis

Lilac shaded dates represent end of transition and commencement of strict 12 month due and payable date.

Dates in bold represent transitional "apportioned" payment dates, and the relevant fractions payable on that date are shown in italics below.

Company	Accounting period end	2006	2007		2008
K Ltd	31 January	1.1.07	1.1.08		1.02.09
L Ltd	28 or 29 February	1.1.07	1.1.08		1.03.09
A Ltd	31 March	1.1.07	1.1.08		1.4.09
B Ltd	30 April	1.1.08	**1.5.08**	**1.1.09**	1.5.09
			4/12	*8/12*	
C Ltd	31 May	1.1.08	**1.6.08**	**1.1.09**	1.6.09
			5/12	*7/12*	
D Ltd	30 June	1.1.08	**1.7.08**	**1.1.09**	1.7.09
			6/12	*6/12*	
E Ltd	31 July	1.1.08	**1.8.08**	**1.1.09**	1.8.09
			7/12	*5/12*	
F Ltd	31 August	1.1.08	**1.9.08**	**1.1.09**	1.9.09
			8/12	*4/12*	
G Ltd	30 September	1.1.08	**1.10.08**	**1.1.09**	1.10.09
			9/12	*3/12*	
H Ltd	31 October	1.1.08	**1.11.08**	**1.1.09**	1.11.09
			10/12	*2/12*	
I Ltd	30 November	1.1.08	**1.12.08**	**1.1.09**	1.12.09
			11/12	*1/12*	
J Ltd	31 December	1.1.08	1.1.09		1.1.10

18 Appendix 2 – Tax Credit Voucher

ISLE OF MAN CORPORATE TAXPAYERS TAX CREDIT VOUCHER

Voucher Number: **Copy for Shareholder / Income Tax Division / Company** (delete as appropriate)

Company Name		Tax reference number			
Registered Office					
Date Distribution Paid		Accounting period from which distribution paid		Tax Year the Accounting Period was Assessed	/
Shareholder's Full Name	Surname Forenames			Manx Tax Reference Number (if known)	
Shareholder's Address					
Gross Amount of Distribution (G)		Rate of Tax Charged on Profits (R)		Amount of Tax Credit (G x R)	
Signature of Company Representative		Representative's Full Name (Block Capitals)			
Office Held		Date			

PLEASE COMPLETE 3 COPIES OF THIS VOUCHER - SEND ONE COPY TO THE RECIPIENT, ONE COPY TO THE INCOME TAX DIVISION, AND RETAIN A COPY FOR COMPANY RECORDS.

19 Appendix 3 – Text of PN 156/09

REVISION TO THE ASSESSOR'S PRACTICE IN RESPECT OF DISTRIBUTIONS FROM COMPANY RESERVES

This Practice Note is relevant to all Manx resident companies, their shareholders and agents. It explains a significant revision to the Assessor's practice in respect of the tax treatment of company distributions; which will come into effect today (6 April 2009).

Introduction

In law, distributions made by a company to its shareholders from its profits constitute income in the hands of those shareholders. The Assessor has for a number of years, however, been prepared to relax the strict application of the law in certain circumstances and treat distributions as if they were capital in the hands of the company's shareholders. This practice was generous, but took account of issues which arose during the period when individual and, in particular, corporate income tax rates were reduced rapidly; and so it was also pragmatic.

The Assessor has reviewed this practice and considers that it is giving rise to an unintended level of deferral or loss of revenue. The revisions to the Assessor's approach described in this Practice Note will introduce a system which is more appropriate to current circumstances.

Background

It was announced in Guidance Note 41 'Attribution Regime for Individuals' (ARI) that, from 6 April 2008, a distribution of trading profits in respect of a company's accounting period which formed the basis of its income tax assessment for 2005/06 or earlier would be treated as if it were a distribution of capital. This extended significantly the Assessor's existing practice, which was to treat a distribution from trading profits assessed for 2000/01 or earlier as if it were a distribution of capital. Such distributions became commonly known as "distributions from reserves". Non-refundable tax credits of 12% and 10% became obsolete with this more beneficial treatment for shareholders.

The earlier Guidance Note 36 'Distributable Profits Charge' (DPC) stated that where a distribution exceeded 55% of a company's trading distributable profit, the excess could be treated as if it were a distribution of capital. This was an alternative to that excess distribution increasing the company's averaged profits.

Change in treatment

For the purposes of this Practice Note:

- "distributable profit" means that profit defined in Section 13 (A) (8) Income Tax Act 1970 and in paragraph 4 (3) of Statutory Document 928/07;
- "trading distributable profit" means distributable profit derived from a trade or trades; and
- "distribution from reserves" means distribution of taxed profits from periods of account forming the basis of the income tax assessment for 2005/06 or earlier, which is treated as a distribution of capital in the hands of shareholders as described earlier.

In all cases, tax returns must clearly state the actual payment dates of all distributions made and the names and addresses of the recipients.

Accounting periods ending after 5 April 2009

For accounting periods ending after 5 April 2009, the option to treat the whole of a distribution as a distribution from reserves, with no part of it meeting the ARI/DPC distribution requirement, will no longer be available for any company.

The option to treat the part of a distribution exceeding 55% of trading distributable profit as a distribution from reserves will also no longer be available; and the whole of a distribution of up to 100% of the trading distributable profit of an accounting period will be included for averaging purposes.

Only that part of a distribution which exceeds 100% of the distributable profit of an accounting period will be treated as a distribution from reserves.

This revised practice will also apply to corporate income taxable at 10% (including cases where an election to be taxed at 10% has been made). In this case, the whole of the taxable profit must be distributed with tax credit vouchers before any distribution from reserves can be claimed.

The ARI will apply to all accounting periods ending after 5 April 2009. Please see Guidance Note 41 for details of how the ARI operates.

Accounting periods ending between 5 April 2008 and 5 April 2009

A distribution which is paid within 12 months of the end of an accounting period can be 'referred back' to that accounting period to meet the ARI/DPC distribution requirement.

For these accounting periods, the date on which a distribution is made will determine whether it can be claimed as a distribution from reserves.

In respect of accounting periods ending between 6 April 2008 and 5 April 2009 only, where a company can demonstrate that it has declared and paid more than 55% of its trading distributable profit before 6 April 2009, the amount exceeding 55% can be claimed as a distribution from reserves under the previous practice.

Example A

Accounting period ended 30 September 2008 - Distributable Profit £100,000
Dividend paid 31 December 2008 - £45,000
Dividend paid 31 March 2009 - £30,000
£10,000 of the £30,000 paid on 31 March completes the 55% distribution requirement, and the balance can be claimed as a distribution from reserves under the previous practice.

Distributions paid on or after 6 April 2009 but within the 12 months of the end of an accounting period can still be referred back to that accounting period to meet the ARI/DPC distribution requirement of 55%, but the new practice will apply and only the amount exceeding 100% of the distributable profit can be claimed as a distribution from reserves.

Example B

Accounting period ended 30 September 2008 - Distributable Profit £100,000
Dividend paid 31 March 2009 - £45,000
Dividend paid 30 April 2009 - £30,000
The dividend of £30,000 can be related back to meet the 55% distribution requirement, resulting in a total distribution of 75%, but the excess over 55% cannot be claimed as a distribution from reserves.

If the whole of a company's profits are subject to tax at 10%, a distribution which was paid before 6 April 2009 can be claimed as a distribution from reserves. For distributions paid on or after 6 April 2009, only the amount exceeding 100% of taxable profit can be claimed as a distribution from reserves.

Where a company has profits subject to tax at both 10% and 0%, the relevant parts of this practice will apply individually to each portion of profits.

Updating of published guidance

Published Guidance Notes relating to DPC, the Pay and File Regime for Companies and ARI (numbers 36, 38 and 41, respectively) will be updated shortly to take account of the changes outlined in this Practice Note.

M Couch

Assessor of Income Tax

This is a general guide only and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

20 Appendix 4 – Composite Voucher

COMPOSITE COMPANY DISTRIBUTION VOUCHER AND/OR CERTIFICATE OF ATTRIBUTED PROFIT

Company Name		Tax reference number	
Registered Office			
Shareholder's Full Name		Manx Tax Reference Number (if known)	
Shareholder's Address			
Accounting period			

Type of Payment	Amount	Credit Value	Rate	Date of Payment	Accounting Period paid from (if different to above)
	Amount	**Date of Attribution**	**Tax Year Attributed Income to be Assessed**		
Attributed Income					

Signature of Company Representative		Date	
Full Name and Office Held			

PLEASE COMPLETE 3 COPIES OF THIS VOUCHER - SEND ONE COPY TO THE RECIPIENT, ONE COPY TO THE INCOME TAX DIVISION, AND RETAIN A COPY FOR COMPANY RECORDS.

The Information to be recorded on this composite voucher and certificate depends on the nature of the payments being made:

1. **Dividend with DPC credit**

   Include the gross amount of the distribution, the amount of DPC credit and the rate used in the DPC calculation (P x R x A), the date paid and the accounting period the distribution is from. (P = The portion of profits that are subject to the DPC, R = The rate of the DPC to be charged, the rate has been set at 18% in all cases and A = The gross amount of the distribution.)

   This information is required by tax statute in order for the credit to be claimed.

2. **Dividend with Tax Credit**

   Include the gross amount of the distribution, the rate of tax charged on the profits, the amount of tax credit (G x R), the date paid and the accounting period the distribution is from. (G = Gross amount of distribution, R = Rate of Tax charged on the profit)

   This information is required by tax statute in order for the credit to be claimed.

3. **Gross Dividend**

   Include the gross amount of the distribution, the date paid and the accounting period the distribution is from. Each dividend payment should be recorded separately. Any distributions from reserves taxed at 0% (i.e. the company was not subject to DPC or ARI) should be included under this heading.

4. **Distributions from Reserves**

   Include any distributions from profits assessed prior to 2006/2007 (See GN38 Glossary for definition) and any distribution from previously attributed profits. Include the gross amount of the distribution, the date of payment and the accounting period the distribution is from.

5. **Attributed Income**

   The amount of attribution, the date of attribution and the tax year that the attributed income will be assessed (e.g. Date of attribution of 30/06/2009 will be assessed in 2009/2010). Attributed Income calculation A/B = F and then C/D x E x F (A = Distributable profit for the period, B = Number of shares comprising the share capital, F = Amount of Distributable profit per share, C = Number of days the shareholder held the shares in the accounting period, D = Number of days in the accounting period, E = Number of shares held by the share holder)

   This information is required by tax statute and the company may be prosecuted if it is not provided.

For further information and examples on the calculations for any of the above please see the following guidance notes:-

GN 36	Distributable Profits Charge	-	For DPC credit examples
GN 38	The Pay & File Income Tax System for Companies	-	For tax credit examples
GN 41	Attribution Regime for Individuals	-	For attributed income examples

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