Isle of Man Government

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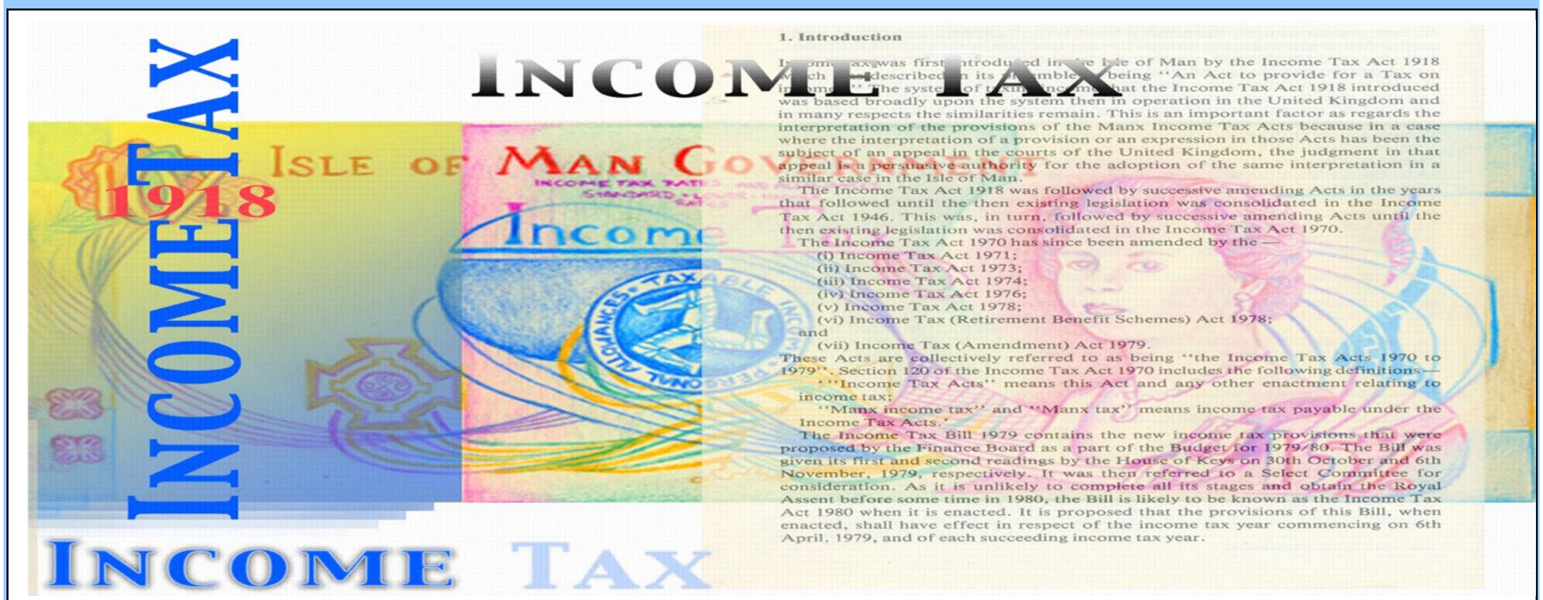

Overview of the Attribution Regime For Individuals

Guidance Note GN 42

The Treasury - Yn Tashtey

ITD Income Tax Division

Issued by the Income Tax Division
November 2009

This Guidance 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.

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1. Introduction

This booklet explains the operation of the Attribution Regime for Individuals (ARI) for people living in the Isle of Man who are shareholders (members) of Isle of Man companies.

The ARI works by attributing the profits of certain companies to their members to be included in their income tax assessment. This guide explains which type of company is covered by the ARI and how its members will be taxed. The guide also explains how members of a company not covered by the ARI will be taxed on dividends or other distributions that they receive.

It is important to note that the ARI only affects resident members of certain Isle of Man companies (these companies are called "relevant companies") and only applies to the profits of company accounting periods commencing on or after 6 April 2008.

The examples in this guide refer to companies with one class of issued share; i.e. all shares have equal distribution and/or voting rights. Members of companies with more than one class of share should refer to GN 41 for further guidance.

2. Relevant and non-relevant companies

Under the ARI, 100% of the distributable profit of a relevant company will be attributed to its members.

Not all Isle of Man companies will be relevant for the purposes of the ARI and, therefore, not all members will be taxed on attributed profits. Non-relevant companies are: trading companies which distribute 55% of their profit to members within a set timescale; companies electing to pay tax at 10%; companies listed on a recognised stock exchange; and companies limited by guarantee. This list is not exhaustive and further details can be obtained from the Income Tax Division.

All non-trading companies (e.g. investment holding companies) and trading companies which do not distribute 55% of their profits are relevant companies for the purposes of the ARI.

3. How does attribution work?

All relevant companies are required to issue a 'certificate of attributed profits' to their members detailing how much of the distributable profits of the company have been attributed to them. This information must be provided to the members and to the Income Tax Division within one year of the end of the accounting period of the company.

The amount that will be attributed to the resident member is the amount of the distributable profit they would have been entitled to receive if the company had distributed all of its profits. The date of attribution will normally be one year from the end of the accounting period. The examples below explain how this works in practice.

Different rules apply when a member dies or ceases to be resident in the Island and these are explained in section 8.

Example 1

- ABC Ltd is an Isle of Man incorporated investment holding company – and is therefore relevant for ARI purposes.
- It has £100,000 of distributable profit for the accounting period 6 April 2008 – 5 April 2009 and has issued 100 ordinary shares. The distributable profit per share is £1,000.
- It has two Manx resident members; Ms A and Mr B who each own 50 shares.

ABC Ltd issues certificates of attributed profit to Ms A and Mr B on or before 5 April 2010.

- The amount attributed in both cases is **£50,000.**
- The date of attribution is **5 April 2010.**

Both Ms A and Mr B must declare their £50,000 attribution from ABC on their 2009/10 tax returns (i.e. for the year to 5 April 2010).

Any dividends or other distributions of profit subsequently received by Ms A or Mr B from ABC from that accounting period will not be taxable.

Example 2

- 123 Ltd is an Isle of Man incorporated trading company.
- It has £100,000 of distributable profit for the accounting period 6 April 2008 – 5 April 2009 and has issued 100 ordinary shares. The distributable profit per share is £1,000.
- It has two Manx resident members; Ms C and Mr D who each own 50 shares.

123 Ltd distributes £30,000 to each shareholder on 30 June 2009.

- The company has distributed more than 55% of its distributable profit and is therefore a non-relevant company.
- The dividends received must be declared in the members' tax returns for the 2009/10 tax year.

4. Declaring attributed income

When profits are attributed from a relevant company, its members should receive a certificate of attributed profit. The certificate will detail the amount and the date of attribution. This is the date that will determine which tax return the attribution should be declared on.

Example 3

- MNO Ltd is an Isle of Man incorporated trading company.
- It has £100,000 of distributable profit for the accounting period 6 April 2008 - 5 April 2009.
- Mrs H owns 50% of the shares and received an interim dividend of £20,000 from that accounting period on 30 December 2008.
- The company is a relevant company as it does not distribute 55% of its distributable profits within one year of the end of the accounting period.
- Mrs H is issued with a certificate of attributed profit declaring attributed income of £50,000 with a deemed attribution date of 5 April 2010.

How should the interim distribution of £20,000 be declared on Mrs H's tax return?

- Mrs H should declare the £20,000 distribution on her 2008/09 return as income.
- Mrs H will then receive an assessment for 2008/09 including the £20,000 distribution. Any resulting tax liability will be due on 6 January 2010. Depending on her circumstances, Mrs H may also receive a 2009/10 'payment on account' (POA) notice based on the previous year's liability, which will be due and payable on 6 January 2010.
- Mrs H should declare the £50,000 of attributed income on her 2009/10 tax return (the year to 5 April 2010) and send in the certificate of attributed profit.
- Mrs H's 2008/09 assessment will be revised to remove the £20,000 distribution that she received. Any tax paid on this will be refunded to her if there are no other outstanding liabilities (e.g. Payment on Account for the 2009/10 year).
- Mrs H will be assessed on £50,000 attributed income in 2009/10.
- A Payment on Account for 2010/11 will be raised based on her 2009/10 liability.

If Mrs H receives any further distributions from MNO Ltd out of the attributed profits of the accounting period, they will not be subject to tax.

5. Declaring distributions

If a resident member receives dividends from a trading company and it is not known whether that company will be relevant or not, these dividends should be declared on the individual's tax return. Once it has been confirmed that the company is relevant, the assessment will be revised to remove the dividends and the attributed profits will be included in the appropriate assessment. (Example 3 shows how this will work in practice.)

If the resident member receives dividends from a non-trading company (i.e. an investment holding company) and is advised that these profits will be attributed in the following tax year, they should clearly indicate on their tax return that the income will be attributed in the following tax year. Subject to various checks to confirm that the company will be relevant, the Division will not tax the income in the tax year in which it was received.

See example 5 for further details on declaring distributions.

When a resident member receives a distribution from an accounting period which has already been attributed, it should still be included on their tax return and the distribution voucher provided by the company should be submitted with the return, even though the distribution is not subject to further tax.

The voucher provided by the company will identify that the distribution is from reserves of previously attributed profits and therefore not subject to tax. (See Appendix 1 for a copy of the distribution voucher.)

Example 4

Following on from the circumstances in example 3

- Mrs H receives a distribution of £30,000 on 30 April 2010 from MNO Ltd from the accounting period 6 April 2008 - 5 April 2009.
- This distribution is from the accounting period that has previously been attributed and Mrs H has paid tax on that attributed income in 2009/10.
- Mrs H should declare the distribution of £30,000 on her return form for 2010/2011, even though she will not be subject to tax on that amount, and submit a copy of the distribution voucher with her return.

6. Payment on Account

A Payment on Account (POA) notice may be issued in order to collect the income tax due in the year in which the date of attribution falls.

POA notices are generally calculated based on the previous year's tax liability. However, the Assessor has the power to adjust the POA amount to also take into account the attributed income which will be subject to tax in that year.

Whilst the statute permits the Assessor to adjust any POA to include income that will be attributed, this will not be done in cases where the attributed income level is not significant and so not everyone who may have profits attributed will receive a POA notice including those profits.

Before issuing a POA notice including income to be attributed, the officer managing the member's file will write to inform them.

If a resident member does not receive a POA notice including tax expected on attributed income, they should still make provision for settling the resulting liability when the assessment including the attributed income and the POA notice for the following year are issued.

The Assessor will also accept a voluntary request to issue a POA notice including an estimate of attributed income. This will accelerate the payment date of the first part of the payment and so you will need to be aware of the risk of late payment interest, but it will spread the payments over a longer period that may be easier to manage.

If you wish to do this, please contact the Division using the number in the Contacts section of this guide and ask to speak to the officer managing your file.

Once attributed income has been included in an assessment, it may trigger the issue of a POA for the following year. The amount shown on a POA notice is due and payable on 6 January of the relevant tax year (e.g. a POA for 2009/2010 will be due and payable on 6 January 2010) or 30 days from the issue of the notice if later.

It is important to note that, in the first year that you receive a POA, it may be due and payable on the same date as the income tax assessment for the previous year. This means that two balances will be due and payable at the same time.

If you have never received a POA before or are not familiar with the POA system, please see Guidance Note GN3 for more details.

Example 5

- Moneybox Ltd is an Isle of Man incorporated non-trading company (Investment Holding Company).
- It has £100,000 of distributable profit for the accounting period 6 April 2008 - 5 April 2009.
- Mrs H owns 100% of the shares and received an interim dividend of £100,000 from that accounting period on 30 December 2008.
- The company is relevant as it is non-trading.
- Mrs H is issued with a certificate of attributed profit on 30 April 2009 declaring attributed income of £100,000 with a deemed attribution date of 5 April 2010.

How should the interim distribution of £100,000 be declared on Mrs H's tax return for 2008/09?

- Mrs H should declare the £100,000 distribution on her 2008/09 return as income, and clearly indicate that it is from profits that will be attributed on 5 April 2010.
- Mrs H will receive an assessment for 2008/09 which will not include any distribution from Moneybox Ltd.
- Mrs H will receive a POA notice including £100,000 estimated attributed income (plus any additional income subject to normal POA collection) for 2009/10 which will be due and payable on 6 January 2010.
- Mrs H's 2009/10 assessment will include £100,000 attributed income and her POA for 2010/11 will be based on the 2009/10 liability.

7. Interaction with Personal Allowance Credits

Attributed income is income for Personal Allowance Credit purposes in the tax year in which attribution takes place. It is recognised that a resident member may not be entitled to a personal allowance credit in a year where the majority of their taxable income is attributed income. This is balanced by the fact that when a dividend is paid from attributed profits, it will not be charged to income tax and will not be included as income in the personal allowance credit calculation for that year.

8. Attribution when a member dies

If a member of a relevant company dies, then the date of attribution is brought forward to the date of death instead of one year from the end of the company's accounting period. The amount of the attribution will be apportioned based on the company profit up to the member's date of death.

In most cases, the distributable profit for the whole accounting period will not be known at the date of death. Therefore, the attribution should be estimated and included on the part-year return normally completed by the executor or administrator of the estate of the deceased person.

The estimate should be based on the previous year's distributable profit of the company, or the previous year's attributed income and apportioned appropriately.

Example 5

- DEF Ltd is an Isle of Man incorporated investment holding company – and is therefore relevant for ARI purposes.
- It had £100,000 of distributable profit for the accounting period 1 July 2007 – 30 June 2008 and has issued 100 ordinary shares. The distributable profit per share is £1,000.
- Mr E owns 50 shares but dies on 30 September 2008.
- Mr E's executor is issued with a part-year tax return for the period 6 April 2008 – 30 September 2008.

The estimate that should be included on the part-year return is calculated as

- 92/365 (no. of days as member/no. of days in accounting period) x 50 x £1,000

  = **£12,603**

It may be necessary to include more than one estimated amount of attribution income on the part-year return. This situation will occur if the resident member dies before the date of attribution relating to the previous accounting period.

Example 6

- GHI Ltd is an Isle of Man incorporated investment holding company – and is therefore relevant for ARI purposes.
- It had £100,000 distributable profit for the accounting period 6 April 2007 – 5 April 2008.
- Ms F owns 50% of the shares but dies on 30 September 2009.
- The company return for 6 April 2008 – 5 April 2009 has not yet been submitted to the Income Tax Division. The normal date of attribution from this period would have been 5 April 2010 but it is also now brought forward to the date of death.
- Ms F's executor is issued with a part-year tax return for the period 6 April 2009 – 30 September 2009, which must include the estimated attributed income for the full accounting period which commenced on 6 April 2008 and the part-year attributed income for the accounting period which commenced on 6 April 2009.
- Ms F's executor should contact GHI Ltd for an estimate of the distributable profit for the accounting period 6 April 2008 – 5 April 2009 and use this estimate to calculate the two attributed income amounts.

The Income Tax Division encourages those settling the affairs of deceased people to include an estimate of attribution on part-year tax return forms. This will form part of the assessment and will, therefore, affect the amount of any tax due. If it is not possible to estimate attribution for a part-year return, please note the reason for this on the return and the Income Tax Division will include an estimate.

The estimate will be replaced in a final assessment issued when the certificate of attributed profit is issued by the company. The certificate will detail the actual amount attributed to the member and should be forwarded to the Income Tax Division when received so that the assessment can be finalised as soon as possible.

If any shares are held by the estate for a significant period prior to the transfer to the beneficiaries, it may be necessary to raise an assessment, including attributed income, on the estate. The Division may adopt a 'look through' policy and assess attributed income arising after the date of death on the beneficiaries. This will only apply where confirmation of the beneficiaries and their share entitlement is received from the executor. The executor should also advise the beneficiaries that they will be assessed on the attributed income.

For further information regarding tax arrangements following a death, please contact the Division or visit the Guidance Notes page of our website at www.gov.im/incometax for a copy of Guidance Note GN 37.

9. Attribution following cessation of residence

The date of attribution is the date of cessation of residence when a member moves away from the Isle of Man. The amount of the attribution should be apportioned to the date of the cessation of residence.

It may be that a relevant company's distributable profit is not known when a member moves away from the Island and so an estimate of the attribution should be included in the part-year tax return that will be issued for the period to date of cessation of residence.

This estimate should be calculated in the same way as when a member dies.

Example 7

- JKL Ltd is an Isle of Man incorporated investment holding company – and is therefore relevant for ARI purposes.
- It has an estimated £100,000 of distributable profit for the accounting period 1 June 2007 – 31 May 2008 and has issued 100 ordinary shares. The distributable profit per share is £1,000.
- Mr G owns 50 of the shares but ceases residence on 30 September 2008.
- Mr G is issued with a part-year tax return for the period 6 April 2008 – 30 September 2008.

If, when Mr G needs to complete this part-year return, JKL's actual profits for the period 1 June 2008 to 30 September 2008 are not known, he needs to estimate the attribution from JKL using the company's profits for its accounting period to 31 May 2008. The estimate that should be included on the part-year return is calculated as

- 122/365 (no. of days as member / days in accounting period) x 50 x £1,000

  = **£16,712**

  (N.B. It is important to note that it is the number of days in the accounting period that are counted – not the number of days during the tax year that he was resident.)

This estimate will be included in the assessment to the date of cessation and will affect, therefore, the amount of any tax due.

As in the case of the death of a member, it may be necessary to include two estimated amounts of attributed income on the part-year return (see example 6 for further details).

The estimate will be replaced in a final assessment issued when the certificate of attributed profit is issued by the company within one year of the end of the accounting period. The certificate will detail the actual amount attributed to the member and should be forwarded to the Income Tax Division when received so that the assessment can be finalised as soon as possible.

10. How to make a payment to the Income Tax Division

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

By Debit/Credit Card – if you have a debit or credit 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. Please note that a 2% administration charge is applied to all credit card transactions.

By Bank Giro Credit – present the payment counterfoil with your remittance at any bank. A bank account is not required to use this facility.

By Post – make sure that the payment counterfoil is enclosed. Cash should only be sent through the post by Special Delivery.

At the Income Tax Division – 2nd Floor, Government Office, Douglas – Monday to Thursday 9.15 am to 5 pm; Friday 9.15 am to 4.30 pm. Please bring the assessment with you.

Cheques and postal orders should be made payable to the "Isle of Man Government" and crossed. Post-dated cheques are not acceptable. A receipt will only be issued if requested.

11. Contact information

If you require any further information about anything contained in these guidance notes please contact:

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	9.15 am – 5.00 pm
Friday	9.15 am – 4.30 pm

11. Appendix 1 - Composite company distribution 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

Please complete three copies of this voucher – send one copy to the recipient, one copy to the Income Tax Division and retain a copy for company records