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PRACTICE NOTE

PN 138/06

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CORPORATE TAXPAYERS

INCOME DERIVED FROM LAND AND PROPERTY IN THE ISLE OF MAN

Introduction

This Practice Note provides further guidance on the taxation of income from Isle of Man land and property received by corporate taxpayers (hereinafter referred to as 'companies'). It was announced in the budget this year that whilst the standard rate of corporate income tax is 0% from 6 April 2006, income from banking business¹ and from land and property in the Isle of Man is to be subject to a 10% rate of tax.

The definition of income derived from land in the Income Tax (Rates of Income Tax) (Resident and Non Resident Corporate Taxpayers) Order 2006 (SD 224/06) (hereinafter referred to as 'the Order') is general in nature. This Practice Note aims to give detailed guidance.

Income sources

The Order directs that income derived from land and property in the Island includes income from:

- 1) rents;
- 2) land development; and
- 3) mineral extraction.

Income received by companies derived from land and property situated outside the Isle of Man is subject to the standard rate of corporate income tax of 0%.

- 1) Rents

Rental income, and income analogous to rent, received by any company and derived from land or property in the Island is taxable at the 10% rate. This rate will apply to income from commercial or residential lettings and from subletting. Lease premiums will, in most cases, be subject to the 10% rate, as will way leaves and similar receipts.

¹ A separate Practice Note, PN124/06, has been issued in relation to banking business.

Where land or property is made available by a company on a short term basis only (e.g. the hiring of sports facilities or the provision of 'pay and display' car parking) the related income is not analogous to rent and will be subject to the standard 0% rate. Deriving income from property on a semi-permanent basis (e.g. the provision of contract parking by a car park operator) will be liable to tax at the 10% rate.

The calculation of rental income chargeable to income tax remains unchanged and further guidance can be found in Practice Note PN 51/94.

Practice Note PN 70/98 provides guidance in relation to the taxation of lease premiums and related matters.

2) Land development

Land development as a business undertaking is not defined in statute. For the purposes of the 10% rate of tax, income derived from the development of land and property in which the company receiving that income has an interest will be taken to mean land development income.

Simply carrying on building, construction, civil engineering and allied trades is not land development, and income derived by a company from those trades will normally be subject to the standard 0% rate of tax. Where a sub-contractor and developer are related parties, the Assessor may enquire into the pricing arrangements between the parties in order to satisfy himself that no tax avoidance motive underlies them.

3) Mineral extraction

Income derived by a company from the process or business of extracting valuable or useful solid materials (for example minerals, metals, stone, sand and aggregates) from land in the Isle of Man is liable to income tax at the 10% rate.

Where the material extracted is not normally sold without being subjected to a further process (for example breaking up, grading and washing), then it is the income derived after that further process that is liable to the 10% rate of tax.

Income derived from the process of disposing of waste into the ground, known as landfill, is also liable to the 10% rate of income tax.

Income that does not fall within the 10% rate

For the avoidance of doubt, income derived by a company from the following trades or activities involving the use of land or property in the Island is subject to the standard 0% rate of tax:

- 1) Farming and market gardening.
- 2) Commercial occupation of woodlands – including land being prepared for woodland.
- 3) Fishing rights.
- 4) General building work including the building of extensions, conservatories etc. and the repairing of properties (although see 'land development' above).
- 5) Fees received by estate agents and legal firms relating to the purchase or sale of a property.

Individuals

Individuals in receipt of income derived from land and property in the Isle of Man or elsewhere will continue to be liable to income tax either at the 10% or 18% rates, or both.

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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.