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## **PRACTICE NOTE**

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**PN 118/05**

**Date: 16 September 2005**

### **EUROPEAN DIRECTIVE ON THE TAXATION OF SAVINGS INCOME**

#### **Reporting Procedures and Update on Related Matters for Paying Agents**

#### **Introduction**

This Practice Note is supplementary to PN109/04 and GN 31 'Notes for Guidance on the Application of the European Savings Directive for Isle of Man Paying Agents' and is being issued following the approval by Tynwald on 20<sup>th</sup> April 2005 of the Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005 (hereinafter referred to as 'the Order') and on 22<sup>nd</sup> June 2005 of the Income Tax (Retention of Tax and Exchange of Information) Regulations 2005 (hereinafter referred to as 'the Regulations'). The purpose of this Practice Note is to provide additional information in relation to the reporting requirements of paying agents and ancillary matters for the purposes of the European Directive on the Taxation of Savings Income ('the Directive').

#### **Reporting Requirements**

The reporting requirements under the Order are in two sections; depending on whether or not the option to elect for automatic exchange of information has been exercised by the beneficial owner. The Income Tax Division ('the Division') has been working closely with the Association of Licensed Banks and also with the relevant Government bodies in Jersey and Guernsey to develop simple reporting templates to reduce the overhead costs for businesses which have a presence in more than one of the Islands.

The Division has taken account of the work burden which the reporting requirements place upon Isle of Man paying agents. It will be noted that whilst GN 31 at Paragraphs 42 and 45 mentions the reporting of interest details for exchange or the payment of retention tax deducted for onward payment to the respective Member States within three months of the end of the tax year, the Order under Article 5(2) extends the reporting period for interest details by a further month to four months. A similar extension to four months in relation to the payment of retention tax deducted is provided by Article 3(a) of the Regulations.

The one month extension has been designed to assist paying agents and does not change the overall 6 month requirement set out in the Directive for the information or retention tax to be reported or paid by the Assessor to the individual Member States. No additional extension of time for paying agents to meet their obligations can therefore be permitted.

## Frequency of Reports of Information or Returns and Payment of Retention Tax

Whilst the Directive provides for reports of information or retention tax to be made more frequently than once per year, the Assessor will normally accept submission on an annual basis. Where a paying agent who has in previous years submitted reports of either information or retention tax to the Division finds that for a year there is no information to report or retention tax to be paid, a letter to confirm this should be submitted to ensure that the Division's records reflect that a report, albeit a 'nil' report, has been made.

## Automatic Exchange of Information

Where a beneficial owner has elected for automatic exchange of information, and therefore under Article 4(1)(a) of the Order has expressly authorised the paying agent to report to the Assessor all interest payments made, the Order also sets out the details to be reported. Failure by a paying agent to report information for automatic exchange as required under the Order to the Assessor within 14 days of the end of the reporting period i.e. 14 days and 4 months after the end of the relevant tax year is an offence under Regulation 7 of the Regulations.

At Appendix 1 the Division has set out a template which should be used to report interest details to the Assessor for exchange of information purposes. The preferred format for the data is Microsoft Excel submitted on 3.5 inch floppy disk or CD ROM. If it is more convenient, submission on proprietary memory cards such as secure digital, flash media, USB pen drive etc can be accepted. In all cases, the storage medium cannot be returned. The return can also be sent to us via e-mail under password protection, either via Excel's native spreadsheet protection or via encryption in WinZip.

In the case of email submission, the e-mail should be accompanied by, or include, a contact telephone number to allow the Division to obtain the password upon receipt. Submissions by e-mail should be sent to [EUSD@itd.treasury.gov.im](mailto:EUSD@itd.treasury.gov.im). While the Division will accept unprotected submissions, we strongly advise against the unencrypted transmission of financial information via e-mail.

## Payment of Retention Tax

The requirements for paying agents in relation to the reporting and payment of retention tax are set out in the Regulations. Regulation 3(b) requires the payment of retention tax to be accompanied by a report in a form agreed by the Assessor detailing the amount of retention tax deducted, allocated by the EU Member State of residence of the beneficial owners. At Appendix 2 is a retention tax report template which should be submitted when the total amount of retention tax is paid to the Division. Failure by a paying agent to comply with the requirements of the Regulations is an offence under Regulation 8(1).

The template at Appendix 2 is currently in a draft format. An electronic version will be issued to paying agents in due course which will enable electronic submission of the information. Further details will also be provided in due course in relation to the paying to the Assessor of retention tax. All normal payment methods will be accepted. We intend that a unique reference number system similar to that currently used for employers and subcontractors will be put in place in order to ensure that payments are correctly linked with returns.

**It is requested that all companies, firms or persons who will be paying agents for the purposes of the Directive should now notify the Division accordingly, confirming their name, address and tax reference number and, if considered appropriate, the contact details of any individual responsible for paying agent functions. All notifications should be marked for the attention of Colin Hardman in the Income Tax Division who can be contacted on 685430 or by e-mail at [EUSD@itd.treasury.gov.im](mailto:EUSD@itd.treasury.gov.im).**

## **Interest Payments Subject to 18% Withholding Tax**

Where a payment of interest to a non-resident individual is not covered by the Extra Statutory Concession GC 326/86, the Income Tax Acts impose non-resident withholding tax at a rate of 18%. If the individual concerned is a resident of an EU Member State and therefore within the scope of the Directive, any interest payment is also subject to retention tax at an initial rate of 15% unless an election for automatic exchange of information has been made.

To avoid the potential for interest paid to a non-resident individual to be taxed at an aggregate rate of 33%, Treasury has agreed that during the period that the rate of retention tax is 15%, that retention tax liability will be deemed to have been met by the 18% withholding tax payable to the Assessor.

Thus, where a non-resident receives interest from a local authority bond, for example, only 18% withholding tax will be deducted from the interest. Of this, 15% will be treated as meeting the retention tax liability and the residual 3% will be non-resident withholding tax.

In 2008 when the rate of retention tax payable under the Directive increases to 20%, payment of the retention tax will be accepted as meeting any liability to tax on the interest payment under the Income Tax Acts.

We should stress that the circumstances outlined in this section will affect only a small number of cases.

## **Interest Paid to Residents of Gibraltar**

Gibraltar is part of the UK for the purposes of the Directive. This ought to mean that Gibraltar will exchange information with EU Member States in respect of interest paid by Gibraltar paying agents to residents of those States. Similarly, Manx paying agents should deduct retention tax or provide information in respect of interest paid to residents of Gibraltar.

At present (September 2005), the arrangements relating to the Directive between Gibraltar and the UK have not been finalised, and the Division will issue specific guidance once those arrangements have been made public. Until then, Manx paying agents should treat customers resident in Gibraltar as if they were resident in the UK.

### **Other matters:**

#### **Annual Return of Interest Paid to Manx Residents by Financial Institutions – Section 78 Income Tax Act 1970.**

The development of reporting systems for the Directive and the associated reporting template also provides an opportunity to standardise and simplify the annual reporting requirements for financial institutions of interest paid to Manx resident account holders under section 78 of the Income Tax Act 1970. This matter has been the subject of consultation with the Association of Licensed Banks.

The Division would welcome the adoption of the reporting template at Appendix 1 and the method of submission for information within the scope of the Directive for section 78 purposes also. In order to provide further simplification and to reduce the costs associated with this change, the Division will no longer apply the monetary and other reporting restrictions currently associated with the section 78 annual reporting process. Reports may therefore be made in the standard format for all interest paid. A *de minimis* limit for interest paid of £100 may be adopted at the discretion of the individual institution.

## **Future Developments**

The Division is considering how standardisation of reporting formats may also provide opportunities in the future to further reduce the costs for both deposit takers and lenders in the Isle of Man by additional simplification of the reporting of interest paid not only to but also by Manx resident account holders.

It is recognised that there is no current requirement for deposit takers and lenders to hold Isle of Man tax reference numbers of Manx resident customers. However, should such data be held then a key future development could be the annual submission direct to the Division of **all** interest paid both to and by Manx resident account holders. This would then remove the requirement for the issuing of certificates of interest paid/received to Manx residents (and the associated difficulties this creates) by deposit takers and lenders and also for residents to report such interest details as part of their annual income tax return. Systems currently under development by the Division for on-line or automatic submission of data will be capable of supporting such an approach. The Division would welcome views on this topic either direct or via any professional Association.

### **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

Field	Field definition	Comment	Field status
<b>Period of return</b>	DDMMYYYY to DDMMYYYY		MUST
<b>Paying agent data</b>			
Business name	alphanumeric	No commas	MUST
Address line 1	alphanumeric	No commas	MUST
Address line 2	alphanumeric	No commas	MUST
Address line 3	alphanumeric	No commas	MUST
Address line 4	alphanumeric	No commas	MUST
Address line 5	alphanumeric	No commas	MUST
Address line 6	alphanumeric	Postcode	MUST
Tax reference number	alphanumeric		MUST
<b>EU member state</b>			
	alpha	ISO 2-code elements	MUST
<b>Client data</b>			
Title	alpha	Title, if any	MUST
Given name/s	alpha		MUST
Family name/s	alpha		MUST
Address line 1	alphanumeric	No commas	MUST
Address line 2	alphanumeric	No commas	MUST
Address line 3	alphanumeric	No commas	MUST
Address line 4	alphanumeric	No commas	MUST
Address line 5	alphanumeric	No commas	MUST
Address line 6	alphanumeric	Postcode	MUST
Account number or other identifier	alphanumeric		MUST
Date of birth	DDMMYYYY	Provide date and	EITHER
Place of birth	alpha	place of birth	EITHER
TIN	alphanumeric	OR TIN	OR
Currency code	alpha	ISO three letter	MUST
Interest amount	numerical	11 pre-decimal point and 2 post-decimal point digits; no currency symbols	MUST
Miscellaneous notes	alpha	Optional text field to capture explanatory information	

### Notes

- Period of return format to be 06042005 to 05042006 *et seq.*
- Address line 6 in both data blocks is dedicated postcode, zip code, PLZ etc. field.
- Standardise EU Member State using ISO 3166-1-alpha-2 code elements:
 

Austria <b>AT</b>	Belgium <b>BE</b>	Cyprus <b>CY</b>
Czech Republic <b>CZ</b>	Denmark <b>DK</b>	Estonia <b>EE</b>
Finland <b>FI</b>	France <b>FR</b>	Germany <b>DE</b>
Greece <b>GR</b>	Hungary <b>HU</b>	Ireland <b>IE</b>
Italy <b>IT</b>	Latvia <b>LV</b>	Lithuania <b>LT</b>
Luxembourg <b>LU</b>	Malta <b>MT</b>	Netherlands <b>NL</b>
Poland <b>PL</b>	Portugal <b>PT</b>	Slovak Republic <b>SK</b>
Slovenia <b>SI</b>	Spain <b>ES</b>	Sweden <b>SE</b>
United Kingdom <b>GB</b>		
- Client title to be English abbreviation only without full stop; e.g. Mr, Mrs, Ms, Dr Etc.
- Currency codes can be found at <http://www.xe.com/iso4217.htm>.
- In interest amount field, use full stop as separator.
- Fixed-width files are not necessary.

**The Treasury**  
*Yn Tashtey*

Assessor  
M. Couch

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**PAYING AGENT REPORT OF RETENTION TAX DEDUCTED  
YEAR ENDED 5<sup>th</sup> APRIL 20...**

The following amounts of retention tax have been deducted as required by the Income Tax (Retention of Tax and Exchange of Information) (Temporary Taxation) Order 2005

Country	GBP
Austria	
Belgium	
Cyprus	
Czech Republic	
Denmark	
Estonia	
Finland	
France	
Germany	
Greece	
Hungary	
Ireland	
Italy	

Country	GBP
Latvia	
Lithuania	
Luxembourg	
Malta	
Netherlands	
Poland	
Portugal	
Slovak Republic	
Slovenia	
Spain	
Sweden	
United Kingdom	

**Total Remittance: £**

I attach remittances in respect of the above tax retained.

I hereby certify to the best of my knowledge and belief that the particulars in this form are true and correct.

No relevant interest payments have been made in the calendar year above.

Paying Agent Name .....

Paying Agent Reference .....

Signature ..... Date ..... Official Designation .....

Address .....