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PRACTICE NOTE

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PROTECTED CELL COMPANIES - TREATMENT FOR MANX TAXATION PURPOSES

Introduction

With effect from 31st March 2004 the Protected Cell Companies Act 2004 enables, a company to be either incorporated as, or converted into a Protected Cell Company (hereafter referred to as "PCC"), but only where it;

- carries on, or will when incorporated carry on, insurance business within the meaning of the Insurance Act 1986, or
- is (or will be) of such class or description, or carries on (or will carry on) such business or class of business as is prescribed.

Subsequently, the Protected Cell Companies (Prescribed Class of Business) (Collective Investment Schemes) Regulations 2004, prescribed, with effect from 1st August 2004, "a company that constitutes an international scheme" as carrying on such a class of business for the purposes of the Protected Cell Companies Act 2004.

While a "PCC" can contain an unlimited number of cells within the company, it is clear that the "PCC" is a single legal entity, and that the creation by a "PCC" of a cell does not create, in respect of that cell, a legal person separate from the company.

Taxation

For Manx taxation purposes there is one legal entity, that being the company. The cells within the "PCC" are not a separate legal person and therefore cannot be assessed separately for taxation purposes.

Investors in and creditors of a "PCC" will be entering into transactions with the company on the understanding that it is regarded as a single entity and the tax treatment applied in the Isle of Man reflects this status, while at the same time protecting the investors in and creditors of one particular cell from the tax liability attributable to the profits of another cell.

Computation of taxable income

The taxable profits of each cell should be computed separately, as though each cell carries on a separate business with for example separate capital allowance claims. Losses will not be relievable between cells.

Assessment and Collection

A single assessment will be raised on the “PCC”, being the legal entity. This assessment will have one liability which will not be apportioned between the different cells and the core cell within the assessment notice.

Ultimately, the liability must be apportioned between the different cells within the company and this apportionment of the liability can be made by the “PCC” itself. Alternatively, the Division will, upon request, issue a separate statement detailing the liability of each cell.

Tax Status

An election by a “PCC” for a particular status, for example Tax Exempt Company status or International Company status will apply for the company as a whole and will not apply for any particular cell within the company. The activities of each cell must therefore meet the criteria for the relevant status.

Where a fee is payable upon application for the status, then the fee charged will be one fee for the company and not be dependant on the number of cells within the company. Likewise, in the case of International Company status, the rate of tax charged will apply to the whole of the company’s taxable profits and not as different rates to individual cells.

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Assessor of Income Tax

Important Notice

This Practice Note is intended only as a general guide and must be read in conjunction with the appropriate legislation, some of which has still to be formally approved. 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.