



**Isle of Man  
Government**

*Reillys Ellan Vannin*

# The Treasury *Yn Tashtey*

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**INCOME TAX DIVISION**

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## PRACTICE NOTE

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**PN 23/89**

**Date: 31<sup>st</sup> July 1989**

### **Income Tax (Exempt Companies) Act 1984**

The Income Tax (Exempt Companies) Act 1984 (the Act) introduced exemption from income tax for a company which is owned by non-residents, is engaged in certain specified activities and has no receipts or income arising in the Isle of Man apart from money invested with the Isle of Man Government and licensed banks. At least one of the directors of the company must be resident in the Island. In addition, the secretary must be resident and hold one of the qualifications set out in the Act.

### **Income Tax Act 1989 - Amendments**

Although nearly all the sections within the Act have remained unchanged the Income Tax Act, 1989 has introduced a new approach to the range of activities which a company may now undertake. The whole of Section 1(1) has been revised and Section 1(2) has been repealed. There is also a new definition in Section 9(1). Appendix 1 sets out the revised wording.

### **Permitted Activities**

Previously an exempt company was only permitted to undertake certain specified activities such as investment holding and shipping business. The amended Act now permits any activity other than one which is prescribed. A list of the prescribed exclusions is set out at Appendix 2 and prevents an exempt company from carrying on any of the following -

- a. any manufacturing operation including food processing and packaging from bulk;
- b. any retail, wholesale, distribution or transport business;
- c. any fishing operation (including fish farming), livestock breeding, agricultural or horticultural operation;
- d. any building, land development or land speculation;
- e. any exploration or extraction of minerals or petroleum.

It is important to note that the above exclusions only apply where the specific activity is carried on, at or from any premises in the Island (including Manx territorial waters). If a company manufactures goods outside the Island it will still be allowed to claim exempt company status. The Act also contains specific exclusions for exempt insurance companies and licence holders under Section 3 or Section 7 of the Banking Act 1975. (other than an exempt scheme).

## Manx Public Companies

The text reproduced at Appendix 1 also contains an amendment to the type of company to which the Act may now apply and extends it to include a Manx public company which falls within the definition of "exempt scheme." This definition is contained in the amended Section 9(1) of the Act and means a company which is a collective investment scheme -

- a. authorised under Section 3 of the Financial Supervision Act 1988; or
- b. recognised under Sections 12 or 13 of that Act; or
- c. restricted within the meaning of Section 11 of that Act.

It should not be overlooked that Section 2 of the Exempt Companies Act requires that no person resident in the Island will have, at any time during the period for which exemption is granted, any interest in such a company (other than indirectly as a shareholder in a company quoted on a Stock Exchange). This requirement prevents an "exempt scheme" from being marketed to persons resident in the Isle of Man.

## Time Limit For Claims

A fee is payable according to the date an application is received by the Assessor -

- a. the fee is £250 where an application for exemption for a year of assessment is received
  - i. by the 30th June in that year; or
  - ii. if a company first commences business in that year, not later than 30 days after the date on which it first acquires any asset or incurs any liability;
- b. the fee is £1,000 in all other cases where an application is received after 30th June but not later than 30th September in that year.

For 1989/90 the fee of £1,000 is to be reduced to £250 to enable companies to take advantage of the revised activities. It is important to note that the fee MUST be submitted along with the completed application form.

## Appendix 1

Income Tax Act 1989 - Clause 81 And Schedule 4 "The Income Tax (Exempt Companies) Act 1984 (c.10)"

7. (1)	For section 1(1) substitute -	
	"(1)	This Act shall apply to a company which -
	(a)	is -
	(i)	incorporated under the Companies Act 1931; or
	(ii)	registered under Part XI of that Act; and
	(b)	does not carry on or transact any trade or business which is

		prescribed; and
	(c)	is not -
	(i)	a public company (other than an exempt scheme) incorporated under the Companies Act 1931; or
	(ii)	the holder of a licence under section 3 of the Banking Act 1975; or
	(iii)	the holder of a licence under section 7 of the Act (other than an exempt scheme); or
	(iv)	an insurance company within the meaning of the Income Tax (Exempt Insurance Companies) Act 1981; or
	(v)	such other class of company as may be prescribed."
(2)		In section 9 (1) , after the definition of "exempt company" insert -  "exempt scheme" means a company which is an authorised scheme (or a recognised scheme) within the meaning of section 31 of the Financial Supervision Act 1988, or a restricted scheme within the meaning of section 11 of that Act;"

## Appendix 2

Government Circular No. 100/89 Income Tax (Exempt Companies) Act 1984 Income Tax (Exempt Companies)(Prescribed Exclusions) Regulations 1989 In exercise of the powers conferred on the Treasury by sections 1(1)(b) and (c)(v) and 8 of the Income Tax (Exempt Companies) Act 1984(a), and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

### Citation And Commencement

1. These Regulations may be cited as the Income Tax (Exempt Companies)(Prescribed Exclusions) Regulations 1989 and shall come into operation on the 19th July 1989.

### Prescribed Exclusions From Exemption

2. Subject to the provisions of this regulation, the Act shall not apply to a company which carries on or transacts a trade or business in the course of which

- a. goods of any kind are manufactured in the Island;
- b. goods are offered for sale by retail or wholesale in the Island, or at or from any premises or place in, the Island;
- c. the exploration for, or the extraction of, minerals or petroleum is undertaken in the Island;
- d. fishing operations are undertaken in the Island;
- e. livestock breeding, or any agricultural or horticultural operation, is undertaken in the Island;
- f. goods are distributed in, or transported to or from, the Island;
- g. the development of land is undertaken in the Island;
- h. construction operations are undertaken in the Island; land in the Island is -

- i. acquired with the sole or main object of realising a gain from disposing of the land; or
- ii. held as trading stock.

## **Interpretation**

### **In these Regulations -**

"construction operations" includes the operations referred to in section 53(2) of the Income Tax Act 1989. "development" means the development of land with the sole or main object of realising a gain from disposing of the land when developed; "fishing operations" includes fish farming; "Island" includes the territorial waters of the Island; "manufactured" includes the assembly of component parts and the processing, preparation, construction, repair or packaging of goods by any method; "minerals" has the meaning given by section 30(1) of the Minerals Act 1986(b); "Petroleum" has the meaning given by section 9 of the Petroleum Act 1986(c).

Made this 19th day of July 1989

Explanatory Note

(This note is not part of the Regulations)

These Regulations are made under section 1 of the Income Tax (Exempt Companies) Act 1984. They prescribe classes of companies and trades and businesses which are excluded from tax exemption under that Act.