



## INCOME TAX ACT 1995

### INCOME TAX (COMPANY RESIDENCE) (TEMPORARY TAXATION) ORDER 2012

*Approved by Tynwald*      11<sup>th</sup> December 2012  
*Coming into operation*    14 December 2012

The Treasury makes this Order under section 15 of the Income Tax Act 1995.

**1 Title**

This Order is the Income Tax (Company Residence) (Temporary Taxation) Order 2012.

**2 Commencement and effect**

If approved by Tynwald<sup>1</sup>, this Order comes into operation on 14 December 2012 and has effect in respect of the income tax year commencing 6 April 2012 and subsequent years.

**3 Amendment of the Income Tax Act 1970**

The Income Tax Act 1970 (“the Act”) is amended as follows.

**4 Section 2N substituted**

(1) For Section 2N of the Act, substitute —

**“2N Residence of Isle of Man incorporated companies**

(1) For the purposes of the Income Tax Acts, all companies incorporated in the Isle of Man are resident in the Isle of Man.

(2) However, a company is not resident in the Isle of Man if it can be proven to the satisfaction of the Assessor that —

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<sup>1</sup> As required by section 15(2) of the Income Tax Act 1995.

- (a) its business is centrally managed and controlled in another country; and
  - (b) it is resident for tax purposes under the other country's law; and
  - (c) either –
    - (i) it is resident for tax purposes under the other country's law under a double taxation agreement between the Isle of Man and the other country in which a tie-breaker clause applies; or
    - (ii) the highest rate at which any company may be charged to tax on any part of its profits in the other country is 20% or higher; and
  - (d) there is a bona fide commercial reason for its residence status in the other country, which status is not motivated by a wish to avoid or reduce Isle of Man income tax for any person.
- (3) To remove any doubt, a company that is not resident under subsection (2) remains subject to the Act.
- (4) In this section –  
“company” has the meaning given in section 341(1) of the Companies Act 1931 and includes a 2006 company and a company to which consent has been given to be continued in the Isle of Man under the Companies (Transfer of Domicile) Act 1998;  
“2006 company” means a company incorporated, continued or re-registered under the Companies Act 2006;  
“country” includes territory;  
“double taxation agreement” means applicable arrangements declared under section 54 (relief from double taxation); and  
“tie-breaker clause” means a clause in a double taxation agreement under which it is decided where a person is resident for the purpose of the agreement.”

MADE 9<sup>th</sup> November 2012.



Minister for the Treasury

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EXPLANATORY NOTE  
*(This note is not part of the Order)*

This Order amends the Income Tax Act 1970 so that a company incorporated in the Island can become non-resident for income tax purposes if the Assessor is satisfied that it is managed and controlled in another country and either it is resident in that country by means of a double tax arrangement or it may be charged to tax there at a highest rate of at least 20%.