



## INCOME TAX ACT 1995

### INCOME TAX (INDIVIDUALS) (TEMPORARY TAXATION) ORDER 2012

*Approved by Tynwald  
Coming into operation*

*20 March 2012  
6 April 2012*

The Treasury makes this Order under section 15 of the Income Tax Act 1995<sup>1</sup>.

**1 Title**

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

**2 Commencement and effect**

If approved by Tynwald<sup>2</sup>, this Order comes into operation on 6 April 2012 and has effect in respect of income tax years commencing on or after that date for individuals and for accounting periods commencing on or after that date for corporate taxpayers.

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

The Income Tax Act 1970<sup>3</sup> ("the Act") is amended as follows.

**4 Returns**

- (1) At the end of section 62 (returns to be returned annually) add —
- "(8) The Assessor may require any person liable to deliver a tax return to include in their return such additional information as the Assessor reasonably requires.

Such additional information includes, in the case of an individual required to deliver a tax return —

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<sup>1</sup> 1995 c.12

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

<sup>3</sup> XXI p. 260

Price £1.15

- (a) details of any legal or equitable interest or shareholding in any company;
- (b) details of the disposal or other transfer of any legal or equitable interest in a company (whether for consideration or not);
- (c) accounts in respect of self employment or rental income as appropriate.”.

- (2) At the end of section A66 (corporate taxpayers: returns) add —
- “(6) The Assessor may require any corporate taxpayer liable to deliver a tax return to include in their return such additional information as the Assessor reasonably requires. Such additional information includes details of the members of the corporate taxpayer, loan account summaries, details of distributions made and financial accounts or accounting records.”.

**5 Power to call for documents**

After section 63A<sup>4</sup> insert —

**“63B Power to call for documents**

(1) The Assessor may by notice in writing require a person specified in subsection (2) to deliver to the Assessor or, if so required by the Assessor, to make available for inspection by the Assessor, documents which are in that person’s possession or power and which (in the Assessor’s reasonable opinion) contain, or may contain, information relevant to —

- (a) any interest that another person may have in a corporate taxpayer;
- (b) the residence status of that other person for the purposes of this Act.

(2) The persons specified for the purposes of subsection (1) are —

- (a) a person licensed under section 7 of the Financial Services Act 2008 in respect of the provision of corporate services; and
- (b) a person, other than a person mentioned in subsection (a), who is the secretary of a corporate taxpayer.

(3) Before a notice is given under subsection (1), the person to whom the notice is to be given must have been given a reasonable opportunity to deliver or make available the documents in question.

(4) As an alternative to delivering documents to comply with a notice under subsection (1), copies of documents may be delivered instead of the originals; but —

- (a) the copies must be in a form which the Assessor reasonably requires; and

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<sup>4</sup> Section 63A inserted by Limited Liability Companies Act 1996 section 47

(b) if required by the Assessor in the case of any documents specified in the requirement, the originals must be made available for inspection by the Assessor in accordance with the requirement, and failure to comply with a requirement under this subsection counts as failure to comply with the notice.

(5) A person who fails to comply with a requirement of the Assessor under subsection (1) commits an offence and is liable on summary conviction to custody for a period not exceeding 6 months or to a fine not exceeding £5,000.

### **63C Power to call for information relating to beneficial ownership**

(1) The powers conferred by this section may be used for the purpose of enquiring into the identity of members of a corporate taxpayer.

(2) The Assessor may by notice in writing require any person to deliver to the Assessor or, if so required by the Assessor, to make available for inspection by the Assessor, such documents as are in his possession or power and as (in the Assessor's opinion) contain or may contain, information relevant to —

- (a) the present and past members of a corporate taxpayer;
- (b) the names and addresses of those members; or
- (c) any person who acts or has acted (in any capacity) on behalf of a member of a corporate taxpayer.

(3) A person who, having been requested to do so, fails to deliver documents or information required under this section, or who in giving such information makes any statement which that person knows to be false in a material particular, commits an offence and is liable on summary conviction to custody for a period not exceeding 6 months or to a fine not exceeding £5,000.

### **63D Falsification, etc of documents**

(1) Subject to subsection (2), it is an offence for a person intentionally to falsify, conceal, destroy or otherwise dispose of, or cause or permit the falsification, concealment, destruction or disposal of, a document which that person —

- (a) has been required by a notice under section 63B(1); or
- (b) has been given an opportunity in accordance with section 63B(3), to deliver or make available for inspection.

(2) A person does not commit an offence under subsection (1) if that person acts —

- (a) with the written permission of the Assessor;
- (b) after the document has been delivered or inspected in accordance with section 63B(1); or

(c) after a copy has been delivered in accordance with section 63B(4) and the original has been inspected.

(3) A person guilty of an offence under subsection (1) is liable —

(a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;

(b) on summary conviction, to a fine not exceeding £5,000.”.

## 6 Loans to Participators

(1) For section A108(1), substitute —

“(1) This section applies to all corporate taxpayers.”.

(2) In sections A108 to J108 for “company”, in each place where it appears, substitute “corporate taxpayer”.

(3) In section A108 and D108 for “relevant higher rate” substitute “higher rate for individuals under section 1 of the Act”.

## 7 Miscellaneous amendments

(1) In section 2PA of the Act:

(i) subsection (4) is repealed; and

(ii) in subsection (5), in the definition of “member” for “section 12(7)” substitute “section 120”.

(2) In section 120 of the Act after the definition of “Manx income tax” insert —  
“‘member’ in relation to a corporate taxpayer, includes a shareholder, stockholder, member or associate, or a beneficiary under a foundation and a person is to be treated as a member of a corporate taxpayer if that person has any legal or equitable interest in the corporate taxpayer or in any share or stock of the corporate taxpayer;”.

MADE *22<sup>nd</sup> February 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 to enable the Assessor to ask both corporate and non-corporate taxpayers to provide additional information on their annual returns.

It also allows the Assessor to ask specified individuals for information regarding another person's interest in a corporate taxpayer together with their residence status, and to ask any person for information regarding beneficial ownership.

In addition, the Order provides for the sections of that Act which address loans to participators to be extended to include foundations. It also repeals section 2PA(4) of the Act and inserts a definition of "member" in relation to a corporate taxpayer.