

INCOME TAX ACT 1995

INCOME TAX (REPEAL OF THE ATTRIBUTION REGIME FOR INDIVIDUALS) ORDER 2011

Approved by Tynwald 18 October 2011

Coming into operation 21 October 2011

The Treasury makes this Order under section 15 of the Income Tax Act 1995¹.

1 Title

This Order is the Income Tax (Repeal of the Attribution Regime for Individuals) Order 2011.

2 Commencement

- (1) If approved by Tynwald², this Order comes into operation on 21 October 2011 and has effect in accordance with paragraphs (2) to (4).
- (2) In the case of a relevant company, this Order has effect in respect of the distributable profits arising or accruing to the company on or after 6 April 2012.
- (3) In the case of an individual member of a relevant company, this Order has effect during each year of assessment of the member following the final year of assessment in respect of which the attribution regime for individuals applies to the member.
- (4) For the purposes of paragraph (3), the final year of assessment in respect of which the attribution regime for individuals applies is the year of assessment in which distributable profits of a relevant company arising or accruing up to and including 5 April 2012 are treated as income accruing to the member under section 13D of the Income Tax Act 1970³.

¹ 1995 c.12

² As required by section 15(2) of the Income Tax Act 1995

³ XXI p.260

Price £0.85

3 Interpretation

In this Order—

“the Act” means the Income Tax Act 1970;

“attributed profits sections” means sections 12 to 13M of the Act (which had effect immediately before the coming into operation of this Order);

“attribution regime for individuals” means the income tax regime set out in the attributed profits sections; and

“attributed profits”, “distributable profits” and “relevant company” each has the meaning which it had (immediately before the coming into operation of this Order) by virtue of the definition of those terms in section 12 of the Act.

4 Repeal of the attribution regime for individuals

Subject to articles 5 to 7—

- (a) sections 12 to 13M of the Act (and the cross-heading “attributed profits” immediately preceding section 12) are repealed;
- (b) section 2 of the Income Tax Act 2009⁴ (and the cross-heading “attributed profits” immediately preceding section 2) is repealed; and
- (c) the Income Tax (Attributed Profits) (Temporary Taxation) Order 2007⁵ is revoked.

5 Saving and transitional provisions

- (1) This article has effect despite article 4.
- (2) Attributed profits in respect of the distributable profits of a relevant company arising or accruing up to and including 5 April 2012 are to be calculated and assessed to income tax in accordance with the attributed profits sections, as they would have had effect but for article 4.
- (3) Paragraphs (4) to (6) do not limit paragraph (2).
- (4) A corporate taxpayer must, in respect of distributable profits arising or accruing to the company up to and including 5 April 2012—
 - (a) prepare, send and retain certificates of attributed profits in accordance with section 13B of the Act; and
 - (b) deliver returns in accordance with section 13G of the Act.
- (5) An individual who is a member of a relevant company must, in respect of distributable profits arising or accruing to the company up to and including 5 April 2012 that would have been payable to the member had the company distributed them, deliver returns in accordance with section 13G of the Act.
- (6) If a company distributes attributed profits to an individual member, further income tax is not to be imposed on the member in respect of the distribution.

⁴ 2009 c.2

⁵ SD 928/07

6 **Calculating distributable profits for certain accounting periods**

For the purposes of this Order, where the accounting period of a relevant company begins before or on 5 April 2012 and ends after 5 April 2012, the company's distributable profits arising or accruing up to and including 5 April 2012 are to be calculated as a proportion of the distributable profits for the whole accounting period in accordance with the formula—

$$\frac{X}{Y} \times Z$$

where—

"X" is the number of days during the accounting period occurring up to and including 5 April 2012;

"Y" is the number of days in the accounting period; and

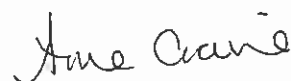
"Z" is the amount of distributable profits arising or accruing to the company for the whole accounting period.

7 **Anti-avoidance**

- (1) A change of accounting period by a corporate taxpayer which, save for this article, would have the effect of reducing the attributed profits of an individual is to be disregarded for the purposes of this Order.
- (2) If the Assessor considers that a corporate taxpayer has shifted profits or expenditure from one accounting period to another, or to or among other persons, in order to reduce the attributed profits of an individual, the Assessor may, under section 13M of the Act, assess on the individual the amount of attributed profits which the Assessor considers to be necessary for the protection of the revenue.
- (3) Despite article 4, section 13M of the Act continues to have effect for the purposes of collecting income tax due and payable under the attribution regime for individuals.

MADE

30th September 2011



Minister for the Treasury

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

For distributable profits accrued by a corporate taxpayer after 6 April 2012, this Order repeals provisions of the Income Tax Act 1970 setting out the attribution regime for individuals ("ARI"). It also introduces measures to prevent the possible avoidance of ARI during the period of transition.