

## INCOME TAX ACT 1970

### INCOME TAX (GERMANY) (DOUBLE TAXATION) ORDER 2009

*Approved by Tynwald  
Coming into operation*

*17 March 2009  
20 March 2009*

The Council of Ministers makes this Order under section 54 of the Income Tax Act 1970<sup>1</sup>.

**1 Title**

The title of this Order is the Income Tax (Germany) (Double Taxation) Order 2009.

**2 Commencement**

This Order comes into operation on 20 March 2009.

**3 Interpretation**

In this Order “applicable arrangements” means the arrangements for the avoidance of double taxation with respect to enterprises operating ships in international traffic contained in an agreement between the Government and the Government of the Federal Republic of Germany signed in Berlin on 2 March 2009 and set out in the Schedule.

**4 Implementation of the agreement**

The applicable arrangements have been made with the Federal Republic of Germany with a view to affording relief from double taxation in relation to income tax and the tax of a similar character imposed by the laws of the Federal Republic of Germany and it is expedient that those arrangements have effect under section 54 of the Income Tax Act 1970.

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<sup>1</sup> XXI p. 260

MADE 11th March 2009

Mary Williams

Chief Secretary



**Agreement between**  
**the Government of the Isle of Man**  
**and**  
**the Government of the Federal Republic of Germany**  
**for the Avoidance of Double Taxation**  
**with Respect to Enterprises operating Ships in**  
**International Traffic**

**The Government of the Isle of Man**

and

**The Government of the Federal Republic of Germany**

Desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships in international traffic,

Have agreed as follows:

**Article 1**  
**Taxes Covered**

1. This Agreement shall apply to all taxes on income levied within the area of the Contracting Parties according to their laws irrespective of the manner in which they are levied.

2. This Agreement shall apply also to any identical taxes that are imposed after the date of signature of the Agreement in addition to or in place of the existing taxes, or any substantially similar taxes if the Contracting Parties so agree. The competent authorities of the Contracting Parties shall notify each other of substantial changes in laws which may affect the obligations of the other Contracting Party pursuant to this Agreement.

## **Article 2**

### **Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term "Isle of Man" means, when used in a geographical sense, the territory of the Isle of Man, including its territorial sea, in accordance with international law;
- (b) the term "Federal Republic of Germany" means, when used in a geographical sense, the area in which the tax law of the Federal Republic of Germany is in force;
- (c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (d) the term "competent authority" means:
  - (i) In respect of the Isle of Man, the Assessor of Income Tax or his delegate;
  - (ii) in respect of the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its power;
- (e) the term "enterprise of a Contracting Party" means an enterprise, carried on by a resident of a Contracting Party;
- (f) the term "income derived from the operation of ships in international traffic" includes:
  - (i) revenues and gross receipts from such operation of ships for the transport of passengers or cargo;

- (ii) profits from the rental on a charter basis of ships where the rental is ancillary to the operation of ships in international traffic;
- (iii) profits from the sale of tickets or similar documents and the provision of services connected with such transport, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships in international traffic;
- (iv) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships in international traffic;
- (v) interest on funds deposited directly in connection with the operation of ships in international traffic;
- (g) the term "international traffic" means any transport by a ship operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship is operated solely between places in the other Contracting Party;

- (h) the term "a Contracting Party" means the Government of the Isle of Man or the Government of the Federal Republic of Germany, as the context requires; the term "Contracting Parties" means the Government of the Isle of Man and the Government of the Federal Republic of Germany;
- (i) the term "person" includes an individual, a company and any other body of persons;
- (j) the term "resident of a Contracting Party" means any person, who under the law of that Contracting Party is liable to taxation therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature.

2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

### **Article 3**

#### **Avoidance of Double Taxation**

1. Income derived from the operation of ships in international traffic by an enterprise of a Contracting Party shall be taxable only in that Contracting Party.

2. Gains derived from the alienation of ships or movable property pertaining to the operation of ships in international traffic by an enterprise of a Contracting Party shall be taxable only in that Contracting Party.

3. The provisions of paragraphs 1 and 2 shall also apply to income, profits and gains derived by an enterprise of a Contracting Party from the participation in a pool, a joint business or an international operating agency.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship operated in international traffic by an enterprise of a Contracting Party, may be taxed in that Contracting Party. However, such remuneration may also be taxed in the other Contracting Party, if that remuneration is derived by an individual who is a resident of the other Contracting Party. In such a case, the other Contracting Party shall, subject to the provisions of its tax law regarding credit for foreign tax, allow as a credit against its income tax payable in respect of such remuneration, the tax levied on such remuneration by the first-mentioned Contracting Party.



**Article 4**  
**Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting Parties will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the law of the Contracting Party concerned, present his case to the competent authority of the Contracting Party of which he is a resident. The case must be presented within three years of the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the law of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. Consultation requested by the competent authority of a Contracting Party shall begin within 90 days from

the date of the receipt of such request.

4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraph.

5. If, in carrying out the provisions of this Article, personal data shall be exchanged, the provisions of paragraph 1 of the Protocol to the Agreement of 2 March 2009 between the Government of the Isle of Man and the Government of the Federal Republic of Germany on Assistance in Civil and Criminal Tax Matters through Exchange of Information shall apply.

## **Article 5**

### **Entry into Force**

1. This Agreement shall enter into force one month from the date on which the Contracting Parties have notified each other that their respective requirements for the entry into force of this Agreement have been fulfilled. The relevant date shall be the day on which the last notification is received.
  
2. The provisions of this Agreement shall have effect
  - (a) in respect of taxes levied for taxable periods beginning on or after 1 January, 2010, and;
  - (b) in respect of proceedings referred to in paragraph 1 of Article 4, proceedings which are initiated after its entry into force.
  
3. Notwithstanding paragraph 1 and paragraph 2 of this Article, this Agreement shall only enter into force on the date on which the Agreement of 2 March 2009 between the Government of the Isle of Man and the Government of the Federal Republic of Germany on Assistance in Civil and Criminal Tax Matters through Exchange of Information enters into force.

## **Article 6**

### **Termination**

1. This Agreement shall remain in force until terminated by either Contracting Party.

2. Either Contracting Party may terminate this Agreement by giving notice in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notice of termination by the other Contracting Party. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.

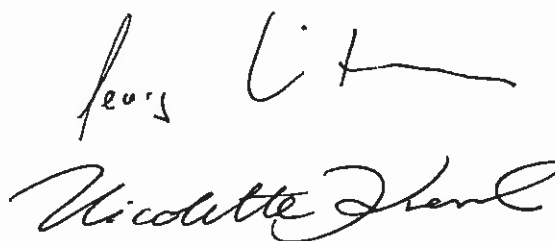
3. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of the expiry of the Agreement of 2 March 2009 between the Government of the Isle of Man and the Government of the Federal Republic of Germany on Assistance in Civil and Criminal Tax Matters through Exchange of Information.

Done at Berlin, this second day of March, 2009, in duplicate, in the English and German languages, each text being equally authentic.

**For the Government  
of the Isle of Man:**

A handwritten signature in black ink, appearing to read "Bell".

**For the Government  
of the Federal Republic of  
Germany:**

A handwritten signature in black ink, appearing to read "Nicolaus Henkel".

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

This Order is made under section 54 of the Income Tax Act 1970. It implements arrangements negotiated between the Government of the Isle of Man and the Government of the Federal Republic of Germany for the avoidance of double taxation with respect to enterprises operating ships in international traffic.