



Isle of Man
Government

Reillys Ellan Vannin

The Treasury *Yn Tashtey*

Assessor
I Q Kelly

Telephone: (01624) 685400
Fax: (01624) 685351
E-mail: incometax@itd.gov.im
Website: www.gov.im/incometax

INCOME TAX DIVISION

Government Office, Douglas
Isle of Man, British Isles
IM1 3TX

PRACTICE NOTE

PN 99/04

Zero Rate of Tax on Trading Profits

The Treasury has made three new extra statutory concessions relating to company trading profits which are derived from certain specified activities. The concessions were laid before Tynwald on 20th January 2004 and are effective as follows –

- G.C. 35/03 Shipping activities effective from 6th April 2002.
- G.C. 36/03 Aircraft activities effective from 6th April 2003
- G.C. 37/03 Fund activities effective from 6th April 2003

The three concessions are a transitional measure pending the introduction of primary legislation implementing the modified Taxation Strategy, which was approved by Tynwald in October 2002.

This Practice Note sets out the taxation treatment of those companies where, whilst some of their activities fall within those covered by one of the relevant concessions, others do not. This Practice Note should therefore be read in conjunction with the full text of the above Government Circulars, which is included at the appendix to this practice note.

Concessional Treatment

All three concessions apply in a similar manner. The effect is a zero rate of tax on the trading profits of qualifying companies where they undertake certain specified activities or functions. Only the profits relating to the specified activities or functions will be afforded the concessional treatment.

Taxation of Other Income

Any income not covered by the relevant concession is subject to tax at the normal rates, currently 10% on trading income (up to certain limits) or 18% on investment income.

Where that income is bank or building society interest and this can be shown to have arisen on the working capital of an activity qualifying for the zero rate, that interest will be accepted by the Income Tax Division as falling within the concession.

Where there is interest that cannot be directly attributed to a qualifying activity the Income Tax Division may require an apportionment to be made. By way of guidance, where the

interest is less than 5% of the taxable trading income of the qualifying activity, no apportionment will be required.

Taxable trading income for this purpose means the income computed for taxation purposes before capital allowances and any losses available by way of group relief or carried forward/back under the Loss Relief Regulations.

Treatment of Dividends and Interest Paid

All three concessions contain a paragraph that precludes the application of Section 71 of the Income Tax Act 1970 with respect to dividends and interest.

Dividends and interest paid to resident shareholders will continue to be taxed on the recipient.

Dividends and interest paid to non-resident shareholders of a qualifying company out of profits from specified activities will not be subject to withholding tax.

Where the dividend is paid intra-group to a company resident in the Isle of Man then, provided the holding company has shareholders wholly outside the Isle of Man, the Income Tax Division will be prepared to extend the zero rate to the income dividend in the hands of the holding company in the year of receipt. Any investment income arising on the dividend whilst in the hands of the holding company will be charged to income tax at the normal rates. The Income Tax Division will accept that subsequent distributions by the holding company to its non-resident shareholders will be pro-rated, such that an element will be liable at 0% with the balance due at the non-resident rate, currently 18%. For guidance purposes the Income Tax Division would be prepared to accept pro-rating based on all other income to dividends received from qualifying activities.

Similarly where dividends are paid from companies carrying on a mix of qualifying and non-qualifying activities, the Income Tax Division will accept pro-rating of the dividend using the appropriate ratio of the taxable trading income (as defined above) from the specified activities which qualify for the zero rate, to the remaining taxable trading income that does not qualify for the zero rate.

Insurance Activities

The Division is also progressing discussions regarding the concessional zero rating of Insurance Activities as previously announced by the Minister for the Treasury. It is hoped that the Treasury will be in a position to make such a concession in the near future. In the meantime the Division will be pleased to provide advice on any insurance activities currently being undertaken by an Exempt Insurance Company but which may ultimately fall within the concession.

I Q Kelly Assessor of Income Tax

This practice note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.

Appendix

Extract from Government Circular No. 35/03

INCOME TAX EXTRA STATUTORY CONCESSION

SHIPPING ACTIVITIES – ZERO RATE OF TAX ON TAXABLE INCOME

The Treasury has agreed the following Concession -

- 1. This Concession took effect in respect of the year of assessment commencing 6 April 2002 and subsequent years of assessment.
- 2. Subject to the exclusions referred to in paragraph 3 this Concession will apply to any company whose principal activity is any one or more of the shipping activities specified in paragraph 5.
- 3. It will not apply to any company which is:
 - (a) the holder of a banking licence under the Banking Act 1998, or
 - (b) the holder of a licence under section 3 of the Investment Business Act 1991, or
 - (c) in receipt of taxable income derived from the trade of fishing.
- 4.
 - (1) Any company with a charge to Manx income tax will be charged at a rate of 0% on so much of its taxable income as is derived from the specified activities.
 - (2) Any apportionment necessary for the purposes of sub-paragraph (1) shall be made by the Assessor.
- 5. The specified activities referred to in paragraphs 2 and 4 are, in respect of a ship -
 - a) ownership
 - b) management (including crewing, training, technical, communications, insurance, accounting, commercial or corporate)
 - c) operation
 - d) chartering
 - e) brokerage
 - f) agency
 - g) stevedoring

h) financing and investment .

- 6. Section 71 of the Income Tax Act 1970 shall not be applied to so much of the interest or dividends paid by such a company as is attributable to the taxable income falling within paragraph 4 and the Assessor shall not pursue the liability to income tax of non-resident persons in receipt of such income.
- 7. This concession is of general application, but it must be borne in mind that in a particular case there may be special circumstances which will require to be taken into account in considering the application of the concession. This concession will be withdrawn in any case where it can be seen that the concession has been or is intended to be subject to abuse.

INCOME TAX EXTRA STATUTORY CONCESSION

AIRCRAFT OPERATION – ZERO RATE OF TAX ON TAXABLE INCOME

Extract from Government Circular No. 36/03

The Treasury has agreed the following Concession -

- 1. This Concession took effect in respect of the year of assessment commencing 6 April 2003 and subsequent years of assessment.
- 2. Subject to the exclusions referred to in paragraph 3 this Concession will apply to any company whose principal activity is any one or more of the aircraft activities specified in paragraph 5.
- 3. It will not apply to any company which is:
 - (a) the holder of a banking licence under the Banking Act 1998, or
 - (b) the holder of a licence under section 3 of the Investment Business Act 1991 .
- 4.
 - (1) Any company with a charge to Manx income tax will be charged at a rate of 0% on so much of its taxable income as is derived from the specified activities.
 - (2) Any apportionment necessary for the purposes of sub-paragraph (1) shall be made by the Assessor.
- 5. The specified activities referred to in paragraph 2 and 4 are, in respect of an aircraft:
 - a) ownership
 - b) management (including crewing, training, technical, communications, insurance, accounting, commercial or corporate)
 - c) operation
 - d) chartering and leasing

- e) brokerage
- f) maintenance
- g) provision of spares and tools packages
- h) financing and investment

- 6. Section 71 of the Income Tax Act 1970 shall not be applied to so much of the interest or dividends paid by such a company as is attributable to the taxable income falling within paragraph 4 and the Assessor shall not pursue the liability to income tax of non-resident persons in receipt of such income.
- 7. This concession is of general application, but it must be borne in mind that in a particular case there may be special circumstances which will require to be taken into account in considering the application of the concession. This concession will be withdrawn in any case where it can be seen that the concession has been or is intended to be subject to abuse.

INCOME TAX EXTRA STATUTORY CONCESSION

FUND ACTIVITIES – ZERO RATE OF TAX ON TAXABLE INCOME

Extract from Government Circular No. 37/03

The Treasury has agreed the following Concession -

- 1. This Concession took effect in respect of the year of assessment commencing 6 April 2003 and subsequent years of assessment.
- 2. This Concession will apply to any company whose principal activity is any one or more of the activities permitted to be undertaken by a qualifying company.
- 3.
 - (1) A company with a charge to Manx income tax will be charged at a rate of 0% on so much of its taxable income as is derived from the activities permitted as a qualifying company.
 - (2) Any apportionment necessary for the purposes of sub-paragraph (1) shall be made by the Assessor.
- 4. For the purposes of this Concession a company is a qualifying company if it is:
 - (a) licensed by the Financial Supervision Commission to undertake one or more of the following activities -
 - (i) Management and/or administration of Collective Investment Schemes
 - (ii) Investment Management of Collective Investment Schemes
 - (iii) Investment Advice to Collective Investment Schemes; or

(b) an "exempt person" as defined in the Investment Business (Exemption) (Fund Managers) Regulations 1999.

- 5. Section 71 of the Income Tax Act 1970 shall not be applied to so much of the interest or dividends paid by such a company as is attributable to the taxable income falling within paragraph 3 and the Assessor shall not pursue the liability to income tax of non-resident persons in receipt of such income.
- 6. This concession replaces Extra Statutory Concession GC 318/91.
- 7. For the purposes of this Concession a Collective Investment Scheme has the same meaning as in Section 30 of the Financial Supervision Act 1988.
- 8. This concession is of general application, but it must be borne in mind that in a particular case there may be special circumstances which will require to be taken into account in considering the application of the concession. This concession will be withdrawn in any case where it can be seen that the concession has been or is intended to be subject to abuse.