



TAXES (INTERNATIONAL ARRANGEMENTS) ORDER 2013

Index

Article	Page
1 Title	3
2 Commencement	3
3 Income Tax Act 1970: Part 9 inserted – international arrangements	3
4 Section 105 substituted – appointment of Assessor and other officers	7
5 Part 13 inserted – authorised officers: inspection and document powers	8
6 Section 120 amended – definitions	15
7 Savings and transitional provisions	17
8 Consequential amendments to the Income Tax Act 1970	18
9 Income Tax Act 1970 amended	19
10 Income Tax Act 2003: Part 3 repealed	22
11 Amendments to certain orders	22

Statutory Document No. 0315/2013



Income Tax Act 1970

TAXES (INTERNATIONAL ARRANGEMENTS) ORDER 2013

Approved by Tynwald: 15th October 2013

Coming into operation in accordance with article 2

The Treasury makes the following Order under section 115A of the Income Tax Act 1970.

1 Title

This Order is the Taxes (International Arrangements) Order 2013.

2 Commencement

- (1) This Order comes into operation immediately after approval by Tynwald.
- (2) This Order has effect for the income tax year commencing on 6 April 2013 and subsequent tax years.

3 Income Tax Act 1970: Part 9 inserted – international arrangements

- (1) After section 104 insert –

PART 9 – INTERNATIONAL ARRANGEMENTS

DIVISION 1 – PRELIMINARY

104A Definitions for Part

In this Part –

“**arrangement order**” has the meaning given under section 104B(1);

“**country**” includes territory and (to avoid doubt) also includes any area outside a country’s territorial waters within which a country’s rights with respect to the sea bed and subsoil and their natural resources are exercisable;

“**double tax arrangement**” means an arrangement to which the Government is a party made with a view to preventing the imposition of, or otherwise affording relief from, double taxation under both the Island’s laws and under a foreign law;

“**foreign tax official**” means an officer of a foreign country that is a party to an international arrangement, which officer is authorised under that country’s laws to administer or enforce its taxes;

“**international arrangement**” has the meaning given under section 104B(4);

“**Manx tax official**” means a person who holds an appointment mentioned in section 105 (Assessor and other officers);

“**simultaneous tax examination**” has the meaning given by the international arrangement in question;

“**tax**” means any type of taxation (whatever called) and includes —

- (a) income tax;
- (b) value added tax;
- (c) an amount owing by way of a civil or criminal penalty, administrative cost or fine for, or for interest on, an unpaid tax debt;
- (d) a tax outside the Island of a type for which there is no equivalent under the Island’s laws; and
- (e) a duty;

“**tax examination abroad**” has the has the meaning given by the international arrangement; and

“**taxpayer**” includes a person whose tax position is being examined under the Island’s laws or foreign laws.

DIVISION 2 – DECLARATION OF ARRANGEMENT

104B Power to make declarations about arrangements

- (1) The Council of Ministers may, by order (an “**arrangement order**”), declare that any or all of the following have been made with respect of the Island —
 - (a) a double tax arrangement;
 - (b) an intergovernmental arrangement about the exchange of information necessary or foreseeably relevant to taxes chargeable under the Island’s laws or foreign laws; or
 - (c) an intergovernmental arrangement about international tax enforcement;

- (d) any regulation, directive, convention, code or standard in respect of taxation not falling within paragraph (a), (b) or (c);

and that the arrangement should have effect (to such extent as is specified in the order) as part of the law of the Island.

- (2) The arrangement may be bilateral or multilateral.
- (3) The order must specify the arrangement.
- (4) An arrangement that is the subject of an arrangement order is an “**international arrangement**” for the purposes of this Part.
- (5) In this section “**international tax enforcement**” means simultaneous tax examinations or tax examinations abroad.
- (6) An order under this section must be approved by Tynwald before coming into operation.

104C Other matters for which an arrangement order may provide

- (1) An arrangement order may also –
 - (a) provide for any or all of the following matters –
 - (i) the exchange of information necessary or foreseeably relevant to implementing an international arrangement;
 - (ii) resolving questions or disputes about interpreting or applying an international arrangement;
 - (iii) simultaneous tax examinations; or
 - (iv) tax examinations abroad;
 - (b) modify all or part of any of the following to implement or otherwise give effect to an international arrangement –
 - (i) sections 105C to 105O (delivery of documents, etc.);
 - (ii) Part 13 (authorised officers: inspection and document powers); and
 - (iii) any provision insofar as it contains a definition relevant to this Part;
 - (c) include incidental, supplemental, transitional and saving provisions.
- (2) If the order concerns a double tax arrangement, it may also provide for the attribution or adjustment of income, profits or gains for the taxes concerned.

104D Regulations to give effect to international arrangement

- (1) The Treasury may make regulations for the purpose of giving effect to, or enabling effect to be given to, an international arrangement.
- (2) The regulations may in particular —
 - (a) authorise the Assessor to require persons specified for the purposes of this paragraph (“**relevant financial entities**”) to provide the Assessor with information of specified descriptions;
 - (b) require the information in paragraph (a) to be provided at such times and in such form and manner as may be specified;
 - (c) impose obligations on relevant financial entities;
 - (d) make provision (including provision imposing penalties) about contravention of, or non-compliance with, the regulations;
 - (e) make provision about appeals in relation to the imposition of any penalty.
- (3) Regulations under subsection (2) may also contain incidental, supplemental, transitional, transitory or saving provisions (including provisions amending any enactment).
- (4) The power conferred by this section does not limit, and is not limited by, any other power conferred by or under any other enactment or document.
- (5) Regulations under this section must not come into operation unless they are approved by Tynwald.

104E Effect of international arrangement

- (1) An international arrangement has effect despite any enactment or other document or any other rule of law.
- (2) If an international arrangement authorises a Manx tax official to disclose particular information to a foreign tax official, no obligation of confidentiality (whether arising under an enactment or otherwise) prevents —
 - (a) a Minister or a person performing functions for a Department from disclosing the information to the Manx tax official; or
 - (b) the Manx tax official from making the disclosure under the arrangement.
- (3) Subsection (2) is subject to Division 3.

DIVISION 3 – INFORMATION: RESTRICTIONS ON DISCLOSURE AND USE

104F Incoming information

A Manx tax official must not disclose or use information received from another country under an international arrangement, except –

- (a) for tax purposes; or
- (b) for legal proceedings for a contravention of the Island's tax laws; or
- (c) as otherwise permitted under the arrangement.

104G Outgoing information

(1) A Manx tax official must not authorise the use of information disclosed under an international arrangement unless that use –

- (a) is foreseeably relevant to the administration and enforcement of the domestic laws of the parties to that arrangement;
- (b) concerns taxes covered by the arrangement; and
- (c) is for the purposes of the arrangement

(2) A Manx tax official may decline to disclose information which may be disclosed under an international arrangement unless satisfied it will not be used in criminal proceedings, against the person who furnished it to the Treasury or the Assessor, other than for an offence of perjury or for any like offence.

Note:

Under section 106 (information confidential), subject to certain exceptions, it is an offence, amongst other things, to contravene this Division.

4 Section 105 substituted – appointment of Assessor and other officers

For section 105 substitute –

105 Assessor and other officers

(1) The following officers are to be appointed from time to time to administer this Act and perform functions or powers given to them under this or any other Act about taxes or duties –

- (a) the Assessor of Income Tax;
- (b) authorised officers; and
- (c) such revenue officers, clerks and other persons as may be necessary for the purposes of this Act.

(2) The Assessor, or a deputy of the Assessor appointed under section 21 of the *Interpretation Act 1976*, may perform any or all of the functions of another officer under subsection (1).

105AA Authorised officers: appointment


- (1) Authorised officers are to be appointed by the Assessor.
- (2) The Assessor may appoint a person as an authorised officer only if the person is a civil servant and has appropriate experience or qualifications to perform an authorised officer's functions.
- (3) An authorised officer holds that office subject to any conditions prescribed under regulations made by Treasury, stated in the person's notice of appointment or in a written notice to the person from the Assessor.
- (4) The conditions may limit the powers that would otherwise apply to the holder of the office.

105AB Authorised officers: identity cards

- (1) The Assessor must give each authorised officer an identity card.
- (2) The identity card must —
 - (a) contain a recent photograph of the authorised officer;
 - (b) contain the signature of the individual who authorised the issue of the card;
 - (c) identify the person as an authorised officer for this Act and any other Act under which authorised officers under this Act are given functions; and
 - (d) state an expiry date for the card, if required.

105AC Production or display of identity card

In exercising a power mentioned in section 105S(1) in relation to another person in that person's presence, an authorised officer must —

- (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person while exercising the power. .

5 Part 13 inserted – authorised officers: inspection and document powers

After section 105Q insert –

PART 13 – AUTHORISED OFFICERS: INSPECTION AND DOCUMENT POWERS

DIVISION 1 – PRELIMINARY

105R Definitions for Part

In this Part –

“**business**” includes an undertaking;

“**business assets**” means assets (other than documents) an authorised officer has reason to believe are owned, leased or used in connection with the carrying on of a business by anyone;

“**business documents**” means documents (including copies of documents and documents held in electronic form) that –

- (a) relate to the carrying on of a business; and
- (b) are, under an Income Tax Act, required to be kept by or for the person; and

“**business premises**”, of a person, means premises (or any part of premises) an authorised officer has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person.

DIVISION 2 – INSPECTION OF BUSINESS PREMISES

105S Inspection powers

- (1) An authorised officer may, if the officer considers doing so is reasonably necessary to enable the Assessor to examine a person's tax position –
 - (a) enter any business premises of the person; and
 - (b) inspect the premises and business assets and business documents at the premises.
- (2) However, the entry and inspection may take place only if –
 - (a) the occupier of the premises consents;
 - (b) the authorised officer has given the occupier at least 7 days' written notice of the entry and inspection and when it will take place; or
 - (c) the entry and inspection has been approved under section 105U and the authorised officer complies with section 105V.

- (3) Subsection (2) does not apply to land around a building or other structure or to any part of the building or structure to an extent that is reasonable to contact the occupier of the business premises to seek the consent.
- (4) Entry and inspection under subsection (2)(b) or (c) may take place at any reasonable time.
- (5) The powers under this section are the “**inspection powers**”.
- (6) An inspection with approval under section 105U is an “**approved inspection**”.

105T Restrictions on inspection powers

The inspection powers do not apply to —

- (a) a part of business premises used solely as a dwelling;
- (b) personal records, journalistic material or items subject to legal privilege; or
- (c) a document relating to the conduct of any pending appeal relating to tax.

105U Approval by High Bailiff

- (1) This section applies if an authorised officer proposes to exercise inspection powers in accordance with section 105S(2)(c) in relation to particular business premises or particular business assets or business documents at those premises.
- (2) The Assessor must apply for the approval of the High Bailiff for that inspection.
- (3) The application must specify the reasons for making it and identify —
 - (a) the premises to which the application relates; and
 - (b) so far as the Assessor is able to do so, any business assets or business documents to which the application relates.
- (4) The High Bailiff must give approval if, but only if, satisfied the entry and inspection in question is, in all the circumstances, reasonably justified.
- (5) The approval must be in writing.
- (6) The High Bailiff is not liable for damages for giving approval, or an act or matter relating to giving approval, unless doing so was —
 - (a) in bad faith; or
 - (b) unlawful under section 6(1) of the *Human Rights Act 2001*.

105V Notice requirement for making approved inspection

- (1) This section applies to an approved inspection.
- (2) When making the entry, the authorised officer entering must give a notice about the entry —
 - (a) if the occupier of the business premises being entered is present, to the occupier;
 - (b) if the occupier is not present but someone else is who appears to be in charge of the premises, to the other person; or
 - (c) otherwise, by leaving it in a prominent place on the premises.
- (3) The notice must state —
 - (a) that the High Bailiff has approved the exercise of inspection powers for the premises and business assets and business documents at the premises;
 - (b) that, under section 105S(2)(c), the powers may be exercised without anyone else's consent; and
 - (c) that anyone who obstructs the authorised officer from exercising the powers may be —
 - (i) committing an offence against section 109 (obstructing officers); or
 - (ii) liable to a civil penalty under Division 4 in lieu of a proceeding for the offence.

105W Power to mark assets and record information

The inspection powers include power to —

- (a) mark business assets, and anything containing them, to indicate the assets have been inspected; and
- (b) obtain and record information (whether electronically or otherwise) relating to business premises, business assets and business documents inspected.

105X Power to require reasonable assistance

- (1) This section applies if an authorised officer has entered business premises in the exercise of the inspection powers for an approved inspection.
- (2) The authorised officer may require a person listed in subsection (3) who is present at the premises
to give the officer reasonable assistance to perform the officer's functions for the inspection (an "**assistance requirement**").

- (3) The persons referred to in subsection (2) are –
- (a) the person whose tax position is being examined (the “**investigated person**”);
 - (b) a tax adviser of the investigated person; and
 - (c) anyone employed or engaged by the investigated person or the tax adviser to perform work at the business premises.

Example of when an assistance requirement may be made:

The officer wishes access to a locked room in the premises to check for any business documents inside. The room is not used as a dwelling. A key to the room is in the person’s possession, or is in the person’s custody or power and the person can reasonably obtain it. The authorised officer may require the person to unlock the room.

- (4) In making an assistance requirement of a person, the authorised officer must warn the person in writing that –
- (a) contravention of the requirement is an offence under section 105Y; and
 - (b) under Division 4, the Assessor may impose a civil penalty on the person for a contravention of the requirement in lieu of instituting proceedings for the offence.

105Y Offence: contravention of assistance requirement

A person commits an offence if an assistance requirement has been made of the person and the person contravenes the requirement, unless the person has a reasonable excuse.

DIVISION 3 – DOCUMENT-RELATED POWERS

105Z Application of Division

This Division applies in relation to a document produced to, or inspected by, an authorised officer in the exercise of a power conferred by this Part.

105ZA Power to copy or take extracts

An authorised officer may copy or take extracts from the document.

105ZB Removal and retention powers

- (1) An authorised officer may, at a reasonable time, remove the document and retain it for a reasonable period.
- (2) If the document is in electronic format the power in subsection (1) includes power—

- (a) to remove any medium on which the document is recorded; and
- (b) to require such assistance as is reasonably necessary to enable the information contained in the document to be rendered in a legible form.

Example: documents are stored electronically upon a hard disk of a computer. The power to seize the document includes power to seize the hard disk or to require assistance to make the data contained in it legible (e.g. by removing any password protection on the disk).

105ZC Safeguards for removal power

- (1) This section applies for a document removed and retained under section 105ZB.
- (2) An authorised officer must, if the owner of the document asks, give the owner —
 - (a) a receipt for the document; and
 - (b) if the owner reasonably requires the document for any purpose, a copy of the document.
- (3) The request may be made at any time.
- (4) The copy must be given free of charge.
- (5) If the document is lost or damaged before it is returned to the owner, the authorised officer must compensate the owner for any costs the owner reasonably incurs in the document's replacement or repair.
- (6) The removal and retention of the document does not break any lien over it.

DIVISION 4 — CIVIL PENALTY FOR CONTRAVENING ASSISTANCE REQUIREMENT OR OBSTRUCTING APPROVED INSPECTION

105ZD Power to impose civil penalty

- (1) The Assessor may, by written notice (a “**penalty notice**”), impose a penalty of such amount as the Assessor considers reasonable not exceeding £5,000 (an “**inspection-related penalty**”) on a person whom the Assessor considers has done either or both of the following in relation to an approved inspection —
 - (a) contravened an assistance requirement; or
 - (b) deliberately obstructed the inspection.
- (2) However —

- (a) at least 7 days before imposing the penalty for the contravention or obstruction, the Assessor or an authorised officer must have warned the person, in writing, that —
 - (i) the person’s conduct is considered to be a contravention or obstruction; and
 - (ii) the Assessor may impose a civil penalty on the person if the contravention or obstruction continues; and
 - (b) the penalty cannot be imposed if —
 - (i) the person ceases the contravention or obstruction after the warning has been given; and
 - (ii) the Assessor has been notified of the cessation; before the penalty has been imposed.
- Note:: A warning is required to complete an assistance requirement. See section 105X(4).*
- (3) The penalty notice must include a statement that, under section 105ZG, the person may appeal to the Commissioners against the imposition of the penalty.
 - (4) On an appeal the Commissioners may confirm, reduce or remit the penalty.

105ZE Further civil penalty for continued contravention or obstruction

- (1) This section applies if —
 - (a) the Assessor has imposed an inspection-related penalty on a person; and
 - (b) the Assessor considers the contravention or obstruction the subject of the penalty has continued for any period after its imposition (whether or not the contravention or obstruction has since stopped).
- (2) The Assessor may, by written notice, impose a further civil penalty (also an “**inspection-related penalty**”) on the person of £60 for each day the contravention or obstruction continued or continues.
- (3) The notice may be given —
 - (a) without giving any further warning; and
 - (b) by reference to a day, stated days or any longer period of time.
- (4) The notice must include a statement that, under section 105ZG, the person may appeal to the Commissioners against the imposition of the further civil penalty.

105ZF Reasonable excuse defence

- (1) Liability to an inspection-related penalty does not arise if the Assessor is satisfied the person contravening or obstructing had a reasonable excuse.
- (2) For the purposes of subsection (1) –
 - (a) insufficiency of funds is not a reasonable excuse unless it was attributable to events beyond the person's control;
 - (b) reliance on another person to do anything is not a reasonable excuse unless the person took reasonable steps to avoid the contravention or obstruction; and
 - (c) if the person had a reasonable excuse but the excuse has ceased, the person is to be treated as still having the excuse if the contravention or obstruction stops without unreasonable delay after the excuse ceased.


105ZG Collection of and appeals against penalty

Sections 111H (collection of penalty) and 111I (appeals) apply to an inspection-related penalty as if the penalty had been imposed under sections 111C to 112 (Tax return defaulters – civil penalties) and with any other necessary changes.


105ZH Safeguard against double jeopardy

- (1) If an inspection-related penalty is imposed on a person, the person is not liable to be prosecuted for an offence under –
 - (a) section 105Y, for a contravention of an assistance requirement; or
 - (b) section 109, for an obstruction or contravention.
- (2) However, to remove any doubt, this Division does not, of itself, prevent a person from being prosecuted for an offence constituted by an obstruction or a contravention of an assistance requirement.

105ZI Order-making power to vary penalty amounts

- (1) The Treasury may, by order, amend a monetary amount mentioned in this Division.
- (2) An order under this section must not come into operation unless it is approved by Tynwald. 

6 Section 120 amended – definitions

- (1) In section 120 insert alphabetically –
 -  “arrangement order” has the meaning given under section 104B(1);

- “**authorised officer**” means a person who, under section 105AA, holds appointment as an authorised officer;
- “**approved inspection**” has the meaning given under section 105S(6);
- “**assistance requirement**” has the meaning given under section 105X(2);
- “**double tax arrangement**” has the meaning given under section 104A;
- “**examine**”, the tax position of a person, means to ascertain or enquire into that position;
- “**inspection powers**” has the meaning given under section 105S(5);
- “**obstruct**” includes assault, hinder, molest, resist, attempt to obstruct and threaten to obstruct;
- “**inspection-related penalty**” has the meaning given under sections 105ZD(1) and 105ZE(2);
- “**tax position**” means the position of a person (whether living or dead or, for a corporation, whose incorporation has ended) in relation to any or all of the following at any time or for any period —
- (a) any past, present or future liability to income or other tax (including, in particular, any tax to which international arrangements relate) to which the person is or may be subject;
 - (b) the amount of the liability;
 - (c) penalties or other amounts that have been paid, or are or may be payable, by or to the person in connection with any such tax;
 - (d) claims, elections, applications and notices that have been or may be made or given in connection with any such tax; or
 - (e) deductions or repayments of tax or interest due on such deductions or repayments, or of sums representing tax or interest on such sums, that the person is required to make under any Act relating to tax; and
 - (f) the person’s place of residence for the purposes of any tax —
 - (i) payable in the Island; or
 - (ii) to which international arrangements relate. **22**.
- (2) In section 120, renumber the existing text as subsection (1) and at the end insert —
- 23** (2) An example or note in or to a provision of this Act is part of this Act and part of the provision.
- (3) An example of the operation of a provision is not exhaustive and may extend, but does not limit, the provision’s meaning. **22**.

7 Savings and transitional provisions

- (1) In this Order —
 - “**commencement**” means the day on which the order has effect;
 - “**corresponding provision**”, in relation to a replaced provision, means so much of Part 9 (international arrangements) as is —
 - (a) the same as,
 - (b) substantially the same as, or
 - (c) expresses the same idea as the replaced provision, even though a different form of words is used; and
 - “**replaced provision**” means the former —
 - (a) section 54 (relief from double taxation), or
 - (b) Part 3 (information: international obligations) of the *Income Tax Act 2003*,both of which are repealed by this Order.
- (2) On the commencement—
 - (a) an order made under a replaced provision becomes an arrangement order; and
 - (b) a TTO ratified arrangement and an arrangement specified in an order under a replaced provision, if it is an arrangement order, each become an international arrangement;
 - (c) in this section, “TTO ratified arrangement” means a temporary taxation order made under section 115A (as previously in force as section 15 of the former Income Tax Act 1995) to the extent the order provided for the implementation in the Island of, or compliance with, an agreement or arrangement mentioned in subsection (1) of that section.
- (3) From the commencement, an act done under a replaced provision before the commencement —
 - (a) has the same effect under its corresponding provision as it had under the replaced provision; and
 - (b) may be enforced as if it had been done under the corresponding provision;
 - (c) in this section, “act” includes an authorisation, consent, decision, direction, matter, notice, public document, request or transaction.
- (4) In an Act or document, a reference to all or part of a replaced provision is taken to be a reference to its corresponding provision.

8 Consequential amendments to the Income Tax Act 1970

- (1) The *Income Tax Act 1970* is amended as follows.
- (2) Section 54 is repealed.
- (3) Section 57 is amended as follows –
 - (a) in subsection (2), for “section 54” (wherever occurring) substitute **104C(2)**;
 - (b) in subsection (6), for the words from “with” to “provide” substitute –

with international arrangements made under section 104B, unless those arrangements provide otherwise.
- (4) For section 60 substitute –

60 Allowances to be given to individuals only

The provisions of this Act relating to exemptions and allowances, except those granted by sections 15, 17, 18, 18A, 19, 25, 29, 55 to 59 and 104C(2) of this Act, shall apply only to an individual and not to an association.

- (5) Section 105P is amended as follows –
 - (a) in the heading, for “international information exchange agreements”, substitute **international arrangements**;
 - (b) in subsection (1) –
 - (i) for “international information exchange agreement”, substitute **international arrangement**; and
 - (ii) for “the agreement”, substitute **the arrangement**;
 - (c) for subsection (7) substitute –

(7) In this section, “information” includes documents and evidence; and
 - (d) relocate the section, as amended by this subsection, to Part 9 as inserted by this order, and renumber the section as section 104H.
- (6) Section 105Q is amended as follows–
 - (a) in subsection (2)(b), for the words following “any” substitute **international arrangement**;
 - (b) renumber subsection (4)(i) to (iv), as subsection (4)(a) to (d); and
 - (c) relocate the section, as amended in accordance with this subsection, to Part 9 as inserted by this order, and renumber the section as section 104I.
- (7) In section 120 in the definition of “taxable income” in sub-paragraph (b) after “less” insert **group relief** and omit subparagraphs (i) and (ii).

9 Income Tax Act 1970 amended

- (1) After section 78 of the Income Tax Act 1970 insert —

“78A Returns by insurers

- (1) An insurer must, in each year of assessment, provide the Assessor with the information specified in subsection (3) in respect of all policies held by policyholders who are resident in the Island.
- (2) In the case of a policy held by a policyholder who is a trustee for another, an insurer need only provide information if both the trustee and the other are resident in the Island.
- (3) The information is —
- (a) the name and address of the policyholder;
 - (b) the amount of the investment received in that year;
 - (c) the amount of any payment made to the policy holder during the year; and
 - (d) such other information as the Assessor may reasonably require by notice in writing.
- (4) The information must be provided in the manner and format specified by the Assessor.
- (5) In this section “insurer” means a person resident in the Island who conducts business which consists of, or includes, the effecting and carrying out of —
- (a) policies of life insurance;
 - (b) contracts for life annuities; or
 - (c) capital redemption policies.”.
- (2) In section 105C—
- (a) for “particulars” in subsection (1)(b) substitute **“information”**;
 - (b) for “particulars” in subsections (2) and (5) substitute **“information or evidence”**.
- (3) In section 105D —
- (a) in subsection (2) for the words after “make available for inspection by the Assessor” substitute —
 - “(a)** such documents as are in his possession or power and as (in the Assessor’s reasonable opinion) contain, or may contain, information relevant to —
 - (i) any liability to income tax to which the taxpayer is or may be subject;
 - (ii) the amount of any such liability;

- (iii) the taxpayer's residence status for the purposes of this Act; and
 - (b) such information as the Assessor may reasonably require as being relevant to, or to the amount of, any such liability. **22**;
- (b) for subsection (3) substitute –
 - 23**(3) Before giving a notice under this section to a person, the Assessor must afford the taxpayer a reasonable opportunity to provide the document or information in question or produce for inspection the document in question. **22**;
- (c) for subsection (3C) substitute –
 - 23**(3C) When giving a person an opportunity to provide documents or information, or to produce documents for inspection, under subsection (3), the Assessor may direct the person –
 - (a) not to inform the taxpayer, or to cause or permit the taxpayer to be informed, that the person has been given that opportunity; and
 - (b) not to disclose to any person, or cause or permit to be disclosed to any other person (including the taxpayer), any information or matter which is likely to prejudice –
 - (i) the inquiry to which the documents or information relate; or
 - (ii) the performance of the Assessor's functions. **22**.
- (4) For section 105E(6), substitute –
 - 23**(6) Subsection (5) does not apply if –
 - (a) the Assessor is satisfied that there are reasonable grounds for believing that tax has been, or may have been, lost to the General Revenue owing to the fraud of the taxpayer; or
 - (b) in the Assessor's reasonable opinion, a document is foreseeably relevant to the period under investigation;and the notice is so expressed as to exclude the restrictions of that subsection. **22**.
- (5) Section 105G is amended as follows –
 - (a) in subsections (2) and (3) for “particulars” substitute “information” wherever occurring; and
 - (b) in subsection (2) at the end add **23** or information (not contained in such records, material or items) which is subject to legal professional privilege. **22**.
- (6) In section 105H –
 - (a) at the end of the heading to the section add “etc”;

- (b) in subsection (2)(b) for “particulars” substitute **“information”**.
- (7) In section 105I —
 - (a) in the heading to the section after “documents” insert **“or information”**;
 - (b) in subsection (2) after “Assessor” insert **“or to provide the information required by the Assessor”**.
- (8) In section 105K(a) after “relates” insert **“, or to conceal or alter any information to which the application relates”**.
- (9) In section 105L —
 - (a) for the heading substitute —

“105L Falsifying or concealing documents or information.”;

- (b) after subsection (1) insert —
 - (1A)** Subject to subsections (2) to (4), a person is guilty of an offence if he intentionally falsifies or conceals, or causes or permits the falsification or concealment of information which —
 - (a) he has been required to furnish by a notice under section 105C or 105D or an order under section 105H or 105I, or
 - (b) he has been given an opportunity to furnish in accordance with section 105C(2) or 105D(3). **”**;
 - (c) subsection (2) is amended as follows —
 - (i) after “(1)” insert “or (1A)”;
 - (ii) in paragraph (b) for “has been delivered or” substitute “or the information has been provided or, in a case within section the document has been inspected”;
 - (e) in subsection (3) after “(1)(a)” insert **“or (1A)(a)”**;
 - (f) in subsection (4) after “(1)(b)” insert **“or (1A)(b)”** and after “document” insert “or information”;
 - (g) in subsection (5) after “(1)” insert “or (1A)”.
- (10) Section 105M (entry with warrant to obtain material) is amended as follows—
 - (a) in subsection (1) for “information on oath” substitute “an application on oath”; and
 - (b) in subsection (2) for “(order for production of documents)” substitute **“(order for provision of documents or information)”**.
- (11) In section 105O insert at the appropriate place in the alphabetical list —
 - “information”** means any fact, statement or record in whatever form; **”**.

10 Income Tax Act 2003: Part 3 repealed

Part 3 of the Income Tax Act 2003 is repealed.

11 Amendments to certain orders

- (1) Paragraph (2) applies in respect of each of the following (each an “Order”) –
- (a) the Income Tax (Netherlands) Order 2006 (SD 168/06);
 - (b) the Income Tax (USA) Order 2006 (SD 169/06);
 - (c) the Income Tax (Denmark) Order 2008 (SD 59/08);
 - (d) the Income Tax (Faroes) Order 2008 (SD 62/08);
 - (e) the Income Tax (Finland) Order 2008 (SD 65/08);
 - (f) the Income Tax (Greenland) Order 2008 (SD 68/08);
 - (g) the Income Tax (Iceland) Order 2008 (SD 71/08);
 - (g) the Income Tax (Norway) Order 2008 (SD 74/08);
 - (h) the Income Tax (Sweden) Order 2008 (SD 77/08);
 - (i) the Income Tax (Ireland) Order 2008 (SD 359/08);
 - (j) the Income Tax (United Kingdom) Order 2008 (SD 825/08);
 - (k) the Income Tax (Australia) Order 2009 (SD 151/09);
 - (l) the Income Tax (Germany) Order 2009 (SD 224/09);
 - (m) the Income Tax (France) Order 2009 (SD 260/09);
 - (n) the Income Tax (Estonia) (Double Taxation) Order 2009 (SD 409/09);
 - (o) the Income Tax (Belgium) (Double Taxation) Order 2009 (SD 665/09);
 - (p) the Income Tax (New Zealand) Order 2009 (SD 666/09);
 - (q) the Income Tax (Malta) (Double Taxation) Order 2009 (SD 886/09);
 - (r) the Income Tax (Portugal) Order 2010 (SD 756/10);
 - (s) the Income Tax (China) Order 2010 (SD 1029/10);
 - (t) the Income Tax (Canada) Order 2011 (SD 99/11);
 - (u) the Income Tax (India) Order 2011 (SD 100/11);
 - (v) the Income Tax (Bahrain) (Double Taxation) Order 2011 (SD 101/11);
 - (w) the Income Tax (Poland) Order 2011 (SD 244/11);
 - (x) the Income Tax (Mexico) Order 2011 (SD 318/11);
 - (y) the Income Tax (Japan) Order 2011 (SD 543/11);
 - (za) the Income Tax (Indonesia) Order 2011 (SD 544/11);
 - (zb) the Income Tax (Slovenia) Order 2011 (SD 914/11);

- (zc) the Income Tax (Czech Republic) Order 2011 (SD 915/11);
 - (zd) the Income Tax (Qatar) (Double Taxation) Order 2012 (SD 0308/12);
 - (ze) the Income Tax (Singapore) (Double Taxation) Order 2012 (SD 0663/12);
 - (zf) the Income Tax (Turkey) Order 2012 (SD 0664/12);
 - (zg) The Taxes (Argentine Republic) Order 2013 (SD 0014/13);
 - (zh) the Income Tax (Jersey) (Double Taxation) Order 2013 (SD 0042/13);
 - (zi) the Income Tax (Guernsey) (Double Taxation) Order 2013 (SD 0043/13);
 - (zj) the Income Tax (Luxembourg) (Double Taxation) Order 2013 (SD 0120/13);
 - (zk) the Income Tax (Seychelles) (Double Taxation) Order 2013 (SD 0121/13).
- (2) The amendments in Articles 12(2) to 12(11) apply in respect of the text of sections 105C to 105O Income Tax Act 1970 as modified for the purposes of the applicable arrangements specified in each Order, and set out in Schedule 2 to each Order.
- (3) In section 105D(4) of Schedule 2 to each of the Orders listed in subparagraphs (a) to (zi) inclusive listed in paragraph (1), for the words from “when” to “concerned” substitute –
- if the Assessor is aware of the taxpayer’s address or whereabouts, the Assessor must give the taxpayer**.

MADE 18th September 2013

W E TEARE
Minister for the Treasury

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

This temporary taxation Order amends the Income Tax Act 1970 (1970Act) as follows.

Article 3 inserts a new Part 9 into the 1970 Act regarding the declaration of an international taxation arrangement. This brings together the current statute regarding the approval of international agreements from section 15 of the Income Tax Act 2003 and approval of double taxation agreements from section 54 of the 1970 Act. It also introduces widens to the scope and includes powers to give effect to the Convention on Mutual Administrative Assistance in Tax Matters.

Section 104A provides the definitions for this part.

Section 104B brings together the different types of international tax arrangements and the ability for the arrangement to be bilateral or multilateral.

Section 104C includes other matters that may be provided for in an international tax arrangement.

These matters include the exchange of information required for Tax Information Exchange Agreements, attribution or adjustment of income required for Double Taxation Agreements and simultaneous tax examinations and tax examinations abroad.

Section 105D provides for regulations for the purpose of giving effect to any international arrangements.

Section 104E details that an international arrangement has effect despite an enactment or other document.

Section 104F provides for incoming information under and international tax arrangement. This is a duplicate of the previous Section 20 of the Income Tax Act 2003 and provides that information received from another country under an international arrangement must not be disclosed by a Manx tax official except –

- (a) for tax purposes;
- (b) for legal proceedings; or
- (c) as permitted under the international arrangement.

Section 104G provides for the outgoing information under an international arrangement and replaces the previous Section 21 of the Income Tax Act 2003.

It also provides that the Manx tax official may decline to disclose information unless satisfied that it will not be used in a criminal proceeding against the person disclosing it other than for an offence of perjury or a like offence.

Article 4 replaces Section 105 of the 1970 Act with new sections regarding authorised officers for the 1970 Act.

Section 105 allows for the appointment of the Assessor of Income Tax, authorised officers and revenue officers under the 1970 Act.

Section 105AA allows the Assessor to appoint authorised officers with appropriate experience or qualifications.

Section 105AB provides that the Assessor must give each of the authorised officers an identity card.

Section 105AC details that an authorised officer must display or produce the identity card when exercising functions mentioned in Section 105(1) of the 1970 Act.

Article 5 inserts a new Part 13 (Sections 105R to 105ZI) into the 1970 Act about the inspection and document-related powers of authorised officers.

Section 105R provides for the definitions for this part of the 1970 Act.

Section 105S provides inspection powers for an authorised officer.

In order to help the Assessor check a person's tax position an authorised officer may enter any premises and inspect the premises and any documents or assets at the premises. The entry and inspection may only take place if –

- (a) the occupier consents;
- (b) the authorised officer has given the occupier 7 day's notice of the entry; or
- (c) the entry and inspection has been approved under section 105U and the authorised officer complies with Section 105V.

Section 105T does not allow any inspection of –

- (a) a part of the business premises used solely as a dwelling;
- (b) personal records, journalistic material or items subject to legal privilege; or
- (c) a document relating to the conduct of any pending tax appeal.

Section 105U allows the Assessor to obtain approval from the High Bailiff for an authorised officer to exercise inspection powers for a particular business premises.

Only if the High Bailiff is satisfied that the entry and inspection is reasonably justified will they grant consent.

Section 105V applies for an approved inspection and details that an authorised officer must give a notice in a specified format about the entry.

Section 105W allows the authorised officer to mark business assets to indicate that they have been inspected, and obtain and record information relating to the business premises, business assets and business documents inspected.

Section 105X an authorised officer that has entered business premises for an approved inspection may require a person to give reasonable assistance to perform the functions for the inspection.

When requesting assistance the authorised officer must warn the person in writing that contravention is an offence or the Assessor may impose a civil penalty.

Section 105Y provides for the offence for the contravention of the assistance requirement.

Section 105ZA provides a power to take a copy or take extracts from the document.

Section 105ZB allows the authorised officer to remove the document and retain it for a reasonable time.

Section 105ZC provides safeguards, the authorised officer must, if the owner of the document asks, give the owner —

- (a) a receipt for the document; and
- (b) if the owner requires the document for any purpose, a copy of the document

If the document is lost or damaged before it is returned to the owner, the authorised officer must compensate the owner for any costs the owner reasonably incurs in the documents or repair.

The removal or retention does not break the lien over the document.

Section 105ZD provides a power for the Assessor to impose a civil penalty where a person has either contravened a help requirement or deliberately obstructed the inspection.

Before imposing the penalty the Assessor must have warned the person that —

- (a) the person's conduct is considered to be an obstruction; and
- (b) that the Assessor may impose a civil penalty on the person if the obstruction continues.

The penalty cannot be imposed if the person immediately ceases the obstruction.

There is a right of appeal to the Income Tax Commissioners against the imposition against the penalty.

Section 105ZE provides for a further penalty for continued contravention or obstruction. This applies if the Assessor has imposed an inspector-related penalty on the person and he considers the contravention or obstruction has continued for a period after its imposition.

Section 105ZF provides for a defence of reasonable excuse against the penalties

105ZG provides for a penalty to be recoverable as a debt due to the Assessor and provides for an appeal to be made to the Income Tax Commissioners.

105ZH prevents a person being prosecuted for an offence under Section 105Y and Section 111 if they have been charged an inspection-related penalty.

Article 6 provides for definitions.

Article 7 provides for savings and transitional provisions in order that all international agreements that are currently in place become an arrangement order under the Act.

Article 8 provides for consequential amendments to the 1970 Act.

Article 9 inserts a new Section 78A to require insurance providers to provide information of resident policy holders to the Assessor.

Article 10 amends sections 105C to 105O of the 1970 Act to ensure that the Assessor has power to call for information as well as documents. The amendments made to section 105 are also applied to every current international agreement by article 11.