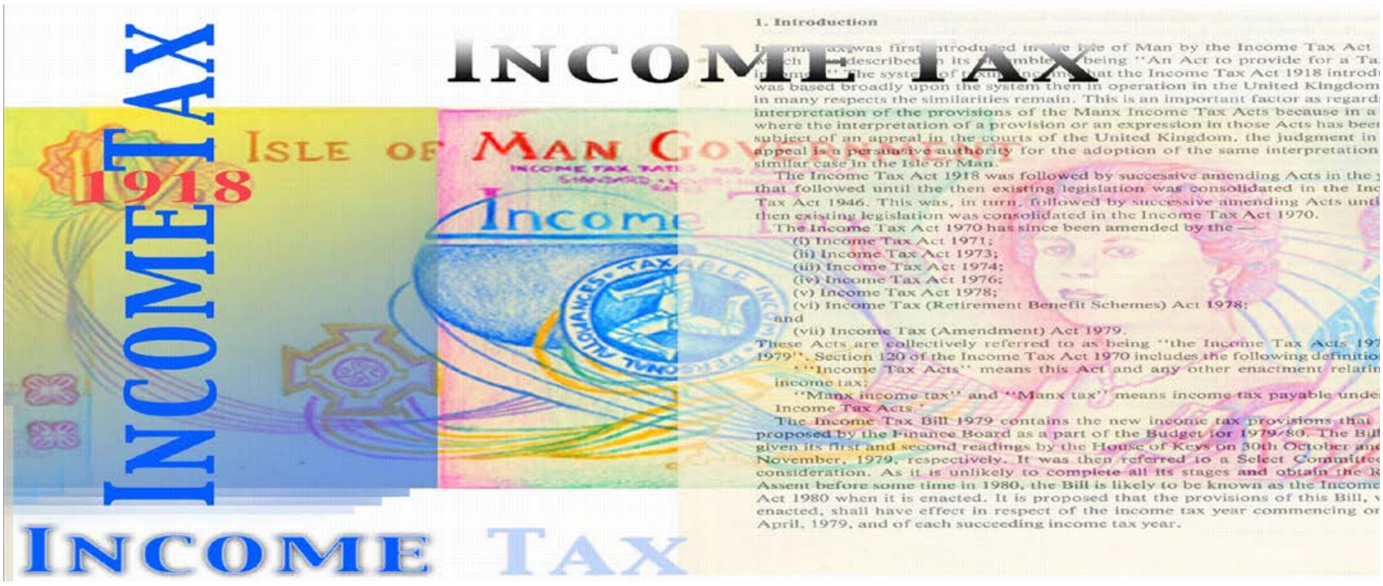

Double Taxation Relief

Guidance Note – GN5

Issued by the Income Tax Division
06 April 2017

V. 6 April 2017

PLEASE NOTE:

This guidance has no binding force and does not affect your right of appeal on points concerning your liability to tax.

The information in this booklet can be provided in large print on request.

CONTENTS

1 INTRODUCTION

An individual, resident for income tax purposes in the Isle of Man, is required to declare their **worldwide** income on their annual income tax return form. Double taxation occurs when income from sources outside the Isle of Man is included in the Isle of Man assessment, having already been taxed in its country of origin.

Double taxation most frequently arises where the Isle of Man resident taxpayer:

- has profits or salary from non-Isle of Man sources
- has investment income (e.g. rents, dividends, interest etc.) from non-Isle of Man sources
- has retired to the Island and receives an occupational pension paid by the country where they previously resided and worked

The majority of claims for double taxation relief in the Isle of Man relate to income from the United Kingdom (UK), and for that reason many of the examples in this guide refer to income from the UK and the UK tax system in operation at the date this guide was published.

It is not possible for the Assessor to provide such detailed examples relating to income received from all other countries.

If you receive income from anywhere outside the Isle of Man and are resident for tax purposes in the Isle of Man, it is strongly recommended that you seek professional advice in relation to your tax position in that other country.

2 DOUBLE TAXATION AGREEMENTS

The Isle of Man has specific double taxation agreements in place with the United Kingdom and many overseas countries. These agreements are designed to avoid double taxation occurring where an individual is resident for tax purposes in one country, but receives income from the other.

Some double taxation agreements contain articles which make certain income sources taxable only in one of the countries.

Provisions also exist in some agreements for the avoidance of double taxation when an individual is resident in both countries.

Copies of all agreements are available to be viewed on the Divisions website. Although they follow a similar format, agreements may cover different types of income and may allow for different tax treatments.

Some agreements state that the income is only taxable in the country where the individual is resident (often referred to as “residence based” taxation), whilst others say that the income is only taxable in the country it was paid from (often referred to as “source based” taxation) or that the income may be taxed by both countries.

It is therefore important that the specific agreement is fully considered when determining the correct tax treatment.

For example, pensions from the United Kingdom are a very common overseas source of income for Isle of Man residents.

The UK double taxation agreement with the Isle of Man states that UK pensions paid to an Isle of Man resident will only be taxable in the Isle of Man (residence based taxation). Likewise, an Isle of Man source pension paid to a resident of the UK will only be taxable in the UK.

If tax has already been deducted at source on overseas income, and under the terms of the applicable double taxation agreement the income is taxable only in the Isle of Man, it will be necessary to reclaim this tax paid in the other country.

Following on from the UK pension example, if a UK pension is taxed at source in the UK but the recipient is only resident in the Isle of Man, the tax deducted in the UK should be reclaimed and the pension will only be liable to tax in the Isle of Man.

To make this reclaim from the UK a DT/Individual claim form (available from HMRC website) should be completed and first sent to the Isle of Man Income Tax Division to certify that the person is resident in the Isle of Man and subject to tax on the income here. The form should then be sent to HM Revenue & Customs to process the claim and refund the tax.

Many of the Isle of Man's double taxation treaties with other countries also apply residence based taxation to pensions or other income, and each country will have a similar form available for completion.

Isle of Man Pensions paid to Non-Resident Individuals

A similar claim form (R221) is available on the Division's website for non-resident individuals who receive an Isle of Man source pension and are now resident in a country with which the Isle of Man has a double taxation agreement.

3 DOUBLE TAXATION RELIEF WHERE NO AGREEMENT EXISTS

If an Isle of Man resident receives income from a country which does not have a double taxation agreement with the Isle of Man, double taxation relief (DTR) can still be allowed when calculating the Isle of Man tax due.

The income concerned is included within the Isle of Man tax assessment but the liability is then reduced by an amount which represents the overseas tax suffered on that income, but only to the extent of the equivalent Isle of Man tax that would otherwise be due.

This method of calculating DTR is the same that is used if a double taxation agreement exists which specifically allows both countries to include the income in their relevant assessments.

Section 4 onwards explains how DTR is calculated and provides detailed examples of some common scenarios.

Double Taxation Relief is not allowable if overseas tax can be reclaimed

DTR will only be given where the overseas tax has been correctly paid in the other country. If the tax paid overseas is incorrect for any reason, or a refund could be claimed, then this would not qualify for double taxation relief purposes in the Isle of Man income tax assessment.

The Isle of Man Income Tax Act 1970 requires that a person take all reasonable steps to minimise the tax payable in the jurisdiction for income against which DTR is being claimed.

Reasonable steps include claiming all available reliefs and allowances and making applicable elections which would reduce the tax payable on the income.

If the individual chooses not to reclaim any overseas tax by making such claims and elections, DTR cannot be allowed when calculating their Isle of Man tax due.

For example, if withholding tax is deducted from interest at source at a flat rate, but the individual is entitled to a personal allowance if they submit an income tax return in the country, the full amount of tax deducted at source will not qualify for DTR in the Isle of Man.

4 CLAIMING DOUBLE TAXATION RELIEF

All claims for double taxation relief should be made as soon as possible after the correct liability to overseas tax is known.

Claims are usually made with your personal income tax return when you declare the income, but may be made later if the liability to overseas tax is not confirmed until a later date. (e.g. a UK personal self-assessment tax return does not need to be filed until 31 January, which is at least 3 months after the date you would need to file your Isle of Man income tax return).

When making any claim for double taxation relief it is important that evidence is provided to confirm the amount of tax paid overseas. Such evidence may be in the form of a certificate of tax paid, a copy of the overseas tax assessment or other confirmation of the tax paid from the relevant overseas tax authority.

5 CALCULATION OF DOUBLE TAX RELIEF

The Isle of Man assessment is first calculated in the normal way, and then a series of calculations are performed to arrive at the amount of DTR. The amount of DTR due then reduces your tax liability.

The amount of DTR is the lesser of:

- the marginal amount, or
- the amount of UK or foreign tax deducted from the income on which the claim is made.

The "marginal amount" is arrived at by calculating the difference between:

- the amount of Isle of Man tax payable on all income *including* the foreign or UK income, and
- the amount of Isle of Man tax payable on all income *excluding* the foreign or UK income.

The "marginal amount" therefore represents the additional Isle of Man tax which would normally be due on the overseas income before allowing for any DTR. Please see Examples section later in this guide.

6 MORE THAN ONE OVERSEAS INCOME SOURCE

6.1 More than one source of income from the same country of origin

If an Isle of Man resident has more than one source of income from the same country, the amounts of the income will be treated separately.

However, where the country is the UK and a self-assessment has been submitted, the amounts of the income and tax are aggregated and an effective overall rate of tax is determined which is then used in the double taxation calculation. Please see Example 3.

6.2 Taxed income from more than one country of origin

An Isle of Man resident may have taxed income from more than one country of origin, and each source may have been taxed at different rates.

In such a case, the income which has been taxed at the highest rate is excluded first when calculating the marginal amount. The other sources are then excluded in order of descending rates of tax to calculate each successive marginal amount. Please see Example 4.

7 DIVIDENDS

UK Dividends

Paid Before 6 April 2016

In most cases, UK dividends are assessed in the Isle of Man on the amount of money actually received.

Under the UK's system of tax, UK dividends used to carry a 10% non-refundable notional tax credit when a dividend payment was made.

This takes account of the fact that the company has paid corporation tax on the profits out of which the dividend distribution is paid.

The tax credit can be utilised against any UK liability that you may have, but any excess cannot be refunded.

For Isle of Man tax purposes, a tax credit attached to a dividend is not income tax suffered by the individual and so DTR is not allowed for this notional credit.

The individual is instead taxed on the net amount of the UK dividend received, without the notional tax credit.

Paid After 6 April 2016

From 6 April 2016 the UK tax system changed and there is no longer a 10% notional tax credit attaching to UK dividends received.

Therefore, the amount of double taxation relief to be allowed on UK dividends for Isle of Man tax purposes is now simply equal to the effective rate of tax suffered within the overall UK assessment calculation.

UK Property Income Dividends

UK Property Income Dividends (UK PIDs) are treated differently as the company paying them is not subject to corporation tax on the income used to pay the dividends under a special corporation tax treatment applying to Real Estate Investment Trusts.

UK PIDS are subject to UK income tax on the recipients as property letting income.

UK PIDs never carried notional tax credits and so nothing changed in 2016.

As such DTR can be claimed on the income tax deducted and correctly due.

Dividends from Other Countries

In most cases, dividends from other countries have withholding tax (WHT) deducted at source. This WHT is real tax suffered by the individual, and so DTR will be available.

However, the amount of tax which qualifies for relief may not be the full amount of WHT if the individual can claim any allowances, deductions or reliefs in the paying country. (See the earlier section regarding reclaims of overseas tax).

Here are some examples of common overseas dividends received by Isle of Man residents and how they are taxed in the Isle of Man.

> **Australian Dividends** can be either franked or unfranked. Franked dividends are assessed net, but unfranked dividends are assessed gross and double taxation relief is granted.

Irish Dividends attract a Dividend Withholding Tax, which was introduced with effect from 6 April 1999, and therefore the dividends distributed under this system would initially be assessed gross (the cash received plus the WHT) for Isle of Man tax purposes.

However, some Isle of Man residents may have a claim to repayment of the Dividend Withholding Tax from Ireland, because they qualify for a proportion of the Irish personal allowance.

Therefore, the relief granted may need to be reconciled by submission of the appropriate Irish assessment or repayment document.

8 INCOME TAXED IN MULTIPLE JURISDICTIONS

Double taxation relief can only be claimed against tax paid in the same jurisdiction that the income was received from. DTR cannot be claimed for any tax paid on that income in another jurisdiction.

For example, if someone is resident for tax purposes in both the Isle of Man and the UK (often referred to as “dual resident”) and they receive dividends from Spain which are taxed at source in Spain.

The Isle of Man and the UK operate a tax system which requires residents to pay tax on their worldwide income.

As a tax resident in the UK the individual will be required to declare the Spanish dividends on their UK return and may have to pay additional UK tax on the Spanish dividends, if the rate of WHT in Spain is lower than the UK tax rate.

For Isle of Man tax purposes however they can only claim double taxation relief on the tax paid at source in Spain.

They will receive no tax relief in the Isle of Man for any additional UK tax paid on the Spanish dividends.

9 EXAMPLES

9.1 Example 1

This example shows a single person who has one UK taxed source of income.

Step 1 – Calculate the liability without DTR		*UK tax already suffered*
Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
UK source employment	25,000	*2,700 (10.8%)*
Total income	**38,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income	**25,705**	
6,500@10%	650	
19,205@20%	3,841	
Liability including all income – **Total "A"**		**4,491.00 (A)**

Step 2 – Calculate the liability excluding the UK taxed income

Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
Total income	**13,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income (@ 10%)	**705**	
Liability excluding income against which DTR is to be given = **Total "B"**		**70.50 (B)**
Marginal amount (A-B) £4,491 - £70.50		**£4,420.50**
UK Tax paid		**£2,700.00**

The amount of double taxation relief (DTR) is the amount of **UK tax paid**, because it is lower than the marginal amount.

Total Liability	**£4,491.00**
Less: DTR	**£2,700.00**
Tax payable	**£1,791.00**

Conclusion

It is important to take into account any personal allowances granted by the UK/overseas jurisdiction when calculating the UK/overseas tax rate. Other jurisdictions may have rates in force which are higher than the Isle of Man rate; however, after the other jurisdiction grants a personal allowance, the actual rate of tax suffered on the total amount of income can be much lower.

If this actual rate is less than the Isle of Man Standard rate, the DTR will always be the amount of UK/foreign tax deducted. The net effect is that no double tax has been suffered, full relief has been given for the UK/foreign tax.

However, additional Isle of Man tax will still be payable (the difference between the UK/foreign tax and the marginal).

9.2 Example 2

Marginal amount less than tax deducted - This example shows a single person who has one UK taxed source taxed at a different rate.

Step 1 – Calculate the liability without DTR		*UK tax already suffered*
Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
UK source employment	25,000	*6,250 (25%)*
Total income	**38,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income	**25,705**	
6,500@10%	650	
19,205@20%	3,841	
Liability including all income – **Total "A"**		**4,491.00 (A)**

Step 2 – Calculate the liability excluding the UK taxed income

Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
Total income	**13,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income (@ 10%)	**705**	
Liability excluding income against which DTR is to be given = **Total "B"**		**£70.50 (B)**
Marginal amount (A-B) £4,491 - £70.50		**£4,420.50**
UK Tax paid		**£6,250.00**

The amount of double taxation relief (DTR) is the marginal amount, as the **UK tax paid is greater than the marginal amount.**

Total Liability	**£4,491.00**
Less: DTR	**£4,420.50**
Tax payable	**£70.50**

Conclusion

If the UK/foreign tax rate is greater than the Isle of Man Standard rate, the DTR will always be the marginal amount.

Effectively, the application of DTR will remove the UK/overseas income from the income charged to tax in the Isle of Man assessment.

The net effect is that no double tax has been suffered, the relief given has cancelled out the Isle of Man liability on this particular income, and the only tax due is that charged by the UK/overseas jurisdiction.

9.3 Example 3

This example shows a single person who has two or more UK taxed sources.

Step 1 – Calculate the liability without DTR		*UK tax already suffered*
Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
UK source employment	18,000	*3,240 (18%)*
UK source rents	8,000	*1,440 (18%)*
Total income	**39,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income	**26,705**	
6,500@10%	650	
20,205@20%	4,041	
Liability including all income – **Total "A"**		**4,691.00 (A)**

Step 2 – Calculate the liability excluding the UK taxed income

Salary from Isle of Man employment	12,358	
Isle of Man investment income	847	
Total income	**13,205**	
Single person's allowance (2017/18)	(12,500)	
Taxable income (@ 10%)	**705**	
Liability excluding income against which DTR is to be given = **Total "B"**		**£70.50 (B)**
Marginal amount (A-B) £4,691 - £70.50		**£4,620.50**
UK Tax paid		**£4,680.00**

The amount of double taxation relief (DTR) is the marginal amount, as the **UK tax paid is greater than the marginal amount.**

Total Liability	**£4,691.00**
Less: DTR	**£4,620.50**
Tax payable	**£70.50**

9.4 Example 4

Multiple rates of taxed overseas income

When there is more than one source of taxed income from different countries, the calculation for double tax relief is done step by step, starting by excluding the income taxed at the highest rate first.

The DTR for the remaining sources is calculated by excluding income subject to decreasing rates of foreign tax to calculate each marginal amount. This ensures an individual receives the maximum relief available.

The following example shows a single person with sources of income from three different countries, and the step by step calculation used to determine the DTR given.

Step 1 - Calculate the liability without DTR

		Foreign tax already suffered		
Salary from Isle of Man employment	18,250.00			
Foreign investment income	1,486.00	*126.31*	*(8.50%)*	
	496.00	*74.40*	*(15.00%)*	
	348.00	*87.00*	*(25.00%)*	
Total income	**20,580.00**			
Single person's allowance (2017/18)	-12,500.00			
Taxable income	**8,080.00**			
£6,500 @ 10%	650.00			
£1,580 @ 20%	316.00			
Liability including all income - **Total "A"**		**£966.00**	**(A)**	

Step 2 - Calculate the liability excluding £348 taxed at 25%

		Foreign tax already suffered		
Salary from Isle of Man employment	18,250.00			
Foreign investment income	1,486.00	*126.31*	*(8.50%)*	
	496.00	*74.40*	*(15.00%)*	
Total income	**20,232.00**			
Single person's allowance (2017/18)	-12,500.00			
Taxable income	**7,732.00**			
£6,500 @ 10%	650.00			
£1,232 @ 20%	246.40			
Liability excluding income against which DTR is to be given = **Total "B"**		**£896.40**	**(B)**	

Marginal Amount (A-B) £966 - £896.40	**£69.60**
Foreign Tax paid	**£87.00**

The amount of double taxation relief (DTR) is the marginal amount as the foreign tax paid is greater than the marginal amount.

Step 3 - Calculate the liability (C) less the income with the next highest rate 15%

		Foreign tax already suffered	
Salary from Isle of Man employment	18,250.00		
Foreign investment income	1,486.00	*126.31*	*(8.50%)*
Total income	**19,736.00**		
Single person's allowance (2017/18)	-12,500.00		
Taxable income	**7,236.00**		
£6,500 @ 10%	650.00		
£736 @ 20%	147.20		
Liability excluding income against which DTR is to be given = **Total "C"**		**£797.20**	**(C)**

Marginal Amount (B-C) £896.40 - £797.20	**£99.20**
Foreign Tax paid	**£74.40**

The amount of double taxation relief (DTR) is the foreign tax paid as the marginal amount is greater than the foreign tax paid.

Step 4 - Calculate the liability (D) less the income with the lowest rate 8.5%

		Foreign tax already suffered	
Salary from Isle of Man employment	18,250.00		
Total income	**18,250.00**		
Single person's allowance (2017/18)	-12,500.00		
Taxable income	**5,750.00**		
£5,750 @ 10%	575.00		
Liability excluding income against which DTR is to be given = **Total "D"**		**£575**	**(D)**

Marginal Amount (C-D) £797.20 - £575	**£222.20**
Foreign Tax paid	**£126.31**

The amount of double taxation relief (DTR) is the foreign tax paid as the marginal amount is greater than the foreign tax paid.

Total liability	£966.00	
Less DTR	-£69.60	Relief for £348 @ 25.00%
Less DTR	-£74.40	Relief for £496 @ 15.00%
Less DTR	-£126.31	Relief for £1,486 @ 8.5%
Tax Payable	**£695.69**	

10 FURTHER INFORMATION

As stated in the introduction to this guide, if you have income from outside the Isle of Man it is strongly recommended that you seek the advice of a tax professional.

The Assessor is not able to correspond with the tax authorities in the other country on your behalf and is not able to provide any information or forms pertaining to your tax position there.

10.1 H M Revenue & Customs

Please note that we cannot advise you on your UK tax position, but if you have any queries regarding your UK tax please contact HM Revenue and Customs directly.

Contact information and useful links can be found on the GOV.UK website by selecting the relevant option in the “money and tax” section.

10.2 Income Tax Division

This leaflet does not cover every point about Double Taxation Relief. It is intended as a general guide only and any information in relation to the tax system in other countries was that in operation at the date of publication.

If you need any further information or would like to discuss this matter, please contact the Division at:

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