



**Isle of Man
Government**

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A Consultation Response Document



Enhanced Requirements for Accounting Records

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Enhanced Requirements for Accounting Records

1. Introduction

The Isle of Man is a member of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum). As such, it is subject to an in depth peer review process to ensure implementation of the international standards of transparency and exchange of information for tax purposes.

The Isle of Man was subject to a combined phase 1 and phase 2 review in 2010 and was awarded the top 'compliant' rating. By March 2016 ratings on 94 countries had been published of which only 22 countries had been awarded the top 'compliant' rating.

The Island will undergo its next peer review in early 2017. The requirement for relevant entities to make and keep adequate accounting records is one of the elements to be assessed as part of the review. Although the Island's legislation already contains requirements for certain entities to keep records, the requirements vary and the current legislation does not apply the same standard to all the entities that will be considered relevant for the purposes of the review.

In order to strengthen the Island's legislation, regulations addressing the making and keeping of accounting records were drafted earlier this year under the provision contained in section 105BB of the Income Tax Act 1970. These will, amongst other things, require accounting records to be retained for five years, the international standard for record retention. The draft regulations were subsequently published in the consultation document "Enhanced Requirements for Accounting Records" that was issued by the Treasury in July 2016 and which sought feedback on the proposals as well as inviting suggestions for improvement.

2. Executive Summary

The consultation was open for almost seven weeks, from 12 July until 26 August 2016. During this period five responses were received.

This document provides a summary of the comments submitted together with Treasury's response and conclusion.

3. Summary of Responses

The comments from the five respondents can be summarised as follows:

- one advised that the body concerned had no comment to make;
- one commented that they felt the proposals were "reasonable and appropriate" and advised that they had no objection or further comment to make;
- a third said that they did not have strong concerns about the objective of the regulations per se but that it struck them as being legislatively difficult for regulations under one Act to sit alongside live provisions in current primary legislation; they said that the provisions in some

of the Companies Acts and the provisions in the draft regulations are not identical and that it seemed to them that provisions in the regulations should be by reference to the actual provisions in the relevant Companies Act; they also said that it is not helpful to have penalty regimes for essentially the same offence which are substantially different and wondered whether penalties should be consistent whether arising from the Companies Acts or the regulations and also whether it is appropriate to suffer the risk of double jeopardy;

- one found the language of the definition of non-corporate taxpayer to be unclear and queried its meaning and also asked for clarification of what “carry on business” encompasses;
- the remaining respondent commented that:
 - with regard to draft regulation 5(4)(b), it is not possible to know the source of incoming funds if received by BACS and that whether the funds have come from the customer or a third party cannot be identified without significant cost and effort;
 - draft regulation 5(4)(c) would indicate that a fixed asset register was needed and said that whether or not a register is required may warrant further clarification;
 - it would be helpful to know what the current deficiencies are and how this proposal will be dealt with in practice; also for the Division to comment as to how close the proposal is matched to international standards and which jurisdictions are signed up to it and which are not.

4. Response from Treasury

The Treasury would like to thank those individuals who responded to the consultation. Having considered the points raised, Treasury can now respond as follows:

- It is acknowledged that these new rules are not consistent with those under the Companies Acts. However these regulations are for tax purposes and are required to meet international standards.
- A non-corporate taxpayer is effectively any person who is not a corporate taxpayer and therefore includes such persons as individuals and trusts. Carrying on business includes carrying on a trade or profession. The new regulations will not apply to individuals who are simply employed.
- It should be noted that under existing income tax legislation a company must keep all receipts and expenses in the course of a corporate taxpayer’s activities, and the matters in respect of which the receipts and expenses arise. This is a requirement in order to meet international standards.
- Any entity will, for its own accounting requirements, want to have a record of its assets and liabilities. These regulations do not require the entity to hold the documentation for an asset acquired years ago. The manner in which the assets are recorded, whether as an asset register or not, is a matter for the entity.
- The current international standard established by both the Financial Action Task Force and the Global Forum is that records should be kept for a minimum of five years.

5. Conclusion

Having considered the results of the consultation Treasury does not believe that any significant changes need to be made to the regulations as drafted. Therefore, a final version, reflecting minor amendments, will go before Tynwald for approval.



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