
PRACTICE NOTE

PN 24/89

Date: 11 September 1989

Income Tax Act 1989

General

The Income Tax Act 1989 (the Act) came into force on 12 July 1989 and with it the various provisions set out in Appendix 1. The following Regulation and Orders have also been signed by the Treasury but in certain instances, still require Tynwald approval.

G.C. 100/89 Income Tax (Exempt Companies) (Prescribed Exclusions) Regulations 1989.

G.C. 277/89 Income Tax Act 1989 (Appointed Day) (No 1) Order 1989 relating to the circumstances in which a husband and wife are to be treated as living together.

G.C. 291/89 Income Tax Exemption (Managed Banks) (Fees) Order 1989

G.C. 312/89 Income Tax (Deductions) (Prescribed Cases) Order 1989

Personal Pensions/Retirement Annuities

1. Relief under the new Personal Pension Plans (PPP) is calculated using the premiums paid in the year whereas retirement annuity relief is calculated on the premiums paid in the previous year. Section 35 of the Act effectively requires the premiums to be aggregated for the purposes of calculating the maximum relief due. Any restriction on the relief is to be applied to the PPP.

2. The Act prevents approval for retirement annuity contracts taken out on or after 6 April 1989. Following representations from various insurance companies, it has been agreed that by concession approval will still be given to contracts taken out between 6 April 1989 and 11 September 1989. This is to allow for instances where insurance companies were unaware of the impending changes. No approval will be given to a contract effected on or after 12 July 1989.

Exempt Companies

Practice Note 23/89 issued on 31 July 1989 sets out in detail the changes brought about by the Act. On a point of clarification, it has been ruled that the signing of a contract for sale in the Island does not contravene Regulation 2(b) where all other activities relating to that sale are off the Island and the goods themselves are not in the Island.

Prescribed Deductions

The Order relating to deductions contains provisions giving relief for:

Interest paid

Alimony and maintenance payments

Deed of Covenant payments to a charity and certain covenanted educational payments

More information will be issued in due course and will include details of the extra statutory concession relating to deductions paid during the year ended 5 April 1987.

Married Couples

Section 69 of the Act introduces amendments to the married woman's income provisions and provides statutory backing to the administrative arrangements which have been followed for many years. The Order giving force to the provisions is set out in Government Circular 277/89 and reproduced in Appendix 2. The independent taxation measures contained in Section 70 which will replace the existing separate assessment provisions are not yet in force.

Sub-Contractors

The existing arrangement will continue for the remainder of the current income tax year. New Regulations will come into force with effect from 6 April 1990 and a detailed Practice Note and guide will be issued in due course.

Anti-Avoidance

Schedule 1 of the Income Tax Act 1980 introduced the authority for the Assessor to make an assessment to prevent avoidance of income tax. The provisions only applied to circumstances where income arose to a person resident out of the Island. Schedule 6 of the Act amends the above to provide for the following:

"If the Assessor is of the opinion that the main purpose or one of the main purposes, of any transaction, is the avoidance or reduction of the liability of any person to income tax, the Assessor may, subject to the provisions of this Schedule, make such assessment or additional assessment on that person as the Assessor considers appropriate to counteract the avoidance or reduction of liability"

The other provisions within the Schedule provide for a main purpose or commercially test to be applied with the right of appeal on such matters to the Income Tax Commissioners. A clearance procedure is available for any transaction where there is doubt as to whether it will fall within the above measures. Enquiries have already been received particularly with regard to "roll-up funds". It is considered that one of the main purposes of such funds is the avoidance or reduction of a tax liability and therefore the "income" being accumulated will in future be taxable. This will apply to any investments made on or after 12 July 1989 or to any transaction in relation to an existing investment e.g. additional funding.

Further Practice Notes

The following topics will be the subject of further Practice Notes to be issued over the next few months :

Prescribed deductions	Donations to Charities
Share Options	Benefits in Kind
Herd basis	Non Residents
Sub-contractors	Default assessments
Double taxation relief	Group relief

Notes for guidance will also be issued on Independent Taxation and Repayment Supplements as soon as it has been determined for which year they are to be brought into force. Any person requiring information in advance of a Practice Note or in addition to the information provided should address the enquiry to the Income Tax Division and mark it for the attention of the Assessor of Income Tax.

APPENDIX 1

MEASURES NOW IN FORCE

APPENDIX 2

Government Circular No. 277/89

INCOME TAX ACT 1989

INCOME TAX ACT 1989 (APPOINTED DAY)(NO. 1) ORDER 1989

In exercise of the powers conferred on the Treasury by section 71 of the Income Tax Act 1989, and of all other powers enabling it in that behalf, the following Order is hereby made:-

Citation and commencement

1. This Order may be cited as the Income Tax Act 1989 (Appointed Day)(No. 1) Order 1989.

(Appointed Day) (No. 1) Order 1989.

Appointed day

2. Section 69 of the Income Tax Act 1989 shall come into operation on the 1st August 1989.

Made this 19th day July 1989

David Cannan Treasury Minister

This Order was laid before Tynwald on

EXPLANATORY NOTE

(This Note is not part of the Order)

This order brings section 69 of the Income Tax Act 1989 into force on the 1st August 1989. That section amends section 64 of the Income Tax Act 1970 to clarify the circumstances in which a husband and wife are to be treated as living together.

Price 10p