



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 69/98

Date:

Income Tax (Exempt Companies) Act 1984

Introduction

This Practice Note follows the issue of PN 63/96 which introduced a new TEC 1 initial application form for exempt company status and brings into effect revised renewal application procedures and application form for continued exempt company status (TEC 4).

Procedure To Be Followed

All initial applications (TECI) will normally be subject to scrutiny by the Income Tax Division in respect of all statutory obligations including the qualifying status of the Company Secretary. In recognition of the detail supplied with initial applications, and the declaration and undertaking on the renewal application TEC 4, all renewal applications will be subject to automatic processing and initial acceptance, with subsequent selective review by the Division. This will greatly speed up the processing of all renewal applications and issue of notices confirming continued exempt company status. The Division, in introducing these revised procedures, recognises the high standards applied by the professions and formation agents in ensuring that the applicant companies, via their directors and Company Secretary, do not breach the provisions of the Income Tax (Exempt Companies) Act 1984 (as amended).

Breaches Of Statutory Provisions

Where any breach of the said provisions is identified during the selective review of renewal applications, the exempt status will be withdrawn and the certificate of exemption cancelled. The company in question will be required to submit resident returns and accounts, and it will be assessed to resident tax for all years in which the breach occurred. The most frequent breach of the statutory provisions is the appointment of a Company Secretary who has neither Treasury approval nor the approved qualifications required for automatic acceptance. In view of this, the list of approved qualifications is detailed in the Appendix to this Practice Note.

Confirmation Of Status Following Any Change In Activities Officers Or Beneficial Interest.

Where a company wishes to have certainty in relation to its continued exempt status following any change in activities, officers, beneficial interest etc. during a year for which

exempt status has been granted, the Division will, if notified in writing of the change, confirm where appropriate that this does not breach the provisions of the legislation.

Date Of Commencement Of The New Procedures

The new procedures will become operational for all 1998/99 renewal applications. Where as a result of this Practice Note a concern exists about a change which has taken place in a prior year which is felt may jeopardise the exempt status of any company, then, providing this is notified to the Division on or before submission of the 1998/99 renewal Application, and procedures have been commenced to regularise the breach, the exempt status in the prior years will not be withdrawn. This concessional treatment will not automatically apply however in the circumstances below, each case then being considered on its merits;

Any case already subject to correspondence by the Division Any case involving a non-permitted resident interest in an exempt company Sources of non-approved Manx income

Revised Application Form For Renewal Of Exempt Status (Tec 4)

Attached is a black and white draft copy of the new format TEC 4, the colour version will be issued by the Division for 1998/99 and subsequent applications. Where the Division has previously granted approval for 'in house' form TEC 4's, these will continue to be accepted. Any firm or agent wishing to provide their own TEC1 or TEC4 application forms which have not been approved by the Division should submit the drafts for approval before use.

Budget 1998 - Changes To Company Fees

Subject to Tynwald approval, in the Budget on 17th March 1998 the following charges/fees will be announced as applying for the 1998/99 income tax year. No change to the relevant application periods has been made.

Company or Entity	Normal Application	Late Application	
Exempt Company	£400	£1200	
International Company	£1200	£2400	£3600
International Company	£2000	£4000	£8000
(Insurance Company) - (no change)			
International Limited Liability Partnership	£400		
International Limited Liability Company	£400		
Non Resident Company Duty	£750		

Late Applications

An application for exempt status, other than an application being made within 30 days of the commencement of business, must be made no later than 30th September in the year of assessment to which the application relates. A company which fails to apply for exempt

status by 30th September may make application for international company status for the year. By concession, the Division will as an alternative consider applications for exempt status made after this date, with the company being required to pay the fee commensurate with the International Company provisions. Where late application is made for exempt or international company status for a previous year of assessment, this may, depending on the mitigating circumstances in each case, also be permitted by concession. The fee payable in such cases will be the late application fee for international company status, £3,600.

Public Limited Company Applications

A Plc incorporated under the Companies Act 1931 which is an exempt scheme may be an exempt company under the Income Tax (Exempt Companies) Act 1984. Under the International Business Act 1994, a Plc, incorporated in the Isle of Man or elsewhere may be an international company providing that it was incorporated for the express purpose of carrying on a business outside the Isle of Man which was established before the incorporation of the company; or it was incorporated for the express purpose of taking-over or, amalgamating with, any body corporate outside the Isle of Man which was established before the incorporation of the company. Treasury has approved two important concessions to the above legislation: 1. The International Company provisions have been extended to include a Plc which is incorporated with a view to making a public offering of shares or stock by means of a prospectus and that offering is made within 3 months, or such longer period as the Assessor may permit, of the application for International Company status being made. 2. The extension of the International Company provisions in relation to Plc's to the exempt company legislation. Applications may therefore be made by qualifying Plc's for either exempt or International company status.

Appendix

Company Secretary Requirements

Where the resident company secretary does not fall within the following requirements, exempt status will be at risk and any existing exemption may have to be withdrawn.

Income Tax (Exempt Companies) Act 1984

Extract From Legislation

2 Exemption from income tax...

... exemption from liability to pay income tax provided by this section shall not apply to a company unless -

the secretary of the company (who shall be an individual); or

in the case of a company incorporated outside the Island, an individual appointed by the company to act as its secretary in the Island, are resident in the Island.

(5) The individuals referred to in subsection (4)(b) shall be either -

an advocate; or

a person qualified for appointment as the auditor of a company under section 14(1)(a) of the Companies Act 1982; or

a member of the Institute of Chartered Secretaries and Administrators; or

a fellow or associate member of the Institute of Bankers; or

an individual who has satisfied the Treasury that he has adequate knowledge and experience of the duties and responsibilities of a company secretary, and is authorised by the Treasury to act as such.

Subsections (4) and (5) shall not apply to a company if -

it is in the course of being wound up; and

at the time of the commencement of winding up was an exempt company.

Important Note

The International Business Act 1994 amended (d) to include Chartered Institute of Bankers in Scotland; this amendment will be recognised for exempt companies.