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PRACTICE NOTE

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The Taxation of Partnerships in the Isle of Man

1. A partnership is a 'relationship which subsists between persons carrying on a business in common with a view to profit' (Section 4, Partnership Act 1909). Partnerships are usually constituted by way of a written agreement, although this is not a legal requirement. As that agreement between the partners will be subject to the law of a jurisdiction also agreed among the partners, it follows that the nexus of the partnership may be taken to relate to that jurisdiction, and that this may have tax consequences for the partnership in terms of determining the source of its income. For convenience, where a partnership has been established in the Isle of Man under Manx law it will be referred to as a 'Manx partnership'.
2. Although partnerships may be of two types (general and limited), the Assessor takes both types to be included in the word 'partnership' for the purposes of the Taxes Acts. Companies formed under the Limited Liability Companies Act 1996 are also treated for tax purposes as if they are partnerships. The special regimes of 'international limited partnership' and 'international limited liability company' were closed from 6 April 2007 and any partnerships that were in those regimes will now be subject to taxation in accordance with this guidance.
3. While some aspects of Manx law may treat a partnership as a 'person' distinct from its individual members, that is not the case with Manx income tax law. Section 63 (3), Income Tax Act 1970 states, "A partnership shall not be liable to pay income tax on its profits, but each partner shall be liable to pay income tax at the appropriate rate in respect of his whole income, including his share of the profits of the said partnership." It follows that the appropriate basis of taxation of the partners is that Manx resident partners are taxed on their share of worldwide partnership profits and non-resident partners are taxed on their share of Manx-source partnership profits. In more detail, this means that:
 - (a) a partner of a Manx partnership who resides in the Isle of Man is liable to Manx income tax in respect of his share of the partnership profits derived in the Isle of Man or elsewhere;
 - (b) a partner of a foreign partnership who resides in the Isle of Man is liable to Manx income tax in respect of his share of the partnership profits derived in the Isle of Man or elsewhere;
 - (c) a partner of a Manx partnership who does not reside in the Isle of Man is liable to Manx non-resident income tax in respect of his share of the partnership profits derived from business carried on in the Isle of Man or from Manx-source income;

- (d) a partner of a foreign partnership who does not reside in the Isle of Man is liable to Manx non-resident income tax in respect of his share of the partnership profits derived from business carried on in the Isle of Man or from Manx-source income;
 - (e) a partner who does not reside in the Isle of Man and whose partnership does not carry on business in the Isle of Man or derive any Manx-source income will have no liability to Manx non-resident income tax, regardless of where the partnership is established.
4. The phrase 'partnership profits derived from business carried on in the Isle of Man' can be taken to mean the profits derived from a fixed place of business in the Isle of Man through which the business of the partnership is wholly or partly carried on. The phrase 'Manx-source income' can be taken to mean income derived from the ownership of assets in the Isle of Man. It should be noted that certain types of Manx-source income are excluded from income tax when paid to a non-resident by virtue of statute, order or regulation. In cases where a partnership has no premises, assets or personnel conducting its business in the Isle of Man, the Assessor will take the view that the partnership has no Manx-source profits or income. For the avoidance of doubt, partnership profits which are derived from business transactions outside the Isle of Man, or from dealings with persons resident outside the Isle of Man, or from the provision of services outside the Isle of Man will not be considered as profits derived from business carried on in the Isle of Man merely because the transaction is carried out by a Manx partnership. In addition, the engagement by a partnership of administrative services in the Isle of Man will not in itself lead the Assessor to consider the profits of the partnership to be derived from business carried on in the Isle of Man. If there is any doubt in respect of the liability of a partnership's income to Manx income tax, appropriate enquiries should be made with the Assessor.
 5. There is a requirement in the Isle of Man to file a partnership tax return (Section 63 (1), Income Tax Act 1970) and, where none of the partners is resident then any 'attorney or agent in the Isle of Man' may be required by the Assessor to pay Manx income tax on behalf of the partners (Section 71, Income Tax Act 1970).
 6. Although not related to taxation as such, it should also be noted that the Registration of Business Names Acts 1918 and 1954 require that a partnership business name must be registered with the Financial Supervision Commission if that name does not consist of the name of all the partners.

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Assessor of Income Tax

This Practice Note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.