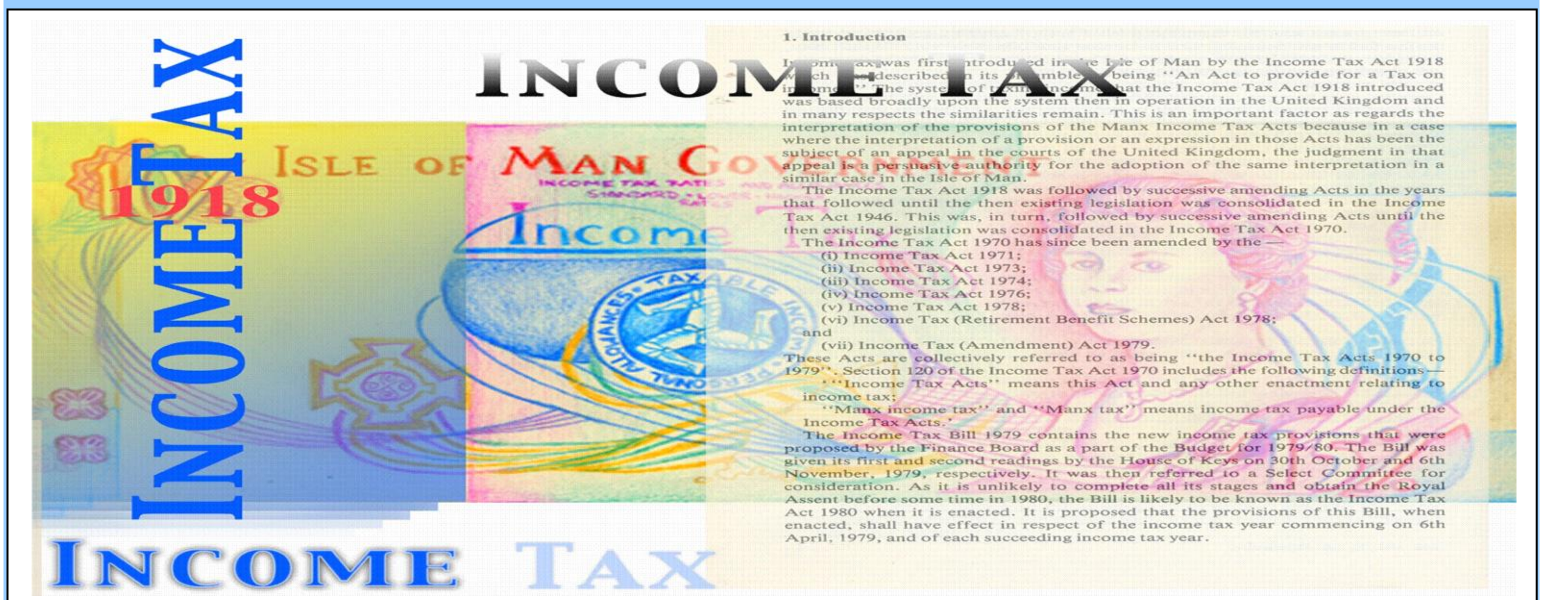
Isle of Man Government

Reiltys Ellan Vannin




# Repeal of the Attribution Regime for Individuals

## Guidance Note
## GN 47

The Treasury - Yn Tashtey
ITD
Income Tax Division

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This booklet 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.

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## 1. Introduction

This guide explains the effect of the Income Tax (Repeal of the Attribution Regime for Individuals) Order 2011 (SD 847/11).

Only the repeal of the Attribution Regime for Individuals (ARI) is covered in this guidance, and so it may need to be read in conjunction with Guidance Note 41 – The Attribution Regime for Individuals, which explains the operation of the ARI in detail.

## 2. Background

The ARI was introduced with effect for accounting periods commencing on or after 6 April 2008. It was a replacement for the Distributable Profits Charge and levied an income tax charge on resident individuals who were members of relevant companies.

The then Treasury Minister announced in her 2011 Budget that the ARI would be abolished in 2012, and that appropriate legislation to give effect to this change would be introduced in due course.

## 3. Date of effect of the Order

The Order was approved on 21 October 2011 and has effect in respect of the distributable profits arising or accruing to companies on or after 6 April 2012.

For this reason, the distributable profit of the accounting period in which 5 April 2012 falls ("the final ARI accounting period") will be time apportioned for tax purposes. See section 6 which explains how to calculate the time apportionment.

In the case of an individual member of a relevant company, the final year of assessment in which the ARI will apply is the year in which the distributable profits of the accounting period in which 5 April 2012 occurs are attributed. Individual members may therefore continue to receive attributed income in tax years up to and including the year ended 5 April 2014.

**Example 1**

- ABC Ltd, a non-trading company, has an accounting period ending on 5 April 2012.
- It has £100,000 of distributable profit for the period.
- Mrs A, the sole member of ABC Ltd, is issued with a certificate showing £100,000 of attributed profit with a date of attribution of 5 April 2013: which she includes on her individual return for 2012/13.

## 4. Repealed sections

Sections 12 to 13M of the Income Tax Act 1970 have been repealed, together with section 2 of the Income Tax Act 2009 and the Income Tax (Attributed Profits) Temporary Taxation Order 2007.

## 5. Transitional Provisions

Corporate taxpayers are required to comply with ARI obligations in respect of the final ARI accounting period.

Attributed profits up to and including 5 April 2012 are to be calculated and attributed income will be assessed to income tax in the same manner as for previous periods subject to attribution. Relevant companies remain obliged to issue certificates of attributed profits to members.

Individuals in receipt of certificates of attributed income are required to declare that income on their individual returns, and distributions made to individuals from previously attributed profits remain free from further taxation.

When determining whether a company is a relevant company for the final ARI accounting period, the normal ARI tests and requirements outlined in Guidance Note 41 apply.

For example:

- The turnover and income from trade for the whole of the final ARI accounting period are used to determine whether the company is a trading corporate taxpayer.
- The date by which at least 55% of the distributable profit of a trading corporate taxpayer must be distributed remains as 12 months from the end of the final ARI accounting period.
- Attributed income is still calculated with reference to the ownership of the company for the whole of the final ARI accounting period.
- The date of attribution for a relevant company remains as 12 months from the end of the final ARI accounting period.
- In the case of a member of a relevant company who has ceased residence or died, the date of attribution remains as the date on which they ceased residence or died.

The only difference is how the distributable profit for the final ARI accounting period is calculated. The ARI applies only to distributable profits arising up to 5 April 2012, and consequently the distributable profit for the final ARI accounting period is time apportioned.

## 6. Calculating distributable profits – time apportionment

Where a company's final ARI accounting period begins on or before 5 April 2012 and ends after that date, the distributable profits arising or accruing up to and including 5 April 2012 are to be calculated as a proportion of the distributable profit for the whole accounting period.

This calculation is made in accordance with the formula $\frac{X}{Y} \times Z$

X = number of days in the accounting period up to and including 5 April 2012
Y = number of days in the whole accounting period
Z = amount of distributable profits arising or accruing for the whole of the accounting period

**Example 2**

- DEF Ltd, a non-trading company, has an accounting period ending on 30 June 2012.

- It has £100,000 of distributable profit for the period.
- Based on the apportionment formula, the distributable profit up to and including 5 April 2012, is 280/366 x £100,000 = £76,712.
- Mr D, the sole member of DEF Ltd, is issued with a certificate showing £76,712 of attributed profit with a date of attribution of 30 June 2013: which he includes on his individual return for 2013/14.

**Example 3**

- GHI Ltd, a trading company, has an accounting period ending on 30 June 2012.

- It has £100,000 of distributable profit for the period.
- Based on the apportionment formula, the distributable profit up to and including 5 April 2012, is 280/366 x £100,000 = £76,712.
- In order not to be a relevant company, GHI Limited must distribute at least 55% of the apportioned distributable profit (55% of 76,712) by 30 June 2013.
- If at least 55% is not distributed by that date, GHI Limited will be a relevant company and the apportioned distributable profit will be attributed with a date of attribution of 30 June 2013.

## 7. Anti-avoidance

A number of anti-avoidance provisions were introduced by the Order.

Any change of accounting period end date which results in a reduction of attributed income for an individual member will be disregarded.

If the Assessor considers that there has been any 'profit-shifting' between accounting periods before or after 5 April 2012 in order to reduce the distributable profit subject to attribution, then the individual may be assessed on the amount of attributed profits considered necessary to protect the revenue.

The anti-avoidance provisions in Section 13M of the Income Tax Act 1970 continue to have effect in respect of the collection of income tax due and payable under the ARI.

## 8. Contact information

If you require any further information about anything contained in these guidance notes please contact:

The Treasury
Income Tax Division
Second Floor
Government Office
Buck's Road
Douglas
Isle of Man
IM1 3TX

| | |
|---|---|
| Telephone: | (01624) 685400 |
| Fax: | (01624) 685351 |
| E-mail: | incometax@itd.treasury.gov.im |
| Website: | www.gov.im/incometax |

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