

Statutory Document No. 2017/0249



Income Tax Act 1970

INCOME TAX (BEPS) ORDER 2017

Approved by Tynwald: 17 October 2017

Coming into Operation in accordance with article 2

The Council of Ministers makes the following Order under sections 104B and 104C of the Income Tax Act 1970.

1 Title

This Order is the Income Tax (BEPS) Order 2017.

2 Commencement

If approved by Tynwald¹, this Order comes into operation on the day after it is approved.

3 Interpretation

In this Order –

- (a) “**the Convention**” means the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed in Paris by the Isle of Man on 7 June 2017;
- (b) “**BEPS**” means base erosion and profit shifting.

4 Implementation of the Convention

It is declared that the Convention has been made and shall have effect in relation to the Island subject to the reservations and notifications in article 5.

5 Reservations and notifications

The reservations and notifications referred to in article 4 are those in a list provided by the Isle of Man at the time of signature of the Convention pursuant to Articles 28(7) and 29(4) of the Convention.

The list is set out in the Schedule.

¹Tynwald approval is required by section 104B(6) of the Income Tax Act 1970

MADE 11TH SEPTEMBER 2017

W Greenhow
Chief Secretary



*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order is made under sections 104B and 104C of the Income Tax Act 1970. It implements the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as “BEPS”) signed by the Isle of Man on 7 June 2017. The Convention will modify the application of certain existing tax treaties made by the Isle of Man with other Parties to the Convention in order to implement the BEPS measures.

Isle of Man

Status of List of Reservations and Notifications at the Time of Signature

For jurisdictions providing a provisional list:

This document contains a provisional list of expected reservations and notifications to be made by the Isle of Man pursuant to Articles 28(7) and 29(4) of the Convention.

Article 2 – Interpretation of Terms

Notification - Agreements Covered by the Convention

Pursuant to Article 2(1)(a)(ii) of the Convention, the Isle of Man wishes the following agreement(s) to be covered by the Convention:

No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	Agreement between the Government of the Isle of Man and The Government of the Kingdom of Bahrain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Government of the Kingdom of Bahrain	Original	03-02-2011	8-03-2012
2	Agreement between The Isle of Man and The Kingdom of Belgium for the avoidance of double taxation and the prevention of tax fraud with respect to taxes on income	The Government of the Kingdom of Belgium	Original	16-07-2009	N/A
3	Agreement between the Isle of Man and The Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Republic of Estonia	Original	08-05-2009	21-12-2009
4	Agreement between the Isle of Man and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	The Government of the Grand Duchy of Luxembourg	Original	08-04-2013	05-08-2014
5	Agreement between the Isle of Man and Malta for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Government of Malta	Original	23-10-2009	26-02-2010
6	Agreement between the Government of the Isle of Man and the Government of the State of Qatar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Government of the State of Qatar	Original	06-05-2012	15-11-2012
7	Agreement between the Isle of Man and the Government of the Republic of Seychelles for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Government of the Republic of Seychelles	Original	28-03-2013	16-12-2013

8	Agreement between the Government of the Isle of Man and the Government of The Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	The Government of the Republic of Singapore	Original	21-09-2012	02-05-2013
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Article 3 – Transparent Entities

Reservation

Pursuant to Article 3(5)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 3 not to apply to its Covered Tax Agreements.

Article 4 – Dual Resident Entities

Reservation

Pursuant to Article 4(3)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 4 not to apply to its Covered Tax Agreements.

Article 5 – Application of Methods for Elimination of Double Taxation

Reservation

Pursuant to Article 5(8) of the Convention, the Isle of Man reserves the right for the entirety of Article 5 not to apply with respect to all of its Covered Tax Agreements.

Article 6 – Purpose of a Covered Tax Agreement

Existing Preamble Language in Listed Agreements

Pursuant to Article 6(5) of the Convention, the Isle of Man considers that the following agreement(s) is(are) not within the scope of a reservation under Article 6(4) and contain(s) preamble language described in Article 6(2). The text of the relevant preambular paragraph is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Preamble Text
1	The Government of the Kingdom of Baharain	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
2	The Government of the Kingdom of Belgium	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of tax fraud with respect to taxes on income,
4	The Grand Duchy of Luxembourg	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,
5	The Government of Malta	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
6	The Government of the State of Qatar	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
7	The Government of the Republic of Seychelles	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
8	The Government of the Republic of Singapore	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Article 7 – Prevention of Treaty Abuse

Notification of Choice of Optional Provisions

Pursuant to Article 7(17)(b) of the Convention, the Isle of Man hereby chooses to apply Article 7(4).

Notification of Existing Provisions in Listed Agreements

Pursuant to Article 7(17)(a) of the Convention, the Isle of Man considers that the following agreement(s) is(are) not subject to a reservation under Article 7(15)(b) and contain(s) a provision described in Article 7(2). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
2	The Government of the Kingdom of Belgium	Article 23

Article 8 – Dividend Transfer Transactions

Reservation

Pursuant to Article 8(3)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 8 not to apply to its Covered Tax Agreements.

Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property

Reservation

Pursuant to Article 9(6)(a) of the Convention, the Isle of Man reserves the right for Article 9(1) not to apply to its Covered Tax Agreements.

Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions

Reservation

Pursuant to Article 10(5)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 10 not to apply to its Covered Tax Agreements.

Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents

Reservation

Pursuant to Article 11(3)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 11 not to apply to its Covered Tax Agreements.

Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies

Reservation

Pursuant to Article 12(4) of the Convention, the Isle of Man reserves the right for the entirety of Article 12 not to apply to its Covered Tax Agreements.

Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions

Reservation

Pursuant to Article 13(6)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 13 not to apply to its Covered Tax Agreements.

Article 14 – Splitting-up of Contracts

Reservation

Pursuant to Article 14(3)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 14 not to apply to its Covered Tax Agreements.

Article 15 – Definition of a Person Closely Related to an Enterprise

Reservation

Pursuant to Article 15(2) of the Convention, the Isle of Man reserves the right for the entirety of Article 15 not to apply to the Covered Tax Agreement to which the reservations described in Article 12(4), Article 13(6)(a) or (c), and Article 14(3)(a) apply.

Article 16 – Mutual Agreement Procedure

Notification of Existing Provisions in Listed Agreements

Pursuant to Article 16(6)(a) of the Convention, the Isle of Man considers that the following agreement(s) contain(s) a provision described in Article 16(4)(a)(i). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	The Government of the Kingdom of Bahrain	Article 23 (1), first sentence
2	The Government of the Kingdom of Belgium	Article 26(1), first sentence
3	The Republic of Estonia	Article 23(1), first sentence
4	The Government of the Grand Duchy of Luxembourg	Article 24(1), first sentence
5	The Government of Malta	Article 24(1), first sentence
6	The Government of the State of Qatar	Article 25(1), first sentence
7	The Government of the Republic of the Seychelles	Article 24(1), first sentence
8	The Government of the Republic of Singapore	Article 24(1), first sentence

Pursuant to Article 16(6)(b)(i) of the Convention, the Isle of Man considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
6	The Government of the State of Qatar	Article 25(1), second sentence

Pursuant to Article 16(6)(b)(ii) of the Convention, the Isle of Man considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	The Government of the Kingdom of Bahrain	Article 23(1), second sentence
2	The Government of the Kingdom of Belgium	Article 26(1), second sentence
3	The Republic of Estonia	Article 23(1), second sentence
4	The Government of the Grand Duchy of Luxembourg	Article 24(1), second sentence
5	The Government of Malta	Article 24(1), second sentence
7	The Government of the Republic of the Seychelles	Article 24(1), second sentence
8	The Government of the Republic of Singapore	Article 24(1), second sentence

Notification of Listed Agreements Not Containing Existing Provisions

Pursuant to Article 16(6)(d)(ii) of the Convention, the Isle of Man considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(c)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
2	The Government of the Kingdom of Belgium

Article 17 – Corresponding Adjustments

Reservation

Pursuant to Article 17(3)(a) of the Convention, the Isle of Man reserves the right for the entirety of Article 17 not to apply to its Covered Tax Agreements that already contain a provision described in Article 17(2). The following agreement(s) contain(s) provisions that are within the scope of this reservation.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	The Government of the Kingdom of Bahrain	Article 9(2)
2	The Government of the Kingdom of Belgium	Article 9(2)
3	The Republic of Estonia	Article 9(2)
4	The Government of the Grand Duchy of Luxembourg	Article 9(2)
5	The Government of Malta	Article 9(2)
7	The Government of the Republic of the Seychelles	Article 9(2)
8	The Government of the Republic of Singapore	Article 9(2)

Article 35 – Entry into Effect

Reservation

Pursuant to Article 35(6) of the Convention, the Isle of Man reserves the right for Article 35(4) not to apply with respect to its Covered Tax Agreements.