



**INCOME TAX ACT 1995**

**INCOME TAX (ATTRIBUTED PROFITS) (TEMPORARY TAXATION) ORDER 2007**

**INCOME TAX (ATTRIBUTABLE PROFITS) (RELEVANT COMPANY)  
ORDER 2008**

*Approved by Tynwald*

*21<sup>st</sup> May 2008*

*Coming into operation in accordance with article 1*

In exercise of the powers conferred on the Treasury by article 2(4)(b) of the Income Tax (Attributed Profits) (Temporary Taxation) Order 2007<sup>1</sup>, and of all other enabling powers, the following Order is hereby made:-

**Citation and commencement**

1. This Order may be cited as the Income Tax (Attributable Profits) (Relevant Company) Order 2008 and shall come into operation on the date it is approved by Tynwald.

**Interpretation**

2. In this Order:-

“the 1970 Act” means the Income Tax Act 1970<sup>2</sup>;

“the Principal Order” means the Income Tax (Attributed Profits) (Temporary Taxation) Order 2007;

“relevant company” has the same meaning as in article 2(1) of the Principal Order;

“distributable profits” has the same meaning as in article 2(1) of the Principal Order and is determined in accordance with article 4(3) of the Principal Order;

“corporate taxpayer” has the same meaning as in article 2(1) of the Principal Order;

“trading corporate taxpayer” means a corporate taxpayer whose business consists wholly or mainly of the carrying on of a trade or trades, the turnover or gross income (as appropriate) from which is more than 50% of the total turnover or gross income (as appropriate) of the corporate taxpayer.

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<sup>1</sup> Statutory Document 928/07

<sup>2</sup> Vol XXI p.260

### Corporate taxpayers that are not to be treated as relevant companies

3. A corporate taxpayer is not to be treated as a relevant company for the purpose of article 2 of the Principal Order where the corporate taxpayer is not:-
- (a) resident for income tax purposes in the Island;
  - (b) incorporated, established or constituted under the law of the Island; or
  - (c) registered under Part XI of the Companies Act 1931<sup>3</sup>,
- for the whole of any accounting period.
4. A corporate taxpayer that meets any of the following conditions throughout an accounting period is not a relevant company for the purpose of article 2 of the Principal Order for that accounting period:-
- (a) a company the whole of whose income is exempt under section 15 of the 1970 Act, (being a company established for charitable purposes only or to repair any college, church, chapel or any building used solely for the purpose of public worship, or receiving income from any property of Her Majesty in whatever name or names the same may vest or stand) or a company wholly owned by such a company;
  - (b) an “agricultural society”, being a society or institution established for the purposes of promoting the interests of agriculture, horticulture, livestock breeding or forestry;
  - (c) the Isle of Man Agricultural Marketing Society;
  - (d) a friendly society whose income would be exempt from income tax under Section 18 of the 1970 Act;
  - (e) a public Board or authority constituted under any enactment or under any order approved by Tynwald under any enactment, and of any local authority;
  - (f) a pension scheme approved under section 49 of the 1970 Act, the Income Tax (Retirement Benefit Schemes) Act 1978<sup>4</sup> or section 2 of the Income Tax Act 1989<sup>5</sup>;
  - (g) a corporate taxpayer that is licensed by the Financial Supervision Commission under the Banking Act 1998<sup>6</sup>;
  - (h) a corporate taxpayer that is registered under the Industrial and Building Societies Act 1892<sup>7</sup> or authorised under the Building Societies Act 1986<sup>8</sup>.
  - (i) a corporate taxpayer that is a company limited by guarantee and where the members of that company cannot benefit from any distribution made by the company at any time;

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<sup>3</sup> XIII p.235

<sup>4</sup> 1978 c.9

<sup>5</sup> 1989 c.10

<sup>6</sup> 1998 c.4

<sup>7</sup> VI p.405

<sup>8</sup> 1986 c.7

(j) a members' club or association where the members of the club or association cannot at any time benefit from a distribution;

(k) a corporate taxpayer that pays Isle of Man income tax at more than the standard rate on the whole of its profits under the Income Tax (Rates of Income Tax) (Resident and Non Resident Corporate Taxpayers) Order 2006<sup>9</sup>; or

(l) a corporate taxpayer that is listed on a recognised stock exchange shown in the Schedule.

### **Trading Corporate Taxpayers**

5. Where a trading corporate taxpayer has distributable profits over a 12 month accounting period of less than £500 the corporate taxpayer will not be treated as a relevant company for that accounting period for the purpose of article 2 of the Principal Order.
6. Where within 12 months of the end of an accounting period, a trading corporate taxpayer distributes at least 55% of its distributable profits for that accounting period the corporate taxpayer will not be treated as a relevant company for that accounting period for the purpose of article 2 of the Principal Order.

### **Proportion of Distributable Profits – Averaging**

7. (a) For the purpose of article 6, a trading corporate taxpayer that does not distribute at least 55% of its distributable profits for an accounting period within 12 months of the end of that accounting period will nevertheless be treated as having so distributed them if a claim is made to the Assessor that it has distributed by the same date at least 55% of the total distributable profits for-
  - (i) that accounting period and the immediately preceding accounting period of the corporate taxpayer ; or
  - (ii) that accounting period and the 2 immediately preceding accounting periods of the corporate taxpayer .
- (b) For the purposes of (a) above, the percentage of the total distributable profits for the two or three accounting periods will be the total distributions made by the corporate taxpayer out of its distributable profits for those accounting periods divided by the corporate taxpayer's total distributable profit for those accounting periods multiplied by 100.
- (c) Sub-paragraph (a) determines whether or not a corporate taxpayer is a relevant company for its most recent accounting period. It does not affect the matter of whether or not the corporate taxpayer was a relevant company for the previous accounting periods referred to in that sub-paragraph.
- (d) A claim to the Assessor for averaging to apply must be made in writing within 12 months from the end of the accounting period.

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<sup>9</sup> Statutory Document 224/06

### Collective Investment Schemes

8. Any corporate taxpayer that is an “authorised” or an “international” collective investment scheme within the meaning of the Financial Supervision Act 1998<sup>10</sup> throughout its accounting period will not be treated as a relevant company for that accounting period for the purpose of article 2 of the Principal Order provided either of the following conditions are met:-

(i) the scheme does not permit contributions from participants resident on the Isle of Man; or

(ii) if the scheme has received contributions from an Isle of Man resident person it reports annually to the Assessor the name and address of the person and the amount of any payment made from the scheme to that person and the date of the payment.

Made this 9<sup>th</sup> day of April 2008



Minister for the Treasury

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<sup>10</sup> 1988 C.16

## Schedule

The Athens Stock Exchange  
The Australian Stock Exchange and any of its stock exchange subsidiaries  
The Bermuda Stock Exchange  
The Cayman Islands Stock Exchange  
The Colombo Stock Exchange  
The Copenhagen Stock Exchange  
The Helsinki Stock Exchange  
The Iceland Stock Exchange  
The Johannesburg Stock Exchange  
The Korea Stock Exchange  
The Kuala Lumpur Stock Exchange  
The London Stock Exchange  
The Malta Stock Exchange  
The Mexico Stock Exchange  
The New Zealand Stock Exchange  
The Rio De Janeiro Stock Exchange  
The Sao Paulo Stock Exchange  
The Singapore Stock Exchange  
The Stockholm Stock Exchange  
The Stock Exchange of Thailand  
The Swiss Stock Exchange  
United Kingdom (Including the Alternative Investment Market (AIM))  
USA - Any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange

Any stock exchange in the following countries which is a stock exchange within the meaning of the law of the particular country relating to stock exchanges. (as specified below)

Austria  
Belgium  
Canada  
France  
Germany  
Guernsey  
Hong Kong  
Italy  
Ireland (Republic of)  
Japan  
Luxembourg  
Netherlands  
Norway  
Portugal  
Spain

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

Following the coming into operation of the Income Tax (Attributed Profits) (Temporary Taxation) Order 2007 a resident individual with an interest in a company that is not a relevant company will not be within the attribution regime for individuals. This order provides details of the criteria that must be satisfied for a company to be treated as not relevant.