



## INCOME TAX ACT 1995

### INCOME TAX (RETENTION OF TAX AND EXCHANGE OF INFORMATION) REGULATIONS 2005

*Approved by Tynwald 22<sup>nd</sup> June 2005*

*Coming into operation on 2005*

In exercise of the powers conferred on the Treasury by section 13(1) and (2) of the Income Tax (Retention of Tax and Exchange of Information) Order 2005<sup>1</sup>, and of all other enabling powers, the following Regulations are hereby made:-

#### **Citation, commencement and application**

1. (1) These Regulations may be cited as the Income Tax (Retention of Tax and Exchange of Information) Regulations 2005.

(2) These Regulations shall come into operation on the date which they are approved by Tynwald but shall have effect subject to the provisions of Article 17 of the Agreements.

#### **Interpretation and construction**

2. (1) In these Regulations-

“Agreement” means a retention agreement or, as the case may be, an exchange agreement, and a reference to “Agreements” shall be construed as a reference to all such agreements collectively;

“the Order” means the Income Tax (Retention of Tax and Exchange of Information)(Temporary Taxation) Order 2005.

(2) These Regulations shall be construed in accordance with the Order.

#### **Deduction of retention tax and payment to Treasury**

3. Where retention tax is deducted by reason of Article 3(1) of the Order the time limits and procedure shall apply as follows –

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<sup>1</sup> S.D. 150/05

- (a) the payment of retention tax shall be made in Sterling by the paying agent to the Treasury within 4 months of the end of each income tax year in which interest payments were made by the paying agent to the beneficial owner;
- (b) the payment shall be accompanied by a report (in a form agreed by the Assessor) detailing the amount of retention tax deducted, allocated by the EU Member State of residence of the beneficial owners.

### **Retention tax revenue sharing**

4. (1) Where retention tax is deducted under the Order and paid to the Treasury by the paying agent, Treasury will transfer the appropriate proportion of the retention tax to the relevant EU Member State.

(2) The transfer shall take place no later than 6 months following the end of the year of assessment in which interest payments were made by the paying agent to the beneficial owner.

### **Appeals**

5. Any person who is aggrieved by a decision of the Assessor in the performance of functions conferred by the Order or the Agreements shall be entitled to appeal to the Commissioners and all the provisions of the Income Tax Acts relating to appeals against any assessment shall apply to any appeal made under this Schedule.

### **Keeping and access of records**

6. (1) A paying agent, or a person who appears to be a paying agent, whenever requested by any Treasury officer authorised by the Assessor, shall give the Treasury officer access to the relevant information as soon as is practicable.

(2) The relevant information means such copies of any relevant books, documents or other records (including electronic records) as are necessary for the purpose of determining whether the report under these Regulations or the Order by the paying agent or person, as appropriate, was correct and complete.

(2) The Assessor may by notice in writing require a paying agent or a person who appears to be a paying agent to give to the Treasury access to such books, records or other documents which contain or may contain information -

- (a) about the amount of retention tax deducted;
- (b) about interest payments made to beneficial owners who are residents of a contracting party;
- (c) which will assist in determining whether information contained in a report under these Regulations was correct and complete.

### **Timing of reports of information**

7. A paying agent that does not report to the Assessor within the time specified in article 5 of the Order shall if the report is not made within 14 days of the expiry of that period be guilty of an offence.

### **Offences and penalties**

8. (1) A person who knowingly fails to comply with any request or requirement under these Regulations shall be guilty of an offence and liable to a fine not exceeding £5,000.

(2) A person who, for any purpose of these Regulations, produces or gives access to information or any document knowing the information or document to be false in a material particular shall be guilty of an offence and liable to custody for a term not exceeding 6 months or a fine not exceeding £5,000 or both.

### **Bodies corporate, etc.**

9. (1) This regulation applies where an offence under regulation 8 is committed by a body corporate and it is proved that the offence-

- (a) was committed with the consent or connivance of an officer of the body, or
- (b) was attributable to neglect on the part of an officer of the body.

(2) The officer, as well as the body, shall be guilty of the offence.

(3) Where an individual is convicted of an offence under regulation 7 by virtue of this regulation, he shall be liable to the same penalty as the body corporate.

(4) In this regulation "officer" includes-

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,
- (c) if the affairs of the body are managed by its members, a member, and
- (d) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, a member, the company's manager, or registered agent.

Made this 25th day of May 2005

Minister for the Treasury

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### **EXPLANATORY NOTE**

(This note is not part of the Regulations)

These Regulations are necessary for the implementation of matters related to the Income Tax (Retention of Tax and Exchange of Information) Order 2005.

These Regulations deal with the administration of the Order and in particular:-

- The deduction of retention tax and the payment to Treasury.
- Retention tax revenue sharing
- Appeals
- Keeping and access of records
- Offences and penalties.