



# Isle of Man Government

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**1. Introduction**

Income tax was first introduced in the Isle of Man by the Income Tax Act 1918 which is described in its preamble as being "An Act to provide for a Tax on income". The system of taxation introduced by the Income Tax Act 1918 introduced was based broadly upon the system then in operation in the United Kingdom and in many respects the similarities remain. This is an important factor as regards the interpretation of the provisions of the Manx Income Tax Acts because in a case where the interpretation of a provision or an expression in those Acts has been the subject of an appeal in the courts of the United Kingdom, the judgment in that appeal is a persuasive authority for the adoption of the same interpretation in a similar case in the Isle of Man.

The Income Tax Act 1918 was followed by successive amending Acts in the years that followed until the then existing legislation was consolidated in the Income Tax Act 1946. This was, in turn, followed by successive amending Acts until the then existing legislation was consolidated in the Income Tax Act 1970.

The Income Tax Act 1970 has since been amended by the —

- (i) Income Tax Act 1971;
- (ii) Income Tax Act 1973;
- (iii) Income Tax Act 1974;
- (iv) Income Tax Act 1976;
- (v) Income Tax Act 1978;
- (vi) Income Tax (Retirement Benefit Schemes) Act 1978;

and

- (vii) Income Tax (Amendment) Act 1979.

These Acts are collectively referred to as being "the Income Tax Acts 1970 to 1979". Section 120 of the Income Tax Act 1970 includes the following definitions:—

"Income Tax Acts" means this Act and any other enactment relating to income tax;

"Manx income tax" and "Manx tax" means income tax payable under the Income Tax Acts."

The Income Tax Bill 1979 contains the new income tax provisions that were proposed by the Finance Board as a part of the Budget for 1979/80. The Bill was given its first and second readings by the House of Keys on 30th October and 6th November, 1979, respectively. It was then referred to a Select Committee for consideration. As it is unlikely to complete all its stages and obtain the Royal Assent before some time in 1980, the Bill is likely to be known as the Income Tax Act 1980 when it is enacted. It is proposed that the provisions of this Bill, when enacted, shall have effect in respect of the income tax year commencing on 6th April, 1979, and of each succeeding income tax year.

# Income Tax Cap Guidance Note – GN 51

**PLEASE NOTE:**

This guidance has no binding force and does not affect your right of appeal on points concerning your liability to tax.

The information in this booklet can be provided in large print on request.

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## **1 Introduction**

The statutory income tax cap for resident individuals was introduced in the 2006 Budget as part of Government's policy to attract wealthy entrepreneurs to the Isle of Man.

The purpose of the cap is to impose an upper limit on the amount of income tax paid by an individual in a tax year. At its introduction, the cap was set at £100,000 for an individual and £200,000 for a jointly assessed married couple. Since then, it has been increased and, from 6 April 2012, it has been £120,000 for an individual and £240,000 for a jointly assessed married couple or civil partners.

## **2 Tax cap from 6 April 2014**

In his Budget speech on 18 February 2014, the Minister for the Treasury, the Hon Eddie Teare, MHK, announced a change to the way the tax cap would operate. Under the revised system, an individual must elect for the tax cap to be applied and, if the election is approved, it will apply to the individual for a period of five consecutive tax years.

The opportunity to make a five year election applies to the tax year commencing 6 April 2014 and all subsequent years (but see section 8 regarding change in circumstance).

### **2.1 Relevant legislation**

The new tax cap regime was introduced by the following statutory document which formed part of the 2014 Budget:

[SD 2014/0019 Income Tax \(Resident Individuals\) \(Income Tax Cap\) \(Temporary Taxation\) Order 2014](#)

## **3 Election period and tax cap amount**

### **3.1 Election period**

If an election is approved, it will remain in force for five consecutive tax years. Therefore, an election made for the five year period commencing on 6 April 2014 will apply for each of the following tax years:

2014/15, 2015/16, 2016/17, 2017/18, 2018/19 .

The election in this example will end on 5 April 2019.

### **3.2 Tax cap amount**

The tax cap that will apply to each of the five consecutive tax years making up an election is the tax cap amount that applies to the first year of the election.

The amount applying to the 2014/15 tax year is £120,000 for an individual and £240,000 for a jointly assessed married couple or civil partners. Therefore, if an individual makes an

election for the five years commencing with 2014/15, their income tax liability will be as follows:

Tax year	Manx income tax liability
2014/15	£120,000
2015/16	£120,000
2016/17	£120,000
2017/18	£120,000
2018/19	£120,000

It must be stressed that an individual will be required to pay the tax cap amount in each of the five years of an approved election regardless of whether or not their actual income in a year is sufficient to attract a tax charge of that amount (but see section 8 regarding change in circumstance).

## 4 Electing for the tax cap

### 4.1 Who can make an election

Any individual or their agent can make an election for the tax cap. The tax cap can only apply to individuals who are resident for tax purposes in the Isle of Man therefore the relevant individual must either already be resident or be about to become tax resident in the Isle of Man.

### 4.2 How to make an election

If an individual would like the five year tax cap to be applied, they should make an election to the Assessor of Income Tax. The election must:

- be made in writing to the Assessor; and
- include details of the wealth and income of the individual concerned and any other information the Assessor requires.

The election can be made in the form of a letter.

The primary reason for requesting details of wealth and income is explained in section 8.2 below.

Information regarding income is currently requested from anyone commencing residence in the Island when they complete form [R25](#) to register for Manx income tax. In addition, new residents who are interested in the tax cap generally have a meeting with a senior income tax officer to discuss their individual case, and disclosure of wealth forms a standard part of such discussion.

Any individual considering electing for the tax cap, or their agent, is welcome to contact the Division and arrange a meeting with a senior income tax officer.

### 4.3 When to make an election

#### 4.3.1 *For the five year period commencing with the 2014/15 tax year only*

In recognition of the transition from one tax cap regime to another, an individual who wishes to make a tax cap election for the five tax years 2014/15, 2015/16, 2016/17, 2017/18 and 2018/19 **only**, must make their election by 30 June 2014.

#### 4.3.2 *For the five year period commencing with the 2015/16 tax year or any subsequent year*

If an individual is already resident in the Island, they must make their election for the five year tax cap before the start of the first tax year to which it would apply. For example, an election for the tax years 2015/16 to 2019/20 inclusive must be made on or before 5 April 2015.

#### 4.3.3 *When commencing residence in the Island*

An individual who commences residence in the Island may make an election for the five year period commencing with the tax year in which they become resident as long as the election is made within 60 days of commencing residence. If, for example, an individual becomes resident on 25 June 2015 and would like the tax cap to apply for the tax years 2015/16 to 2019/20 inclusive, they will need to make an election before 25 August 2015.

If the election is approved, they will be liable to pay the full amount of the tax cap in each of the five years to which the election applies, including 2015/16, the part year in which they become resident.

### 4.4 Renewing an election

An individual can apply to renew their tax cap election for a further five period at any time providing the application is made before the start of the first tax year to which it would apply.

For the avoidance of doubt, an individual does not need to wait until the end of a five year period before renewing their election. For example, an individual who elected for the tax cap to apply for the tax years 2014/15 to 2018/19 could decide to renew in time for the 2017/18 tax year when the tax cap amount is £X, or wait to renew in time for the 2019/20 tax year when the tax cap amount is £Y. The effect of this would be as follows:

Tax year	Manx income tax liability (election renewed for 2019/20)	Manx income tax liability (election renewed for 2017/18)
2014/15	£120,000	£120,000
2015/16	£120,000	£120,000
2016/17	£120,000	£120,000
2017/18	£120,000	£X
2018/19	£120,000	£X
2019/20	£Y	£X

Tax year	Manx income tax liability (election renewed for 2019/20)	Manx income tax liability (election renewed for 2017/18)
2020/21	£Y	£X
2021/22	£Y	£X
2022/23	£Y	?
2023/24	£Y	?

## 5 Approval of an election

When the Assessor approves an election for the tax cap, the individual will receive a letter stating the annual amount of the tax cap that will apply to their election and the tax years to which the election will apply.

In exceptional circumstances, the Assessor may approve a late election for the tax cap.

If an approved election is not in place, income tax will be charged on the individual's total income at the prescribed tax rates applicable to each tax year.

## 6 Payment of the tax cap

The tax cap amount for each of the five years of an election is due and payable on 6 January in each tax year for which the election applies.

The Assessor may allow the tax cap amount to be paid by deduction from remuneration via the Income Tax Instalment Payments system (ITIP) rather than on 6 January.

## 7 Compliance

If an election for the tax cap has been approved, the individual concerned must continue to file an annual income tax return and comply with all other requirements of the Income Tax Acts.

## 8 Change in circumstance

Once an election has been approved by the Assessor it cannot normally be varied or terminated before the end of the five year period to which it applies. However, the legislation does recognise that changes to an individual's circumstances can occur during the five year period.

### 8.1 Unforeseen changes in financial circumstances

As set out in Practice Note [PN 184/14](#), the introduction of the five year election period is to provide certainty of treatment for existing residents and also for prospective new residents who have annual income such that their tax liability would otherwise exceed the tax cap. It is not intended, however, that a taxpayer should, at the end of the five year

period, find themselves in the position that they have paid more income tax in the Isle of Man than they would have done if no election had been made. For this reason, the Assessor will permit a taxpayer with an election in place to be taxed on the normal basis for the time in which the election is in force should such a situation arise.

For example, an individual who elected for the tax cap to apply for the tax years 2014/15 to 2018/19 on the basis that their business was predicted to generate taxable income of £1m per annum would be taxed as follows:

Tax year	Projected taxable income	Manx income tax liability
2014/15	£1m	£120,000
2015/16	£1m	£120,000
2016/17	£1m	£120,000
2017/18	£1m	£120,000
2018/19	£1m	£120,000

However, if by 2017/18 it is clear that their income projections were over optimistic (see below) they could decide to be taxed as follows:

Tax year	Actual/Projected taxable income	Manx income tax liability*
2014/15	£700k (A)	£140,000
2015/16	£600k (A)	£120,000
2016/17	£400k (A)	£80,000
2017/18	£300k (P)	£60,000
2018/19	£300k (P)	£60,000

\*For simplicity, a flat rate of 20% and no allowances for all years have been assumed but in practice the position would be more complicated.

## 8.2 Exceptional circumstances

In exceptional circumstances, the Assessor may end an approved tax cap election before the end of its five year period. If this is the case, the years that have already been subject to the tax cap will not be amended.

To make such a decision, the Assessor must be satisfied that the circumstances justify such action and that the change of financial circumstance was beyond the taxpayer’s control and unforeseen at the date on which the election was made. The Assessor will take into consideration the financial information provided at the time the election was made; this is why it is important that individuals provide details of their wealth and anticipated income when applying for the tax cap.

Given the taxpayer’s ability to be taxed on the normal basis it is anticipated that the situations in which the Assessor would need to use this discretion to end an election early



will be extremely rare. A simple example would be an individual who is declared bankrupt part way through the five year period as the result of a market crash.

For example, if the individual in the example in 8.1 above elected for the tax cap to apply for the tax years 2014/15 to 2018/19 but in 2017/18 there was a market crash and they were declared bankrupt, the Assessor may agree to the election being ended and to the individual being taxed as follows:

Tax year	Actual/Projected taxable income	Manx income tax liability*
2014/15	£1m (A)	£120,000
2015/16	£1m (A)	£120,000
2016/17	£1m (A)	£120,000
2017/18	£20k (A)	£1,050
2018/19	Nil (P)	Nil

\* For simplicity, it has been assumed that there are no allowances for the 2017/18 and 2018/19 tax years but in practice the position would be more complicated.

### 8.3 Permanently leaving the Island

If, during the course of an approved five year election, the individual concerned permanently leaves the Island and ceases to be tax resident in the Isle of Man, the final tax year to which the election will apply will be the part year in which the individual leaves the Island. In that year, the individual will be liable for the full amount of the annual tax cap at the applicable due date.

For example, if an election has been approved for the tax years 2015/16 to 2019/20 inclusive and the individual concerned leaves the Island permanently and ceases residence on 13 October 2017, the election will be ended on 5 April 2018. Therefore, if the tax cap that would have applied to each of the five years of the election is £120,000, the individual's liability will be as follows:

Tax year	Manx income tax liability	Date tax due & payable
2015/16	£120,000	6 January 2016
2016/17	£120,000	6 January 2017
2017/18	£120,000	6 January 2018
2018/19	Taxed as a non-resident	
2019/20	Taxed as a non-resident	

### 8.4 Death of the taxpayer

If an individual's election for the tax cap has been approved but they subsequently die during the five year period to which it applies, the election will be ended after the tax year in which the individual dies. In the year of death the tax liability will be the full amount of the annual tax cap applying to the election.

For example, if an individual dies on 5 June 2018 and their election had been approved for the tax years 2015/16 to 2019/20 inclusive, with a tax cap of £120,000 applying to each year, then the income tax liability will be as follows:

Tax year	Manx income tax liability	Date tax due & payable
2015/16	£120,000	6 January 2016
2016/17	£120,000	6 January 2017
2017/18	£120,000	6 January 2018
2018/19	£120,000	6 January 2019
2019/20	Nil	

Note: The Assessor will permit the individual's executor to revoke the election after death and for the individual to be taxed as if the election had not been made as explained in 8.1 above.

## 9 Transition period (1 February to 5 April 2014)

The Temporary Taxation Order that introduced the new tax cap regime included an anti-avoidance measure to prevent income that would otherwise have been received in later years being brought forward into the 2013/14 tax year.

Under the measure:

- if an individual has not received sufficient income in 2013/14 before 1 February 2014 for the tax cap to apply; but
- does receive income on or after 1 February and before 6 April 2014 that would qualify them for the tax cap; and
- they do not make an election for a five year tax cap for 2014/15 to 2018/19,

the Assessor has the power to decide whether or not the income received after 1 February 2014 has been paid at that time to avoid tax that would otherwise be due under the new tax cap regime. In addition, if the individual has received sufficient income before 1 February 2014 to qualify them for the tax cap in the 2013/14 tax year they must be able to prove that the income has actually been paid prior to that date.

Anyone who thinks that they may be affected by these provisions can contact the Assessor for clarity.

## 10 Further information

All forms and additional guidance referenced in this Guidance Note can be found on the Division's website [www.gov.im/incometax](http://www.gov.im/incometax).

If you require further information about anything contained in this Guidance Note please contact:

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