



# The Treasury *Yn Tashtey*

Assessor of Income Tax  
Nicola Guffogg

**Income Tax Division**  
Government Office, Douglas  
Isle of Man, British Isles  
IM1 3TX

Telephone : (01624) 685400  
Fax : (01624) 685351  
Email : [incometax@itd.treasurygov.im](mailto:incometax@itd.treasurygov.im)  
Website : [www.gov.im/incometax](http://www.gov.im/incometax)

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## Isle of Man Policy on Tax Information Exchange

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### Policy overview

The Isle of Man has a longstanding policy of compliance with international standards on transparency and information exchange.

Information contained in this document is accurate up to 25 August 2016

#### *Exchange of information on request*

The Isle of Man has tax information exchange mechanisms in place with 89 jurisdictions including all relevant partner countries (see below) and has never refused to negotiate a Tax Information Exchange Agreement (TIEA) or Double Taxation Agreement (DTA) with any jurisdiction. It received the top rating of "Compliant" by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes for the effectiveness of its exchange of information on request.

#### *Automatic exchange of information*

The Isle of Man has been exchanging information automatically with EU Member States since 2005; commenced exchanging information automatically with the US in line with their Foreign Account Tax Compliance Act ('FATCA') in 2015; will expand this exchange to the UK in 2016 and will complete implementation of the OECD Common Reporting Standard (CRS) in 2017.

#### *Spontaneous exchange of information*

The Isle of Man can assist partners in relation to spontaneous exchange of information. Such exchange is to the extent available under a DTA or the OECD Convention in Mutual Administrative Assistance in Tax Matters ('Convention'); or in relation to those TIEAs that provide for spontaneous exchange of information.

### Negotiating International Agreements

An important element of the Isle of Man's policy is to negotiate international agreements that include provisions for exchange of information based on the OECD Model, with all jurisdictions who are interested in entering into an information exchange agreement with the Isle of Man.

The Isle of Man complies with the requirement as set out in the "Handbook for Assessors and Jurisdictions" published by the Global Forum that:

*"Ultimately, the standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange agreement."*

A full list of concluded agreements is published on the [Income Tax Division website](#). In summary, the Isle of Man has mechanisms in place to exchange information on request with all G8 Members; nineteen G20 Members; and all EU Member States. In addition, the Isle of Man has concluded agreements with Members of the Southern African Development Community and is actively engaged in ensuring all necessary agreements are in place to ensure the effective implementation of the CRS, which includes concluding agreements with all signatories where agreements are not yet in place, for example with the British Overseas Territories, such as the agreement signed in September 2015 with the Government of the Cayman Islands.

The Isle of Man, as a UK Crown Dependency, negotiates agreements with other jurisdictions in accordance with its existing Letter of Entrustment from the UK. On the rare occasions where this letter did not authorise negotiation, the Isle of Man has sought and obtained an extension to this letter from the UK.

## **Tax Information Exchange Agreements**

In 1999, the Isle of Man became involved in the Organisation for Economic Co-operation and Development's ('OECD') exercise on harmful tax practices, and in January 2001 the Isle of Man made an early commitment to the work of the OECD's Project on Transparency and Exchange of Information for Tax Purposes ('EOI').

The Isle of Man played an active role in shaping the OECD Model Tax Information Exchange Agreement ('TIEA'), which was first published by the OECD in April 2002; and in 2003 the Isle of Man signed its first TIEA with the United States ('US').

In 2005 the Isle of Man broke new ground, when it signed the TIEA with the Kingdom of the Netherlands. This TIEA was the first to be signed that did not include the US as one of the parties.

Between 2005 and 2009 the Isle of Man concluded new agreements with countries throughout the world, and by 2 April 2009 the Isle of Man had signed 12 TIEAs and was named on the first OECD "White List" of jurisdictions that have substantially implemented the internationally agreed tax standard.

The Isle of Man continues to negotiate agreements and has signed 37 TIEAs based on the OECD Model.

A full list of all TIEAs including the text of each agreement can be found on the [Income Tax Division website](#)

## **Double Taxation Agreements**

The Isle of Man is developing a network of comprehensive Double Taxation Agreements ('DTA') based on the OECD Model Tax Convention on Income and Capital.

To date the Isle of Man has signed 10 DTAs based on the OECD Model. These agreements include provisions for the prevention of double taxation as well as provisions for all forms of EOI, namely automatic and spontaneous EOI, and EOI on request. The Isle of Man also has a DTA with the UK, which was signed in 1955 and therefore predates the current OECD Model. The DTA with the UK is currently being renegotiated.

In addition, the Isle of Man has signed agreements, sometimes referred to as mini-DTAs, providing for the elimination of double taxation in relation to certain Model DTA articles, e.g. Pensions or Aircraft and Shipping Articles.

A full list of all DTAs including the text of each agreement can be found on the [Income Tax Division website](#)

## **OECD Convention in Mutual Administrative Assistance in Tax Matters ('Convention')**

With effect from 1 March 2014, and following the declaration of territorial application by the United Kingdom the Convention was extended to the Isle of Man.

The Convention provides for all forms of EOI, namely automatic and spontaneous EOI, and EOI.

The Isle of Man has made the following reservations:

- pursuant to Article 30, paragraph 1(a), of the Convention, the Government of the Isle of Man will not provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in Article 2, paragraph 1(b), of the Convention.
- pursuant to Article 30, paragraph 1(b), of the Convention, the Government of the Isle of Man will not provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes listed in Article 2, paragraph 1, of the convention.
- pursuant to Article 30, paragraph 1(c), of the Convention, the Government of the Isle of Man will not provide assistance in respect of any tax claim, which is in existence at the date of withdrawal of a reservation made under Article 30, paragraph 1(a) or (b), in relation to taxes of the category in question.
- pursuant to Article 30, paragraph 1(d), of the Convention, the Government of the Isle of Man will not provide assistance in the service of documents for all taxes listed in Article 2, paragraph 1, of the Convention.
- pursuant to Article 30, paragraph 1(e), of the Convention, the Government of the Isle of Man will not permit the service of documents through the post as provided for in Article 17, paragraph 3, of the Convention.

## **OECD Base Erosion and Profit Shifting (BEPS)**

In 2016 a new framework allowing all interested countries and jurisdictions to join the OECD BEPS Project was established. The Isle of Man is a BEPS Associate and works to support the implementation of the BEPS package. Current work on the BEPS package that relates to EOI includes work on Country by Country reporting.

## **Ratification of International Agreements**

All information exchange agreements (i.e. DTAs, TIEAs and IGAs) signed by the Isle of Man require ratification by Tynwald and all such agreements have been ratified. It is the Isle of Man's policy to ratify international agreements as soon as possible after signing and in practice this means agreements are usually ratified within 3 months of being signed.

## **OECD Global Forum on Transparency and Exchange of Information for Tax Purposes ('Global Forum')**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes ('the Standard').

Between 2009 and 2014 the Isle of Man was a member of the Peer Review Group ('PRG') which was set up by the Global Forum to develop the methodology and detailed terms of reference for a robust, transparent and accelerated EOI process.

In 2014 the Isle of Man's Assessor of Income Tax became a member of the Steering Group. Created in 2009, the Steering Group assists with preparing and guiding the Global Forum's future work.

In addition to engaging directly with the Global Forum through the PRG and the Steering Group, the Isle of Man has a number of trained peer review assessors who carry out Peer Reviews of other jurisdictions' legal and regulatory framework and practical implementation of the Standard.

In 2011 the Isle of Man was one of the first jurisdictions to be assessed by the Global Forum. The 2011 Peer Review combined assessments of the Isle of Man's legal and regulatory framework for transparency and EOI, as well as practical implementation of that framework; and in November 2013 the Isle of Man was one of only 18 jurisdictions, from 50 rated jurisdictions, to be rated by the Global Forum to be Compliant with the OECD Standard. In August 2015 the Global Forum updated its ratings, confirming the Isle of Man is one of only 21 jurisdictions, from 81 rated jurisdictions to be rated as Compliant with the Standard.

In November 2014 the OECD Secretary General Report to G20 Leaders included the Progress Report: 'Update on Effectiveness and On-going Monitoring' of the international standards of transparency and EOI, within which the Global Forum confirmed during 2014 it has 'been laying the foundations for achieving the next level in tax transparency'. This includes the international standard of EOI on request being revised in preparation for the next round of reviews, to incorporate the work of the Financial Action Task Force (FATF) on beneficial ownership and to draw on the peer review experience.

As a Member of the Global Forum and of the Steering Group, the Isle of Man is actively engaged with this process and is already preparing for its next review, which is scheduled to commence in Quarter 1 2017.

### **Automatic Exchange of Information ("AEOI")**

The Isle of Man's commitment to AEOI takes a number of different forms; including automatically exchanging savings income information with EU Member States in accordance with the European Union Savings Tax Directive ('EUSD') since 2005; on a bilateral basis under a DTA, a TIEA that includes the AEOI article, or an IGA such as those signed with the US and the UK implementing AEOI based on the US Foreign Account Tax Compliance Act ('FATCA').

The first AEOI under the US IGA was completed in 2015 and the first AEOI under the UK IGA will take place in 2016.

The Isle of Man's commitment extends to multilateral relationships, specifically the Isle of Man's participation in the Convention; and on 29 October 2014 by signing the Multilateral Competent Authority Agreement committing to the early adoption of AEOI in accordance with the CRS.

On 10 November 2015 the Council of the European Union adopted Council Directive (EU) 2015/2060 which brought forward the repeal of EUSD and in line with this and the Isle of Man's commitment to AEOI under CRS, the Minister for the Treasury wrote to Member States informing them the Isle of Man intends to reflect the repeal of EUSD by suspending and subsequently terminating the Bilateral Savings Agreement entered into with the Member State. Work is continuing with Member States to ensure a smooth transition between AEOI under EUSD and the CRS. As most Member States are, like the Isle of Man, early adopters of the CRS the expectation is that the last year of EUSD reporting will be the 2015/16 tax year and that data for the 2016 calendar year will be exchanged under the CRS.

The Isle of Man is currently implementing CRS with a view to the first exchanges by 2017 with other jurisdictions that are also 'Early Adopters', and with the first exchanges by 2018 with those jurisdictions known as 'Fast Followers'.

### **Global Forum AEOI Group**

In 2013 the Global Forum established its AEOI Group, of which the Isle of Man is a member.

The AEOI Group is tasked with creating a mechanism for monitoring and reviewing the implementation of the new Standard. Monitoring of implementation is underway, and in this regard the AEOI Group is creating a peer review process. Work has commenced for the creation of new Terms of Reference and a new Methodology, which will allow for Global Forum member and relevant non-member jurisdictions to be evaluated for the effectiveness of the implementation, including the meeting of confidentiality and data safeguard requirements.

### **Signed DTAs, TIEAs, IGAs and related Orders**

Copies of signed agreements, including those that are awaiting ratification and entry into force are published on the International Agreements page of the Income Tax Division Website:

<http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/>

Copies of the Orders ratifying international agreements are also published on the Income Tax Division Website:

<http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/tax-practitioners-and-technical-information/regulations-and-orders/>

A copy of the Convention and related Commentary, and the up to date list of signatories to the Convention is available on the OECD website:

<http://www.oecd.org/ctp/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm>

A copy of the Isle of Man's reservations in respect of parts of the Convention and other matters related to the Isle of Man's participation is available on the Council of Europe website:

<http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/127/declarations>