



Isle of Man Government

Reiltys Ellan Vannin

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 under the system of assessment and that 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 Return – Penalty for Non-Submission

Guidance Note – GN35

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.

CONTENTS

1	Introduction	4
2	Important information	4
2.1	Change in circumstances	4
2.2	Return forms	4
3	What happens if I don't complete and return my form?	5
3.1	First penalty	5
3.2	Second penalty	5
4	How much are the penalties?	7
5	Can the penalties be reduced?	7
6	What can be considered as a reasonable excuse?	7
7	How is the penalty collected?	8
8	Can I appeal?	8
9	Criminal offences	8
10	Estimates/Request for default assessments	9
10.1	Estimates on returns	9
10.2	Request for default assessment	9
11	Interest charged on overdue tax	10
12	Repayment Supplement	10
13	Alteration of ITIP codes	10
14	Frequently asked questions	10
15	How to make a payment to Income Tax Division?	11
15.1	In person at the Income Tax Division	11
15.2	By Post	11
15.3	By Debit Card or Credit Card	11
15.4	By Bank Giro Credit	11
15.5	Cheques and Postal Orders	12
15.6	Online	12
16	Contact information	13

1 Introduction

This Guide outlines the dates that completed income tax returns need to be submitted to the Division. This is known as the due date. The Guide sets out the due date in different circumstances, and what **penalties** will be applied if you fail to file a return. It also details what happens if you do not need to complete a return form.

If, having read this guide, you need further information, please contact the Income Tax Division. The address, telephone number, e-mail address and opening hours can be found at the end of these notes.

Who is covered by this guide?

- Individuals who are resident on the Isle of Man; or
- Individuals who are not resident but receive income taxable in the Island; or
- Trusts, settlements and partnerships.

It does not relate to corporate bodies.

2 Important information

2.1 Change in circumstances

It is extremely important that you let the Division know of any change in your circumstances (eg change of address, marriage, separation, death of a partner, leaving the Isle of Man) as soon as possible. This is because the change may affect the return due date and therefore the penalties.

2.2 Return forms

- i. Every person who is liable to pay income tax is required to send in a return in respect of the year ended on 5 April.
- ii. A return form for the year just ended is issued by the Income Tax Division during the first few weeks in April. These forms will carry the issue date of 6 April, and the due date of 6 October. Both of these dates will be clearly marked on the return form. If you believe that a return is required but one has not been received, then please request a return by contacting the Income Tax Division (contact information is contained at the end of these notes). Please be aware that any duplicate return issued later in the year will show the original issue and due dates.
- iii. Where a return is required, the onus is on the person to complete and return it on or before the due date. Under normal circumstances, the form needs to be with us by 6 October, (ie the year ended 5 April 2009 form needs to be returned by 6 October 2009).

- iv. There are special situations where the return form does not carry the issue date of 6 April. In all cases, the issue and due dates will be clearly shown on the form.
- Following a person's death, a part-year return for the period beginning on 6 April before the date of death and ending on the date of death, is issued to the personal representative of the deceased. The part-year return will carry the actual date that the form is sent by us, and a due date of 6 months after this date.
- Where you cease to be regarded as a resident on the Isle of Man, you will need to make a return for the period from the start of the tax year, ending on the date of your departure from the Isle of Man. This part-year return will carry the issue date of the date of departure, and the due date of 6 months after this date.
- Non-resident individuals, or trusts and settlements ceasing to be liable to Manx Tax - depending on whether the client tells us during the year in question, the due date will be 6 months from the issue date, which may be part way through the year or 6 April.

3 What happens if I don't complete and return my form?

3.1 First penalty

- i. Under normal circumstances, the first penalty will be triggered when your income tax return remains outstanding after 6 October (i.e. for the year ended 5 April 2009, the first penalty will be triggered on 6 October 2009).
- ii. If you commence residence or leave school, you should notify us as soon as possible. If you fail to do so, you will receive a first penalty if a return has not been received by 6 October following the end of the tax year.
- iii. If you have ceased residence during the year, the first penalty will be triggered where the income tax return, which relates to the period ending on the date of your departure from the Island, has not been received within six months from your date of departure.
- iv. In the case of a death - after we have been notified, no penalties will be issued. However, penalties already issued at the time of death, will need to be paid. Please note that a return covering a period of estate will be subject to the first penalty, which will be triggered 6 months after the due date if the return is not filed.
- v. In the case of non-resident individuals, or trusts and settlements ceasing to be liable for Manx Tax, the first penalty will be triggered if the return has not been received by the due date, which will be 6 October, or six months after the issue date, whichever is the earlier.
- vi. Partnerships – although a partnership will be included in the reminder cycle, it will not receive a penalty, as the partners will be issued with the first penalty (where appropriate) as individuals in their own capacity.

3.2 Second penalty

- i. Under normal circumstances, the second penalty will be triggered when your income tax return remains outstanding after the following 6 April (i.e. for the year ended 5 April 2009, the second penalty will be triggered on 6 April 2010).
- ii. If you commence residence or leave school, you should notify us as soon as possible. If you fail to do so, you will receive a second penalty if a return has not been received by 6 April (i.e. for the year ended 5 April 2009, the second penalty will be triggered on 6 April 2010).

- iii. If you have ceased residence during the year, the second penalty will be triggered where the income tax return, which relates to the period ending on the date of departure from the Island, has not been received within 12 months from your date of departure.
- iv. In the case of a death - after we have been notified, no penalties will be issued. However, penalties already issued at the time of death, will need to be paid. Please note that a return covering a period of estate will be subject to the second penalty, which will be triggered 12 months after the due date if the return is not filed.
- v. In the case of non-resident individuals or trusts and settlements ceasing to be liable for Manx Tax, the second penalty will be triggered if the return has not been received within 12 months of the issue date.
- vi. Partnerships – as with the first penalty, although a partnership will be included in the reminder cycle, it will not receive a second penalty, as the partners will be issued with the second penalty (where appropriate) as individuals.

Examples of first and second penalties

- i. Full year returns:

Income Tax year ended	5 April 2009
Return form issue date	6 April 2009
First penalty triggered on	6 Oct 2009
Second penalty triggered on	6 April 2010

- ii. Full year returns – late notification of a liability:

Income Tax year ended	5 April 2009
Tax Office contacted	6 Nov 2009
Return form issue date	7 Nov 2009
First penalty triggered on	6 Oct 2009*
Second penalty triggered on	6 April 2010

* six months after the start of the tax year (6 April), the issue date of the return has no effect.

- iii. Part year returns (eg following leaving the Island):

Residence ceased on	5 Nov 2009
Notification of leaving the Island	5 Feb 2010

Return form issue date	5 Feb 2010
First penalty triggered on	6 May 2010*
Second penalty triggered on	6 Nov 2010

* six months after the date residence ceased, the issue date has no effect.

4 How much are the penalties?

- i. The first penalty has been set at £100 for 2008/2009.
- ii. The second penalty has been set at £200 for 2008/2009.

The amount of the penalty for subsequent years can be amended with the agreement of Tynwald.

5 Can the penalties be reduced?

- i. Yes. The first penalty can be reduced in two ways:
 - a) Automatically – if, having received a first penalty, you file your return and receive an assessment with a liability that is less than the amount of the penalty, the penalty will be automatically reduced to an amount equal to the tax assessed. Therefore, if your assessment liability is, say, £30 the first penalty will be reduced to £30.
 - b) Other cases – the Assessor or, on appeal, the Income Tax Commissioners, may reduce the penalty to an amount (including nil) as may be appropriate.

Although they are able to reduce the penalty, the following factors will not be taken into account by the Assessor or by the Commissioners:

- a) Not enough funds available to you to pay the tax/penalty that you owe.
 - b) You did not owe any tax (therefore no loss to the revenue).
 - c) You, or the person acting on your behalf, demonstrate that you acted in good faith.
- ii. The second penalty can only be reduced using the method outlined in point i) b) above.

6 What can be considered as a reasonable excuse?

- i. You may believe that you have a reasonable excuse for failing to file your return. The legislation provides for the defence of "reasonable excuse", but this must satisfy the Assessor or the Income Tax Commissioners, before the first and second penalties would not be imposed.

- ii. Whilst the legislation does not set down what would be accepted as a reasonable excuse, the Assessor will judge every case on its merits. Situations likely to be considered include a sudden incapacitating illness, or the death of a close family member.

- iii. The following reasons will not be considered as a reasonable excuse:
 - a) Not enough funds available to you to pay the tax/penalty that you owe.

 - b) You relied on another person to help you, and they let you down.

7 How is the penalty collected?

- i. The penalty is collected in exactly the same way as income tax. Therefore, if you do not pay the penalty, you will receive reminders and, eventually, an instruction will be sent to the Coroner to enforce payment of the outstanding debt. See page 15 for methods of payment.

- ii. If you have received a penalty, the amount shall not be deducted from any income or profits that may be subject to income tax in that year.

8 Can I appeal?

- i. Yes. The appeal should be made in writing, within 30 days of the date of the notice and should state the grounds for the appeal.

- ii. The Commissioners, on appeal, may confirm, vary or reverse the penalty or the Assessor's decision.

9 Criminal offences

- i. It is your legal obligation to submit a return form. Initially it is a civil offence not to file your return, but legislation provides for a criminal offence, which will be considered in the most serious cases.

- ii. It may be considered a criminal offence if your return remains outstanding more than 24 months after the date of issue, or 24 months after the date on which you were no longer regarded as resident in the Isle of Man.

- iii. If you are found guilty by the Courts of an offence, you would be liable to a fine not exceeding £5000 or custody for a term not exceeding 6 months, or to both.

- iv. Having been convicted of an offence under this part, you will also be required to make and deliver the outstanding return.

10 Estimates/Request for default assessments

Although every person liable to pay income tax should file their fully completed return form by the due date of 6 October, the Division recognises that there may be circumstances where it is not possible to submit a fully completed return, or even to file a return by the due date. The Division proposes to deal with these situations as follows:-

10.1 Estimates on returns

- i. According to the legislation, your return must be true and correct.
- ii. However, where you are still unable to file a true and correct return and you are concerned that a penalty may be triggered, the Assessor may accept your return even though it includes estimates where the actual details are not known.
- iii. For an estimate to be considered you must satisfy the following points:-
 - a) You must make it clear on the return which item is an estimate.
 - b) The estimate must be realistic and, as far as possible, you should back it up by a computation or suitable documents.
 - c) As soon as you can, and where possible, before the second penalty trigger point, you should replace the estimate by the actual amount.

10.2 Request for default assessment

Where it can be shown that your return cannot be submitted by the due date, your request for a default assessment must be made in writing by 30 September following the year of assessment to which the return relates.

- i. The request must clearly state:
 - a) Your name;
 - b) Your tax reference number;
 - c) The year of assessment to which the return relates.
- ii. If your request is successful, a default assessment will be issued and the first penalty will not be imposed. The Division will use its normal procedures in arriving at the figures in the default assessment. However, where you are aware that these figures will give an amount that is significantly different to the liability that you expect to have, the Division may accept a request for a specific tax amount.

- iii. If you fail to submit the completed return by the following 6 April, you will receive a second penalty and you will not be able to take advantage of this procedure in the following tax year.

11 Interest charged on overdue tax

Section 111A Income Tax Act 1970 amends the date from which interest will be charged from “the 31st day after the date on which the tax becomes due and payable” to 6 January in the year to which the payment relates, or the actual due and payable date, whichever is the sooner. It also introduces a different rate of interest (the surcharge rate) which will apply if the return has not been submitted by 5 April in the year following the year of assessment to which it relates.

12 Repayment Supplement

Section 107B Income Tax Act 1970 states that there will be no Repayment Supplement in respect of any repayment of tax where a second penalty has been issued or a default assessment has been issued in respect of the year of assessment to which the return relates. Therefore, should a default assessment subsequently be revised and generate a refund, it will still not be given a Repayment Supplement.

13 Alteration of ITIP codes

If your return has been outstanding for more than 2 years, it will be considered that you have not made a claim for additional allowances and reliefs. Therefore, if you are employed, deductions (eg mortgage, loan and life insurance relief) and Additional Personal Allowance, will be removed from your code. The code will continue to include personal allowances (single allowance, married allowance or wife’s allowance), and the Blind Person’s/Disabled Person’s where applicable.

14 Frequently asked questions

I am going to be off the Island for a year and will miss the deadline – will I still get a penalty?

Yes. In the absence of any contact you will receive a penalty notice. The best thing to do is to discuss your temporary absence with us as early as possible.

What about returns which are still outstanding for earlier years, will the new penalty apply to them?

No, only the return for year ending 5 April 2005 and subsequent years carries potential penalties. However, the outstanding back year returns should be submitted to the Division as soon as possible.

If I post my return, how do I know that you have received it?

You can view your return form online after registering and enrolling for Online Tax Services at www.gov.im/incometax.

Does this mean that I will get my assessment earlier?

Although there are a number of factors that must be in place before we can raise and issue your assessment, generally speaking, the earlier you get your return to us the more likely it is that you will

receive an early assessment. So if you normally submit your return early, please continue to do so, as this will help us with the whole process. If you think a refund will be due to you, submit your return as soon as you can.

Are there any exceptional circumstances where the penalty may not apply?

In our view you would have a reasonable excuse only where some exceptional event beyond your control has prevented you from sending back your completed return by the deadline. We now give plenty of time for filling in tax returns and sending them back and ample notice of when they are due. It is your responsibility to gather all the necessary information to ensure that your tax return is completed and sent in by the deadline.

I am not very good with forms – can I get help?

Yes. We can help you to complete your form should you need it. You can phone, e-mail or visit the office (see the Contact Information at the end of these notes). We also attend Citizens Advice Bureau in Ramsey annually and Care Homes on pre-arranged days. Further details can be obtained by contacting us.

I don't pay tax – do I need to complete a return form?

In certain circumstances, you may only be required to complete a return form every 3, 4 or 5 years. If this applies to you, a letter will be sent to you at the time the decision is made. It will ask you to contact the Division if your income or circumstances change. If you have not received a return and cannot remember receiving a letter, please contact the Division at the address on page 16. For further information, please see our guidance booklet GN30 "Need help with your Return Form?"

15 How to make a payment to Income Tax Division?

Income tax payments can be made in the following ways (a receipt will only be issued if requested):

15.1 In person at the Income Tax Division

The public counter is on the 2nd Floor, Government Office, Buck's Road, Douglas. Please bring the payment counterfoil with you.

15.2 By Post

Address to Income Tax Division, Government Office, Douglas, Isle of Man, IM1 3TX ensuring that the payment counterfoil is enclosed. Cash sent through the post should be sent by registered post only.

15.3 By Debit Card or Credit Card

We accept most debit and credit cards. You can pay either over the phone, online or at our counter. Please ring (01624) 685400 during normal office hours to pay over the phone.

15.4 By Bank Giro Credit

Present the payment counterfoil with your payment at any bank. A bank account is not required to use this facility.

15.5 Cheques and Postal Orders

Cheques should be made payable to the Isle of Man Government and crossed. Post-dated cheques are not acceptable.

15.6 Online

You can pay online with a credit or debit card after registering and enrolling for Online Tax Services at www.gov.im/incometax.

16 Contact information

Address: The Treasury
 Income Tax Division
 Government Office
 Buck's Road
 DOUGLAS
 Isle of Man
 IM1 3TX

Telephone: (01624) 685400

Fax: (01624) 685351

E-mail: incometax@itd.treasury.gov.im

Website: www.gov.im/incometax

Opening Hours: Mon to Thur 9.15am - 5.00pm
 Friday 9.15am - 4.30pm