



INCOME TAX ACT 1970

INCOME TAX (ATTRIBUTED PROFITS) (TRUST) REGULATIONS 2010

*Approved by Tynwald
Coming into operation on*

*16th March 2010
19 March 2010*

The Treasury makes these Regulations under section 13L(1) of the Income Tax Act 1970¹.

1 Title

These Regulations are the Income Tax (Attributed Profits) (Trust) Regulations 2010.

2 Commencement

- (1) If approved by Tynwald², these Regulations come into operation on 19 March 2010.
- (2) These Regulations have effect where profits are treated as income accruing to a member who is a trustee of a Manx trust under the attributed profits sections (as modified for the purposes of these Regulations) on or after 5 April 2010.

3 Interpretation

- (1) In these Regulations—

“the Act” means the Income Tax Act 1970;

“attributed profits sections” means sections 13 to 13M of the Act;

“Manx trust” means a trust—

¹ XXI p.260 (section 13L was inserted by Schedule 1 of the Income Tax Act 2009 c. 2)

² As required by section 13L(3) of the Income Tax Act 1970

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- (a) which has at least one trustee resident in the Island; or
- (b) the administration of which is conducted in the Island;

“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.

- (2) Subject to paragraph (3), other expressions in these Regulations have the same meaning as in section 12 of the Act.
- (3) Unless the context otherwise requires, a reference in the attributed profits sections (as modified for the purposes of these Regulations) to “attributed profits” means, subject to section 13A(6) of the Act, the distributable profits of a corporate taxpayer which is a relevant company that would have been payable to a member who is a trustee of a Manx trust if the corporate taxpayer had distributed them, calculated in accordance with section 13A of the Act.
- (4) A beneficiary under a trust includes a discretionary object of the trust who has no vested or contingent interest under the trust.

4 Modification of sections 13 to 13M of the Act

- (1) Where an individual is a member (within the meaning of section 12 of the Act) of a relevant company for the purposes of the attributed profits sections by virtue of an interest that arises, or may in future arise, under a Manx trust, the attributed profits sections apply and operate subject to the modifications set out in these Regulations.
- (2) But paragraph (1) does not preclude the taxation of beneficiaries of Manx trusts on the profits attributed to them as members of relevant companies in accordance with the attributed profits sections (without the modifications set out in these Regulations) in circumstances where a trustee of the trust does not pay income tax in accordance with those sections, as so modified.

5 Modification of section 13

- (1) For section 13(2) of the Act substitute—

“(2) A trustee of a Manx trust who is a member (during an accounting period or any part of that period) of a corporate taxpayer which is a relevant company must pay income tax on the attributed profits of that member.”.

(2) After section 13(2) of the Act insert—

“(3) But income tax is not payable under subsection (2) where—

- (a) a beneficiary of the trust has an immediate entitlement to income of the trust, net of expenses, but only to the extent of that immediate entitlement;
- (b) no beneficiary of the trust is an individual who is resident in the Island;
- (c) each individual beneficiary of the trust who is resident in the Island pays income tax on the profits attributed under the attributed profits sections in respect of his or her interest in the relevant company; or
- (d) the trust holds shares in a relevant company which is not a trading corporate taxpayer and which distributes all of its distributable profits for the accounting period within 12 months of the end of the accounting period.”.

6 Modification of section 13A

In section 13A of the Act, for “individual” or “an individual” (wherever occurring) substitute “trustee” or “a trustee” (as the context requires).

7 Modification of section 13B

In section 13B of the Act, for “each individual member who is resident in the Island” substitute “each member who is a trustee of a Manx trust in respect of which there is a beneficiary resident in the Island”.

8 Modification of section 13C

For section 13C(2) of the Act substitute—

“(2) Where—

- (a) a relevant company distributes attributed profits to a member who is a trustee of a Manx trust; or

(b) a trustee of a Manx trust distributes attributed profits on to a beneficiary of the trust,

further income tax is not to be imposed in respect of the distribution made to the member or to a beneficiary of that trust who is resident in the Island.”.

9 Modification of section 13D

For section 13D(1) of the Act substitute—

“(1) Notwithstanding section 81A, for the purposes of assessing income the Assessor is to treat attributed profits as income accruing to a member who is a trustee of a Manx trust on the day expiring 12 months from the end of the accounting period of the relevant company to which the attributed profits relate.”.

10 Modification of sections 13E and 13F

Sections 13E and 13F of the Act do not apply.

11 Modification of section 13G

For section 13G(2) of the Act substitute—

“(2) The return of income of a trustee of a Manx trust who is liable to pay income tax on the attributed profits of a corporate taxpayer which is a relevant company which is delivered in accordance with the Act must specify the amount of distributable profits of the corporate taxpayer that would have been payable to the trustee if the corporate taxpayer had distributed them.”.


12 Modification of sections 13I and 13K

In sections 13I and 13K of the Act, for “individual” (wherever occurring) substitute “individual or trustee”.

13 Modification of section 13M

At the end of section 13M(1) of the Act insert “or who is a trustee of a Manx trust”.

MADE 3rd February 2010


Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the operation of the attributed profits regime (as currently set out in sections 12 to 13M of the Income Tax Act 1970) for certain Isle of Man trusts.