



INCOME TAX ACT 1970

INCOME TAX (DISTRIBUTABLE PROFITS CHARGE) (DISTRIBUTING COMPANY) REGULATIONS 2006

Approved by Tynwald 12 July 2006

Coming into operation on in accordance with regulation 1 (2)

In exercise of the powers conferred on the Treasury by section 12(12) and (13) of the Income Tax Act 1970 (a), and of all other enabling powers, the following Regulations are hereby made:-

Citation and commencement

1. (1) These Regulations may be cited as the Income Tax (Distributable Profits Charge) (Distributing Company) Regulations 2006.
- (2) These Regulations shall come into operation on the date they are approved by Tynwald and shall have effect in respect of the income tax year commencing 6th April 2006 and subsequent years.

Interpretation

2. In these Regulations:-

“the Act” means the Income Tax Act 1970

“distributing company” is defined in accordance with section 12(11) of the Act

“distributable profits charge” is defined in accordance with section 13(1) of the Act

“distributable profits” is determined in accordance with section 13A(8) of the Act

“corporate taxpayer” is defined in accordance with section 120 of the Act

“trading corporate taxpayer” means a corporate taxpayer whose business consists wholly or mainly of the carrying on of a trade or trades.

(a) Vol XXI p.260, section 65C substituted by section 4 Income Tax (Amendment) Act 2006

Proportion of Distributable Profits – Trading Corporate Taxpayers

3. For the purpose of section 12(11)(b) of the Act, the prescribed proportion of distributable profits of a trading corporate taxpayer that must be distributed in order that the corporate taxpayer may be classed as distributing company shall be 55%.

Proportion of Distributable Profits – Averaging

4. (a) For the purpose of section 12(11)(b) of the Act, where a trading corporate taxpayer does not distribute 55% of the distributable profits, the prescribed proportion may be reduced where on average over a maximum of three years an average distribution of 55% of the total distributable profits is made.

(b) The average distribution will be the total distributions made divided by the total distributable profit multiplied by 100.

(c) This averaging procedure does not affect the non-distributing status of a corporate taxpayer for a previous year but can be used to determine the status for the current year.

(d) This Averaging procedure will commence on the 6th April 2006, the year of assessment commencing on that date, being the first year of the 3 year calculation.

Proportion of Distributable Profits – Non-Trading Corporate Taxpayers

5. For the purpose of section 12(11)(b) of the Act, the prescribed proportion of distributable profits of a non-trading corporate taxpayer that must be distributed in order that the corporate taxpayer may be classed as distributing company shall be 100%.

New Business in the Isle of Man

6. Any corporate taxpayer commencing business on the Isle of Man will be a distributing company for the first three years of business where the Treasury is satisfied that-

(a) it is in the interest of the economy of the Island and

(b) is necessary for the purpose of establishing or developing a “new business” on the Isle of Man.

Other Criteria for Distributing Status

7. Any corporate taxpayer that meets any of the following conditions is a distributing company for the purpose of Section 12(11) of the Act:

(a) A company the whole of whose income is exempt under Section 15 of the Act, being a company established for charitable purposes only or to repair any college, church, chapel or any building used solely for the purpose of public worship, or receiving income from any property of Her Majesty in whatever name or names the same may vest or stand.

(b) Any, “agricultural society” being a society or institution established for the purposes of promoting the interests of agriculture, horticulture, livestock breeding, or forestry.

- (c) Any Isle of Man Agricultural Marketing Society for the purposes of section 120(e) of the Act.
- (d) Any friendly society whose income would be exempt from income tax under Section 18 of the Act.
- (e) Any public Board or authority constituted under any enactment or under any order approved by Tynwald under any enactment, and of any local authority.
- (f) Any pension scheme approved under Section 49 of the Act, the Income Tax (Retirement Benefit Schemes) Act 1978 or Section 2 Income Tax Act 1989.
- (g) Any corporate taxpayer that is licensed by the Financial Supervision Commission under the Banking Act 1989.
- (h) Any corporate taxpayer wholly owned by an Isle of Man resident individual whose income is subject to the cap on income tax.
- (i) Any corporate taxpayer that is a corporate taxpayer limited by guarantee and where the members of that corporate taxpayer cannot benefit from any distribution made by the corporate taxpayer at any time.
- (j) Any members club or association where the members of the club or association cannot at any time benefit from a distribution at any time.
- (k) Any corporate taxpayer that is listed on a recognized stock exchange shown in the Schedule.

Schedule

The Athens Stock Exchange

The Australian Stock Exchange and any of its stock exchange subsidiaries

The Cayman Islands Stock Exchange

The Colombo Stock Exchange

The Copenhagen Stock Exchange

The Helsinki Stock Exchange

The Johannesburg Stock Exchange

The Korea Stock Exchange

The Kuala Lumpur Stock Exchange

The Mexico Stock Exchange

The New Zealand Stock Exchange

The Rio De Janeiro Stock Exchange

The Sao Paulo Stock Exchange

The Singapore Stock Exchange

The Stockholm Stock Exchange

The Stock Exchange of Thailand

The Swiss Stock Exchange

Austria

Belgium

Canada - Any stock exchange prescribed for the purpose of the Canadian Income Tax Act.

France

Germany

Guernsey

Hong Kong - Any stock exchange which is recognised under Section 2A (1) of the Hong Kong Companies Ordinance

Italy

Ireland (Republic of)

Japan

Luxembourg

Netherlands

Norway

Portugal

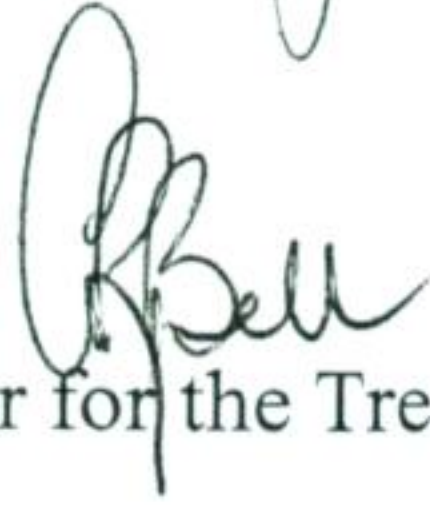
Spain

United Kingdom (Including the Alternative Investment Market (AIM))

USA - Any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange

USA - The NASDAQ Stock Market as maintained through the facilities of the National Association of Securities Dealers, Inc and its subsidiaries

Made this 12th day of July 2006



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Following the enactment of the Income Tax (Amendment) Act 2006 companies that are classed as non distributing companies are required to account for the distributable profits charge in respect of its members who are resident in the Isle of Man. A distributing company does not have to account for the charge, but it must, first, satisfy certain criteria to be a distributing company. These Regulations, detail the criteria that must be satisfied to be a distributing company.