

INFORMATIVE LETTER RELATING TO 1991 ORDER AS ATTACHED

1. Informative letter dated 16th January 1995 concerning Certification under the Income Tax (Capital Relief) (Tourist Business Incentive Allowance) Order 1991 as amended and Phase 2 Housing at Mount Murray



Department of Tourism and Leisure
Rheynn Turrysid as Soccar

Tourism and Leisure Division
Head Office, Sea Terminal,
Douglas, Isle of Man. IM1 2RG

Chief Executive: Terry Toohey

16th January, 1995

The Secretary,
Mount Murray Country Club Limited,
Mount Murray,
SANTON,
Isle of Man, IM4 2HT.

Dear Sir,

Income Tax Act 1970 - Income Tax (Capital Relief)
(Tourist Business Incentive Allowance) Order 1991
(as amended by Order 1992)

We refer to recent discussions during which the provisions of the above Order and in particular Article 6 paragraph (3) were discussed.

In this letter the following words and phrases shall unless the context otherwise requires have the following meanings:-

(a) Order means the Income Tax (Capital Relief) (Tourist Business Incentive Allowance) Order 1991 as amended by the Income Tax (Capital Relief) (Tourist Business Incentive Allowance) (Amendment) Order 1992.

(b) Mount Murray Hotel and Leisure Complex means the Hotel and Leisure Complex situate at Mount Murray, Santon, Isle of Man, which for the purposes of identification is edged blue on the attached plan and which Hotel and Leisure Complex affords, inter alia, leisure, sport and recreational facilities for tourists and visitors to the Isle of Man.

(c) Phase 2 means those housing sites which form part of the Mount Murray tourist development at Santon, Isle of Man, edged red on the attached plan.

(d) Persons includes any body of persons, corporate or unincorporate.

(e) Tourist business has the meaning ascribed in the Order.

(f) Tourist Premises has the meaning ascribed in the Order.

(g) Qualifying Capital Expenditure has the meaning ascribed in the Order.

This letter is written on the basis of the Department's understanding of the law current at the date hereof and must be construed accordingly. Any changes in the law, including without prejudice to the generality of the

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foregoing, any Act and/or subordinate legislation, including the Order, may affect matters herein stated and in particular may affect the provision by the Department of Tourism and Leisure of the certificate referred to below.

The Order enables, subject to the provisions of the Order, a person to seek capital relief under the Income Tax Acts in the computation of the profits and gains of the Tourist business of such person in respect of a proportion of Qualifying Capital Expenditure incurred by that Tourist business. The determination whether or not the criteria for such relief has been satisfied is vested in Treasury. However, the Order provides that before relief may be sought from Treasury, it is a pre-requisite that the Department of Tourism provides a certificate relevant to such Tourist business in terms of Article 6 paragraph (3) of the Order.

We write to confirm that -

(1) If any person carries on a Tourist business and such Tourist business incurs or has incurred Qualifying Capital Expenditure in respect of a building constructed on any of the Phase 2 housing sites and

(2) if the said Tourist business uses such building to provide lodging for tourists and visitors to the Isle of Man correlative to the Mount Murray Hotel and Leisure Complex and

(3) if any such building constructed on the said housing sites and used for the purposes of the said Tourist business is registered as Tourist Premises under the Tourist Act 1975

then, subject to the Department of Tourism and Leisure being satisfied that such business is a Tourist business, the Department of Tourism and Leisure will certify relevant to such Tourist business for the purposes of Article 6 paragraph (3) of the Order that the giving of the relief under the Order in respect of the said Tourist business to which the relief relates is:-

- (a) in the interests of the economy of the Island; and
- (b) necessary for the purpose of establishing or developing a Tourist business in the Island; and
- (c) likely to provide additional employment in the Island.

The Department of Tourism and Leisure confirms that for the purposes of any such certificate Phase 2 must be as defined in this letter.

As a general comment, any such person intending to make a claim for relief under the Order must be able to satisfy fully the Department of Tourism and Leisure and Treasury or if not both the relevant one as appropriate:-

- (1) that the business claiming tax relief is a Tourist business: as part of the present criteria for the assessment of a business Treasury and the Department of Tourism and Leisure would need to be satisfied that the business carried on in the premises is carried on as a trade (whether as principal

or through agents) and continued to be so and that the premises were available to visitors and tourists to the Isle of Man for a minimum of four months (120 days) in any twelve consecutive month period of account, and

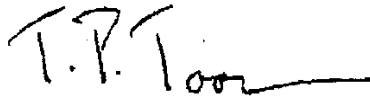
(2) that the legal form and title of the Tourist business has been established and

(3) that Qualifying Capital Expenditure has been incurred, and

(4) that the Tourist business in question holds the relevant interest in the premises in respect of which the Qualifying Capital Expenditure has been incurred.

It must be appreciated that the determination of whether or not such relief is allowable is a matter for the Treasury and that the certificate referred to above is merely a pre-requisite to Treasury determining whether or not such relief is allowable. Nothing contained in this letter shall expressly or by implication inhibit or in any way limit the consideration by Treasury of any application by a person for relief under the Order and in particular the right of Treasury to be satisfied that the relief relates to Qualifying Capital Expenditure and to require any such person to provide such information with or without supporting documents, records, etc. as Treasury may deem appropriate.

Yours faithfully,



for and on behalf of the Department of Tourism.

copy to Assessor of Income Tax for information.

