

Introduction

The Moore Stephens Europe *Doing Business In* series of guides have been prepared by Moore Stephens member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country, temporarily or permanently.

Doing Business In the Isle of Man 2016 has been written for Moore Stephens Europe Ltd by Moore Stephens Chartered Accountants (Isle of Man). In addition to background facts about the Isle of Man, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in the Isle of Man either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to the Isle of Man to work and live, either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as of 1 June 2016. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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Brussels, August 2016

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1. The Isle of Man at a glance

Geographical location and population

The Isle of Man ('the Island') is a British Crown dependency in the Irish Sea, equidistant between the islands of Great Britain and Ireland. The Island has an area of 572 km², is 52 km long and 22 km wide, and has 160 km of coastline.

The Island's population is over 85 000.

Douglas is the capital and main seaport with a regular daily ferry service to the United Kingdom all year round and to Ireland in the summer. Other major towns and cities are Peel, Ramsey, Castletown, Port Erin and Port St Mary.

The Island's airport, Ronaldsway (IATA "IOM"; ICAO "EGNS"), has over 30 daily direct commercial flights to 14 destinations in the United Kingdom and Ireland including London, Birmingham, Manchester, Glasgow and Dublin. A fixed-base operator specialising in executive aircraft is also available at the Isle of Man airport.

Language, religion and climate

English is the main language spoken on the Island although the native language, Manx, a Celtic language closely related to Irish and Scottish Gaelic, is being revived by enthusiasts and is formally taught in some of the Island's schools.

In the Isle of Man's last census in 2011 (for which figures are available) 72% of the population gave their religion as Christian, 3% as Muslim, 1% as Hindu, 2% other religions, 15% no religion and 7% failed to answer.

The Island's climate is temperate due to the influence of the surrounding sea with rare extremes of heat or cold. February is normally the coldest month with average daily temperatures of 4.9°C. July and August are the warmest with an average daily maximum temperature around 17.6°C.

Sunshine averages 130 hours per month, the sunniest months being April, May and June with a monthly average of 210 hours.

Annual average rainfall ranges from 900 mm on the coast to 1800 mm in the higher elevations. Snowfall is infrequent and seldom accumulates at the lower elevations.

Politics and government

The Island is a British Crown dependency but is not part of the United Kingdom or of the European Union. It has its own legal system and jurisprudence with all the main features of a national government. For centuries the Isle of Man has enjoyed the form of an independent self-governing state even though the authority of its local Legislature, Tynwald, was historically subject to the will of Kings and Lords of Mann who often spent little time there.

The British Crown ('the Crown') is ultimately responsible for the Government of the Isle of Man, acting through the Judicial Committee of The Privy Council on the recommendation of Ministers of the UK Government in their capacity as Privy Councillors.

The British Home Secretary is the specific member of the Privy Council primarily concerned with the affairs of the Island and serves as the channel of communication between the Isle of Man, the Crown and the UK Government. The Home Secretary has the specific duty to see that before they receive Royal Assent the Island's legislative measures are scrutinised and that there is consultation with any other Ministers or the Law Offices of the Crown who may be concerned.

By convention the UK Parliament does not legislate for the Island without consent in matters of taxation or other matters of purely domestic concern. Taxes that are levied in the Island are imposed by Acts of Tynwald or under an authority granted by Tynwald.

The Lieutenant Governor of the Isle of Man is the nominal head of the Isle of Man Government and personal representative in the Isle of Man of the British Crown, channelling communication between the Crown and the Island's Government. The Court of Tynwald (see below) assists the Lieutenant Governor in the administration of the Isle of Man.

The present Manx system of government was established in the Isle of Man in the ninth century. Tynwald was modelled on an early Scandinavian form of legislature.

The Isle of Man's legislative assembly, the Court of Tynwald, comprises the Legislative Council ('the Council') and the House of Keys ('the Keys') presided over by a President, who is appointed from its members by the members themselves.

The Council and the Keys are known as 'the Branches' of Tynwald, each sitting separately for legislative purposes but sitting together to consider matters of financial and general policy. When the Branches sit together, this is known as a 'Sitting of Tynwald'.

The Keys is the elected house made up of 24 members of the House of Keys ('MHKs') elected every five years from the Island's 15 constituencies by a simple majority system.

The House is presided over by a Speaker who is elected by the MHKs. As an MHK the Speaker retains the right to vote on matters before the Keys but cannot speak in the Keys without vacating the Chair.

The Chief Minister, currently Hon Allan Robert Bell, is the executive head of the Isle of Man Government.

Currency, time zone, weights and measures

The Island's currency is the Pound Sterling, which is divided into 100 pence (singular: penny), the ISO code for which is GBP. At the time of going to press (early August 2016), the Pound Sterling was quoted against the euro and the US dollar as follows: GBP 1 = EUR 1.1789 and GBP = USD 1.3160.

The Isle of Man Government, however, issues its own notes and coins bearing the same names and essentially the same denominations as those issued by the UK Government.

The Island's notes and coins circulate within the Island side by side with the notes and coins of the United Kingdom.

In principle, the Isle of Man operates on Greenwich Mean Time ('GMT'), otherwise known as Co-ordinated Universal Time (UTC). British Summer Time (BST), UTC + one hour, operates during the summer from the last Sunday in March to the last Sunday in October.

The metric system of weights and measures is used for most purposes except for distances, speeds and land areas, which are normally expressed in miles (1 mile = 1.61 kilometres) and square miles. 'Acres' are also commonly used to express land area; 1 acre = 0.4047 hectares. Older members of the Island's population are more familiar with Imperial units: yards, feet and inches for length; pints and gallons for capacity; and tons, hundredweights, pounds and ounces for weight.

Foreign investment

Although the Isle of Man is neither a Member State nor an associate member of the European Union, products from the Island have full access to the single European market. Import and export of goods and passengers between the Island and the United Kingdom is unencumbered by Customs and passport controls and, due to the Island's Free Port, processing and storage of goods can be undertaken without the added complications of customs duties, value added tax or EU levies.

The Island is included in the common travel area of the British Isles where there is generally freedom of travel for all persons in any of the constituent territories.

As a result, there is usually no immigration control at the Isle of Man's seaports and airport for travellers between the Isle of Man and the United Kingdom, Ireland and the Channel Islands nor is there any restriction on British citizens moving to the Isle of Man to take up residence. However, persons wishing to take up employment or self-employment in the Island may be required to obtain a work permit.

House prices on the Island are comparable with suburban house prices in the Home Counties of England surrounding London.

There are no restrictions on the freedom of any person of any nationality, residence or domicile, to buy land including houses or other buildings in the Isle of Man. A person wishing to build a house on the Island, however, is obliged to apply for planning permission and a company incorporated outside the Isle of Man is required to register with the Registrar of Companies if it holds land in the Island.

Economic outlook

The Isle of Man has experienced continuous growth for 30 years which increased by 3 to 4 per cent in 2014 and has continued to increase throughout 2015 into 2016.

Unemployment has been continually falling with a current unemployment rate of 1.8% of the population (March 2016).

During the past three decades the Island's traditional industries of agriculture, fisheries and tourism have been overtaken by high-technology manufacturing and the financial-services industry, and most recently e-gaming.

The financial-services industry in the Island continues to be actively supported by the Isle of Man Government via a sophisticated legislative structure that facilitates financial business through companies, trusts and partnerships.

Consequently, there is a broad spectrum of financial and investment services including commodity brokers, insurance brokers, stockbrokers, investment managers, collective investment schemes, insurance management, captive insurance companies and fiduciary service providers.

Substantial government assistance to both existing and new businesses via the Isle of Man's Department of Economic Development and Industry encourages the creation of new businesses and industries in the Island as well as the movement of existing businesses to the Isle of Man.

Tourism is increasing and currently accounts for 4,000 jobs on the Island.

2. Doing business

Main forms of business organisation

Introduction

The legal framework within which business is conducted on the Island is sufficiently extensive and flexible to allow a wide variety of commercial activity which is conducted and serviced in or from the Island.

The most common forms of legal entity used include:

- Companies incorporated under the Companies Acts 1931 to 2004 or Companies Act 2006
- Limited-liability companies
- Foreign companies
- Partnerships and limited partnerships
- Sole traders
- Trusts; and
- Foundations

Companies

Companies may be incorporated under either:

- The Companies Acts 1931 to 2004 or
- The Companies Act 2006.

It is important to note that these two bodies of legislation are quite separate and distinct, offering very different forms of company. The Isle of Man Government does not intend to consolidate them.

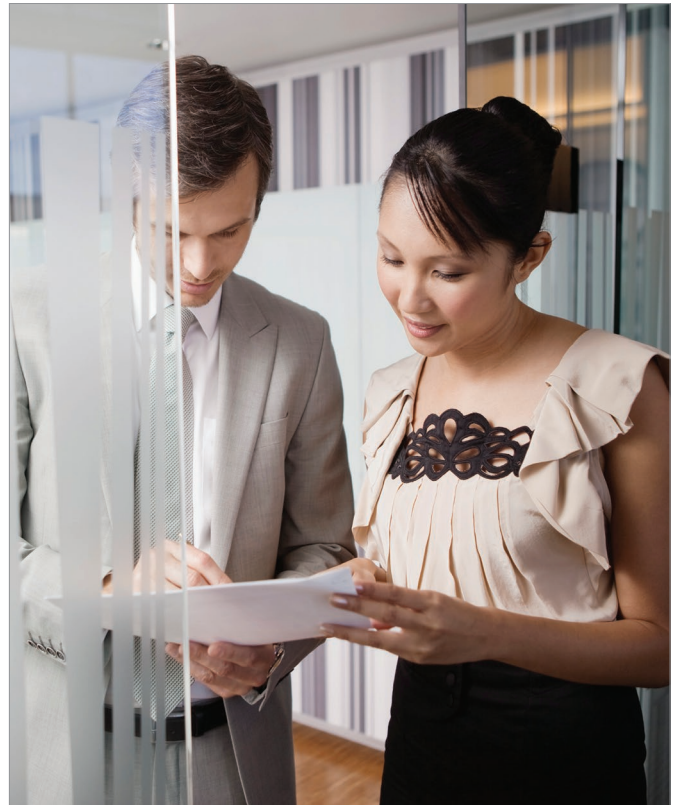
Companies incorporated under the Companies Acts 1931 to 2004

There are several types of company that may be formed on the Island under the Companies Acts 1931 to 2004; the majority are incorporated as private companies limited by shares.

Incorporation

The incorporation of a company in the Isle of Man under the Companies Acts 1931 to 2004 requires the following documents to be filed with the Island's Registrar of Companies:

- The Memorandum of Association, signed by at least two subscribers in the presence of at least one witness who must attest each signature
- The Articles of Association, signed by each subscriber to the Memorandum in the presence of at least one witness who must attest each signature
- A statement in the prescribed form containing the names and relevant particulars of the persons who are to be:
 - The first directors of the company
 - The first secretary or joint secretaries of the company, signed by or on behalf of the subscribers of the Memorandum and containing a consent signed by each person named as a director, secretary or joint secretary and
 - A notice of the address of the company's intended registered office



Except where a company is an unlimited company, when a company has a share capital, the Memorandum must state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount. In addition, the Memorandum must also state the number of shares each subscriber takes, no subscriber of the Memorandum taking fewer than one share.

Ordinarily there is no requirement for the name(s) of the beneficial owner(s) of a company to be disclosed to the Registrar or other Government agency in the Isle of Man. However, if a company is being incorporated to carry out banking business, investment business or insurance business, the details of its ownership must be disclosed to the Isle of Man Financial Services Authority, as appropriate.

It is possible to incorporate a company in one day; however it is prudent to allow one week to obtain approval of the proposed name, to complete and file the required documents and for the Registrar to issue the Certificate of Incorporation.

A fee is payable to the Chief Registrar on incorporation depending on how quickly the company is required:

Table 1

| Incorporation options | Amount (GBP) |
|--|--------------|
| Standard incorporation – within 24 hours | 100 |
| 2 hour incorporation | 250 |
| 'While You Wait' incorporation | 500 |

Capital structure

The shares issued by a company must not exceed those authorised by the Memorandum of Association of the company.

The shares authorised by the Memorandum of Association of a company may be split into different classes with different voting rights and different rights regarding participation in profits. The shares may also be of different denominations.

The full amount of the authorised share capital does not have to be issued and it is permissible to issue shares that are only partly paid. There is no authority in the Companies Acts 1931 to 2004 for the issue of shares at no par value.

A company may issue shares to a single member.

Management

A company is required to have at least two directors who must be individuals, but there are no restrictions as to the residence or nationality status of directors and an individual needs no particular professional qualification to serve as a director. A director may, however, be required to hold a work permit issued under the Isle of Man's Control of Employment Acts.

Within a month of a change of director the Registrar of Companies must be notified.

A company is required to have a company secretary, which is a formal office under the Companies Acts. There are no restrictions as to the residence or nationality status of the secretary of a company but a secretary of a company may be required to hold a work permit issued under the terms of the Island's Control of Employment Acts.

Local presence

A company is required to have a registered office in the Isle of Man to which communications and notices are addressed.

When an application for registration is made, the Registrar must be notified of the intended location of the company's registered office and in the event that a company changes its registered office, the company is required to notify the Registrar within one month of that change.

A company incorporated in the Isle of Man is required to maintain at its registered office:

- The register of members
- Copies of instruments creating charges and the register of charges
- The book(s) containing the minutes of proceedings of general meetings of the company and
- The register of directors and secretaries

In addition, the accounting records must be kept either at the registered office of the company or at such other place as the directors of the company think fit. If the accounting records are kept at a place outside the Island, accounts and returns with respect to the business dealt within the accounting records must be kept on the Island and must at all times be open to inspection by the officers of the company.

Every company is required to hold a general meeting at least once in every calendar year and not more than 15 months after the holding of the previous general meeting and within six months of the end of the financial year for a public company or within nine months for a private company.

The Companies Acts 1931 to 2004 contain extensive provisions relating to the periods of notice required for general meetings of companies and the nature of the business to be conducted at the meetings.

A company is required to file an annual return with the Registrar of Companies. In the case of a company limited by shares, the annual return must include details of shares issued, directors, members and the company secretary.

The directors must make a declaration in respect of Part 1 of the Companies Act 1982 relating to accounts and audit. A public company is required to file a copy of its annual accounts with its annual return.

The filing fee for an annual return submitted within one calendar month of the due date for its completion is GBP 380 (as of January 2014). The directors of a company may choose the date of the company's financial-year end.



As a general rule, the directors of a company are required to present before the company in the general meeting a profit and loss account (income statement) and balance sheet:

- At some date no longer than 18 months from the date of incorporation and
- Subsequently, at least once in every calendar year.

Isle of Man companies incorporated under the Companies Act 2006

The Isle of Man Companies Act 2006 ('the Act') came into force on 1 November 2006 providing a simplified corporate vehicle. Companies incorporated under the Act ('2006 Act companies') follow the familiar international business company model found in many international jurisdictions but dispense with a number of the traditional company law formalities.

Largely, the Act is a stand-alone piece of legislation and 2006 Act companies co-exist with companies incorporated under the Isle of Man Companies Acts 1931 to 2004 (1931 Act companies).

Some key features of 2006 Act companies include:

- No requirement for authorised share capital
- No capital-maintenance requirements (subject to satisfaction of a solvency test)
- No prohibition of financial assistance
- Reduced compulsory registry filings and less prescriptive accountancy requirements
- No distinction between public and private and simplified offering document requirements
- The ability to have single directors and corporate directors (restrictions apply)
- No requirement to hold AGMs and
- The ability to transfer domicile, re-register, merger and consolidate

Incorporation

Every 2006 Act company is required to have a registered office address and a registered agent in the Isle of Man.

The registered agent must hold an appropriate fiduciary licence granted by the Isle of Man Financial Services Authority, which ensures that there is a licensed professional on the Isle of Man overseeing the administration of the company.

Only registered agents are permitted to incorporate 2006 Act companies by submitting to the Registrar of Companies (the 'Registrar') the proposed Memorandum of Association. Articles of Association need only be submitted to the Registrar if they differ from the prescribed model articles.

On receipt, the Registrar will register the company documents, allot a registration number and issue a certificate of incorporation.

Directors

Unlike a 1931 Act company, a 2006 Act company is permitted to have a single director who may be an individual or a corporate entity.

A body corporate is only eligible to act as a corporate director if it or another corporate entity of which it is a subsidiary is:

- The holder of an appropriate fiduciary licence or
- Permitted to act as a corporate director by regulations made under the Act

Subject to any provision to the contrary in a company's Memorandum or Articles, the Act expressly provides that the business and affairs of a 2006 Act company will be managed by or under the direction/supervision of the directors and that the directors have all the powers necessary for managing, directing and supervising the business and affairs of the company.

Shares

The provisions relating to shares and share capital in the Act are more relaxed than the equivalent provisions applying to 1931 Act companies.

The Act provides that shares in a company may:

- Be convertible, common or ordinary
- Be redeemable at the option of the shareholder or the company or either of them
- Confer preferential rights to distributions
- Confer special, limited or conditional rights, including voting rights and
- Entitle participation only in certain assets

Filing requirements

There are reduced compulsory registry filings under the Act in comparison with 1931 Act companies. However, 2006 Act companies are still required to file the following with the Registrar:

- The Memorandum and Articles of Association and any amendment made to them, such as a change of the company's name or a change in the registered office address or registered agent
- Annual returns
- Any charges that they create and any variation or release to those charges including a late registration of a charge
- Applications and filings in respect of dissolution, restoration or winding-up; and
- Any applications or filings in respect of re-registration, merger, consolidation arrangement, transfer of domicile and conversion to a protected-cell company

There is no requirement for a 2006 Act company to file details of any change in its directors as they occur, because such details are disclosed on the company's annual return.

There is also no requirement to file with the Registrar any increase, reduction or alteration in share capital or any allotment of shares or members' resolutions (other than as required by a particular section of the Act).

A 2006 Act company may voluntarily elect to file with the Registrar a copy of its register of directors or members but if a company makes such an election, it must notify the Registrar of any changes to those details.

There is no requirement for a 2006 Act company to file any offering document with the Registrar but it may do so voluntarily.

The company must keep a register of members containing the following information on each member:

- Name and business or residential address
- The number and class of shares held if the company has a share capital
- The date the name was entered in the register and
- The date of ceasing to be a member

Following incorporation, a company may elect to file a copy of the register of members. If the company does not elect to file a copy of its register of members it is not required to notify the Registry of any changes in the members.

The 2006 Act simply requires a company to keep reliable accounting records that:

- Correctly explain the transactions of the company
- Enable the financial position of the company to be determined with reasonable accuracy at any time and
- Allow financial statements to be prepared

Limited-liability companies

The Limited Liability Company Act 1996 enables the establishment of limited-liability companies with the following characteristics:

- The company has a legal entity separate from its members
- There must be at least two members
- The liability of members is limited to the extent of the capital that they contribute to the company and
- Taxation is similar to that of partnerships, the profits are divided amongst the members and are taxed in their hands

A limited-liability company does not have a Memorandum and Articles of Association but does have Articles of Organisation and an operating agreement. The Articles of Organisation set out details such as the name of the company and the name and address of the registered office. The operating agreement sets out the provisions that the members elect for the regulation of the internal affairs of the company.

A limited-liability company has a manager but does not have directors or a company secretary. However, it must at all times maintain a registered agent and a registered office in the Isle of Man.

The members of an international limited-liability company are exempt from income tax in the Isle of Man in respect of their shares of the profits of such a company.

Foreign companies

A company incorporated outside the Isle of Man that establishes a place of business within the Island or holds land in the Island is required to deliver to the Registrar of Companies for registration:

- A list of the directors and secretaries of the company containing such particulars with respect to the directors and secretaries as are required by the Act to be contained in the register of the directors of a company
- The names and addresses of one or more persons resident in the Isle of Man authorised to accept on behalf of the company service of process and any notices to be served on the company and
- The names and addresses of one or more persons resident in the Isle of Man authorised by the company as designated officer to deliver for registration any document filed on the company's behalf

Partnerships

Partnerships on the Island may take the form of a general partnership or a limited partnership and these are governed by the Island's Partnership Act 1909, which is based upon the United Kingdom's Partnership Act 1890 and the United Kingdom's Limited Partnership Act 1907.

The Partnership Act 1909 defines 'partnership' as being 'the relationship which subsists between persons carrying on a business in common with a view to profit', defining and describing:

- The nature of partnership
- The relations of partners to persons dealing with them
- The relations of partners to one another
- The dissolution of a partnership and its consequences and
- The conditions under which partners may obtain limited liability

There is normally no limit to a partner's personal liability for the liabilities of the partnership unless his or her liability is limited in accordance with the terms of the Partnership Act 1909.

Under the terms of the Isle of Man's Registration of Business Names Acts 1918 and 1954, there is a requirement to register partnership names at the General Registry if they differ from the names of the respective partners in each case. There is no requirement in the Isle of Man for partnership agreements or the financial accounts of partnerships to be filed at the General Registry.

A return of a partnership's income must be submitted to the Assessor of Income Tax by any one of the partners each year. The Assessor normally requires each such return to be accompanied by a copy of the relevant annual accounts of the partnership and details of the manner in which the profits or losses are shared by the partners.

The share of profits or losses that a partner derives from the business of the partnership of which he or she is a member forms part of that partner's total income for the Island's income tax purposes. The amount of the partner's share of profits or losses each year is therefore required to be shown in the respective returns of income that he or she is personally required to make to the Assessor each year.

The amount of the trading profits or losses as adjusted for income tax purposes each year is divided among the partners according to their profit-sharing arrangements for the accounting year (or period) and assessed on the respective partners for the year of assessment of which the partnership's accounting year or period forms the basis of assessment for each individual partner.

Sole traders

A sole trader who has a place of business in the Isle of Man and carries on the business under a business name that does not consist of his or her true surname without any addition other than his or her true Christian names or initials is required to be registered at the General Registry under the Registration of Business Names Acts 1918 and 1954.

The profits that a sole trader derives from his or her trade, profession or vocation form part of the sole trader's total income for the Island's income tax purposes. The amounts of the sole trader's profits or losses and the manner of their computation each year are therefore required to be shown in the return of income that the sole trader makes to the Assessor of Income Tax each year.

Trusts and wills

Legal requirements

The main body of Isle of Man law dealing with trusts is set out in the Isle of Man's Trustee Act 1961, which is based upon the United Kingdom's Trustee Act 1925.

The Trustee Act 1961 contains extensive provisions relating to:

- Investments
- General powers of trustees and personal representatives
- Appointment and discharge of trustees and
- Powers of the Court

The Variation of Trusts Act 1961 extends the jurisdiction of the Isle of Man's Court to vary trusts in the interest of beneficiaries and to sanction dealings with trust property. The provisions of the Variation of Trusts Act 1961 are largely derived from the comparable provisions of the United Kingdom's Variation of Trusts Act 1958.

The Island does not have any legislation equivalent to section 53 of the United Kingdom's Law of Property Act 1925 which, in general terms, requires written evidence of the creation of express trusts of land and requires dispositions of any equitable interests in any property to be in writing.

The Island's legislation in respect of settled land is contained in the Settled Land Acts 1891 and 1983.

The Isle of Man Perpetuities and Accumulations Act 1968 provides only for perpetuities. In the absence of any provisions to the contrary, it is presumed that there is no limitation on accumulations under a trust provided that the ultimate vesting does not exceed the perpetuity period.

Charitable trusts in the Isle of Man are governed by several Acts of Tynwald including the Public Charities Act 1922, the Charities Act 1962 and the Charities Act 1986.

The Island's wills are governed by the Wills Act 1985. When probate is granted, the will is deposited at the Probate Registry.

The Trustee Act 2001, which is based on the UK Trustee Act 2000, imposes a statutory duty of care on trustees and gives them additional wide-ranging powers of investment.

Creation procedures

It is usual for a trust to be created by means of either a trust deed entered into by the settlor and the trustee(s) or by declaration made by the trustees. The objects and terms of the trust are stated in the trust deed or the declaration of trust.

Registration

There is no requirement for settlements inter vivos to be registered with any public authority on the Island unless they involve real property on the Island, in which case they must be enrolled at the Deeds Registry. Deeds filed at the Isle of Man's Registry are matters of public record.

Capital requirements

There are no capital requirements in respect of trusts unless the trust is to be a unit trust authorised as a collective investment scheme by the Financial Services Authority under the Financial Supervision Act 1988.

Requirements as to trustee

There are no requirements as to trustees except that any company wishing to act as the trustee of the estate of a deceased person must be approved by the Court under the Judicature Amendment Act 1935.

Rules as to beneficiaries

There are no rules as to beneficiaries in the Island other than those laid down in each trust deed or declaration of trust.

Management

There are no rules as to the management of private trusts in the Island other than those laid down in the trust deed or declaration. There are special rules in respect of unit trusts authorised as collective investment schemes under the Financial Supervision Act 1988.

Residence rules

A trust is regarded by the Assessor of Income Tax as resident on the Island for the purposes of income tax if the central management and control actually abides in the Island. However, as a general rule, the Assessor does not assess trust income that arises outside the Isle of Man that 'belongs' to a beneficiary or beneficiaries who do not reside in the Isle of Man.

Accounting and auditing requirements

Where there is a liability to income tax in the Isle of Man, the trustees are required to make the appropriate returns of income to the Assessor of Income Tax each year.

Migration

There are no provisions preventing a trust whose proper law is that of the Island from being managed and controlled by trustees elsewhere.

Availability of trustee services

The entire spectrum of trustee services is readily available in the Island, from providers ranging from British clearing banks and trust companies to small privately owned trust companies. From 1 November 2005 fiduciaries providing trustee services must be licensed by the Island's Financial Services Commission.

Foundations

In addition to trusts and companies, the Isle of Man has introduced an additional vehicle – foundations.

A foundation is a relatively new vehicle for the Isle of Man – the Isle of Man Foundations Act 2011 came into force on 1 January 2012.

The Isle of Man Foundation is designed to blend the best features of Isle of Man companies and Isle of Man trusts and is not an exact equivalent or copy of foundations in other jurisdictions.

Ideal for controlled management of assets, Isle of Man Foundations give the founder maximum freedom of choice while ensuring that the structure is not susceptible to abuse for money laundering or terrorist financing. As a result, Isle of Man Foundations have many applications in offshore planning and are attractive to civil law jurisdictions where foundations are already recognised.

Like a company, an Isle of Man Foundation has legal personality and may:

- Contract with third parties
- Sue and be sued in its own name and
- Hold its own assets

Unlike a company, it does not have shareholders.

As with a trust, the assets of an Isle of Man Foundation are held for the benefit of beneficiaries or for a specified purpose.

Benefits of a foundation include:

- Exclusion of forced heirship
- Full legal capacity and title – removes trust-related concept of 'dual ownership' by the legal owners and the equitable owners
- Limited public filing requirements – the Foundation instrument will be recorded on public record
- Beneficiaries can be named on establishment or at a later date
- No initial assets required on establishment
- Limitation on liability – a foundation is a separate legal person so all liabilities remain liabilities of the foundation and do not attach to foundation members
- Flexibility and control – the founder can be a member of the foundation council and reserve powers to himself or herself, be a beneficiary or an enforcer of the foundation and
- No perpetuity period – allows a perpetual arrangement for the management of wealth

The major constitutional document of a foundation is the Foundation Instrument (also known as the charter) which defines the purpose or objects for which the foundation has been established and the foundation's name.

The foundation's objects must be certain, reasonable and possible, not unlawful or contrary to public policy or immoral but may or may not be charitable and can also be for the benefit of a person or class of persons or for a specified purpose, or both.

The foundation instrument must also contain details of the registered agent.

The rules of any particular foundation are not a matter of public record, but should specify persons who will act as the foundation's council, registered agent and any enforcer. The rules must also include the appointment, retirement and replacement of council members, registered agents and enforcers, the remuneration of council members, registered agents and enforcers, powers that are to be reserved by the founder, when the foundation is to be wound up and for what object or person any surplus assets are to be applied. However, there is wide scope to vary the rules from foundation to foundation.

The rights of founders are set out in the foundation rules. These rights may be assigned to another person if the rules allow - a copy of the document detailing the assignment of any rights must be provided to the registered agent.

The rôle of the Council is to administer the foundation's property and ensure that its objects are met.

The council must consist of at least one member who may be a corporate entity. There is no requirement that council members be located in the Isle of Man. The members of the council must act in good faith and in the best interests of the foundation and must exercise the care, due diligence and skill of a reasonably prudent person.

An essential element of a foundation is the registered agent, whose duties include safe custody of foundation documents, production of accounts and filing of the annual return. The rules must provide for the appointment, retirement, removal and remuneration of the registered agent.

Appointing an enforcer whose purpose is to ensure that the objects of the foundation are met is optional except where the foundation was established to carry out a specified non-charitable purpose. If the object is to benefit a person or class of persons, appointing an enforcer may be advisable. The founder may also be the enforcer.

A person has no automatic interest in foundation assets until such time as that person becomes entitled to a benefit under the foundation documents. If the benefit is not provided, the beneficiary or person acting on his behalf may obtain an order of the High Court ordering the foundation to provide the benefit. Beneficiaries can be named on establishment or later. Beneficiaries' details are not publicly available unless they are included in the foundation instrument.

For Isle of Man tax purposes a foundation is treated as if it were a company.

Labour relations and working conditions

The Isle of Man Government is the biggest employer on the Island followed by the banking sector.

The private sector offers many employment opportunities including manufacturing, accounting, fiduciary and investments.

Employers and employees are protected by the Isle of Man Employment Act 2006 which ensures that working conditions are fair between both parties before a contract is concluded and details the rights in relation to maternity, paternity and adoption rights, parental leave and long-term sickness, to name a few.

Employees are entitled to four weeks' paid annual leave per year. Employers can decide whether this entitlement includes or excludes the 10 public holidays that the Island enjoys each year.

The Minimum Wage Act came into effect in 2001; the current minimum hourly wage rate for workers over the age of 18 is GBP 6.40 (subject to change). By contrast with the United Kingdom, there is no working-time directive in place on the Island and therefore no statutory position with regard to working hours.

Social security and pensions

National insurance contributions are paid by employers, employees, self-employed and non-employed persons on the Island. The rates and the amounts of the contributions are generally kept in line with the comparable contributions payable in the United Kingdom (see Chapter 9 for more detail).

The social security benefits and state retirement pensions that are paid by the Isle of Man Government's Department of Health and Social Security are also for the most part kept in line with the comparable benefits and pensions that are paid in the United Kingdom.

It is not obligatory that the Isle of Man follow the United Kingdom in these matters but it generally does so as a matter of policy.

Isle of Man residents are also entitled to health care under the National Health Service which provides health care and medical assistance. Medical treatment may also be available under EEA rules or under reciprocal agreements with other non-EEA countries but not normally where the visit to the United Kingdom is made for the purpose of obtaining treatment.

Isle of Man residents receive a state pension at 65 for women born after 1950 and 65 for men (subject to gradual increase). It is expected that anyone born after the year 2011 will have a retirement age of 74.

Work permits, visas etc

Under the Control of Employment Act 1975, a non-Isle of Man worker is not allowed to begin work in the Isle of Man until his or her work permit has been granted by the Department of Economic Development.

There are two types of work permits, an Employed Person's Work Permit and a Self-Employed Work Permit.

To obtain an Employed Person's Work Permit it is the obligation of the employer to apply to the Department of Economic Development on behalf of the person the employer wishes to employ.

To obtain a Self-Employed Work Permit the person wishing to be self-employed must apply directly to the Department of Economic Development.

For both types of work permit a fee is charged.

Workers from outside the European Economic Area (EEA) are dealt with under separate arrangements to those for workers from the EEA and Switzerland.

Persons who are not EEA nationals are subject to control under the Immigration Acts (of Parliament) as extended to the Island and will in most cases also require permission to work under the points-based system. This system seeks to control immigration by requiring all applicants in a number of employment categories to have the correct number of points before entry clearance or leave to remain can be granted. The Island has tiers 1, 2, 4 and 5 so far. In all of these categories applicants must achieve a minimum level of points in order to qualify. Points are awarded for age, professional and academic qualifications and previous earnings.

3. Finance and investment

Business regulation

The Isle of Man is one of the most reputable international finance centres in the world.

The Island has a diversified economy with regulation and consumer protection at the very heart of its ethos and has often pioneered pragmatic regulation and consumer protection, priding itself in being responsive to international needs and maintaining a business-centric approach.

Consequently the Island has earned a reputation as being a premier jurisdiction in terms of regulation, achieving a balance of offering a business-friendly environment whilst meeting international standards of financial supervision. This is considered vital to ensure that the Island attracts quality entities and enjoys reciprocal access to overseas markets. To that end, Island regulatory bodies maintain close contact with international counterparts such as the Offshore Group of Banking Supervisors and the Offshore Group of Insurance Supervisors to coordinate pursuit of financial crime, such as the prevention of money laundering and the financing of terrorism.

In general the Island is recognised as a leading regulated jurisdiction in a number of sectors including financial services, company registration, e-gaming, pensions and the registration of ships, yachts and private and corporate aircraft.

The Isle of Man is also recognised as an Organisation for Economic Co-operation and Development (OECD) 'white-listed' jurisdiction for transparency and by various international bodies including the International Monetary Fund, Financial Action Task Force, and EU Code of Conduct, as meeting its international obligations.

The Island's financial services industry is a multi-faceted industry serviced by many entities overseen by financial-services regulators and prosecution authorities who routinely monitor, conducting special investigations and making investment fraud enquiries including those for theft, deception, forgery and money laundering.

Banking and local finance

Many of the world's most respected international banks operate as part of a highly developed infrastructure to support individuals and corporations in their global activities, offering all the services that private, corporate and institutional entities may need.

To expatriates of the United Kingdom as well as foreign nationals, the Island has a reputation as a private banking centre of excellence and a secure location for their investments.

The banking services often extend beyond basic deposit-taking to establishing and administering trusts and managing the underlying companies and assets held by those trusts including investment management.

A significant array of wealth-management solutions has evolved to meet a growing range of client requirements, both private and corporate/institutional. Captive insurance companies, life assurance companies and fund managers, for example, benefit from the Island's sophisticated banking services, particularly in the money markets, resulting in an expansion in these services.

Exchange control

There are no exchange-control restrictions nor is there any legislation in place whereby such restrictions may be introduced.

Investment incentives

The Island has a 'Depositors Compensation Scheme', which may compensate entities holding money with current and deposit accounts in banks and building societies licensed on the Island should they fail. The maximum compensation is GBP 50 000 calculated per individual and GBP 20 000 for others in respect of all the accounts held with any deposit-taker.

For life-assurance companies, the Isle of Man's Life Assurance (Compensation of Policy Holders) Regulations 1991 ensure that, in the event that a life-assurance company becomes unable to meet its liabilities to its policy holders, 90% of the liability to the protected policy holder will be met.

In case of dispute, the Isle of Man has a free ombudsman scheme which is an independent dispute-resolution service for customers with a complaint against a financial firm such as a bank, insurance company or financial adviser which the respective firm has been unable to resolve.

All the Island's protection schemes operate globally, providing protection to clients regardless of where they reside.

Business incentives

Government Incentives

The following initiatives encourage new businesses for start-up and existing businesses to invest in new technologies.

Financial assistance scheme

Aimed at encouraging diversification of the economy, the scheme provides grants and soft-loan support to eligible businesses with generous packages of up to 40% for:

- Equipment, including hardware and software
- Building
- Revenue, including expenditure on research and development, relocation
- Marketing and
- Consultancy

Business support scheme

Designed to help businesses develop their business skills and management competencies, the scheme offers grants of 50% for a wide range of business disciplines, with maximum levels of assistance up to GBP 4500 per project.

Green business loan scheme

Designed to provide flexible financing options to all types of organisations seeking to make their operations more efficient and lower their energy costs, it offers a loan of 100% towards the cost of projects to improve energy efficiency, with loans of up to £20,000 per project.

4. The accounting and audit environment

Accounting regulations

Under the Companies Acts 1931 to 2004, the directors must cause the accounts to be prepared and to be laid before the company in general meeting not longer than nine months after their financial year-end.

These accounts must include profit and loss accounts, balance sheets and reports. The directors are required to adopt a recognised standard, which is either generally accepted accounting practice in the United Kingdom (UK GAAP) or International Financial Reporting Standards.

Under the Companies Act 2006 there is no requirement to produce accounts; the directors must keep books and records that are adequate to demonstrate that solvency requirements have been met.

Audit requirements

Under the Companies Acts 1931 to 2004, a company is an 'audit-exempt company' in any financial year if at least two of the following conditions are met:

- Its turnover in that year does not exceed GBP 5.6 million
- Its balance-sheet total does not exceed GBP 2.8 million at any time during that year
- It employs no more than 50 persons at any time during that year or
- Throughout that year, all of its members are directors and it exists wholly for the purpose of holding shares, securities, other investments or land

Under the Companies Act 2006, there are no audit requirements but it should be noted that companies regulated by the Isle of Man Financial Services Authority will have additional reporting/audit requirements.

5. Overview of the tax system

Main taxes

The principal taxes on the Island are income tax for individuals, income tax for corporate entities, VAT and customs and excise duties.

Tynwald is responsible for the imposition of taxation on the Island.

As a matter of policy, rates of direct taxation are kept low, which for most practical purposes means a top rate of income tax of 20%.

The most distinctive features of the Isle of Man's system of direct taxation is that it has no:

- Rates of tax on income exceeding 20%
- Rates of income tax for companies exceeding 10% (0% in most cases)
- Death, inheritance or estate duty
- Capital transfer or gift tax
- Wealth tax or similar capital levy
- Capital gains tax or
- Stamp duties

The Collector of Customs and Excise is the head of the Customs and Excise Division of the Isle of Man Government's Treasury Department and is responsible for the assessment and collection of customs and excise duties and value added tax.

The Assessor of Income Tax is the head of the Income Tax Division of the Isle of Man Government's Treasury Department (the Division) and oversees the assessment and collection of the Island's income tax.

The main body of the Island's income tax law is set out in the Income Tax Acts 1970 to 2004, aided by subordinate legislation in the form of Orders, Regulations and Extra Statutory Concessions.

Appeals

The appeals procedure is common across both personal and company tax.

If there is disagreement with an assessment (other than a default assessment) issued by the Assessor, written notice of the disagreement must be sent to the Assessor at the Income Tax Division within the statutory period of 30 days from the date of issue of the assessment. There is no standard format for such a notice but it must be in writing and must clearly identify the grounds of appeal.

On receipt of the appeal, the Income Tax Division on behalf of the Assessor will contact the appellant directly and will normally seek to settle any differences of opinion by correspondence or by meeting.

Where resolution in this way is not possible, the appeal will be heard by the Income Tax Commissioners.

The Commissioners are appointed by the Appointments Commission to hear appeals in cases where a person is in a tax dispute with the Assessor. The Commissioners are completely independent of the Assessor and bound by strict confidentiality rules. They are chosen for their impartiality and appropriate experience.

Appeal against a decision ('determination') of the Commissioners may only be made on a point of law. The Commissioners' determination on a point of fact is final.

Where an appeal is possible, notice of it must be given by either party within 21 days of the determination to the High Court of Justice of the Isle of Man. The decision of that court is final.

6. Taxes on business

Corporate income tax

Scope and extent

Companies are subject to a corporate form of income tax.

The rate of income tax in most cases is 0%, applicable to both resident and non-resident companies.

There is also a 10% income tax for companies that:

- Are involved in the licensed banking sector
- Carry on a retail business with an annual taxable profit above GBP 500 000 or
- Elect to pay 10% taxation

As of April 2015, any income derived from the Island's land or property is taxable at 20%.

Company residence

A company is resident in the Island if it is incorporated or managed and controlled in the Isle of Man. Companies incorporated outside the Isle of Man but with a place of business on the Island should register on the 'F' Register.

Residents are generally subject to tax on all income irrespective of its source (i.e. on worldwide income) while non-residents are subject to income tax only on Isle of Man source income.

Taxable entities

Under Isle of Man law, limited-liability companies are taxed as a partnership and therefore excluded when looking at the treatment of corporate entities in the Isle of Man.

A partnership may be a general or limited partnership and under the Island's law is not a separate legal entity so:

- Assets are owned by the partners in their own right and profits from the trade are taxable on the individual partners
- Income is assessed on the individual partner and declared on the partner's personal income tax return form, (see Chapter 7 Personal Taxation)
- Partnership Income Tax return forms are on occasion issued to be submitted by the 6 October following the tax year and
- No automatic penalty régimes are applied against these entities for failing to submit by the due date

Taxable income

Taxable profits are calculated by beginning with the net profit or loss shown in the financial statements and then making adjustments for recognised and non-recognised income and expenditure.

Capital gains

There is no capital gains tax on the Island and therefore companies may dispose of assets such as property without being subject to tax on the gain. The proceeds do not form part of taxable income and are removed from the profit and loss account for the purposes of the income tax computation.

Deductions

The general rule is that revenue expenditure incurred for the sole purpose of earning the profits of the business is deductible, such as:

- Running costs of the business
- Repairs and maintenance of equipment

- Goods or materials sold or used in the business
- Business travel
- Loose tools and other small articles used in the business and for which capital allowances (see below) have not been claimed
- Interest on business loans and
- Employee wages and salaries

Personal expenditure, capital expenditure and expenditure not related to the business are not deductible.

There is a different treatment, however, for IHCs (investment-holding companies) where the only expenditure deductible is standard expenditure that maintains the corporate entity, such as registered-office fees, together with a lump-sum deduction of 5% of gross income for other expenses. Direct expenses in rental cases are also allowable.

Capital allowances

Neither the capital cost of vehicles, machinery, plant nor certain other items with a long-term value for the business, nor depreciation of these assets is a deductible business expense.

However, a claim may be made for capital allowances (which is the tax version of accounting depreciation), which are then deducted from the business profit to reach the taxable income. The amount of the allowance is related to the cost of the item and how much it is used for business purposes.

Items bought purely for private use do not qualify for capital allowances.

Capital allowances are available in respect of:

- Plant and machinery
- Motor cars
- Agricultural buildings
- Industrial buildings and
- Tourist premises

Plant and machinery

A first-year allowance of up to 100% may be claimed in respect of capital expenditure on plant, machinery and vans. Where less than 100% is claimed, the balance qualifies for an annual writing-down allowance of up to 25% on a reducing-balance basis.

Motor cars

No first-year allowance is available and the writing-down allowance is limited to the smaller of GBP 3000 and 25% of the reducing balance.

Table 2

| Type of asset | First-year allowance | Writing-down allowance |
|------------------------------------|----------------------|----------------------------------|
| Plant & machinery (excluding cars) | 100% | 25% (RB) |
| Motor cars | n/a | Smaller of GBP 3000 and 25% (RB) |
| Industrial buildings | 100% | 4% (SL) |
| Agricultural buildings | 100% | 10% (SL) |
| Tourist premises | 100% | 10% (SL) |

RB = reducing balance; SL = straight line

Dividends, interest and royalties

Interest and royalties payable in the course of the company's trade or business are generally deductible for tax purposes.

Where interest is incurred as part of a trade it will be tax-deductible without limit.

Where interest is incurred on a loan to acquire a property, interest incurred is deductible against rental income, but only if it is a bona fide loan and the interest is assessable to income tax on the lender (i.e. Isle of Man resident) or, if there is a corporate lender, if that lender has a fixed place of business on the Isle of Man and the loan is made in the course of that business.

Dividends are not deductible. Where paid from income subject to tax at 0% they do not carry a tax credit.

There are no specific variations of treatment between payments to resident persons (individuals or companies) and payments to non-residents.

Group taxation

For a company to be within a qualifying group, the parent company must:

- Hold at least 75% of the share capital of the subsidiary company
- Have an entitlement to at least 75% of the distribution of profits and
- Have an entitlement to at least 75% of the assets of the subsidiary on its winding-up

For tax purposes, two companies are deemed to be members of a group of companies if one is the '75% subsidiary' of the other or both are '75% subsidiaries' of a third company. A group may consist of a parent company and any number of subsidiaries where company A is a 75% subsidiary of another company (B) and if B beneficially owns, directly or indirectly, 75% or more of the ordinary share capital of A.

For tax purposes the parent company of the group would be responsible for the tax computation of group losses together with the overall tax position and dividends distributed.

Assets may be transferred to other companies within the group free of tax. It is also possible to transfer losses within a group.

A trading loss incurred by a group member ('the surrendering company') may be surrendered to another group member ('the claimant company') to offset the profits of the same accounting period of the claimant company as the accounting period of the surrendering company in which the loss was incurred or those of the immediately preceding period.

Losses

The rules are similar to UK rules.

Rental losses may only be offset against future rents. However, it is possible to pool commercial and residential properties together (consideration needs to be made in respect of capital allowances).

Trade losses may be offset against other income in the year the loss is incurred or carried forward against future income of the same trade. A trading loss may also be carried back to reduce the taxable profits of the immediately preceding accounting period.

Terminal-loss relief applies where the trade ceases and losses are incurred in the final year of trade. These are restricted based on the number of months' trading since the previous accounts were prepared and can be carried back to the preceding three years.

Withholding taxes

Withholding taxes apply where an Isle of Man company makes a payment to a non-resident.

The rate depends on three factors: the nature of the payment being made (i.e. rent); the person/company making the payment and whether the recipient of the payment is a non-resident company or individual.

If rent is paid to a non-resident individual, withholding tax is deductible at 20%.

If rent is paid to a company, withholding tax is deductible at 20% as of 6 April 2015.

Dividends paid from income subject to tax at 10% carry a 10% tax credit. However, there is no withholding tax applicable where the recipient is a non-resident company or individual as tax would have been suffered on profits at the appropriate rate (even if 0%) prior to distribution.

Transfer pricing

There is no specific transfer-pricing legislation.

Controlled foreign company ('CFC') rules

There are no specific rules relating to CFCs.

Other significant anti-avoidance rules

There is a general anti-avoidance rule under which the Assessor has powers to subject the income to taxation where he feels a deliberate attempt has been made to flout taxation rules in place in order to avoid taxation.

In the 2013-14 budget it was announced that an Income Tax bill to stop avoidance through the use of personal-service companies would be introduced. Individuals using these vehicles who would otherwise be employed by their main client are reducing their income tax liabilities together with their own and employer's national insurance liabilities. It is proposed that the Isle of Man will follow the Guernsey model where the main client will be responsible for the deduction of income tax and national insurance contributions.

Tax incentives

Employer national-insurance holiday scheme

In the 2015 Budget, the Treasury Minister announced the introduction of a scheme to encourage employers to recruit individuals in receipt of job-seeker's allowance or incapacity benefits for at least six months, as well as individuals who had been in custody for a minimum of 30 days. Starting from 6 April 2015 until 5 April 2017, during this period, an employer is not required to pay the secondary Class 1 (employer's) national insurance (social security) contributions due for any newly recruited employees who qualify under the scheme. This scheme replaces the previous national insurance scheme that ended on 5 April 2015.

For more detail on social security contributions, see Chapter 9.

Tax rate

The rates of income tax on companies are 0% and 10% – see under 'Scope and extent' above.

Returns and payments

A company does not submit a tax return based on the Isle of Man tax year (6 April to 5 April). Instead it submits the return based on its own accounting period, the maximum length being 12 months.

Therefore, if the accounting period exceeds 12 months, then two accounting tax returns must be completed to cover the accounting period.

Returns must be filed within 12 months and one day from the end of the each correct accounting tax return.

A corporate entity has 12 months from the date of filing its return to file amendments and the Division also has 12 months in which to make enquiries in respect of the return submitted.

The Division will not normally issue assessments for company income tax. A 'pay and file' system operates under which payment of tax (if applicable) is due on or before the return filing date.

Failure to submit the appropriate accounting-period return forms will result in imposition of penalties on the company as follows:

- GBP 250 – not filed on the due date; or
- GBP 500 – failure to submit the return within a further six months from the due date.

Appeals

See Chapter 5.

Value added tax

The imposition and administration of the Isle of Man's VAT are subject to a customs and excise agreement between the UK Government and the Isle of Man Government.

The Island's customs and excise duties are in effect put into a 'common purse' with those of the United Kingdom.

The rates of the main indirect taxes on the Island are similar to those in the United Kingdom. From 4 January 2011 the standard rate increased to 20%.

The Island, by virtue of its unique Customs and Excise Agreement with the United Kingdom, is treated under European law as part of the United Kingdom and the European Union for customs, excise and VAT purposes. The European Union operates a system of customs duties and régimes that is common across the Customs Union, whereby non-EU goods arriving at an EU port must clear customs and pay any duties or taxes that are due.

Businesses must arrange for the declarations and payments to be made whilst customs authorities formally clear the goods from customs control into free circulation, for delivery and trade within the European Union.

Alternatively, with the approval of the appropriate customs authorities, goods may be entered, held or processed under a variety of duty/tax suspension régimes.

Isle of Man Customs and Excise can, through its Entry Processing Unit ('EPU') housed within the United Kingdom's Customs Handling of Import and Export Freight ('CHIEF') computer system, provide importers, exporters and their agents with the ability to declare goods imported to or exported from the United Kingdom or Isle of Man electronically.

Accordingly, Isle of Man importers, exporters and their agents are able to obtain electronic system-generated customs clearance without the need for the goods to physically travel to the Island.

VAT administration

VAT is charged on the supply of most goods and services provided by a VAT-registered business subject to specific exemptions. VAT is also charged on goods and some services that are imported into the United Kingdom (including for this purpose, the Isle of Man) from countries outside the European Union or brought into the United Kingdom or Isle of Man from other EU countries.

Taxable entities

Any form of business (sole trader, partnership or limited company) is required to be registered for VAT if it is making taxable supplies of goods or services of an amount above the turnover threshold.

Taxable activities

Any supply of goods or services made in the course of a business is potentially a taxable activity and subject to the Island's VAT rules.

The place-of-supply rules will dictate whether a supply of services falls within the scope of VAT. If the place of supply is the Isle of Man, the supply will fall within the scope of Isle of Man VAT.

For services supplied to a business customer (a 'B2B' supply), the general rule is that this supply is treated as taking place where the customer belongs.

For services supplied to a non-business customer (a 'B2C' supply), the place of supply is normally where the supplier belongs. The place of belonging is determined by a number of factors.

Exempt supplies

There are a number of supplies that are exempt for the purposes of VAT i.e. VAT is not charged on these goods or services.

A business making wholly exempt supplies is not able to become registered for VAT and therefore cannot reclaim any VAT suffered on its purchases (input VAT).

A 'partially exempt' business making both exempt and taxable supplies can reclaim input tax only insofar as the input tax relates to taxable supplies (zero-rated supplies are taxable for this purpose).

Exempt supplies include, but are not limited to, land and property (subject to many exceptions), insurance, finance, education, and health and welfare services.

Standard, reduced and zero rates

There are three rates of VAT on the Island, which mirror those in the United Kingdom:

- The standard rate, 20%
- The reduced rate, 5% and
- The zero rate, 0%

A supply that is subject to VAT at the zero rate should not be confused with an exempt supply which has a completely separate VAT treatment (detailed above).

A business that makes zero-rated supplies is not restricted in reclaiming input VAT in the way that a business making exempt supplies is. Reduced-rate supplies include, but are not limited to, domestic fuel or power, installation of energy-saving materials and certain residential conversions and renovations.

Zero-rate supplies include, but are not limited to, children's clothing and footwear, food (not catering), certain construction services, transport, books and medicines.

Registration

A business making taxable supplies may voluntarily register for VAT at any point but all businesses with a taxable turnover exceeding the registration threshold must become VAT-registered. The registration threshold from 1 April 2016 is GBP 83 000.

Once a business is VAT-registered, VAT ('output VAT') at the appropriate rate must be charged on all supplies made by that business and the VAT-registered business is then able to reclaim any VAT suffered on its purchases ('input VAT') subject to any restriction in the case of partially exempt businesses, as mentioned above.

From 1 December 2012 the VAT registration threshold has been removed for non-established businesses making taxable supplies in the United Kingdom (including the Isle of Man). Such businesses now need to register for VAT regardless of the value of their supplies.

Returns and payment

The submission deadline for VAT returns is one month after the end of the VAT period.

The VAT period is usually a calendar quarter, although monthly VAT returns are required in some circumstances.

Payments of VAT are also due one month after the end of the VAT period.

If a repayment of VAT is due to the business, repayment will be made automatically.

There are schemes available to businesses to reduce the administrative burden of managing VAT including the Annual Accounting Scheme, the Cash-Accounting Scheme and the Flat-Rate Scheme.

Certain conditions must be met for these schemes to be used and in some cases the Customs and Excise Division may need to approve their use.

7. Personal taxation

Income tax

Territoriality and residence

In the Isle of Man, resident individuals are taxable on their worldwide income. Non-residents are taxed only on income with its source in the Isle of Man.

There is no statutory definition of residence so the meaning is taken from case law and practice.

As a basic guide it can be assumed that an individual is resident in the Isle of Man if:

- The individual owns a property in the Isle of Man or has a lease on a property for a term of more than six months and the period spent or to be spent physically present in the Isle of Man in any one tax year (concurrently or otherwise) exceeds or is going to exceed 182 days or
- The individual has been a regular visitor to the Island over the last four consecutive years and the average time spent in the Island per year in that period was 91 days or more.

Should an individual move to the Isle of Man with the intention of being resident, he or she will be deemed resident from the date of arrival.

Persons liable

Every person who has a liability to income tax in the Isle of Man is required to make a return of total income each year to the Division. This includes both:

- Persons resident in the Isle of Man and
- Persons not resident in the Isle of Man who derive income from sources within the Island

Partnerships

The share of profits or losses that a partner derives from the business of the partnership of which he or she is a member forms part of that partner's total income for the purposes of income tax. The amount of the partner's share of profits or losses each year is therefore required to be shown in the respective returns of income that he or she is personally required to make to the Division each year.

The amount of the trading profits or losses, as adjusted for income tax purposes each year, is divided among the partners according to their profit-sharing arrangements for the accounting year (or period) and assessed on the respective partners for the year of assessment of which the partnership's accounting year (or period) forms the basis of assessment for each individual partner.

Structure of income tax

The following lists provide some examples of the types of income that are generally taxable and those that are not:

Taxable

- Salaries, wages, most benefits-in-kind, tips (gratuities)
- Pensions, including state retirement pension
- Income from self-employment
- Income from investments
- Bank and building-society interest
- Rental income
- Child benefit and
- Deemed income distributions from companies

Non-taxable

- Most social security benefits (Child Benefit and State Retirement Pension are exceptions)
- Maintenance payments and
- Capital items, including life insurance policies

The family unit

Although independent taxation is the default position, married couples and civil partners living together may elect to be jointly assessed, in which case they are jointly and severally liable for their joint tax affairs. Both parties are then responsible for completing and submitting the return form and it must be signed by both parties.

The advantage of being jointly assessed is that income is pooled and both persons' 10% bands and personal allowances become available. This is of particular benefit where one person's income is below the level of the personal allowance.

The income of minor children is normally assessed on the child and does not form part of either parent's taxable income. However, if a person other than the child has control of the funds and can make regular withdrawals, it is likely that the income will be taxable as if it were that of the controlling person.

Minors are only usually granted a tax reference number when they reach the age of 16 and have commenced receiving regular income (usually via employment). Personal allowances (see below) are available to minors and they are subject to taxation under the general rules if their annual income exceeds their personal allowance.

Taxation of employment income

Examples of taxable employment include the following:

- Advances of pay
- Pay in lieu of notice
- Back pay
- Payments after cessation of employment
- Bonuses, including Christmas bonuses
- Pensions and annuities
- Cash payments
- Prizes, cash incentives
- Commission
- Round-sum expenses
- Expenses (unless dispensation granted)
- Salary
- Fees (including some director's fees)
- Sick pay
- Holiday pay
- Termination payments over GBP 30 000 (balance only)
- Honoraria
- Tips/troncs
- Overtime and
- Wages

Benefits-in-kind

A benefit-in-kind is consideration that may be offered by an employer to an employee or office holder (e.g. a director) in lieu of cash including benefits enjoyed by the employee's or office holder's family or household.

Common benefits-in-kind include provision of a company car, the provision of living accommodation, payment of an employee's personal liabilities, personal use of an asset made available by the employer and transfer of an asset to an employee at less than market value.

Certain benefits-in-kind are exempt from an income-tax charge. There is also a general exemption from reporting chargeable benefits-in-kind if the aggregated value of the benefits for the year is less than GBP 400.

An asset transferred to an employee is usually valued at the market value at the date of transfer and the use of a company asset is valued by reference to an annual value.

As regards cars and fuel made available to employees for private use, there is no increase or reduction to the charge based on the annual business mileage of the vehicle. If the vehicle is available for the personal use of the employee, the normal charge is applied no matter how infrequently the employee may make use of the car.

There is no reduction to the charge based on the age of the vehicle.

The amount of the benefit chargeable to tax is shown in Table 3.

Table 3

| Cylinder capacity (cc) | Car rate (GBP) | Fuel rate (GBP) |
|---|----------------|-----------------|
| Electric cars (regardless of cylinder capacity) | Nil | Nil |
| 1000 or less | 800 | 800 |
| 1001 – 1200 | 1100 | 950 |
| 1201 – 1800 | 3600 | 1500 |
| 1801 – 2500 | 5000 | 1750 |
| 2501 – 3500 | 7000 | 2000 |
| 3501 – 5000 | 10 000 | 2250 |
| More than 5000 | 12 000 | 2500 |

By concession, the Division does not tax the benefit that can arise from the payment of relocation expenses by an employer to an employee provided that:

- The payment arose as a direct result of the person's moving to the Island to take up employment or
- The payment was reasonable in amount

Removal expenses paid directly by an employer when an employee takes up residence in the Isle of Man will not be assessed as a benefit-in-kind provided they do not exceed GBP 10 000 in total.

Under the Isle of Man Income Tax Acts, an employee is liable to income tax on the 'annual profits or gains of or in respect of or from any employment'. This includes benefits capable of being converted into money such as share options. Share schemes therefore qualify as benefits-in-kind.

However, benefits arising from share-option and similar schemes on after 5 April 1989 are, by concession, exempt from income tax. To qualify for the concession, the schemes must conform to the UK legislation on the subject and each scheme must be approved by the Division.

If a scheme has received approval, then provided that the scheme rules are met, the employee remains employed and the shares are retained for the required period, no tax liability will arise.

However, even though the scheme may be approved, there can be tax implications when an employee ceases to be employed, fails to retain the shares for the required period of time or the scheme rules are not complied with.

Tax implications may also arise where a scheme fails to obtain approval from the Division.

In these cases, employees are charged income tax on the value of the shares granted by the scheme. The charge will be raised for the tax year in which the share option was granted and will be based on the market value of the shares at the time of grant.

By concession, the Division will agree to defer the income tax charge to the tax year in which the shares vested and the charge will be based on the market value at the time of option or vesting, whichever is the higher.

All taxable proceeds received by employees from share schemes must be reported by the employer. Failure to comply with the rules of the scheme or to meet the obligations of an employer in reporting taxable proceeds can result in a withdrawal of approval for the scheme which would make the employees liable to income tax on all transactions under the scheme.

Termination payments

Tax should be deducted from the whole of a lump-sum payment made to an employee on cessation of employment unless the payment is a termination payment made on cessation of employment.

A termination payment, or the total of these payments if more than one is made, should only be treated as taxable remuneration if it exceeds GBP 30 000 and then ITIP (salary withholding tax – see below) should only be deducted from the amount by which the payment exceeds GBP 30 000 (e.g. if the total payment was GBP 35 000, only GBP 5000 would be subject to ITIP). The balance in excess of GBP 30 000 should be included in the final pay period and ITIP deducted as normal.

It is important to note that a termination payment can be made up of various distinct payments and that not all elements may be treated as non-taxable, even where the total payment does not exceed GBP 30 000.

Salary/withholding tax

Employers have an obligation to calculate and deduct both Income Tax Instalment Payments ('ITIP') and national insurance from remuneration paid to employees.

To arrive at the taxable pay, an employer should first deduct from the gross remuneration:

- Allowable superannuation (pension) contributions for the period and
- The free pay shown in the weekly or monthly Free Pay Tables for the employee's tax code

The ITIP scheme is the way in which tax is deducted from an employee's remuneration (where applicable) by an employer on each pay day. The amount deducted should be paid to the Division on a monthly basis and then credited to the appropriate employee at the end of the tax year and offset against the income tax payable on that employee's assessment.

The scheme covers everyone who receives remuneration, including employees, office holders such as directors, and pensioners.

Any remuneration is subject to ITIP and tax should be deducted in accordance with the individual's tax code. This now also applies to personal-service companies whose workers perform duties as if employed by the client.

If an employer fails to deduct ITIP from any remuneration when required to do so by the employee's tax code, the employer may be liable for any ITIP that should have been deducted. The employer may also be liable to a penalty of GBP 250 for failure to comply with the regulations.

It is therefore important to verify the employee's code prior to making any payment of remuneration and if in doubt, the employer should contact the Division to clarify whether a payment should be subject to ITIP deductions.

As regards benefits-in-kind, an employer is required to complete a form T9 'Return of Expenses Payments and Benefits' for every person who receives a taxable benefit-in-kind during the year. One copy of this form should be given to the employee or director concerned to include with the employee's personal income tax return. A second copy should be submitted to the Division with the T37 'Employer's Annual Return'.

There are some differences in the way resident and non-resident employees are treated.

An employee who is not resident on the Island for tax purposes will not be entitled to any personal allowance. The employer should therefore apply the HR code (a straight 20% with no 'free pay') to any remuneration made to the employee.

Employees who perform all of their duties off the Island may not require any tax to be deducted from their remuneration. However, prior clearance from the Division must be obtained in all such cases otherwise the remuneration should be subject to the non-resident code HR (20%).

Where only part of the duties are performed on the Island, tax must be deducted from the whole of the remuneration and the employer should apply code HR (20%) to this income.

Employers now have a compulsory requirement to file their end-of-year tax documentation online to the Income Tax Division.

Taxation of personal business income

Accounting basis

In law, a self-employed person is taxed on the profit that he or she makes in the tax year.

So it is therefore necessary to draw up accounts.

Where the accounts are prepared to a date other than 5 April, the amount of profit will be apportioned to the tax year. If an accounting date other than one which corresponds to a tax year (6 April to the following 5 April) is chosen, then the concessionary treatment explained below may be applied.

Concessionary treatment

What is known as the 'accounts basis' of assessment may be used to avoid apportionment of profit but only where a business draws up accounts to a date between 30 June and 5 April.

Under the accounts basis, the profits of a business for the period ending in the tax year are treated as the profits of that tax year (e.g. the profits of the accounts year ending on 30 September 2016 would be the profits of the tax year 2016–17 on this basis). It is not possible to claim concessionary treatment if accounts are made up to a date between 6 April and 29 June.

A new business must prepare accounts to a date within the tax year ending 5 April following the start-up of the business (year one), or within the tax year ended 5 April following (year two). The accounts must then be drawn up to the same date falling on or after 30 June in each tax year.

Pre-trading expenditure

Some expenditure incurred before the business commences may be deducted in the opening accounts.

Expenditure will qualify for relief if it was incurred up to three years before the date that the business started and it would have been an allowable deduction in working out the profits if the business had already started.

The relief is given by treating the expenditure as incurred on the first day of trading.

Calculating taxable profit

The starting point for the calculation of taxable profit is the net profit (or loss) as shown in the accounts.

This must then be adjusted to add back any expenses that are not deductible for tax purposes (e.g. depreciation, personal expenditure, capital expenditure and other expenditure not related to the business). The rules are essentially the same as for companies (for which see Chapter 6).

Capital allowances

See Chapter 6.

Losses

A loss made in any of the first four years of a trade may be carried back for up to three years and set off against any profit from the same trade.

The loss must be offset against profit from the most recent year first, followed by the next most recent, etc.

A loss claimed in this way must be offset against trading profit from the same trade first, then against income from any other trade.

Revenue expenditure incurred in setting up a trade may be treated as though it were a loss sustained in the first year of assessment and relieved accordingly. Otherwise, losses may be offset against the individual's other taxable income in the same tax year or carried forward indefinitely against future profits from the same trade.

Payment

Income tax is due by assessment but income tax and Class 4 national insurance contributions for self-employed people are also usually subject to the 'payment on account' system – see 'Returns and payments' below.

There are particular rules applying to the first year of self-employment but once the business is up and running the Division will send the taxpayer a request for a payment on account which is due on 6 January in the tax year. Once the tax return and accounts have been submitted, an assessment will be issued which will show any balance of tax and national insurance due.

Any credit will be refunded and any outstanding amount will be due and payable on 6 January following the tax year. However, should the assessment be issued after that date, the tax and Class 4 liabilities become payable within 30 days of the assessment date.

If the tax return is not filed on time, estimated assessments may be issued and any tax shown in them is payable within the same time limits.

Taxation of investment income

Dividends

Investment income is taxable at the normal rates of income tax.

There is no deduction of income tax at source from dividends but dividends paid from income subject to tax at 10% carry an equivalent non-refundable tax credit, deductible from the taxpayer's liability to income tax.

In arriving at the taxpayer's taxable income, net dividends must be 'grossed up' by the fraction 10/9 to reflect the credit. For example, a net dividend of GBP 99 is included in taxable income as GBP 110 and bears a tax credit of 10% = GBP 11.

Any excess of tax credit after being offset against the individual's tax liability is not repayable.

The tax credit on UK dividends is tax paid by the company, not by the individual, therefore no double taxation relief is available. Double taxation relief may be available in respect of UK dividends where the person has paid tax at more than the standard rate of UK income tax.

In all cases it is the net UK dividends payable that are taxed in the Isle of Man.

With other foreign dividends, the general rule is that double taxation relief applies; however, this is restricted to the maximum of the income tax rates, i.e. 20%, and no excess of tax credit will be refunded.

Any income distributed by a 0% company to a beneficial owner resident in the Island is assessable on that recipient on the date the income is received.

If capital is distributed, no tax implications apply.

However, companies are required to keep a record of their taxable reserves and taxable income reserves must be distributed and extinguished before capital reserves are available to be taken.

If the beneficial owner is non-resident, distributions are not subject to tax and therefore there are no withholding tax implications or income tax liabilities in the Island.

Distributions of profits by 10% companies to resident beneficial owners are assessable on the recipient at the date of receipt. A dividend voucher is prepared, grossing up the distributed amount to take into account the 10% charge already incurred. If capital is distributed, no tax implications apply.

There are no tax implications for non-resident beneficial owners.



Rental income

Only the cost of mortgage interest, maintenance, repair, insurance and management of the property are allowable.

Capital expenditure, such as altering or improving the land/property and legal expenses in purchasing or selling the land/property are not allowable.

Allowances for capital expenditure are available when incurred for the purposes of the assessment of income tax in respect of the profits and gains of any trade, profession or vocation. Provided that the premises in respect of which the rental income is received are being used for such purposes, it is the Division's practice to grant capital allowances against the rental income to the same extent that they would be allowed if the lessor were carrying on a trade.

If the rental income arises from residential properties there is no allowance for capital expenditure. However, by concession and subject to the following conditions, certain capital allowances are now granted:

- The concession will only apply to properties that are available for permanent letting for residential purposes. Permanent letting means that the property is intended to be available to let for a continuous period exceeding five years
- There will be a 10% straight-line allowance for the cost of any qualifying capital expenditure
- There will be no balancing charges or allowances (adjustments on disposal) when the property is transferred from one owner to another, provided that the property continues to be available for permanent letting
- Balancing charges or allowances will be calculated when the property ceases to be available for permanent letting (whether on disposal or not) based on the market value of the assets at that time
 - Qualifying capital expenditure will follow the normal capital allowance rules (see Chapter 6) and
 - Expenditure that does not qualify as capital expenditure includes:
 - Expenses already admitted as a revenue deduction (i.e. repairs) and
 - Structural additions, alterations, modifications, expansions and improvements to the property including re-divisioning or partitioning and creating car-parking facilities

All rental income should be declared even if a profit is not made. The income and expenditure will be included in the individual's assessment notice.

Non-residents will receive their rental income from property on the Island after deduction of income tax.

For payments of rent made to a company, the tax applied is 10%, for payments to all other persons, the rate is 20%.

Excess expenditure on rents is not available for set-off against non-rental income, but may be carried forward for relief against subsequent rents from the same property.

Two or more properties or parcels of land can be treated as one (i.e. pooling) subject to the following:

- Excess expenditure not relieved under pooling is available to carry forward against subsequent rents from the same property and
- Expenditure on properties not let at full rent or at less than the open market value cannot be pooled

TT Homestay Scheme

The 'TT Homestay Scheme' is promoted by the Department of Economic Development and is designed to make available additional accommodation in private residences over the TT (Tourist Trophy motor-cycle racing championships) fortnight.

There is a concession that applies to income received by private householders from the provision of 'bed and breakfast' or 'bed only' accommodation to visitors during the TT fortnight, which does not exceed GBP 1500 (before expenses). Under the concession the Division will not pursue the income tax liability arising on that income.

For the income of a year to fall within the terms of the concession, the householder concerned must be registered with the Department of Economic Development under the Homestay Scheme for the year in which the letting income arises (administration is currently carried out by a travel-agent firm).

Capital gains

There is no tax on capital gains in the Isle of Man nor are the proceeds of disposal of capital assets subject to income tax.

Allowances and deductions

Pension contributions

Contributions made to an Island approved retirement benefit scheme or personal pension may qualify for income tax relief. Persons who are not employed or self-employed, but receive taxable income from other sources may be able to claim tax relief up to the minimum allowance.

Contributions in excess of a minimum allowance are only allowable if the individual has the appropriate net relevant earnings from employment or self-employment.

Relief will be restricted if the contribution exceeds net relevant earnings or the annual allowance.

The minimum allowance and annual allowance are reviewed annually as part of the Treasury budget and are currently set at GBP 3600 and GBP 300 000 respectively.

General Deductions

The Isle of Man allows relief for a number of costs incurred by the taxpayer during the tax year.

Relief for these costs is restricted to 10% (lower tax rate) of the cost incurred, against the taxpayer's liability.

Ultimately if there is no tax liability, then no deduction is received on costs incurred.

Mortgage and other interest

Relief is available if interest is paid on mortgages, loans or through hire-purchase agreements to a lender who is liable to tax in the Isle of Man and is in the business of lending money.

The amount of interest for which relief is available in the tax year is limited to GBP 7500.

Charitable donations

One-off payments in excess of GBP 100 (maximum GBP 7000) made via a deed of covenant are deductible.

Nursing expenses

Relief is available where the individual or the individual's spouse or civil partner pays for him or herself, his or her spouse or civil partner or a relative to be looked after either by a registered nurse or at a registered nursing home.

The relative must be severely disabled either mentally or physically and, as a result, need prolonged or repeated attention.

Relief may also be available if the individual pays a nursing agency to provide registered nursing cover.

The maximum qualifying for relief in any case cannot exceed the amount of the personal allowance.

Private medical insurance

Payments made to an eligible private medical insurance contract will be allowable up to a maximum of GBP 1800 per person each tax year.

Relief is available if premiums are paid on any eligible contract for any person on the Island who is 60 and older or for premiums on a joint eligible contract for the taxpayer and the taxpayer's spouse or civil partner where either spouse or civil partner is 60 or older.

Private medical insurance contracts should provide cover for medical or surgical treatment.

Hospital income plans and personal injury plans are not allowable.

Personal allowances

These allowances, in effect a tax-free band of income, are given by reference to the taxpayer's personal status and that of any dependants and are deducted from total income in the last stage of computing taxable income.

A couple who have been living together with a child for the whole of the year of assessment and are not married or civil partners are entitled to make a claim for the additional personal allowance in respect of that child.

Therefore, if one partner cannot make full use of his or her personal allowances, i.e. earns less than GBP 10 500 in the tax year, the value of the unutilised allowance may be transferred to the other partner, to a maximum value of the additional personal allowance (GBP 6400 in 2016-17).

A number of personal allowances are available for resident taxpayers only and not available to non-residents as below:

Table 4

| Type of allowance | Amount (GBP) |
|--|--------------|
| Single person ⁽¹⁾ | 10 500 |
| Jointly assessed couple ⁽¹⁾ | 21 000 |
| Additional personal allowance ⁽²⁾ | 6400 |
| Blind person | 2900 |
| Disabled person | 2900 |
| Age allowance ⁽³⁾ | 1000 |

Notes

1. Available to all resident taxpayers
2. Single-parent additional allowance in respect of dependent children
3. Available for resident individuals who are aged 65 or over at the start of the tax year. For jointly assessed couples, the allowance is doubled where both spouses are 65 or over at the start of the tax year

Rates of income tax

Table 5 shows the rates of income tax in both 2015–16 and 2016–17.

| Band of taxable | 2015-16 and 2016-17 | | |
|-----------------|---------------------|-------------------------|----------|
| | Single person | Jointly assessed couple | Rate (%) |
| First | 10 500 | 21 000 | 10 |
| Balance over | 10 500 | 21 000 | 20 |

Tax Cap Election

High-income individuals may elect to be tax-capped for five years and thereby pay a maximum of GBP 120 000 each year for those five years. Effectively, therefore, a single person pays zero additional income tax on any yearly taxable income in excess of GBP 614 751.

Non-resident position

Non-residents are liable to tax at a single rate of 20%.

Married couples who are resident in the Island have the option of joint or independent taxation, but that option does not apply to married couples who are non-resident. If a non-resident married couple receive income jointly from a source in the Isle of Man, each member is liable to tax on his or her share of the income.

Limit on income tax chargeable

Non-resident income tax is due only on income derived in the Isle of Man.

Some types of income are subject to deduction of tax at source, whereas others are paid gross, without deduction of tax at source. For example, rents are subject to withholding tax at 20%, whilst bank interest from approved institutions on the Island is paid gross without deduction of tax.

Tax charged on the income of a non-resident individual is subject to an overall limit defined as the sum of (in both cases ignoring the personal allowance):

- The tax that would be due on income from the Isle of Man reduced by any excluded income and
- Tax deducted at source from any excluded income

Excluded income consists of the following:

- Dividends paid by a company incorporated under the Companies Acts 1931 to 2004 or registered under Part XI of the Companies Act 1931
- Deposit interest paid by a banking institution
- Interest or dividends paid by an authorised building society authorised under section 2 or 4A of the Building Societies Act 1986
- Interest or dividends paid by the Isle of Man Government in respect of bonds
- Interest or dividends paid by a local authority

- Income from social security benefits chargeable to income tax
- State retirement pension
- Other interest payments paid by a company incorporated under the Companies Acts 1931 to 2004 or registered under Part XI of the Companies Act 1931
- Director's remuneration paid by an Isle of Man company to a director for services performed outside the Isle of Man, or in order to carry out statutory functions or attend board meetings within the Island and
- Income included in a Treasury order that is approved by Tynwald

Automatic exchange of information with European Union Member States

With effect from 1 July 2016, the Isle of Man has committed to automatic exchange of financial information with EU Member State tax authorities, following the repeal of the Savings Directive (EUSD) and its replacement by the amended Administrative Assistance Directive (2011/16/EU as amended, most recently by 2014/107/EU).

Previously, the Isle of Man had agreed to introduce measures equivalent to the EUSD with effect from 1 July 2005. The EUSD came into force in 2005 and provided for automatic exchange of information on savings income. For a transitional period, the EUSD allowed either exchange of information or the deduction of tax from interest payments (a withholding tax or, as it was called in the Isle of Man, 'retention tax').

The Isle of Man implemented the EUSD by entering into bilateral agreements with all EU Member States ('the Agreements').

Between 1 July 2005 and 30 June 2011 the Isle of Man's measures equivalent to the EUSD allowed for either exchange of information or for retention tax to be deducted.

From 1 July 2011, in accordance with the Agreements, the Isle of Man elected to apply the automatic exchange of information provisions, in the manner provided for in Chapter II of the EUSD, from 1 July 2011. This meant that the retention-tax option ceased to be available in the Isle of Man from that date.

For payments made on or after 1 July 2011 but which relate to a period commencing before that date, the full amount of interest paid is subject to information reporting. Payments made prior to this date may be subject to retention tax or information reporting in accordance with the previous guidance.

Returns and payments

The tax year in the Isle of Man commences on 6 April in one year and ends on the following 5 April.

Tax assessments normally cover the whole of the tax year.

Each person has a legal obligation to send in an annual income tax return unless the Division has notified the person otherwise.

The taxpayer must complete and file his or her return with the Division by the due date shown at the top of the return form (6 October following the end of the tax year). If the return has not been received by that date, a penalty of GBP 100 will be charged. If the return has still not been received six months after the due date, a further penalty will be due in the sum of GBP 200.

If provisional figures are included, they must be clearly marked as such and a date stated when actual figures will be submitted to the Division.

Exceptions are when a person has ceased residence within the Island or has died, in which case returns must be submitted within six months of departure or decease.

A person carrying on a trade, profession or business or receiving rental income, either in person or in a partnership, is required to retain records supporting the entries made on the return for six years from the end of the relevant tax year or the date of submission of the return form, whichever is later.

All other persons are required to retain records for two years from the end of the relevant tax year or date of submission of the return form, whichever is the later.

Following submission of a completed Income Tax Return Form, the Income Tax Division has a 12-month review period to open an enquiry, if it so desires, into the information provided on the form.

Sometimes an assessment may be for a period of less than a tax year, for instance when someone moves to the Island, leaves the Island or upon death.

The assessment period in these cases will be:

- For a new resident – from the date of arrival on the Island to the following 5 April
- For a person moving away from the Island – from 6 April to the date of departure or
- When a person dies – from 6 April to the date of death

Every person who is liable to pay income tax on the Island should receive an assessment annually, normally issued after the end of the tax year to which it relates and following the submission of a tax return for that year. Exceptions to this rule occur when a person leaves the Island or dies, as above.

Where a person fails to submit in his or her tax return on time, a 'default assessment' will be issued based on the best judgement of the Income Tax Division.

The statutory due date for the payment of income tax is 6 January following the tax year. For many taxpayers, all that is payable on this date is a balancing amount because they have already paid some of their liability by ITIP, subcontractor deductions or payment on account.

Tax is due 30 days after the date of an assessment where:

- Assessments are issued after 6 December following the tax year and/or
- Assessments are issued when a person has moved away from the Island or has died

Payment-on-account system

Taxpayers who have income that is not subject to tax deductions may be required to make a payment on account.

Payments on account are due on or before 6 January during the tax year.

Types of income that may lead to payments on account are:

- Income from self-employment
- Investment income (bank and building society interest etc.)
- Dividends and
- Non-Island pensions

Any payments on account will be credited against the eventual tax liability calculated after the return has been submitted.

If all income is already taxed at source, via a monthly tax code or subcontractor deductions, then payments on account are not required.

A payment on account is based on the individual's tax liability for the previous tax year after crediting any tax paid at source, multiplied by what is known as the 'payment on account' factor, currently set at 105%.

The Division issues payment-on-account notices showing the date by which the payment should be made, normally 6 January following the date of issue.

If the payment on account notice is issued after 5 December in a tax year, it will require payment to be made within 30 days.

Appeals

See Chapter 5.

Inheritance and gift taxes

The Isle of Man has no taxes on inheritances or gifts; neither are inheritances or gifts liable to income tax.

Wealth tax

There is no wealth tax in the Isle of Man.

Common Reporting Standard

The Organisation for Economic Cooperation and Development (OECD) has released new global standards for the exchange of tax information between jurisdictions - the Common Reporting Standard ('CRS').

The Isle of Man along with more than 65 other countries and jurisdictions has publicly committed to implement the standard, and more than 40 have committed to a specific timetable, which will result in the first automatic information exchanges in 2017.

US FATCA

In December 2013 the Isle of Man Government signed a Model 1 intergovernmental agreement with the United States to improve international tax compliance and implement FATCA (the Foreign Account Tax Compliance Act).

FATCA requires financial institutions outside the United States to report information on financial accounts held by US customers to the IRS. The information to be reported on is required to be reported by US citizens in their US tax returns.

UK FATCA

In October 2013, the Isle of Man Government signed an intergovernmental agreement with the United Kingdom to enter into closer tax cooperation via an automatic Exchange of Information Agreement based upon the same principles as those negotiated with the United States under the FATCA agreement. The information to be reported on is required to be reported by UK citizens in their UK tax returns.

8. Other taxes

Rates (property tax)

An annual property tax, known as 'rates' is due on the net annual value and calculated as follows:

A gross annual value which is deemed to be the notional annual rent that might be charged for the property, is attributed to houses and buildings in the Isle of Man. This is reduced by one-fifth to give the net annual value.

The amount of the rates due and payable in respect of the respective property is calculated at the appropriate percentage rate of the net annual value according to the nature and location of the property.

Motor vehicle duty

Motor-vehicle licence duty based upon engine capacity is payable each year in respect of vehicles registered in the Isle of Man.

Stamp duties/registration duties/transfer taxes

There are no stamp duties or transfer taxes in the Isle of Man. A small registry fee is payable when the title to land passes.



9. Social security contributions

The Island's system of social security contributions (called 'National Insurance') closely follows that of the United Kingdom. As in the United Kingdom, there are four classes of contribution:

- Class 1: payable in respect of earnings from employment by employers ('secondary Class 1') and employees ('primary Class 1');
- Class 2: a weekly flat-rate contribution payable by self-employed persons;
- Class 3: voluntary contributions payable by those not currently in employment or self-employment; and
- Class 4: profit-based contributions payable by self-employed persons

All amounts cited below are those applicable for the 2016-17 tax year.

Employers and employees

Class 1

Class 1 primary contributions are payable by all employees earning more than the primary threshold of GBP 118 per week (equivalent to GBP 6136 per year).

Contributions at 11% are payable on earnings between the primary threshold and the upper earnings limit of GBP 784 per week (equivalent to GBP 40 768 per year). Earnings in excess of the upper earnings limit are subject to Class 1 national insurance contributions at 1% on the excess.

Class 1 primary contributions are deducted by the employer and paid directly through the ITIP scheme.

As in the United Kingdom, reduced rates are payable for individuals who have 'contracted out' of the State Second Pension (an earnings-related additional retirement pension).

In addition to the employee's contributions, the employer is required to make Class 1 secondary contributions at 12.8% on all earnings in excess of the secondary threshold of GBP 117 per week (equivalent to GBP 6084 per year).

Whilst the employee is not liable to make contributions after reaching state-pension age, the employer must continue to make contributions regardless of the age of the employee.

The self-employed

Class 2

A small-earnings exception is available for individuals earnings less than GBP 6136 per year. No Class 2 contributions will be payable where a successful application has been made for a Certificate of Small Earnings Exception. However, individuals earning less than the exception threshold may wish to continue making Class 2 contributions to ensure that their entitlement to certain state benefits is maintained.

Table 6 below details the rates applicable for the 2016-17 tax year.

Table 6

| | Weekly rate |
|-------------------------------|-------------|
| Flat rate | GBP 5.40 |
| Volunteer development workers | GBP 14.10 |

The rates for volunteer development workers are higher than the standard flat rate as these contributions give the individual an entitlement to a wider range of state benefits.

Class 4

Class 4 contributions, in addition to Class 2 contributions, are payable by self-employed individuals. The contributions are calculated as a percentage of the individual's self-employed profits for that year.

Profits falling between the lower profits limit of GBP 6136 per year and the upper profits limit of GBP 40 769 per year are liable to Class 4 contributions at 8%. That part of profits exceeding the upper profits limit is liable to Class 4 contributions at 1%.

An individual who is employed and also self-employed will be required to pay Class 1, Class 2 and Class 4 contributions. To ensure that an individual in this situation does not pay considerably more contributions than an individual receiving a similar level of income but from just one source, a claim for a deferment can be made in respect of Class 2 and Class 4 by that individual.

Voluntary contributions

Class 3

Individuals who do not earn a sufficient level of income to ensure that the national insurance contributions they make will fully protect their entitlement to certain benefits, may make voluntary Class 3 national insurance contributions.

Class 3 contributions are payable at a flat rate of GBP 14.10 per week.

10. Moore Stephens in the Isle of Man

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Moore Stephens in the Isle of Man also operates through the following associated entities:

Moore Stephens Brokers Limited

A company incorporated in the Isle of Man No. 126547C. Registered with the Isle of Man Financial Services Authority in respect of General Business.

Where Moore Stephens Brokers Limited solely makes an introduction to a third party intermediary and/or broker with respect to life or other insurance cover on behalf of an enquirer, it accepts no responsibility or liability with regard to any insurance subsequently intermediated by that third party on behalf of the enquirer.

www.msbl.im

Moore Stephens Chartered Accountants

Registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work.

www.msca.im

Moore Stephens Consulting Limited

A company incorporated in the Isle of Man No. 071416C.

www.mscl.im

Moore Stephens Crew Benefits Limited

A company incorporated in the Isle of Man No. 124557C.

www.msrb.im

Moore Stephens Crewing ICC Limited

A company incorporated in Guernsey No. 48540.

www.moorestephensyachts.com

Moore Stephens Financial Services Limited

A company incorporated in the Isle of Man No. 111421C. Licensed by the Isle of Man Financial Services Authority.

www.msfs.im

Moore Stephens Foreign Exchange Services

Moore Stephens Brokers Limited is a company incorporated in the Isle of Man No. 126547C, registered with the Isle of Man Financial Services Authority in respect of General Business. Moore Stephens Foreign Exchange Services (a trading name of Moore Stephens Brokers Limited) provides introductions to foreign exchange brokers; this does not constitute an activity regulated by the Isle of Man Financial Services Authority.

www.msbl.im

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www.msbl.im

Moore Stephens Retirement Solutions Limited

A company incorporated in the Isle of Man No 123460C. Moore Stephens Retirement Solutions Limited is registered with the Isle of Man Financial Services Authority as a Professional Retirement Benefits Schemes Administrator.

www.msrs.im

Moore Stephens Trust Company Limited

A company incorporated in the Isle of Man No. 081489C. Licensed by the Isle of Man Financial Services Authority.

www.mstc.im

Moore Stephens Yachting

Registered trading name of Moore Stephens Trust Company Limited.

www.msy.im

Moore Stephens Aviation

Registered name of Moore Stephens Trust Company Ltd.

Address: First Floor, Jubilee Buildings, Victoria Street, Douglas, Isle of Man, IM1 2SH.

www.msair.im

Moore Stephens Trust Company

A company incorporated in the Isle of Man, No 081489C. Licensed by the Isle of Man Financial Services Authority.

Address: First Floor, Jubilee Buildings, Victoria Street, Douglas, Isle of Man, IM1 2SH.

www.mstc.im

Appendix 1: Double tax treaties

Comprehensive double tax treaties

The Isle of Man has comprehensive double tax treaties with the following countries:

| | | |
|----------|------------|----------------|
| Bahrain | Luxembourg | Singapore |
| Estonia | Malta | United Kingdom |
| Guernsey | Qatar | |
| Jersey | Seychelles | |

A comprehensive treaty has also been negotiated with Belgium, but is not yet in force.

The Isle of Man also has treaties for the avoidance of double taxation of the income of individuals with:

| | | |
|---------------|-----------|----------|
| Denmark | Greenland | Slovenia |
| Faroe Islands | Iceland | Sweden |
| Finland | Norway | |

It has treaties to avoid double taxation of certain income of individuals with:

| | | |
|-----------|-------------|--|
| Australia | New Zealand | |
| Ireland | Poland | |

Double tax treaties: air transport and shipping

The Isle of Man has double tax treaties covering profits for air transport, shipping or both with the following jurisdictions:

| | | |
|---------------|------------------------|------------------------------|
| Denmark | Germany ⁽¹⁾ | Poland |
| Faroe Islands | Greenland | Sweden |
| Finland | Iceland | United States ⁽¹⁾ |
| France | Netherlands | |

⁽¹⁾ These treaties cover shipping only.

Double tax treaties: estates, gifts and inheritances

The Isle of Man has no agreements covering taxes on estates, gifts and inheritances.

Agreements for exchange of information

The Isle of Man has agreements for cooperation in tax matters through exchange of information with the following:

| | | |
|----------------|-----------|----------------|
| Argentina | Germany | Netherlands |
| Australia | Greenland | New Zealand |
| Botswana | Iceland | Norway |
| Canada | India | Poland |
| China | Indonesia | Portugal |
| Czech Republic | Ireland | Slovenia |
| Denmark | Italy | Sweden |
| Faroe Islands | Japan | Switzerland |
| Finland | Lesotho | United Kingdom |
| France | Mexico | United States |

Information exchange agreements have also been signed with the British Virgin Islands, the Cayman Islands, Romania, Spain, Swaziland and Turkey, but are not yet in force.

Social security agreements

The Isle of Man is included for social security purposes in the agreements negotiated by the United Kingdom. Outside the European Union, the United Kingdom has bilateral agreements with the following:

| | | |
|-----------------------------------|--------------------------|----------------------------|
| Australia ⁽¹⁾ | Israel | Montenegro ⁽³⁾ |
| Barbados | Jamaica | New Zealand |
| Bermuda | Japan ⁽²⁾ | Philippines |
| Bosnia-Herzegovina ⁽³⁾ | Jersey | Serbia ⁽³⁾ |
| Canada | Kosovo ⁽³⁾ | South Korea ⁽²⁾ |
| Chile | Mauritius | Turkey |
| Guernsey | Macedonia ⁽³⁾ | United States |

Notes

- ⁽¹⁾ The social security agreement between the United Kingdom and Australia was terminated by Australia and ended on 28 February 2001. However, people receiving the benefit of this agreement when it was terminated may continue to benefit from it subject to certain conditions.
- ⁽²⁾ The agreements with Chile, Japan, South Korea and Canada are Double Contributions Conventions which only cover social security contribution liability and not benefits.
- ⁽³⁾ Agreement negotiated with the former Yugoslavia.

Appendix 2: Moore Stephens around the world

Moore Stephens member firms may be found in 106 countries and territories around the world, with correspondent firms in another ten.

| | | | |
|------------------------|--------------------|------------------|----------------------|
| Albania | Denmark | Latvia | Russia |
| Argentina | Dominican Republic | Lebanon | Saudi Arabia |
| Australia | Ecuador | Liechtenstein* | Serbia |
| Austria | Egypt | Lithuania | Seychelles |
| Azerbaijan | El Salvador* | Luxembourg | Singapore |
| Bahamas | Estonia* | Macedonia | Slovakia |
| Bahrain | Finland | Malta | South Africa |
| Bangladesh | France | Mauritius | South Korea |
| Belgium | Germany | Mexico | Spain |
| Belize | Gibraltar | Monaco | Sri Lanka* |
| Bermuda | Greece | Mongolia* | Sweden |
| Bolivia | Guatemala | Morocco | Switzerland |
| Botswana* | Guernsey | Netherlands | Syria |
| Brazil | Honduras | New Zealand | Taiwan |
| British Virgin Islands | Hong Kong | Nicaragua | Thailand |
| Bulgaria | Hungary | Nigeria* | Tunisia |
| Burundi | India | Norway | Turkey |
| Cambodia* | Indonesia | Oman | Ukraine |
| Canada | Iraq | Pakistan | United Arab Emirates |
| Cayman Islands | Ireland | Panama* | United Kingdom |
| Chile | Isle of Man | Papua New Guinea | United States |
| China | Israel | Paraguay | Uruguay |
| Colombia | Italy | Peru | Venezuela |
| DR Congo | Japan | Philippines | Vietnam |
| Costa Rica | Jersey | Poland | Zambia |
| Croatia | Jordan | Portugal | Zimbabwe* |
| Cyprus | Kazakhstan | Qatar | |
| Czech Republic | Kuwait | Romania | |

*denotes a correspondent firm only

For more details, see www.moorestephens.com under 'Locations'.

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