



ATTRIBUTION REGIME FOR INDIVIDUALS 6 APRIL 2008 – 5 APRIL 2012

The introduction by the Isle of Man of a standard corporate income tax rate of 0% in 2006 could have led to an unacceptable loss of revenue to the IOM Treasury. Manx resident individuals and the trustees of certain trusts owning Manx companies taxed at the standard rate could have chosen to leave profits in the company to be taxed at 0%, rather than paying them out as distributions which would be taxable as part of the shareholders' taxable income.

The Distributable Profits Charge (DPC) was therefore introduced at the same time as the 0% corporate tax rate, specifically to limit the impact of this sort of planning. The charge applied only where there were Manx resident shareholders.

The IOM Treasury were informed, however, that as the DPC was paid by companies on behalf of their Manx resident shareholders only, it was viewed by the EU Code of Conduct Group, as differentiating between resident and non-resident ownership of companies, and was considered "harmful tax practice" in the context of the Code and therefore not Code compliant.

The IOM Treasury replaced the DPC regime with a simpler but equally effective system called the Attribution Regime for Individuals (ARI).

The ARI regime is effective for all companies with accounting periods commencing on or after 6 April 2008, through to 5 April 2012 inclusive. The ARI regime has been abolished for profits arising on or after 6 April 2012.

A "relevant" company for ARI purposes is one in which Manx resident individuals have an interest, and is-

- Resident for income tax purposes in the Isle of Man
- Incorporated, established or constituted under Manx law; or
- A foreign company with a place of business in the Isle of Man, carrying on a business here.

The ARI regime taxes the Manx resident shareholders of "relevant" trading and investment companies on the distributable profits.

Companies paying tax at 10% are unaffected by this new regime.

Trading companies (6.4.08 – 5.4.12)

If a dividend of 55% or more of the distributable profits of a trading company has been paid during or within 12 months of the end of the accounting period, then the company is not "relevant" and the ARI does not apply.

If a dividend of at least 55% of the distributable profits of a trading company has not been paid by 12 months after the end of the company's accounting period, then the company is "relevant" and 100% of the distributable profit will be taxable on the Manx resident shareholders (in proportion to their shareholding), irrespective of whether a lesser dividend has been paid. The attribution is considered to have been made 12 months from the end of the company's accounting period and is taxable on the shareholder in that tax year.



Investment companies

There is full attribution to Manx resident members, as all investment companies will be “relevant” companies. Therefore, 100% of the distributable profit will be taxable on the Manx resident shareholders, in proportion to their shareholding, with the date of the attribution being 12 months from the end of the accounting period.

A certificate must be issued by ALL companies to which ARI applies, each year, giving details of the attribution to each Manx resident shareholder.

Any subsequent dividends paid out from profits subject to the ARI will not incur any further tax.

If the potential attribution to a shareholder is £25 or less then no attribution is required. If these de minimis profits are subsequently distributed they are tax-free in the same way as they would have been if attributed to the shareholder.

Examples of tax payable in respect of trading companies’ profits under the new regime

1 *Distributable profits £30,000. No dividend paid (100% Manx Resident Shareholders):*

ARI = £30,000

The company is “relevant” for ARI purposes, and the attribution is assessable on the Manx resident shareholders 12 months after the accounting period end.

2 *Distributable profits £30,000. Dividend paid of £16,500 (100% Manx Resident Shareholders):*

ARI = £0

The Manx resident shareholders will be taxed on £16,500 in the tax year of receipt. The company is not “relevant” for ARI purposes.

Some companies are exempt from the ARI regime and these include: Licensed banks, companies listed on a recognised stock exchange, companies that pay tax at the 10% rate, trading companies that have distributed 55% of their distributable profits, and trading companies with distributable profits of less than £500.

Companies with both non-trading and trading income will no longer be taxed as “mixed income” companies. Instead a company will either be a trading company or an investment company for ARI purposes. If a company derives more than 50% of its gross income from a trading activity it will be treated as a trading company, and conversely if more than 50% of its TOTAL income is from investment (and the definition for this purpose includes rental income) it will be treated as an investment company.



FURTHER POINTS TO NOTE

- No mixed companies, i.e. either trading or investment company.
- No tax credits relating to dividend payments.
- No accounting profit concession for investment companies, i.e. the taxable/distributable profits are the basis of the attribution.
- All investment companies will need an ARI certificate.
- There is no exemption from the ARI calculation for companies with Tax Capped Manx resident shareholders.

TAX PLANNING

See our note – “Tax Planning for Companies – Update”

If you would like to know more then please contact
Evelyn Corrin : evelyn.corrin@crowecw.im , John Cowan : john.cowan@crowecw.im
or Elaine Rudge : elaine.rudge@crowecw.im

Crowe Clark Whitehill LLC, 6th Floor, Victory House, Prospect Hill, Douglas IM1 1EQ
Tel: 01624 627335; Fax: 01624 677225; Web: www.crowecw.im

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