



TAX PLANNING FOR MANX COMPANIES - UPDATE

In 2012 the Government announced that the abolition of ARI would take effect in respect of distributable profits arising or accruing to a company on or after 6 April 2012.

This means that the distributable profit of any accounting period straddling 6 April 2012 is apportioned for the purposes of calculating those profits falling within the ARI regime up to 5 April 2012, and those outside the ARI regime from 6 April 2012.

These changes affect all Manx resident shareholders of Manx companies which do not pay tax at 10%.

The abolition of ARI means that distributable profits arising on or after 6 April 2012 will only come into charge when dividends are paid out. These will be taxable on any Manx resident shareholders. Income accumulated will not suffer tax and will only become taxable in the hands of the Manx shareholders when distributed by way of dividend, or on final dissolution or liquidation.

Planning opportunities

In the post ARI regime, if income arising in the company does not need to be paid out to the shareholders to fund their normal expenditure, then it can be retained tax-free in the company, whether it is a trading or investment company.

The converse of this is that all dividends paid out will be taxable on the Manx resident shareholders in the tax year in which they are paid.

Accumulated Income Reserves

The Income Tax Division's view, as expressed in Practice Note 174/12, is that on the eventual dissolution or liquidation of a company, any income which has been accumulated post 6 April 2012 will then come into charge, because the distribution of such reserves would constitute a dividend under company law. Thus, the abolition of ARI results in a deferral of tax on subsequent income, which will come into charge at some stage in the future. This view is not yet enshrined in legislation, only in a practice note, however, and may be subject to challenge. If a company is sold, however, then the proceeds of the sale of the shares are a capital receipt, not taxable in the Isle of Man.

Credit Loans

Where a director or shareholder's loan account is in credit, this can be drawn after 6 April 2012 without incurring a tax charge, as this is a capital transaction.

Debit Loan Balances

Be aware that where a loan account goes into debit, the Loans to Participants Charge will still apply. This is a tax charge on the company at 20%, which will be repaid when the loan is repaid. It may be possible in some



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limited circumstances for the company still to lend to participators without a tax charge, but this will depend on the amount of reserves in the company relating to the years in which ARI applied.

Capital profits

One of the rather unfortunate consequences of Practice Note 174/12 is that profits arising in a company on the disposal of capital assets, such as properties or long-term investments, will no longer be able to be distributed tax-free until all the prior revenue profits, including any from the current year, are paid out to shareholders first.

Further information

For more details on the abolition of ARI and the current rules regarding company distributions please see our guidance note “Distributions to Manx Shareholders – The New Regime”

If you would like to know more then please contact

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