

The Isle of Man is already denying what it said to the ...

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The [Isle of Man Today web site is noting](#), as I have this morning, that the EU has given tentative approval to the revised tax system in that island.

It also notes:

Concerns have been raised by a former assessor of income tax Mark Solly, and the Positive Action Group, that the abolition of ARI will lead to the development of a two-tier tax system in the island.

Mr Solly, who will be guest speaker at PAG's next public meeting at the Manx Legion Club in Douglas on Monday night, fears it will lead to a reduction in tax take and also make it possible for wealthy individuals to shelter income in companies, minimising their tax liability — and placing a further burden on the less well off.

Treasury officials insist that the ARI's abolition will not lead to a significant loss in tax revenue as measures already in place will be sufficient to prevent tax avoidance.

Mark Solly is obviously right, and the EU know he is right, of course, which is why they sought and got assurances from the Isle of Man. Let me quote some from what the Isle of Man said to the EU this week:

In the absence of the attribution regime for individuals, taxpayers availing themselves of the legislative choice to structure their affairs such that the 0% corporate tax rate applies will be doing nothing artificial, and nor will they be seeking to escape what is normally payable.

With such clear constraints, the general anti-avoidance rule provided by Schedule 1 of the Income Tax Act 1980 cannot be used to replace the attribution regime for individuals.

And let me note the examples given by the Isle of Man:

We would now like to present a small number of examples to illustrate better how we

expect to apply our tax code following the abolition of the attribution regime for individuals.

1 An existing company, with activities or investments providing an annual income of 1,000 subject to the 0% corporate income tax rate and wholly owned by an Isle of Man resident individual, pays 100 per year in dividends.

The retention of 900 per year in undistributed corporate income is not a transaction, has no avoidance motive, and so cannot be challenged.

2 The same company as in example 1 is sold after five years for a market value to an unconnected third party.

At this point the company has a retained income reserve of 4,500. However, it is the share capital which is being sold in a transaction by the shareholder, there is no avoidance motive and the sale cannot be challenged.

3 The same company as in example 1 is put into members' voluntary liquidation after five years and its net assets are distributed to the shareholder.

This transaction does not have an avoidance motive and so cannot be challenged on that basis. However, the retained income reserve of 4,500 is an income distribution and will be subject to income tax in the hands of the shareholder.

4 The same company as in example 1 is sold after five years to a connected party.

In this case a technical enquiry will be made because, depending on the exact circumstances of the disposal transaction, there may be an avoidance motive and the general anti-avoidance rule may be applied.

5 An Isle of Man resident individual transfers investments into a company in exchange for shares in that company. The investments provide an annual income of 1,000 subject to the 0% corporate income tax rate and the company pays 100 per year in dividends.

In this case a technical enquiry will be made because, depending on the exact circumstances of the transfer transaction, there may be an avoidance motive and the general anti-avoidance rule may be applied.

In these simple examples, it can be seen that the Isle of Man Government will apply its general anti-avoidance rule in a restricted set of circumstances which bear no similarity to the operation or effect of the attribution regime for individuals. Specifically, the retention of undistributed income from year to year by an Isle of Man company will be treated in exactly the same way for tax purposes regardless of whether the shareholders of that company are resident or non-resident persons.

So what the Isle of Man Treasury officials are telling the press is just not quite true. There will be a loss to the Isle of Man, and there will be exploitation of the form Mr Solly describes.

And as the Isle of Man also told the EU:

It is possible that national revenue may fall by more than [£2.4 million], but because any additional amount will be as a result of changes in taxpayer behaviour, we cannot estimate any further cost with confidence; either as a timing difference or as an absolute loss of revenue. We will monitor national revenue statistics carefully following the abolition of the attribution regime for individuals. Should there be a severe negative effect caused by the absence of the attribution regime for individuals, then our Government would need to re-examine its policy options. But let me make it clear to the Members of this Group: any such options will not include a reintroduction in any form of the attribution regime for individuals or of measures with equivalent effect.

That does, I think, provide some clarity.