



# **DOING BUSINESS IN THE ISLE OF MAN**

A BUSINESS GUIDE TO THE ISLE OF MAN

**MannBenham Advocates Limited**  
**November 2010**

## Contents

ABOUT MANNBENHAM ADVOCATES .....	4
LOCATION OF ISLE OF MAN.....	4
CONSTITUTION .....	4
GOVERNMENT .....	5
OECD.....	5
WORLD TRADE ORGANISATION.....	6
LEGAL SYSTEM.....	6
TAXATION .....	6
FISCAL YEAR .....	6
INDIVIDUALS .....	7
COMPANY.....	7
TRANSFER TAXES ON DEATH OR GIFTS .....	8
TRUSTS .....	8
PARTNERSHIPS.....	9
SOURCE AND RESIDENCE.....	9
RESIDENCE OF INDIVIDUALS .....	9
RESIDENCE OF COMPANIES .....	10
INDIRECT TAXATION .....	10
ENTRY PROCESSING UNIT (EPU) .....	10
INTERNATIONAL TAX AGREEMENTS .....	12
BUSINESS STRUCTURES .....	13
THE COMPANIES ACT 1931.....	13
THE COMPANIES ACT 2006.....	14
2006 ACT COMPANY KEY FEATURES .....	15
PROTECTED CELL COMPANY .....	16
FOREIGN COMPANY .....	17
LIMITED LIABILITY COMPANY (LLC) .....	17

PARTNERSHIPS.....	18
LIMITED PARTNERSHIPS.....	18
TRUSTS .....	19
PURPOSE TRUSTS.....	19
PROPERTY HOLDING STRUCTURES .....	20
Property Holding Structures - Investing in UK Property.....	20
UK Investment Property Structure .....	21
Non Resident Landlord Scheme.....	22
SPACE.....	23
AIRCRAFT REGISTER.....	25
SHIP REGISTER .....	26
Qualified Owners .....	29
Ship Manager .....	30
Commercial Yachts.....	30
Advantages of using the Isle of Man.....	30
ONLINE GAMBLING.....	31
FILMS .....	31
Media Development Fund.....	32
GRANTS.....	32
Financial Assistance Scheme.....	32
HONG KONG STOCK EXCHANGE APPROVAL.....	33
APPENDIX 1.....	35
Isle of Man International Tax Agreements .....	35
Disclaimer .....	41

# **DOING BUSINESS IN THE ISLE OF MAN**

## **ABOUT MANNBENHAM ADVOCATES**

We are a practice of Isle of Man Advocates located in Douglas, Isle of Man. We offer a full range of legal services to individuals and businesses based on and off the Island.

Our subsidiary MannBenham Fiduciaries Limited is licensed by the Isle of Man Financial Supervision Commission to form and administer companies and trusts.

MannBenham Advocates Limited and MannBenham Fiduciaries Limited

49 Victoria Street

Douglas

Isle of Man

IM1 2LD

Telephone 00 44 1624 639350

e-mail [milesbenham@mannbenham.com](mailto:milesbenham@mannbenham.com)

More information can be obtained on our website [www.mannbenham.com](http://www.mannbenham.com)

## **LOCATION OF ISLE OF MAN**

The Isle of Man is located in the centre of the Irish Sea between Britain and Ireland. It is 33 miles (52 kilometres) long from north to south and 13 miles (22 kilometres) wide from east to west at its widest point. It has a land area of some 227 square miles (572 sq. km) and a population of around 80,000. The Island is in the same time zone as London and its financial markets.

## **CONSTITUTION**

The Isle of Man is a self governing British Crown Dependency with Her Majesty Queen Elizabeth II as Head of State. The Island is not part of the United Kingdom and has its own parliament, creates its own laws and collects its own taxes. The British Crown is ultimately responsible for the Islands external relations with defence and foreign affairs being in the

remit of the United Kingdom Government for which the Island pays an annual contribution.

The Island is not part of the European Union. The Islands relationship with the EU is governed by Protocol 3 to the United Kingdom's Act of Accession annexed to the Treaty of Accession 1972 which allows for the free trade of agricultural and manufactured products throughout the EU.

The Island is part of the European Common Customs Area. The Island's relationship with the EU allows it to trade with countries in the European Economic Area in a fashion similar to its trade with the Union itself.

## **GOVERNMENT**

The Islands parliament Tynwald is the oldest continuous parliament in the world. Tynwald has two branches, the House of Keys and the Legislative Counsel.

The House of Keys is the Lower Branch of Tynwald, and consists of 24 members who are directly elected by the people of the Isle of Man, the majority of which sit as independents. The Island's ministerial system of government is led by the Chief Minister who is elected by Tynwald from its Members. The Ministers of the government departments join the Chief Minister to form the Council of Ministers.

The Legislative Council generally acts as a revising chamber for Bills which are usually introduced in the Keys.

## **OECD**

When the Organisation for Economic Co-operation and Development Convention (OECD) was ratified by the United Kingdom in 1961, the territory to which the Convention applied was not specified. After consultation with the Island's Government, on 19th July 1990, the UK clarified its territorial application and confirmed that the OECD Convention also extended to "certain UK dependencies including the Isle of Man."

The National Treatment Instrument which is currently non binding lays down an obligation that foreign controlled and owned companies should be afforded a standard of treatment equivalent to that accorded to similarly placed domestic firms. By acceding to the Convention, Isle of Man based financial institutions should benefit from improved rights of access to markets and establishment in OECD member states.

## **WORLD TRADE ORGANISATION**

The World Trade Organisation Agreement has taken over from the General Agreement on Tariffs and Trade (GATT) for the purpose of promoting free trade. The United Kingdom's ratification of the Agreement Establishing the World Trade Organisation was extended to include the Isle of Man in 1997.

## **LEGAL SYSTEM**

The Island has its own independent legal system and jurisprudence. While the Island enacts its own legislation, the Islands legal system is based on the principles of English common law. The Islands laws are generally similar to those of the United Kingdom but are often adapted to meet the Island's own special circumstances.

The Island's High Court judges are called Deemsters and have jurisdiction over all civil and criminal matters. The court of appeal is known as the Staff of Government Division and consists of a Deemster and the Judge of Appeal. The Judicial Committee of the Privy Council is the court of final appeal for decisions from the Islands courts.

## **TAXATION**

The Isle of Man raises its own taxes and has its own independent tax system and legislation.

The Income Tax Act 1970 sets out the Islands income tax regime. The tax system is administered by the Income Tax Division of the Isle of Man Government's Treasury Department.

## **FISCAL YEAR**

Individuals and trusts are taxed by reference to the tax year which runs from 6 April to the following 5 April. Returns should be filed by 6 October.

Companies are taxed on an accounting year basis. Returns should be filed within 12 months and one day of the year-end. Any tax due is also payable by this time.

## INDIVIDUALS

Personal income tax is assessed on an individuals worldwide income with a standard rate of 10% and a higher rate of 20% which is payable when an individual's taxable income exceeds £10,500.

The individual personal allowance is £9300.

Income tax is capped at £115,000 of tax or £230,000 for married couples and beyond this level income is not taxed.

## PERSONAL ALLOWANCES 2010/2011

Single Person	£9,300
Married Couple (combined)	£18,600
Additional Personal Allowance	£6,400
Blind Person	£2,900
Disabled Person	£2,900
Non-Resident	£0.00
Age Allowance	£2,020

## INCOME TAX RATES

Standard Rate	10%
Higher Rate	20%
Non-Resident Rate	20%

## STANDARD RATE TAX THRESHOLDS

Single Person	£10,500
Married Couple (combined)	£21,000
Balance taxable at	20%

## COMPANY

Companies are subject to income tax and not corporation tax.

The standard rate of corporate income tax in the Isle of Man is 0%

A 10% rate of tax applies to income received by a company from any of the following sources:

- banking business
- land and property in the Isle of Man (including property development, residential and commercial rental or property letting and mining & quarrying).

Where the company has Isle of Man resident shareholders then the Attribution Regime for Individuals (ARI) will apply.

The ARI applies to all resident individuals with an interest in a relevant company.

Resident individuals with an interest in a relevant company will be charged to income tax on their share of the attributed profits from that company. This removes the corporate veil for income tax purposes as individuals will be taxed directly as if they had received the income attributable to their share of the annual profits of a relevant company. This is known as the attributed income.

## **TRANSFER TAXES ON DEATH OR GIFTS**

On the Isle of Man there is no death, inheritance or estate duty, stamp duty, capital gains, wealth or similar capital levies, capital transfer or gift duties.

There are no transfer taxes payable on death, or on gifts.

## **TRUSTS**

The taxation position of trustees and beneficiaries is determined by a combination of residence and source-based taxation which takes into account the residence of the beneficiaries of the trust rather than the residence of the settlor or the trustees.

As trust property is held for the use and benefit of the beneficiaries, the taxation of the trust should reflect the tax position of the beneficiaries. This means that the burden of tax imposed on the income of a trust should be the same as would have been levied on the beneficiaries had they received the income directly.

If beneficiaries are not Isle of Man resident then Isle of Man income tax is unlikely to arise. If there are one or more Isle of Man resident beneficiaries then all of the trust income is subject to income tax at 20%.

As the Isle of Man has a combination of residence and source based taxation, income which is derived from: -

- business transactions outside the Isle of Man, or
- dealings with persons resident outside the Isle of Man, or
- the provision of services outside the Isle of Man

will not be considered as Isle of Man source income merely because the transaction is carried out by a Isle of Man trust.

## **PARTNERSHIPS**

Partnerships are treated as tax neutral in the Isle of Man.

A partnership does not have a separate corporate identity and is not assessable to income tax in its own right.

Partnership profits are treated as accruing to the partners in accordance with the agreed profit sharing rates. Partners are often taxed in their own right, depending on the nature of the income and the residence position of the partner.

## **SOURCE AND RESIDENCE**

Isle of Man residents are subject to tax on worldwide income.

Non Residents are only subject to income tax on Isle of Man source income.

## **RESIDENCE OF INDIVIDUALS**

Residence is not defined in the Isle of Man Income Tax Acts and the Isle of Man Assessor will have regard to United Kingdom decisions based on comparable legislation.

An individual will be regarded by the Assessor as resident in the Isle of Man for a particular year of assessment if he is present in the Island for more than 6 months in the tax year.

If an individual moves to the Island with the intention of spending more than 91 days a year on average they will be resident from that date.

If the intention is not to spend 91 days in the Isle of Man but that average is exceeded over a period of 4 consecutive years then the individual will be considered to be resident for Isle of Man tax purposes.

### **RESIDENCE OF COMPANIES**

A company is resident in the Isle of Man if it is incorporated or “managed and controlled” in the Isle of Man.

### **INDIRECT TAXATION**

The Isle of Man, by virtue of its unique Customs and Excise agreement with the United Kingdom, is treated as part of the UK for Customs, Excise and VAT purposes.

The Isle of Man imposes Value Added Tax and duties on supplies of goods and services in a similar manner to the UK.

The standard rate of VAT is currently 17.5% but will increase to 20% in January 2011.

The Islands VAT register is administered by the Customs and Excise Division which has a reputation for high levels of service.

Customs and Excise aim to register new traders within 7 days of application, provided all the relevant information has been provided.

In practice most VAT registrations are provided within 5 working days and this time period is further reduced for traders who receive assistance through its Customer Relationship Unit.

European Union returns for Island traders, such as Supplementary Declarations and European Sales Lists, are processed by the service, which can also assist in confirming the validity of European VAT registration numbers.

### **ENTRY PROCESSING UNIT (EPU)**

Today, the majority of International Trade coming in and out of the European Union increasingly relies upon electronic facilities for lodging relevant import/export documents and declarations.

The Island's Customs and Excise division have established a sophisticated electronic processing unit for the clearance of goods, without the goods necessarily being brought physically to the Isle of Man.

A company incorporated in the Isle of Man by an exporter would be subject to the Islands low rate of corporate tax.

In a number of years time, a proposed system of 'centralized clearance' for customs duties will be introduced across the European Union. At this stage, the Isle of Man EPU will be able to provide an electronic 'Single Point of Entry' for all customs and excise imports, no matter where, in the EU, the goods arrive. This will provide potential Overhead and Cost of Business Savings for international trading businesses by facilitating their entire international Import and Export relationship with the EU via one business unit.

One of the primary benefits for business, for instance, from the USA, China, India or Canada, will be their ability to use the Isle of Man as a base to operate in the EU.

Potential time and overhead savings come not only from using a single country for all EU wide Customs & Excise requirements, but also from one which offers an established financial services sector that understands and supports trading businesses which may have complex requirements.

Customs Freight Simplified Procedures (CFSP) is currently the preferred method of operation through the Island's EPU. While it requires specific Customs authorisation its use is common in the logistics and international trade arena.

CSFP is a trade facilitation that allows a simplified declaration to be lodged at the point of entry providing quick automatic release of the goods, followed by a full supplementary entry later in the month. Ninety nine percent of CFSP entries are cleared automatically.

The e-EPU (electronic Entry Processing Unit) hubs for the UK are in the Isle of Man and Salford, England.

Businesses utilising the Isle of Man EPU must have an Isle of Man Duty Deferment Account which can usually be provided within 2 days.

For large multi-national trading companies, the Isle of Man provides a complementary location to large operations established cities in the UK or Europe.

The Islands offers a level of accessibility to Customs and Excise that large jurisdictions simply can't offer.

Coupled with the same access, facilities and safeguards from an EU system means that the Isle of Man is a highly complementary location from which a small branch office of a large trading entity can manage its European customs and excise requirements.

Locating in the Isle of Man brings the end EU customer closer to the supplier and so presents opportunities to enhance profitability, for example by reducing the number of "middle men" in the EU supply chain.

## **INTERNATIONAL TAX AGREEMENTS**

The Isle of Man Treasury has entered into a wide variety of tax treaties and is in active negotiations to conclude taxation agreements with Canada, Italy, the Netherlands and Spain.

The Isle of Man has entered into 4 Double Taxation Agreements with the following countries:

<b>Belgium</b>	Not yet in force
<b>Estonia</b>	In force
<b>Malta</b>	In force
<b>United Kingdom</b>	In force

As at 4<sup>th</sup> November 2010 the Isle of Man has entered into 17 TIEAs with the following countries:

<b>Australia</b>	<b>Denmark</b>	<b>Faroe Islands</b>
<b>Finland</b>	<b>France</b>	<b>Germany</b>
<b>Greenland</b>	<b>Iceland</b>	<b>Ireland</b>
<b>Netherlands</b>	<b>New Zealand</b>	<b>Norway</b>
<b>Portugal</b>	<b>Sweden</b>	<b>United Kingdom</b>

Appendix 1 lists all of the International Tax Agreements and their current status.

## **BUSINESS STRUCTURES**

The Isle of Man has a number of different types of business organisations. The most commonly used are:

- 1931 Act Limited Company
- 2006 Act Company
- Protected Cell Company
- Foreign Company (F Registered)
- Limited Liability Company (LLC)
- Partnerships
- Limited Partnerships
- Trusts
- Purpose Trusts

There are two main forms of Isle of Man company, each governed by a separate body of company law, being companies registered under the Companies Act 1931 and companies registered under the Companies Act 2006.

### **THE COMPANIES ACT 1931**

Companies may be:

- Limited by shares
- Limited by guarantee

- Limited by guarantee and having a share capital (“hybrid companies”)
- Having a share capital with unlimited liability

1931 Act companies limited by shares are formed with an authorised share capital. The standard authorised capital on formation is usually £2,000 divided into 2,000 shares of £1 each. This attracts the minimum capital duty, payable on formation.

Under the Single Member Companies Act 1996, a 1931 Act private company may have one member.

Companies limited by guarantee do not have a share capital. Members are elected and can resign. Membership is not transferable. Members are usually required to pay a subscription which constitutes the basic capital of the company.

Companies limited by guarantee and having shares (“hybrid companies”) may have members who hold shares, and members who do not.

Companies having a share capital with unlimited liability have a share capital in exactly the same way as a company limited by shares, but there is no limit to the liability of members.

## **THE COMPANIES ACT 2006**

Isle of Man company legislation has traditionally been based on the English law company statutes, subject to certain amendments unique to the Isle of Man.

The Companies Act 2006 updates and modernises Isle of Man company law by introducing a new simplified corporate vehicle into Isle of Man law. The 2006 Act is based on familiar concepts and, whilst it does not contain any novelties as such, it sweeps away a number of the traditional company law formalities, including the concept of authorised share capital, the requirement to hold an Annual General Meeting, the requirement to maintain capital (subject to solvency), the requirement to have a company secretary, the prohibition on financial assistance and the number of compulsory registry filings. The result is a modern, flexible and simplified corporate vehicle that will be attractive to business.

Every company incorporated under the Companies Act 2006 must have a registered agent in the Isle of Man.

Only persons holding an appropriate licence issued by the Isle of Man Financial Supervision Commission can act as a registered agent. This requirement ensures that there is a licensed professional on the Isle of Man overseeing the administration of the company.

The Companies Act 2006 is a standalone piece of legislation. Companies incorporated under the 2006 Act are governed solely by its provisions and (save in relation to liquidation and receivership) are not subject to the provisions of the existing Isle of Man Companies Acts 1931-2004. Equally, present and future companies incorporated under the Isle of Man Companies Acts 1931-2004 are not subject to or affected by the terms of the Companies Act 2006. However, the Companies Act 2006 does contain relatively simple procedures to enable a company incorporated under the Companies Acts 1931-2004 to re-register as a company under the Companies Act 2006.<sup>1</sup>

## **2006 ACT COMPANY KEY FEATURES**

The key features of a 2006 Act company include:

- One Director, individual or corporate
- A Registered Agent, instead of a company secretary
- More flexible annual returns
- Unlimited corporate capacity, but restricted objects are permissible
- No preclusion of financial assistance
- Pre-incorporation contracts can be adopted
- Simple merger and consolidation procedures
- Simple transfer of domicile procedures
- Protected Cell Companies are permissible

---

<sup>1</sup> Source the Isle of Man Finance guide to the Isle of Man Companies Act 2006 see <http://www.isleofmanfinance.gov.im/lib/docs/iomfinance/brochures/2006companiesactbrochure.pdf>

A company can be incorporated or continued under the Companies Act 2006 as:

- a company limited by shares;
- a company limited by guarantee;
- a company limited by shares and by guarantee;
- an unlimited company with shares; or
- an unlimited company without shares.

Every company incorporated under the Companies Act 2006 is a legal entity in its own right separate from its members and continues in existence until it is dissolved. In addition, every type of company must at all times have at least one member.

### **PROTECTED CELL COMPANY**

A protected cell company (PCC) can be formed under the Companies Act 1931 and the Companies Act 2006. This section discusses PCC's formed under the 2006 Act.

The main characteristics of a PCC are that:

- it is a single legal person;
- it may have one or more cells for the purpose of segregating and protecting cellular assets;
- the creation of a cell does not create, in respect of that cell, a legal person separate from the PCC; and
- each cell of the PCC must have its own distinct name or designation.

The assets of a PCC are characterised as either "cellular assets" (being those assets of the PCC attributable to the cells of the PCC) or "non-cellular assets" (being those assets which are not cellular assets).

A PCC must keep its cellular assets separate and separately identifiable from its non-cellular assets; and keep its cellular assets attributable to each cell separate and separately identifiable from its cellular assets attributable to other cells.

A PCC can create and issue shares in respect of any cell. The proceeds of the issue of cell shares are cellular assets attributable to the cell in

respect of which the cell shares were issued. The proceeds of the issue of shares other than cell shares are non-cellular assets.

Income, receipts and other property or rights of a PCC which are not attributable to a cell will constitute the PCC's non-cellular assets. Similarly the liabilities of a PCC which are not attributable to any of its cells are to be discharged from the PCC's non-cellular assets.

## **FOREIGN COMPANY**

A foreign company with a place of business in the Isle of Man must register with the Companies Registry on the Register of Foreign Companies (the "F" Register).

## **LIMITED LIABILITY COMPANY (LLC)**

An Isle of Man LLC is governed by the Limited Liability Companies Act 1996.

The documents which govern the LLC are the articles of organisation, which are registered at the Companies Registry and appear on the public record, and the operating agreement, which is a private document covering the internal regulation and control of the LLC.

LLCs do not have directors and the members of the LLC can manage its affairs. However, it is permissible to appoint one or more managers to manage the LLC in accordance with the terms of the operating agreement.

The liability of the members is limited to the amount of their capital contribution as set out in the articles of organisation.

Membership is not transferable or assignable.

There is no statutory requirement for any formal meetings of members, nor is there any requirement for the preparation of annual financial statements, although the Act does require that "the accounting records shall be sufficient to show and explain the company's transactions".

Charges on the assets of the LLC must be registered, as is the case with a company. Where appropriate, any amendments to the Articles of Organisation must be filed at the Companies Registry.

An annual return must be made to the Companies Registry, setting out the details of the members and any manager. Any changes that are made to the LLC during the year must be notified to the Companies Registry on the appropriate form.

Under Isle of Man tax law the LLC is transparent for tax and is taxed as a partnership. The profits of the LLC are attributed to the members and they are taxed upon them as if they had earned them in their own right. Unlike a partnership an LLC is a separate corporate entity.

## **PARTNERSHIPS**

A Partnership is the relationship which subsists between persons carrying on a business in common with a view to profit.

Isle of Man partnerships are governed by the Partnership Act 1909.

A partnership may be either a:

- General partnership; or
- A Limited partnership.

A partnership is not a legal person in its own right. As a result the assets of a partnership are owned in the joint names of all partners, or, where this is inconvenient, the assets will be owned in the name of a trustee who will hold the assets in trust for the partners.

For the purpose of Manx income tax a partnership is not a taxable entity and so is not assessable in its own right in respect of the partnership's annual profits or gains. However, each partner is liable to pay income tax on their share of partnership profits. A non-resident partner is only liable to Manx income tax on income derived from Manx sources.

## **LIMITED PARTNERSHIPS**

A limited partnership consists of one or more "General Partners" with unlimited liability, and one or more "Limited Partners". The limited partners should not engage in the management of the business.

A limited partnership does not have a separate legal personality under Isle of Man law.

A limited partner at the time of entering the partnership, contributes a defined amount of capital or property, and his liability for the debts of the partnership is limited to that amount.

A limited partner may not draw out or receive back, directly or indirectly, his contribution during the continuance of the partnership. A corporation may be a limited partner.

A limited partnership must be registered, and in default every limited partner shall be deemed a general partner with unlimited liability

## **TRUSTS**

The Trust Law of the Isle of Man is substantially similar to that of England. The Isle of Man is a signatory to the Hague Convention on the Recognition of Trusts.

A trust is a fiduciary relationship in which the trustee receives property from the settlor to hold for the use and benefit of the beneficiaries.

Isle of Man trusts are created inter-vivos (i.e. as a lifetime gift) or by the will of the deceased.

The most commonly used form of trust is an inter vivos discretionary trust. These are created by the express and intentional declaration of a settlor. This declaration is normally a written 'deed' also referred to as a trust instrument or trust deed.

The trust deed sets out the powers and duties of the trustees and the provisions relating to the beneficiaries. The use of a letter of wishes from the settlor can assist the trustees by providing them with guidance when exercising their discretion towards a class of beneficiaries.

## **PURPOSE TRUSTS**

The Isle of Man Purpose Trusts Act 1996 permits the establishment of non-charitable purpose trusts not exceeding 80 years in duration. The purpose must be legal, reasonable and moral and an ascertainable human beneficiary is not required.

The trust must have at least one designated trustee who is resident on the Isle of Man and is professionally qualified together with an enforcer who can enforce the trust.

## **PROPERTY HOLDING STRUCTURES**

The Isle of Man is a popular offshore jurisdiction for property holding companies and its key strengths include:

- Expedited VAT registration – VAT registration can be achieved within 1 week;
- Modern Corporate Structures – a variety of corporate and non corporate entities are available which enable an efficient structure to be created (e.g. companies limited or unlimited by shares or guarantee, protected cell companies, limited partnerships and trusts);
- A well regulated system – the formation and administration of Isle of Man companies and trusts is a regulated activity;
- 1st Class Professional infrastructure;
- AAA Rated – Both Standard & Poor's and Moody's have awarded the Isle of Man a AAA rating;
- White listed – the Isle of Man is on the OECD 'white list' of countries complying with the global standard for tax co-operation and exchange of information.

### **Property Holding Structures - Investing in UK Property**

Overseas investors looking to invest in UK property in a tax efficient manner need to have a basic knowledge of how the UK tax system works in respect of property investment.

A UK resident company, for example a company incorporated in England and Wales, is chargeable to UK corporation tax on all of its worldwide income and capital gains from property.

Whereas, a non UK resident company such as an Isle of Man company, is only chargeable to UK corporation tax on income or capital gains from UK property if it trades in the UK through a permanent establishment situated in the UK.

A permanent establishment is:

- a fixed place of business in the UK through which the business of the company is carried on; or
- an agent in the UK acting on behalf of the non resident company which habitually exercises authority to do business on the company's behalf.

A fixed place of business includes (but is not limited to):

- a branch
- an office
- a place of management
- a factory
- a workshop
- a building site or construction or installation project

If a non resident company such as an Isle of Man company, does not have a permanent establishment in the UK then the company is chargeable to income tax at the basic rate (20% for 2010/11) on all of its income from UK property.

Subject to specific anti avoidance provisions, the capital gains of non UK resident companies without a UK permanent establishment are generally outside the scope of UK taxation.

### **UK Investment Property Structure**

The typical Isle of Man structure for holding UK investment property by an overseas investor is shown in the diagram below.



In the example the property company is taxed in the UK on the rental income at the rate of 20%. Interest payable on the loans to finance the acquisition of the property can, subject to certain requirements, be set off against the rental income.

Isle of Man companies are only chargeable to UK corporation tax on chargeable gains on assets used in a trade that is carried on through a UK permanent establishment. In this example as the Isle of Man property company holds the property for investment purposes and does not carry on a trade through a UK permanent establishment no UK tax arises in the IOM property company on the disposal of the property.

As the Isle of Man holding company does not carry on a trade through a UK permanent establishment it is not within the charge to UK corporation tax. No UK tax will arise if the holding company disposes of its shares in the IOM property company.

### **Non Resident Landlord Scheme**

Rental income received by an Isle of Man company from UK property will be subject to withholding tax under the Non-Resident Landlords scheme. The basic rate of income tax will either be withheld by the letting agent or the tenant from the rent paid to the non resident landlord or the non resident landlord can apply for permission to receive the rental income without deduction of tax. In the case where the UK rental income is paid gross the non resident landlord will pay the UK income tax under the UK income tax self assessment system.

## **SPACE**

The Isle of Man has a thriving space industry.

A recent independent PwC cost/benefit analysis found that the direct exchequer benefit of space over the last 5 years was over £33 million.

The PwC analysis also showed that the private sector had also benefited in a number of areas - banks, lawyers, accountants and manufacturing. Income to the private sector is conservatively projected by PwC to be in excess of £1 billion in the next three years alone.

The advantages of doing space business on the Isle of Man include:

- 0% corporate tax – No withholding taxes, no taxes on capital;
- The absence of 5% insurance tax (UK IPT) on insurance policies taken out in the Isle of Man for satellites;
- Government Grants
  - Up to 40% equipment grants;
  - Up to 40% building grants for new build;
  - Up to 40% for rent payable for the first two years;
  - Up to 40% revenue grants for marketing expenditure when targeting new markets;
  - Up to 40% training grants;
- The ability to file for a geostationary orbital slot quickly and efficiently and to a high standard through Ofcom to the ITU;

- The ability to be able to source funding for a satellite build through the Isle of Man;
- Expertise in satellite matters associated with the legal and accountancy professions on the Island;
- International reputation – G20 White Listing/OECD tax compliant;
- A space aware and supportive Government;
- Political stability;
- Commercially friendly legislation;
- State of the art telecommunications infrastructure;
- British for US Export Control & ITAR.

The International Space University based in Strasbourg chose the Isle of Man as the home for its first ever International Institute – the International Institute of Space Commerce which is to be located at the Isle of Man International Business School. The Isle of Man faced fierce competition for this prestigious honour from major international cities such as Paris, Toronto, Tokyo and Los Angeles. However, it was because of the Island's track record, profile and Government commitment that the decision was taken in the Island's favour.

Odyssey Moon chose the Isle of Man as its headquarters for its bid to become the first private organisation to successfully land a vehicle on the surface of the moon. This bid, the first formal application to win the coveted \$150 million Google Lunar X-Prize has attracted global interest and media attention in both the bid itself and the Isle of Man as a location for space businesses.

The Island is now also home to the Space Data Association which is the first satellite operator-led association dedicated to sharing critical operational data in support of satellite operations, improving flight safety and preserving the space environment. All of the world's leading operators are members including SES, Intelsat, Inmarsat and Eutelsat.

The Isle of Man is now home to 4 of the world's top ten satellite companies, namely SES, Inmarsat, Avanti and Telesat.

The Isle of Man Government is also looking to set up a space register, similar to the existing shipping and aircraft registers.

It is possible to file for an orbital filing slot quicker and cheaper than in almost any other jurisdiction in the world.

## **AIRCRAFT REGISTER**

The Isle of Man Aircraft Registry is now in its fourth year of operation. The Registry was established to provide a customer focused service for the registration of high quality private and corporate jets and high quality twin turbine-engine helicopters. Isle of Man registered aircraft cannot be used for Commercial Air Transport.

The Isle of Man Aircraft Register is a British register operated independently by the Manx Government and for the purposes of the Chicago Convention the United Kingdom is the Contracting State. To a large extent, the legal and regulatory framework relating to the register is based on an extension of the United Kingdom legislation to the Isle of Man, with modifications which deliver advantages to those who use it.

As the only dedicated corporate aircraft register in Europe, the Registry offers high international standards and a competitive scheme of charges.

The aircraft register showed a 63% growth in new aircraft during the third year up to 30th April 2010, compared to the second year of operation.

In total, 290 aircraft have been registered since the registry was launched on May 1st 2007.

All aircraft registered on the Isle of Man will carry a conventional international registration based on the prefix M, followed by four characters (e.g. M – ABCD). It is possible that the M prefix, being politically neutral, may be preferable to those of other registers for some owners.

The UK Mortgaging of Aircraft Order 1972 (as amended) has been applied to the Isle of Man (subject to some slight modifications and adaptations) and therefore the law relating to the registration and priority of

mortgages over aircraft registered in the Isle of Man closely follows the English position.

A mortgagee of an aircraft registered in the Isle of Man is able to register its mortgage in the Isle of Man Register of Aircraft Mortgages. The procedure for this is very straightforward and simply requires an application to be made to the Aircraft Registry in the prescribed form.

The benefits of registering an aircraft in the Isle of Man include:

- High regulatory standards;
- High service levels and quality international reputation;
- Only dedicated European based private and corporate aircraft register;
- Neutral Nationality registration prefix 'M';
- Competitive Scheme of Charges;
- Secure mortgage register;
- No insurance premium tax (5% in UK);
- European time zone;
- Professional infrastructure with experience in aviation finance;
- A Standard & Poor's and Moody's AAA rated jurisdiction;
- The Isle of Man is on the OECD 'white list' of countries complying with the global standard for tax co-operation and exchange of information;
- Clear and simple taxation regime;
- Stable legal and political environment.

## **SHIP REGISTER**

The Isle of Man Ship Registry was established on the Isle of Man on the 1st September 1984.

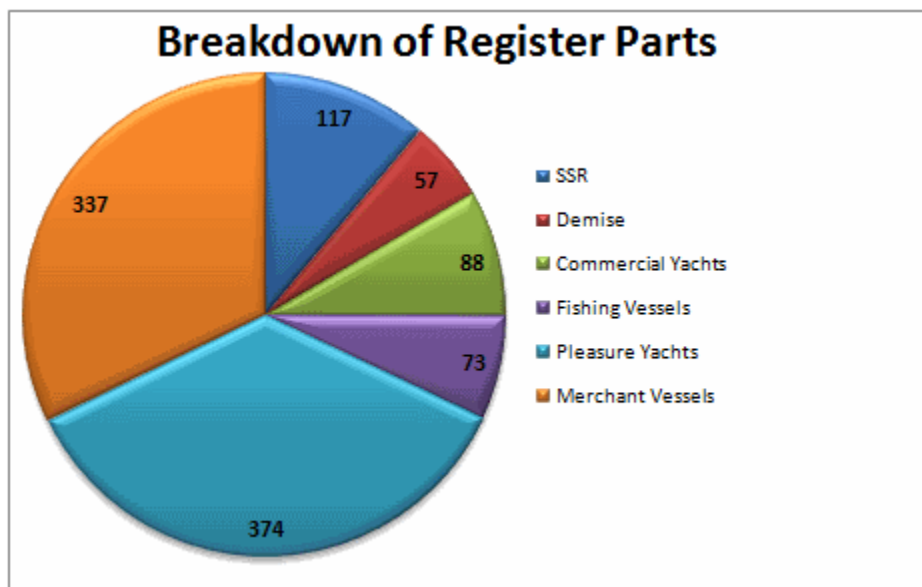
In its 25 years of existence the register has continued to steadily grow and has attracted in excess of 10,000,000 gross registered tonnages consisting of around 400 ships and 83 super yachts.

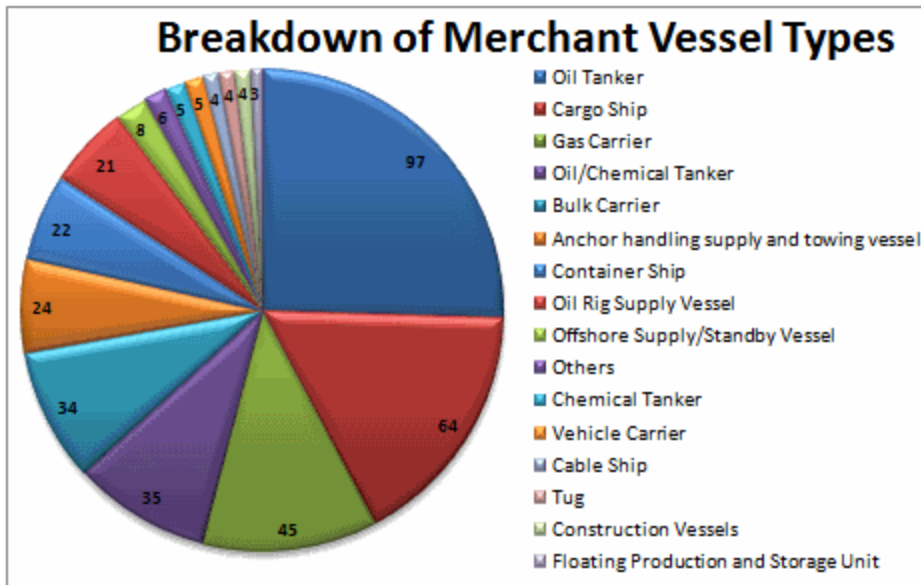
The Isle of Man register is a component part of the British Ship Register. Ships registered on the Isle of Man flag are British ships and have the right to fly the "Red Ensign", but they are subject to the separate jurisdiction of the Isle of Man Ship Registry.

Quality is of paramount importance to the register and a managed rate of growth has been important to allow the register to staff-up proportionally to maintain the high levels of service that its owners and operators enjoy.

As the register has grown, so has its international influence and the number of blue chip clients using the register. Initially it was UK-based companies that registered their ships under the Isle of Man flag, followed immediately by clients from Denmark, Germany, Norway and Greece. Now the register is attracting clients from outside Europe, most recently from Japan and Singapore.

The Isle of Man Ship Registry is responsible for all categories of vessel registration from VLCC's and Superyachts to fishing boats and pleasure craft. The graphs below show the 2009 breakdown of vessel types on the register.

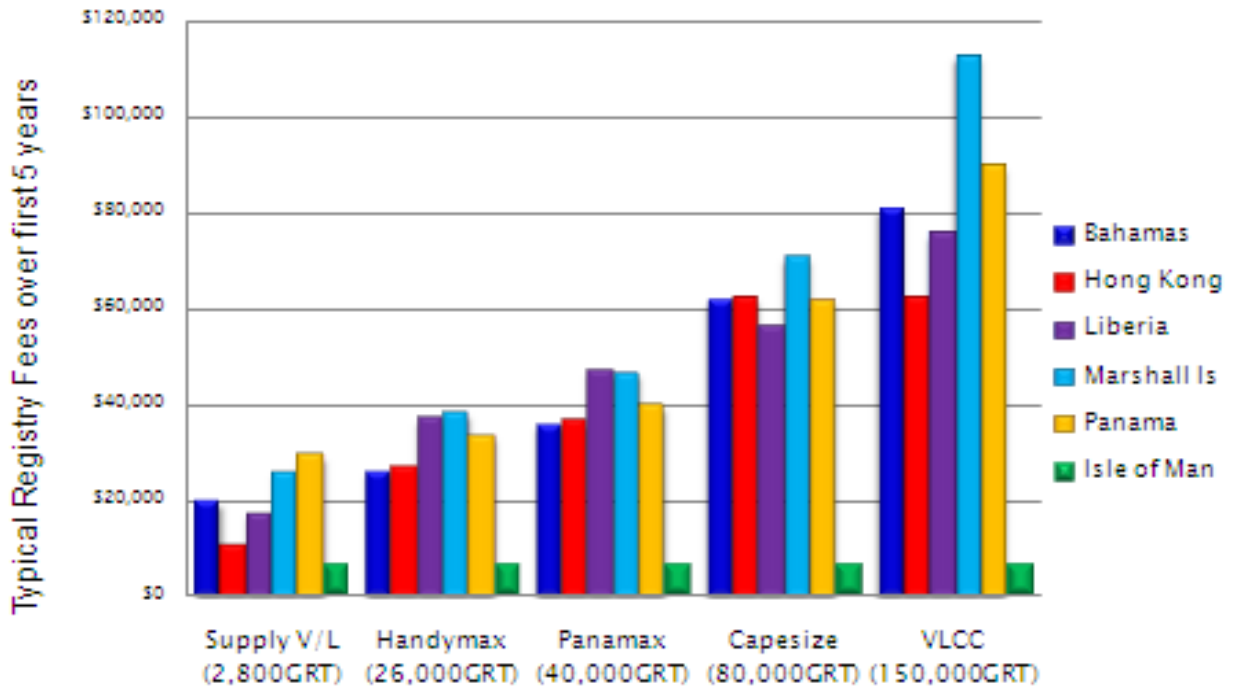




### The Fleet as at 30<sup>th</sup> September 2010

- Merchant Ships 406
  - Commercial Yacht 98
  - Pleasure Yacht >24m 45
  - Pleasure Yacht <24m 294
  - Small Ships (local vessels <24m) 128
  - Fishing Vessels 72
  - Demise-out vessels 32
- |       |      |
|-------|------|
| Total | 1075 |
|-------|------|
- Total Gross Registered Tonnage 12.21 million
  - Average Age 12.34 years

# Registry – 5 year cost comparison



## Qualified Owners

In order for a merchant ship or a commercial yacht to be registered on the Isle of Man register, the majority interest in the ship (i.e. at least 33 out of 64 shares) must be held by a qualified owner<sup>2</sup>.

A qualified owner is:

- a company incorporated in the Isle of Man and having its principal place of business in the Isle of Man;
- a company incorporated in the United Kingdom, the Channel Islands, or any British Dependent Territory and having its principal place of business in any such territory;
- a company incorporated in a member state of the EU or in a EEA country and having its principal place of business in any such country;

<sup>2</sup> Merchant Shipping Registration Act 1991

- a limited partnership established and registered in the Isle of Man and in certain prescribed countries, including Belgium, Bermuda, Cayman Islands, Denmark, Germany, Netherlands, Norway, Sweden and the United Kingdom;
- a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject under the UK British Nationality Act 1981 or a British National (Overseas) under the Hong Kong (British Nationality) Order 1986; or
- a citizen of a member state of the EU and EEA countries.

In May 2007 new regulations<sup>3</sup> were introduced which extended the category of qualified owners to also include companies, limited partnerships and citizens from Australia, Bahamas, Canada, China, Hong Kong, India, Japan, Liberia, Marshall Islands, New Zealand, Pakistan, Panama, Russia, Singapore, South Africa, United Arab Emirates and the United States of America.

### **Ship Manager**

Every ship registered in the Isle of Man (whether a merchant ship or a commercial yacht) must have an Isle of Man approved ship manager. The manager is responsible for the statutory certification, operational safety and manning of the ship, anti-pollution measures and settlements of accounts in respect of survey, registration and related matters.

### **Commercial Yachts**

Any commercial yacht registered on the Isle of Man register must be at least 24 metres in length and must comply with the UK mega yacht code.

Commercial yachts are inspected at 2½ yearly intervals by an Isle of Man surveyor who will inspect the ship and undertake any surveys that are due. If the ship is subject to the ISM Code (over 500 GT) it will receive an ISM audit and if it is subject to the ISPS Code it will receive a security verification audit.

### **Advantages of using the Isle of Man**

- The Isle of Man Ship Registry is a modern flag registry with a strong emphasis on quality, high standards and efficient service with ISO 9001/2008 Accreditation.

---

<sup>3</sup> Merchant Shipping (Qualified Owners of Manx Ships) (Relevant Countries) Regulations 2007

- Ship Registry staff are available to complete registry transactions at any time of the day or night in order to match with local time at the place of completion.
- The right to fly the "Red Ensign" and access the support of British consular services world-wide and British Royal Navy protection.
- The Isle of Man is not regarded as a flag of convenience.
- Reasonable costs and no annual tonnage dues.
- The Isle of Man has a quality professional infrastructure.
- A favourable taxation regime designed to encourage business.
- The Isle of Man has a high quality and stable political, legal, fiscal and regulatory environment and has received an AAA credit rating from both Standard and Poor's and Moody's credit rating agencies.
- Flexibility in the requirements for registered owners.
- The availability of Demise registry both "IN" and "OUT".
- Support for ships treated unfairly by Port State Control.
- Full political support for shipping.

## **ONLINE GAMBLING**

The Isle of Man is home to a number of the world's leading online gambling operators and software companies.

Online Gambling is licensed and regulated by the Isle of Man Gambling Supervision Commission.

A combination of low tax, low gambling duty and an excellent infrastructure makes the Island a popular choice for operators looking for a safe jurisdiction from which to operate their business.

## **FILMS**

Isle of Man Film, formerly known as the Isle of Man Film Commission, was first set up in 1995 as part of the Isle of Man Government's economic

diversification policy. Over recent years, the Isle of Man has become one of the busiest areas of film production in the British Isles.

IOM Film's mandate is to actively promote the Island's film industry and to market the Isle of Man as a film location at major film industry events.

### **Media Development Fund**

The Isle of Man Media Development Fund ('MDF') provides equity investment to film and television productions shooting on the Isle of Man.

The MDF is run by CinemaNX Limited ('NX') and offers a broad range of film investment including:

- Equity finance
- UK Distribution
- Discounting of Tax Credits and other 'soft' money
- Provision of contract discounting and 'gap' financing

CinemaNX does not have any upper or lower limit on its investments and packages are considered on a case by case basis. Cinema NX will normally only invest in projects where UK distribution rights are available.

To be considered for investment, the project should usually:

- Be able to be filmed wholly or in part on the Isle of Man (at least 50% of all principal photography to take place on the Island)
- Be capable of spending at least the equivalent of 20% of the below the line budget with local service providers
- Be capable of being completion bonded

## **GRANTS**

### **Financial Assistance Scheme**

The Department of Economic Development's Financial Assistance Scheme (FAS) aims to encourage diversification of the local economy. The FAS provides a range of grants and soft loan support to eligible businesses that can meet the commercial and environmental criteria laid down.

The FAS is a key tool to encourage existing businesses to adopt new technologies and practices and for new businesses to develop on the island. The opportunity exists not only to encourage new projects but also to develop projects in conjunction with private sector partnerships and contacts.

The FAS is discretionary and can offer a generous package of support to qualifying businesses. Assistance available includes:

#### Capital Grants

- Up to 40% of costs of new buildings, building improvements, new plant and machinery, including hardware and software

#### Operating Grants

- Up to 40% of non-recurring costs associated with the establishment of a project
- Up to 40% of the costs of specific new marketing ventures
- Up to 40% of the costs of implementing quality standards, energy conservation etc.
- Up to 40% of the cost of renting a factory from a private developer for the initial period of a new project

Training grants are considered, but must relate to a project with which financial assistance is being given.

The above incentives apply to existing and new ventures and can be applied for on an annual basis.

## **HONG KONG STOCK EXCHANGE APPROVAL**

The Isle of Man is an approved jurisdiction for the purposes of listing Isle of Man companies on the Hong Kong Stock Exchange.

Companies incorporated under the Companies Acts 1931-2004 and the Companies Act 2006 have been accepted and can be listed on the Hong Kong Stock Exchange.

In becoming an approved jurisdiction, the Isle of Man has demonstrated equivalence in its standards of investor and shareholder protection to those available under Hong Kong company law. The Isle of Man is also a full signatory to the IOSCO Multilateral Memorandum of Understanding.

# APPENDIX 1

## Isle of Man International Tax Agreements

Country	Document Title	Signed	Effective	Status
Australia	<a href="#">TIEA</a>	29 January 2009	5 January 2010	In force
Australia	<a href="#">Agreement for allocation of taxing rights with respect to certain income of individuals and a MAP in respect of transfer pricing adjustments</a>	29 January 2009	6 April 2011 (Isle of Man) 1 July 2011 (Australia)	In force
Australia	<a href="#">Joint declaration</a>	29 January 2009	Not applicable	Not applicable
Belgium	<a href="#">Double Taxation Agreement</a>	16 July 2009	Awaiting ratification	Not in force
China	<a href="#">TIEA</a>	26 October 2010	Awaiting ratification	Not in force
Denmark	<a href="#">TIEA</a>	30 October 2007	26 September 2008	In force
Denmark	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Denmark) 6 April 2009 (Isle of Man)	In force
Denmark	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Denmark	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force

Country	Document Title	Signed	Effective	Status
Denmark	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
Estonia	<a href="#">Double Taxation Agreement</a>	8 May 2009	1 January 2010 (Estonia) 6 April 2010 (Isle of Man)	In force
Faroe Islands	<a href="#">TIEA</a>	30 October 2007	3 August 2008	In force
Faroe Islands	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Faroese) 6 April 2009 (Isle of Man)	In force
Faroe Islands	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Faroe Islands	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force
Faroe Islands	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
Finland	<a href="#">TIEA</a>	30 October 2007	14 June 2008	In force
Finland	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Finland) 6 April 2009 (Isle of Man)	In force
Finland	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Finland	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force

Country	Document Title	Signed	Effective	Status
Finland	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
France	<a href="#">TIEA</a>	26 March 2009	4 October 2010	In force
France	<a href="#">Shipping and aircraft agreement</a>	26 March 2009	Awaiting ratification	Not in force
Germany	<a href="#">TIEA</a>	2 March 2009	5 November 2010	Coming into force 5 November 2010
Germany	<a href="#">Shipping agreement</a>	2 March 2009	1 January 2010 (Germany) 6 April 2010 (Isle of Man)	Coming into force 5 November 2010
Germany	<a href="#">Political declaration</a>	2 March 2009	Not applicable	Not applicable
Greenland	<a href="#">TIEA</a>	30 October 2007	11 April 2008	In force
Greenland	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Greenland) 6 April 2009 (Isle of Man)	In force
Greenland	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Greenland	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force
Greenland	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable

Country	Document Title	Signed	Effective	Status
Iceland	<a href="#">TIEA</a>	30 October 2007	28 December 2008	In force
Iceland	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Iceland) 6 April 2009 (Isle of Man)	In force
Iceland	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Iceland	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force
Iceland	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
Ireland	<a href="#">TIEA</a>	24 April 2008	31 December 2008	In force
Ireland	<a href="#">Agreement for affording relief from double taxation in respect of certain income of individuals and a MAP for the adjustment of profits</a>	24 April 2008	1 January 2009 (Ireland) 6 April 2009 (Isle of Man)	In force
Ireland	<a href="#">Joint declaration</a>	24 April 2008	Not applicable	Not applicable
Malta	<a href="#">Double Taxation Agreement</a>	23 October 2009	1 January 2011 (Malta) 6 April 2011 (Isle of Man)	In force
Netherlands	<a href="#">TIEA</a>	12 October 2005	21 July 2006	In force

Country	Document Title	Signed	Effective	Status
Netherlands	<a href="#">MAP for the adjustment of profits</a>	12 October 2005	21 July 2006	In force
Netherlands	<a href="#">Shipping and aircraft agreement</a>	12 October 2005	21 July 2006	In force
Netherlands	<a href="#">Mutual understanding on the application of the participation exemption</a>	12 October 2005	12 October 2005	Lapsed 31 December 2006 - now encompassed within Dutch legislation
Netherlands	<a href="#">Political declaration</a>	12 October 2005	Not applicable	Not applicable
New Zealand	<a href="#">TIEA</a>	27 July 2009	27 July 2010	In force
New Zealand	<a href="#">Agreement for the allocation of taxing rights with respect to certain income of individuals and to establish a mutual agreement procedure in respect of transfer pricing adjustments</a>	27 July 2009	1 April 2011 (New Zealand) 6 April 2011 (Isle of Man)	In force
New Zealand	<a href="#">Joint declaration</a>	27 July 2009	Not applicable	Not applicable
Norway	<a href="#">TIEA</a>	30 October 2007	23 August 2008	In force
Norway	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Norway) 6 April 2009 (Isle of Man)	In force

Country	Document Title	Signed	Effective	Status
Norway	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Norway	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force
Norway	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
Portugal	<a href="#">TIEA</a>	9 July 2010	Awaiting ratification	Not in force
Portugal	<a href="#">Joint declaration</a>	9 July 2010	Not applicable	Not applicable
Sweden	<a href="#">TIEA</a>	30 October 2007	27 December 2008	In force
Sweden	<a href="#">Agreement for the avoidance of double taxation on individuals</a>	30 October 2007	1 January 2009 (Sweden) 6 April 2009 (Isle of Man)	In force
Sweden	<a href="#">MAP for the adjustment of profits</a>	30 October 2007	1 January 2009	In force
Sweden	<a href="#">Shipping and aircraft agreement</a>	30 October 2007	1 January 2009	In force
Sweden	<a href="#">Political declaration</a>	30 October 2007	Not applicable	Not applicable
United Kingdom	<a href="#">Double taxation agreement</a>	29 July 1955	6 April 1955	In force
United Kingdom	<a href="#">TIEA</a>	29 September 2008	2 April 2009	In force

Country	Document Title	Signed	Effective	Status
United Kingdom	<a href="#">Amendment to the 1955 double taxation agreement</a>	29 September 2008	6 April 2009	In force
United States	<a href="#">TIEA</a>	3 October 2002	1 January 2004	In force

## Disclaimer

This publication has been provided as a general guide only. It is not intended to contain definitive legal advice which should be sought as appropriate in relation to a particular matter.

MannBenham Advocates Limited, its employees and agents does not accept or assume responsibility, or have any liability, to any person in respect of this publication.

04.11.10