

CM SKYE

CM Notes

ADMINISTRATION AND TAX PLANNING SERVICES FOR THE INTERNATIONAL FILM INDUSTRY

Summary

CM Skye provides

- consultancy services on the design and implementation of international tax planning and fiduciary structures. These range from simple holding structures to complex international public trading structures.
- corporate, trust and commercial administrative services in respect of international holding and trading structures.

Available to the international movie industry are services as follows:

- advice on the making and financing of films and videos in the Isle of Man
- advice on structures relating to tax planning for the US and other jurisdictions including deferral of taxable profits
- establishment and administration of companies and other entities required in the making and distributing of films
- asset protection for US and other persons

CM Skye has offices in the Isle of Man and in Neuchâtel, Switzerland, as well as an associated office in London, United Kingdom. It has a business track record in the 'offshore' fiduciary industry of over thirty five years. Please see our separate brochure on CM Skye.

The Isle of Man - general

The Isle of Man is a very beautiful island, situated in the north Irish Sea. It is closest to south-west Scotland and equi-distant between north west England and north east Ireland. It is 35 miles long by 12 miles across, with mountains of over 2000 feet. It has an immensely varied topography which lends itself for movie locations. For more information, please see below.

Support for the Film Industry - Isle of Man Government

The Isle of Man Government maintains the Isle of Man Film & Television Fund. This Fund (the 'Movie Fund') provides a funding program for approved productions on a wholly discretionary basis:-

- for films by way of loans and/or equity, letters of credit or guarantees up to a maximum of 25% of the total production budget

- for television by way of production credits up to a maximum of £350,000 per production.

These two methods of funding may, in certain circumstances, be combined, provided the total does not exceed the 25% maximum. Any funding over 25% will not be considered other than in exceptional circumstances.

The Movie Fund is administered by the Department of Trade & Industry, of the Isle of Man Government (the 'Department')

To be considered under this program:-

- The production must be made by a company resident and incorporated in either the Isle of Man or the United Kingdom
- The investors behind the production must be disclosed to and be approved by the Department.
- The investment in the production which will be recognised by the Department must be by way of equity or loan capital.
- The production must be lawful and not be prejudicial to the interests of the Isle of Man
- Not less than 20% of the total production budget expenses must be spent in the Isle of Man. For this purpose, 'expenses' excludes the costs of story and film script, producers' and directors' fees, and remuneration for the principal cast..
- Applications must be made prior to the commencement of shooting.
- Applications must be made on a form supplied by the Department, and must be accompanied by a full business plan as laid down by the Department.
- At least 50% of the principal photography must be completed in the Isle of Man.
- A Completion Bond must be issued by a recognised Completion Guarantee company.

Investors' funds and the Completion Bond must be in place before any funds are released by the Department.

The following administrative arrangements are required:-

- An independent Collection Agent must be appointed to collect and distribute the receipts.
- An arrangement fee plus Value Added tax (15%) to be paid to the Department to cover legal and professional costs.
- The Department will be entitled to a share of the net profits as may be negotiated.

There are a number of other conditions of lesser significance.

The Isle of Man has a considerable number of exceptional locations for movie making, and the Department can assist in making these available. There are also a considerable number of persons in the Isle of Man available to provide services to production companies, including professional services as well as production, property and location services. The Department can provide a list of such persons.

Services for the Film Industry – CM Skye

CM Skye provides management and consultancy services as follows:-

- Consultancy services relating to the holding of Intellectual Property Rights.

- Consultancy services relating to structures for Production corporations, and for US persons and immigrants, providing for tax deferral and mitigation.
- Consultancy and management services for charitable and philanthropic structures
- Consultancy and transaction management for Royalty flows from the USA and elsewhere providing for tax deferral and mitigation.
- Consultancy services in negotiating with Department of trade and industry for funding.
- Management and Accounting services for Corporations, LLCs, Partnerships, Foundations, both charitable and private, and Trusts incorporated or established in the Isle of Man or elsewhere, both 'offshore' and 'onshore'.
- Full Consultancy and Trustee services for Trusts established under Isle of Man law or other jurisdictions enjoying equity in their legal system
- Asset Protection planning and administration

The Isle of Man – a little more detail

The Isle of Man has a unique history and culture derived from its Celtic-Norse heritage. It has its own parliament 'Tynwald' which was in operation in 979 AD. It has a population of c. 80,000, of whom approximately half are immigrants from the neighbouring islands of Britain and Ireland and elsewhere. Social security policies make the island an unpopular destination for economic refugees and asylum seekers.

The Isle of Man:

1. is politically and socially stable. Its political heritage is derived from an ancient Norse Viking kingdom that included the Isle of Man (as a part of the Scottish Hebrides islands) for over four hundred years between 850 and 1275. Its parliament, 'Tynwald' (the name is derived from the Norwegian 'Ting Vollr' meaning the Assembly Field), is known to have been functioning in 979 AD, and is thus the oldest continuous parliament in the world, and, being older than the British parliament in London, is sovereign in its own right.
2. is not a part of the United Kingdom, nor is it a member of the European Union, but it is in full customs Union with the United Kingdom. By Protocol 3 of the Treaty of Accession of the United Kingdom, the Isle of Man is treated as being fully within the EU for all trade and investment purposes. It is not, however, subject to EU provisions relating to the freedom of movement of labour, and maintains a work permit system applicable to all non-Manx persons irrespective of origin
3. is in full customs union with the United Kingdom. In consequence, it has a full Value Added Tax system in parallel with that of the United Kingdom and is fully within EU for all tariff and indirect tax purposes.
4. has a modest direct tax system. There is no taxation of capital, whether Capital Gains, Inheritance or Gifts. Companies trading in the Isle of Man which trade with non-residents and which are owned by non-residents are tax exempt. The Isle of Man is in the process of taking all trading companies out of the income tax system. Instead, there will be a corporation tax system which will have a zero rate for all companies except those carrying on certain licensable activities (banks, investment management etc)
5. has a climate that is described as Maritime North Atlantic. The Gulf Stream ensures that it is mild but wet. It rarely snows (except on the mountains) and is never hot. It does get a lot of wind and rain, especially in the winter.

6. has a cultural heritage which is essentially of Celtic/Norse origin, closely related to the Irish and West Highland Scots. The indigenous language of the island (spoken universally until 100 years ago) is Gaelic, and the local dialect, Manx Gaelic is very close to Ulster Irish. Today there are about 1000 speakers of the language. Everybody speaks English.

Economy

By far the most important part of the economy today is offshore financial services. This includes, insurance and life assurance, trust and corporate management, banking and investment management, ship management and many other associated activities. In consequence, the quality of professional services that are available is exceptional.

There is also an important manufacturing industry, largely light engineering, electronics and textiles. Tourism remains important, although only a shadow of what it once was fifty years ago. The film and video industry is of growing importance.

Farming comes a long way behind, and fishing is, today a negligible contributor to the economy.

Communications

Telecommunications are provided by Manx Telecom, a subsidiary of British Telecom.

Air communications are excellent. Flights by British Airways, Flybe and smaller airlines connect in Britain directly with London Gatwick, London City, Birmingham, Blackpool, Bristol, Cardiff, Glasgow, Liverpool, Luton, Manchester, Southampton, and in Ireland with Dublin and Belfast City.

The best connections with the USA are through Dublin, and the Aer Lingus connections to Boston, Chicago, Los Angeles, New York (JFK), Newark and Washington DC (Dulles). Alternatively, connections through Birmingham, Manchester and London Gatwick are also good. Connections to European cities are best done through Dublin, Birmingham, Liverpool, Manchester, London City or London Gatwick. Connections through London Heathrow are difficult as there are no direct flights to London Heathrow, and therefore connections are either by air through Dublin or Manchester, or by land transportation via London City, or, if all else fails, via London Gatwick.

Currency - Postage Stamps etc.

The Isle of Man issues its own currency, both notes and coin, and its own Postage stamps. The Manx £ is interchangeable with the pound Sterling. A bank will exchange Manx currency for British currency readily. British currency is accepted without question in the Isle of Man.

Taxation

General

There are no capital taxes, capital gains taxes, inheritance taxes, wealth taxes, or gift taxes in the Isle of Man. There are no stamp duties on real estate.

Indirect taxes include Value Added Tax at 15% applied identically to the VAT in the United Kingdom, with which the Isle of Man is in Customs Union.

There are two forms of Direct Tax. Income Tax is imposed on individuals only. Corporation Tax is applied to companies.

Companies

In respect of Corporation Tax the overwhelming majority of resident companies have a ZERO tax rate applicable both on retained and distributed profits. Licensed Banks and Real Estate companies with income derived from Real Estate in the Isle of Man have a corporate tax liability at 10%. The Zero Corporation Tax rate replaced the former 'Exempt' income tax regime for companies.

Partnerships are dealt with as "associations". All profits of a Partnership are, for tax purposes, deemed to have been distributed to the Partners, and are taxed in the hands of the Partners. If the income is non-Manx source and all the partners are resident outside the Isle of Man no Manx tax will arise.

An Isle of Man LLC (Limited Liability Company - 'US style') is legally a partnership for tax purposes. An International LLC, having non-resident members is thus exempt from Manx taxation on its non-Manx source income and profits.

Trustees of Isle of Man trusts are taxpayers and are obliged to file tax returns when they are resident in the Isle of Man. Isle of Man Trusts are not taxable, however, where the income of the Trust is non-Manx source, and no Manx residents are eligible to be beneficiaries.

Individuals

Income Tax is imposed on WORLD WIDE income and profits of all Manx residents, irrespective of domicile or origin. There is no break, as exists in the UK and Ireland, for non-domiciled residents.

The current allowances (2008/9) are:-

Single Person: £9,200

Married Couple: £18,400

There are a number of other allowances for disabled persons etc.

Interest paid to local institutions and life assurance premiums are deductible.

Tax is payable at 10% on the first £10,500 of taxable income for an individual, or £21,000 for a married couple. After that, tax is payable at 18%.

The definition of residence is vague. Basically, however, a person who is present for more than 180 days per year, or who has and maintains a place of abode in the island (even if he occupies it for only one day a year), will be considered resident. However, there are special concessions for persons who work overseas and maintain a house in the island for their periodic leaves. Where a person is resident and a taxpayer in another jurisdiction and his/her home in the island is used only as a holiday home, he/she will not be pursued by the Manx Tax Authorities.

There is only one (elderly) Double Tax Agreement with the United Kingdom. Where a resident has income from another jurisdiction, any withholding tax deducted will be allowed as a credit against Manx tax. Frequently, this will wipe out Manx tax altogether. There are Tax Information Exchange Agreements with the USA, Ireland, Netherlands and the Scandinavian countries.

Withholding tax (Non-Resident Income Tax) is applied at 18% to certain categories of income paid from the Isle of Man to foreign persons. However, income paid from banks, or from exempt companies, trusts, etc is exempt from withholding taxes.

There is no system of Pay as You Earn. Instead, a system called Income Tax by Instalments Paid (ITIP) is applied. Basically, Manx taxpayers are assessed to tax a year in arrears. An employee's tax bill in this year is based on his income of last year. ITIP deducts from his salary or wages an amount each month/week, and credits it to his income tax account. It is so calculated that when the employee is assessed this year based on last year's income, last year's ITIP will be sufficient to meet this year's bill.

Interest paid to a Manx recipient is treated as a charge against income.

Value Added Tax

The primary indirect taxation is through Value Added Tax. This is applied identically to the VAT system applied in the United Kingdom. The current rate is fifteen per cent. It must be emphasised, however, that although, by virtue of an agreement with the United Kingdom, Value Added Tax is applied almost identically in the Isle of Man as it is in the United Kingdom, it is a Manx system, administered by the Manx Customs & Excise, and information available to the Manx Authorities is NOT available to the UK Authorities unless there is prima facie evidence of fraud.

By virtue of the Customs Union, the Isle of Man is considered to be wholly and for all purposes, inside the European Union tariff and trading area.

In consequence, the Isle of Man is the only part of the European Union tariff area where trading companies can be managed while being registered for Value Added Tax and yet wholly free of direct taxation.

Trading Entities

Business and Trading activities in the Isle of Man are carried on through

- Companies, incorporated under the Companies Acts 1931 to 2004, and the Companies Act 2006.
- LLCs registered under the Limited Liability Companies Act 1996
- Partnerships, conforming to the Partnerships Act 1909.
- Trusts. The Isle of Man is a Common Law jurisdiction with a **full regime of equity**.

The Isle of Man Companies Act 1931 followed the United Kingdom Companies Act 1929. Since then, Isle of Man company law has followed its own destiny. The Companies Act 2006 introduced a much simpler form of company in the Isle of Man, analogous to a Caribbean Business Corporation. It is anticipated that this will eventually replace the forms under the Companies Acts 1931 to 2004, although for the time being both forms are available. Please see our brochure on Isle of Man company law.

Isle of Man LLCs were introduced in 1996, and follow the Wyoming model. Please see our brochure on Isle of Man LLCs

The Isle of Man Partnerships Act of 1909 follows the United Kingdom Partnership Act 1906. There have been minor modifications in recent years to liberalise the legislation. Please see our brochure on Isle of Man partnerships.

Isle of Man trust law is virtually identical with that of England, except that there is no rule against accumulations. Purpose Trusts are permitted under recent legislation. Please see our brochure on Isle of Man trust law. Trusts can be, but are rarely used, for trading activities, except where specific tax effects are sought.

Please keep in mind:

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