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# Doing business in the Isle of Man







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PKF (Isle of Man) LLC is a limited liability company incorporated in the Isle of Man with company number 000482L. A list of the current members is available for inspection at Analyst House, 20-26 Peel Road, Douglas, Isle of Man, the registered office.

PKF (Isle of Man) LLC is registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work.

PKF (Isle of Man) LLC is a member firm of the PKF International Limited network of legally independent member firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.





# Introduction

## Constitutional Position

The Isle of Man is an independent country, an internally self-governing dependent territory of the British Crown, with Her Majesty Queen Elizabeth II being the Head of State. Her personal representative in the Island is His Excellency the Lieutenant Governor, who is appointed by the Crown for a five-year term. It is not part of the United Kingdom but is a member of the British Commonwealth. The Island is not a direct Member State of the European Economic Area, but is an affiliated member, generally following EEA guidance. There are no trade tariffs or restrictions with EEA Member States.

## Geography and Population

The Island is situated in the heart of the British Isles, in the centre of the Irish Sea, between all four British Home Countries. It is a small country of 572 sq. miles (1481 sq. km) with a population of 80,000.

## Advantages of Investing in the Isle of Man

From Victorian times until the 1960s the Isle of Man's economy was dependent on agriculture, fishing and tourism. With the subsequent decline in tourism and fishing the Island successfully diversified into financial services, high-end technical manufacturing and e-commerce. Branches or subsidiaries of the main UK clearing banks and some foreign banks have a presence as well as nineteen life assurance companies. In addition, there are over 200 fiduciary companies and twenty-two e-gaming licenceholders. Low taxation, government incentives and a skilled workforce available at competitive costs have all helped to drive the Island's economy. Its diversity helps to make it not quite recession-proof, but the downturns of the decades since the 1970s have been rather less sharply felt than in the Island's close neighbours, the UK and Ireland.

## Communications

With excellent connections by sea and air to the UK and Ireland and a state-of-the-art telecommunications structure the Island is well placed to conduct its business whilst remaining close to those who invest in it.

## Language and Currency

The language for business in the Isle of Man is English. The Isle of Man has its own currency – Isle of Man pounds and pence – which ranks *pari passu* with GB Sterling.

## Political and Regulatory Environment

The legislative powers of the Isle of Man are controlled through its own Parliament, the oldest parliament in the world in continuous existence. General governance of the Island is controlled through the House of Keys, the 24 members of which are elected by the voting population. Regulations are controlled by the Legislative Council which is elected by the House of Keys. The Island is relatively free from party politics.

The Isle of Man Government issues its own taxation legislation, collecting and retaining taxation receipts. Indirect VAT rules follow the UK system closely. Isle of Man resident individuals are subject to direct tax on their worldwide income and non-resident individuals are subject to tax on Isle of Man source income only. There are no inheritance or capital taxes in the Island.

## Major Imports and Exports

The Island has no natural resources: all fuel is imported. Electricity is generated locally and there is also a submarine cable connection with England. Substantial exports of agricultural produce such as meat, cheeses and smoked herring (kippers) are made but there are also imports of general British branded and more exotic foodstuffs. There is a growing industry in the export of high-tech parts for space exploration and satellites.

## Government Policy on Foreign Investment in the Isle of Man

The Isle of Man government's policy of offering incentives to high-technology companies and financial institutions to locate in the Island continues to pay off in expanding employment opportunities in high-income industries.

## Import Controls

Most goods produced in the UK, or properly imported into the UK, can be brought into the Island without further customs formalities. The Isle of Man does maintain import controls on -

- Certain plants and animals, including endangered species
- Meat, from the UK, other EU Member States or other countries
- Fish and shellfish
- Other import prohibitions and restrictions that may differ from those in the UK include -
- Explosives (including imports from the UK)
- Firearms
- Medicines
- Certain tobacco products
- Non-resident traders intending to do business in the Island

## Economy

In recent years the Island has enjoyed continued economic growth. Unemployment currently accounts for 2% of the 42,800 adult working population. The Island operates a work permit system.

The main elements of the Island's economy are banking services, which generate about 25% of the GDP: other professional and financial industries contribute a further 35% to 40% of GDP.

## **Financial Services and Controls**

The economy is heavily dependent on Financial Services, Banking, Fund Management and Fiduciary Services which are regulated by the Financial Supervision Commission. Life Assurance, insurance and pension businesses are regulated by the Insurance and Pensions Authority.

## **Exchange Controls**

No exchange controls are currently in operation in the Isle of Man.

## **Source of Finance**

The Isle of Man is a major and well-regulated European offshore finance centre. Many of the leading UK and Irish high street banks are represented together with branches of major UK building societies. Between them they offer a wide range of competitive financial services.

# Business Structures

## Types of Business Structures in the Isle of Man

It is possible to conduct an Isle of Man business through a variety of vehicles and arrangements. The main types are outlined below.

- Traditional Limited Company
- 2006 Act Company
- Foreign Company
- Limited Liability Company (LLC)
- Partnerships
- Limited Partnerships
- Trusts
- Purpose Trusts

## Traditional Limited Company

There are two distinct and separate regimes regulating the formation and administration of companies in the Isle of Man. The more modern regime was created by the Companies Act 2006 which introduces a flexible system of company law similar to the corporate law offerings provided by many offshore jurisdictions. For many years companies in the Isle of the Man could only be registered under the Companies Act 1931. There have been a number of amendments but the main legislation is still contained in the Companies Act 1931 which itself was based on the UK Companies Act 1929.

This Act allows for companies to be limited by shares or limited by guarantee, or both. Companies limited by both shares and guarantee are often known as hybrid companies. Companies limited by shares are the most common type.

## Forming a Company

A company is formed by one or more subscribers who sign the Memorandum of Association and the Articles of Association. The Memorandum of Association generally governs the company's relationship with the outside world. The Articles of Association govern the relationship between the company and its shareholders. Both documents are lodged with the Companies Registry and are available for public review. The Memorandum of Association must show;

- a) the name of the company,
- b) whether the company is public or private,
- c) the division of share capital,
- d) that the liability of members is limited, and
- e) that the filing requirements with respect to the formation of a company have been dealt with.

## Registration Requirements and Filing Processes for Public Securities

There is no stock exchange in the Isle of Man but Isle of Man companies are often listed on foreign exchanges such as those in the UK, Ireland and the Channel Islands. Isle of Man companies have been particularly popular for admissions to London's Alternative Investment Market (AIM). Private companies are not permitted to offer their shares to the public and cannot be listed. Public companies must file annual accounts at the Companies Registry and must have the suffix 'Public Limited Company' or 'PLC' after their name.

## Shares

Every company must state in its Memorandum the amount of share capital with which it is to be registered and how that share capital is divided into shares of a fixed amount. The amount mentioned in the Memorandum is the authorised share capital of the company. A number of shares, up to the authorised limit, will be issued in exchange for consideration and will be known as the issued share capital. It is quite common for companies to be issued with an authorised share capital of £2,000: on incorporation it is often the case that only two £1 shares of this authorised capital are in fact issued. Further shares can be issued in the future. It is possible to increase or reorganise the authorised capital by resolution of the company in general meetings.

A company may have many different classes of shares. Each class will have different rights as to distributions, votes at general meetings and distribution of assets on winding up. These rights will be set out in the Articles of Association.

A private company must have at least one registered shareholder. A public company must have a minimum of two shareholders.

When new shares are issued a return of allotments must be made to the Companies Registry.

## Directors

A company is managed by its directors. Every company created under the Companies Act 1931 must have at least two directors. Corporate directors are not permitted.

A director must consent in writing to act. A return containing such written consent must be made to the Companies Registry within 30 days of appointment.

## Publicly Available Records

A public register is maintained at the Companies Registry. Annual returns have to be made which include details of directors, company secretary, shareholdings and particulars of any charges over the company or its assets.

In addition, the company must maintain certain registers at its registered office. A register of members is maintained and this is available for any member of the public to review during normal working hours.

In addition to the annual return the company must file details of changes in the registered office, directors, company secretary, change of name, details of mortgages and charges and the issuing of shares. These details are maintained on a file which is available to view by the public.

Official documents such as letterhead must contain:

- Company name
- Registered office
- Company number
- Names of the company's directors

## **Constitution**

A company is formed when one or more subscribers sign the Memorandum and Articles of Association and submit these to the Companies Registry. These documents form the “constitution” of the company: the Memorandum includes the name of the company and whether it is to be a public or private company. The Memorandum no longer needs to include the company's ‘objects’, which are the purposes for which the company was set up.

The Articles govern the relationship between the company and its shareholders.

## **Audit and Accounting**

Every year a company must prepare accounts which are laid before the members in a general meeting and which must include the following;

- Profit and loss account

- Balance sheet
- Auditors report
- Directors report

The default position is that all company accounts should be audited. However, where certain conditions are complied with it is possible for a company to be audit exempt. Generally, audit exemption will apply to smaller companies that are not carrying on Financial Services activities.

### **Shareholdings by Non-Residents**

There is no restriction on the holding of shares in Isle of Man companies by non-residents.

### **2006 Act Company**

The Companies Act 2006 became law in November 2006. This Act introduces a modern, flexible corporate vehicle in tune with the needs of a present-day offshore jurisdiction. This company sits alongside those created under the Companies Act 1931: prospective shareholders can choose to form a company under either regime.

The main features of the 2006 company are similar to other corporate regimes in that the company is a separate legal entity which is owned by shareholders (or guarantors) and which is managed by the directors. However, special features of the 2006 regime are as follows:

- Only one director is required.
- No company secretary is required.
- A registered agent is required (must be a licensed corporate service provider).
- There is no financial assistance prohibition.

- There are enhanced merger and consolidation possibilities.
- Protected cells are available.
- No nominal share capital is required.
- There are no specific distributable profits rules (Solvency must be maintained).
- Corporate directors are permitted (must be a licensed fiduciary).
- There is no distinction between public and private companies.

It is possible to convert a 1931 Act company into a 2006 Act company.

## Foreign Company

A foreign company with a place of business in the Isle of Man must register on the Register of Foreign Companies, locally known as the “F” Register. Documents to be lodged on registration would include documents comprising the constitution, a list of directors, and the name and address of a person in the Isle of Man authorised to accept legal notice on behalf the company.

## Limited Liability Company

The Isle of Man Limited Liability Company (LLC) is a US style “look through” corporate vehicle. The Isle of Man has adopted the Wyoming type legislation.

This corporate vehicle is governed by constitutional documents, which comprise the Articles of Organisation and the Operating Agreement.

The Articles are a public document giving details of the name, the identity of the members, the capital introduced by the members, and the mechanism for admitting new members.

The Operating Agreement is a private document entered into by the members and governs the relationship between the members.

The LLC has no directors and is managed by the members and in this regard is similar to a partnership.

Under Isle of Man tax law the LLC is taxed as a partnership. This means that it is transparent for tax: 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. However, unlike a partnership an LLC is a separate corporate entity.

## Partnerships

Partnerships are governed by the Partnership Act 1909 which is very similar to the UK Partnership Act 1890.

A partnership may be either a General Partnership or Limited Partnership. Under Isle of Man law a partnership is not a separate legal entity but is rather a label for a number of individuals who have come together to carry out a business. Assets are owned in the names of the partners and any profits which are made will be taxable upon the partners in their own right.

The interests of the partners in the partnership assets and the rights and duties of each of the partners should be governed by a Partnership Agreement.

## Limited Partnerships

Limited Partnerships are provided for under Part 2 of the Partnership Act 1909, which is modelled on the UK Limited Partnership Act of 1907. Unlike the new UK Limited Liability Partnership (LLP) the Isle of Man Limited Partnership is not a separate legal personality. Instead it is a partnership that has a class of “limited partners” whose liability is limited to their capital contributions but there must be at least one general partner who is liable for all the debts and obligations of the firm. Limited partners should not engage in the management of the business.

## Joint Ventures

There are no specific rules regarding joint venture arrangements. These may be constituted as partnerships or by a company. In the case of a company it is normal for the relationship between the shareholders to be governed by a partnership agreement.

## Trusts

Because Isle of Man Trust Law is largely based on English Trust Law it is often appreciated by lawyers in the UK and other Anglo Saxon countries.

The law of trusts is derived from equity which has evolved over the years. There is no legislation to create the trust concept, but there have been a number of statutory provisions enacted both to guide and check the progress of trust law over the years. The main Act is the Trustee Act 1961, which is very similar to the UK Trustee Act 1925.

Isle of Man trusts will be created either inter-vivos (i.e. as lifetime gifts) or by the Will of the deceased. Ownership of trust assets passes from the settlor to the trustees, who should secure ownership of them and then hold them for the benefit of the beneficiaries. Isle of Man trusts are often discretionary in nature but it is possible to create interests in possession.

The trust deed will set out the powers and duties of trustees, together with the terms and conditions under which the beneficiary may benefit. In many cases there will be “a letter of wishes” which is guidance provided by the settlor to the trustees to assist them when considering the application of their discretion towards a Class of beneficiaries.

Trusts on the Isle of Man may suffer tax at up to 20% but if the trust has no Isle of Man resident beneficiaries and in the absence of Isle of Man situs assets such as land, then tax is unlikely to be levied.

PKF (Isle of Man) LLC has a sister company – West Corporation Limited – which has been providing trustee services since 1969. West Corporation Limited is licensed by the Isle of Man Financial Supervision Commission.

## Purpose Trusts

The majority of trusts created under English or Isle of Man trust law are created for the benefit of identifiable beneficiaries. However, some settlors may wish to create trusts which do not have a traditional identifiable beneficiary. In some cases these are for philanthropic purposes and in others they will have been set up to fulfil a specific aim which cannot be properly described by reference to individuals.

In the Isle of Man, the Purpose Trusts Act was enacted in 1996. It allows for the creation of trusts which have non-charitable purposes.

An Isle of Man purpose trust must have at least one “designated trustee” who is resident in the Isle of Man: a minimum of two trustees must be appointed. An Isle of Man purpose trust also requires the appointment of an “enforcer” who can enforce the trust and who has right of access to trust documentation.

A purpose trust has no certainty of objects (i.e. beneficiaries) but must be for a purpose which is legal, certain, reasonable and possible.

## Charitable Trusts and Institutions

New regulations were introduced in 2008 to attract privately funded philanthropic arrangements. Previous regulations were perceived to have a high degree of regulation, which disadvantaged the Isle of Man compared to a number of other jurisdictions. The answer was not, as has happened in more than one jurisdiction, to de-regulate this business provided that funds are not received directly from members of the public – a proposition which will not satisfy international bodies such as the OECD and IMF: they would be concerned that charities could be widely misused as conduits for terrorist financing. The answer was to establish a new regime that approves the charity and ensures that the legitimate concerns of international bodies are met without, for example, requiring the filing of publicly available accounts or investigations regarding investments.



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In practice, a number of key tests must be met at the outset and during the operation of the charity. The regime is attractive to people who require an adequate but not excessive level of external regulation but who also want the charity to have the credibility and security that goes with some level of external regulation.

# Taxation

## General

The Isle of Man has its own Government and raises its own taxes independently of the United Kingdom. The Isle of Man has no separate corporate, estate or gift taxes. Income tax is levied at relatively low rates and VAT is applied in a similar manner to the UK.

## Income Taxation Law and Administration

The Isle of Man income tax regime is contained within the Income Tax Act 1970, together with subsequent amendments. The taxation 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. Tax which is not paid by deduction at source, such as employment income, which is subject to payroll deductions, is paid in two instalments: a 'Payment on Account' is payable on 6 January during the year of assessment and a 'Top-up' payment is due on the following 6 January.

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

Individuals suffer income tax at rates up to 20% on their worldwide income. There is no tax on capital gains. Income tax is capped at £115,000 of tax, beyond this level income is not taxed. This feature has proved attractive to the very wealthy.

## Company

Companies are subject to income tax and not a separate corporate tax. The rate of income tax is, in most cases, zero %. If companies are engaged in earning profits from Isle of Man land e.g. rental income or property development or from banking then the rate of tax is 10%.

In addition to income tax company directors also have to consider the Attribution Regime for Individuals (ARI). ARI has no effect where the company is owned by non-Isle of Man residents. However, where a company has some Isle of Man shareholders then, unless a certain level of profit is distributed, the profit is attributed to and taxable upon Isle of Man resident shareholders in proportion to their rights to distributions. For 2011/12 the threshold is 55% of profits for a trading company, in the case of an investment company, ARI will always apply, regardless of the level of distribution. ARI is to be abolished in due course and will not apply companies with effect from accounting periods commencing on or after 06/04/12.

## Interest Deductions

Where interest is incurred as part of a trade it will be tax deductible without limit. Where interest is incurred on a loan to acquire a property, interest incurred is deductible against rental income. There is no limit or thin capitalisation rule on such deductions but interest will only be deductible if the proposed loan was not for avoidance.

Individuals are also allowed relief for interest paid of up to £7,500 per annum as long as the interest is paid to an Isle of Man lender.

## Repatriation of Profits & Transfer Pricing

The Isle of Man has no transfer pricing provisions and there are no restrictions on the repatriation of profits. There are no withholding taxes on dividends paid to foreign shareholders. Management and consultancy fees paid to parent companies will be tax deductible where justified.

## **Interaction with International Tax Regime**

The Isle of Man has one significant Double Tax Agreement with the United Kingdom. A substantial number of Tax Information Exchange Agreements (TIEAs) have been signed with OECD member countries and now other jurisdictions, which enabled the Island to become one of the original OECD whitelisted jurisdictions.

## **Trusts**

The taxation of trusts is predicated on the basis that trusts are temporary holders of wealth. This being the case, the tax consequences for trustees follow the tax position of the trust beneficiaries. If a beneficiary has an automatic right to trust income then he is taxed as if he had earned the income himself. In the case of discretionary trusts you have to look at the residence of the beneficiaries. If the beneficiaries are non-Isle of Man resident then Isle of Man income tax is unlikely to be in point. If there are one or more Isle of Man resident beneficiaries then all of the trust income is potentially subject to Isle of Man income tax at 20%.

## **Partnerships**

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

## **Isle of Man Property Income**

The Isle of Man retains the right to tax property income even when earned by a non-resident. Thus non-resident individuals or companies in receipt of Isle of Man rental income will be subject to tax. In some cases tenants or agents are obliged to deduct tax at source.

## **Lodgement of Returns**

Most individuals, companies, partnerships and trusts are required to lodge returns annually.

## Residence and Source

Isle of Man residents are generally subject to tax on all income, irrespective of its source (i.e. on worldwide income). By contrast, non-residents are subject to income tax only on Isle of Man source income.

- *Residence of Individuals*

Broadly speaking, if an individual is present in the Isle of Man for six months in a tax year they will be resident for that tax year. In addition, should the individual move to the Isle of Man with the intention of spending more than 91 days a year on average they will be resident from that date; or if the intention is not to spend that number of days in the Isle of Man but that average is subsequently exceeded the individual will then be considered to be Isle of Man resident for 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.

Companies incorporated outside the Isle of Man but which have a place of business on the Island should register on the “F” Register. This requires the filing of an Annual Declaration on the company’s anniversary of registration in the Isle of Man.

## Source of Income

The source of income is ordinarily determined according to the circumstances surrounding its receipt, but this is not usually relevant for tax purposes.

## Indirect Taxation and Customs Duties

The Island imposes Value Added Tax and Duties on supplies of goods and services in a similar manner to the UK and the Island is party to a “common purse” agreement with the UK for sharing VAT receipts. The Island’s VAT register is administered separately by its Government’s Customs & Excise Division. The Island’s VAT receipts contribute significantly to the strength of its public finances.



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## **Gift, Estate and Capital Taxes**

The Isle of Man imposes no taxes on gifts, capital sales or on estates at death. There are no stamp duties.

# Grants and Incentives

## Government Incentives

The Government encourages the growth and diversification of the economy through the development of existing businesses and the pursuit of new opportunities. In particular, it encourages the development of high added value manufacturing and services, film and media activities, e-business and company headquarters.

The following is the range of initiatives to encourage new businesses to start up and existing ones to invest in new technologies:

### Financial Assistance Scheme

Aimed at encouraging diversification of the economy, the scheme provides grants and soft loan support to eligible businesses. Generous packages of up to 40% are available for:

- equipment, including hardware and software
- building
- revenue, including expenditure on research and development, relocation, consultancy, marketing

### Small Business Start Up Scheme

The scheme offers three potential levels of support:

- A training course on skills to assist in setting up and running a business
- Financial assistance towards materials and equipment as well as a living allowance

- Partnership with a business adviser who will provide eighteen months of mentoring

### **Business Support Scheme**

Designed to help businesses develop their business skills and management competencies, grants of 50% are available in a wide range of business disciplines.

### **Venda Support Scheme**

Helps retailers to get up and running with online shopping. Grants of up to 50% are available to design and build a website.

### **Business and Innovation Centre**

The Get Going Programme provides a flexible and supportive environment in which to develop and launch innovative ideas. The Isle of Man Soft Landing Zone supports overseas businesses wanting to establish themselves in the Island.

# Protection of Intellectual and Industrial Property

The Isle of Man has a modern system of copyright protection. Computer software is protected in the same manner as prescribed in EC directives. The Isle of Man does not have its own trademark register but the UK system extends to the Island. UK trademarks are protected under Isle of Man civil law. Similarly, UK Patent law extends to the Island and Isle of Man law protects UK registrations. The Isle of Man Financial Supervision Commission's company registry ensures that new company or business names are not the same as an existing name.

# Particular Industries

## Banking

The Island's banking industry is dominated by subsidiaries or branches of the main UK clearing banks and some foreign banks. The majority of banks in the Isle of Man are engaged in providing private banking services to UK expatriates and to foreign nationals. The services offered often extend beyond deposit taking to establishing and administering trusts and managing the underlying companies and assets held by those trusts, including investment management. The growth in other areas of the Island's finance sector, including captive insurance, life assurance, collective investment schemes, investment management and ship management, means that these organisations have sums of money to invest and therefore require investment management services. Some banks also act as trustees to collective investment schemes.

The Financial Supervision Commission (FSC) regulates the banking and investment industry under the powers created by the Financial Services Act 2008. The FSC has a system of supervision based on quarterly deposit taking returns. This is reinforced by annual audited accounts which must be submitted no later than four months after a licence holder's annual reporting date.

All banking licence holders are required to participate in the Depositors Compensation Scheme. The FSC is the Scheme Manager. In the event of a failure the compensation scheme is activated. Compensation is paid out of levies collected from other deposit takers in the Island (up to £100m) and from a payment of up to £100m from the Isle of Man Government. There is no 'standing fund' of compensation (i.e. money is not collected before a bank failure.)

In 2002 the Isle of Man became the first British Crown Dependency with a financial ombudsman, which means that individual (but not corporate) customers worldwide now have access to an independent dispute-resolution scheme, covering Isle of Man-based financial institutions. The 'Financial Services Ombudsman Scheme' covers complaints about financial advice and products across the range of personal finance such as banking, credit, insurance

and investments. The scheme is open to individuals with a financial complaint against an Isle of Man firm that the firm has been unable to resolve.

## **Captive Insurance**

The Isle of Man has a flourishing captive industry. Sixty five per cent of the world's major companies now own a captive and the Isle of Man has a share of some twenty per cent of the UK's captives. As is the case worldwide, captives are most likely to be located close to, or at least in the same time zone as the parent.

Insurance companies have been in existence in the Isle of Man for over 90 years but the major boost to the development of the captive industry took place as a result of legislation passed in 1986. At this point in the development of the insurance industry specific law and the framework for the running and supervision of the industry was formalised. The Isle of Man has been most successful in attracting business from the UK, Eastern Europe and South Africa.

The main reasons for the Island's success are that it meets important expectations of stability, flexibility and the availability of the Regulator. It is also in close proximity to the reinsurance market in London. The Island has a very favourable tax regime, more flexible asset admissibility and has lower capitalisation and solvency margins than many of its competitors. The authorisation process is normally quick and the capital and reporting requirements appropriate for the business proposed.

Recent growth in the industry followed the enactment of Protected Cell Company legislation in 2002. Incorporated Cell Company legislation is being drafted, and the Insurance Act, 2008 has been enacted simplifying the codification of insurance law in the Island

The Island continues to resolutely defend its market share against the backdrop of ever increasing competition from jurisdictions enacting their own captive legislation. Stability, success and professional expertise arising from this well-established industry in the Island have helped to maintain this position.

## Life Assurance

Since the late 1970s when mass tourism left the Isle of Man forever, the Island's government had been searching for new initiatives to replace the old economy. The UK's Financial Services Act 1986 granted the Island 'designated territory' status, which led to the Island's 1986 Insurance Act and that paved the way for the establishment of offshore Life Assurance companies. In return for the payment of a modest annual licence fee, life companies were exempt from paying Companies Tax on their on-Island profits. (More recently, under 2006 legislation, life companies are subject to income tax at a rate of zero per cent.) By the following year a steady stream of household names from Britain and beyond opened their doors to policyholders. In 1992, Clerical Medical International was awarded the Queen's Award for Export Achievement. By the end of 2009 the Island was home to 19 Life Assurers, providing employment for over 2000 with in excess of £41 billion funds under management. The Isle of Man now has probably the largest offshore life assurance sector, which has helped it to develop one of the world's leading centres for offshore life assurance.

Originally marketed to working or retired British expatriates, the industry developed to provide investment and life insurance opportunities for expatriates of other countries and 'local nationals' worldwide. All the companies share a common objective of providing appropriate and proactive financial planning solutions including:

- Straightforward investment on a regular saving or lump sum basis
- Saving for retirement
- Life assurance protection
- Personal portfolio investments

The main benefits of the Isle of Man for the policyholder are:

- Tax efficiency, as investments accumulate in the Island virtually tax free

- In many areas of the world the proceeds and benefits of plans which are structured as life assurance policies benefit from advantageous tax treatment, for example a UK taxpayer may withdraw up to 5% per annum of the original premium of a capital investment for up to 20 years tax free.
- Compensation Scheme. Originally a voluntary scheme, a 1991 Act made it mandatory for all Island Life Assurance companies to pay a levy into the Policyholder Protection Scheme. In the event of a default, policyholders are entitled to compensation of up to ninety per cent of their investment value. Unlike many other policyholder protection schemes the Island's scheme is valid globally.

## Fiduciary Business

With the establishment of the Isle of Man's favourable tax regime in the final three decades of the last century the opportunity arose to locate offshore trusts and companies in the Island to take advantage of the lower tax environment. The Island offered a natural regime for trusts, being a common law jurisdiction which adopted the principles of equity as they developed in the English courts and have been applied on the same basis in the Isle of Man since the seventeenth century.

Today there are almost 200 licensed Corporate Service Providers (CSPs) and 130 Trust Service Providers (TSPs) which are licensed by the Isle of Man Financial Supervision Commission (FSC). They employ nearly 2000 people who provide a complete range of company and trust services to entities incorporated in the Isle of Man and many other jurisdictions worldwide.

Back in the 70s and 80s regulation and reporting requirements were scant. Established in 1983, the FSC's initial mission was to 'take such steps as appear to it to be necessary or expedient for the effective supervision of the private financial and commercial sector in the Island' (but with the exception of the insurance industry, which is supervised by the Isle of Man Insurance and Pensions Authority.) By the 1990s, in common with other jurisdictions, the Isle of Man came under the spotlight from international bodies such as OECD and FATF. In addition, in 1998 the United Kingdom carried out its own review of Offshore British jurisdictions

– the Edwards Report. The Island's regulators responded to the various initiatives with the introduction of the Corporate Services Bill, which became law at the end of 2000.

Since 2000 the Island's Government, regulators and trade associations have worked together to promote primary and secondary legislation together with increased regulation in order to stay ahead of international requirements for transparency, due diligence and financial stability. As room for the expansion of the fiduciary industry grew ever more restricted by the closing of opportunities for those resident and domiciled in certain countries, notably the UK, it became increasingly important that every structure and transaction involving the Island could stand up to the most demanding inspection. With increasing competition and greater scrutiny of the business being conducted in offshore centres the Isle of Man rose to the challenge and can now be compared, from a regulatory point of view, to the cream of any of the well-regulated onshore jurisdictions.

Indeed, the FSC's mission developed to include the following responsibilities:

- To protect the public interest by providing effective regulation and supervision within the Island's financial services sector.
- To support a competitive environment in which quality products and services are promoted for the economic benefit of the Island.
- To foster good working relationships within the business community.

The FSC went on to develop a similar regime for the regulation of TSPs and the Fiduciary Services Act 2005 brought this into force.

A major review and consolidation of all the FSC's regulatory legislation was completed in 2008. The outcome of this was the Financial Services Act 2008 which covers the regulation of all FSC licensed businesses.

Fiduciaries are now expected to demonstrate that the business has adequate financial resources. Fiduciary companies are obligated to maintain set share capital, net tangible asset and liquidity requirements. All fiduciary companies are required to have their accounts audited.

Companies and trusts provided from the Isle of Man may often be part of an integrated wealth management service as the Island is also strong in private banking, life insurance (bond wraps), investment funds as well as international legal and accountancy services.

The Isle of Man has also developed a number of specialist niche corporate services such as ship and aircraft ownership, intellectual property, real estate and financing as well as facilitating new company flotations on the UK's secondary exchange – the Alternative Investment Market (AIM).

It is illegal to carry out fiduciary services without a licence and providers are required to conduct their business in accordance with the Financial Services Rule Book 2008 to the highest professional standards.

## **Fund Management**

From a level of US\$7 billion under administration in 2003, the scale of activity in the funds sector has increased greatly. The Island is now an important and rapidly growing player in the offshore funds sector, particularly focusing on hedge funds and hedge fund of funds. It is also a favourite location for the AIM listing (The UK's Alternative Investment Market) of closed-end funds, particularly property focused schemes.

With this growth in the scale of activities in the funds sector, there has been a rapid expansion in the number of licensed third party fund administrators. Many new, specialist fund administration operations have been established over the past couple of years, giving greater diversity to the Island's service offering to the promoters of offshore funds.

Looking to the future, the Isle of Man funds sector will continue to develop and innovate, seeking to remain at the "leading edge" of offshore funds jurisdictions. Indeed, the Island has a unique offering to the offshore funds industry as it is able to support the incorporation, domicile and administration of offshore funds all in one jurisdiction, with very favourable cost comparisons to all competitor jurisdictions and a zero rate of corporate tax. The Island also offers a very strong incentive for high-earning fund managers and promoters to re-locate to the Island, with a very attractive tax liability cap of £115k per annum.

## Shipping

The Isle of Man passed the Merchant Shipping (Registration) Act 1984 in order to encourage registration of ships in the Island. There is a zero-tax regime for ship management companies based on the Isle of Man and there is no tonnage tax.

In 2006, the Isle of Man government announced a change of the name of the Marine Administration to the 'Isle of Man Ship Registry' which more aptly describes exactly what the organisation does: the registration of ships and yachts and the technical regulation of, and jurisdiction over, those vessels on the register.

There are a number of ship management operations in the Island, and more than 1000 vessels in total, including commercial ships and yachts, are registered in the Island, predominantly from the UK but also from other European countries and the Far East.

In August 2006, the Isle of Man reached the White List of the Paris Memorandum of Understanding on Port State Control (Paris MoU).

According to the Paris MoU, the recent trend has seen the number of flags placed on the White List growing, while the number of flags on the Grey and Black lists is shrinking, indicating a movement towards quality flags. Annually over 18,000 inspections take place on board foreign ships in the Paris MoU ports, ensuring that these ships meet international safety, security and environmental standards, and that crew members have adequate living and working conditions.

The Isle of Man is among the top 6 shipping registries in the world in terms of safety, environmental and social performance, according to the Round Table of international shipping associations, which published its annual Flag State Performance Table in June 2010. It is not a flag of convenience.

In addition to its high standards of regulation, the Isle of Man Ship Registry offers flexible and swift responses 24/7/365 to manager/owner enquiries, ensuring a consistently high quality of service.

## Aircraft

Having established a successful shipping registry, a logical step to broaden the Island's economy was to establish an aircraft registry. Research indicated that, particularly since 9/11 there had been a huge increase in sales of private and corporate business jets and that there was no dedicated corporate aircraft register in Europe. Accordingly, the Isle of Man's Aircraft Registry opened in May 2007 for the registration of high quality private and corporate jets and high quality turbine-engine helicopters.

Support is provided by:

- the Island's well-established banking sector which is experienced in financing aircraft
- lawyers familiar with aviation law
- insurance companies able to provide cover with no insurance premium tax and
- corporate service providers experienced in structuring companies and trusts to take advantage of the Island's beneficial tax regime

The original aim was to register 12 aircraft in the first year, but that number grew to 50 and as at February 2010 the Registry had almost 300 aircraft on its books. Types of aircraft range from Cessna Citations to Boeing 737s and Airbus A340s with owners based not only locally and in the UK, but also throughout Europe including Belgium, Switzerland and Germany. The Register remains the only dedicated corporate aircraft register in Europe.

As with the Isle of Man Ship Registry, the Aircraft Registry provides a high quality service, with ready access to knowledgeable Registry staff. The Ship and Aircraft Registries in the Isle of Man are important components of the suite of services on offer to high net worth individuals.

## Space and Satellites

The Isle of Man has over twenty years of experience of big ticket financing. Indeed many of the world's leading airlines have their special purpose lessor companies domiciled in the Island. The evolution from ships to aircraft to satellites was seen as a natural step for the Island's professional and finance sectors.

Satellite and space companies achieve significant savings using the Island's zero tax regime by:

- structuring the operations of group holding companies or subsidiaries
- establishing Research and Development headquarters
- establishing component factories in the Island.

Isle of Man satellite companies are able to gain commercial access to orbital positions and radio frequencies via the International Telecommunication Union in Geneva.

The net advantage of using the Isle of Man as a base is the saving of an estimated USD100m over the approximate life cycle of a satellite.

As at February 2011, the industry had grown to twelve companies which have generated nearly £400m over the last three years. Four satellites are successfully in orbit providing services including North American broadcasting, maritime mobile broadband and enhanced voice and high-speed data services.

## Engineering and Manufacturing

In the early part of this century a new manufacturing culture grew out of the favourable tax regime, world-class telecoms infrastructure and public-private sector collaboration. Sectors

such as aerospace, laser optics, industrial diamonds, electronics, plastics and precision engineering now provide employment to more than 3000 people.

The manufacturing sector is growing at 30% a year and contributes some 7% of GDP.

## **Gambling and Gaming**

The Isle of Man Government actively encourages the development of gambling and e-gaming business in the Island. It has done so since the formation of the Isle of Man Gambling Supervision Commission was founded in 1962 with the principal objective of player protection. It takes a serious view of its obligations, which are:

- To keep the gambling industry crime free
- To protect the young and vulnerable
- To ensure that facilities offered by licence holders are fair and players receive their true winnings

E-gaming based in the Island is now a well-developed, highly diverse sector. With a growing number of licences issued every year this sector provides employment for over 650 people in sports betting, online casinos, their associated call centres, software development and telecommunications facilities.

## **Film Industry**

As part of its economic diversification strategy in 1995 the Government set up a wholly owned agency, Isle of Man Film. The objective was to attract film making to the Island, bringing with it sizeable film budgets, employment and fame!

With such diverse scenery, both urban and rural, the Isle of Man has been adapted for scenes supposedly in many other parts of the British Isles.

Isle of Man Film holds a media development fund, which makes equity investments of between 10% and 100% into filming. To be considered for investment a project must be at



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least 50% filmed in the Island and be capable of spending at least 20% of its non-advertising budget with local service providers.

Since 1995 the Island has been used as a location for over ninety full-length feature films for cinema and TV.

# Immigration

## Migration to the Isle of Man

The rules for migrating to the Isle of Man are fairly straightforward, but are different for British and Irish citizens, European Economic Area citizens, and all others – classed as foreign nationals.

### Permanent Residence – Who is eligible?

British and Irish citizens do not require clearance from the Immigration Office to live in the Isle of Man.

EEA citizens are free to live in the Isle of Man provided they are not excluded on grounds of public policy (EEA nationals are expected to support themselves without assistance from public funds), public health or public security.

The admission of foreign nationals is regulated by the Isle of Man Immigration Rules, which lay down the requirements for the entry and stay of foreign nationals in the Island. Based on, but not identical to the UK rules, there are some provisions in the UK rules which do not apply to the Isle of Man and vice versa. There are also, as in the UK, certain provisions which apply only to Commonwealth citizens. Applications from foreign nationals to live in the Isle of Man should be made to the nearest British Embassy, High Commission or Consulate.

### Work Permits

Most people who are not classed as “Isle of Man Workers” who wish to take up employment or self-employment in the Island are required to obtain a work permit before commencing work. Exceptions include doctors, dentists, ministers of religion and non-executive directors.

An “Isle of Man Worker” is someone who is entitled to work in the Island without a work permit, which includes:

- A native of the Island
- Someone who has been ordinarily resident for 10 years
- Spouses of Isle of Man workers
- Further classes of people having close associations with the Island

Applicants who are residents of the UK, Ireland and the rest of the EEA apply for a work permit under Isle of Man legislation. The award of a permit will be subject to a number of considerations including but not limited to the availability of Isle of Man workers for the post, family circumstances, criminal convictions and medical history.

Foreign nationals wishing to work require a permit granted under the Department of Economic Development's Isle of Man Points Based System.