

The Royal Court (Guernsey Tax Tribunal) Order, 2008

THE ROYAL COURT, in exercise of the powers conferred upon it by sections 78A(2) and 80(10) of the Income Tax (Guernsey) Law, 1975, as amended^a and of all other powers enabling it in that behalf, hereby orders:-

Interpretation.

1. (1) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Order as it applies to the interpretation of an enactment.

(2) Any reference in this Order to an enactment, article or order is a reference to that enactment, article or order as amended, extended, re-enacted or applied by or under any other enactment, article or order (including this Order), and any reference in this Order to a section or schedule is to a section or schedule of the Income Tax (Guernsey) Law, 1975, as amended.

(3) In this Order -

"**Clerk**" means the Clerk to the Tribunal appointed under section 3 of the Third Schedule;

^a Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, XVIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V, VI and XVII of 2005; No's. II and VII of 2006; No. XXI of 2007; the Income Tax (Zero 10) (Guernsey) Law, 2007; and the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

^b Ordres en Conseil Vol. XIII, p. 355.

"**referral**" means a reference under section 78A or the submission of a case under section 80; and

"**Tribunal**" means the Guernsey Tax Tribunal as established by the Third Schedule.

Reference of points of Law to the Royal Court.

2. (1) If the Tribunal is of the opinion that -
 - (a) a question of law has arisen on an appeal, and
 - (b) the question of law should be referred for decision to the Royal Court under section 78A,

then it shall make a declaration to that effect.

- (2) Within 14 days of a declaration being made under paragraph (1), the Clerk shall prepare and send to each party -

- (a) a reference to the Royal Court setting out the question of law that has arisen on the appeal, and
- (b) a letter for signature by him or his representative, which -
 - (i) confirms that party's consent to the reference,
 - (ii) sets out such particulars as are, in the opinion of the Tribunal, relevant to the determination of the question of law by the Royal Court, and

(iii) requests that a date be set for a directions hearing, should the Royal Court consider that appropriate.

(3) If a party is content for the reference to be made, he or his representative shall sign the letter referred to in paragraph 2(b) within 7 days of its receipt and return it to the Clerk.

(4) If the Clerk receives signed letters from both parties within 7 days, he shall send them and the reference to the Greffier as soon as practicable after receipt.

(5) If the Clerk receives signed letters from both parties after 7 days, he shall send them and the reference to the Greffier as soon as practicable after receipt if so directed by the member who presided at the hearing of the appeal ("**the presiding member**") or, if he is unavailable, by another member who was present at that hearing.

(6) On receipt of the letters and reference mentioned in paragraphs (4) and (5) above, the Greffier shall list the matter for directions.

Submission of case for the Opinion of the Royal Court.

3. (1) On the Tribunal being required by a party to state and sign a case for submission to the Royal Court under section 80(1), the Clerk may by notice served on that party require him within not less than 28 days to identify the question of law on which he requires the case to be stated.

(2) If a party fails to comply with a notice served under paragraph (1), or if the Clerk is not satisfied that the question identified is a question of law, the Tribunal may decide to refuse to state a case.

(3) A party aggrieved by a decision of the Tribunal to refuse to state a case under paragraph (2) above may, within 7 days of that decision, appeal to the Royal Court constituted by the Bailiff sitting alone; and the Royal Court may, on an application, extend that period of 7 days if it is satisfied that it would not be reasonably practicable for the aggrieved party to appeal against the Tribunal's decision to refuse to state a case within that time.

(4) Within 56 days after receipt of a notice served on him under section 80(2), or if a notice is served under paragraph (1), within 56 days after the day on which a question of law is identified to his satisfaction, the Clerk shall prepare a draft statement of the case, and send it to the parties, inviting their comments within 21 days of receipt.

(5) A statement of the case shall set out –

- (a) the names of the parties and of the members of the Tribunal, and the date of the hearing,
- (b) the decision of the Tribunal, including its reasons, and
- (c) the point of law with which the applying party is dissatisfied as being erroneous in law.

(6) If the Clerk receives any comments from either party he may amend the draft statement of the case accordingly, and he may send a further draft or drafts to the parties for comment at his discretion.

(7) On his being satisfied that either the draft statement of case has the consent of the parties or that it is otherwise in the interests of justice for him to proceed, the Clerk shall submit it to the presiding member for signature on behalf of the members.

(8) On his receipt of a draft statement of case under paragraph (7), the presiding member may make such amendments to it as he thinks fit and, if he thinks it necessary, he may direct the Clerk to send the amended draft to the parties for any further comment before he signs and delivers the stated case to the party who required it under section 80(4) on behalf of the President.

(9) If it appears to the Clerk that the presiding member is unavailable, he may submit the draft statement of the case to any other member of the Tribunal who heard the appeal for signature and delivery under paragraphs (7) and (8).

(10) Her Majesty's Greffier shall, upon receipt of the statement of the case under section 80(5), list the matter for directions.

Citation.

4. This Order may be cited as the Royal Court (Guernsey Tax Tribunal) Order, 2008.

Commencement.

5. This Order shall come into force on the 28th of October, 2008.