

GREFFE
ROYAL COURT

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GUERNSEY

GUERNSEY STATUTORY INSTRUMENT

2007 No. 19

**The Income Tax (Guernsey)
(Employees Tax Instalment Scheme) Regulations, 2007**

<i>Made</i>	<i>11th September, 2007</i>
<i>Coming into operation</i>	<i>1st January, 2008</i>
<i>Laid before the States</i>	<i>, 2007</i>

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by section 81A(4) of the Income Tax (Guernsey) Law, 1975^a, as amended, hereby makes the following regulations:-

Issue of coding notices.

1. (1) The Administrator shall on or before the 31st October in each year, or as soon as may be thereafter, issue a coding notice relating to the following year of charge in respect of every employee who has made a return of income for the year of charge in which the coding notice is to be issued, or, where the Administrator has agreed to the deferment of such return, for the preceding year of charge.

^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. II 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; and No's. II and VII of 2006. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

(2) Where a coding notice has not been issued because the employee has failed to make a return of his income for the relevant year of charge, the Administrator shall, as soon as may be after receiving the return of income in question, issue a coding notice in respect of that employee.

(3) Where an employee who was not employed in Guernsey in the year preceding a year of charge commences to be so employed, he shall on taking up his employment in Guernsey make a declaration to the Administrator, in such form as the Administrator may require, of the personal and other allowances to which he claims to be entitled under the Law, and, as soon as may be after receiving such declaration, the Administrator shall issue in respect of that employee a coding notice.

(4) The Administrator may -

(a) upon application made to him by an employee, or

(b) at any time, in his discretion,

issue a revised coding notice.

Form of coding notices.

2. (1) A coding notice shall consist of two parts, namely -

(a) Part 1, and

(b) Part 2.

(2) Part 1 of a coding notice shall specify -

- (a) the amount of any allowance, deduction or relief which the Administrator estimates the employee is entitled to claim,
- (b) the amount of any income from sources other than employment which the Administrator estimates will be chargeable upon the employee,
- (c) an amount sufficient to collect such tax underpaid in respect of prior years of charge as the Administrator considers appropriate (provided that, where the amount of such underpaid tax exceeds £500, the consent of the employee shall be required),
- (d) a weekly coding number or a monthly coding number (or both such numbers) calculated by deducting from the amount specified under subparagraph (a) the amounts specified under subparagraphs (b) and (c) and dividing the amount remaining after such deduction -
 - (i) in the case of a weekly coding number, by 52, and
 - (ii) in the case of a monthly coding number, by 12,

provided that where the amount remaining after such deduction is less than zero, the code number shall be zero.

(3) Part 2 of a coding notice shall specify the weekly coding number or the monthly coding number (or both such numbers) calculated in accordance with paragraph (2).

Supplementary coding notices.

3. (1) Where an employee has more than one employer -
 - (a) he shall, at the request of the Administrator -
 - (i) select one of those employers to be his principal employer, and
 - (ii) notify the Administrator in writing, within such period as the Administrator may specify in the request, of the name and address of the employer he has selected to be his principal employer, and
 - (b) he may request the Administrator by notice in writing to issue a supplementary coding notice in respect of his emoluments from employment by each employer, other than his principal employer and the Administrator shall, following receipt of such request and if he considers it appropriate having regard to the circumstances of the case, issue a supplementary coding notice.
- (2) The Administrator may -
 - (a) upon application made to him by an employee, or
 - (b) at any time, in his discretion,

issue a revised supplementary coding notice.

Lodgement of coding with employee and employer.

4. The Administrator shall send -

- (a) Part 1 of a coding notice to the employee in respect of whom it is issued, and
- (b) Part 2 of the coding notice to the employer, employers or principal employer of that employee.

Deduction of tax by employer.

5. (1) Subject to regulation 8, on each pay day every employer shall-

- (a) from the emoluments of each employee in respect of whom the employer has received Part 2 of a coding notice for the relevant year of charge, deduct tax at the standard rate by reference to the net emoluments to be paid to the employee on that pay day, and
- (b) from the emoluments of each employee in respect of whom the employer has not received Part 2 of a coding notice for the relevant year of charge, deduct tax at the standard rate by reference to the gross emoluments to be paid on that day.

(2) For the purposes of paragraph (1) -

"net emoluments" means the gross emoluments to be paid on each pay day, less -

- (a) the amount of tax deductions allowable under section 8(3)(b) of the Law (which relates to the deductions allowable for contributions to approved pension schemes), and
- (b) the amount indicated by the relevant code number, and

"standard rate" means the standard rate of income tax prescribed by Resolution of the States in relation to individuals in respect of the relevant year of charge under section 5(2) of the Law.

(3) On each pay day every employer who has deducted tax from the emoluments of an employee to be paid on that day, shall notify the employee, in writing, of the amount of tax so deducted.

Cessation of employment.

6. When an employee ceases employment with an employer and commences employment with a different employer, he shall notify the Administrator who shall, upon receipt of such notification, send to the new employer a duplicate of the relevant coding notice issued in respect of the employee.

Tax deduction certificate.

7. (1) On receiving a request in that behalf from an employee, an employer shall give to the employee a certificate (a **"tax deduction certificate"**) in such form as may be required by the Administrator, showing the period to which the certificate relates and the amount of tax deducted by the employer from the emoluments of the employee during that period:

Provided that an employee may not require his employer to provide such a certificate on more than two occasions in any one year.

(2) A tax deduction certificate incorporating any payment in respect of manual labour performed by somebody other than the payee shall clearly indicate that it includes payments relating to others.

Variation of deductions by direction notice.

8. (1) In any year of charge an employee may apply to the Administrator to have varied the amount of tax deductible under regulation 5.

(2) Upon receipt of such application under paragraph (1), the Administrator shall determine whether, in his opinion, the deductions should be varied and may direct the employer of that employee, by notice in writing (a "**direction notice**"), to vary future deductions relating to that employee as specified in the notice, and to repay such amount as may be specified therein to the employee.

(3) Where, in respect of any year of charge, tax payable by an employee remains unpaid after the due date for the payment thereof, and the Administrator has agreed to accept payment of such tax by instalments, the Administrator may, with the prior consent in writing of the employee (except where the amount of unpaid tax is less than £500, in which case the consent of the employee shall not be necessary) issue to the employer of that employee a direction notice requiring deductions to be made equal to such instalments from the emoluments of the said employee in addition to any tax deductible in accordance with regulation 5.

(4) Where the Administrator is satisfied that no tax is chargeable upon an employee or that alternative arrangements have been made for the payment of any tax chargeable upon the emoluments of any employment of that employee, he may, at any time, direct that no tax shall be deducted from the emoluments payable to that employee in respect of that employment.

Tax deduction form.

9. (1) Every employer shall maintain for each of his employees a record (a "**tax deduction form**") in such form as may be required by the Administrator, of -

- (a) that employee's name,
- (b) that employee's tax reference number or, if the number is not held, that employee's residential address,
- (c) that employee's gross emoluments payable on each pay day,
- (d) the deduction (if any) made therefrom for contributions to an approved pension scheme,
- (e) the reduction (if any) relating to the coding number as shown on that employee's coding notice, and
- (f) the tax deducted from that employee's emoluments,

provided that nothing in this paragraph shall apply in relation to payments which are required by regulation 11(1) to be recorded on an ETI exemption certificate holder's payment list or on a payment to gangers schedule.

(2) The tax deduction form shall record the particulars relating to each employee referred to in paragraph (1) for the following periods -

- (a) the months of January, February and March ("**the March quarter**"),

- (b) the months of April, May and June ("**the June quarter**"),
- (c) the months of July, August and September ("**the September quarter**"),
- (d) the months of October, November and December ("**the December quarter**").

(3) At the end of each of the four quarters referred to in paragraph (2), the employer shall total the columns of the tax deduction form relating to -

- (a) the employee's gross emoluments,
- (b) deductions for contributions to an approved pension scheme, and
- (c) tax deducted,

and shall submit the tax deduction form to the Administrator with payment of the tax deducted as provided in regulation 11 and retain a copy for his own records.

Payment of tax by employer.

10. (1) Subject to the provisions of paragraph (2), every employer shall, not later than the 15th day of the months of April, July, October and January in each year, pay to the Administrator the amount of tax deducted by him from the emoluments of his employees during the March quarter, June quarter, September quarter and December quarter respectively, and submit the tax deduction form for the relevant quarter relating to each of his employees, whether or not any tax has been deducted or was deductible, from the emoluments of such employee.

Where the tax deduction form is not submitted electronically, the tax deduction form shall be accompanied by a list of the employees from whose emoluments tax has been deducted during the relevant quarter.

- (2) Every employer who in any month is a large employer shall -
 - (a) not later than the 15th day after the final day of that month, pay to the Administrator the amount of tax deducted by him from the emoluments of his employees during that month, and
 - (b) not later than the 15th day of the months of April, July, October and January in each year, submit to the Administrator the tax deduction form, for the March quarter, June quarter, September quarter and December quarter respectively, relating to each of his employees, whether or not any tax has been deducted or was deductible, from the emoluments of such employee.

Where the tax deduction form is not submitted electronically, the tax deduction form shall be accompanied by a list of the employees from whose emoluments tax has been deducted during the relevant quarter.

(3) The Administrator may, if he considers that to do so would be in the interests of efficient tax collection, require tax deducted to be paid to him at more frequent intervals than those prescribed in paragraph (1) or (2)(a).

(4) At the time of making a payment pursuant to a requirement under paragraph (3) an employer shall, if the Administrator so requires, submit a list of the employees from whose emoluments the tax has been deducted and the tax deduction form for the period in question relating to each of his employees, whether

or not any tax has been deducted or was deductible from the emoluments of that employee.

Payments in respect of manual labour performed by others.

11. (1) An employer who makes a payment to an individual in respect of manual labour wholly or partly performed by somebody other than that individual ("**the payee**") shall -

- (a) if the payee has produced to him a currently valid ETI exemption certificate, record the details specified in paragraph (2) on the appropriate list (an "**ETI exemption certificate holder's payment list**") in such form as the Administrator may require, or
- (b) in any other case, record the details specified in paragraph (3) on the appropriate schedule (a "**payment to gangers schedule**") in such form as the Administrator may require.

(2) The details to be recorded on an ETI exemption certificate holder's payment list under paragraph (1)(a) in respect of each payment are -

- (a) the name shown on the ETI exemption certificate,
- (b) the number shown on the ETI exemption certificate,
- (c) the expiry date shown on the ETI exemption certificate,
- (d) the amount of the payment,
- (e) the date of the payment, and

- (f) a declaration that the employer has seen an ETI exemption certificate in the name of the payee which he is satisfied was currently valid at the time when the payment was made.

(3) The details to be recorded on a payment to gangers schedule pursuant to paragraph (1)(b) in respect of each payment are -

- (a) the payee's name,
- (b) the payee's residential address,
- (c) the date of the payment,
- (d) the amount of the payment before deduction of tax, and
- (e) the amount of tax deducted.

(4) Every employer shall, at the end of each of the four quarters referred to in regulation 9(2), and within the time specified in regulation 10(1) or 10(2)(b) -

- (a) subject to paragraph (5), submit to the Administrator the ETI exemption certificate holder's payment list and the payment to gangers schedule, whether or not he has made such payments as are mentioned in paragraph (1) during the relevant quarter (retaining a copy of each for his own records), and

- (b) pay to the Administrator the amount of tax deducted from any payments recorded on any such payment to gangers schedule.

(5) The Administrator may, by notice in writing, exempt an employer from the requirements of paragraph (4)(a) if the employer has certified to the Administrator, in writing, that -

- (a) he does not make such payments as are mentioned in paragraph (1), and
- (b) he will notify the Administrator immediately he commences to make such payments.

ETI exemption certificates.

12. (1) An application for an ETI exemption certificate, or for the renewal of an ETI exemption certificate previously granted, shall be made to the Administrator in writing, signed by the applicant and stating -

- (a) the full name of the applicant and any other names, including trade names, by which he is commonly known,
- (b) the residential address of the applicant,
- (c) the length of the applicant's latest continuous period of residence in Guernsey, if less than five years,
- (d) the Employees Tax Instalment Scheme reference number allocated to the applicant by the Administrator or, if no such reference number has been allocated to

him by the Administrator, the date on which he commenced to receive payments in respect of the services of others, and

- (e) that the applicant understands his obligations under section 81A and 193A of the Law and under these Regulations:

provided that, in the case of an application for the renewal of an ETI exemption certificate previously granted, the Administrator may invite and accept an application which contains only the statements mentioned in paragraphs (1)(a) and (e).

(2) On receipt of an application made in accordance with paragraph (1), the Administrator -

- (a) may require the applicant to provide additional information,
- (b) shall, in considering the application and any such additional information, have particular but not exclusive regard to the applicant's compliance record (if any) with the Law and with these Regulations,
- (c) may -
 - (i) subject to paragraph (3), issue to the applicant an ETI exemption certificate showing an expiry date and either unconditionally or subject to such conditions as he considers expedient, or
 - (ii) refuse to issue an ETI exemption certificate.

(3) The Administrator shall not issue an ETI exemption certificate unless the applicant -

(a) appears in person and signs an acknowledgement, in such form as the Administrator may from time to time require, of -

(i) receipt of the certificate,

(ii) its expiry date, and

(iii) any conditions attached to its issue, and

(b) in the case of an application for the renewal of an ETI exemption certificate previously granted, surrenders the certificate being renewed to the Administrator, or explains to the Administrator's satisfaction why it cannot be surrendered, and

(c) whether on an application for an ETI exemption certificate or on an application for the renewal of an ETI exemption certificate previously granted, appears in person and has his photograph taken by or on behalf of the Administrator, an impression of which photograph shall be printed on the ETI exemption certificate.

(4) The expiry date to be shown on an ETI exemption certificate is the third anniversary of its date of issue or renewal as the case may be, or such earlier or later date as the Administrator may determine in any particular case.

(5) The holder of an ETI exemption certificate shall surrender it to the Administrator on being requested to do so.

(6) In relation to an E.T.I. exemption certificate, the Administrator may, if he considers that to do so would be in the interests of efficient tax collection, and without prejudice to any other provision of these regulations -

- (a) attach conditions to the issue or continued validity of the certificate, including conditions requiring tax deducted to be paid to him at more frequent intervals than those prescribed in regulation 10(1),
- (b) reduce or extend a certificate's period of validity, and
- (c) cancel a certificate and, if he thinks fit, publish a notice to that effect in *La Gazette Officielle*.

Special arrangement with employer.

13. In any case in which the Administrator is of opinion that it is desirable or expedient to do so, he may make such special arrangements with any employer as are necessary for carrying into effect the provisions of section 81A of the Law and of these Regulations.

Documents to be submitted, etc, in electronic form.

14. (1) Where under these regulations a document is required to be submitted to the Administrator, the document shall be submitted -

- (a) by electronic means, or

(b) by such other means as the Administrator may require in any particular case or class of cases.

(2) Where under these regulations a document is required to be in such form as the Administrator may require, the Administrator may (without limitation) require the document to be in electronic form.

(3) The requirements under paragraphs (1) and (2) for a document to be submitted by electronic means or to be in electronic form do not have effect until the 1st January, 2009.

Interpretation.

15. (1) In these Regulations, unless the context otherwise requires -

"**code number**" means a weekly coding number or a monthly coding number calculated in accordance with regulation 2(2)(d),

"**coding notice**" means a notice issued by the Administrator under these Regulations comprising a code number and includes a revised coding notice, a supplementary coding notice and a revised supplementary coding notice,

"**direction notice**" has the meaning assigned to it by regulation 8(2),

"**emoluments**" has the meaning assigned to it by section 209(1) of the Law and includes a payment to which the provisions of section 81A(2)(b), (bA) or (c) of the Law apply,

"**employee**" means a person who receives a payment to which the provisions of section 81A(2) of the Law apply,

"employer" means a person who, whether on behalf of himself or of another, makes a payment to which the provisions of section 81A(2) of the Law apply,

"ETI exemption certificate holder's payment list" has the meaning assigned to it by regulation 11(1)(a),

"large employer" is -

- (a) one employing 80 persons or more at any time in any month, and
- (b) any other employer who gives notice to the Administrator that he wishes to be treated as a large employer for the purposes of these regulations,

"payment to gangers schedule" has the meaning assigned to it by regulation 11(1)(b),

"principal employer" means an employer selected in accordance with regulation 3(1)(a),

"revised coding notice" means a coding notice which has been revised by the Administrator under regulation 1(4),

"revised supplementary coding notice" means a supplementary coding notice which has been revised by the Administrator under regulation 3(2),

"supplementary coding notice" means a coding notice issued under regulation 3(1)(b),

"tax deduction certificate" has the meaning assigned to it by regulation 7(1),

"tax deduction form" has the meaning assigned to it by regulation 9(1),

"the Law" means the Income Tax (Guernsey) Law, 1975, as amended,

and any other expression has the same meaning as in the Law.

(2) The Interpretation (Guernsey) Law, 1948^b shall apply to the interpretation of these Regulations as it applies to the interpretation of an enactment.

(3) Any person aggrieved by a decision taken by the Administrator under these Regulations shall be entitled to appeal against that decision as if it were an order in respect of which there is a right of appeal under Part VII of the Law.

Transitional arrangements for year of charge 2008.

16. A coding notice issued under the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001^c, as amended, in respect of the year of charge 2008 shall continue to have effect as a coding notice issued under these Regulations.

Repeal.

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

^c Guernsey Statutory Instrument 2001 No. 40; amended by 2005 No. 1 and 2006 No. 24.

17. Subject to regulation 14(3), the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001^d, the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2005^e and the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2006^f are repealed with effect on and from 1st January, 2008.

Citation and commencement.

18. These Regulations may be cited as the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 and, subject to regulation 14(3), shall come into force on 1st January, 2008.

Dated this 11th day of September, 2007



DEPUTY L.S. TROTT

Minister of the Treasury and Resources Department
For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations require employers to submit information relating to the ETI Scheme (which, at present, can be in paper form) by electronic means, with effect from 1 January 2009 (unless the Administrator agrees, in respect of any particular case or class of cases, that an alternative format may be used for submission).

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- ^d Guernsey Statutory Instrument 2001 No. 40.
^e Guernsey Statutory Instrument 2005 No. 1.
^f Guernsey Statutory Instrument 2006 No. 24.

The opportunity is also being taken to consolidate all amendments that have been made to the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001.