

GUERNSEY STATUTORY INSTRUMENT

2006 No. 37

**The Income Tax (Keeping of Records, etc)  
Regulations, 2006**

<i>Made</i>	<i>17<sup>th</sup> October, 2006</i>
<i>Laid before the States</i>	<i>, 2006</i>
<i>Coming into operation</i>	<i>1<sup>st</sup> January, 2007</i>

**THE TREASURY AND RESOURCES DEPARTMENT**, in exercise of the powers conferred on it by section 75P of the Income Tax (Guernsey) Law, 1975<sup>1</sup>, as amended, and all other powers enabling it in that behalf, hereby makes the following regulations:-

**Records to be kept in respect of a business.**

1. (1) A person who, pursuant to section 68 of the Law, is under a duty to deliver to the Administrator a return as to his income shall, if he is in receipt or possession of any income or profits arising or accruing from the carrying on of a business, make, keep and maintain the following records and documents in relation to that business -

- (a) records of all amounts received and expended and the reasons for the receipt or expenditure,
- (b) in the case of a business involving dealing in goods, records of

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<sup>1</sup> 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; and No. VI of 2005; section 75P was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005.

all sales and purchases of goods made in the course of the business,

- (c) all supporting documents relating to the records mentioned in paragraphs (a) and (b), including (without limitation) contracts, vouchers and receipts,
- (d) if in relation to any goods purchased there are no such supporting documents as are mentioned in subparagraph (c), the name and address of the supplier of those goods,
- (e) records of all stock in hand at the end of the trader's accounting period and the basis on which the stock has been valued,

and he shall retain them for a period of six years following the end of the year in which the return is submitted.

(2) Records and documents referred to in paragraph (1) shall be made, kept and maintained at the same time as the act, event or circumstance in relation to which they are required to be made, kept or (as the case may be) maintained or as soon as reasonably practicable thereafter.

(3) In paragraph (1)(e) "stock" means -

- (a) assets purchased for sale,
- (b) consumable stores,
- (c) raw materials and components purchased for incorporation into products for sale,
- (d) products and services in intermediate stages of completion,

(e) long-term contract balances, and

(f) finished goods,

and "goods" means anything in subparagraph (a), (b) or (c).

**Records to be kept in respect of letting of property.**

2. A person who, pursuant to section 68 of the Law, is under a duty to deliver to the Administrator a return as to his income shall, if he is in receipt or possession of any income arising from the ownership of any land or building situate in Guernsey or elsewhere, make, keep and maintain the following records and documents in relation to that land or building -

(a) records of all amounts received and expended and the reasons for the receipt or expenditure,

(b) the names of the persons from whom amounts mentioned in paragraph (a) were received, and the period to which those amounts relate, and

(c) all supporting documents relating to the records mentioned in paragraph (a), including (without limitation) contracts, leases, licences or other agreements, vouchers and receipts,

and he shall retain them for a period of six years following the end of the year in which the return is submitted.

**Records to be kept in other cases.**

3. A person who, pursuant to section 68 of the Law, is under a duty to deliver to the Administrator a return as to his income shall, if he is in receipt or possession of any income of a description other than that set out in regulations 1 and 2, retain all records and documents in respect of that income which were used in making the entries on the return for a period of two years following the end of the year in which the return is submitted.

**Extension of period where inquiries are being made.**

4. If at any time the Administrator gives notice in writing to any person that he is undertaking inquiries into a return made by that person in respect of any year of charge then, notwithstanding the provisions of regulations 1, 2 and 3, the records and documents mentioned in those regulations shall be retained until the end of the period referred to in those regulations or until the end of the year in which the Administrator gives written notice to that person that his inquiries are at an end, whichever is later.

**Penalty in case of records not retained.**

5. (1) The Administrator may by order impose a penalty not exceeding £2,500 if in his opinion -

- (a) a person has failed to make, maintain, keep or retain a record or document which he is required by or under these regulations to make, maintain, keep or retain, and
- (b) that failure is likely to prejudice the performance by the Administrator of his functions under the Law.

(2) A penalty imposed by the Administrator under this regulation shall be deemed -

- (a) for the purposes of Part VII of the Law ("appeals"), to be a penalty imposed by the Administrator under the Law, and
- (b) for the purposes of section 200 of the Law ("proceedings in respect of penalties"), to be a pecuniary penalty to which subsection (1) of that section applies,

and those provisions of the Law, and all other provisions of the Law which relate to those provisions, shall apply accordingly in respect of a penalty imposed by the Administrator under this regulation.

**Offences in relation to failure to keep records, etc.**

6. (1) A person who without reasonable excuse fails to make, maintain, keep or retain a record or document which he is required by or under these regulations to make, maintain, keep or retain is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(2) For the purposes of paragraph (1) records and documents which are incomplete, illegible or indecipherable shall be regarded as not having been made, maintained, kept or (as the case may be) retained for the purposes of these regulations.

(3) A person who intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a record or document which he is required by or under these regulations to make, maintain, keep or retain is guilty of an offence.

(4) A person who, in purported compliance with a requirement imposed by or under these regulations -

- (a) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes or causes or permits to be produced or furnished any information, record or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) dishonestly or otherwise, recklessly produces or furnishes or recklessly causes or permits to be produced or furnished any

information, record or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

(5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding two years, to a fine not exceeding twice level 5 on the uniform scale, or to both.

(6) For the avoidance of doubt, the provisions of this regulation are in addition to the provisions of regulation 5 and sections 75P, 193 and 201 of the Law.

#### **Interpretation.**

7. (1) In these regulations -

"**business**" includes any profession, trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

"**document**" includes, subject to the provisions of sections 75D(2) and 75G(4) of the Law (items subject to legal professional privilege), information stored or recorded in any form (including, without limitation, in electronic form); and, in relation to information stored or recorded otherwise than in legible form, references to its making, maintaining, keeping or retention, however expressed, include (without limitation) references to the making, maintaining, keeping or retention of the information in a form -

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form,

"**electronic form**", in relation to the storage or recording of documents, includes storage or recording by means of any form of information storage

technology,

"goods" : see regulation 1(3),

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

"stock" : see regulation 1(3).

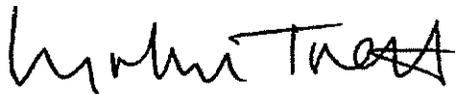
(2) The Interpretation (Guernsey) Law, 1948<sup>2</sup> applies to the interpretation of these regulations.

(3) Any reference in these regulations to an enactment is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

**Citation and commencement.**

8. These regulations may be cited as the Income Tax (Keeping of Records, etc) Regulations, 2006 and shall come into force on the 1<sup>st</sup> January, 2007.

Dated this 17<sup>th</sup> October, 2006



DEPUTY L.S. TROTT

Minister of the Treasury and Resources Department

For and on behalf of the Department

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EXPLANATORY NOTE

*(This note is not part of the regulations)*

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<sup>2</sup>

Ordres en Conseil Vol. XIII, p. 355.

These regulations, made pursuant to section 75P of the Income Tax (Guernsey) Law, 1975, prescribe the records and other documents in respect of tax and liability to tax that must be made, maintained, kept and retained by taxpayers for the purposes of Part VIA of that Law ("information"). The regulations also prescribe the penalties (civil and criminal) which may be incurred in the event of a contravention of the regulations.