

GUERNSEY STATUTORY INSTRUMENT

2011 No. 6

The Income Tax (Pensions)
(Amendments and Miscellaneous Provisions)
Regulations, 2011

*Made**8th February, 2011**Coming into operation**27th April, 2011**Laid before the States**27th April, 2011*

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by sections 36, 150(2)(k), 151(1), 153(2), 157A(2)(b)(vi), 157A(10), 157(5B), 159 and 203A of the Income Tax (Guernsey) Law, 1975, as amended¹ ("**the Law**"), and section 2(2) of the Income Tax (Exemption of Benefits) Ordinance, 1995, as amended², and all other powers enabling it in that behalf, hereby makes the following regulations:-

¹ 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's. VII and XXI 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; the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007; No. XXVI of 2008; the Income Tax (Guernsey) (Amendment) Law, 2008; the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009; the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009; the Income Tax (Guernsey) (Amendment) Law, 2009; and the Income Tax (Guernsey) (Amendment) Law, 2010. Also amended by Ordinance No. XXXIII of 2003 and Ordinance No. VII of 2009 and Order in Council No. XIII of 2010.

² Ordinance No. XXIX of 1995; amended by No. XIX of 1998; No. XXXII of 1999; No. XV of 2001; No. XXX of 2003; No. VII of 2009; and the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2011.

Amendment of 1977 Regulations.

1. (1) The Income Tax (Guernsey) (Limit of Retirement and Other Benefits) Regulations, 1977³ are further amended as follows.

(2) In regulation 4(2)(a) for the words "shall not exceed one sixtieth of the employee's final remuneration for each year of service up to a maximum of forty years" substitute "shall not exceed such amount (whether calculated by reference to the employee's years of service and final remuneration, or a percentage of the value of the fund accumulated under the scheme and attributable to the employee, or otherwise) as the trustees or other persons having the management of the scheme think fit, any necessary valuation of the fund being made immediately before the time of the making of the first payment".

(3) In regulation 4(2)(b) for the words "shall not exceed three-eighths of the employee's final remuneration for each year of service up to a maximum of forty years" substitute "shall not exceed 30% of the value of the fund accumulated under the scheme and attributable to the employee, the valuation being made immediately before the time of the making of the payment".

(4) After regulation 4(2) insert the following paragraph -

"(2A) For the purposes of regulation 4(2)(a) and (2)(b) -

(a) the value of the fund accumulated under the approved scheme and attributable to the employee, and

(b) in respect of regulation 4(2)(a), the amount which the employee's pension (including the equivalent in terms of pension of any lump sum benefit) may not exceed,

shall be calculated by the trustees or other persons having the management of the scheme on the advice of a Fellow of the Institute and Faculty of Actuaries or a person holding other actuarial

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G.S.I. No. 7 of 1977; amended by No. 5 of 1991; and No. 13 of 1997.

qualifications approved by the Director of Income Tax, the trustees or other persons having management of the scheme having had regard to (without limitation) the formula used to calculate the value of a transfer payment (within the meaning of section 150(2A) of the Law) out of the scheme into another pension scheme approved by the Director of Income Tax in accordance with the provisions of section 150 of the Law."

Amendment of 1984 Regulations.

2. (1) The Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1984⁴ are further amended as follows.

(2) In regulation 3(1) for "shall be accompanied" substitute "shall, if the Director of Income Tax so requires, be accompanied".

(3) In regulation 3(2) for "shall be accompanied" substitute "shall, if the Director of Income Tax so requires, be accompanied".

(4) In regulation 5(1) and (2) the words "that the individual is in receipt of relevant earnings and" are repealed.

Amendment of 2007 regulations.

3. (1) The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007⁵ are further amended as follows.

(2) In regulation 5(2)(a) after "approved pension schemes" insert "or section 8(3)(bb) of the Law (which relates to the deductions allowable for contributions to approved retirement annuity schemes and retirement annuity trust schemes)".

⁴ G.S.I. No. 1 of 1984; amended by No. 7 of 1986; and No. 6 of 1991.

⁵ G.S.I. No. 19 of 2007; amended by No. 22 of 2009; and No. 49 of 2009.

(3) In regulation 9(1)(d) after "an approved pension scheme" insert "or to a retirement annuity scheme or retirement annuity trust scheme approved by the Director of Income Tax in accordance with the provisions of section 157A(2) or (4) of the Law".

(4) In regulation 9(3)(b) after "an approved pension scheme" insert "or to a retirement annuity scheme or retirement annuity trust scheme approved by the Director of Income Tax in accordance with the provisions of section 157A(2) or (4) of the Law".

Amendment of 2010 Regulations.

4. (1) The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010⁶ are amended as follows.

(2) For regulation 1 substitute -

"Contributions to annuity schemes and occupational pension schemes to be unlimited.

1. The total contributions that may be made by an individual during 2011 or any later year ("the relevant year") to one or more approved annuity schemes or an approved occupational pension scheme shall be unlimited.

Maximum allowance on contributions to annuity schemes and occupational pension schemes.

1A. (1) For the purposes of sections 36 and 157A(10) of the Law (maximum allowance permitted in respect of contributions to an approved annuity scheme), the retirement annuity contribution limit in respect of the year of charge 2011 and any succeeding year of charge is £50,000⁷.

⁶ G.S.I. No. 3 of 2010.

⁷ Resolution of the States of Deliberation of the 8th December, 2010 on Billet d'État No. XXV of 2010 (see paragraph 7(3)(b) of the Second Schedule to proposition 11(b) at page 114 of the Billet).

(2) For the purposes of paragraph (b) of the proviso to section 151(1) of the Law (maximum deduction permitted in respect of contributions to an approved occupational pension scheme), the prescribed amount in respect of the year of charge 2011 and any succeeding year of charge is £50,000."

Limitation on tax relief for employer contributions to pension schemes.

5. (1) For the purposes of section 2(1)(a) of the Income Tax (Exemption of Benefits) Ordinance, 1995, as amended, contributions made by an employer to an approved pension scheme shall only be exempt from tax by virtue of section 1 of that Ordinance, and accordingly shall only be left out of account in calculating the assessable income of any employment for the purposes of section 8(1) of the Law, to the extent that the condition set out in paragraph (2) is met in respect of the contributions.

(2) The condition is that the amount of the contributions, when expressed as a percentage of the full emoluments of the office or employment of the individual in question arising or accruing in the relevant year of computation, does not exceed the corresponding percentage of the full emoluments of the office or employment of other individuals employed by the same employer except to the extent that the excess is paid by the employer with the agreement of the trustees or other persons having the management of the scheme and on the advice of a Fellow of the Institute and Faculty of Actuaries or a person holding other actuarial qualifications approved by the Director of Income Tax.

(3) Expressions used in this regulation have the same meanings as in the said Ordinance and the Income Tax (Guernsey) Law, 1975, as amended.

Interpretation.

6. (1) The Interpretation (Guernsey) Law, 1948⁸ applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

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Ordres en Conseil Vol. XIII, p. 355.

(2) Any reference in these regulations to an enactment or statutory instrument is a reference thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

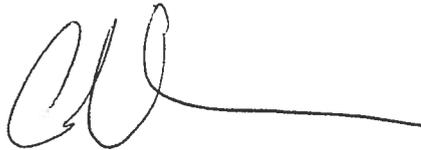
Citation.

7. These Regulations may be cited as the Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011.

Commencement.

8. These Regulations shall come into force on the 27th April, 2011 and shall have effect in respect of any year of charge after 2010.

Dated this 8th February, 2011



DEPUTY C.N.K. PARKINSON

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 amend the Income Tax (Guernsey) (Limit of Retirement and Other Benefits) Regulations, 1977, the Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1984, the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 and the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010 in order to implement the States resolution of the 24th November, 2010 (on article IX of Billet XXIII, Volume 1) directing the preparation of legislation to amend Guernsey's legislation relating to the taxation of pension contributions and benefits in the manner set out in the report of the Treasury and Resources Department dated the 24th August, 2010. They also impose conditions upon tax relief for employer contributions to pension schemes for the purposes of section 2(1)(a) of the Income Tax (Exemption of Benefits) Ordinance, 1995, as amended.