

GUERNSEY STATUTORY INSTRUMENT

2001 No. 40

**The Income Tax (Guernsey)
(Employees Tax Instalment Scheme) Regulations, 2001**

<i>Made</i>	<i>25th October, 2001</i>
<i>Coming into operation</i>	<i>1st January, 2002</i>
<i>Laid before the States</i>	<i>, 2001</i>

THE INCOME TAX AUTHORITY, 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 day of 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.

(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,

^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 and No. IV of 2000.

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 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 (hereinafter referred to as "**a tax deduction certificate**") in a form prescribed 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 be boldly marked in red ink with the words "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 (hereinafter referred to as 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 in triplicate on the appropriate form (hereinafter referred to as "**a tax deduction form**") supplied to him by the Administrator -

- (a) of that employee's gross emoluments payable on each pay day;
- (b) the deduction (if any) made therefrom for contributions to an approved pension scheme;
- (c) the reduction (if any) relating to the coding number as shown on that employee's coding notice; and
- (d) 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 (hereinafter referred to as "**the March quarter**");
- (b) the months of April, May and June (hereinafter referred to as "**the June quarter**");
- (c) the months of July, August and September (hereinafter referred to as "**the September quarter**");
- (d) the months of October, November and December (hereinafter referred to as "**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) superannuation deductions; and
- (c) tax deducted,

and shall submit the top copy of the tax deduction form to the Administrator with payment of the tax deducted as provided in regulation 11, retain one copy for his own records and supply the other copy to the employee to whom it refers.

Payment of tax by employer.

10. (1) 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 such payment shall be accompanied by a list of employees from whose emoluments such tax has been deducted and 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.

(2) The tax deduction form for each employee submitted to the Administrator for the December quarter in accordance with the provisions of paragraph (1) shall be accompanied by any duplicate coding notice or direction notice relating to that employee for the year ending on the thirty-first day of December of that quarter.

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 (hereinafter referred to as "**the payee**") shall -

- (a) if the payee has produced to him a currently valid ETI exemption certificate, record the details specified in paragraph (2), in duplicate, on the appropriate list (hereinafter referred to as 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), in duplicate, on the appropriate schedule (hereinafter referred to as 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) -

- (a) subject to paragraph (5), furnish to the Administrator the top copy of an ETI exemption certificate holder's payment list and the top copy of a payment to gangers schedule, whether or not he has made such payments as are mentioned in paragraph (1) during the relevant quarter (retaining the other 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.

(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.

Statement of employee's tax account.

13. As soon as may be practicable after the end of any year of charge, the Administrator shall, if requested to do so issue to an employee from whose emoluments tax has been deducted in that year of charge a statement showing -

- (a) the amount of any tax assessed and unpaid for any year of charge prior to that year of charge;
- (b) the amount of any tax assessed for that year of charge;
- (c) the amount of tax deducted as aforesaid;
- (d) the amount of any other tax paid for that year of charge;
and
- (e) the amount of any balance of tax overpaid or underpaid as the case may be.

Special arrangement with employer.

14. 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.

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);

"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 was an order in respect of which there was a right of appeal under Part VII of the Law.

Transitional arrangements for year of charge 2002.

16. A coding notice issued under the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 1979^c, as amended, in respect of the year of charge 2002 shall continue to have effect as a coding notice issued under these Regulations.

Repeal.

17. The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 1979 and the Income Tax (Guernsey) (Employees Tax Instalment

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

^c GSI 29 of 1979 and 21 of 1990.

Scheme) (Amendment) Regulations, 1990 are repealed with effect on and from 1 January 2002.

Citation and commencement.

18. These Regulations may be cited as the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001 and shall come into force on 1st January 2002.

Dated this twenty-fifth day of October 2001



W. LE R. ROBILLIARD

President of the States Income Tax Authority
for and on behalf of the said Authority