

GUERNSEY STATUTORY INSTRUMENT

2008 No. 24

**The Income Tax**  
**(Tax Deductions from Company Distributions)**  
**Regulations, 2008**

<i>Made</i>	<i>15<sup>th</sup> April, 2008</i>
<i>Approved by the States</i>	<i>28<sup>th</sup> May, 2008</i>
<i>Coming into operation</i>	<i>28<sup>th</sup> May, 2008</i>

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by section 81B(6) of the Income Tax (Guernsey) Law, 1975<sup>1</sup>, as amended, and all other relevant enabling powers, hereby makes the following regulations:-

**Distribution tax certificate.**

1. A company shall give to a person to whom a distribution of undistributed income (a "distribution") is made the statement in writing required by section 60(1) of the Law (a "distribution tax certificate"), in such form as may be required by the Administrator.

**Variation of deductions by notice.**

2. (1) In any year of charge -

(a) a person to whom a distribution is or is to be made, or

<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. 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; 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). Section 81B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

- (b) a company which makes or will be making a distribution, on behalf of such a person,

may apply to the Administrator to have varied the amount of tax deductible under section 81B(3) of the Law.

- (2) Upon receipt of an application under paragraph (1), the Administrator-
  - (a) shall determine whether, in his opinion, the deductions should be varied, and
  - (b) may direct the company making the distribution to that person, by notice in writing (a "**variation notice**") -
    - (i) to vary the deductions to be made, as specified in the notice, and/or
    - (ii) to repay such amount as may be specified therein to him.

(3) Where the Administrator is satisfied that no tax will be chargeable upon a person to whom a distribution is to be made by a company he may, at any time, direct the company that no tax shall be deducted from the distributions payable to that person.

**Tax deduction record.**

3. (1) Every company shall maintain a record (a "**tax deduction record**"), in such form as may be required by the Administrator, of the information required to be reported under section 81B(12) of the Law.

(2) The tax deduction record shall record the information relating to each person referred to in paragraph (1) for every calendar quarter.

**Payment of tax by company.**

4. (1) Subject to the provisions of paragraph (2) and in accordance with section 81B(13) of the Law, every company shall, within 15 days of the reporting date for each calendar quarter in each year -

- (a) pay to the Administrator the amount of tax deducted by it from the distributions made by it during that quarter, and
- (b) submit the tax deduction record for that quarter relating to each person to whom it has made a distribution, whether or not any tax has been deducted or was deductible from that person's distributions.

(2) 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).

**Special arrangements with company.**

5. The Administrator may, notwithstanding the provisions of these Regulations, make such special arrangements with any company as in his opinion are necessary or expedient for carrying into effect the provisions of section 81B of the Law and of these Regulations.

**Documents to be submitted, etc, in electronic form.**

6. (1) Where under section 81B of the Law or 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 section 81B of the Law or 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.

**Special provision for period up to the 30<sup>th</sup> June 2008.**

7. Without prejudice to the provisions of the Law (and in particular sections 60 and 81B) these Regulations have effect in respect of the two calendar quarters commencing on the 1<sup>st</sup> January, 2008 and the 1<sup>st</sup> April, 2008 as if they were a single calendar quarter the reporting date of which was the 30<sup>th</sup> June, 2008.

**Interpretation.**

8. (1) In these Regulations, unless the context otherwise requires –

"**distribution**" has the meaning given by section 81B(15) of the Law,

"**distribution tax certificate**" : see regulation 1,

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

"**tax deduction record**" : see regulation 3,

"**variation notice**": see regulation 2,

and other expressions have the same meaning as in the Law.

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

(3) Any person aggrieved by a decision of the Administrator under these Regulations may 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.

**Citation and commencement.**

9. These Regulations may be cited as the Income Tax (Tax Deductions from Company Distributions) Regulations, 2008 and shall come into force on the 28<sup>th</sup> May, 2008.

Dated this 15<sup>th</sup> April, 2008



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)*

These Regulations require companies to prepare distribution tax certificates and tax deduction records relating to the deductions required to be made by them at source from company distributions pursuant to section 81B of the Income Tax (Guernsey) Law, 1975, as amended by the Income Tax (Zero 10) (Guernsey) Law, 2007 and the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007.