

GUERNSEY STATUTORY INSTRUMENT

2008 No. 79

**The Income Tax (Deemed Distributions)
(Exemptions) (No. 2) Regulations, 2008**

<i>Made</i>	<i>2nd December, 2008</i>
<i>Coming into operation</i>	<i>8th July, 2008</i>
<i>Laid before the States</i>	<i>28th January, 2009</i>

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by section 62A(4) of the Income Tax (Guernsey) Law, 1975, as amended^a ("the Law"), and all other powers enabling it in that behalf, hereby makes the following regulations:-

Exemption from application of deemed distribution charging provisions.

1. (1) The provisions of section 62A(1) of the Law do not apply in relation to any undistributed income of a company where -

- (a) but for this exemption, the undistributed income would have been deemed to have been distributed to a person who is a minority beneficial member of the company, or

^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; 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

- (b) the undistributed income is income in respect of which the company has been granted an exemption from tax under an Ordinance made under section 40A of the Law.

(2) Accordingly, for the purposes of the Law, and in the cases and circumstances and at the times mentioned in section 62B of the Law, the undistributed income -

- (a) shall not be deemed to have been distributed to that person, and
- (b) is not a deemed distribution.

(3) For the purposes of this regulation -

- (a) a "**minority beneficial member**" of a company is a beneficial member who, alone or with any person connected to him, has a beneficial interest or any part of a beneficial interest in a share or any part of a share in that company which amounts to 1% or less by value of the total shares held in the company, and
- (b) the expression "**connected**" shall be construed in accordance with section 66A(8)(a) of the Law.

Interpretation.

2. (1) In these Regulations "the Law" means the Income Tax (Guernsey) Law, 1975, as amended.

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

Repeal.

3. The Income Tax (Deemed Distributions) (Exemptions) Regulations, 2008^b are repealed.

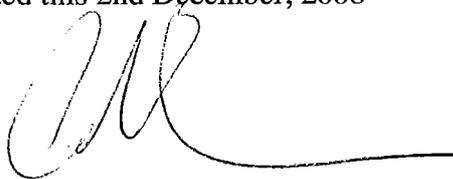
Citation.

4. These Regulations may be cited as the Income Tax (Deemed Distributions) (Exemptions) (No. 2) Regulations, 2008.

Commencement.

5. These Regulations shall be deemed to have come into force on the 8th July, 2008.

Dated this 2nd December, 2008



DEPUTY C.N.K. PARKINSON

Minister of the Treasury and Resources Department

For and on behalf of the Department

EXPLANATORY NOTE

^b G.S.I No. 33 of 2008.

(This note is not part of the regulations)

These Regulations specify exemptions from the charging regime for deemed distributions established by Chapter VIII A 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. The exemptions apply where the undistributed income of a company would otherwise have been deemed to have been distributed to a person who is a minority beneficial member of the company or where the undistributed income is income in respect of which the company has been granted an exemption from tax under an Ordinance made under section 40A of the 1975 Law.