

# ORDER IN COUNCIL

XVI  
1983

ratifying a Projet de Loi

ENTITLED

## **The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983**

(Registered on the Records of the Island of Guernsey  
on the 15th day of November, 1983.)



# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 15th day of November, 1983 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:—Albert Richard McCartney Straw, Esquire, Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire, Sydney Haydn Heard, Esquire, M.B.E., Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, John Christopher Bultsrode, Geoffrey Ernest Le Page and Stanley Walter John Jehan, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of October, 1983, ratifying a *Projet de Loi* of the States of Guernsey entitled “The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983”, the Court, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ordered that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:—

# At the Court at Buckingham Palace

The 19th day of October 1983

PRESENT,

## The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 6th day of October 1983 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

‘1. That, in pursuance of their Resolution of the 28th day of July 1981, the States of Deliberation at a meeting held on the 27th day of January 1983 approved a Bill or “Projet de Loi” entitled “The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983”, and to order that the same shall have force of law in the Island of Guernsey.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*N. E. Leigh.*



# PROJET DE LOI

ENTITLED

## **The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983**

THE STATES, in pursuance of their Resolution of the twenty-eighth day of July, nineteen hundred and eighty-one, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

1. The Dwellings Profits Tax (Guernsey) Law, 1975 (hereinafter referred to as "the principal Law") (a) is hereby amended as follows:—

Amend-  
ments to  
Law of  
1975.

(a) section two thereof is repealed and the following section is substituted therefor—

" 2. (1) This Law applies to any transaction relating to any dwelling in Guernsey or Herm which consists of:—

- (a) the sale of a dwelling;
- (b) the grant of a lease or a sub-lease or the assignment of a lease or a sub-lease of a dwelling in consideration of a premium;
- (c) the sale of a right of usufruct in a dwelling;
- (d) the grant of a lease or a sub-lease or the assignment of a lease

or a sub-lease of a right of usufruct in a dwelling in consideration of a premium;

- (e) the disposal or transfer of shares, or the disposal or transfer of the beneficial ownership of shares, in a body corporate the effect of which is to transfer an interest in that body corporate from one person to another person at a time when that body corporate is the owner or lessee of a dwelling if, in the opinion of the Administrator, one of the benefits which accrues to the first mentioned person from the transaction is the avoidance or reduction of liability to profits tax;
- (f) the transfer of the beneficial interest in a dwelling which is held in trust from one beneficiary to another beneficiary at a time when the trustees are the owners or the lessees of the dwelling if, in the opinion of the Administrator, one of the benefits which accrues to the first mentioned beneficiary from the transaction is the avoidance or reduction of liability to profits tax;
- (g) the transfer of the beneficial interest in a dwelling which is held in trust by the disposal or transfer of shares, or the disposal or transfer of the beneficial ownership of shares, in a body corporate

being for the time a beneficiary under the said trust the effect of which is to transfer an interest in the said body corporate from one person to another person at a time when the trustees of the trust are the owners or the lessees of the said dwelling if, in the opinion of the Administrator, one of the benefits which accrues to the first mentioned person from the transaction is the avoidance or reduction of liability to profits tax.

(2) Notwithstanding the provisions of the last preceding subsection, this Law shall not apply to any transaction which consists of the grant of a lease or a sub-lease of a dwelling or a lease or a sub-lease of a right of usufruct in a dwelling for which the only consideration is the payment of an annual rental fixed by way of a bargain made at arm's length notwithstanding that the said rental is payable at intervals of less than one year.”;

(b) immediately after subsection (2) of section three thereof there is inserted the following additional subsection numbered “(3A)”—

“ (3A) Profits tax adjusted at the discretion of the Administrator in accordance with the provisions of section seventeen of this Law shall be chargeable and shall be paid:—

(a) in the case of a transaction to which this Law applies by virtue of paragraph (e) of subsection (1)

of the last preceding section, by the first mentioned person referred to in the said paragraph (e);

- (b) in the case of a transaction to which this Law applies by virtue of paragraph (f) of subsection (1) of the last preceding section, by the first mentioned beneficiary referred to in the said paragraph (f);
  - (c) in the case of a transaction to which this Law applies by virtue of paragraph (g) of subsection (1) of the last preceding section, by the first mentioned person referred to in the said paragraph (g).”;
- (c) section four thereof is repealed and the following section is substituted therefor—
- “ 4. Profits tax shall be charged at the rate of one hundred per centum upon the chargeable profit computed in accordance with the provisions of section five or section six of this Law or as so computed and adjusted at the discretion of the Administrator in accordance with the provisions of section seventeen of this Law, as the case may be.”;
- (d) immediately after subsection (4) of section five thereof there is inserted the following additional subsection numbered “(5)”—
- “ (5) The foregoing provisions of this section shall apply, subject to such adaptations and modifications as the Administra-

tor may consider necessary, in relation to a transaction to which this Law applies which consists of the sale of a right of usufruct in a dwelling as they apply in relation to a transaction to which this Law applies which consists of the sale of a dwelling.”;

- (e) immediately after subsection (9) of section six thereof there is inserted the following additional subsection numbered “(10)”—

“ (10) The foregoing provisions of this section shall apply, subject to such adaptations and modifications as the Administrator may consider necessary, in relation to a transaction to which this Law applies which consists of the grant of a lease or a sub-lease or the assignment of a lease or a sub-lease of a right of usufruct in a dwelling as they apply in relation to a transaction to which this Law applies which consists of the grant of a lease or a sub-lease or the assignment of a lease or a sub-lease of a dwelling.”;

- (f) immediately after section six thereof there is inserted the following marginal note and additional section numbered “6A.”—

“Calculated profit from certain transactions.

6A. The chargeable profit accruing to a person from a transaction to which this Law applies by virtue of paragraph (e), (f) or (g) of subsection (1) of section two of this Law shall be such amount as shall be computed and adjusted at the discretion

of the Administrator in accordance with the provisions of section seventeen of this Law.”;

(g) in subsection (1) of section nine thereof—

(i) in paragraph (k) immediately after the word “dwelling” where that word firstly occurs there are inserted the words “or the grant of a lease of a dwelling”;

(ii) in paragraph (n) immediately after the word “dwelling” where that word firstly occurs there are inserted the words “or the grant of a lease of a dwelling”;

(h) immediately after subsection (2) of section nine thereof there is inserted the following additional subsection numbered “(3)”—

“ (3) Any reference in any of the provisions of subsection (1) of this section:—

(a) to the sale of a dwelling or the grant of a lease or a sub-lease or the assignment of a lease or a sub-lease of a dwelling shall be deemed to include a reference to the sale of a right of usufruct in a dwelling or the grant of a lease or a sub-lease or the assignment of a lease or a sub-lease of a right of usufruct in a dwelling, as the case may be;

(b) to the acquisition of the ownership of a dwelling or a lease or a sub-lease of a dwelling shall be

deemed to include a reference to the acquisition of a right of usufruct in a dwelling or a lease or a sub-lease of a right of usufruct in a dwelling, as the case may be.”;

- (i) section seventeen is re-numbered as subsection (1) of section seventeen and immediately thereafter there is inserted the following additional subsection numbered “(2)”—

“ (2) Without prejudice to the generality of the provisions of the last preceding subsection, the Administrator may, in particular, direct:—

- (a) that profits tax be charged on any person who, but for such adjustments directed to be made under the provisions of the last preceding subsection, would not be chargeable with any profits tax or, would not be so chargeable to the same extent;
- (b) that profits tax shall be charged on any person in a greater amount than would be chargeable but for any adjustments directed to be made under the provisions of the last preceding subsection.”.

2. (1) Notwithstanding the provisions of section Extent.  
one of the Alderney (Application of Legislation) Law, 1948(b), this Law shall not have effect in the Island of Alderney.

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(b) Ordres en Conseil Vol. XIII, p. 448.

(2) This Law shall not have effect in the Island of Jethou.

Citation and  
collective  
title.

3. (1) This Law may be cited as the Dwellings Profits Tax (Amendment) (Guernsey) Law, 1983.

(2) This Law and the principal Law may be cited together as the Dwellings Profits Tax (Guernsey) Laws, 1975 and 1983.

Commence-  
ment.

4. This Law shall be deemed to have come into force on the twenty-seventh day of May, nineteen hundred and eighty-one.

D. J. ROBILLIARD,  
Her Majesty's Deputy Greffier.