

# ORDER IN COUNCIL

**XXI**  
**1989**

ratifying a Projet de Loi

ENTITLED

## **The Dwelling Profits Tax (Amendment) (Guernsey) Law, 1989**

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(Registered on the Records of the Island of Guernsey  
on the 5th December, 1989.)

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1989

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 5th day of December, 1989 before Sir Charles Frossard, Kt., Bailiff; present:— Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st November, 1989, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled "The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1989", 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 1st day of November 1989

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 25th day of October 1989 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 29th day of March 1989, the States of Deliberation at a meeting held on the 31st day of May 1989 approved a Bill or “Projet de Loi” entitled “The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1989”, 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 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, 1989", 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, and it is hereby ordered, that the same shall have 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.

*G. I. de Deney.*



# PROJET DE LOI

ENTITLED

## **The Dwellings Profits Tax (Amendment) (Guernsey) Law, 1989**

THE STATES, in pursuance of their Resolution of the 29th day of March, 1989, 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. In paragraph (d) of section 9(1) of the Dwellings Profits Tax (Guernsey) Law, 1975(a) the words "and of the said person was occupying that dwelling on the eighth day of October, nineteen hundred and seventy-three" are repealed. Dwelling occupied by beneficial owner of company.

2. The Dwellings Profits Tax (Guernsey) Law, 1975 is amended as follows: Change of beneficial interest in company or trust.

(a) immediately after section 5(4) there is inserted—

"(4A) The chargeable profit accruing from a transaction described in section 9(4) of this Law which consists of the sale of a dwelling shall be:

(a) that portion of the net consideration receivable by the vendor for the sale of the dwelling which, in the opinion of the Administrator, accrues to the

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(a) Ordres en Conseil Vol. XXV, p. 91; No. XVI of 1983.

benefit of the person who has the controlling or beneficial interest in the body corporate or trust; less

(b) the sum of—

- (i) that portion of any expenditure incurred by the person who has the controlling or beneficial interest in the body corporate or trust in acquiring that interest which, in the opinion of the Administrator, was referable to the value of the dwelling; and
- (ii) that portion of any expenditure such as is described in paragraphs (b) and (c) of subsection (3) of this section which, in the opinion of the Administrator, was met out of funds provided by that person; and
- (iii) the inflation element calculated in accordance with section 7 of this Law.”;

(b) immediately after section 6(9) there is inserted—

“(9A) The chargeable profit accruing from a transaction described in section 9(4) of this Law 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 shall be:

- (a) that portion of the net consideration receivable by the vendor for the grant or assignment which, in the opinion of the Administrator, accrues to the benefit of the person who has the controlling or beneficial interest in the body corporate or trust; less

(b) the sum of—

- (i) that portion of any expenditure incurred by the person who has the controlling or beneficial interest in the body corporate or trust in acquiring that interest which, in the opinion of the Administrator, was referable to the value of the dwelling, the head lease, the lease or the sub-lease (as the case may be); and
- (ii) that portion of any expenditure such as is described in paragraph (a)(ii) or (b)(ii) (as the case may be) of subsection (4) of this section which, in the opinion of the Administrator, was met out of funds provided by that person; and
- (iii) the inflation element calculated in accordance with section 7 of this Law,

adjusted as appropriate in accordance with subsections (5) to (8) inclusive of this section.”;

- (c) at the beginning of the words in paragraph (m) of section 9(1) there is inserted “subject to section 9(4) of this Law,”;
- (d) immediately after section 9(3) there is inserted:

“(4) The exemption from profits tax set out in paragraph (m) of subsection (1) of this section does not apply to the sale of a dwelling, or to the grant of a lease or a sub-

lease of a dwelling or the assignment of a lease or a sublease of a dwelling, by a body corporate or trust if a person who has a controlling interest in that body corporate or a beneficial interest in that trust acquired that controlling or beneficial interest—

(a) on or after 10th March, 1989;  
and

(b) less than five years before the date of that sale, grant or assignment;

but the chargeable profit accruing from that sale, grant or assignment shall be calculated in accordance with section 5(4A) or 6(9A) of this Law, as the case requires.”.

**Citation.** 3. This Law may be cited as the Dwellings Profits Tax (Amendment) (Guernsey) Law, 1989.

**Collective title.** 4. This Law and the Dwellings Profits Tax (Guernsey) Laws, 1975 and 1983 may be cited together as the Dwellings Profits Tax (Guernsey) Laws, 1975 to 1989.

K. H. TOUGH,

Her Majesty's Greffier.