

Island of



Guernsey

Ordinance of the States

III
2011

Made.....22nd November, 2010

Coming into Operation1st January, 2011

Laid before the States26th January, 2011

The Foreign Tax (Retention Arrangements) (Guernsey and Alderney) (Amendment) Ordinance, 2010

**The Foreign Tax (Retention Arrangements)
(Guernsey and Alderney) (Amendment) Ordinance, 2010**

THE STATES LEGISLATION SELECT COMMITTEE, in pursuance of the Resolution of the States of the 24th November, 2010^a, and in exercise of the powers conferred on the States by sections 1 to 5 of the Foreign Tax (Retention Arrangements) (Guernsey & Alderney) Law, 2004^b and all other powers enabling them in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^c, hereby orders:-

Amendment of 2005 Ordinance.

1. After Part IV of the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) Ordinance, 2005, as amended^d insert the following Part -

"PART IVA
TRANSITION FROM RETENTION TAX TO
REPORTING OF INFORMATION

Effect of Part IVA.

14A. This Part of this Ordinance has effect -

^a Article X of Billet d'État No. XXIII of 2010 (Volume 1).

^b Order in Council No. VIII of 2005.

^c Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

^d Ordinance No. XI of 2005; amended by No. LVI of 2006 and No. VII of 2009.

- (a) notwithstanding any other provision of this Ordinance and any provision of an approved international agreement,
- (b) irrespective of when and whether the transitional period comes to an end, and
- (c) whether or not a beneficial owner -
 - (i) has, pursuant to paragraph (3)(1)(a) of Schedule 2, expressly authorised his paying agent to report interest payments to the Director of Income Tax, or
 - (ii) has, pursuant to paragraph (3)(1)(b) of Schedule 2, presented to his paying agent a certificate drawn up in his name by the competent authority of the contracting party of residence for tax purposes in accordance with paragraph 3(2) of that Schedule.

Optional reporting of information from 1st January, 2011.

14B. (1) From the 1st January, 2011 a paying agent may elect not to deduct retention tax in accordance with paragraph 1 of Schedule 2 from the amount of any interest payment made on or after that date but before the 1st July, 2011.

(2) A paying agent who so elects must instead report any such interest payment from which he has elected not to deduct retention tax to the Director of Income Tax in the same manner as if the beneficial owner had, pursuant to paragraph (3)(1)(a) of Schedule 2, expressly authorised him to do so.

Cessation of retention tax from 1st July, 2011.

14C. (1) From the 1st July, 2011 a paying agent must not deduct retention tax in accordance with paragraph 1 of Schedule 2 from the amount of any interest payment made on or after that date.

(2) A paying agent must report any such interest payment to the Director of Income Tax in the same manner as if the beneficial owner had, pursuant to paragraph (3)(1)(a) of Schedule 2, expressly authorised him to do so.

Payment of retention tax during interim period.

14D. Notwithstanding the provisions of section 7(1)(a), retention tax deducted by paying agents from interest payments made on or after the 1st January, 2011 but before the 1st July, 2011 shall be paid to the Director of Income Tax on or before the 30th September, 2011.

Application of section 14.

14E. For the avoidance of doubt, a report by a paying agent of any interest payment to the Director of Income Tax in accordance with section 14B(2) or 14C(2) constitutes the making of a disclosure pursuant to a requirement imposed by or under this Ordinance for the purposes of section 14.

Effect on specific provisions.

14F. For the avoidance of doubt -

- (a) the preceding provisions of this Part apply in relation to -
 - (i) operators and entities considered to be the paying agent by virtue of paragraphs 4(4) and

7(2) of Schedule 2, and

- (ii) persons or bodies who are paying agents in respect of debt securities considered as debt claims within the meaning of paragraph 8(1)(a) of Schedule 2 by virtue of paragraph 11(1) of that Schedule,

as they apply in relation to any other class or description of paying agent, and

- (b) the preceding provisions of this Part apply in relation to any interest payment within the meaning of paragraph 8 of Schedule 2 (but subject to section 21(2))."

Citation.

2. This Ordinance may be cited as the Foreign Tax (Retention Arrangements) (Guernsey and Alderney) (Amendment) Ordinance, 2010.

Commencement of Ordinance.

3. This Ordinance shall come into force on the 1st January, 2011.

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

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