

ORDER IN COUNCIL

IV
1993

ratifying a Projet de Loi

ENTITLED

The Income Tax (Allowances Amendments) (Guernsey) Law, 1993

(Registered on the Records of the Island of Guernsey
on the 29th June, 1993.)



1993

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 29th day of June, 1993 before Sir Graham Dorey, Kt., Bailiff;
present:—Harry Wilson Bisson, Herbert Nicolle Machon, Geoffrey
Ernest Le Page, Stanley Walter John Jehan, Esquires, Mrs. Dorothy
Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris,
Charles Anthony Spensley, Kenneth John Rowe, Lawrence Oscar
Ozanne and John Richard Rowe Henry, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 12th May, 1993, approving and ratifying a *Projet de Loi* entitled “The Income Tax (Allowances Amendments) (Guernsey) Law, 1993”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller 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 12th day of May 1993

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 20th day of April 1993 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 Resolutions of the 29th day of July 1992, and the 1st day of October 1992, the States of Deliberation at a meeting held on the 27th day of January 1993, approved a Bill or “Projet de Loi” entitled “The Income Tax (Allowances Amendments) (Guernsey) Law, 1993”, 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 Income Tax (Allowances Amendments) (Guernsey) Law, 1993”, and to order that the same shall have force of law in the Islands of Guernsey and Herm.’

“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 the force of Law within the Islands of Guernsey and Herm.

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. H. Nicholls

(No.IV - 1993)
PROJET DE LOI
ENTITLED

**The Income Tax (Allowances Amendments)
(Guernsey) Law, 1993**

THE STATES, in pursuance of their Resolutions of 29th July 1992(a) and 1st October 1992(b), have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Herm.

Personal and other allowances.

1. In section 36(1) of the Income Tax (Guernsey) Law, 1975(c), for "an individual resident" there is substituted "an individual who is solely or principally resident".

Proportional allowances.

2. In the Income Tax (Guernsey) Law, 1975-

(a) In section 51(1), for "not resident" there is substituted "not solely or principally resident";

(b) in section 51(4), for "as if that person were resident in Guernsey" there

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- (a) On article 15 of Billet d'État No. XV of 1992.
(b) on Article 29 of Billet d'État No. XVII of 1992.
(c) 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; Nos. XIV and XXIII of 1989; No. XXVI of 1990; No. IV of 1991; No. VI of 1992.

is substituted "as if that person were solely or principally resident in Guernsey"; and

- (c) immediately after section 51 there is inserted:

"
CHAPTER IVA
INDIVIDUALS NOT SOLELY OR
PRINCIPALLY RESIDENT

Proportional personal and other allowances for individuals not solely or principally resident

51A(1) Section 51 of this Law applies to individuals who are resident, but not solely or principally resident, in Guernsey as that section applies to individuals who are not resident in Guernsey.

(2) Notwithstanding section 51(1) of this Law, an individual who is resident, but not solely or principally resident, in Guernsey in any year of charge, shall in respect of that year of charge be entitled to a proportion of the personal and other allowances prescribed under section 36(1) of this Law by way of relief from income tax at the standard rate, and subject to the same conditions, as if he were solely or principally resident in Guernsey, that proportion not to exceed one fifty-second part of those personal and

other allowances for every seven days which he satisfies the Administrator that he spent in Guernsey during that year of charge."

Initial allowance on investment in hotel business

3. In the Income Tax (Guernsey) Law, 1975, the following Chapter is inserted immediately after Chapter II of Part X:

"

CHAPTER III

INITIAL ALLOWANCE ON INVESTMENT IN HOTEL BUSINESS

Initial allowance on hoteliers' premises

132A(1) Subject to the provisions of this Part of this Law, if, on or after 1st January, 1991, an hotelier incurs capital expenditure on the construction, reconstruction, extension, renovation or alteration of premises owned by him or leased to him, which are used wholly for the purposes of his business as an hotelier, he may claim that there shall be made to him for the year of charge in which the expenditure is incurred an allowance (in this Chapter referred to as "an initial allowance") equal to three tenths, or such other proportion as the States may from time to time resolve, of that expenditure.

(2) In this Chapter "an hotelier" means a person who carries on the business of providing sleeping accommodation for reward in accordance with a boarding permit granted under the Tourist Law, 1948(d), but also includes -

(d) Ordres en Conseil Vol. XIII, p. 329.

- (a) where premises are let to an hotelier on such terms that the burden of their depreciation falls directly on the lessor, the lessor of the premises, and
- (b) a person who is about to carry on that business, provided that expenditure incurred before the business is commenced shall be treated as if incurred on the day when the business is commenced.

(3) The States may from time to time by Resolution suspend the operation of this section or vary its provisions by altering the proportion referred to in subsection (1) or otherwise.

Claims for initial allowance and right of election

132B(1) A claim for an initial allowance under section 132A must be submitted in writing to the Administrator within two years after the end of the year in which the expenditure is incurred.

(2) If an initial allowance under section 132A exceeds what would otherwise be an individual's chargeable profits for the year of charge in which the expenditure is incurred, he may elect that the allowance shall be split equally between that year of charge and the next.

(3) An election under subsection (2) of this section must be submitted in writing to the Administrator within three years after the end of the year in which the expenditure is incurred.

Withdrawal of initial allowance

132C(1) This section applies where -

- (a) an initial allowance under this Chapter has been made in respect of any premises, and
- (b) within six years after the end of the year of charge for which it was made:
 - (i) the premises cease, otherwise than on his death or in consequence of saisie proceedings, to be owned by the person to whom the initial allowance was made, or
 - (ii) in the case of an initial allowance made to a lessee, the lease is assigned, or is surrendered, forfeited or otherwise determined, or
 - (iii) the premises cease to be used wholly for the purposes of the business of an hotelier.

(2) Where this section applies tax shall be charged as if the initial allowance had not been claimed, any relevant assessments shall be amended, and sections 73, 74, 76, 82 and 83 of this Law shall apply with any necessary adaptations.

(3) An assessment may be made in accordance with this section at any time within six years after the end of the year of charge in which an event referred to in paragraph (1)(b) occurs, and the tax chargeable in consequence of it is payable within 21 days from the date of issue of the notice of assessment."

Amendments as respects annual allowances

4. Immediately after section 84 of the Income Tax (Guernsey) Law, 1975 there is inserted:

"Exclusion of double allowances on investment in hotel business

84A No allowance shall be made under this Part of this Law in respect of any expenditure if, for the same or any previous or subsequent year of charge, an allowance is or can be made in respect of that expenditure under Chapter III of Part X of this Law."

Interpretation.

5. References in this Law to the Income Tax (Guernsey) Law, 1975 are to that Law as amended by any other enactment, including this Law.

Application.

6. (1) Sections 1 and 2 of this Law apply for the year of charge 1993 and subsequent years of charge.

(2) Sections 3 and 4 of this Law apply for the year of charge 1991 and subsequent years of charge.

Citation.

7. This Law may be cited as the Income Tax (Allowances Amendments) (Guernsey) Law, 1993.

Collective title.

8. This Law and the Income Tax (Guernsey) Laws, 1975 to 1992 may be cited together as the Income Tax (Guernsey) Laws, 1975 to 1993.