

ORDER IN COUNCIL

XIII

1973

ratifying a Projet de Loi

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1973

(Registered on the Records of the Island of Guernsey
on the 23rd day of August, 1973.)



1973

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 23rd day of August, 1973, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:— Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 27th day of July, 1973, ratifying a Projet de Loi entitled "The Income Tax (Amendment) (Guernsey) Law, 1973", 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 27th day of July 1973

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 July 1973, 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 28th day of April and the 29th day of September 1965, and the 29th day of September and the 27th day of October 1971, the States of Deliberation at a meeting held on the 27th day of September 1972, approved a Bill or “Projet de Loi” entitled “The Income Tax (Amendment) (Guernsey) Law, 1973” 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 (Amendment) (Guernsey) Law, 1973” 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, as 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.

W. G. Agnew.

10/11/11

Dear Sir,
I have the pleasure to inform you that your application for the position of [Job Title] has been successful. We are pleased to offer you a position in our [Department Name] department. The position is based in [Location] and is a full-time position. The starting date is [Start Date].

The salary for this position is [Salary] per annum. We also offer a comprehensive benefits package, including [List Benefits]. We are confident that you will find this position to be a challenging and rewarding one. Please let us know if you have any questions or if you need any further information.

Yours faithfully,
[Name]
[Title]

[Company Name]
[Address]
[City, State, Zip]

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1973

ARRANGEMENT OF SECTIONS

PART I

Initial allowance on glasshouses

1. Initial allowance on glasshouses.
2. Power to vary amount of initial allowance.
3. Claims for initial allowance.
4. Right of election in respect of initial allowance.
5. Transfer of property within six years of receiving initial allowance.
6. Application of the Law of 1955.
7. Expenditure on draining or levelling land.
8. Regulations.
9. Appeals.
10. Interpretation of Part I

PART II

Amendments, commencement and citation

11. Amendment to section 7 of the Law of 1950.
12. Amendments to the Law of 1955.
13. Amendments to the Law of 1959.
14. Amendments to the Law of 1964.
15. Commencement.
16. Citation and collective title.

PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1973

THE STATES, in pursuance of their Resolutions of the twenty-eighth day of April and the twenty-ninth day of September, nineteen hundred and sixty-five, and the twenty-ninth day of September and the twenty seventh day of October, nineteen hundred and seventy-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 Islands of Guernsey and Herm.

PART I

Initial Allowance on Glasshouses

Initial
allow-
ance on
glasshouses.

1. (1) Subject to the provisions of this Law, where, after the thirty-first day of December, nineteen hundred and sixty-four, a person carrying on a business incurs, for the purposes of that business, capital expenditure for any or all of the purposes referred to in subsection (3) of this section, he may claim that there shall be made to him for the year of charge in the basis period for which the expenditure is incurred an allowance (hereinafter referred to as an "initial allowance") equal to one-quarter of that expenditure or to such other proportion of that expenditure as the States may from time to time by Resolution prescribe.

(2) Where a glasshouse is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor and—

- (a) the lessor is entitled to an allowance on account of the depreciation of the glasshouse under the provisions of section sixteen of the Law of 1955; and
- (b) the lessor incurs capital expenditure for any or all of the purposes referred to in subsection (3) of this section,

he may claim that there shall be made to him such initial allowance as would fall to be made if he were carrying on a business and the capital expenditure had been incurred for the purpose of that business.

(3) An initial allowance shall be made in accordance with the provisions of the preceding subsections of this section in respect of capital expenditure:—

- (a) on the provision of a glasshouse situate on an approved site and constructed so as to conform to such standards as the Authority may from time to time by regulation prescribe; or
- (b) on the provision and installation of heating apparatus which conforms to such standards as the Authority may from time to time by regulation prescribe and which is installed in a glasshouse which is so situate and so constructed that it satisfies the requirements of paragraph (a) of this subsection or in a glasshouse which is deemed to warrant improvement; or
- (c) on the provision and installation of apparatus for the automatic control of ventilation which conforms to such standards as the Authority may from time to time by regulation prescribe and which is installed in a glasshouse which is so situate and so constructed that it satisfies the requirements of paragraph (a) of this subsection or in a

glasshouse which is deemed to warrant improvement; or

- (d) on the improvement of heating apparatus which has previously been installed in a glasshouse which is deemed to warrant improvement if, after the expenditure has been incurred, the heating apparatus as so improved conforms to such standards as the Authority may from time to time by regulation prescribe; or
- (e) on the provision on an approved site of roadways and turning points which conform to such standards as the Authority may from time to time by regulation prescribe.

(4) For the purposes of subsection (3) of this section, a glasshouse shall be deemed to warrant improvement if it was constructed on an approved site before the first day of January, nineteen hundred and sixty-four, and—

- (a) it is well constructed and has been so maintained as to be in an efficient state of repair; and
- (b) the height of the fronts of the glasshouse is not less than five feet when measured from ground level inside the glasshouse; and
- (c) the width of the glass used in the construction of the glasshouse is not less than sixteen inches.

(5) Any capital expenditure incurred for the purposes of a business after the thirty-first day of December, nineteen hundred and sixty-four, by a person about to carry on the said business which if it had been incurred by that person after the date on which he commenced to carry on the business would have fallen to be treated as capital expenditure

for the purposes of subsection (1) of this section shall for the purposes of that subsection be treated as if it had been incurred by that person on the first day on which he commenced to carry on that business.

2. The States may, from time to time, by Resolution suspend the operation of the provisions of section one of this Law or may vary the amount of the initial allowance prescribed in that section.

Power to vary amount of initial allowance.

3. An initial allowance shall not be made unless a claim that an initial allowance be made is submitted to the Administrator in writing by the person entitled to the allowance not later than one year after the end of the year in which the expenditure in respect of which the relief is claimed was incurred or not more than two years after the date on which this Law shall come into force, whichever date may be the later.

Claims for initial allowance.

4. (1) Where an individual is entitled to claim an initial allowance and for the year of charge for which the initial allowance would, but for the provisions of this section, fall to be made the sum of the initial allowance and annual allowance which would otherwise fall to be made exceeds the amount of the profits which, but for the allowances, would be chargeable to tax, the individual may elect that one-half of the initial allowance be made for the year of charge in the basis period for which the expenditure was incurred and that one-half of the initial allowance shall be made for the next succeeding year of charge.

Right of election in respect of initial allowance.

(2) Any election made in accordance with the provisions of subsection (1) of this section shall be made in writing by the individual entitled to the allowance not later than two years after the end of

the year in which the expenditure in respect of which relief is claimed was incurred or not more than one year after the date on which this Law shall come into force, whichever date may be the later.

Transfer of property within six years of receiving initial allowance.

5. (1) If within six years of the end of a year of charge for which an initial allowance has been made under the provisions of this Law any property in respect of which the initial allowance was so made ceases to belong to one person and commences to belong to another person then the assessment for each year of charge for which the tax which would otherwise have been chargeable has been reduced as a direct or indirect consequence of the making of an initial allowance, shall be amended and tax shall be charged as if an initial allowance had not been claimed.

(2) The provisions of sections fifty-nine, sixty and sixty-two of the principal Law^(a) shall apply with such adaptations as may be necessary to assessments made under this section.

(3) Assessments may be made under the provisions of this section at any time not later than six years after the end of the year of charge in which the change of ownership giving rise to the assessment takes place.

(4) The tax chargeable as a consequence of an assessment made under this section shall be payable within twenty-one days from the date of the issue of the notice of assessment and the provisions of sections sixty-eight and sixty-nine of the principal Law shall apply to the tax so chargeable.

(a) Ordres en Conseil Vol. XIV, p. 235.

6. (1) The provisions of section sixteen of the Law of 1955^(b) shall apply as if any reference to an allowance on account of depreciation of a glasshouse included a reference to any initial allowance made under the provisions of this Law. Application
of the Law
of 1955.

(2) The provisions of subsection (2) of section thirty-five of the Law of 1955 shall apply to any initial allowance made under the provisions of this Law as if the allowance were an allowance made under Part II of the said Law of 1955.

(3) The provisions of section thirty-six of the Law of 1955 shall apply as if an initial allowance made under the provisions of this Law was an allowance made under the provisions of Part II of the said Law of 1955.

(4) The provisions of subsection (1) of section thirty-seven of the Law of 1955 shall apply to the making of allowances and charges under this Law as if such allowances and charges were made under the provisions of Part II of the said Law of 1955.

(5) In this Law the expression "basis period" shall have the meaning assigned to it by section forty of the Law of 1955 and the provisions of that section shall apply accordingly to any reference to that expression in this Law.

(6) The provisions of paragraph (c) of section forty-one of the Law of 1955 shall apply as if any reference to annual allowances in that paragraph included a reference to any initial allowance made under the provisions of this Law.

(7) The provisions of section forty-two of the Law of 1955 shall apply, with such adaptations as

(b) Ordres en Conseil Vol. XVI, p. 283.

may be necessary, to any reference to capital expenditure in this Law.

Expenditure on draining or levelling land.

7. Where expenditure is incurred on the levelling or draining of land in order to secure that such land may become an approved site and there is thereafter erected on such land a glasshouse in respect of which an initial allowance may be claimed, the expenditure so incurred shall be deemed to constitute part of the expenditure on the provision of the glasshouse.

Regulations.

8. (1) The Authority may make regulations for the purpose of carrying into effect the provisions of this Part of this Law and may vary or revoke such regulations.

(2) Any regulations made by the Authority under the provisions of this section shall be laid before a meeting of the States as soon as may be after the making thereof and if, at that meeting or the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the Authority of any new regulations.

Appeals.

9. (1) Any person aggrieved by a decision of the Administrator given under any regulation of the Authority made under the provisions of section eight of this Law shall be entitled to appeal to the Authority on giving to the Administrator notice in writing, stating the grounds of appeal, within twenty-one days of the issue of the notice of assessment or the notice of the Administrator's decision.

(2) If any regulation of the Authority made under the provisions of section eight of this Law allows a discretion to the Administrator, any person

aggrieved by the refusal of the Administrator to exercise any such discretion shall be entitled to appeal to the Authority on the ground that the Administrator has unreasonably declined to exercise the discretion allowed to him, on giving notice to the Administrator, in writing, within twenty-one days of the issue of the notice of assessment or the notice of the Administrator's decision, as the case may be.

(3) The provisions of Part VII of the principal Law shall apply in the case of an appeal under the provisions of subsection (1) or subsection (2) of this section as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the Administrator, with such adaptations as may be necessary.

10. (1) In this Part of this Law, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say—

Interpreta-
tion of
Part I.

“approved site” means a site which complies with such requirements as the Authority may from time to time by regulation prescribe;

“the Authority” means the Authority constituted under the provisions of section eighty-three of the principal Law;

“glasshouse” shall have the meaning assigned to it in subsection (1) of section forty-four of the Law of 1955;

“the Law of 1955” means the Income Tax (Guernsey) Law, 1955;

“the principal Law” means the Income Tax (Guernsey) Law, 1950;

“the States” means the States of Guernsey;

and other expressions shall have the meanings assigned to them by the principal Law.

(2) Except in so far as the context otherwise requires, any reference in this Part of this Law to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

PART II

Amendments, commencement and citation

Amendment to section seven of the Law of 1950.

11. Subsection (3A) of section seven of the Income Tax (Guernsey) Law, 1950, is hereby repealed and the following subsection is hereby substituted therefor:—

“(3A) For the purposes of the last foregoing subsection, in the case of a glasshouse—

- (a) in relation to repairs effected before the first day of January, nineteen hundred and seventy-two, the expression “current repairs” shall mean painting, glazing and minor repairs, and the amount allowable in respect of minor repairs shall not exceed a sum calculated in accordance with such rate per hundred feet of glass thirty feet wide as may from time to time be determined by the Authority and published in “La Gazette Officielle”; and
- (b) in relation to repairs effected after the thirty-first day of December, nineteen hundred and seventy-one, the expression “current repairs” shall be deemed not to include any operation which consists of the replacement of the whole, or substantially the whole, of the front or parts of the glasshouse, or of the replacement of the whole,

or substantially the whole, of the roof or a substantial part of the roof of a glasshouse, and expenditure on any such operation shall be deemed to be expenditure of a capital nature;

- (c) notwithstanding the provisions of paragraphs (a) and (b) of this subsection, where a glasshouse has sustained damage by act of God, and the Administrator is satisfied that the glasshouse has been so maintained as to be in a reasonable state of repair immediately prior to the time of such damage, the Administrator may allow such amount on account of the repairs to the glasshouse as may be reasonable and just.”.

12. The Income Tax (Guernsey) Law, 1955, is hereby amended as follows:—

Amend-
ments to
the Law
of 1955.

- (a) immediately after the end of subsection (3) of section sixteen thereof, there is inserted the following subsection, numbered (4)—

“ (4) Where any glasshouse or any machinery or plant associated therewith is leased by the States of Guernsey to any person and is used by that person for the purpose of any business carried on by him, then for the purpose of calculating any allowance or charge which falls to be made to or on any person under the provisions of this Part of this Law or under the provisions of the Income Tax (Amendment) (Guernsey) Law, 1973, such glasshouse, machinery or plant shall be deemed to belong to a person who is subject to tax in accordance with the provisions of the Income Tax (Guernsey) Laws, 1950 to 1973, and to be used by that

person for the purposes of a business carried on by him.”;

- (b) immediately after the end of subsection (2) of section forty-two thereof, there are inserted the following subsections, numbered (3) and (4)—

“ (3) Expenditure shall not be regarded for any of the purposes of this Part of this Law as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the States of Guernsey or by any government or public or local authority, whether in the Island of Guernsey or elsewhere.

(4) In considering, for the purposes of subsection (3) of this section, how far any expenditure has been or is to be met directly or indirectly by the States of Guernsey or by any government or authority, there shall be left out of account any insurance moneys or other compensation moneys payable in respect of any asset which has been demolished, destroyed or put out of use.”;

- (c) sections sixty-six and sixty-seven thereof are repealed.

Amend-
ments to
the Law
of 1959.

13. The Income Tax (Amendment) (Guernsey) Law, 1959(c), is hereby amended as follows:—

- (a) subsection (2) of section two thereof is repealed and the following subsection is substituted therefor—

“ (2) Any regulations made by the Authority under the provisions of this section shall be laid before a meeting of the States as soon as may be after the making thereof

and if, at that meeting or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the Authority of any new regulations.”;

- (b) subsection (6) of section four thereof is repealed;
- (c) subsection (2) of section eight thereof is repealed and the following subsection is substituted therefor—

“ (2) For the purposes of the last foregoing subsection, the amount to be taken into account in respect of repairs to a glasshouse shall be such an amount as would be a permissible deduction from the profits of a business if the glasshouse had been in the occupation of the owner for the purpose of a business carried on by him.”

14. The Income Tax (Amendment) (Guernsey) Law, 1964(d), is hereby amended as follows:—

Amend-
ments to
the Law
of 1964.

- (a) by the deletion of the full stop at the end of section fourteen thereof and the substitution therefor of a colon and the following proviso—

“ Provided that, with effect from the commencement of the Year of Charge 1971, where the investment company is entitled to relief from double taxation in accordance with the provisions of section twenty-three or twenty-three D of the principal Law, or in accordance with the provisions of section forty-seven of this Law—

(d) Ordres en Conseil Vol. XIX, p. 405.

- (i) for the purpose of calculating such relief the amount of any income on which the investment company would otherwise be entitled to relief shall be reduced by an amount equal to the same proportion of the interest as the amount of that income bears to the total assessable income for the year of charge; and
 - (ii) the amount of relief allowable in respect of double taxation for any year of charge shall not exceed the amount remaining after deducting from the amount of tax chargeable upon the investment company for that year of charge, before the deduction of any such relief, the amount of any tax which the company is entitled to deduct and retain for that year of charge under the provisions of paragraph (c) of this section.”;
- (b) by the deletion of the full stop at the end of subsection (1) of section thirty-six thereof and the substitution therefor of a semi-colon and the following paragraph—
- “(c) where interchange arrangements are made as between the States of Guernsey and an employing authority in the United Kingdom with the object of providing for the aggregation of service and for a single superannuation award in cases where persons may be transferred from service in the United Kingdom to service in Guernsey or from service in Guernsey to service in the United Kingdom, then any transfer payments made by

the States of Guernsey shall be treated as if they were statutory contributions repaid and shall be chargeable to tax at one half of the standard rate in force in the year of charge in which the transfer is made:

Provided that such transfer payments may be exempt from tax if the Authority determines that having regard to the nature of the interchange arrangements it is equitable that the payments should be so exempt.”.

15. The provisions of this Law shall be deemed to have come into force on the first day of January, nineteen hundred and seventy-two. Commence-
ment.

16. This Law may be cited as the Income Tax (Amendment) (Guernsey) Law, 1973, and this Law and the Income Tax (Guernsey) Laws, 1950 to 1969, shall be construed as one and this Law and those Laws may be cited together as the Income Tax (Guernsey) Laws, 1950 to 1973. Citation and
collective
title.

R. H. VIDELO,

Her Majesty's Greffier.