

ORDER IN COUNCIL

I
1977

ratifying a Projet de Loi

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1977

(Registered on the Records of the Island of Guernsey
on the 22nd March, 1977.)



1977.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 22nd day of March, 1977, before Charles Keith Frossard, Esquire, Deputy Bailiff; present:— Claude Fortescue Nason, Esquire, Stanley Walter Gavey, Esquire, O.B.E., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersty, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C. and Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Jurats.

The Deputy Bailiff having this day placed before the Court an Order dated the 16th day of February, 1977, of the Counsellors of State in Council on behalf of Her Majesty, being authorised thereto by Letters Patent dated the 3rd day of February, 1977, ratifying a *Projet de Loi* entitled "The Income Tax (Amendment) (Guernsey) Law, 1977", 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 and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court of Saint James

The 16th day of February 1977

PRESENT,

The Counsellors of State in Council

WHEREAS Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 3rd day of February 1977, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

AND 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 9th day of February 1977, 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 30th day of September 1976, the States of Deliberation at a meeting held on the 24th day of November 1976, approved a Bill or “Projet de Loi” entitled “The Income Tax (Amendment) (Guernsey) Law, 1977”, 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, 1977”, 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.”

NOW, THEREFORE, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, have taken the said Report into consideration and do hereby, by and with the advice of Her Majesty’s Privy Council, on Her Majesty’s behalf, approve of and ratify the said Projet de Loi, and order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey and Herm.

AND do 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 referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1977

THE STATES, in pursuance of their Resolution of the thirtieth day of September, nineteen hundred and seventy-six, 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.

Amend-
ments to
Law of
1975.

1. The Income Tax (Guernsey) Law, 1975(a), as amended(b), is hereby further amended as follows:—

(a) paragraph (d) of subsection (1) of section five thereof is repealed and the following paragraph is substituted therefor:—

“(d) in the case of an individual or company not resident in Guernsey, on his or its income arising or accruing from—

- (i) businesses carried on in Guernsey;
- (ii) offices or employments held or exercised in Guernsey;
- (iii) the ownership of lands and buildings situate in Guernsey; and
- (iv) any other source in Guernsey;

and for the purposes of this paragraph, income consisting of dividends,

(a) Ordre en Conseil No. IX of 1975.
(b) Ordre en Conseil No. X of 1976.

interest, royalties and any other income of a similar nature shall be treated as income of class (4) of section two of this Law, unless such individual or company carries on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income of class (1) of section two of this Law and the said income falls to be taken into account in computing the profits so chargeable.”;

(b) the full stop at the end of paragraph (x) of section forty thereof is deleted and a semi-colon and the following paragraph are substituted therefor:—

“(y) any payment of benefit in pursuance of the provisions of the Supplementary Family Allowances (Guernsey) Law, 1976.”;

(c) in subsection (4) of section fifty-seven thereof the words “assessment or” are repealed;

(d) the proviso to section sixty-one thereof is repealed and the following proviso is substituted therefor:—

“Provided that no such repayment shall be made until the tax payable by the person so entitled to the dividend has been determined for the year of charge for which the dividend is assessable or, in a case to which the provisions of subsection (2) of section thirty-one of this Law apply, for the year

of charge to which the provisions of paragraph (b) of the said subsection apply, and for every year of charge prior to that year of charge.”;

- (e) section ninety-four thereof is repealed and the following section is substituted therefor:—

“94. Where—

(a) in any year of charge, a building which is not used by the person to whom it belongs for the purposes of a business carried on by him in that year ceases, for any reason whatsoever, to belong to that person (hereinafter referred to as “the first-mentioned person”) and commences to belong to another person (hereinafter referred to as “the second-mentioned person”), and

(b) within a period of five years of the date on which the said building was last used for the purposes of a business by the first-mentioned person or by any other person to whom it formerly belonged during the said period of five years, the second-mentioned person commences to use the said building for the purposes of a business carried on by him,

then, for the purposes of this Part of this Law, the said building shall be deemed to have been used by the first-mentioned person for the purposes of a business carried on by him in the year of charge in which it ceased to belong to him.”;

- (f) section one hundred and sixty-eight thereof is repealed and the following section is substituted therefor:—

“168. The provisions of the last four foregoing sections shall not apply in the case of interest on money borrowed where such interest is payable to a non-resident carrying on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income of class (1) of section two of this Law, and the said interest falls to be taken into account in computing the profits so chargeable.”;

- (g) the definition of the expression “pension business” contained in section one hundred and eighty-eight thereof is repealed and the following definition is substituted therefor:—

“ “pension business” means any contract with the trustees or other persons having the management of an approved pension scheme approved under the provisions of Part XIII of this Law, or with the trustees or other persons having the management of a superannuation fund to which the provisions of paragraphs (o) or (q) of section forty of this Law apply, entered into for the purposes only of that approved pension scheme or superannuation fund, as the case may be;”;

- (h) in subsection (1) of section two hundred and nine thereof—

- (i) immediately after the definition of the expression "owner" there is inserted the following definition:—
 " "permanent establishment" means a branch, management or other fixed place of business;"
- (ii) immediately after the definition of the expression "personal representative" there is inserted the following definition:—
 " "royalties" means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience;"

Commence-
ment.

2. This Law shall be deemed to have come into force on the first day of January, nineteen hundred and seventy-seven.

Citation and
collective
title.

3. This Law may be cited as the Income Tax (Amendment) (Guernsey) Law, 1977, and this Law, the Income Tax (Guernsey) Law, 1975, and the Income Tax (Amendment) (Guernsey) Law, 1976, may be cited together as the Income Tax (Guernsey) Laws, 1975 to 1977.

R. H. VIDELO,

Her Majesty's Greffier.