

ORDER IN COUNCIL

VI
1992

ratifying a Projet de Loi

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1992

(Registered on the Records of the Island of Guernsey
on the 18th January, 1993.)



1992

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 18th day of January, 1993 before Graham Martyn Dorey, Esquire, Bailiff; present:—Harry Wilson Bisson, Herbert Nicolle Machon, 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, 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 28th day of October, 1992, approving and ratifying a *Projet de Loi* entitled “The Income Tax (Amendment) (Guernsey) Law, 1992”, 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 28th day of October 1992

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 14th day of October 1992 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 8th day of May 1991, 27th day of June 1991, 31st day of October 1991, 11th day of December 1991, and 30th day of April 1992, the States of Deliberation at a meeting held on the 30th day of April 1992 approved a Bill or “Projet de Loi” entitled “The Income Tax (Amendment) (Guernsey) Law, 1992”, 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 as 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, 1992”, 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 the 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

(No.VI - 1992)

PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1992

THE STATES, in pursuance of their Resolutions of 8th May 1991(a), 27th June 1991(b), 31st October 1991(c), 11th December 1991(d), and 30th April 1992(e), 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.

Exemptions for income of registered friendly societies.

1. In section 40 of the Income Tax (Guernsey) Law, 1975,(f), for sub-paragraph (ii) of paragraph (h) there is substituted -

"(ii) so much of the income of a registered friendly society as derives from such business, carried on in such circumstances, and subject to such

(a) on Article 14 of Billet d'Etat No. IX of 1991.

(b) on Article 11 of Billet d'Etat No. XIV of 1991.

(c) on Article 33 of Billet d'Etat No. XXIII of 1991.

(d) on Article 1 of Billet d'Etat No. XXVI of 1991.

(e) on Article of Billet d'Etat No. of 1992.

(f) 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; No. XIII of 1986; Nos. XIV and XXIII of 1989; No. XXVI of 1990; No. IV of 1991.

conditions, as the Authority may from time to time specify in regulations made under this sub-paragraph;".

Covenanted donations to charities.

2. In section 65 of the Income Tax (Guernsey) Law, 1975(g):

(a) in subsection (1), for "Subject to the provisions of subsection (2) of this section, all" there is substituted "All";

(b) immediately after subsection (1) there is inserted:

"Provided that in the case of a settlement made on a charity paragraph (a) of this subsection shall have effect with the substitution of "three years" for "six years".";

(c) for the proviso to subsection (2) there is substituted:

"Provided that in the case of a husband and wife:

(a) this subsection shall only apply if and to the extent

(g) Section 65 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p.84).

that the aggregate amount of any such covenanted donations to a charity or charities made by either or both of them in respect of any year of charge exceeds twice the amount of the approved sum for the time being prescribed by or under subsection (4) of this section; and

- (b) if there is in force an application under section 46 of this Law for separate charges and they both make covenanted donations to a charity or charities in respect of any year of charge, that amount of twice the approved sum shall be apportioned between them in such manner as they may agree or, in default of such agreement, in the same proportions as the amounts of their respective covenanted

donations to a charity or charities bear to the total of the covenanted donations to a charity or charities of both of them."

Notice of liability and penalty for failure to give notice.

3.(1) In section 68(2) of the Income Tax (Guernsey) Law, 1975, immediately after "to give notice" there is inserted "within 14 days thereafter".

(2) For section 189 of the Income Tax (Guernsey) Law, 1975 there is substituted:

" 189. A person who fails to give to the Administrator such notice of his liability to be charged with tax as he is required to give in accordance with section 68(2) of this Law shall be liable:

- (a) if that failure was occasioned by his negligence, to a penalty not exceeding three times the amount of tax chargeable for the year of charge in relation to which that notice should have been given:

Provided that if he gives such notice before the Administrator institutes enquiries which reveal such negligent failure he shall not be liable to any penalty under this paragraph;

(b) if that failure was occasioned by his fraud, to a penalty not exceeding three times the total amount of tax which he would be liable to pay for the year of charge in relation to which that notice should have been given, if no reduction were made in respect of any of the allowances to individuals."

(3) In Schedule 3 to the Income Tax (Amendment) (Guernsey) Law, 1990(h), the reference to section 189 is repealed.

(h) No. XXVI of 1990.

Revised E.T.I. penalty procedure.

4. In section 200 of the Income Tax (Guernsey) Law, 1975 -

- (a) in subsection (1), for "other than section one hundred and ninety-eight" substitute "other than section 193A or section 198";
- (b) in subsection (4), immediately after "penalty" insert "other than a penalty under section 193A of this Law";
- (c) immediately after subsection (4) insert:

" (5) If the Administrator is satisfied that a person is liable to a penalty under section 193A of this Law he may make an order directing that person to pay a penalty, and in such a case -

- (a) no such notice as is referred to in subsection (1) of this section need be sent;
- (b) the right conferred in other cases by subsection

- (2) of this section does not exist; and
- (c) subsection (4) of this section does not apply.”.

Oaths of secrecy.

5. For section 206 of the Income Tax (Guernsey) Law, 1975 there is substituted -

"Oaths of secrecy.

206.(1) An oath must be taken by every person who -

- (a) is elected as a member of the Authority, or
- (b) is appointed as a member of the Tribunal, as the clerk to the Tribunal, as the Administrator or as an Assistant Administrator, or
- (c) is employed by the States under the control of the Administrator, or
- (d) is requested to perform any task in the course of which he may obtain access to the official records of the Authority.

(2) The oath must be taken before the person required to take it begins to act in execution of the Income Tax Law or is permitted access to the official records of the Authority.

(3) The oath must be taken -

(a) in a case within paragraph (a) or paragraph (b) of subsection (1) of this section, before the Royal Court sitting as an Ordinary Court;

(b) in any other case, before a member of the Authority, who shall have power to administer the oath in any such case.

(4) The oath shall be in such form as the States may from time to time prescribe by Ordinance and any such Ordinance may prescribe different forms of oath for different cases and circumstances.

(5) Where an oath required by this section has been taken by any person before a member of the Authority, the Authority

shall cause an entry to be made in the minutes of the Authority to the effect that the oath has been taken by that person and shall cause a copy of that entry, signed by that person and certified by the Administrator as being a correct copy, to be furnished to Her Majesty's Greffier, who shall keep the same in safe custody.

(6) A person violating an oath required by this section is guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 4 on the uniform scale, or to both.

(7) Nothing in this section or in any oath taken in accordance with this section precludes the Administrator or the Assistant Administrator from disclosing to the States Insurance Authority the name and address of any employer and the address of any other person.

(8) For the purposes of this section -

"the Income Tax Law" means

any enactment for the time
being in force in Guernsey or
Alderney relating to income
tax or dwellings profits tax;
"a member of the Authority"
includes its President;
"the official records of the
Authority" means any
information under the control
of the Authority or the
Administrator relating to the
income or profits of, or to
any tax paid or payable by,
any identifiable individual
or body, whether that
information is recorded
manually or as computer
data."

Correction of minor errors and omissions.

6. In the Income Tax (Guernsey) Law, 1975 -
 - (a) in the heading to Part III (immediately preceding section 40), for "COMPANIES AND TRUSTS" there is substituted "BODIES";

(b) in section 40A(5A)(c), for "year" there is substituted "the year";

(c) in section 157A(9)(a)(ii), for "class (2)" there is substituted "class (1)".

Citation.

7. This Law may be cited as the Income Tax (Amendment) (Guernsey) Law, 1992.

Repeal and collective title.

8.(1) Section 13(2) of the Income Tax (Pension Amendments) (Guernsey) Law, 1991(i) is repealed.

(2) This Law, the Income Tax (Guernsey) Laws, 1975 to 1989, the Income Tax (Amendment) (Guernsey) Law, 1990 and the Income Tax (Pension Amendments) (Guernsey) Law, 1991 may be cited together as the Income Tax (Guernsey) Laws, 1975 to 1992.

Commencement, application and transitional provisions.

9.(1) Section 6 of this Law shall be deemed to have come into force as follows:

(a) paragraphs (a) and (b), on 1st January 1989;

(b) paragraph (c), on 1st January 1984.

(2) All of the other provisions of this Law shall come into force on the day after its registration

(i) Order in Council No. IV of 1991.

on the records of the Island of Guernsey.

(3) Regulations made under section 40(h)(ii) of the Income Tax (Guernsey) Law, 1975 by virtue of the amendment effected by section 1 of this Law may specify income arising during any year of computation beginning on or after 1st January 1992 for the purposes of any exemption from tax afforded pursuant to that subparagraph.

(4) The amendments effected by section 2 of this Law apply in relation to covenanted donation to charities made during any year of charge commencing on or after 1st January 1992.

(5) The amendment effected by section 3(2) of this Law applies only in relation to a notice required to be given to the Administrator by a person who has not received such a notice as is referred to in section 68(1) of the Income Tax (Guernsey) Law, 1975 before 30th June in the year of charge 1992 or any succeeding year of charge.

(6) Without prejudice to the effect of section 19 of the Interpretation (Guernsey) Law, 1948(j), a person who has taken an oath in a form prescribed by any Ordinance made under section 206 of the Income Tax (Guernsey) Law, 1975 and in force immediately before

the commencement of section 5 of this Law shall be deemed to have taken an oath required for the time being by that section.