

# PROJET DE LOI

ENTITLED

## **The Income Tax (Amendment) (Guernsey) Law, 1992 \***

[CONSOLIDATED TEXT]

### NOTE

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. VI of 1992 (Ordres en Conseil Vol. XXXIV, p. 201); as amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. \*\* of 2018).

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

### ARRANGEMENT OF SECTIONS

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2. Covenanted donations to charities.
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## **The Income Tax (Amendment) (Guernsey) Law, 1992**

**THE STATES**, in pursuance of their Resolutions of 8<sup>th</sup> May 1991<sup>a</sup>, 27<sup>th</sup> June 1991<sup>b</sup>, 31<sup>st</sup> October 1991<sup>c</sup>, 11<sup>th</sup> December 1991<sup>d</sup>, and 30<sup>th</sup> April 1992<sup>e</sup>, 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<sup>f</sup>, 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 conditions, as the Authority may from time to time specify in regulations made under this sub-paragraph;"<sup>1</sup>

### **Covenanted donations to charities.**

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<sup>a</sup> On Article 14 of Billet d'État No. IX of 1991.

<sup>b</sup> On Article 11 of Billet d'État No. XIV of 1991.

<sup>c</sup> On Article 33 of Billet d'État No. XXIII of 1991.

<sup>d</sup> On Article 1 of Billet d'État No. XXVI of 1991.

<sup>e</sup> On Article 7 of Billet d'État No. VIII of 1992.

<sup>f</sup> 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.

2. In section 65 of the Income Tax (Guernsey) Law, 1975<sup>g</sup> –
- (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".",<sup>2</sup>
  - (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 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

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

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."<sup>3</sup>

**Notice of liability and penalty for failure to give.**

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."<sup>4</sup>

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

**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

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<sup>h</sup> No. XXVI of 1990.

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."<sup>5</sup>

**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."<sup>6</sup>

**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)".<sup>7</sup>

**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<sup>i</sup> 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 1<sup>st</sup> January 1989;

(b) paragraph (c), on 1<sup>st</sup> January 1984.

(2) All of the other provisions of this Law shall come into force on the day after its registration 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 1<sup>st</sup> January 1992 for the purposes of any exemption from tax afforded pursuant to that sub-paragraph.

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<sup>i</sup> Order in Council No. IV of 1991.

(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 1<sup>st</sup> 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 [Director of the Revenue Service] 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 30<sup>th</sup> 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<sup>j</sup>, 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.

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## NOTES

*In section 9, the words in square brackets in subsection (5) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.<sup>8</sup>*

*The Law was registered on the Records of the Island of Guernsey on 18th January, 1993.*

*The following Regulations have been made under section 9:*

*Income Tax (Registered Friendly Societies: Tax-exempt Business) Regulations, 1993.*

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.*

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<sup>j</sup> Ordres en Conseil Vol. XIII, p. 355.

**1** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**2** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**3** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**4** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**5** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**6** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**7** For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

**8** These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.