

ORDER IN COUNCIL

III
1995

ratifying a Projet de Loi

ENTITLED

The Income Tax (Emoluments Amendment) (Guernsey) Law, 1995

(Registered on the Records of the Island of Guernsey
on the 24th April, 1995.)



1995

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 24th day of April, 1995 before Sir Graham Dorey, Bailiff;
present:— Stanley Walter John Jehan, Leonard Arthur Moss, John
Edward Morris, Charles Anthony Spensley, Lawrence Oscar
Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires,
Mrs. Eileen May Glass and Laurence Lenfestey Guille, Esquire,
Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 8th day of February, 1995, approving and ratifying a *Projet de Loi* entitled “The Income Tax (Emoluments Amendments) (Guernsey) Law 1995”, 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 8th day of February 1995

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 18th day of January 1995 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 28th day of July 1994 the States of Deliberation at a Meeting held on the 28th day of September 1994 approved a Bill or “Projet de Loi” entitled “The Income Tax (Emoluments Amendments) (Guernsey) Law, 1995”, and request the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Santion 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 (Emoluments Amendments) (Guernsey) Law, 1995”, 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 annexed thereto 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

PROJET DE LOI
ENTITLED
**The Income Tax (Emoluments Amendments) (Guernsey)
Law, 1995**

THE STATES, in pursuance of their Resolution of 28th July 1994(a), 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.

Assessable income of employees etc.

1. In the Income Tax (Guernsey) Law, 1975(b)

(a) section 7(3)(h) is repealed;

(b) for section 8(2) there is substituted -

" (2) In calculating the assessable income of any employment for the purposes of this section the amount, if any, attributable to any benefit is, subject to subsection (2A) of this section -

(a) where the benefit consists of a transfer of the ownership of property otherwise than out of the trading stock of the employer, the market value of that property at the time of that transfer;

(b) where the benefit consists of the use of property without a transfer of ownership, an amount ascertained in accordance with regulations made from time to time by the Authority under this

(a) on Article 19 of Billet d'Etat No. XVI of 1994.

(b) 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; No. VI of 1992; Nos. IV and VIII of 1993.

paragraph, which regulations may make different provision as respects different descriptions of property and different circumstances;

- (c) where the benefit consists of the provision of some service or advice normally provided for customers in the course of the employer's business, the average cost to the employer of providing that service or advice for those customers;
- (d) in any other case, the amount of any expense incurred directly or indirectly by the provider of the benefit in or in connection with its provision, including a proper proportion of any expense relating partly to the benefit and partly to other matters;

subject, in each case, to the deduction of any sums paid by the employee in respect of the provision of the benefit.";

(c) immediately after section 8(2) there is inserted -

" (2A) There shall be left out of account in calculating the assessable income of any employment:

- (a) any benefit derived by an employee who has the control of the company providing it, if and to the extent that that company is not entitled to make any deduction in computing the profits of its business under section 7 of this Law, or to claim any relief under Part IX, Part X or Part XIV of this Law, in connection with the provision of that benefit or in relation to any asset of whose ownership or use that benefit consists; and

- (b) any benefit which is of such description, and is provided in such circumstances, as the States may from time to time specify by Ordinance under this paragraph; and any Ordinance made under this paragraph may make different provision as respects different descriptions of benefits and circumstances, and may include limitations, conditions, restrictions and qualifications in relation to any description of benefits, or any circumstances, so specified; and
- (c) any emoluments arising from the termination of any employment or from a change in the terms thereof, which under any other provision of this Law are specifically exempted from tax, or are chargeable to tax at a rate less than the standard rate; and
- (d) any emoluments arising from the termination of any employment which do not, when all such emoluments arising from the same termination or from the same group or series of terminations are aggregated, exceed £10,000, or such other sum as the States may from time to time specify by Ordinance under this paragraph, in total.

(2B) For the purposes of subsections (2) and (2A) of this section -

"benefit" means so much of any emoluments as consist of a benefit (other than salary, stipend, fees, wages, earnings, perquisites and profits) derived from his office or employment, from the termination thereof, or in consequence of a change in the terms thereof (whether or not the benefit is

convertible into cash) by an office holder or employee or by a member of his family or household;

"employment" includes "office", and related words and expressions are to be construed accordingly.";

(d) for section 70(1)(b) there is substituted -

"(b) the full emoluments of those persons in respect of that employment for that preceding year, declaring whether or not any of those emoluments are benefits within the meaning given in section 8(2B) of this Law, and showing for each person separately the amount attributable to each such benefit in accordance with section 8(2) of this Law;"

(e) in section 209(1), for the definition of "emoluments" there is substituted -

" **"emoluments"**, in relation to an office or employment, includes any salary, stipend, fees, wages, earnings, perquisites and profits whatsoever arising therefrom, from the termination thereof, or in consequence of a change in the terms thereof; and also includes any other benefit, whether or not convertible into cash and irrespective of the identity of its provider, which is derived by an office holder or employee, or by a member of his family or household, from that office or employment, from the termination thereof, or in consequence of a change in the terms thereof;"

Citation.

2. This Law may be cited as the Income Tax (Emoluments Amendments) (Guernsey) Law, 1994.

Commencement.

- 3. This Law shall come into force as follows:**
- (a) paragraphs (a), (b), (c) and (e) of section 1, on 1st January 1996;
 - (b) paragraph (d) of section 1, on 1st. January 1997.