

Island of



Guernsey

Ordinance of the States

XI
1992

Made 30th April, 1992.
Coming into operation 1st May, 1992.

The Income Tax (Exempt Bodies: Offshore Insurers) Ordinance, 1992

THE STATES, in pursuance of their Resolution of 1st August, 1991(a), and in exercise of the powers conferred on them by sections 40A and 40B of the Income Tax (Guernsey) Law, 1975(b), hereby order:-

Eligibility for exemption.

1.(1) Section 1 of the 1989 Ordinance is renumbered as section 1(1), and in sub-paragraph (c)(i) thereof for "A, B or C" there is substituted "A, B, C or E".

(a) On Article 18 of Billet d'État No. XX of 1991.

(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.

(2) At the end of Schedule 1 to the 1989 Ordinance there is inserted:

"CATEGORY E

An insurer to which section 187A of the Law applies."

Conditions of eligibility for exemption.

2. At the end of Schedule 2 to the 1989 Ordinance there is inserted:

"CATEGORY E

1. That the insurer has contracted with, or has arranged for, a person resident in Guernsey to provide managerial and secretarial services in respect of its affairs for remuneration calculated on an arm's length basis.
2. That no individual or company resident in Guernsey has any beneficial interest in the insurer, other than an interest which that person has -
 - (a) as the holder of a share or debenture in a quoted body corporate which itself has a beneficial interest in the insurer; or
 - (b) as a loan creditor of the insurer, if that person is registered under, or exempted from a

requirement to be registered by virtue of, the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971; or

(c) as a nominee or trustee.

3. That the Administrator is notified of -
 - (a) any investment or other property (except a relevant bank account) of the insurer in Guernsey;
 - (b) any other Guernsey source income of the insurer except for income derived from carrying on offshore insurance business; and
 - (c) such details as the Administrator may require of the insurer's income arising or accruing from any such source.
4. That no income tax for which the insurer has been assessed in respect of any previous year of charge remains unpaid."

Scope of exemption.

3. Immediately after section 1(1) of the 1989 Ordinance (as renumbered by section 1 of this Ordinance) there is inserted:

" (2) In the case of a category E body, any exemption arising by virtue of subsection (1) of this section also extends to so much of that body's Guernsey source income as is derived from offshore business, and not -

(a) from the carrying on of any other business in Guernsey, or

(b) from any investment or other property (except a relevant bank account) situated in Guernsey."

Application for exemption.

4.(1) In section 2(1) of the 1989 Ordinance for all the words from "but the Authority may accept" to the end of the subsection there is substituted:

"Provided that:

- (i) in the case of a category A, B, C or D body, the Authority may accept a later application if it is satisfied that there is reasonable cause for its not having been made within the time specified in this paragraph; and
- (ii) an application may be made by a category E body at any time within

three years after the end of the year of charge in respect of which it is made".

(2) In section 2(2) of the 1989 Ordinance, immediately after the words in paragraph (c) there is inserted -

"; and

(d) in the case of a category E body:

- (i) a copy of the insurer's registration certificate; and
- (ii) a statement of the percentage of the insurer's total gross premium income arising from any domestic business which it carries on; and
- (iii) such other particulars as the Authority considers necessary to enable it to determine whether the exemption should be granted".

Election for different basis of taxation.

5. Immediately after section 3 of the 1989 Ordinance there is inserted -

"Election by category E body for different basis of taxation.

3A.(1) A category E body to which an exemption from tax has been granted for any year of charge may, by notice in writing

given to the Administrator within three years after the end of that year of charge, -

- (a) make an election under section 187A of the Law in respect of that year of charge; or
- (b) elect in respect of that year of charge to pay tax on its chargeable profits as an insurer which has neither made an election under section 187A of the Law nor been granted an exemption from tax under this Ordinance.

(2) When a category E body makes either of the elections referred to in subsection (1) of this section the annual fee paid in respect of the year of charge concerned shall be treated as a payment of, or on account of, any tax which becomes payable by that body in respect of that year of charge; and if that fee exceeds the amount of any such tax then the difference shall be refunded to that body."

Minor and consequential amendments.

6.(1) In section 3(1) of the 1989 Ordinance for "A, B or C" there is substituted "A, B, C or E".

(2) In section 7(1) of the 1989 Ordinance-

(a) the following definitions are inserted at the appropriate places in the alphabetical order:

"domestic business" has the same meaning as in the Insurance Business (Guernsey) Law, 1986(c);"

"insurance business" has the same meaning as in the Insurance Business (Guernsey) Law, 1986;"

"insurer" has the same meaning as in the Insurance Business (Guernsey) Law, 1986;"

"long term business" has the same meaning as in the Insurance Business (Guernsey) Law, 1986;"

"offshore insurance business" means insurance business which is not domestic business;"

(b) for the definition of "managerial and secretarial services" there is

substituted -

"managerial and secretarial services"

means, in relation to any body, the managerial, secretarial, administrative and clerical functions, conducted and carried out generally in Guernsey to the satisfaction of the Authority, of that body and of any body which is beneficially owned by it;".

(3) In section 7(3)(a) of the 1989 Ordinance, for "A, B, C, or D" there is substituted "A, B, C, D or E".

(4) In Schedule 1 to the 1989 Ordinance, under "CATEGORY D" for "does not fall within category A, B or C" there is substituted "does not fall within category A, B, C or E".

Interpretation and construction.

7.(1) In this Ordinance "the 1989 Ordinance" means the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989(d).

(2) This Ordinance is to be construed as one with the 1989 Ordinance.

(d) Ordinance No. XXX of 1989.

Citation and collective title.

8.(1) This Ordinance may be cited as the Income Tax (Exempt Bodies: Offshore Insurers) Ordinance, 1992.

(2) This Ordinance and the 1989 Ordinance may be cited together as the Income Tax (Exempt Bodies) (Guernsey) Ordinances, 1989 and 1992.

Commencement and application.

9. This Ordinance shall come into force on 1st May 1992, but no application may be made by an insurer for an exemption from tax as a category E body in respect of any year of charge before the year of charge 1992.

K. H. TOUGH,
Her Majesty's Greffier