

ORDER IN COUNCIL

XXIV

ratifying a Projet de Loi

1951

ENTITLED

The Income Tax (Guernsey) Amendment (No. 2) Law, 1951.

(Registered on the Records of the Island of Guernsey
on the 8th day of December, 1951.)



1970.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of December, 1951, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :— Ernest de Garis, Esquire, O.B.E., Sir John Leale, Arthur Falla, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., and Stephen James Falla, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 1st day of November, 1951, ratifying a *Projet de Loi* entitled "The Income Tax (Guernsey) Amendment (No. 2) Law, 1951",—the Court, after the reading of the said Order in Council and after having heard His 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 His 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 at Buckingham Palace.

The 1st day of November, 1951.

PRESENT,

The King's Most Excellent Majesty.

LORD PRESIDENT

VISCOUNT SWINTON

LORD DE L'ISLE AND DUDLEY

LORD CHERWELL

SECRETARY SIR DAVID MAXWELL FYFE

MR. THOMAS

MR. ECCLES.

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 29th day of October, 1951, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of December, 1936, 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 25th day of July, 1951, the States of Deliberation at a meeting held on the 19th day of September, 1951, approved a Bill or “Projet de Loi” entitled “The Income Tax (Guernsey) Amendment (No. 2) Law, 1951” 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 (Guernsey) Amendment (No. 2) Law, 1951" and to order that the same shall have the 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."

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey and Herm.

AND HIS 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 His 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.

F. J. Fernau.

Projet de Loi referred to in the foregoing
Order in Council

PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Amendment (No. 2) Law, 1951

THE STATES, in pursuance of their Resolution of the 25th day of July, 1951, have approved the following provisions, which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in this Island and in the Island of Herm.

1. Section 23 and the proviso to subsection (1) of section 85 of The Income Tax (Guernsey) Law, 1950, (hereinafter referred to as "the principal Law") are hereby repealed.

2. The two sections numbered and in the order set out below shall be inserted immediately after section 22 and immediately before the beginning of Part III of the principal Law:—

" Relief from double taxation. 23.—(1) If the States by resolution declare that arrangements specified in the resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.

(2) Any resolution made under this section may be revoked by a subsequent resolution.

(3) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 85 of this Law shall not prevent the disclosure to any authorised officer of the government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(4) The Authority may from time to time make regulations for carrying out the provisions of any arrangements having effect under this section and the proviso to section 45 of this Law shall apply in respect of every such regulation as if the said regulation was a regulation made in accordance with section 45 of this Law.

Tax Credits.

23A.—(1) The provisions of this section shall have effect where, under arrangements having effect under the preceding section of this Law, tax payable in respect of any income in the territory with the government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Guernsey; and in this section the expression “foreign tax” means any tax payable in that territory which under the arrangements is to be so allowed and the expression “income tax” means tax chargeable under this Law.

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit;

PROVIDED that credit shall not be allowed against income tax for any year of charge unless the person entitled to the income is resident in Guernsey, in that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Law and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before the allowance of credit due under any arrangements having effect under the preceding section of this Law) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of the preceding subsection the total credit for foreign tax to be allowed to a person for any year of charge under all arrangements having effect under the preceding section of this Law shall not exceed the total income tax payable by him for the year of charge other than income tax payable by him as an agent for a person not resident in Guernsey.

(5) In computing the amount of the income:—

- (a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);
- (b) where the income tax chargeable depends on the amount received in Guernsey, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income;

- (c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit;

but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Paragraphs (a) and (b) of the preceding subsection of this section (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3) of this section, and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under the preceding section of this Law.

(7) Where—

- (a) The arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not

chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and

- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide;

then if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any year of charge if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than six years after the end of the relevant year of charge in the form and manner required by the Administrator and in the event of any dispute as to the amount allowable the claim shall be subject to appeal in like manner as an assessment and the provisions of Part VII and Part VIII of this Law shall apply to any such appeal.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax pay-

able either in Guernsey or elsewhere, nothing in this Law limiting the time for the making of assessments or claims for relief shall apply to any assessment for claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in Guernsey or elsewhere, as are material in determining whether any and if so what credit falls to be given."

3. There are hereby inserted in the Arrangement of Sections of the principal Law, immediately below the words and figures "23, Relief from double taxation" the words and figures "23A Tax Credits".

4. This Law and the Income Tax (Guernsey) Laws, 1950 and 1951, may be cited together as the Income Tax (Guernsey) Laws, 1950 to 1951.

5. This Law shall be deemed to have come into force on the 1st day of January, 1951.

JAMES E. LE PAGE,

H.M. Greffier.