

ORDER IN COUNCIL

XIV

1951

ratifying a *Projet de Loi*

ENTITLED

The Income Tax (Guernsey) Amendment Law, 1951

(Registered on the Records of the Island of Guernsey
on the 25th day of July, 1951.)



1970.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 25th day of July, 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., Ernest Francis Lainé and Bertram Bartlett, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 29th day of June, 1951, ratifying a *Projet de Loi* entitled "The Income Tax (Guernsey) Amendment Law, 1951",—the Court, after the reading of the said Order in Council and after having heard His Majesty's Procureur 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 Windsor

The 29th day of June, 1951.

PRESENT,

The King's Most Excellent Majesty

MR. SECRETARY MORRISON

MR. SECRETARY GRIFFITHS

SIR ALAN LASCELLES.

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 27th day of June, 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 8th day of November, 1950, the States of Deliberation at a meeting held on the 30th day of May, 1951, approved a Bill or “Projet de Loi” entitled “The Income Tax (Guernsey) Amendment 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 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.

E. C. E. LEADBITTER.



Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Amendment Law, 1951

THE STATES, in pursuance of their Resolution of the 8th day of November, 1950, 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. The second Proviso to subsection (1) of section 5 of the Law is hereby repealed.

2. A new section is hereby inserted in the Law, immediately following section 5, in the following terms:

“Special provisions for change of residence. 5A. (1) Where an individual who was not resident in Guernsey in the year preceding the year of charge becomes solely or principally so resident in the year of charge he shall, if he possessed a source of income outside Guernsey and he continues to possess such source throughout the year of charge, be liable to bear tax in that year on only such amount of his income from that source as bears to his income from that source for the year ending on the 31st day of December in the year of charge the same proportion as the period of his residence in that year bears to a period of twelve months;

(2) Where an individual who was solely or principally resident in Guernsey in the year preceding the year of charge permanently departs from Guernsey and such individual possessed a source of income outside Guernsey in the year preceding the year of charge and up to the date of his departure, he shall be liable to bear tax in the year of charge in which he so departs on only such amount of his income from that source as bears to a year's amount of income from that source for the year ending on the 31st day of December in the year preceding the year of charge the same proportion as his period of residence in the year of charge bears to a period of twelve months;

(3) Where a person who was not resident in Guernsey in the year preceding the year of charge becomes resident in the year of charge and such person possessed a source of income in Guernsey and continues to possess that source in the year of charge the assessable income from that source for that year of charge and for the two succeeding years shall be computed as if he had acquired that source of income on the 1st day of January in the year of charge:

PROVIDED that this subsection shall not apply where a person who was not resident in the year preceding the year of charge was carrying on a business in Guernsey in that year.

(4) Where a person who was resident in Guernsey in the year preceding the year of charge becomes non-resident in the year of charge and such person possessed a source of income in Guernsey which he continues to possess in the year of charge the assessable

income from that source for the two years of charge preceding the year of charge in which he becomes non-resident shall be computed as if he had ceased to possess that source of income on the 31st day of December preceding that year of charge:

PROVIDED that this subsection shall not apply where a person who becomes non-resident in the year of charge carries on a business in Guernsey in that year."

3.—(1) There is hereby inserted in section 6 of the Law, immediately after subsection (5) thereof, a new subsection in the following terms:—

"(6) In the case of a non-resident person (other than a non-resident person carrying on a business in Guernsey) the year of computation shall be the year of charge."

(2) Subsection (6) of the said section 6 is hereby re-numbered "(7)".

4. In the first Proviso to section 7 of the Law there is hereby inserted immediately after sub-paragraph (v), a new sub-paragraph, in the following terms:—

"(vi) any sum recoverable under an insurance or contract of indemnity;"

5.—(1) The second Proviso to sub-paragraph (i) of paragraph (b) of subsection (1) of section 7 of the Law is hereby repealed.

(2) Any right accrued in respect of any year of charge subsequent to 1950 by reason of a claim by any person to be allowed a deduction in respect of the replacement of a glasshouse under the Proviso repealed by the last preceding subsection of this section is hereby avoided.

(3) There is hereby inserted, immediately after subsection (2) of section 7 of the Law, a new subsection in the following terms:—

“(3) The provisions of the Schedule to the Income Tax (Guernsey) Amendment Law, 1951, shall apply to persons who—

- (a) could have claimed to be allowed a deduction in respect of the replacement of a glasshouse under the Proviso repealed by subsection (1) of this section; or
- (b) were for the first time allowed a deduction for depreciation in respect of a glasshouse in any of the years of assessment 1946, 1947, 1948 or 1949.”

6. In sub-paragraph (ii) of paragraph (b) of subsection (1) of section 7 of the Law a colon is hereby substituted for the semi-colon, and immediately thereafter the following Proviso is inserted:—

“PROVIDED that if a person carrying on a hotel, boarding house, public house, restaurant or café business claims to be allowed a deduction for depreciation in respect of all such implements, utensils and articles in lieu of a deduction in respect of the replacement thereof, all such implements, utensils and articles shall be deemed to be plant.”

7. Sub-paragraph (iv) of paragraph (b) of subsection (1) of section 7 of the Law is hereby repealed and the following sub-paragraph substituted therefor:—

“(iv) current repairs to buildings, machinery, plant, furniture and fittings used for the purpose of the business:

PROVIDED that in the case of a glasshouse current repairs shall mean painting, glazing and minor repairs and the amount allowable in respect of minor repairs shall not exceed a sum calculated in accordance with such rate per hundred feet of glass thirty feet wide as may from time to time be determined by the Authority and published in La Gazette Officielle:

PROVIDED FURTHER that where a glasshouse has sustained damage by Act of God and the Administrator is satisfied that the glasshouse building had been maintained in a reasonable state of repair, he may allow such further amount on account of repairs as may appear to him to be reasonable and just."

8. In section 7 of the Law there is hereby inserted, immediately after the subsection added thereto by subsection (3) of section 5 of this Law, a further new subsection in the following terms:—

- "(4) (a) Where any glasshouse, plant or machinery is used for the purposes of the business on such terms that the burden of depreciation thereof falls upon the person by whom the business is carried on, but the glasshouse, plant or machinery does not belong to him, he shall be entitled to the deduction in respect of depreciation to which he would have been entitled if the glasshouse, plant or machinery had belonged to him.
- (b) Where any plant or machinery is used for the purposes of a business but does not belong to the person carrying on

the business, and the burden of depreciation thereof falls upon the person to whom the plant or machinery belongs, the last-mentioned person shall be entitled to the deduction in respect of depreciation to which he would have been entitled if he had been the person carrying on the business."

9.—The following Proviso shall be inserted as a first Proviso to paragraph (b) of subsection (2) of section 12 of the Law:—

"PROVIDED that in the case of a glasshouse, repairs shall mean painting, glazing and minor repairs and repairs necessitated by Act of God, but the amount to be taken into account in respect of repairs and the conditions under which such repairs may be taken into account shall be the same as if the glasshouse had been in the occupation of the owner for the purpose of a business carried on by him."

(2) In the existing Proviso to the said paragraph (b), the word "FURTHER" is hereby inserted after the word "PROVIDED".

10. In subsection (2) of section 12 of the Law, after paragraph (d), there is hereby inserted a new paragraph in the following terms:—

"(e) Where any glasshouse is used for the purpose of a business but does not belong to the person carrying on the business and the burden of depreciation thereof falls upon the owner of the glasshouse, the last mentioned person shall be entitled to the

deduction in respect of depreciation to which he would have been entitled if he had been the person carrying on the business.”

11. Subsection (2) of section 13 of the Law is hereby repealed.

12. A new section is hereby inserted in the Law, immediately following section 13, in the following terms:—

“Deduction of annual taxes and rates. 13A. In computing income a deduction shall be permitted in respect of any sum which has been paid on account of annual taxes or rates for the year of computation in a place outside Guernsey where the income has arisen in respect of the income or the property from which the income is derived.”

13. In section 24 of the Law, there is hereby substituted a semi-colon for the full-stop at the end of paragraph (13) and there is inserted the following paragraph thereafter:—

“(14) the official emoluments of an ordinary judge of the Channel Islands Court of Appeal, so long as he is not solely or principally resident in Guernsey.”

14. In subsection (1) of section 32 of the Law, after the words “all rights”, there are hereby inserted a comma and the word “duties”.

15. Subsection (3) of section 33 of the Law is hereby repealed and the following subsection substituted therefor:—

“(3) Tax chargeable on an agent under the provisions of subsection (1) of this section may be deducted by such agent from any sum or sums payable by or through such agent to the non-resident. An agent who has deducted tax under the provisions of this subsection shall remit the tax to the Administrator within one month of the date of the deduction and shall furnish such particulars of the income in respect of which the deduction has been made as the Administrator may require.”

16. In subsection (4) of section 33 of the Law, the word “resident”, where that word first occurs, is hereby repealed.

17. At the end of subsection (2) of section 36 of the Law, after the words “arose in Guernsey”, there are hereby inserted the words “and if, notwithstanding the provisions of the last preceding subsection, he was entitled to such relief in respect of personal and other allowances as may be prescribed from time to time by resolution of the States under section 18 of this Law”.

18. In paragraph (i) of subsection (I) of section 53 of the Law, the words and figure “in accordance with section 7 of this Law” are hereby repealed, and the words and figure “in accordance with this Law, excluding the deduction permissible under the provisions of section 8,” substituted therefor.

19. (1) In subsection (1) of section 56 of the Law, the paragraph lettered (b) is hereby repealed and the following two new paragraphs substituted therefor:—

- “(b) the full emoluments of those persons in respect of that employment for that preceding year showing separately the cash value of any emoluments not paid in cash.
- (c) the deductions made from such emoluments for items in respect of which the employee is entitled to a deduction or allowance under the provisions of this Law.”

(2) The paragraph lettered (c) of the said subsection is hereby re-lettered (d).

20. In section 90 of the Law, a colon is hereby substituted for the full-stop at the end thereof, and the following Proviso added thereto:—

“PROVIDED that assessments and additional assessments may be made in respect of any year prior to 1950 under the provisions of the Income Tax Laws, 1920 to 1948, as if this Law had not been passed.”

21. In this Law the expression “the Law” means the Income Tax (Guernsey) Law, 1950.

22. The Income Tax (Guernsey) Law, 1950, and this Law may be cited together as the Income Tax (Guernsey) Laws, 1950 and 1951.

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

SCHEDULE

- (1) In the case of a person to whom the provisions of this Schedule apply there shall be calculated—
 - (a) the written-down value of the glasshouse;
 - (b) the amount which results from subtracting the written-down value from the actual cost of the glasshouse;
 - (c) the amount which results from subtracting from the amount arrived at under sub-paragraph (b) the aggregate of the deductions allowed in respect of the depreciation of the glasshouse.
- (2) Whenever such person incurs expenditure of a capital nature on the glasshouse or incurs expenditure on repairs to the glasshouse which cannot be deducted under the provisions of section 7 (1) (b) (iv) as amended by this Law an additional deduction shall be permitted equal to the amount of such expenditure, provided that the aggregate of such additional deductions shall not exceed the amount calculated in accordance with sub-paragraph (c) of paragraph 1 of this Schedule.
- (3) For the purpose of paragraph (1) of this Schedule “written-down value” means the actual cost of the glasshouse to the person to whom the glasshouse belongs reduced by the aggregate amount of the depreciation to which he would have been entitled if he had claimed a deduction for depreciation from the date on which he acquired the glasshouse or from the 1st day of January, 1920, whichever is the later, up to the end of the last accounting period ending on or before the 31st day of January, 1950, and “actual cost” means:—

- (a) Where proper information is available—the cost of acquiring the glasshouse adjusted by the addition of the amount of any capital expenditure incurred upon the glasshouse since the date of acquisition:

PROVIDED that the amount of any capital expenditure which has been allowed as a deduction from profits shall be left out of account.

- (b) Where proper information is not available—the amount arrived at by calculating the value of the glasshouse according to the following table:—

| <i>Year of Acquisition</i> | <i>Value per foot (30 feet wide)</i> | |
|----------------------------|--------------------------------------|-------------|
| | <i>Heated</i> | <i>Cold</i> |
| Prior to 1915 ... | £1 10 0 | £1 0 0 |
| 1915—1933 ... | £2 10 0 | £1 10 0 |
| 1934—1940 ... | £3 0 0 | £2 0 0 |

PROVIDED that if the width of the glasshouse is greater or less than 30 feet the value per foot shall be increased or reduced proportionately.

JAMES E. LE PAGE,

H.M. Greffier.