

# ORDER IN COUNCIL

**IV**  
**1950**

ratifying a *Projet de Loi*

ENTITLED

## **The Income Tax (Guernsey) Law, 1950.**

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(Registered on the Records of the Island of Guernsey  
on the 22nd day of April, 1950.)

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1974

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 22nd day of April, 1950, before Quartier Le Pelley, Esquire, Lieutenant-Bailiff; present:—  
Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, C.B.E., Sir John Leale, James Frederick Carey, Arthur Falla, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey and Ernest Francis Lainé, Esquires, Jurats.*

The Lieutenant Bailiff having this day placed before the Court an Order of His Majesty in Council dated the 31st day of March, 1950, ratifying a *Projet de Loi* entitled "The Income Tax (Guernsey) Law, 1950",—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 of which Order in Council the tenor followeth:—

## At the Court at Windsor Castle

The 31st day of March, 1950.

PRESENT,

### The King's Most Excellent Majesty.

LORD PRESIDENT  
CHANCELLOR OF THE DUCHY OF LANCASTER  
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 22nd day of February, 1950, 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 6th day of May, 1949, the States of Deliberation at a meeting held on the 11th day of January, 1950, approved a Bill or “Projet de Loi” entitled “The Income Tax (Guernsey) Law, 1950,” 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) Law, 1950,” 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 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

ENTITLED

## **The Income Tax (Guernsey) Law, 1950.**

THE STATES, in pursuance of their Resolution of the 6th day of May, 1949, 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.

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# THE LAW.

## PART I.

### INCOME TAX AND INCOME

#### *General Provisions as to Charge of Tax and Assessable Income.*

Year of  
charge.

1. A year the income for which is to be assessed and for which tax is to be charged shall be the calendar year, and any such year is in this Law referred to as a "year of charge".

General  
provisions  
as to  
income and  
the compu-  
tation  
thereof.

2. Income in respect of which tax is chargeable shall be income of one or other of the following classes namely—

- (1) Income from businesses;
- (2) Income from offices and employments;
- (3) Income from the ownership of lands and buildings; and
- (4) Income from other sources;

and the income for any year of charge in respect of which tax is chargeable (in this Law referred to as "assessable income") shall in the case of each particular class be computed in such manner and by reference to such year of computation or other period as is mentioned in this Law.

Definition of  
"resident"  
in the case  
of an  
individual.

3.—(1) An individual shall be treated as being resident in Guernsey in a year of charge if he—

- (a) is in Guernsey in the year of charge for a period or periods amounting in all to one hundred and eighty-two days or more; or

- (b) is in Guernsey during the twelve months commencing on the first day of August in the year preceding the year of charge and ending on the thirty first day of July in the year of charge for a period or periods amounting in all to one hundred and eighty-two days or more; or
  - (c) maintains or has maintained for him in Guernsey a dwelling-place for a period or periods amounting in all to ninety-one days or more in the year of charge, and is in Guernsey at any time in the year of charge; or
  - (d) is in Guernsey for any time in the year of charge with the intention of setting up a dwelling-place therein, and in that or the following year of charge sets up such a dwelling-place; or
  - (e) having during the four years immediately preceding the year of charge been in Guernsey for a period of, or for periods amounting in all to, three hundred and sixty-five days or more, is in Guernsey at any time during the year of charge, otherwise than on an occasional or casual visit.
- (2) An individual who in a year of charge is resident in Guernsey but is not resident solely therein:—
- (a) shall be treated as being principally resident in Guernsey if, in the year of charge—
    - (i) he maintains or has maintained for him a dwelling-place or a place of business in Guernsey, but neither

a dwelling-place nor a place of business elsewhere; or

(ii) he neither maintains nor has maintained for him a dwelling-place or a place of business in any country, but is domiciled in Guernsey.

(b) shall, in a case to which paragraph (a) of this sub-section does not apply, be treated as being principally resident in Guernsey if he appears in view of all the circumstances of his case to be so resident, regard being had in particular to his domicile, nationality, and habits of life.

Definition of "resident" in the case of a company.

4. A company shall be treated as resident in Guernsey in a year of charge if it is controlled in Guernsey, or, in the case of a company incorporated in Guernsey, if it maintains in that year an established place of business in Guernsey and any substantial part of its activities is conducted in Guernsey, but a company shall not be treated as so resident by reason only of the fact that it has a registered office in Guernsey at which is transacted such administrative business only as is necessary to comply with the requirements of the law from time to time regulating companies in Guernsey.

Charge of tax and liability to tax according to residence.

5. (1) Save as is otherwise by or in virtue of this Law provided, Income Tax at a standard rate and Income Tax at additional rates (in this Law referred to as Super-tax) shall be charged and paid on income as follows:—

(a) in the case of an individual solely or principally resident in Guernsey, on his total income, wherever such income may arise or accrue;

- (b) in the case of an individual resident in Guernsey but not solely or principally resident therein, on his income arising or accruing in Guernsey, together with any amount of income not so arising or accruing brought into or received by him in Guernsey in the year of charge;
- (c) in the case of a company resident in Guernsey, as in the case of an individual solely or principally resident in Guernsey; and
- (d) in the case of an individual or company not resident in Guernsey, on his or its income arising or accruing from sources in Guernsey:

PROVIDED that Super-tax shall be chargeable only in respect of income of an individual, and in respect of only so much of the assessable income of an individual as is in excess of the amount specified in the resolution of the States referred to in sub-section (2) of this section:

PROVIDED FURTHER that—

- (i) 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 such source continues 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 thirty first 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; and

- (ii) 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 thirty first 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.

(2) For any year of charge the standard rate

of Income Tax, and the rate of Super-tax and the amount of income in excess of which Super-tax is chargeable shall be such as may be prescribed by resolution of the States in respect of that year.

*Computation of Income*

6.—(1) Save as otherwise by or in virtue of this Law provided, the assessable income of any class shall be the amount of profits or income for the year of computation, and the year of computation shall be the calendar year preceding the year of charge: Year of computation.

*PROVIDED* that in the case of a business, the year of computation shall be the accounting period ending (a) within the year preceding the year of charge or (b) with the consent of the Administrator, within the period commencing on the first day of January in the year of charge and terminating on the thirty first day of January in that year.

(2) The accounting period of a business shall be determined as follows:—

(a) Where the accounts of a business are made up for successive periods of twelve months each of those periods shall be an accounting period.

(b) In any other case the accounting period shall be such period not exceeding twelve months as the Administrator may determine.

(3) Where the accounting period of a business has once been determined as a period of twelve months subsequent accounting periods shall be successive periods of twelve months:

PROVIDED that any such period may be varied with the consent of the Administrator and upon such conditions as regards the computation of profits as the Administrator may consider necessary to impose in order to ensure that the whole of the assessable profits of the business are charged to tax:

PROVIDED FURTHER that the Administrator shall not withhold his consent unless he is satisfied that the application for variation is not made in good faith and for the purpose of facilitating the management of the business.

(4) Where the year of computation does not coincide with the period up to which the accounts of a business have been made up, such division and apportionment to specific periods of the profits or losses for the period for which accounts have been made up and such aggregation of any such profits or losses, or any apportioned parts thereof, shall be made as is necessary to arrive at the profits for the year of computation.

Any apportionment under this subsection shall be made in proportion to the number of months or fractions of months in the respective periods:

PROVIDED that if the profits or losses determined in accordance with the aforesaid apportionment do not, in the opinion of the Administrator, fairly represent the profits or losses of the respective periods, the apportionment shall be made in such other manner as the Administrator may direct.

(5) Where for any of the purposes of this Law it is necessary to compute the amount of profits for any period which is not an accounting period nor a year of computation, sub-section (4) of this section shall apply as if for the references to the year of computation there were substituted a reference to the period the profits for which are to be computed.

(6) For the purposes of this Law, losses shall be computed in like manner as profits.

7.—(1) The amount of the profits of any business for any year of computation shall be computed in accordance with the ordinary commercial principles applicable to the computation of profits of that business: Income from  
businesses.

PROVIDED that whether or not in accordance with such principles:—

- (a) No deduction shall be permitted in respect of:—
- (i) any capital expenditure;
  - (ii) any item of expenditure or charge except so far as it is laid out or expended wholly and exclusively for the purposes of the business;
  - (iii) any sum transferred to a reserve account where the transfer would, in accordance with ordinary commercial principles as aforesaid, be treated as an appropriation of profits;
  - (iv) the maintenance of the person carrying on the business or of his family, or any expenditure for any other domestic or private purpose;

- (v) any liability due under or by virtue of this Law;
- (b) Deductions shall be permitted in respect of—
  - (i) the diminution in value of buildings, machinery and plant by reason of depreciation in the accounting period, being buildings, machinery and plant used for the purposes of the business and belonging to the person by whom the business is carried on, at such rates and computed in such manner as may, from time to time, be determined by the Authority and published in La Gazette Officielle:

PROVIDED that where full effect cannot be given to a deduction in respect of depreciation of buildings, machinery and plant owing to there being no profits chargeable for that year or owing to the profits chargeable being less than the deduction, the deduction or such part of the deduction to which effect has not been given, as the case may be, shall be added to the amount of the deduction for the following year and deemed to be part of that deduction, or if there was no deduction for that year, be deemed to be

the deduction for that year, and so on for succeeding years, but the aggregate of the deductions made under this Law or any law repealed hereby shall not exceed the actual cost to the person entitled to the deduction, of the buildings, machinery or plant adjusted by the addition of the amount of expenditure, if any, in the nature of capital expenditure, upon the buildings, machinery or plant incurred since the date of acquisition:

PROVIDED FURTHER that where a person who could have claimed a deduction for depreciation in respect of any glasshouse under any law repealed by this Law did not do so, such person may in lieu of a deduction for depreciation in respect of such glasshouse claim to be allowed a deduction in respect of the replacement of such glasshouse whenever such replacement shall become necessary but no such claim shall be admitted unless made to the Administrator within six months after the date on which this Law is registered on the Records of this

Island, or, in the case of a business, before the end of the accounting period ending in the year 1950, whichever is the later.

The allowable deduction for replacement under this paragraph shall be the actual cost of the glasshouse to the person entitled to the deduction adjusted by the addition of the amount of expenditure, if any, in the nature of capital expenditure upon the glasshouse incurred since the date of acquisition and the subtraction of any sum which has been or could be realised by the sale of the glasshouse or any part thereof;

- (ii) the replacement of implements, utensils and articles not being machinery, or plant, used for the purpose of the business;
- (iii) the obsolescence of machinery and plant, being machinery and plant used for the purpose of the business and belonging to the person by whom the business is carried on, whenever the same shall be sold or discarded and whether replaced or not.

The allowable deduction under this paragraph shall be

the amount by which the written down value of the machinery or plant exceeds the amount for which it is sold or its scrap value, as the case may be, and shall be permitted only if such amount is actually written off in the books of the business:

PROVIDED that if the said sale or scrap value exceeds the written down value such excess shall be deemed to be a profit of the accounting period in which the transaction occurs:

PROVIDED FURTHER that any amount by which the sale value exceeds the aggregate of the written down value and the deductions (if any) previously made in respect of depreciation shall be left out of account in computing such profit.

For the purpose of this paragraph the expression "written down value" means the actual cost to the person entitled to the deduction, of the machinery or plant, adjusted by—

- (a) the addition of the amount of expenditure (if any) in the nature of capital expenditure upon the

machinery or plant incurred since the date of acquisition; and

- (b) the subtraction of the aggregate amount of the deductions (if any) previously made in respect of the depreciation of such machinery or plant since the date of acquisition.
- (iv) current repairs, other than replacements of a capital nature, necessary for the maintenance of buildings, machinery, plant, furniture and fittings used for the purposes of the business;
- (v) premiums in respect of insurance—
  - (a) against damage or destruction of buildings, machinery, plant, furniture and fittings as aforesaid and of stocks or stores so used;
  - (b) against loss of profits:  
PROVIDED that any sum received by any person under an insurance against loss of profits shall be treated as income of the year in which it is received;
  - (c) in any case where the insurance was effected to cover an expense which

would have been an allowable deduction had the insurance not been effected.

- (vi) interest on capital borrowed for the purposes of the business;
- (vii) bad and doubtful debts, on so much of the debt as is discovered in the accounting period to have become bad or irrecoverable but not exceeding the amount written off as such in the books of the business, provided that, if any amounts received or credited on account of any such debt exceed the amount of the debt as reduced by the deduction allowed, the excess received or credited in any accounting period shall be treated as a receipt of the business in that period;
- (viii) rent paid for any premises, or any part of any premises, in which the business is carried on, provided that where the business is carried on in a portion of any rented premises, a deduction shall only be allowed in respect of such proportion of the total rent as that portion bears to the whole premises;
- (ix) contributions to superannuation funds and retirement

benefit schemes as provided in sections 41 and 48.

(2) Notwithstanding anything in this section contained profits from the ownership of lands and buildings shall be computed in accordance with the provisions of section 12 of this Law.

Deduction of dividends.

8.—(1) (a) The amount of the dividends declared in any accounting period by a company resident in Guernsey shall be treated as if it were a permissible deduction in computing the assessable income of the company.

For the purposes of this section dividends declared within six months after the end of an accounting period shall be deemed to have been declared in that accounting period:

PROVIDED that if a dividend is declared after such period of six months and the Administrator is satisfied that that dividend could not reasonably have been declared within the period of six months, he may treat that dividend as though it had been declared within that period.

(b) Nothing in the last preceding paragraph shall be so construed as to allow the deduction of a dividend which has already been allowed as a deduction under paragraph (h) of Article 3 of the Loi ayant rapport à la Taxe sur le Revenu, registered on the Records of this Island on the 10th day of January 1920.

(2) If a company resident in Guernsey is wound

up within six years from the commencement of this Law, and if from such commencement to the date of its winding up the company has declared dividends which in the aggregate exceed the aggregate of the profits of the company for that period as computed in accordance with this Law, tax on the amount of such excess shall be refunded to the company at a rate of five shillings in the pound:

PROVIDED that the amount of tax refunded hereunder shall not exceed the amount of the tax borne by the company on its own behalf during the said six years.

(3) Dividends shall be deemed to arise and accrue to the person entitled to receive them on the date on which they are declared.

9.—(1) The assessable income of an office or employment shall be the full emoluments of the office or employment less only—

Income from  
offices and  
employ-  
ments.

- (a) any expense exclusively and necessarily incurred in the performance of the duties of the office or employment;
- (b) contributions for superannuation purposes as provided in section 40 of this Law;
- (c) such sums on account of depreciation and obsolescence of machinery and plant, or on account of replacement of implements, utensils and articles, as would be allowable if the holder of the office, or the employee, had been carrying on a business.

(2) The cash value of the perquisite of free board or of free lodging or of both shall be an emolument of office or employment for the purposes of this section.

Payments to  
and benefits  
from social  
insurance.

10. The amount of any contribution paid by any person under the provisions of the Contributory Pensions Laws, 1935 to 1949, or of any Law amending or replacing the same, or of any Law relating to National Insurance which may hereafter be in force shall be allowed as a deduction in computing the assessable income of such person, and any benefits received therefrom, other than a maternity grant or a death grant, together with any allowances received under the Family Allowances Law, 1947, or any Law amending or replacing the same, shall be deemed to be the income of the recipient.

Onus of  
proof as to  
expenses.

11. The onus of proof that any expenditure is an allowable deduction from profits or income for the purposes of this Law shall be upon the person claiming so to deduct.

Income from  
the owner-  
ship of  
lands and  
buildings.

12.—(1) The assessable income from the ownership of lands and buildings in Guernsey (other than lands and buildings in the occupation of the owner for the purpose of any business carried on by him and other than a dwelling let furnished) shall be the annual rental value thereof subject to the authorised deductions, and the annual rental value shall be the sum arrived at by taking the reasonable rent at which the property would be expected to be let from year to year on the terms that the landlord be liable for all repairs and pay all landlord's rates and taxes and insurances:

PROVIDED that if the annual rent or other consideration receivable by the owner under any lease, licence or other agreement is in excess of the sum so arrived at, the amount of such annual rent or other consideration shall be deemed to be the annual rental value:

PROVIDED FURTHER that if the nature of the lease, licence or other agreement is such that the annual rent or other consideration cannot readily be ascertained the annual rental value shall be such sum as the Administrator may determine.

(2) The authorised deductions to be made from the annual rental value in arriving at the assessable income shall be the following:—

- (a) in respect of repairs and maintenance—  
—a deduction calculated as follows:—
- (i) bare land (other than a quarry)—a sum equal to five per cent of the annual rental value thereof;
  - (ii) dwelling houses and glasshouses—a sum equal to twenty five per cent of the annual rental value thereof;
  - (iii) other buildings—a sum equal to fifteen per cent of the annual rental value thereof:

PROVIDED that if, under the terms of any lease, licence or other agreement the owner is not liable for all repairs and to pay all landlord's rates and taxes and insurances, the deduction under this paragraph shall be such percentage of the annual rental value as the Administrator may determine.

- (b) an additional deduction in respect of repairs and maintenance may be allowed if the expenditure on repairs and maintenance by the person claiming such deduction according to the average of the five years immedi-

ately preceding the year of charge has exceeded the deduction calculated in accordance with paragraph (a) of this sub-section and the Administrator is satisfied that such expenditure was reasonable:

PROVIDED that the aggregate of the deduction and the additional deduction shall in no case exceed the annual rental value of the property.

For the purpose of ascertaining the average expenditure of the preceding five years during the first five years after the commencement of this Law, the expenditure incurred in any year prior to such commencement shall be deemed not to have exceeded the allowance for repairs admissible prior to the commencement of this Law.

For the purpose of this sub-section "maintenance" includes the cost of the insurance and management of the property;

- (c) where the property is subject to a rente or other registered charge, the amount of interest on such rente or charge; where the property has been acquired, constructed, reconstructed or repaired with borrowed capital, the amount of any interest payable on such capital; and where the property is subject to a crown or manorial charge, the amount of such charge;
- (d) in respect of vacancies:—an amount which bears the same proportional relationship to the annual rental value

(as reduced by the deductions referred to in paragraphs (a), (b) and (c) of this sub-section) as the period during which the property is wholly unoccupied bears to a year, or, where the property is let in parts, the amount, calculated as aforesaid, appropriate to the vacant part.

(3) The assessable income from the ownership of a dwelling let furnished shall be the gross consideration receivable therefrom less the deductions referred to in paragraphs (a), (b) and (c) of the last preceding sub-section.

(4) No liability under this section shall apply to lands and buildings or parts thereof occupied by the owner for the purpose of a business the profits of which fall to be computed in accordance with the provisions of section 7 of this Law.

13.—(1) The assessable income from sources not covered by any of sections 7, 9 or 12 of this Law shall be the income arising or accruing from such sources after deduction of any expenditure, not being in the nature of capital expenditure or personal expenses, wholly and exclusively incurred for the purpose of earning such income.

Income from  
other  
sources.

(2) For the purpose of this section any sum which has been paid on account of annual taxes or rates in a place outside Guernsey where the income has arisen in respect of the income or the property from which the income is derived shall be deemed to be expenditure wholly and exclusively incurred for the purpose of earning the income.

14. In computing the amount of assessable income under this Law no account shall be taken of:—

Casual  
receipts.

- (a) profits and losses arising from the realisation of investments except where the varying of investments and the turning of such investments to account is a business or part of a business;
- (b) receipts of a casual or non-recurring nature other than receipts arising from a business or from the exercise of an office or employment.

*Commencements, cessations and successions.*

Commence-  
ments.

15. The assessable income from a business carried on in Guernsey for the year of charge in which the business is commenced, or is commenced to be so carried on, and for the two following years, and the assessable income from any other source for the year of charge in which the income first arose to the person chargeable and for the two following years (which years are in this section respectively referred to as “the first year”, “the second year” and “the third year”) shall be computed in accordance with the following provisions:—

- (a) Income from business—
  - (i) for the first year the assessable income shall be the amount of the profits from the business for that year;
  - (ii) for the second year the assessable income shall, unless such notice as is hereinafter mentioned is given, be computed as if the period of twelve months beginning on the date of the commencement was the year of computation;
  - (iii) for the third year the assessable income shall, unless such notice as

is hereinafter mentioned is given, be the profits of twelve months up to the end of the accounting period ending in the year preceding the year of charge, but where the accounting period ending in the year preceding the year of charge constitutes a period of less than twelve months or where no accounting period ends in the first or second year the assessable income shall be the profits of the twelve months preceding the year of charge;

- (iv) the person charged or liable to be charged with tax in respect of the income of the business shall be entitled, on giving notice in writing to the Administrator within two years after the end of the second year, to require that the assessable income both for the second and the third year (but not for one or other only of those years) shall be computed as if the year in question was the year of computation:

PROVIDED that he may, at any time within twelve months after the end of the third year, in the like manner revoke the notice so given, in which case the assessable income both for the second year and the third year shall be computed as if the first notice had never been given.

- (b) Other kinds of income—

- (i) for the first year the assessable income shall be computed as if the first year was the year of computation;
- (ii) for the second year the assessable income shall be computed as if the second year was the year of computation;
- (iii) for the third year the assessable income shall be computed as if the second year was the year of computation:

PROVIDED that the person charged or liable to be charged with tax in respect of the income shall, on a claim being made for the purpose within twelve months after the end of the third year, be entitled to require that the assessable income for the third year shall be computed as if the third year was the year of computation;

- (iv) where in any year of charge a new source, or an addition to an existing source, of income is acquired by any person, the income attributable to that source or to the addition (as the case may be) shall for the purposes of paragraph (b) of this section be treated as income which first arose to that person in that year.

**Cessations.**

16.—(1) Where in any year of charge a business carried on in Guernsey permanently ceases to be carried on, or to be so carried on—

- (a) the assessable income for that year shall be the amount of the profits for the period beginning on the first day of the year of charge and ending on the date of the cessation subject to any set off to which the person chargeable may be entitled under either of sections 19 or 20 of this Law;
- (b) if the profits of the year ending on the thirty first day of December in the year preceding the year of charge in which the cessation occurs exceed the income in respect of which the person has been charged for that preceding year (or would have been charged if no such set off as aforesaid had been allowed) an assessment or an additional assessment may be made so that the income in respect of which tax is charged for that preceding year shall be the amount of profits for the said year ended on the thirty first day of December subject to any set off as aforesaid to which he may be entitled:

PROVIDED that if a business has not permanently ceased to be carried on but a particular source of the profits thereof has ceased to be possessed, then, if the person carrying on the business has been assessed in respect of that particular source under the provisions of Article 17 of the Law entitled *Loi ayant rapport à la Taxe sur le Revenu* registered on the Records of this Island on the 10th day of January, 1920, the provisions of sub-section (2) of

this section shall apply in respect of that source.

(2) Where in any year of charge income of any other kind permanently ceases to be the income of the person chargeable,

(a) for the year of charge in which the income so ceases, the assessable income shall be computed as if the year of computation were that year instead of the year preceding the year of charge;

(b) if the income for the year ending on the thirty first day of December preceding the year of charge in which the cessation occurs exceeds the assessable income in respect of which tax has been charged for that year, an assessment or an additional assessment may be made so that the amount of income in respect of which tax is charged for that year shall be the amount of the income for that year.

(3) Where in any year of charge any person ceases to possess any source, or part of any source, of income, the income from that source or attributable to that part shall for the purposes of sub-section (2) of this section be treated as income which permanently ceased to be income of that person in that year.

**Succession  
to a  
business.**

17. If at any time a person succeeds to any business which until that time was carried on by another person, then for all years of charge the income shall be assessed and tax charged as if the business had permanently ceased at the date of the succession and another business had then commenced.

## PART II.

## GENERAL RELIEFS.

*Allowances to individuals.*

18.—(1) For any year of charge the States may by resolution prescribe the amount of personal and other allowances to which an individual resident in Guernsey is entitled by way of relief from Income Tax at the standard rate, and the conditions applicable to such allowances.

(2) A claim for relief under this section shall not be allowed unless made simultaneously with the return as to income delivered in accordance with section 54 of this Law:

PROVIDED that where the conditions by reason of which the allowance can be granted have arisen subsequently to the making of such return the relief shall be given if the claim therefor is made on or before the thirty first day of December of the year following the year of charge to which the allowance relates:

PROVIDED FURTHER that notwithstanding anything in this sub-section contained the Administrator may, if he is satisfied that reasonable cause existed for not making a claim in the manner hereinbefore prescribed, admit such claim at any time within six years of the end of the year of charge for which the assessment in pursuance of the return was made.

*Relief in respect of losses.*

Set off of loss under one head of income against profit of another.

19. Where for any year of charge a person sustains a loss under any of the classes of income mentioned in section 2 of this Law he shall be entitled to have the amount of the loss set off against the assessable income of any other class for that year.

Right to carry forward loss incurred in a business.

20.—(1) Where for any year of charge a person sustains a loss in any business carried on by him which cannot be wholly set off under the last preceding section he shall be entitled to have the portion not so set off carried forward to the following year of charge and set off against his income from the same business for that year of charge, and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year of charge, and so on from year to year, save that no loss shall be carried forward for more than six years:

PROVIDED that where a deduction in respect of depreciation is also to be carried forward under the first proviso to paragraph (b) of sub-section (1) of section 7 effect shall first be given to the provisions of this sub-section.

(2) Nothing in the last preceding sub-section shall be so construed as to allow the carrying forward of any loss which has been or may be deducted under Article 8 of the Loi ayant rapport à la Taxe sur le Revenu, registered on the Records of this Island on the 10th day of January, 1920.

Relief for loss where business is transferred to a company.

21. Where a business carried on by an individual, or by any individuals in partnership, has been transferred to a company in consideration solely or mainly of the allotment of shares of the company

to that individual or to those individuals or to his or their nominee, then, if

- (a) the assessable income of any such individual for any year of charge includes any income derived by him from the company whether by way of dividends on those shares or otherwise; and
- (b) he is the beneficial owner of the shares throughout that year; and
- (c) the company carries on business throughout that year

the provisions of section 20 of this Law shall apply as if the income so derived were an amount in respect of which that individual was liable to be charged under the head "Income from businesses" arising from that business for that year, and accordingly as an amount against which any loss sustained before the transfer and carried forward may be set off.

*Various reliefs.*

22.—(1) Where the amount of tax paid by any person was excessive by reason of some error or mistake in a return or claim made by him or on his behalf, he shall, on a claim being made for the purpose, be entitled to be given by way of repayment such relief as is reasonable and just.

Relief in respect of errors and mistakes in returns.

(2) A claim under this section must be made not later than six years after the end of the year of charge for which the assessment in pursuance of the return was made.

(3) No relief shall be granted under this section in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed, if the return was in fact made on the basis of or in accordance with the practice prevailing at the time when the return was made.

Relief from  
double  
taxation.

23. Where an agreement has been made between the States and the Government of any other territory for the purpose of affording relief from double taxation in relation to Guernsey income tax and any tax of a similar nature imposed by the laws of that territory, then, notwithstanding anything in this Law, the provisions of such agreement shall have effect with respect to exemption or relief from Guernsey income tax for any year during which the agreement is in force.

### *PART III*

#### EXEMPTIONS.

Exemptions.

24. Tax shall not be chargeable in respect of:—

- (1) the official emoluments of any servant of His Majesty or His Majesty's Government or of any employee of the Corporation of the Trinity House of Deptford Strond in the County of Kent in respect of any office or employment held or carried on by him in Guernsey, provided and for so long as he is liable to pay United Kingdom Income Tax in respect of such emoluments;
- (2) the income derived from investments or deposits forming part of a superannuation fund or retirement benefit scheme approved as such by the Authority;
- (3) a wound or disability pension granted in respect of any person's service in His Majesty's Forces, or an allowance to the widow of any such person in respect of a child of that person;

- (4) the official emoluments of a consular officer in the service of a foreign state;
- (5) the emoluments of a scholarship, exhibition, bursary or other similar educational endowment held by an individual receiving full-time instruction in a university, college, school, or other educational establishment;
- (6) the profits arising from a show or exhibition held by an agricultural or horticultural society for the purposes of the society if those profits are applied solely to the purposes of the society;
- (7) the income of a registered trade union which is precluded, by law or by its rules, from assuring to any person a sum exceeding five hundred pounds by way of gross sum, or one hundred and four pounds a year by way of annuity, so far as that income is applicable and applied solely for the purpose of provident benefits to its members;
- (8)
  - (a) the income of an unregistered friendly society whose income for the year of charge does not exceed one hundred and sixty pounds;
  - (b) the income of a registered friendly society which is precluded, by law or by its rules, from assuring to any person a sum exceeding five hundred pounds by way of gross sum, or one hundred and four pounds a year by way of annuity;
- (9) the income derived by a savings bank certified under the Savings Bank Act,

1863, from its investments with the National Debt Commissioners;

- (10) the income of any savings bank, (other than income from lands and buildings not occupied for the purpose of the business) so far as such income is applied in the payment or credit of interest to any depositor:

PROVIDED that the bank makes an annual return to the Administrator of the name and address of every depositor to whom interest exceeding fifteen pounds has been paid in any year out of income other than income derived from investments with the National Debt Commissioners;

- (11) the income of a charity, if and so far as the income is applied to charitable purposes only. For the purposes of this subsection, "charity"—

(a) means any body of persons or trust established for charitable purposes only; and

(b) where any property or fund the income whereof is applicable to charitable purposes only is entrusted to any person or body of persons, means, in relation to that property or fund and the income thereof, that person or body;

- (12) the income of any fund or trading department administered by or on behalf of the States, or of any parish or parochial institution;

- (13) the income derived from such securities and in such circumstances as the States may by resolution from time to time prescribe.

#### PART IV.

##### PROVISIONS APPLICABLE TO SPECIAL CLASSES OF PERSONS AND MATTERS.

25. The provisions of this Part of the Law shall apply to persons and matters of the classes and descriptions mentioned therein, but, except so far as modified by the provisions of this Part of this Law, the other provisions of the Law shall have effect and shall apply as respects such persons and matters.

Application of Part IV.

##### *Partnerships.*

26.—(1) In respect of income arising from any business carried on by two or more persons in partnership, and in respect of income arising from any other source and belonging to the partnership, each partner shall be assessed and charged in respect of his share of the profits of the partnership.

Method of charging partnership.

(2) If there is a change in the persons engaged in carrying on a business either—

- (a) by reason that the person who has been carrying on the business on his own account commences to carry on the business in partnership with other persons; or
- (b) in the case of a business carried on by a partnership by reason that—
  - (i) one or more of the partners retire or die; or

- (ii) one or more new partners are admitted; or
- (iii) the partnership is dissolved, but one or more of the partners continue to carry on the business as a partner or partners in a partnership, or one of them continues to carry it on as an individual,

then, for the purpose of section 15 of this Law, only the incoming partner or partners shall be deemed to have commenced to carry on a business, and for the purpose of section 16 of this Law only the outgoing partner or partners shall be deemed to have permanently ceased to carry on a business:

PROVIDED that where all the persons who were carrying on the business immediately before and all the persons who were carrying it on immediately after the change concur in requiring that the business shall be treated as having ceased at the date of the change and a new business as having commenced, then upon such notice as is herein-after mentioned being given, the income of each person shall be assessed and tax charged as if a cessation and commencement had actually taken place:

PROVIDED FURTHER that such notice as aforesaid must be a notice signed by all such persons as aforesaid, or if any of them has died, by his personal representative, and sent to the Administrator within twelve months after the change took place.

*Husband and wife.*

27.—(1) Any income of a married woman who is not judicially separated nor permanently living apart from her husband shall for the purposes of assessment, charge, collection, computation, and reliefs be treated as if it were the income of her husband.

Liability  
of husband  
in respect  
of wife's  
income.

(2) The last preceding sub-section shall not apply—

- (a) if an application under the next succeeding section is in force, in which case the provisions of section 29 of this Law shall apply; or
- (b) if one of the spouses is resident in Guernsey in the year of charge, and the other is not so resident, in which case each spouse shall be charged and entitled to relief as if he or she were unmarried, and the resident shall be chargeable in respect of any remittances of income made to the resident by the non-resident, other than remittances for the maintenance of the resident from the income of an office or employment exercised, or a business carried on, by the non-resident:

PROVIDED that where the resident wholly maintains the non-resident he or she shall be entitled to any personal allowance for married persons prescribed by the States under section 18 of this Law but in such a case the non-resident shall not be entitled to a personal allowance in computing the amount of the proportional allowance admissible by virtue of section 36 of this Law.

(3) Where under the order of any Court a husband or former husband is required to pay alimony or maintenance out of his income, to or for the benefit of his wife or former wife, any sum so paid shall be treated as the income of the wife or former wife and shall be allowed as a deduction in computing the income of the husband or former husband.

Application for separate charges on husband and wife.

28. An application for separate charges on a husband and a wife may be made, in such manner and form as may be prescribed by the Administrator, by either spouse, on or before the thirty first day of March in the first year of charge as regards which it is to have effect, or if the marriage takes place in the course of that year, at some time between the date of the marriage and the thirty first day of March in the next subsequent year of charge. Any such application shall have effect not only as respects such first year but also as respects every such succeeding year in which it remains unrevoked. Notice of revocation shall be given to the Administrator in writing under the hand of the applicant spouse and unless such notice is given on or before the 31st day of March in any year it shall not be operative in respect of that year.

Effect of application for separate charges.

29. While any such application is in force the income of the husband and of the wife shall be assessed and tax charged in respect thereof and reliefs given as if they were not married, subject, however, to the following provisions:—

- (a) the income of the husband and of the wife shall be aggregated for the purpose of determining the amount of the allowances to individuals prescribed by the States under section 18 of this Law,

- and that amount shall not exceed the amount which would have been granted had no such application been made;
- (b) the benefit of any such allowances shall be apportioned between the spouses in such manner as the States may by resolution prescribe;
  - (c) the income of the husband and wife shall be treated as one in arriving at the total income for the purpose of Super-tax, and the amount of Super-tax payable in respect of the total income shall be divided between and recoverable from the husband and wife in proportion to their respective incomes, and the total amount of income tax and Super-tax payable shall not be less than it would have been had no such application been made.

*Persons under guardianship.*

30.—(1) The person having the direction, control or management of any income of any person under guardianship may be charged with income tax at the standard rate in respect of that income. Persons  
under  
guardian-  
ship.

(2) Nothing in this section shall affect the liability of a person under guardianship to be himself charged in his own name.

(3) A person who may be charged with tax in respect of any income of a person under guardianship shall be responsible for making returns and for all other matters required to be done under this Law for the purposes of the assessment of income and the charge and payment of tax, and if such person submits to the Administration a return of the total income from all sources of the person under

guardianship he may on behalf of that person claim any allowance or relief which that person could have claimed if he had been charged in his own name.

(4) If a person under guardianship is charged with tax in his own name, his guardian shall in default of payment of the tax by the person under guardianship be liable therefor to the extent of the property of the person under guardianship of which he has the direction, control or management, and may be proceeded against accordingly as if he had been the person charged with tax.

(5) Any person who has been duly charged with tax in respect of any income of, or who has lawfully paid tax on behalf of, a person under guardianship may raise and retain out of the property from time to time coming into his hands on behalf of the person under guardianship such sum as is sufficient to pay the tax charged, and shall be acquitted and discharged of so much as is equal to any tax so paid, and if and so far as such property is insufficient shall be entitled to be indemnified for any amount so paid.

*Trustees and personal representatives.*

Liability to tax in respect of trust property.

31.—(1) A trustee may be charged with Income Tax at the standard rate in respect of any income which he is entitled to receive on behalf of any person or which is derived from property vested in him, but nothing herein contained shall affect the liability of the person beneficially entitled to such income to be charged in his own name.

(2) If a trustee chargeable under this section submits to the Administrator a return of the total income of the beneficiary from all sources, he may on behalf of the beneficiary claim any allowance or

relief which the beneficiary could have claimed if he had been charged in his own name.

(3) Where any person is beneficially entitled to income which is payable to trustees or which is derived from property vested in trustees and a question as to the residence, domicile or nationality of the person beneficially entitled to the income is material for determining the amount of assessable income, the question shall be determined by reference to the residence, domicile or nationality of the person so beneficially entitled.

(4) It shall be the duty of a trustee charged under this section to make all such returns and to do all such matters and things which the person beneficially entitled to the income would have been required to make or do if he had himself been charged in his own name.

32.—(1) On the death of an individual, all rights and liabilities under this Law arising before his death which would have attached to him had he not died, and any liability to be charged with or to pay tax or a penalty to which he would have been subject under this Law if he had not died, shall pass to his personal representative, and the amount of tax or penalty payable by the personal representative shall be a debt due from and payable out of the estate of the deceased:

Liability of personal representative to tax in respect of estate of deceased.

PROVIDED THAT—

- (a) an assessment or an additional assessment of any income arising before his death shall not be made and penalty proceedings shall not be instituted later than the end of the third year of charge following that in which the individual died; and

(b) where by reason of death the provisions of this Law regarding a cessation or succession are applicable, the personal representative of the deceased shall be liable for the tax for which the deceased would have been liable if he had not died and the cessation or succession had taken place at the date of his death.

(2) On the death of an individual, then as respects income arising in the period commencing at his death which is payable to or derived from property vested in his personal representative, the provisions of the last preceding section shall apply as if the expression "trustee" included a personal representative.

*Non-residents (agency).*

Power to  
charge agent  
on behalf of  
non-resident.

33.—(1) Where a non-resident person is liable to tax in respect of any income and has an agent in Guernsey the agent shall be chargeable on his behalf with tax in respect of any such income which arises whether directly or indirectly from or through his agency:

PROVIDED that nothing in this section shall affect the liability of the non-resident to be charged in his own name.

(2) This section applies to any agent whether for the purpose of carrying on a business or for any other purpose, and the expression "agent" includes a manager and any person receiving or paying income on behalf of or to a non-resident:

PROVIDED that nothing in this section shall render a resident person chargeable in respect of income arising from sales or transactions

carried out through him, unless the resident is an authorised person carrying on the regular agency of the non-resident:

PROVIDED FURTHER that where sales or transactions are carried out on behalf of a non-resident through a broker in the ordinary course of his business as such, and the broker—

- (a) is a person carrying on *bona fide* the business of a broker in Guernsey; and
- (b) receives, in respect of the business of the non-resident which is transacted through him, remuneration at a rate not less than that customary in the class of business in question;

then, notwithstanding that the broker is a person who acts regularly as broker for the non-resident, neither the non-resident nor the broker shall be chargeable in respect of income arising to the non-resident from those sales or transactions.

The expression “broker” includes a general commission agent.

(3) Tax charged on an agent under the provisions of sub-section (1) of this section or agreed with the Administrator to be so chargeable in due course may be recovered by such agent by deduction from any sum or sums payable by or through such agent to the non-resident or by any other means.

(4) A resident person who is chargeable in respect of any income of a non-resident person shall be answerable for the making of returns in the manner provided by this Law and for all other matters

required to be done under this Law for the purposes of the assessment of income and the charge and payment of tax.

Special  
basis of  
computa-  
tion in  
certain  
cases.

34. Where it appears to the Administrator that the amount of the income arising or accruing in Guernsey to a non-resident person cannot be readily ascertained, the Administrator may compute that income on such percentage of the turnover of the business done in Guernsey as he may consider to be reasonable, or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of this Law) as the amount of business done in Guernsey bears to the aggregate of the amount of the business done in Guernsey and out of Guernsey or in such other manner as the Administrator may agree with the non-resident person.

Computa-  
tion on  
basis of  
merchant-  
ing profit  
in certain  
circum-  
stances.

35. Where a non-resident person or his agent is chargeable in respect of any income arising from the sale of goods or produce manufactured or produced out of Guernsey by the non-resident, he may apply to the Administrator to have the income computed on the basis of the profits which might reasonably be expected to have been earned:—

- (a) by a merchant; or
- (b) where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold who had bought from the manufacturer or retailer direct,

and the assessment shall be made or amended accordingly.

*Non-residents (allowances).*

36.—(1) No allowance under section 18 shall be granted to an individual who is not resident in Guernsey.

Proportional allowances to non-resident individuals who are British subjects, etc.

(2) An allowance (referred to in this Law as a proportional allowance) may be claimed by an individual who is a non-resident and who—

- (a) is a British subject; or
- (b) is resident in the United Kingdom or in any of the Channel Islands in which this Law is not in force;

in respect of income arising or accruing in Guernsey, and the amount of such allowance shall be the amount by which the tax charged or chargeable but for such relief exceeds the portion attributable to Guernsey income of the tax (including Super-tax) which would be chargeable on his total income from all sources if such total income arose in Guernsey.

(3) Claims by non-residents for a proportional allowance shall not be allowed unless a return as to total income from all sources has been made, and no claim shall be admitted if made later than six years after the end of the year of charge to which such claim relates.

*Governments of parts of His Majesty's dominions.*

37. Where a business of any kind is carried on in Guernsey by or on behalf of the Government of any part of His Majesty's dominions, exclusive of Guernsey, that Government shall in respect of the business and of all income arising in connection therewith be liable to be charged under this Law in the same manner and to the same extent as in the like case a company would be liable:

Government trading.

PROVIDED that the States may by resolution exempt the whole or any part of such income from charge.

*Mutual profits.*

Charge of  
tax on  
mutual  
profits.

38. In the case of an incorporated company (whether incorporated in Guernsey or elsewhere), in computing profits for the purpose of section 7 of this Law, the profits shall be deemed to include any profit or surplus arising from transactions of the company with its members which would be included in computing profits for the purpose of that section if those transactions were transactions with non-members, and the profit or surplus aforesaid shall be determined for the purpose of that section on the same principles as those on which profits arising from transactions with non-members would be so determined:

PROVIDED that any discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company (being transactions which are taken into account in the said computation) shall be deducted as expenses if calculated by reference to the said amounts and not by reference to the amount of any share or interest in the capital of the company.

*Superannuation funds.*

Approval  
of super-  
annuation  
funds.

39.—(1) A superannuation fund may be approved by the Authority if, but not unless, the following conditions are satisfied:—

- (a) the fund is held under irrevocable trust;
- (b) the fund is established in connection with the carrying on of business, or the exercise of functions, in Guernsey;
- (c) the fund has for its sole or main purpose the provision of annuities—
  - (i) for persons employed in connection with such business or functions, on their retiring at a specified age or on their becoming incapacitated at some earlier age; or
  - (ii) for the widows, children or dependants of persons who are or have been so employed, on the death of those persons;
- (d) the person carrying on the business or exercising the functions (hereinafter referred to as “the employer”) is a contributor to the fund;
- (e) the fund is recognised by the employer and by the persons so employed:

PROVIDED that if—

- (i) the business is not carried on, or the functions are not exercised, wholly in Guernsey; or
- (ii) the provision of such annuities as aforesaid is not the sole purpose of the fund; or
- (iii) the rules of the fund allow the return of contributions made to the fund;

the Authority may, as it thinks fit, approve the fund as a whole or as to part only thereof, and may attach to their approval any further conditions.

(2) An application for the approval of a superannuation fund or part of a superannuation fund shall be made in writing by the trustees of the fund to the Administrator and shall be accompanied by a copy of the instrument under which the fund is established and a copy of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Authority may require such further information to be supplied as it thinks proper.

(3) The Authority shall communicate in writing to the trustees of the fund the grant of its approval and the date on which the approval is to take effect, and, when the approval is granted subject to conditions, those conditions. The Authority may at any time withdraw its approval, in which case it shall give notice in writing of such withdrawal to the trustees and shall give the reasons for such withdrawal and the date on which it is to take effect.

(4) The Guernsey Civil Service Contingency Fund shall be deemed to be an approved superannuation fund.

Allowances  
to  
employees.

40.—(1) In computing the income of an individual holding or exercising an office or employment, there shall be deducted the amount of any ordinary contributions to an approved fund or of any statutory contributions made by him for the year of computation.

(2) In this section—

- (a) the expression “ordinary contribution” means a periodic contribution fixed in amount or calculated on some definite basis by reference to earnings;
- (b) the expression “statutory contribution” means a contribution required by law

to be made towards the expense of providing, otherwise than out of a fund established for the purpose, a pension or gratuity to the contributor on his retirement or on his death to his widow, children or dependants or to his personal representative.

41.—(1) If a contribution to an approved fund is made by the employer, then, in computing his income arising from the business in connection with which the fund is established—

Allowances  
to  
employers.

- (a) if the contribution is an ordinary contribution, the amount thereof shall be allowed as a deduction in the accounting period in which it is paid;
- (b) if the contribution is not an ordinary contribution, then, according as the Authority may direct, the amount thereof shall either—
  - (i) be allowed as a deduction for the accounting period in which it is paid; or
  - (ii) be apportioned to such accounting periods as the Authority thinks proper, and the amount apportioned to any accounting period be allowed as a deduction for that period.

(2) In this section the expression “ordinary contribution” means a periodic contribution fixed in amount or calculated on some definite basis by reference to the earnings or contributions of the members of the fund, or to the number of such members.

Charge of tax on annuities paid out of approved fund.

42. Where an annuity is paid out of an approved fund, the person chargeable with tax shall be the person entitled to the annuity:

PROVIDED that if the person entitled to the annuity is not resident in Guernsey the trustees or other persons having the management of the fund may be charged with tax on behalf of the non-resident person but the trustees or other persons having the management of the fund shall not be so chargeable if the services in respect of which the annuity is payable were performed wholly outside Guernsey.

Treatment of repaid contributions.

43.—(1) Contributions (including interest) repaid to an employer shall be treated as income of the year in which they are repaid.

(2) Contributions (including interest) repaid to an employee during his lifetime shall be treated as income of the year in which they are repaid and shall be chargeable to Income Tax at the average rate at which the employee was liable to Income Tax during the preceding three years of charge or during such period, if less than three years, as he was a member of the fund:

PROVIDED THAT—

- (a) contributions repaid in respect of services outside Guernsey; and
- (b) lump sums paid in lieu of or in commutation of annuities shall not be chargeable to tax.

Particulars to be furnished by trustees and employers.

44.—The trustees of an approved superannuation fund or an employer who contributes to an approved superannuation fund shall, when so required by

notice from the Administrator, furnish, within twenty one days of the date of such notice, such particulars as the Administrator may require regarding contributions made to the fund, the names of the persons in receipt of annuities and the amount of the annuities, particulars of contributions repaid, the accounts of the fund and such other information relating to the fund as the Administrator may require.

45. The Authority may make regulations for the purposes of carrying into effect the provisions of the six foregoing sections:

Power of Authority to make regulations as to approved funds.

PROVIDED that every regulation made under this section shall be laid before the States forthwith in such manner as the States may from time to time by resolution direct and, if at the meeting of the States in the course of which such a regulation is laid before them, or at the next subsequent meeting, the States resolve that the said regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new regulation.

*Retirement benefit schemes.*

46. A retirement benefit scheme may be approved by the Authority if, but not unless, the following conditions are satisfied:—

Approval of retirement benefit schemes.

- (a) the scheme is a *bona fide* retirement benefit scheme established in connection with the carrying on of business or the exercise of functions wholly or partly in Guernsey;
- (b) the scheme has for its sole or main purpose the provision of annuities for persons employed in connection with the business on

their retiring at a specified age or on their becoming incapacitated at some earlier age or, for the widows, children or dependants of persons who are or have been so employed, on the death of those persons;

- (c) the annuities provided by the scheme are not assignable either in whole or in part;
- (d) the sums paid by the employer in respect of any person do not exceed ten per cent of his remuneration for that period, and do not exceed one hundred pounds in the case of a period of a year or a correspondingly less or greater amount in the case of a shorter or longer period.

Allowances  
to  
employees.

47. In the case of an individual holding or exercising an office or employment a contribution made by him to an approved retirement benefit scheme shall be treated as a premium paid to an assurance company in respect of a deferred annuity on his life and accordingly as entitling him to any allowance which may be claimable under the provisions of section 18 of this Law.

Allowances  
to  
employers.

48. A contribution to an approved retirement benefit scheme made by an employer shall be allowed as a deduction in computing the profits of the business in connection with which the scheme is established.

Power of  
Authority  
to make  
regulations  
as to  
retirement  
benefit  
schemes.

49. The Authority may make regulations for the purposes of carrying into effect the provisions of the three foregoing sections:

**PROVIDED** that every regulation made under this section shall be laid before the States forthwith in such manner as the

States may from time to time by resolution direct, and if at the meeting of the States in the course of which such a regulation is laid before them, or at the next subsequent meeting, the States resolve that the said regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new regulation.

*Revocable settlements and settlements  
on children.*

- 50.—(1) All income arising to any person by virtue or in consequence of a revocable settlement shall be deemed to be the income of the settlor unless—
- Income under certain revocable settlements to be treated as income of the settlor.
- (a) the settlement is not revocable for a period exceeding six years or during the lifetime of the person on whom the settlement has been made; and
- (b) the settlor has divested himself, while the settlement remains irrevocable, of all control over or right to receive any beneficial interest thereunder.

(2) The expression “settlement” includes any disposition, trust, covenant, agreement or arrangement made or entered into directly or indirectly by any person, and the expression “settlor” shall be construed accordingly.

(3) A settlement shall be deemed to be revocable if it allows the transfer or retransfer of the income or assets to the settlor or in any way allows the settlor to reassume power, directly or indirectly, over the income or assets.

Income under settlements on children.

51.—(1) Where by virtue or in consequence of any settlement any income is payable during the lifetime of the settlor to or for the benefit of a child of the settlor in any year of charge, the income shall, if at the commencement of that year the child was an infant and unmarried, be treated as the income of the settlor for that year.

(2) In this section “child” includes stepchild, adopted child and illegitimate child.

## PART V.

### LEGAL AVOIDANCE.

General provision against legal avoidance.

52. Subject to the provisions of the next succeeding section, where the Administrator is of opinion that the main purpose, or one of the main purposes, of a transaction is the avoidance or reduction of the liability of any person to tax under this Law, he may, in his discretion, direct that such adjustments be made as respects the liability of that person to tax as may in his opinion be appropriate to counteract the avoidance or reduction of liability which would otherwise be effected by such transaction.

Special provisions regarding privately controlled companies.

53.—(1) With a view to preventing the avoidance of the payment of Super-tax through the withholding from distribution of income of a company which would otherwise be distributed, the following provisions shall have effect:—

- (i) where it appears to the Administrator that a privately controlled company has not, within a reasonable time after the end of any accounting period, distributed to its members, in such manner as to render the amount distributed liable to be included in the returns to be made by the members

of the company of their total income, more than sixty-five per centum of its profits for such accounting period as computed in accordance with section 7 of this Law, he may, by notice in writing addressed to the company, direct that the undistributed part of such profits shall be deemed to have been distributed among the members for the year of charge in which such accounting period ended, and thereupon the proportionate share of each member shall be included in the total income of such member for the purposes of computation of Super-tax:

PROVIDED that the Administrator shall not give a direction under this section if he is satisfied that a distribution of less than sixty-five per centum of the company's profits was in accordance with ordinary commercial prudence and not for the purpose of avoiding the liability to Super-tax of any person.

- (ii) no direction shall be given under paragraph (i) of this sub-section unless the company has been heard or has been given a reasonable opportunity of being heard.

(2) In this section

“privately controlled company” means a company which is under the control of five persons or less and in which less than twenty-five per centum of the voting power is held by members of the public.

“subsidiary company” means a company of which one or more other

companies have the control by virtue of the beneficial ownership of shares.

“members of the public” means persons other than the five persons or less in control of the company as determined in accordance with sub-sections (4) and (5) of this section, and other than a subsidiary company deemed to be a privately controlled company under the provisions of sub-section (3) of this section.

“relative” means a husband, wife, ancestor, lineal descendant, brother or sister, whether of the half or of the whole blood, ancestor or lineal descendant of such brother or sister, or relative by marriage.

“nominee” means a person who may be required to exercise voting power on the directions of another person or who holds shares directly or indirectly on behalf of another.

“voting power” means the power to vote conferred by the beneficial ownership of shares not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits.

(3) A company which is a subsidiary company of a privately controlled company or of two or more companies of which one or more is a privately controlled company shall be deemed to be a privately controlled company.

(4) A company shall be deemed to be under the control of five persons or less if such persons are

able or entitled, by virtue of the possession of the greater part of the voting power or by any means whatsoever, to exercise or acquire control, whether direct or indirect, over the company's affairs.

(5) In determining for the purpose of this section whether a company is or is not under the control of five persons or less—

- (a) persons in partnership shall be treated as a single person;
- (b) persons representing the estate of a deceased person or property held under a trust shall be treated as a single person;
- (c) persons who are relatives of one another, and persons who are nominees of any other person together with that person, shall be treated as a single person.

(6) Where the Administrator is of opinion that the affairs of a company are controlled or are capable of being controlled by a person who is a loan creditor of the company he may, if he is of opinion that such control is being exercised for the purpose of avoiding the liability to Super-tax of any person, deem such company to be a privately controlled company for the purpose of this section, and thereupon such loan creditor shall be deemed to be a member of the company and to have a share in the profits of the company deemed to have been distributed under paragraph (i) of sub-section (1) of this section to the extent that profits, or assets representing profits, have been expended or applied or are available to be expended or applied in redemption or repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.

(7) Where the Administrator is of opinion that for the purpose of avoiding the liability to Super-tax of any person a privately controlled company has, in pursuance of or in consequence of any fictitious or artificial transaction paid or made available to any person any sum, whether in the form of capital or otherwise, and whether in money or in money's worth, he may adjust the total income of such person, for the purpose of the computation of Super-tax for any year of charge, so as to include therein the amount, which in his opinion, could reasonably be expected to have arisen to such person as income had the fictitious or artificial transaction not taken place.

(8) (i) When an order has been made or a resolution passed for the winding-up of a privately controlled company the period from the end of the last accounting period of the company to the date of the order or resolution for winding-up shall be treated as an accounting period, and the income of the company for the period so treated as an accounting period shall be deemed to be income of that period available for distribution to members of the company and, as respects such period and any accounting period ending within the year preceding that period, paragraph (i) of sub-section (1) of this section shall have effect as if the words "within a reasonable time" were omitted therefrom;

(ii) the liquidator of a company shall be responsible for the due payment of any Super-tax recoverable from the company and for doing all other matters or things

required to be done by or on behalf of the company under this section.

(9) When a member of a privately controlled company is itself a privately controlled company any amount deemed to be its income under the provisions of this section shall be deemed to be part of its profits for the purpose also of the application of sub-section (1) of this section to distributions of profits by that company.

(10) Where by virtue of the provisions of this section an adjustment is made of the total income for Super-tax purposes of a member of a company for any year of charge and that member is an individual, the Super-tax payable in respect of such adjustment shall be recoverable from the company if it cannot be recovered from the member, and the company shall be entitled to recover any Super-tax so paid by it by deduction from any sum or sums payable by or through the company to that member or by any other means.

(11) Any undistributed income which has been charged to Super-tax under the provisions of this section shall, when subsequently distributed, be deemed not to form part of the total income for the purpose of Super-tax of any individual entitled thereto.

(12) (i) The Administrator may at any time, by notice in writing, require any company which appears to him to be a company to which this section applies, to furnish him with such information as he may require for the purpose of ascertaining—

- (a) the profits of the company for any accounting period, and the names and addresses, and the particulars of the respective interest, of all members of the company; and
  - (b) the means by which the control of the company is or may be exercised;
- (ii) if any company fails or refuses on being so required in accordance with the provisions of this section to furnish a statement of its income from all sources or renders a statement with which the Administrator is not satisfied, the Administrator may make an estimate of that income to the best of his judgment;
- (iii) any person in whose name any shares of a company are registered shall, if required by a notice in writing by the Administrator state whether or not he is the beneficial owner of those shares, and if not the beneficial owner of those shares or any of them shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.

## *PART VI.*

### RETURNS AND ASSESSMENTS.

#### *Returns.*

Returns as  
to income.

54.—(1) It shall be the duty of every person to whom a notice for that purpose has been given, and whether or not he is liable to pay any tax, to deliver

to the Administrator, within twenty-one days of the date of such notice, a return as to his income in the form and manner required by the Administrator, and shall furnish to the Administrator, within such period as he may specify, such accounts or other information as he may require, certified, if he so requires, by an accountant competent to appear on an appeal in accordance with the provisions of subsection (2) of section 64 of this Law.

(2) Where any person chargeable with tax has not received before the 30th day of June in any year of charge a notice from the Administrator requiring him to make a return as to his income it shall be his duty to give notice to the Administrator that he is so chargeable.

55. A company resident in Guernsey or registered under any law applicable from time to time to companies in Guernsey, when required to do so by notice for that purpose given by the Administrator, shall deliver to the Administrator within such time and in such manner as he shall direct, lists shewing respectively the dividends and interest paid or payable during the calendar year preceding the year of charge to persons resident in Guernsey and to persons not so resident, together with the names and addresses of the persons entitled to such dividends and interest.

Returns as to dividends and interest.

56.—(1) Every employer when required to do so by notice for that purpose given by the Administrator and whether such notice be given by individual notice in writing or by a general notice published in “La Gazette Officielle”, shall, within the time limited by the notice, deliver a return containing:—

Returns as to employees.

- (a) the names and addresses of the persons employed by him during the year preceding the year of charge;
- (b) the payments made to those persons in respect of that employment for that preceding year;
- (c) in the case of persons who entered or left the employment in the course of that preceding year, the dates on which they entered or left the employment.

(2) The employer shall, if so required by the notice or by a supplementary notice given by the Administrator, include in his return, or deliver a separate return containing, corresponding particulars in respect of persons employed by him since the commencement of the year of charge in which the notice is given.

(3) Where the employer is a company, any director of the company or person engaged in the management of the company shall for the purposes of this section be deemed to be a person employed by the company.

Returns as  
to lodgers,  
etc.

57. Every person who provides or offers to provide accommodation for hire or reward otherwise than under a tenancy agreement shall, when required to do so by notice for that purpose given by the Administrator, and whether such notice be given by individual notice in writing or by a general notice published in "La Gazette Officielle", deliver to the Administrator a return within the time limited by the notice, of all individuals who have been accommodated by him for hire or reward during such year as the Administrator may in such notice as aforesaid specify, and who during such year have been so

accommodated for a period or periods amounting to one hundred and eighty-two days or more.

58. Where the person required to deliver a return under this Part of this Law is a company, the secretary or other officer performing the duties of secretary (by whatever name called) shall be responsible for delivering the return.

Returns on behalf of companies.

*Assessments.*

59. Assessments shall be made by the Administrator and a notice giving particulars of the assessment and stating the amount of tax chargeable in consequence of the assessment shall be sent by post, addressed to the person concerned at his usual or last known place of residence or, in the case of a company, at its principal place of business. Every such notice shall contain a statement that a right of appeal is conferred by this Law and shall further state the time within which notice of appeal must be given.

Making of assessments.

60. If the Administrator has reason to believe that a business carried on or an office or employment exercised in Guernsey is so temporarily established or exercised in this Island that the ordinary process of assessment under this Law is inappropriate, he may at any time serve on the person responsible for the conduct of that business or on the person exercising such office or employment a notice requiring him within such time as may be specified therein to deliver to the Administrator a return of the estimated income of the business, office or employment arising in Guernsey up to the probable date of the cessation of such business, office or employment in Guernsey, and the provisions of this Law shall, so far as may be, apply as if the notice were a notice issued under sub-section (1) of section 54 of this Law:

Provision for speedy assessments in certain cases.

PROVIDED that, notwithstanding anything in section 67 of this Law, the tax shall be payable in one instalment on such day or within such period as the Administrator may determine.

**Additional assessments.**

61. If as respects any year of charge the Administrator discovers that any income that ought to have been assessed has not been assessed, or that the assessment in respect of any income is or has become insufficient, he may, subject to the provisions of subsection (1) of section 32 of this Law, at any time not later than six years after the end of such year of charge, make an assessment or an additional assessment, as the case may be, on the person chargeable on such income and all the provisions of this Law shall thereupon apply to such assessment or additional assessment:

PROVIDED that where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax for the year 1950 or any subsequent year of charge, assessment or additional assessment on that person to tax for that year, may, for the purpose of making good to the States any loss of tax attributable to the fraud or wilful default, be made at any time, notwithstanding that, apart from this section, the time limited by Law for the making of the assessment or additional assessment has expired:

PROVIDED FURTHER that the limitation period in a case of fraud or wilful default in relation to any year prior to the coming into force of this Law shall be ten years.

## PART VII.

## APPEALS.

62. Any person aggrieved by an assessment made upon him by the Administrator, or by any penalty, direction or order imposed or made by the Administrator under this Law, shall be entitled to appeal to the Authority on giving to the Administrator notice in writing (stating the grounds of appeal) within twenty-one days of the date of the issue of the notice of assessment or of the order imposing the penalty, or other order or direction: Right of appeal.

PROVIDED that the Authority may admit an appeal if it is satisfied that owing to absence, sickness or other reasonable cause a person has been prevented from giving the aforesaid notice within the time limited.

63. The Authority shall meet from time to time for the hearing of appeals, and shall cause reasonable notice to be given to each appellant of the day for hearing his appeal. Appeal meetings.

64.—(1) The Administrator shall be entitled to be present during all the time of the hearing of an appeal, to give reasons in support of the assessment or other order made by him and to be present when the determination of the Authority is announced. Hearing of appeals.

(2) The appellant and the Administrator shall be entitled at the hearing of any appeal to appear by an advocate, or by an accountant who is a member of an incorporated society of accountants:

PROVIDED that the condition as to membership of an incorporated body of accountants shall not apply to an accountant who has appeared before the Authority

in a professional capacity in respect of an appeal in relation to the Income Tax Laws, 1920 to 1948, before the commencement of this Law.

(3) If the Authority is satisfied that the appellant has been prevented by absence, sickness or other reasonable cause from attending on the day fixed for hearing the appeal, it may postpone the hearing for such time as it may think necessary.

(4) Where, on the hearing of an appeal, the appellant desires to put forward any ground of appeal which was not specified in the notice of appeal, the Authority, if in its opinion the omission of that ground from the notice was not wilful or unreasonable, may allow the appellant to put forward that ground and may take it into consideration.

(5) The Authority may, by notice sent by post, summon any person, (other than the appellant) whom it thinks able to give relevant evidence, to appear before it to be examined.

(6) Any witness before the Authority may be examined on oath, but where the witness is the appellant or any agent or servant of the appellant or any other person confidentially employed in his affairs, the witness shall not be compelled to give evidence on oath or to answer any question to which he objects.

(7) Any member of the Authority shall have power to administer the oath referred to in the last preceding sub-section.

(8) The Authority may adjourn any appeal from time to time.

Determina-  
tion of  
appeals.

65.—(1) In disposing of an appeal the Authority may—

- (a) in the case of an assessment—
  - (i) confirm, reduce, enhance or annul the assessment; or
  - (ii) set aside the assessment and direct the Administrator to make a fresh assessment after making such further enquiry as the Administrator thinks fit or the Authority may direct; or
- (b) in the case of an order imposing a penalty—confirm or cancel such order or vary it so as either to enhance or reduce the penalty; or
- (c) in the case of any other direction or order—make such order thereon as it thinks fit.

(2) Save as provided in section 66 of this Law orders made by the Authority shall be final and conclusive.

66.—(1) Upon the determination of an appeal the appellant or the Administrator, if dissatisfied with the determination as being erroneous in point of Law, may require the Authority to state and sign a case for submission to the Royal Court. Case for  
opinion of  
Royal Court.

(2) Such requirement shall be made by delivering, at any time within twenty-one days after the determination of the appeal, a notice in writing to the President of the Authority.

(3) The case shall set forth the facts and the determination of the Authority.

(4) The case when stated and signed shall be delivered by the President to the party who required it.

(5) The party to whom the case has been delivered shall, within twenty-one days after he has received it, transmit the case to His Majesty's Greffier and send to the other party a copy of the case, together with notice in writing that he has so transmitted it.

(6) The Royal Court sitting as an Ordinary Court shall hear and determine any question of law arising on the case, and may reverse, affirm, or amend the determination of the Authority, remit the matter to the Authority, with the opinion of the Court thereon, or make such other order as the Court may think fit.

(7) The Court may cause the case to be sent back for amplification or clarification and thereupon the case shall be amplified or clarified accordingly and returned to the Court and the last preceding sub-section shall thereupon apply.

(8) Where the amount of the assessment is to be altered in consequence of the judgment of the Court, the Administrator shall alter the assessment and charge accordingly.

(9) An appeal shall lie from the Ordinary Court to the Channel Islands Court of Appeal.

### *PART VIII.*

#### COLLECTION AND RECOVERY.

Due date of  
payment of  
tax and  
penalty.

67.—(1) Tax for any year of charge shall be payable in two equal instalments as follows:—

(a) the first instalment on or before the 30th day of June in that year:

PROVIDED that where the assessment in consequence of which the tax is chargeable has not been made

before the 10th day of June in that year the first instalment shall be payable within twenty-one days from the date of the issue of the notice of assessment;

- (b) the second instalment on or before the 31st day of December in that year:

PROVIDED that where the assessment in consequence of which the tax is chargeable is made after the 10th day of December in that year the second instalment shall be payable within twenty-one days from the date of the issue of the notice of assessment.

- (2) A penalty shall be payable within thirty days from the date of the order communicating the penalty:

PROVIDED that the Administrator may at his discretion, allow a further time for payment.

68.—(1) Where notice of an appeal to the Authority against an assessment or a penalty has been given, the Administrator may, at his discretion, allow such part of the tax charged in consequence of the assessment as appears to him to be in dispute, and the whole or part of the penalty imposed, to remain unpaid pending the result of such appeal.

Collection of tax and penalty pending appeal.

- (2) On the determination of the appeal any balance of tax or penalty shall become payable, and any tax or penalty overpaid shall be repaid.

69. In default of payment of tax or penalty by the due date, the Administrator may proceed to enforce payment as if the amount due were a civil debt.

Enforcement of payment.

## PART IX.

## PENALTIES.

Penalty for failure to give notice of liability.

70. 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 by sub-section (2) of section 54 of this Law shall be liable to a penalty not exceeding fifty pounds.

Penalty for failure to deliver return as to income.

71. A person who fails to make a return of his income within the period prescribed by the law for that purpose shall be liable to a penalty not exceeding fifty pounds and he shall in addition be liable to a further penalty not exceeding ten pounds for every day after the date of the imposition of the original penalty, during which the failure continues:

## PROVIDED THAT—

- (i) if at any time before the Administrator issues the notice referred to in section 81 of this Law such person delivers a correct and complete return, he shall not be liable to any penalty;
- (ii) if he proves that if he had made a return he would not have been liable to pay any tax in respect thereof, the penalty shall not exceed five pounds.

Penalty for negligence in return as to income.

72. A person who delivers a return of income which is incorrect or incomplete in any material particular, shall, if he acted negligently, be liable to a penalty not exceeding the aggregate of a sum of twenty pounds and a sum equal to three times the difference between the amount of tax which would have been chargeable if a correct and complete return had been made and the amount of tax which would be chargeable on the assumption that the return actually made was correct and complete:

PROVIDED that if at any time before the Administrator issues the notice referred to in section 81 of this Law such person delivers a correct and complete return he shall not be liable to any penalty.

73. A person who delivers a return of income which is incorrect or incomplete in any material particular shall, if he acted fraudulently, be liable to a penalty not exceeding the aggregate of the sum of twenty pounds and a sum equal to three times the total amount of tax which he would be liable to pay for the year of charge to which the return relates, no reduction being made in respect of any of the allowances to individuals. Penalty for fraud in return as to income.

74.—(1) A person who fails to deliver to the Administrator a return other than a return of income within the time prescribed for that purpose shall be liable to a penalty not exceeding fifty pounds and he shall in addition be liable to a further penalty not exceeding ten pounds for every day after the date of the imposition of the original penalty during which the failure continues:— Penalties in respect of returns not relating to income.

PROVIDED that if at any time before the Administrator issues the notice referred to in the said section 81 such person delivers a correct and complete return he shall not be liable to any penalty.

(2) A person who delivers a return, other than a return of income, to the Administrator which is incorrect or incomplete in any material particular shall be liable to a penalty not exceeding—

(i) if he acted negligently, one hundred pounds, provided that if at any time before the Administrator issues the notice referred to in section 81 of this

Law the person delivers a correct and complete return he shall not be liable to any penalty;

- (ii) if he acted fraudulently, five hundred pounds.

(3) For the purposes of this section, the expression "return" includes any list, statement, particulars, accounts or other information which the Authority or the Administrator may require any person to furnish under the provisions of this Law.

Liability of companies for penalties.

75. Where the person responsible for delivering the return is by virtue of section 58 of this Law the secretary or other officer of a company, the company and not the secretary or other officer, shall be liable to any pecuniary penalty entailed by any failure, negligence or fraud on the part of the secretary or other officer in connection with the return.

Penalties for negligence or fraud in connection with claims.

76.—(1) A person who on his own behalf makes a claim in connection with any relief or allowance from or in respect of tax which is incorrect or incomplete in any material particular, or who in connection with such claim produces any false evidence, shall if he acted negligently be liable to a penalty not exceeding the aggregate of twenty pounds and a sum equal to three times the difference between the relief or allowance which would be allowable on the assumption that the claim actually made was correct and the relief or allowance which would have been allowable if a correct claim had been made; and if he acted fraudulently to a penalty not exceeding the aggregate of twenty pounds and a sum equal to three times the total amount of tax which he would be liable to bear for the year of charge to which the claim relates, no reduction being made in respect of any of the allowances to individuals.

(2) A person who on behalf of another person makes any such claim as aforesaid shall, if he acted negligently, be liable to a penalty not exceeding one hundred pounds, and if he acted fraudulently, to a penalty not exceeding five hundred pounds.

77. A person who in order not to be charged with tax or to be charged with a less amount of tax than that with which he ought to be charged, is guilty of any fraud whatsoever, shall be liable to the penalty imposed by section 73 of this Law.

Penalty for fraudulent practices.

78. A person who wilfully aids or abets another person in committing any offence against the provisions of this Law shall, if the said offence involves fraud, be liable to a penalty not exceeding five hundred pounds.

Penalties for aiding and abetting.

79. A person duly summoned to appear as a witness at any hearing before the Authority who refuses or fails without reasonable cause to appear at such hearing or who, having appeared, refuses to answer any lawful question touching the matter under consideration shall be liable to a penalty not exceeding twenty pounds.

Penalties on witnesses at appeals.

80. A person who fails or neglects to pay any amount due from him under this Law, including any penalty imposed thereunder, within one month of the date of such amount becoming due shall be liable to a penalty calculated at a rate not exceeding five per centum per mensem of such amount.

Penalty for late payment.

81.—(1) If the Administrator is of opinion that there are *prima facie* grounds for believing that a person is liable to a pecuniary penalty under any section of this Part of this Law other than section 79 of this Law he may send to such person a notice in

Proceedings in respect of penalties.

writing stating the grounds of his belief, and subject to the provisions of this section may, if he finds such person liable, make an order directing him to pay a penalty.

(2) If within seven days of the receipt of such a notice the person to whom the notice was sent sends to the Administrator a notice in writing requesting that proceedings against him shall be taken before the Royal Court, sitting as an Ordinary Court, the Administrator shall take no further action in the matter but may within three months of the date of the said notice, cause penalty proceedings to be instituted before that Court.

(3) If the Authority is satisfied that a person is liable to a penalty under the said section 79, it shall, before directing such person to pay a penalty, inform him that he may request that proceedings against him shall be taken before the Royal Court, sitting as an Ordinary Court. If such person so requests, the Authority shall take no further action in the matter but may, within three months of the date of such request, cause penalty proceedings to be instituted before that Court.

(4) In no case shall the Authority or the Administrator order the payment of a penalty unless the person liable has had a reasonable opportunity of stating his case.

Discretion  
to prosecute  
before the  
Royal Court  
in cases  
involving  
fraud.

82. Notwithstanding any of the provisions hereinbefore contained, any person who knowingly makes a false statement or representation in any return or fraudulently does any other act for the purpose of obtaining relief or exemption from tax or a repayment of tax under this Law either on his own behalf or on that of any other person, shall be liable, in lieu of having proceedings taken against him by the

Administrator under the last preceding section, to be prosecuted before the Royal Court, whereupon he shall on conviction be liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding the maximum penalty which the Administrator could have imposed had the case been dealt with by him, or to both such imprisonment and such fine:

PROVIDED that no prosecution may be instituted under this section otherwise than at the joint request of the Administrator and the Authority.

### PART X.

#### ADMINISTRATION.

83. The President and Members of the Authority shall be elected by the States, and the constitution of the Authority shall be such as the States may from time to time by resolution appoint: The Authority.

PROVIDED that notwithstanding anything in this Law contained, the Authority constituted under and by virtue of the Income Tax Laws, 1920 to 1948, and in office on the commencement of this Part of this Law shall be deemed, pending such resolution, to be the Authority constituted under this section.

84. Subject to the general direction and control of the Authority, Income Tax shall be under the care and management of an Administrator, to assist whom there may be appointed an Assistant Administrator of Income Tax. The Authority shall, in consultation with the States Board of Administration, appoint such clerks and other persons as may The Administrator and his staff.

be necessary, and such person shall be under the control of the Administrator.

Oath of  
secrecy.

85.—(1) Every person discharging any official function under this Law shall before he begins to act in execution of this Law take an oath before the Royal Court, sitting as an Ordinary Court, that he will act in an impartial manner, without favour or affection in such discharge, and that he will not divulge any matter connected in any way with the operation of this Law except to a person who has taken a like oath, or in a court of law on a prosecution under this Law or otherwise in performance of his duties under this Law:

PROVIDED that the obligations as to secrecy imposed by this Law shall not prevent disclosure of such facts to an authorised officer of the Government of the United Kingdom or of any part of His Majesty's dominions as may be necessary to enable the appropriate relief to be given in cases where double taxation relief is claimed.

(2) A person violating such oath shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine.

Audit.

86. For the purpose of audit the Administrator is authorised to place at the disposal of the States' Auditor all books and information that he may require.

Provision  
as to  
inspection.

87. The Authority may from time to time employ a qualified person to inspect the work of the Administrator and his staff, and to make a report thereon.

## PART XI.

## GENERAL.

88. In this Law, unless the context otherwise requires:—

General  
definitions.

“Administrator” means the Administrator referred to in section 84 of this Law;

“Authority” means the Authority constituted under the provisions of section 83 of this Law;

“business” includes any profession, trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture;

“company” means any body of persons, corporate or incorporate, not being a partnership;

“director”, in relation to a company, means a member of the board of directors or other managing body of the company, by whatever name known;

“emoluments”, in relation to an office or employment includes any salary, stipend, fees, wages, perquisites, earnings, and profits whatsoever arising therefrom;

“Guernsey” includes Herm;

“personal representative” includes any person to whom has passed any legal or beneficiary interest in the real or personal estate of a deceased individual;

“year of computation” means the year by reference to the income of which assessable income is to be computed.

Repeals.            89. The Income Tax Laws, 1920 to 1948, are hereby repealed.

Commence-  
ment.            90. Sections 39 to 49 (inclusive) of this Law shall be deemed to have come into force on the first day of January, 1948, and the remainder of the Law on the first day of January, 1950.

JAMES E. LE PAGE,  
H.M. Greffier.