

ORDER IN COUNCIL

XXVI

ratifying a Projet de Loi

1955

ENTITLED

**The Income Tax (Guernsey) Law,
1955.**

(Registered on the Records of the Island of Guernsey
on the 17th day of December, 1955.)



1955.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 17th day of December, 1955, before Henry James Casey, Esquire, M.B.E., M.C., Lieutenant-Bailiff; present:—Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Stephen James Falla, Esquires, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

The Lieutenant-Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st day of December, 1955, ratifying a *Projet de Loi* entitled "The Income Tax (Guernsey) Law, 1955",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace,

The 1st day of December, 1955.

PRESENT,

The Queen's Most Excellent Majesty,

LORD PRESIDENT
EARL OF MUNSTER
MR. BOYD-CARPENTER
MR. MAUDLING

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 8th day of November, 1955, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘ 1. That, in pursuance of their Resolutions of the 6th day of August, 1954, and the 17th day of November, 1954, the States of Deliberation at a meeting held on the 26th day of October, 1955, approved a Bill or “Projet de Loi” entitled “The Income Tax (Guernsey) Law, 1955” 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, 1955" and to order that the same shall have the force of Law in the Islands of Guernsey and Herm.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

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

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

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

PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Law, 1955.

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PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Law, 1955.

THE STATES, in pursuance of their Resolutions of the sixth day of August, nineteen hundred and fifty-four, and the seventeenth day of November, nineteen hundred and fifty-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Herm.

PART I

Interpretation

1. (1) In this Law the expression "the principal Law" means the Income Tax (Guernsey) Law, 1950, as amended by the Income Tax (Guernsey) Amendment Law, 1951, the Income Tax (Guernsey) Amendment (No. 2) Law, 1951, and the Income Tax (Guernsey) Amendment Law, 1953. Interpreta-
tion.

(2) Unless the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Law.

PART II

RELIEFS FOR CERTAIN CAPITAL EXPENDITURE

CHAPTER I

Annual Allowances—General

2. Subject to the provisions of this Part of this Law, where a person carries on a business in any Annual
allowances.

year of charge, an allowance (hereafter in this Part of this Law referred to as an "annual allowance") shall be made to him for that year of charge on account of the depreciation of any machinery, plant, building or glasshouse which belongs to him and is in use for the purposes of the business at the end of the basis period for that year of charge.

Rates of annual allowances.

3. The annual allowance shall be 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, and different annual allowances may be prescribed as aforesaid for different classes or descriptions of machinery, plant, building or glasshouse.

Annual allowances for part of a year of charge.

4. If an annual allowance falls to be made to any person in respect of any machinery, plant, building or glasshouse in charging the profits of any business which is carried on by him for part only of the year of charge the said allowance shall be proportionately reduced.

Effect on annual allowances of previous user which has not attracted an annual allowance.

5. (1) In determining whether any, and if so what, annual allowance falls to be made to a person for any year of charge in respect of any machinery, plant, building or glasshouse which has been owned by him during any previous year of assessment or charge, there shall be deemed to have been made to him for every previous year of assessment or charge (including years during which the machinery, plant, building or glasshouse was not used for the purposes of the business, and years during which the business was not carried on by him) such annual allowance as would have fallen to be made to him if all the conditions specified in subsection (2) of this section had been fulfilled in relation to every such previous year.

(2) The said conditions are as follows, that is to say—

- (a) that the business had been carried on by the person in question ever since the date on which he acquired the machinery, plant, building or glasshouse and had been so carried on by him in such circumstances that the profits thereof were liable to assessment to tax; and
- (b) that the machinery, plant, building or glasshouse had been used by him for the purposes of the business ever since that date; and
- (c) that a proper claim had been duly made by him for an annual allowance in respect of the machinery, plant, building or glasshouse for every relevant year of assessment or charge; and
- (d) that no question arose in connection with any year of assessment or charge as to the machinery, plant, building or glasshouse having been wholly or partly used by him otherwise than for the purposes of the business.

CHAPTER II

Annual Allowances—Machinery and Plant

6. An annual allowance may be made in respect of any machinery or plant in charging the profits of any business for any year of charge notwithstanding that the machinery or plant is also used in that year for purposes other than those of the business, but where, in the basis period for any year of charge, machinery or plant is used for purposes other than those of the business, the annual allowance to be made in respect thereof shall be so much only of

Effect on annual allowances of part-time use otherwise than for business purposes.

the allowance that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent and nature of the use for the said other purposes during the basis period and to the capital expenditure which would necessarily have been incurred if only such machinery and plant had been acquired as was necessary for the purpose of the business.

Adjustments of annual allowances in special circumstances.

7. If the Administrator is satisfied in respect of any year of charge that the manner in which or the extent to which any machinery or plant is used in any basis period is such that the depreciation thereof is greater or less than that which might be expected to be caused by the use thereof in the normal manner and to the normal extent, he may direct that the annual allowance in respect of that machinery or plant for the said year of charge shall be at such rate, being a greater or lesser rate than the rate determined by the Authority under section three of this Law, as may from time to time be prescribed under this section by the Authority.

Allowances to lessors of machinery and plant.

8. (1) Where machinery or plant is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor, there shall be made to him, for each year of charge, an allowance on account of the depreciation of so much of the machinery or plant as is in use at the end of the basis period for the year of charge:

PROVIDED that if the letting continues for part only of the year, the allowance shall be proportionately reduced.

(2) The preceding provisions of this Part of this Law shall apply in relation to any such lessor of machinery or plant as is mentioned in subsection (1) of this section as if the machinery or plant were,

during the period of the letting, in use for the purposes of a business carried on by him, and as if any reference to annual allowances included a reference to any allowance made under this section.

9. No allowance shall be made under this Chapter or under Chapter I of this Part of this Law in respect of, or of the expenditure on, any machinery or plant if, for the same or any previous or subsequent year of charge, an allowance is or can be made in respect of that expenditure under the provisions of Chapter IV of this Part of this Law.

Exclusion of double allowances.

CHAPTER III

Annual Allowances—Buildings

10. An annual allowance may be made in respect of any building in charging the profits of any business for any year of charge notwithstanding that the building is also used in that year for purposes other than those of the business, but where, in the basis period for any year of charge, the building is used for purposes other than those of the business, the annual allowance to be made in respect thereof shall be so much only of the allowance that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent and nature of the use for the said other purposes during the said basis period.

Effect on annual allowances of part-time use otherwise than for business purposes.

11. Where any building which is used in any year of charge by the person to whom it belongs for the purposes of a business carried on by him ceases in that year of charge, for any reason whatsoever, to belong to that person and commences to belong to some other person, then, for the purposes of this Part of this Law, the building shall be deemed to have

Change of ownership of building in use.

been sold by the first-mentioned person to the said other person for a sum equal to the amount of the expenditure on the provision of the building still unallowed immediately before the building ceased to belong to the first-mentioned person.

Change of ownership of building not in use.

12. Where any building which has been used by the person to whom it belongs for the purposes of a business carried on by him, but which is not so used by that person in any year of charge, ceases in that year, for any reason whatsoever, to belong to that person and commences to belong to some other person and the second-mentioned person commences, within five years of the date on which the building was last used for the purposes of a business by any person to whom it formerly belonged when it was so used, to use the building for the purposes of a business carried on by him, then, for the purposes of this Part of this Law, the building shall be deemed to have been used by the first-mentioned person for the purposes of a business carried on by him in the year of charge in which it ceased to belong to him.

Building sold between 4th August, 1954, and 1st January, 1955.

13. Where any building has been sold after the fourth day of August, nineteen hundred and fifty-four, and before the commencement of this Law in such circumstances that, if it had been machinery or plant, the provisions of section twenty-nine of this Law (which relates to sales etc., of machinery or plant between associated persons) would have applied, the provisions of this Chapter shall have effect in relation to that building.

CHAPTER IV

Annual Allowances—Glasshouses

Change of ownership of glasshouse.

14. Where any glasshouse which is used by the person to whom it belongs for the purposes of a

business carried on by him in any year of charge ceases, for any reason whatsoever, to belong to that person and commences to belong to some other person, then for the purposes of this Part of this Law, the glasshouse shall be deemed to have been sold by the first-mentioned person to the said other person for a sum equal to the amount of the expenditure on the provision of the glasshouse still unallowed immediately before the building ceased to belong to the first-mentioned person.

15. Where, after the commencement of this Law, any glasshouse to which the last preceding section of this Law applies ceases, for any reason whatsoever, to belong to one person and commences to belong to another person then the second-mentioned person shall be entitled to such additional deductions, if any, under and by virtue of subsection (5) of section seven of the principal Law (which relates to income from businesses) as the first-mentioned person would have been if he had continued to own the glasshouse.

Additional deductions under the principal Law.

16. (1) Where a glasshouse is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor, there shall be made to him, for each year of charge, an allowance on account of the depreciation of so much of the glasshouse as is in use at the end of the basis period for the year of charge:

Allowances to lessors of glasshouses.

PROVIDED that if the letting continues for part only of the year the allowance shall be proportionately reduced.

(2) The preceding provisions of this Part of this Law shall apply in relation to any such lessor of a glasshouse as is mentioned in subsection (1) of this section as if the glasshouse were, during the period of the letting, in use for the purposes of a business

carried on by him, and as if any reference to annual allowances included a reference to any allowance made under this section.

(3) Any allowance made under or by virtue of this section shall be available primarily against the income arising from the ownership of the glasshouse.

Glasshouse sold between 4th August, 1954, and 1st January, 1955.

17. Where any glasshouse has been sold after the fourth day of August, nineteen hundred and fifty-four, and before the commencement of this Law in such circumstances that, if it had been machinery or plant, the provisions of section twenty-nine of this Law (which relates to sales etc., of machinery or plant between associated persons) would have applied, the preceding provisions of this Chapter shall have effect in relation to that glasshouse.

Determination in certain cases of expenditure incurred on provision of glasshouse.

18. Where, as respects any glasshouse in relation to which the provisions of subsection (5) of section seven of the principal Law (which relates to income from businesses) have effect, and where for the purposes of that subsection the cost of the glasshouse falls to be determined in accordance with the provisions of sub-paragraph (b) of paragraph (3) of the Schedule to the Income Tax (Guernsey) Amendment Law, 1951, the amount of the cost so determined shall, for the purposes of this Part of this Law, be deemed to be the amount of the expenditure incurred on the provision of that glasshouse.

Transfer of glasshouse, otherwise than by sale, before 1st January, 1955.

19. Where before the commencement of this Law any glasshouse ceased to belong to one person and commenced to belong to another person in such circumstances that no sale took place, the expenditure on the provision of the glasshouse shall be deemed to be a sum, determined in accordance with the practice prevailing at that time, equal to the partage or other reasonable value at the time

when the glasshouse commenced to belong to the second-mentioned person.

20. Where any glasshouse which is used by the person to whom it belongs for the purposes of a business carried on by him in a year of charge is demolished and replaced by another glasshouse of substantially similar or greater dimensions, a replacement allowance shall be made to that person equal to the amount of the expenditure on the provision of the demolished glasshouse still unallowed immediately before it was demolished after the deduction therefrom of any sale, insurance, salvage or compensation monies received in respect of the demolished glasshouse and an amount equal to the open market value at the time of demolition of any salvaged part of the glasshouse retained by that person.

Replace-
ment of
demolished
glasshouse.

CHAPTER V

Balancing Allowances and Balancing Charges— Machinery and Plant

21. (1) Subject to the provisions of this section, where any of the following events occurs in the case of any machinery or plant in respect of which an annual allowance has been made for any year of charge to a person carrying on a business, that is to say, either—

Balancing
allowances
and balanc-
ing charges.

- (a) any event occurring after the setting up and before the permanent discontinuance of the business whereby the machinery or plant ceases to belong to the person carrying on the business (whether on a sale of machinery or plant or in any other circumstances of any description); or

- (b) any event occurring as aforesaid whereby the machinery or plant (while continuing to belong to the person carrying on the business) permanently ceases to be used for the purposes of the business carried on by him; or
- (c) the permanent discontinuance of the business, the machinery or plant not having previously ceased to belong to the person carrying on the business;

an allowance or charge (in this Law referred to as a "balancing allowance" or a "balancing charge") shall, in the circumstances mentioned in this section, be made to, or, as the case may be, on, that person for the year of charge in his basis period for which that event occurs.

(2) Where there are no sale, insurance, salvage or compensation monies, or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event exceeds those monies, a balancing allowance shall be made and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid, or, as the case may be, of the excess thereof over the said monies.

(3) If the sale, insurance, salvage or compensation monies exceed the amount, if any, of the said expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the said amount still unallowed is nil, to the said monies.

(4) Notwithstanding anything in subsection (3) of this section, in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts, that is to say—

- (a) the amount of any annual allowance made to him in respect of the machinery or plant in question; and
- (b) the amount of any balancing allowance previously made to him in respect of the said expenditure; and
- (c) the amount of any obsolescence allowance made to him under the principal Law in force immediately before the commencement of this Law.

22. Where any machinery or plant which has been used by a person for the purposes of a business carried on by him has also been used by him for other purposes, then, in determining whether a balancing allowance or balancing charge falls to be made to or on him in charging the profits of the business and in determining the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes, and there shall be made to or on him an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

Effect on balancing allowances and balancing charges of part-time use otherwise than for business purposes.

23. (1) Subject to the provisions of this section, the provisions of section five of this Law (which relates to the effect on annual allowances of previous user which has not attracted an annual allowance) shall apply for the purposes of determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on a person as they apply for the purpose of determining whether any, and if so what, annual allowance falls to be made to a person.

Effect on balancing allowances and balancing charges of previous user which has not attracted an annual allowance.

(2) The only years for which an annual allowance is to be deemed for the purposes of this section

to have been made shall be years during which the machinery or plant was not used by the person in question for the purposes of the business and years during which the business was not carried on by him, or was not carried on by him in such circumstances that the profits thereof were liable to assessment to tax.

(3) Nothing in this section shall affect the provisions of subsection (4) of section twenty-one of this Law (which relates to balancing allowances and balancing charges).

Discontinu-
ance of
business by
sale, demoli-
tion, destruc-
tion or loss
of machinery
or plant.

24. (1) Where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, and the event is the permanent discontinuance of a business, and at or about the time of the discontinuance there occurs in relation to the machinery or plant any event such as is mentioned in paragraphs (a) to (c) of the definition of "sale, insurance, salvage or compensation monies" in section forty-four of this Law (which relates to the interpretation of Part II), not being a sale at less than the open-market price other than a sale to which section twenty-nine of this Law (which relates to sales etc., of machinery or plant between associated persons) applies, then for the purposes of determining—

- (a) whether the discontinuance gives rise to a balancing allowance or balancing charge, and, if so,
- (b) the amount of the allowance or, as the case may be, the amount on which the charge is to be made,

the amount of any net proceeds, compensation, receipts or insurance monies mentioned in the said paragraphs (a) to (c) which arise on the last-mentioned event shall be deemed to be an amount

of sale, insurance, salvage or compensation monies arising on the permanent discontinuance of the business.

(2) For the purposes of this Part of this Law the expression "open-market price", in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question.

25. (1) Subject to the provisions of section twenty-eight of this Law (which provides for an option in case of gift or sale of machinery or plant), subsection (2) of this section shall have effect where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, and either—

Discontinuance of business by occurrence of certain events and transfer of machinery or plant.

- (a) the event is the permanent discontinuance of the business and immediately after the time of the discontinuance the machinery or plant continues to belong to the person by whom the business was carried on immediately before the said time and the case is one not falling within the last preceding section of this Law; or
- (b) the event is the permanent discontinuance of the business and at the time of the discontinuance the machinery or plant is either sold at less than the open-market price, the sale not being one to which section twenty-nine of this Law (which relates to sales etc., of machinery or plant between associated persons) applies, or the machinery or plant is given away; or
- (c) the event is the sale of the machinery or plant at less than the open-market price, not being a sale to which the said section

twenty-nine of this Law applies, or is the gift of the machinery or plant; or

- (d) the event is that, after the setting-up and before the permanent discontinuance of the business, the machinery or plant permanently ceases to be used for the purposes of a business carried on by the person by whom the first-mentioned business is being carried on, and so ceases either by reason of that person's transferring the machinery or plant to other use or, on a transfer of the business which is not treated as involving the discontinuance thereof, by reason of the retention of the machinery or plant by the transferor.

(2) For the purpose of determining whether a balancing allowance or balancing charge falls to be made and, if so, the amount of the allowance or, as the case may be, the amount on which the charge is to be made the event shall be treated as if it had given rise to sale, insurance, salvage or compensation monies of an amount equal to the open-market price of the machinery or plant.

Effect, in certain cases, of succession to businesses.

26. Where a person succeeds to a business as a beneficiary under the will or on the intestacy of a deceased person who carried on that business, the following provisions shall, if the beneficiary by notice in writing to the Administrator so elects, have effect in relation to any machinery or plant which passes to him together with the business, being machinery or plant previously owned by the deceased person and used by him for the purposes thereof, that is to say:—

- (a) the reference in subsection (1) of section thirty of this Law (which relates to the effect, in certain cases, of succession to

businesses, etc.) to the price which the machinery or plant would have fetched if sold in the open market shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the succession in question, whichever is the less; and

- (b) notwithstanding anything in the said subsection (1), such balancing charge, if any, shall be made on the beneficiary on any event occurring after his succession as would have fallen to be made on the deceased if he had not died and had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the beneficiary or the successor on any previous succession as is mentioned in the last foregoing paragraph.

CHAPTER VI

Miscellaneous and General

27. Subject to the provisions of the next succeeding section of this Law, where subsection (2) of section twenty-five of this Law (which relates to the discontinuance of business by occurrence of certain events and transfer of machinery or plant) has effect by reason of the gift or sale of machinery or plant to any person, and that person receives or purchases it with a view to using it for the purposes of a business carried on by him, then in determining whether any, and if so what, annual allowances, balancing allowances or balancing charges are to be

Gift or sale
of machinery
or plant.

made in connection with that business the like consequences shall ensue as if the recipient or purchaser had purchased the machinery or plant at the open-market price.

Option in case of gift or sale of machinery or plant.

28. (1) Where in a case falling within the last preceding section of this Law the recipient or purchaser and the donor or seller by notice in writing to the Administrator jointly so elect, the following provisions shall have effect.

(2) Subsection (2) of section twenty-five (which relates to the discontinuance of business by occurrence of certain events and transfer of machinery or plant) and the last preceding section of this Law shall have effect as if for the references to the open-market price there were substituted references to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the gift or sale, whichever is the less.

(3) Notwithstanding anything in this Part of this Law, such balancing charge, if any, shall be made on the recipient or purchaser on any event occurring after the date of the gift or sale as would have fallen to be made on the donor or seller if the donor or seller had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the recipient or purchaser.

Sales etc., of machinery or plant between associated persons.

29. (1) The provisions of this section shall have effect in relation to any sale of any machinery or plant after the fourth day of August, nineteen hundred and fifty-four, where either—

(a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies

of persons and some other person has control over both of them; or

- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under this Part of this Law.

(2) Where the machinery or plant is sold at a price other than that which it would have fetched if sold in the open market, then, subject to the following provisions of this section, the like consequences shall ensue for the purposes of this Part of this Law, in their application to the tax of all persons concerned, as would have ensued if the machinery or plant had been sold for the price which it would have fetched if sold in the open market.

(3) Subject to the provisions of this subsection and to the provisions of subsection (4) of this section, if the price which the machinery or plant would have fetched if sold in the open market is greater than the limit of recharge on the seller, subsection (2) of this section shall have effect as if for the reference to the price which the machinery or plant would have fetched if sold in the open market there were substituted a reference to the said limit of recharge: PROVIDED that this subsection shall not apply in relation to a sale of machinery or plant which has never been used if the business or part of the business of the seller was the manufacture or supply of machinery or plant of that class and the sale was effected in the ordinary course of the seller's business.

(4) Where the sale is one to which paragraph (a) of subsection (1) of this section applies and para-

graph (b) of that subsection does not apply, and the parties to the sale by notice in writing to the Administrator so elect, the following provisions shall have effect—

- (a) subsection (2) of this section shall have effect as if for the reference to the price which the machinery or plant would have fetched if sold in the open market there were substituted a reference to that price or to the sum hereinafter mentioned, whichever is the less; and
 - (b) subsection (3) of this section shall not apply; and
 - (c) notwithstanding anything contained in the preceding provisions of this section, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances or deductions in connection therewith as were done by or allowed to the buyer.
- (5) The sum referred to in paragraph (a) of subsection (4) of this section is the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the sale, computed in accordance with the provisions of section forty-one of this Law (which provides for the meaning of “expenditure unallowed”).
- (6) Reference in this section to a body of persons includes a body corporate, a body unincorporate and a partnership.
- (7) In this section “the limit of recharge” means, in relation to a person who sells machinery or plant—

- (a) if he provided that machinery or plant for himself before the first day of January, nineteen hundred and fifty, the actual cost to him of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on machinery or plant by way of renewal, improvement or reinstatement;
- (b) if he provided the machinery or plant for himself on or after the first day of January, nineteen hundred and fifty, the expenditure incurred by him on the provision thereof.

30. (1) Where, on or after the commencement of this Law, a person succeeds to any business which until that time was carried on by another person and, by virtue of any of the provisions of section seventeen (which relates to succession to a business) or section twenty-six (which relates to the method of charging a partnership) of the principal Law, the business is to be treated as having ceased and a new business commenced, any machinery or plant which, immediately before the succession takes place, was in use for the purposes of the discontinued business and, without being sold, is, immediately after the succession takes place, in use for the purposes of the new business, shall, for the purposes of this Part of this Law, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the price that the machinery or plant would have fetched if sold in the open market.

Effect, in certain cases, of succession to businesses, etc.

(2) Where, after the setting up and on or before the permanent discontinuance of a business which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge in respect of machinery or

plant, any balancing allowance or balancing charge, which, if the business had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the business at the time of that event, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the business and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

Apportionment of consideration, and exchanges.

31. (1) Any reference in this Part of this Law to the sale of any property includes a reference to the sale of that property together with any other property and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as, on a just apportionment, is properly attributable to the first-mentioned property shall, for the purposes of this Part of this Law, be deemed to be the net proceeds of the sale of the first-mentioned property, and references to expenditure incurred on the provision or the purchase of the property shall be construed accordingly.

(2) For the purposes of subsection (1) of this section, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for certain items of that property or that there are or purport to be separate sales of separate items of that property.

(3) The provisions of subsection (1) of this section shall, with the necessary adaptations, apply in relation to other sale, insurance, salvage or compensation monies as they apply in relation to the net proceeds of sales.

(4) This Part of this Law shall have effect as if any reference therein (including any reference in the preceding provisions of this section) to the sale of any property included a reference to the exchange of any property and any provisions of this Part of this Law referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange and references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.

32. (1) Where a business is carried on in partnership, for the purpose of assessing and charging the share of the profits of each partner of the partnership, the same allowances, deductions and charges shall be allowed or made in respect of any machinery, plant, building or glasshouse used for the purposes of that business and belonging to one or more of the partners but not being partnership property as would fall to be allowed or made if the machinery, plant, building or glasshouse had at all material times belonged to all the partners and been partnership property and everything done by or to any of the partners in relation thereto had been done by or to all the partners.

Effect on
partnerships.

(2) Notwithstanding anything in section twenty-one of this Law (which relates to balancing allowances and balancing charges), a sale or gift of machinery or plant used for the purposes of a business carried on in partnership, being a sale or gift by one or more of the partners to one or more of the partners, shall not be treated as an event giving rise to a balancing allowance or balancing charge if the machinery or

plant continues to be used after the sale or gift for the purposes of that business.

(3) References in the foregoing provisions of this section to use for the purposes of a business do not include references to use in pursuance of a letting by the partner or partners in question to the partnership or to use in consideration of the making to the partner or partners in question of any payment which may be deducted in computing the profits of the business.

Application to shares in machinery or plant.

33. The provisions of this Part of this Law, other than the provisions of this section, shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant, and for the purposes of the said provisions a share in machinery or plant shall be deemed to be used for the purposes of a business so long as, and only so long as, the machinery or plant is used for the purposes thereof.

Application to offices and employments.

34. The provisions of this Part of this Law shall, with any necessary adaptations and to the extent that the machinery or plant is exclusively and necessarily so used, apply in relation to machinery or plant used in the performance of the duties of an office or employment as they apply in relation to machinery or plant used in a business.

Manner of charging tax and granting allowances in case of businesses, etc.

35. (1) Any claim by a person for an allowance falling to be made to him under any of the provisions of this Part of this Law in charging the profits of his business shall be included in the annual return of income required to be delivered under the principal Law and the allowance shall be made as a deduction in charging those profits.

(2) Where full effect cannot be given to any such allowance as aforesaid in any year owing to there being

no profits chargeable for that year, or owing to the profits chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall, for the purpose of making the assessment for the following year, be added to the amount of such allowances as aforesaid for that year, and be deemed to form part of those allowances, or, if there are no such allowances for that year, be deemed to be the allowances for that year, and so on for succeeding years.

(3) Any charge falling to be made under any of the provisions of this Part of this Law on a person for any year of charge in charging the profits of his business shall be made by means of an assessment on the profits of that business for that year of charge in addition to any other assessment falling to be made thereon for that year.

(4) Where a balancing charge falls to be made under this Part of this Law, the person on whom the balancing charge falls to be made may—

(a) where the business to which the balancing charge relates has been carried on for the whole of the two years of charge next preceding the year of charge in which the balancing charge would fall to be made, elect to have the balancing charge made by three equal assessments on the profits of the business to which the balancing charge relates, the said assessments to be made for the year of charge in which, but for the election, the balancing charge would fall to be made and for each of the next two preceding years of charge; or

(b) where the business to which the balancing charge relates has not been carried on for the whole of the two years of charge next

preceding the year of charge in which the balancing charge would fall to be made, elect to have the balancing charge made by two equal assessments, the said assessments to be made for the year of charge in which, but for the election, the balancing charge would fall to be made and for the next preceding year of charge.

(5) An election under subsection (4) of this section shall be made by notice in writing given to the Administrator not later than the end of the year of charge next following that in which the balancing charge falls to be made.

(6) Nothing in this section applies to any deduction allowable under any provision of this Part of this Law in computing the profits of a business.

Option where allowance greater than income or profits.

36. Where, under any of the provisions of this Part of this Law, an allowance falls to be made to a person for any year of charge and the amount to be allowed is greater than the amount of his income or profits from the business or other source to which the allowance relates, the amount by which the allowance exceeds the said income or profits may if the person so elects, by notice in writing given to the Administrator within the year next following the year of charge to which the allowance relates, be deemed to be a loss sustained in that business or in respect of the source of income or profits to which the allowance relates:

PROVIDED that any part of any allowance which cannot be set off in the year of charge against other income belonging to the claimant in accordance with the provisions of Part III of this Law shall be carried forward in accordance with the provisions of subsection (2) of the last preceding section of this Law.

37. (1) Subject to the provisions of this section and of subsection (3) of section sixteen of this Law (which relates to allowances to lessors of glasshouses), any allowance or charge made to or on any person under the provisions of this Part of this Law shall be made to or on that person in charging the profits of his business.

Manner of making allowances and charges.

(2) Any allowance made under or by virtue of section eight of this Law (which relates to allowances to lessors of machinery and plant) shall be available primarily against the income or profits from the letting of machinery or plant.

(3) Any charge made under or by virtue of the said section eight of this Law shall be made as if the charge was on an income or profit from the letting of machinery or plant.

38. Nothing in this Law shall be construed so as to permit an annual allowance to be made in respect of any period if a deduction on account of depreciation has been claimed, or could have been claimed, in respect of the same period under any enactment repealed by this Law.

Restriction on making of annual allowances.

39. Any reference in this Part of this Law to an annual allowance shall, in relation to any year of assessment or charge before the commencement of this Law, include a reference to any deduction on account of depreciation under the principal Law or under any enactment repealed by that Law.

Meaning of "annual allowance".

40. (1) In this Part of this Law "basis period" has the meaning assigned to it by the following provisions of this section.

Meaning of "basis period".

(2) In the case of a person to or on whom an allowance or charge falls to be made in charging the profits of his business, his basis period for any

year of charge is the period on the profits of which tax for that year falls to be finally computed in respect of that business:

PROVIDED that, in the case of any business—

- (a) where two basis periods overlap, the period common to both shall be deemed for the purposes of this subsection to fall in the first basis period only;
- (b) where there is an interval between the end of the basis period for one year of charge and the basis period for the next year of charge, then, unless the second-mentioned year of charge is the year of the permanent discontinuance of the business, the interval shall be deemed to form part of the second basis period; and
- (c) where there is an interval between the end of the basis period for the year of charge preceding that in which the business is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

(3) Where an allowance falls to be made under this Part of this Law in relation to an office or employment or in relation to a glasshouse which is not used by the owner for the purpose of a business carried on by him, subsection (2) of this section shall apply as if the references to a business included references to an office or employment or to the ownership of a glasshouse as the case may be.

Meaning of
"expenditure
unallowed".

41. References in this Part of this Law to the amount still unallowed of any expenditure—

- (a) on any machinery or plant as at any time

shall be construed as references to the amount of that expenditure less—

- (i) any annual allowances made to the person who incurred it in respect of the machinery or plant on the provision of which the expenditure was incurred, being allowances made for a year of assessment or charge before the commencement of this Law or for a year of charge the basis period for which ended before the time in question; and
 - (ii) the amount of any obsolescence allowance made to him under the principal Law in force immediately before the commencement of this Law; and
 - (iii) any balancing allowance made to him in respect of that expenditure;
- (b) on any building as at any time shall be construed as references to the amount of that expenditure less any annual allowances made or deemed to have been made in respect of the building on the provision of which the expenditure was incurred, being allowances made or deemed to have been made for a year of assessment or charge before the commencement of this Law or for a year of charge the basis period for which ended before the time in question;
- (c) on any glasshouse as at any time shall be construed as references to the amount of that expenditure less any annual allowances made or deemed to have been made in respect of the glasshouse on the provision of which the expenditure was incurred, being allowances made or deemed to have been made for a year of assessment or charge

before the commencement of this Law or for a year of charge the basis period for which ended before the time in question.

Interpreta-
tion of
certain
references to
expenditure,
etc.

42. (1) References in this Part of this Law to capital expenditure and capital sums—

(a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of tax, the income or profits of a business carried on by him or any other source belonging to him;

(b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the income or profits of any business carried on by him or any other source of income belonging to him.

(2) Any reference in this Part of this Law to the date on which the expenditure is incurred shall be construed as a reference to the date when the sums in question become payable.

Interpreta-
tion of
references to
allowances.

43. Any reference in this Part of this Law to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or other income against which to make it.

Other pro-
visions as to
interpreta-
tion of
Part II.

44. (1) In this Part of this Law, except where the context otherwise requires—

“building” does not include a glasshouse;

“control” means—

(a) in relation to a body corporate, the power of a person to secure, by means of the holding of shares or the possession of

voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;

- (b) in relation to a partnership, the right to a share of more than one half of the assets, or of more than one half of the income of the partnership;
- (c) in relation to a body corporate or a partnership, the power of a person, who is a loan creditor thereof and who is, in the opinion of the Administrator, able to exercise that power, to secure that the affairs thereof are conducted in accordance with the wishes of that person;

“glasshouse” includes boilers, pipes, mills, pumps and other ancillary apparatus of a substantially similar and permanent nature used in connection with the glasshouse;

“income” includes any amount on which a charge to tax is authorised to be made under any of the provisions of this Part of this Law;

“sale, insurance, salvage or compensation monies means, in relation to an event which gives rise or might give rise to a balancing allowance or a balancing charge to or on any person—

- (a) where the event is a sale of any property, the net proceeds to that person of the sale;
- (b) where the event is the demolition or

destruction of any property, the net amount received by him for the remains of the property, together with any insurance monies received by him in respect of the demolition or destruction and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums; and

- (c) as respects machinery or plant, where the event is the permanent loss thereof otherwise than in consequence of its demolition or destruction, any insurance monies received by him in respect of the loss and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums.

(2) Any reference in this Part of this Law to any machinery, plant, building or glasshouse, shall be construed as including a reference to a part of any machinery, plant, building or glasshouse.

(3) Any reference in this Part of this Law to the time of any sale of any machinery or plant shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

(4) Any reference in this Part of this Law to the setting up or permanent discontinuance of a business includes, except where the contrary is expressly provided, a reference to the occurring of any event which, under any of the provisions of this Law, is to be treated as equivalent to the setting up or permanent discontinuance of a business.

(5) Any reference in this Part of this Law to the overlapping of two periods shall be construed as in-

cluding a reference to the coincidence of two periods or to the inclusion of one period in another, and references to the period common to both of two periods shall be construed accordingly.

PART III

RELIEF IN RESPECT OF LOSSES

45. Where a person carries on, either solely or in partnership, two or more distinct businesses the profits of which fall to be computed in accordance with the provisions of section seven of the principal Law (which relates to income from businesses), and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation in respect of one or more of those businesses, that person may require that the loss or his share of the loss shall be set off against the assessable income of any other such business for that year of charge:

Losses may be set off against profits.

PROVIDED that if such other business is carried on by him in partnership the amount to be so set off against the assessable income thereof shall not exceed his share of the profits thereof.

46. Where a person possesses two or more sources of income of the same class, other than businesses to which the last preceding section of this Law applies, and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation in respect of one or more of those sources of income, that person may require that the loss shall be set off against the assessable income from any other source of income of the same class for that year of charge.

Set off of losses in relation to sources of income of same class.

Set off of
losses in
other cases.

47. (1) Where the computation of the assessable income of any business or of income from any source for any year of charge shows that a loss has been sustained in any year of computation which cannot be set off either wholly or in part against the income of any other business or against the income from any other source of income of the same class under the provisions of the last two preceding sections of this Law then, subject to the provisions of this section, the person who has sustained the loss may require that the loss or the unrelieved part thereof shall be set off against income of any other class which, but for this section, would be wholly assessable to tax in that year of charge.

(2) Any such loss or any part thereof which may be set off under the provisions of this section shall first be set off against income of the corresponding type belonging to the person who has sustained the loss and then, to the extent to which it cannot be so set off, against income of the corresponding type belonging to that person's spouse.

(3) Any such loss or any part thereof which cannot be set off against income of the corresponding type belonging to the person who has sustained the loss or belonging to that person's spouse shall first be set off against any other income belonging to that person and then, to the extent to which it cannot be so set off, against any other income belonging to that person's spouse.

(4) Where a person—

(a) carries on, either solely or in partnership, two or more distinct businesses and the loss or losses sustained in respect of one or more of those businesses cannot be wholly set off under the provisions of section forty-five of this Law (which provides that losses may be

set off against profits), because the loss or the aggregate of the losses sustained in the year of computation exceeds the assessable profits or the aggregate of the assessable profits of that business or of those businesses in respect of which a loss has not been sustained in the year of computation or because there are no such profits; or

- (b) possesses two or more sources of income of the same class, other than businesses to which the said section forty-five of this Law applies, and the loss or losses sustained in respect of one or more of such sources of income cannot be wholly set off against income of the same class because the loss or the aggregate of the losses sustained in the year of computation exceeds the assessable income of that source or of those sources of that class of income in respect of which a loss has not been sustained in the year of computation or because there is no such income;

the loss or that part thereof which has not been relieved under the provisions of the said section forty-five or of the last preceding section of this Law shall be deemed to be a loss which may be set off under and in accordance with the preceding provisions of this section.

48. Where the profits or income of any partnership include any profits or income which do not fall to be included in the computation made in accordance with the provisions of section seven of the principal Law (which relates to income from businesses), and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation then each partner shall

Relief for partnership losses in certain cases.

be entitled to such relief in respect of his share of the loss as he would have been entitled to if the said share of the loss had been a loss sustained in respect of a source of income possessed by him.

Relief in certain cases where losses exceed income or profits.

49. (1) Where in any year of charge the aggregate of the losses sustained by any person in that year of charge exceeds the aggregate of—

- (a) the income or profits of any business or businesses carried on by that person in respect of which a loss has not been sustained; and
- (b) that person's share of the income or profits of any business or businesses carried on by him in partnership in respect of which a loss has not been sustained; and
- (c) the income or profits arising or accruing, or deemed to arise or accrue to that person, from any source or sources, other than those referred to in the last two preceding paragraphs of this subsection, in respect of which a loss has not been sustained;

then the income or profits which, but for this section, would be assessable to tax in the year of charge shall be reduced by the amount of the excess:

PROVIDED that the said excess shall first be set off against income of the type in respect of which the greatest part of the aggregate of the losses has been sustained, then against income of the type in respect of which the next greatest part of the aggregate of the losses has been sustained, and so on until the amount of the said excess has as far as possible been relieved.

(2) Nothing in subsection (1) of this section shall prevent tax for the said year of charge being charged and payment being enforced but an appropriate repayment of tax shall be made by the Administrator pro-

vided that a claim for relief under this section is made within the year next following the year of charge in which the loss or losses has or have been sustained.

(3) Subject to the provisions of section fifty-three of this Law (which imposes a restriction on set off and carrying forward of losses), for the purposes of this section a loss sustained in any business in a year of computation ending within the year of charge shall be deemed to be a loss sustained in relation to that year of charge.

50. If, where a business carried on by any 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 those individuals, the total income of any individual to whom or to whose nominee or nominees shares have been so allotted for any year of charge throughout which he is the beneficial owner of the shares, and throughout which the company carries on the business, includes any income derived by him from the company, whether by way of dividends on those shares or otherwise, the provisions of the next succeeding section of this Law shall apply as if the income so derived were income from a business on which that individual was assessable in respect of that business for that year.

Relief in respect of losses where business is transferred to a company.

51. Where in relation to any year of charge a person has, in any business carried on by him either solely or in partnership, sustained a loss, that person may claim that the loss or any part thereof in respect of which relief cannot be given under any provision of this Part of this Law shall be carried forward to the next following year of charge, and, as far as may be, set off against his income or profits from the same business for that year of charge, and so on from year to year.

Right to carry forward losses to future years.

Relief for losses in respect of glasshouses.

52. Where a person owns a glasshouse and is entitled to a deduction on account of depreciation under the provisions of section sixteen of this Law (which relates to allowances to lessors of glasshouses) and in the computation of the assessable income for any year of charge the computation shows that a loss has been sustained in the year of computation in respect of that glasshouse, the loss shall, for the purpose of determining how that loss shall be relieved, be deemed to be a loss sustained by that person in carrying on a business the profits of which are assessable under the provisions of section seven of the principal Law (which relates to income from businesses):

PROVIDED that nothing in this section shall be so construed that a loss so sustained shall first be set off against any earned income arising to that person or to that person's spouse.

Restriction on set off and carrying forward of losses.

53. The amount of any loss set off or carried forward under any of the provisions of this Part of this Law shall not in any case exceed the amount of the loss sustained and where the year of computation or other period by reference to which any assessable income or profits for any year of charge fall to be computed is also in whole or in part a year of computation or other period by reference to which any assessable income or profits of any other year of charge fall to be computed, so much of the loss as may, under the said provisions, be set off or carried forward in the first-mentioned year of charge shall not be set off or carried forward as if it were a loss sustained in any subsequent year of charge.

Right to carry back loss sustained in last year of business.

54. (1) Where a business is permanently discontinued and a balancing allowance falls to be made to the person by whom the business was carried on immediately before the permanent discontinuance thereof and by reason of that balancing allowance

that person sustains a loss which cannot be set off or carried forward under any provision, other than this section, of this Part of this Law, then, subject to the provisions of this section, he may claim that the amount of the loss or the unrelieved part thereof shall, as far as may be, be deducted from or set off against the amount of the income or profits on which he has been charged or may be chargeable to tax in respect of the business for the two years of charge last preceding that in which the discontinuance occurs, and there shall be made all such reductions of assessments or repayments of tax as may be necessary to give effect to the claim.

(2) Any relief under this section shall be given as far as possible from the assessment for a later rather than for an earlier year of charge.

(3) The provisions of this section shall, with any necessary adaptations, apply in relation to an office or employment as they apply in relation to a business.

55. In so far as relief has been given under any provision of this Part of this Law to any person in respect of any loss that person shall not be entitled to claim relief in respect of that loss under any other provision of this Part of this Law.

Exclusion
of double
relief.

56. Except as otherwise provided under or by virtue of this Part of this Law, no relief shall be given for any loss sustained by any person unless a claim for relief in respect of the loss is made within the six years next following the year of charge to which the claim relates.

Claims for
relief.

57. Where a new business is commenced and in the year of charge in which the business is commenced or in the two years next following any loss is sustained which cannot be set off under any of the foregoing provisions of this Part of this Law during

New
businesses.

that year of charge, the business shall, for the purposes of this Part of this Law, continue to be treated as a separate business.

Saving.

58. Nothing in this Part of this Law shall be so construed as to permit the set off or the carrying forward of any loss which has been set off or carried forward under any enactment repealed by this Law.

Computation of losses.

59. The amount of a loss sustained shall be computed in like manner as profits are computed.

Interpretation of Part III.

60. (1) In this Part of this Law, except where the context otherwise requires—

“earned income” means, in relation to any individual—

- (a) any income arising or accruing from any office or employment held or exercised by the individual, including any income from property which is attached to the office or employment or from which any part of the emoluments of the office or employment is derived;
- (b) any income immediately derived by the individual from the carrying on by him of any business either as an individual, or in the case of a partnership, as a partner personally acting therein;
- (c) any income arising or accruing from a pension, superannuation or other allowance given to the individual in respect of the past services of the individual or the past services of any deceased person;
- (d) any payment of benefit under the Contributory Pensions Law, 1935, and payments on account of family allowances

under the Family Allowances (Guernsey) Law, 1950;

(e) any payment of benefit under the Non-Contributory Pensions (Guernsey) Law, 1955;

(f) any payment on account of a pension under the Old Age and Blindness Pensions (Guernsey) Law, 1950;

“glasshouse” has the same meaning as in Part II of this Law;

“income of the corresponding type” means earned or unearned income according as income arising during the same period as the loss to the person sustaining it from income or profits of the same business or same source would have been that person’s earned or unearned income;

“spouse” means a married woman whose income is treated as if it were the income of her husband or the husband of such married woman.

(2) In any case where the income of a married woman is treated as if it were the income of the husband, any reference in the definition of “earned income” in the last preceding subsection to the individual includes the husband or the wife.

PART IV

GENERAL

61. (1) In computing the profits of any business for any year of computation there may, as respects any machinery or plant being machinery or plant to which section six of this Law (which relates to the effect on annual allowances of part-time use otherwise than

Expenditure incurred partly for private purposes.

for business purposes) applies, be deducted only such expenditure in connection with the repair, maintenance or operation thereof as is incurred wholly or exclusively for the purposes of the business.

(2) The provisions of this section shall, with any necessary adaptations, apply in relation to an office or employment as they apply in relation to a business, provided that the expenditure is exclusively and necessarily incurred in the performance of the duties of the office or employment.

Non-residents carrying on a business in Guernsey.

62. Where a non-resident person or his agent carries on in Guernsey any business being an agricultural, manufacturing or other productive undertaking and sells the produce of that undertaking outside Guernsey, such proportion of the profits or income arising or accruing to that person shall be deemed to have arisen or accrued in Guernsey as may be just and reasonable having regard to all the circumstances of the case and in particular to the extent of the operations carried on in Guernsey.

Interest on loans.

63. (1) Where any person is required to pay, in respect of money borrowed, any annual interest which cannot be deducted under any provision of the principal Law in computing the income or profits arising or accruing or deemed to arise or accrue to him, the said interest may, subject to the provisions of this section, be deducted from the income or profits which, but for this section, would be assessable to tax.

(2) If the said interest is specifically payable out of, or attributable to, the income or profits derived from a particular source, it shall be deducted from the said income or profits.

(3) If the said interest is not so payable or attributable, it shall, as far as possible, be deducted from that person's unearned income and then, to the extent that it cannot be so deducted, from his earned income.

64. (1) Where—

(a) an assessment to tax (hereafter in this section referred to as "the original assessment") is made on a man or on a man's trustee or guardian, or on a man's personal representative; and

Collection from wife of tax assessed on husband attributable to her income.

(b) the Administrator is of opinion that, if an application for separate assessment under section twenty-eight of the principal Law (which provides for application for separate charges on husband and wife) had been in force with respect to that year of charge, an assessment in respect of, or of part of, the same income would have fallen to be made on, or on the trustee or guardian of, or on the personal representative of, a woman who is the said man's wife or was his wife in that year of charge; and

(c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of twenty-one days from the time when it became due;

the Administrator may serve on her, or, if she is dead, on her personal representative, or, if such an assessment as is referred to in paragraph (b) of this subsection could, in the event therein referred to, have been made on her trustee or guardian, on her or on her trustee or guardian, a notice—

- (i) giving particulars of the original assessment and of the amount remaining unpaid thereunder; and
- (ii) giving particulars, to the best of his judgment, of the assessment which would have fallen to be made as aforesaid;

and requiring the person on whom the notice is served to pay the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.

- (2) The same consequence as respects—
 - (a) the imposition of a liability to pay, and the recovery of, the tax; and
 - (b) appeals to the Authority and the stating of cases for the opinion of the Royal Court; and
 - (c) the ultimate incidence of the liability imposed;

shall follow on the service of a notice under subsection (1) of this section on a woman, or on her trustee or guardian, or on her personal representative, as would have followed on the making on her, or on her trustee or guardian, or on her personal representative, as the case may be, of such an assessment as is referred to in paragraph (b) of subsection (1) of this section, being an assessment which—

- (i) was made on the day of the service of the notice; and
- (ii) charged the same amount of tax as is required to be paid by the notice; and
- (iii) fell to be made and was made by the Administrator; and
- (iv) was made by the Administrator to the best of his judgment;

and the provisions of the principal Law relating to the matters specified in paragraphs (a) to (c) of this subsection shall, with the necessary adaptations, have effect accordingly.

(3) Where a notice is given under subsection (1) of this section, tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment.

(4) Where the amount payable under a notice given under subsection (1) of this section is reduced as the result of an appeal or of the stating of a case for the opinion of the Royal Court—

- (a) the Administrator shall, if, in the light of that result, he is satisfied that the original assessment was excessive, cause such relief to be given by way of repayment or otherwise as appears to him to be just; but
- (b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment.

(5) The Administrator shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under subsection (1) of this section as he would have had with a view to the making of, and otherwise in connection with, such an assessment as is referred to in paragraph (b) of subsection (1) of this section if the necessary conditions had been fulfilled with the making of such an assessment.

(6) The provisions of this section shall, with any necessary adaptations, apply in relation to any tax which was assessed and unpaid on the commencement of this Law.

Right of
husband to
disclaim
liability for
tax on
deceased
wife's
income.

65. (1) Where a woman dies who, at any time before her death, was a married woman living with her husband, he or, if he is dead, his personal representative may, not later than two months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her personal representative, at any date not later than the last day of the second year of charge next following the year of charge in which she died, serve on her personal representative and on the Administrator a notice in writing declaring that, to the extent permitted by this section, he disclaims responsibility for unpaid tax in respect of all income of hers for any year of charge or part of a year of charge during which he was her husband and she was living with him;

PROVIDED that a notice under this section shall not be deemed to be validly served on the Administrator unless it specifies the name and address of the woman's personal representative.

(2) Where such a notice has been duly served on a woman's personal representative and on the Administrator—

- (a) it shall be the duty of the Administrator to exercise such powers as he may then or thereafter be entitled to exercise under the last preceding section in connection with any assessment made on or before the date when the service of the said notice is completed, being an assessment in respect of any of the income to which the said notice relates; and
- (b) the assessments (if any) which may be made after that date shall, in all respects and in particular as respects the person assessable and the tax payable, be the assessments which would have fallen to be made if—

- (i) an application for separate assessment under section twenty-eight of the principal Law (which provides for application for separate charges on husband and wife) had been in force in respect of the year of charge in question; and
- (ii) all assessments previously made had been made accordingly.

66. Where an annuity is paid out of an approved retirement benefit scheme, 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 employer or other person having the management of the scheme may be charged with tax on behalf of the non-resident person but the employer or other person having the management of the scheme shall not be so chargeable if the services in respect of which the annuity is payable were performed wholly outside Guernsey.

Charge of tax on annuities paid out of an approved retirement benefit scheme.

67. An employer who contributes to an approved retirement benefit scheme or an employer for the benefit of whose employees an approved retirement benefit scheme has been established 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 scheme, the names and addresses of persons in receipt of annuities, the amount of the annuities and such other information relating to the scheme as the Administrator may from time to time require.

Particulars to be furnished by employers regarding approved retirement schemes.

68. (1) It shall be the duty of the Guernsey Tomato Marketing Board, a body corporate incorporated under the Tomato Marketing (Guernsey) Law, 1952

Statutory trading corporations.

hereafter in this section referred to as "the Board"), to furnish to the Administrator within such period, not being less than twenty-one days, as the Administrator may by notice in writing prescribe, in the form and manner prescribed by the Administrator, information as to—

- (a) the names and addresses of all persons who have delivered to the Board tomatoes to be exported and marketed by the Board in the year preceding any year of charge;
- (b) the names and addresses of the persons who have engaged in the trade or business of store-packing tomatoes and who have delivered to the Board on behalf of some other person tomatoes to be exported and marketed by the Board in the year preceding any year of charge; and
- (c) the monies arising or accruing to persons referred to in paragraphs (a) and (b) of this subsection in respect of tomatoes so exported and marketed and of any sums deducted or deductible from the said monies or otherwise charged or chargeable by the Board to the persons concerned.

(2) It shall be the duty of all persons who have engaged in the business of store-packer and who have delivered to the Board on behalf of some other person or persons tomatoes to be exported and marketed by the Board in the year preceding any year of charge to furnish to the Administrator within such period, not being less than twenty-one days, as the Administrator may by notice prescribe, in the form and manner prescribed by the Administrator, information as to—

- (a) the names and addresses of the said other person or persons; and

- (b) the monies arising or accruing to the said other person or persons in respect of tomatoes so delivered and of all sums deducted or deductible from the said monies or otherwise charged or chargeable by the Board or by the person delivering the tomatoes to the Board:

PROVIDED that any person delivering tomatoes to the Board on behalf of some other person shall not be required to furnish information in respect of any transaction not related to the collection, packing, delivering, exporting or marketing of the said tomatoes.

(3) The Board or any person referred to in paragraph (b) of subsection (1) of this section shall, if so required by a supplementary notice given by the Administrator, deliver a separate return containing particulars corresponding to those referred to in the last two preceding subsections in respect of tomatoes exported since the commencement of the year of charge in which the notice is given.

(4) The preceding provisions of this section shall, with such adaptations as may be necessary, apply to and in relation to any corporation incorporated by Law in connection with any industry and having in relation to that industry functions substantially similar to those exercised by the Board in respect of the tomato industry.

69. In the principal Law and in this Law the expression "owner" in relation to any real property means—

- (a) where that real property is the subject of saisie proceedings which have resulted in the making of a preliminary vesting order or an interim vesting order, the person in whose favour such order has been made;

Meaning of
"owner",
"owned"
and
"owner
ship".

- (b) where that real property is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where that real property is not the subject of such saisie proceedings or of such vested right of usufruct—
 - (i) the beneficial owner, if that real property is not held in trust, or
 - (ii) the trustees, if that real property is held in trust;

and the expressions “owned” and “ownership” shall be construed accordingly.

Interpretation of Part IV.

70. In this Part of this Law the expression “basis period” has the same meaning as in Part II of this Law and the expression “earned income” has the same meaning as in Part III of this Law.

PART V

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL LAW

Amendment of section seven.

71. Subsection (2) and subsection (3) of section seven of the principal Law (which relates to income from businesses) are hereby repealed and the following four subsections (2), (3), (4) and (5) are hereby substituted therefor:—

“(2) Where any dwelling or part of any dwelling belongs to the person carrying on the business and is occupied, free of rent, by a person employed in the business in such circumstances that an

amount equivalent to the annual rental value thereof forms part of the emoluments of that person's office or employment, a sum equal to the annual rental value of the said dwelling or part thereof shall be deemed to be an expense wholly and exclusively incurred for the purposes of the business.

(3) Where any such dwelling or part of any such dwelling is occupied by a person employed in the business and the rent or other consideration paid or payable by that person is less than the annual rental value thereof the amount by which the annual rental value exceeds the said rent or other consideration shall, to the extent that a like amount is deemed to form part of the emoluments of the office or employment of the person occupying the dwelling or part thereof, be deemed to be an expense wholly and exclusively incurred for the purposes of the business.

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

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

- (a) could have claimed to be allowed a deduction in respect of the replacement of a glasshouse under the proviso repealed by subsection (1) of section five of that Law; or
- (b) were for the first time allowed a deduction for depreciation in respect of a glasshouse in any of the years of assessment nineteen hundred and forty-six, nineteen hundred and forty-seven, nineteen hundred and

forty-eight or nineteen hundred and forty-nine.”

Amendment
of section
nine.

72. (1) Paragraph (c) of subsection (1) of section nine of the principal Law (which relates to income from offices and employments) is hereby repealed and the following paragraph (c) is hereby substituted therefor:—

“(c) such sums 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 provided that such sums are expenses exclusively and necessarily incurred in the performance of the duties of the office or employment.”.

(2) Subsection (2) of the said section is hereby repealed and the following subsection (2) is hereby substituted therefor:—

“(2) For the purposes of this section the following shall be deemed to be emoluments of an office or employment, that is to say:—

- (a) the cash value of the perquisite of free board or of free lodging or of both;
- (b) where board or lodging, or both, are provided by an employer in such circumstances that the cost to the employee is less than the cash value of the board or lodging so provided, the amount by which the said cash value exceeds the cost to the employee.”.

Amendment
of section
twelve.

73. In paragraph (b) of subsection (2) of section twelve of the principal Law (which relates to income from the ownership of lands and buildings) the expression “not to have exceeded” is hereby repealed and the expression “to equal” is hereby substituted therefor.

74. Subsection (3) of section thirty-one of the principal Law (which relates to liability to tax in respect of trust property) is hereby repealed and the following subsection (3) is hereby substituted therefor—

Amendment
of section
thirty-one.

“(3) Where any person is beneficially entitled to income which is payable to trustees or which is derived from property vested in trustees, and the residence of the person entitled to the income is material for determining the question whether or not that income is income in respect of which tax is chargeable, or the domicile or nationality and residence of the person entitled to the income is material for determining the amount of the assessable income, that question shall be determined with reference to the residence or domicile or nationality and residence, as the case may be, of the person so beneficially entitled.”

75. Subsection (1) of section forty of the principal Law (which relates to allowances to employees) is hereby repealed and the following subsection (1) is hereby substituted therefor—

Amendment
of section
forty.

“(1) In computing the income of an individual from—

- (a) an office or employment held or exercised by him; or
- (b) a pension payable to him in consequence of an office or employment formerly held or exercised by him;

there shall be deducted the amount of any ordinary contributions to an approved fund or of any statutory contributions made by him out of the said income in the year of computation.”

76. (1) In subsection (2) of section forty-three of the principal Law (which relates to treatment of

Amendment
of section
forty-three.

repaid contributions) after the expression "in which they are repaid and" there is hereby inserted the expression "subject to the provisions of subsection (3) of this section".

(2) There is hereby inserted after the said subsection (2) the following subsection (3):—

"(3) Where the employee has not been chargeable to Guernsey tax during the whole or part of the said preceding three years of charge, the rate of tax chargeable on the repaid contributions or on the interest or on both shall be determined by reference to the average rate at which he was liable during the last three years in which he was so chargeable, or where he was so chargeable for a period of less than three years, during the period in which he was so chargeable."

Amendment
of section
forty-six.

77. Section forty-six of the principal Law (which relates to the approval of retirement benefit schemes) is hereby amended as follows, that is to say:—

(a) for the figures "46." there are hereby substituted the figures "46. (1)";

(b) paragraph (d) is hereby repealed and the following three paragraphs (d), (e) and (f) are hereby substituted therefor:—

"(d) the person carrying on the business or exercising the functions (hereinafter referred to as "the employer") is a contributor to the scheme;

(e) the sums paid by the employer in respect of any person do not exceed fifteen per centum of his remuneration for that period and do not exceed one hundred and fifty pounds in the case of a period of a year or a correspondingly lesser or greater amount in the case of a shorter or longer period; and

- (f) the scheme 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 scheme; or
- (iii) the rules of the scheme allow the return of contributions made to the scheme;

the Authority may, as it thinks fit, approve the scheme as a whole or as to part only thereof, and may attach to its approval any further conditions.”; and

- (c) there are hereby inserted at the end thereof the following four subsections (2), (3), (4) and (5):—

“(2) An application for the approval of a retirement benefit scheme or part of a retirement benefit scheme shall be made in writing by the employer to the Administrator and shall be accompanied by a copy of the rules relating thereto.

(3) The Authority may from time to time require such further information as it thinks proper to be furnished in connection with any such scheme.

(4) The Authority shall communicate in writing to the employer 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.

(5) The Authority may at any time withdraw its approval, in which case it shall give notice in writing of such withdrawal to the employer and shall give the reasons for such withdrawal and the date on which it is to take effect.”.

Amendment
of section
fifty.

78. Subsection (3) of section fifty of the principal Law (which provides that income under certain revocable settlements is to be treated as income of the settlor) is hereby repealed and the following subsection (3) is hereby substituted therefor:—

“(3) For the purposes of this section, a settlement shall be deemed to be revocable if any income or property which may at any time arise under or be comprised in the settlement is, or will or may become, payable to or applicable for the benefit of the settlor or the wife or husband of the settlor in any circumstances whatsoever:

PROVIDED that a settlement shall not be deemed to be revocable—

(a) if and so long as any income arising under or property comprised in the settlement cannot become payable or applicable as aforesaid except in the event of —

(i) the insolvency of some person who is or may become beneficially entitled to that income or property;
or

(ii) any assignment of or charge on that income or property being made or given by some such person; or

(iii) in the case of a marriage settlement, the death of both the parties to the marriage and of all or any of the children of the marriage; or

- (iv) the death under the age of twenty-five or some lower age of some person who would be beneficially entitled to that income or property on attaining that age; or
- (b) if and so long as some person is alive and under the age of twenty-five during whose life that income or property cannot become payable or applicable as aforesaid except in the event of that person becoming insolvent or assigning or charging his interest in that income or property.”.

79. The proviso to section seventy-two of the principal Law (which provides for a penalty for negligence in return as to income) is hereby repealed and the following proviso is hereby substituted therefor:—

Amendment
of section
seventy-two.

“PROVIDED that if at any time before the Administrator institutes enquiries as a result of which it is discovered that an incomplete or incorrect return has been delivered such person delivers a correct and complete return he shall not be liable to any penalty.”.

80. Subsection (1) of section eighty-one of the principal Law (which relates to proceedings in respect of penalties) is hereby amended as follows, that is to say:—

Amendment
of section
eighty-one.

- (a) for the expression “ section 79 of this Law ” there is hereby substituted the expression “ section seventy-nine of this Law or under any provision of the Income Tax Laws, 1920 to 1948 ”;
- (b) at the end thereof the full stop is hereby deleted and a colon is hereby substituted therefor; and

- (c) there is hereby inserted at the end thereof as the proviso thereto the following proviso:—

“PROVIDED that any penalty imposed in respect of any offence against any of the provisions of the Income Tax Laws, 1920 to 1948, shall not exceed the amount of the penalty prescribed in Article twenty-eight of the Law entitled “Loi ayant rapport à la Taxe sur le Revenu” registered on the tenth day of January, nineteen hundred and twenty.”

PART VI

REPEALS, COMMENCEMENT, CONSTRUCTION AND CITATION

Repeals.

81. The enactments set out in the first column of the Schedule to this Law are hereby repealed to the extent specified in the second column of that Schedule:

PROVIDED that the provisions of this Law shall not apply in relation to tax for any year of assessment or charge previous to the commencement of this Law and the provisions of the said enactments shall continue to apply to tax for any such year to the same extent as they would have applied thereto if this Law had not been passed.

Commence- ment, con- struction and citation.

82. (1) This Law shall be deemed to have come into force on the first day of January, nineteen hundred and fifty-five.

(2) This Law shall be construed as one with the principal Law.

(3) This Law may be cited as the Income Tax (Guernsey) Law, 1955, and the Income Tax (Guernsey) Laws, 1950 to 1953, and this Law may be cited together as the Income Tax (Guernsey) Laws, 1950 to 1955.

SCHEDULE Section eighty-one

ENACTMENTS REPEALED

<i>Enactment</i>	<i>Extent of Repeal</i>
The Income Tax (Guernsey) Law, 1950.	<p>In that part headed "ARRANGEMENT OF SECTIONS", the following figures and words:—</p> <p>“ 19. Set off of loss under one head of income against profit of another.</p> <p>20. Right to carry forward loss incurred in business.</p> <p>21. Relief for loss where business is transferred to a company.”.</p> <p>Subsection (7) of section six.</p> <p>In section seven—</p> <p style="padding-left: 40px;">sub-paragraph (i) and sub-paragraph (iii) of paragraph (b) of subsection (1); and subsection (4).</p> <p>Paragraph (e) of subsection (2) of section twelve.</p> <p>Section nineteen.</p> <p>Section twenty.</p> <p>Section twenty-one.</p> <p>In paragraph (b) of subsection (2) of section forty, the words “otherwise than out of a fund established for the purpose”.</p>

<i>Enactment</i>	<i>Extent of Repeal</i>
The Income Tax (Guernsey) Amendment Law, 1951.	Section one. Subsection (3) of section five. Section eight. Section ten. Section eleven. Section sixteen. In paragraph (2) of the Schedule the words “incurs expenditure of a capital nature on the glasshouse or”.
The Income Tax (Guernsey) Amendment (No. 2) Law, 1951.	Section one.
The Income Tax (Guernsey) Amendment Law, 1953.	Section four.

JAMES E. LE PAGE,

Her Majesty's Greffier.