

# ORDER IN COUNCIL

**XVII**  
**2001**

ratifying a Projet de Loi

ENTITLED

## **The Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001**

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(Registered on the Records of the Island of Guernsey  
on the 4th September, 2001.)

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2001

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 4th day of September, 2001 before Andrew Christopher King Day, Esquire, Deputy Bailiff; present:– David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, Michael John Wilson, Michael Henry De La Mare and Michael John Tanguy, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 18th day of July, 2001, approving and ratifying a Projet de Loi entitled “The Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:–

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:–

# At the Court at Buckingham Palace

The 18th day of July, 2001

PRESENT,

## The Queen's Most Excellent Majesty in Council

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 4th day of July 2001 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 Resolution of the 25th day of November, 1999, the States of Deliberation at a meeting held on the 28th day of March, 2001 approved a Bill or “Projet de Loi” entitled “The Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001”, 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 as 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 (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001”, and to order that the same shall have force of law in the Islands of Guernsey and Herm.”

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

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, and 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.

*A. K. Galloway*

# PROJET DE LOI

ENTITLED

## **The Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001**

**THE STATES**, in pursuance of their resolution of the 25<sup>th</sup> day of November, 1999<sup>a</sup>, 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.

### **Restriction of income tax relief on interest paid.**

1. (1) The Income Tax (Guernsey) Law, 1975, as amended<sup>b</sup> (hereinafter called "**the Income Tax Law**") is further amended in accordance with the provisions of this section.

(2) After section 14(4)<sup>c</sup> of the Income Tax Law insert the following subsection -

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<sup>a</sup> Article XVII of Billet d'État No. XIX of 1999.

<sup>b</sup> Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; Nos. IV and VIII of 1993; No. XXV of 1994; Nos. III and VII of 1995; No. V of 1996; Nos. IV and XXII of 1997; No. II of 1999; and No. IV of 2000.

<sup>c</sup> Section 14 was substituted by Ordres en Conseil Vol. XXVII, p. 565; subsection (4) thereof was substituted by Ordres en Conseil Vol. XXXI, p. 473.

"(5) The provisions of this section are subject to the provisions of any Ordinance under section 39A of this Law."

(3) After section 38(3) of the Income Tax Law<sup>d</sup> insert the following subsection -

"(4) The provisions of this section are subject to the provisions of any Ordinance under section 39A of this Law."

(4) After section 39 of the Income Tax Law insert the following section -

**"Power of States to restrict relief on interest paid.**

**39A.** (1) The States may by Ordinance make such provision as they think fit in respect of the abolition, restriction, limitation or apportionment of relief from the payment of income tax for interest paid on money borrowed that would otherwise be allowable under any other provision of this Law (other than interest properly deductible as a business expense under section 7 of this Law).

(2) An Ordinance under subsection (1) -

(a) without limitation, may make provision by reference to -

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<sup>d</sup> Section 38 was substituted by Ordres en Conseil Vol. XXVII, p. 565 and prospectively amended by Order in Council No. IV of 2000.

- (i) the amount of the loan on which the interest is payable;
  - (ii) the amount of the interest which is payable;
  - (iii) the purpose to which the loan on which the interest is payable is applied;
  - (iv) the use of the property (real or personal) for the purchase or otherwise for the purposes of which the loan was obtained;
- (b) without limitation, may prescribe -
- (i) allowances, formulae or other bases for the computation of relief, or the manner in which such allowances, formulae or other bases are to be calculated;
  - (ii) conditions subject to which relief is to be given;
- (c) may be amended or repealed by a subsequent Ordinance thereunder;

(d) may contain such consequential, incidental, transitional and supplementary provision (including, without limitation, provision in respect of the avoidance of income tax) as the States think fit.

(3) The power conferred by this section to make an Ordinance may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;

(iii) any such provision either unconditionally or subject to any prescribed conditions."

(5) After section 168 of the Income Tax Law<sup>e</sup>, insert the following section -

**"Ordinances restricting relief on interest paid.**

**168A.** The provisions of sections 164 to 168 are subject to the provisions of any Ordinance under section 39A of this Law."

(6) At the beginning of section 174(3) of the Income Tax Law, insert the words "Subject to the provisions of any Ordinance under section 39A of this Law,".

(7) In section 188E(2) of the Income Tax Law<sup>f</sup>, at the beginning of paragraph (c), insert the words "subject to the provisions of any Ordinance under section 39A of this Law,".

**Citation.**

**2.** This Law may be cited as the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001.

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<sup>e</sup> Section 168 was substituted by Ordres en Conseil Vol. XXVI, p. 200.

<sup>f</sup> Section 188E was inserted by Order in Council No. VII of 1995.