

ORDER IN COUNCIL

IV
2000

ratifying a Projet de Loi

ENTITLED

The Income Tax (Year of Computation) (Guernsey) Law, 2000

(Registered on the Records of the Island of Guernsey
on the 11th April, 2000.)



2000

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of April, 2000 before de Vic Graham Carey, Esquire, Bailiff; present:- John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, O.B.E., Esquires, and The Reverend Peter Gerald Lane, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 15th day of March, 2000 approving and ratifying a *Projet de Loi* entitled "The Income Tax (Year of Computation) (Guernsey) Law, 2000", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur 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 15th day of March 2000

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 7th day of March 2000 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 29th day of July 1999, the States of Deliberation at a meeting held on the 27th day of October 1999 approved a Bill or “Projet de Loi” entitled “The Income Tax (Year of Computation) (Guernsey) Law 2000”, 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 (Year of Computation) (Guernsey) Law 2000”, 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 Island of Guernsey and Herm.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet do 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

The Income Tax (Year of Computation) (Guernsey) Law, 2000

ARRANGEMENT OF SECTIONS

**Change to current year basis of assessment except
for income from business**

1. Year of computation to be the year of charge.
2. Deductions and reliefs to be allowed by reference to the year of charge.

Consequential amendments

3. Changes of residence etc.
4. Income from sources outside Guernsey.
5. Commencements and cessations.
6. Returns and assessments.

Supplementary provisions

7. Consequential repeals
8. Transitional provisions.
9. Interpretation and construction.
10. Citation.
11. Commencement.

Schedule : Transitional provisions

The Income Tax (Year of Computation) (Guernsey) Law, 1999

THE STATES, in pursuance of their Resolution of 29th July, 1999¹, 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.

Change to current year basis of assessment
except for income from business

Year of computation to be the year of charge

1. In section 6(1) of the Income Tax (Guernsey) Law, 1975² for "the calendar year preceding the year of charge" substitute "the year of charge".

Deductions and reliefs to be allowed by reference to the year of charge

2. (1) In paragraphs (b) and (d) of section 11 of the Law for "the basis period", wherever appearing, substitute "the year of charge".

(2) In section 14(1) of the Law the words "the basis period relating to the said income for" are repealed.

(3) In section 14(2) of the Law the words "basis period for any" are repealed.

(4) Section 14(3) of the Law is repealed.

on Article 10 of Billet d'État No. XIV of 1999.

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. * of 1999.

(5) In sections 15 and 16(1) of the Law the words "the basis period for", wherever appearing, are repealed.

(6) In section 16(2) of the Law for "two years"³ substitute "three years".

(7) In section 38 of the Law⁴:

(a) at the beginning of subsection (1) for "Subject to the succeeding provisions of this section, where" substitute "Where";

(b) for paragraphs (b) and (c) of subsection (1) and the proviso thereto substitute:

(b) in any other case, the amount of interest payable in the year of charge:

Provided that no deduction shall be allowed to any individual who became principally resident in the year of charge for interest payable by him in respect of any period prior to the date on which he first arrived in Guernsey in that year."

(c) subsections (2) and (3) are repealed.

Consequential amendments

Changes of residence etc.

3. (1) For section 5(3) of the Law substitute:

the words "two years" were substituted for "one year" by s.1(g), Income Tax (Amendment) (Guernsey) Law, 1982 (Ordres en Conseil Vol. XXVII, p.565).

section 38 was substituted by s.1(k), Income Tax (Amendment) (Guernsey) Law, 1982 (Ordres en Conseil Vol. XXVII, p.565).

"(3) When an individual who was not resident in Guernsey in the year preceding the year of charge becomes solely or principally so resident in a year of charge he shall be assessed and charged in that year of charge in respect of assessable income from sources outside Guernsey, other than income from the carrying on of a business, on the following bases:

- (a) in respect of any such income which he commenced to possess after the date on which he first arrived in Guernsey in the year of charge, on the income arising or accruing from that source in the year of charge;
- (b) in respect of any such income which he possessed on the date on which he first arrived in Guernsey in the year of charge and continued to possess throughout that year of charge, on the same proportion of the income arising or accruing from that source during the year of charge as the period of his residence in Guernsey during the year of charge bears to a period of twelve months or to the period during which he possessed the source in the year of charge if that period is less than twelve months;
- (c) in respect of any such income which he possessed on the date on which he first arrived in Guernsey and ceased to possess during the year of charge in which he became solely or principally resident as aforesaid, on the income arising or accruing from that source between the date on which he first arrived in Guernsey in the year of charge and the date on which he ceased to possess the source."

(2) For section 5(4) of the Law substitute:

"(4) When an individual who was solely or principally resident in Guernsey in the year preceding the year of charge permanently departs from Guernsey he shall be assessed and charged in the year in which he so departs in respect of assessable income from sources outside Guernsey, other than income from the carrying on of a business, on the following bases:

- (a) in respect of any such income which he possessed in the year preceding the year of charge and continued to possess on the date on which he permanently departed from Guernsey, on such proportion of the income arising or accruing from that source in the year of charge as the period during which he resided in Guernsey during the year of charge bears to a period of twelve months;
- (b) in respect of any such income which he possessed at the commencement of the year of charge but ceased to possess before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source during the year of charge;
- (c) in respect of any such income which he commenced to possess after the commencement of the year of charge but before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source before the date on which he so departed."

(3) Section 6(7) of the Law is repealed.

Income from sources outside Guernsey

4. (1) Chapter III of Part I of the Law is repealed.
- (2) Section 161 of the Law is repealed.

Commencements and cessations

5. (1) In section 30 of the Law:
 - (a) for "any other source" substitute "any business carried on outside Guernsey";
 - (b) the words "(a) Income from business -" are repealed;
 - (c) paragraph (b) is repealed.
- (2) In section 31 of the Law:
 - (a) in the proviso to subsection (1) for "the provisions of subsection (2) of this section shall apply" substitute "the provisions of this section shall similarly apply";
 - (b) subsections (2) and (3) are repealed.
- (3) Sections 32 and 34 of the Law are repealed.
- (4) In the proviso to section 61 of the Law⁵ the words "or, in a case to which the provisions of subsection (2) of section thirty-one of this Law apply, for the year of charge to which the provisions of paragraph (b) of the said subsection apply," are repealed.

the proviso to section 61 was substituted by s.1(d), Income Tax (Amendment) (Guernsey) Law, 1977 (Ordres en Conseil Vol. XXVI, p.200).

Returns and assessments

6. (1) Immediately after section 68(1) of the Law there is inserted the following additional subsection:

"(1A) In the case of any source of income in respect of which the year of charge is also the year of computation the return referred to in subsection (1) of this section shall include:

- (a) the actual income from that source of the person required to deliver the return for the calendar year preceding the year of charge, and/or
- (b) a bona fide estimate of the income of that person from that source for the year of charge,

as the notice may require."

(2) Section 73 of the Law is redesignated as section 73(1), and the following additional subsections are inserted immediately thereafter:

"(2) In the case of any source of income in respect of which the year of charge is also the year of computation -

- (a) an interim assessment for that year of charge (hereafter referred to as an "interim assessment") may be made on any person at any time after the commencement of that year, taking into account the estimated amount of that income for the whole of that year; and the tax charged in consequence of an interim assessment shall be payable, subject to section 81A of this Law, in the manner prescribed by section 81 of this Law;

- (b) a final assessment for that year of charge (hereafter referred to as a "final assessment") may be made on any person, subject to sections 54(1) and 75 of this Law, at any time; and the tax charged in consequence of a final assessment shall be payable within 21 days from the date of the issue of the notice of assessment:

Provided that in determining the amount of tax to be charged in consequence of the final assessment a deduction shall be made equal to the amount of any tax which has been charged in consequence of any interim assessment made in respect of any such income for the same year of charge.

- (3) When the tax paid in consequence of an interim assessment for any year of charge is found to exceed the tax charged in consequence of a final assessment for the same year of charge, the excess shall be applied in payment or part payment of any tax which has been charged, either in respect of the year of charge in which the final assessment has been made, or in respect of any year of charge prior to that year of charge, and which has not been paid; and where there is no such tax charged and unpaid the excess shall be repaid."

Supplementary provisions

Consequential repeals

7. Paragraph 1(d) of the Income Tax (Amendment) (Guernsey) Law, 1976⁶, paragraphs 1(g), 1(h) and 1(j) of the Income Tax (Amendment) (Guernsey) Law, 1982⁷, and paragraph 1(g) of the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989⁸, are repealed.

Ordres en Conseil Vol. XXVI, p.146.

Transitional provisions

8. The provisions set out in the Schedule to this Law shall have effect.

Interpretation and construction

9. (1) In this Law "the Law" means the Income Tax (Guernsey) Law, 1975, as amended.

(2) This Law is to be construed as one with the Law.

Citation

10. This Law may be cited as the Income Tax (Year of Computation) (Guernsey) Law, 2000.

Commencement

11. (1) Subject to subsection (2) of this section this Law shall come into force on 1st January, 2002.

(2) The States may by Ordinance defer commencement of this Law until 1st January in any year subsequent to 2002:

Provided that any such Ordinance is made by the States on or before 30th September in the year preceding that in which this Law would otherwise come into force, whether pursuant to subsection (1) of this section or pursuant to an Ordinance previously made under this subsection.

Ordres en Conseil Vol. XXVII, p.565.
Ordres en Conseil Vol. XXXI, p.473.

SCHEDULE Section 8

Transitional provisions

Application of this Schedule

1. (1) This Schedule applies to any source of income assessable to tax in respect of which the year of computation, and the period by reference to which deductions and reliefs are to be allowed

- (a) would, apart from this Law, be the calendar year preceding the year of charge; but
- (b) would by virtue of this Law, apart from this Schedule, become the year of charge.

(2) In this Schedule -

"the transitional year" means the first calendar year for which this Law is in force;

a **"relevant source"** of income means any source of income to which this Schedule applies.

Normal basis of assessment for transitional year

2. Subject to paragraphs 3 and 4 of the Schedule, in respect of the transitional year a person's income from all relevant sources is liable to be assessed to tax on the following basis:

$$\left[\frac{(\text{PYI} - \text{PYDR}) + (\text{TYI} - \text{TYDR})}{2} \right] \quad \text{-A}$$

where:

PYI is that person's total income from all relevant sources during the calendar year preceding the transitional year;

PYDR is the total of all deductions and relevant reliefs which he is entitled to make or claim from that income for the purposes of the Law, as respects the calendar year preceding the transitional year;

TYI is his total income from all relevant sources during the transitional year;

TYDR is the total of all deductions and relevant reliefs which he is entitled to make or claim from that income for the purposes of the Law, as respects the transitional year;

A is the total of all allowances, other than relevant reliefs, which he is entitled to claim for the transitional year pursuant to any resolution of the States under section 36 of the Law;

and in the above definition "**relevant reliefs**" means relief pursuant to any resolution of the States under section 36 of the Law in respect of a premium or contribution to a retirement annuity scheme or a retirement annuity trust scheme.

Election to treat income as permanently ceasing

3. (1) A person may elect that, instead of paragraph 2 of this Schedule applying in his case, his income from all relevant sources shall be assessed to tax as if all of that income had permanently ceased to be his income during either (at that person's election)

(a) the transitional year, or

(b) the calendar year preceding the transitional year,

and as if section 5 of this Law had not been passed.

(2) An election under subparagraph (1) of this paragraph must be made in writing to the Administrator not later than eighteen months after the end of the transitional year.

Provision for averaging

4. (1) If in the case of any relevant source of income -

- (a) the Administrator is of the opinion that a person has made or entered into arrangements as a result of which
 - (i) income from that source has arisen at irregular intervals, or
 - (ii) income arising from that source at regular intervals has varied significantly in amount.

over a period which includes all or part of the transitional year, or of the calendar year preceding the transitional year; and

- (b) that person does not satisfy the Administrator that those arrangements were made or entered into exclusively for bona fide commercial reasons,

then the Administrator may assess to tax the total income of that person from that source over the whole of that period as if it had arisen in equal monthly instalments throughout that period.

(2) This paragraph is without prejudice to the exercise by the Administrator of his powers under section 67, or under any other provision, of the Law.

(3) For the purposes of subparagraph (1)(b) of this paragraph the obtaining of a tax advantage is not a bona fide commercial reason.