

**The Income Tax (Keeping of Records, etc)
(Amendment) Regulations, 2012**

<i>Made</i>	28 th February, 2012
<i>Laid before the States</i>	27 th June, 2012
<i>Coming into operation</i>	1 st July, 2012

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred on it by section 75P of the Income Tax (Guernsey) Law, 1975^a, as amended, and all other powers enabling it in that behalf, hereby makes the following regulations:-

Amendment of 2006 regulations.

1. The Income Tax (Keeping of Records, etc) Regulations, 2006^b are amended as follows.

2. In regulation 1(1) -

(a) for the words preceding subparagraph (a) substitute the following -

^a Ordres en Conseil Vol. XXV, p. 124; section 75P was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005.

^b G.S.I. 2006 No. 37.

"A person in receipt or possession of any income or profits arising or accruing from the carrying on of a business shall make, keep and maintain the following records and documents in relation to that business -", and

- (b) for the words following subparagraph (e) substitute the following -

"and he shall retain them for a period of six years following the end of the year -

(i) in which the return as to the said income or profits is delivered pursuant to section 68 of the Law, or

(ii) where no such return is required to be delivered, in which the relevant accounting period of the business ends (and the "relevant accounting period" means the accounting period in which the said income or profits arose or accrued)."

3. For regulation 3 substitute the following -

"Records to be kept in other cases.

3. A person in receipt or possession of any income of a description other than that set out in regulations 1 and 2 shall make, keep and maintain the following records and documents in relation to that income -

(a) records of all amounts received, arising or accruing,

(b) the names or descriptions of the persons or sources

from whom or from which the amounts mentioned in paragraph (a) were received or arose or accrued, and the period to which those amounts relate,

- (c) any other documents which contain or may contain information relevant to any liability to tax to which that person is or may be subject or the amount of any such liability, and
- (d) all supporting documents relating to the records and documents mentioned in paragraphs (a) and (c), including (without limitation) accounts, contracts, leases, licences or other agreements, vouchers and receipts,

and he shall retain them for the following period -

(i) where -

(A) the record or document relates to the income of a trust or foundation, or

(B) that person is a legal person,

for a period of six years,

(ii) in any other case, for a period of two years,

following the end of the year in which the return as to the said income is delivered pursuant to section 68 of the Law or, where no such return is required to be delivered, in which the record or document was created,

received or obtained."

4. In regulation 4 after "into a return made by" insert ", or the income or liability to tax of,".

5. After regulation 4 insert the following regulation -

"Records outside the jurisdiction.

4A. (1) Where records or documents required to be made, maintained, kept or retained by any person under these regulations are kept or retained outside Guernsey, then, without prejudice to any duty, obligation or requirement imposed by or under the Law or any other enactment to deliver or furnish them or make them available for inspection, that person has a duty to ensure -

(a) that they remain within his control or power, and

(b) that effective arrangements are in place and are implemented for their expeditious removal to Guernsey and for their production and disclosure -

(i) to the Director whenever required by him for the purposes of assessing any liability to tax and the amount of any such liability when he believes that they are or may be relevant thereto, or

(ii) in accordance with any duty, obligation or requirement imposed by or under the

Law or any other enactment.

(2) A person who without reasonable excuse fails to comply with the duty imposed by paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale."

6. In regulation 5(1)(a) after "to make, maintain, keep or retain" where secondly appearing insert "or has failed to comply with the duty imposed by regulation 4A(1)".

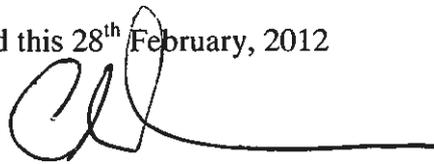
Citation and commencement.

7. These regulations may be cited as the Income Tax (Keeping of Records, etc) (Amendment) Regulations, 2012.

Commencement.

8. These regulations shall come into force on the 1st July, 2012.

Dated this 28th February, 2012



DEPUTY C.N.K. PARKINSON

Minister of the Treasury and Resources Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations, made pursuant to section 75P of the Income Tax (Guernsey) Law, 1975, amend the Income Tax (Keeping of Records, etc) Regulations, 2006 as to the records and other documents in respect of tax and liability to tax that must be made, maintained, kept and retained by taxpayers for the purposes of Part VIA of that Law ("information").