

Island of



Guernsey

Ordinance of the States

XVII
2012

Made30th May, 2012

Coming into Operation30th May, 2012

The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012

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THE STATES, in pursuance of their Resolution of the 29th September, 2011^a, and in exercise of the powers conferred on them by sections 40A, 40B, 203A and 208C(1) of the Income Tax (Guernsey) Law, 1975, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of 1989 Ordinance.

1. The Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, as amended^c ("**the Ordinance**"), is further amended as follows.

2. In section 1(1)(c)(i) the expression "in the case of a category A, B or C body," is repealed.

3. After section 1(1) insert the following subsection -

"(1A) An exemption from tax under this Ordinance may be granted in respect of any class, description or source of the body's income."

^a Article XI of Billet d'État No. XV (Vol. 1) of 2011.

^b Ordres en Conseil Vol. XXV, p. 124; sections 40A and 40B were inserted by Vol. XXVIII, p. 409 and amended by Vol. XXXI, p. 473 and Vol. XXXIV, p. 201; section 203A was inserted by No. XVII of 2005; and section 208C was inserted by No. V of 2011.

^c Recueil d'Ordonnances Tome XXV, p. 106; Tome XXVI, p. 41; No. I of 1995; No. VI of 1996; (No. I of 1995 never came into force and was repealed by No. VI of 1996); No. XXXIX of 1997; No. XXXIII of 2003; No. XXXVII of 2006; No's. VII, XIX and XXXIV of 2009; and Order in Council No. V of 2011.

4. In section 2(1), in paragraph (i) of the proviso, the expression "in the case of a category A, B or C body," is repealed.

5. In section 2(2)(c) the expression "in the case of a category A, B or C body, but only" is repealed.

6. In section 2(2)(c)(ii) for "its" substitute "the body's".

7. In section 3(1) the words "as a category A, B or C body" are repealed.

8. In section 6(a) the words "category A, B or C" are repealed.

9. In section 7(1) insert the following definitions in the appropriate places -

"collective investment" means any arrangement relating to property of any description (including money) which is a collective investment scheme within the meaning of paragraph 1 of Schedule 1 to the Protection of Investors (Bailiwick of Guernsey) Law, 1987, provided that the purpose or effect of the arrangement, or of the trusts, constitutive documents or objects of the arrangement, is to enable members of the public to participate in, or receive profits or income arising from, the acquisition, holding, management or disposal of the property, or sums paid out of such profits or income,

"collective investment vehicle" means a body established for the purposes of undertaking collective investment,

"**established**" in a place, in relation to a body, means that the body is incorporated, registered or established in that place or created under or governed by the law of that place,

"**units**" means the rights and interests (however described) of investors in a collective investment," .

10. Section 7(3)(a) is repealed.

11. For Schedules 1 and 2 to the Ordinance substitute the following -

"SCHEDULE 1

Section 1(1)(a)

BODIES ELIGIBLE FOR EXEMPTION FROM TAX

1. A collective investment vehicle established in Guernsey.
2. A collective investment vehicle established in any place outside Guernsey.
3. A body established in Guernsey or elsewhere solely for the purposes of -
 - (a) the management of a specific collective investment vehicle described in paragraph 1 or 2,
 - (b) enabling investment into a specific collective investment vehicle described in paragraph 1 or 2,

- (c) the acquisition or the management of the assets of a specific collective investment vehicle described in paragraph 1 or 2, or
 - (d) facilitating the funding of, or borrowing by, a specific collective investment vehicle described in paragraph 1 or 2 for the acquisition of its assets.
4. A body not covered by paragraphs 1 to 3, established for the purposes of undertaking collective investment in which the units are listed on an exchange or market approved by the Director of Income Tax for the purpose of this Schedule.
5. A company which is in the beneficial ownership or which is a wholly owned subsidiary of such a body, but only to the extent that the subsidiary company does not have income taxable under the provisions of the Law at the company intermediate rate or company higher rate.

SCHEDULE 2

Sections 1(1)(c) and 2(2)(a)

CONDITIONS OF ELIGIBILITY FOR EXEMPTION FROM TAX

1. That the body has contracted with a person for the provision of managerial and secretarial services and, where appropriate, custodian services in respect of its affairs for remuneration calculated on an arm's length basis.

2. That the person with whom the body has contracted -
 - (a) is resident in Guernsey,
 - (b) is the holder of a licence or other authorisation in respect of the provision of the relevant services under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 or the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, and
 - (c) has not itself been granted an exemption from tax under this Ordinance.

3. That no investment or other property situated in Guernsey, other than-
 - (a) a relevant bank deposit,
 - (b) an interest in another body to which an exemption from tax has been granted under this Ordinance, or
 - (c) shares in a Guernsey company,

is acquired or held."

Citation.

12. This Ordinance may be cited as the Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012.

Commencement.

13. This Ordinance shall come into force on the 30th May, 2012.

D.J. ROBILLIARD,
Her Majesty's Deputy Greffier.

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