

Island of



Guernsey

Ordinance of the States

XXXV
2012

Made31st October, 2012

The Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012

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(No. 2) Ordinance, 2012

THE STATES, in pursuance of their Resolution of the 30th May, 2012^a, and in exercise of the powers conferred on them by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975^b and all other powers enabling them in that behalf, hereby order:-

Amendment of 1975 Law.

1. The Income Tax (Guernsey) Law, 1975, as amended, is further amended as follows.

2. In section 68(1) for the words "accounting records required to be kept by a company under section 59 of the Companies (Guernsey) Law, 1994"^c substitute "accounting records, accounts and consolidated accounts required to be kept by a company under sections 238, 243 and 244 of the Companies (Guernsey) Law, 2008".

3. After section 68(1) insert the following subsection -

"(1AAA) The notice from the Director of Income Tax referred to in subsection (1) requiring a person to deliver a return as to his income may be given -

^a Article XIII of Billet d'État No. XI of 2012.

^b Ordres en Conseil Vol. XXV, p. 124; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by No. V of 2011.

^c Those words were inserted by Order in Council No. VI of 2011.

- (a) in accordance with the provisions of section 73A(1) (and the provisions of that section and of section 73B apply in relation to such a notice as they apply in relation to a notice of assessment required to be served under section 73(1)), or
- (b) by means of a publication (made in La Gazette Officielle and in such other manner as the Director of Income Tax thinks fit) addressed to persons generally or to any class or description of persons (and where the notice is given by means of a publication under this paragraph the notice is considered to be given to the persons concerned on the date of publication),

and references in this Law (however expressed) to the giving or receipt of such a notice shall be construed accordingly."

4. In section 68(2) for the words "Where any person chargeable with tax" substitute " Subject to subsection (1AAA), where any person chargeable with tax".

5. After section 68 insert the following section -

"Returns to be submitted in electronic form and by electronic means.

68AA. (1) Where under section 68 a return as to a person's income is required to be delivered to the Director of Income Tax, the return

and all accounts, statements and other documents accompanying it shall be submitted -

(a) in the case of an individual -

(i) in electronic form and by electronic means, or

(ii) if the individual so chooses, in non-electronic form and by non-electronic means,

(b) in the case of a company -

(i) in electronic form and by electronic means, or

(ii) in such non-electronic form and by such non-electronic means as the Director of Income Tax may in his absolute discretion determine in any particular case or class of cases.

(2) Subsection (1) is in addition to and not in derogation from the provisions of section 68."

6. In section 73A(1) -

(a) immediately before the definition of "posted" insert the following definition -

"**document**" and "**electronic form**" have the meanings given by section 75O, and references to the production of documents, however expressed, shall be construed accordingly,"

- (b) in the definition of "relevant address" after the words "its registered office" insert "and, in the case of any person, and for the avoidance of doubt, an electronic address (which includes, without limitation, an e-mail address and telecommunications address)", and
- (c) in the definition of "transmitted" after the words "by electronic communication" insert "(that is to say, in electronic form and by electronic means)".

7. In section 75B(3)^d after the words "the information in question" insert "voluntarily".

8. After section 75B(3) insert the following subsections -

"(3A) However, in respect of a person or body of persons, corporate or unincorporated, holding or deemed to hold a licence, registration or authorisation from the Guernsey Financial Services Commission under the regulatory Laws, subsection (3) applies as if for the word "must" there were substituted the word "may"; and accordingly there is no obligation pursuant to that subsection, before giving a notice under

^d Section 75B was inserted by Order in Council No. XVII of 2005.

subsection (2), to give such a person or body a reasonable opportunity to deliver or make available the documents in question or to furnish the information in question voluntarily.

(3B) In subsection (3A) the "**regulatory Laws**" means -

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,
- (f) the Registration of Non-Regulated Financial Services Businesses Law, 2008,
- (g) any other enactment or statutory instrument prescribed for the purposes of this section by

regulations of the Department." .

9. In section 75B(4) after the words "under subsection (2)" where first appearing insert "or who is, pursuant to subsection (3), given a reasonable opportunity to deliver or make available the documents in question or to furnish the information in question voluntarily".

10. In section 75B(4)(a) after the words "the notice" insert "or, as the case may be, the opportunity".

11. In section 75B(4)(b) after the words "the notice" insert "or, as the case may be, the opportunity".

12. In section 190(1)(ii) after the words "the penalty shall not exceed £50" insert ", but this paragraph does not apply in respect of a company required to complete certificate 1 of the return, unless the company has no income or profits in the period in respect of which the return of income is required to be delivered".

Citation.

13. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012.

Commencement.

14. (1) This Ordinance, other than section 3, shall come into force on the 31st October, 2012.

(2) Section 3 shall come into force on the 1st January, 2013.

J. TORODE,
Her Majesty's Greffier.

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