

GUERNSEY
STATUTORY INSTRUMENT
1959 No. 28

The Income Tax (Guernsey) (Purchased Life Annuities)
Regulations, 1959

THE INCOME TAX AUTHORITY, in exercise of the powers conferred upon it by section two of the Income Tax (Amendment) (Guernsey) Law, 1959, hereby makes the following Regulations:-

1. These Regulations may be cited as the Income Tax (Guernsey) (Purchased Life Annuities) Regulations, 1959, and shall come into operation on the Twelfth day of June, nineteen hundred and fifty-nine.

2. For the purposes of these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them -

"the principal section" means section one of the Income Tax (Amendment) (Guernsey) Law, 1959;

"payee" means the person beneficially entitled for the time being to the payments on account of an annuity;

"payer" means any person resident in Guernsey by whom, or any branch or agency in Guernsey of a person not so resident (being a branch or agency through which that person carries on life assurance business) through which, an annuity is paid.

3. The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these Regulations as it applies to the interpretation of an enactment.

4. For the purposes of enabling the Administrator to determine any question whether an annuity is a purchased life annuity to which the principal section applies and if so what proportion of each payment on account of the annuity constitutes the capital element, the payee shall make application in writing to the Administrator to determine any such question in accordance with the provisions of subsection (6) of the principal section, which application shall be accompanied by the particulars set out in Part I or in Part I and Part II of the Schedule to these Regulations, whichever is applicable.

5. The Administrator may by notice require the payer of an annuity to furnish such particulars relating to the annuity as he may require, including the age of the person during whose life the annuity is payable, if known to him, the amount or value of the consideration given for the grant of the annuity, and particulars of any other matter appearing to him to be relevant for the purposes of the principal section.

6. The tables of mortality to be used for the purpose of enabling the Administrator to determine any question as to the amount of the capital element in any annuity to which the principal section applies shall be the select tables in the volume of tables published in 1953 at the University Press, Cambridge, for the Institute of Actuaries and the Faculty of Actuaries, entitled The a(55) Tables for Annuitants, and in using these tables the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his birthday last preceding that date. If that age is outside the range of the said tables, or in any other case where the tables are insufficient, the actuarial value of the annuity for the purposes of paragraph (c) of subsection (3) of the principal section shall be

such amount as may be certified by an actuary nominated by the Authority. The Administrator shall serve a notice of his determination (hereinafter referred to as "the original determination") upon the payee and, where the Administrator is satisfied that the payer is entitled or required to deduct tax from the annuity, upon the payer of the annuity. The determination shall thereupon become effective.

7. If, at any time after a determination has become effective and at least one assessment in respect of the annuity has been made thereafter, the Administrator or the payee alleges that that determination is erroneous whether by reason of an error or mistake in a claim by the payee or otherwise, the Administrator may make, or the payee may make a claim for, a revised determination. If the Administrator makes a revised determination in accordance with the claim he shall serve a notice upon the payee accordingly. If he makes a revised determination without the payee having claimed it, or if he makes a revised determination which is not in accordance with the payee's claim or if on receipt of the payee's claim he refuses to make a revised determination, he shall serve notice upon the payee accordingly.

8. As soon as the time limit for appealing against a revised determination made under Regulation seven has expired or, if there has been an appeal, as soon as the appeal has been determined, the Administrator shall, if he is satisfied that the payer is entitled or required to deduct tax from the annuity, serve notice of the said determination or, as may be appropriate, of that determination as amended on appeal upon the payer of the annuity. The determination shall thereupon become effective and shall supersede any earlier determination in relation to the first assessment made thereafter on account of the annuity, and, subject to Regulation seven, to all subsequent such payments.

9. (1) Where any effective determination is amended on appeal by the Authority or by an Order of the Royal Court made in pursuance of section sixty-six of the Income Tax (Guernsey) Law, 1950, the Administrator shall, subject to the provisions of paragraph (2) of this Regulation, amend such assessments as have previously been made in respect of such years of charge as may be affected by the amended determination in such manner as may be necessary to give effect to the amendment and shall, if necessary, make such repayments of tax as may, in the circumstances, be just and reasonable.

(2) No assessments or additional assessments shall be made under this Regulation and no repayment shall be made in respect of any year of charge which ended more than six years before the beginning of the year in which the claim which gave rise to the said determination was made, or, in a case where the Administrator initiated a revised determination, before the beginning of the year in which the Administrator served notice upon the payee under Regulation seven, except that, where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to the taxation of the annuity, an assessment may be made at any time:

Provided always that no amended assessment or no repayment shall be made under this Regulation in respect of any assessment made before the date of the claim which gave rise to the said determination or, as the case may be, the date of the Administrator's revised determination under Regulation seven, if that assessment was in fact made on the basis or in accordance with the practice prevailing at the time when the assessment was made.

10. Where the payee is a married woman not judicially separated or permanently living apart from her husband any reference in these Regulations to repaying tax or to amending assessments shall, unless an application for separate assessment under section twenty-eight of the Income Tax (Guernsey) Law, 1950, is in force as respects any year of charge, the assessment for which is affected by the said repayment or assessment, be read as requiring the tax to be repaid to or the assessment made upon, her husband.

11. A determination which becomes effective under these Regulations shall, except to the extent that it may be varied on appeal in pursuance of the provisions of subsection (7) of the principal section or under these Regulations, be final and conclusive for all the purposes of the Income Tax (Guernsey) Law, 1950 to 1959.

12. Where the payee is a married person and an application for separate assessment under section twenty-eight of the Income Tax (Guernsey) Law, 1950, is in force as respects that person and as respects any year of charge, the assessable income for which may be increased or decreased in consequence of a determination which is varied on appeal or by virtue of Regulation seven of these Regulations, such consequential adjustments of the liability to income tax of either or both spouses shall be made by assessment or by repayment as the case may require.

13. Any notice or other document authorised or required to be served on any person under these Regulations by the Administrator may be served by post by letter addressed to such person at his usual or last known place of residence or place of business, or, where such person is a company, by letter addressed to the Secretary of the Company at its registered office or its principal place of business.

Dated this Twelfth day of June, nineteen hundred and fifty-nine.

JOHN LEALE

President of the States Income Tax Authority
for and on behalf of the said Authority.

SCHEDULE

Particulars to be given by the payee in making a claim
under Regulation four

PART I

Particulars to be given in all cases

1. The name of the payer.
2. The number by which the annuity contract is identified.
3. The amount of each payment on account of the annuity.
4. The frequency with which payments on account of the annuity are made.
5. The name of the person or persons on whose life or lives the annuity depends.
6. The name and address of the annuitant and, if the annuitant is a married woman, the name of her husband.
7. Such particulars as are necessary to determine whether subsection (5) of the principal section applies to the annuity.

PART II

Additional particulars to be given where the person paying the
annuity is not within the definition of payer in Regulation two

1. The amount or value of the consideration given for the grant of the annuity.
2. The date of birth of each person on whose life the annuity depends.
3. Whether the final payment on account of the annuity will be calculated by reference to the actual date of any person's death.
4. Particulars of any contingencies other than the death of a person on the happening of which the annuity will terminate.