

STATUTORY INSTRUMENT

1954 No. 3

The Double Taxation Relief (Taxes on Income)
(General) Regulations, 1954

The States Income Tax Authority, as the Authority constituted by the States under the provisions of section eighty-three of the Income Tax (Guernsey) Law, 1950, and in pursuance of section twenty-three C of that Law, as amended, hereby makes the following Regulations:-

Interpretation

1. (1) In these Regulations the expression "the Law" means the Income Tax (Guernsey) Law, 1950, as amended by the Income Tax (Guernsey) Amendment Law, 1951, the Income Tax (Guernsey) Amendment (No. 2) Law, 1951, and the Income Tax (Guernsey) Amendment Law, 1953.

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

Determination of net Guernsey rate applicable
to certain dividends

2. (1) Where, by reason of double taxation relief, the net Guernsey rate falls to be determined in relation to any dividend for the purposes of section twenty-three B of the Law, the net Guernsey rate shall be taken to be the rate which is produced by deducting

- (a) the rate of double taxation relief for the period for which the dividend is paid, from
- (b) the standard rate of income tax for the year in which the dividend is payable.

(2) Subject to any adjustment which is required by paragraph (3) of this Regulation, the rate of double taxation relief for the period for which the dividend is paid shall be taken to be -

- (a) in the case of a dividend paid for a period which falls wholly within any year of charge, the rate which is produced by dividing the double taxation relief for that year of charge by the total income of the company as computed for income tax purposes for that year;
- (b) in the case of a dividend paid for a period which falls partly within one year of charge and partly within another year of charge, the rate which is produced by determining, in relation to each of those years,
 - (i) the rate which would have been applicable under subparagraph (a) of this paragraph if the dividend had been paid for a period falling wholly within that year, and
 - (ii) the portion of that rate which bears the same proportion to that rate as the part of the period for which the dividend is paid which falls within that year bears to the whole period,

and then aggregating the portions so determined.

(3) Where any matter affecting the calculation of the rate of double taxation relief has not been finally determined at the time when the net Guernsey rate falls to be determined in relation to any dividend, the rate of double taxation relief shall be estimated according to the best of the

information available at that time, and if it is subsequently found that the rate so estimated was excessive or deficient the appropriate adjustment shall be made in determining the net Guernsey rate applicable to the next subsequent dividend on the occasion of which it is practicable to make the adjustment, and shall be made by reducing or, as the case may be, increasing the rate of double taxation relief, as calculated for the purposes of that subsequent dividend in accordance with the foregoing paragraph, by a rate which bears the same proportion to the excess or deficiency in the rate applicable to the first-mentioned dividend as the total amount of the first-mentioned dividend bears to the total amount of that subsequent dividend.

(4) Where the double taxation relief for any year of charge includes any credit or relief which has been taken into account for the purposes of determining the net Guernsey rate applicable to any dividends received by the company, the amount of that credit or relief shall be taken to be the sum of the amounts which are produced by applying to each such dividend the rate which represents the excess of the standard rate of income tax for the year in which that dividend was payable over the net Guernsey rate applicable to that dividend.

(5) For the purposes of this Regulation, a dividend which is not expressed to be paid for any specified period shall be deemed to be paid for the last period for which accounts of the company were made up which ended before the dividend became payable.

(6) In this Regulation the expressions "double taxation relief", "net Guernsey rate" and "company" have the same meaning as in section twenty-three B of the Law, and the expression "dividend" means a dividend to which that section applies.

Procedure for payment without deduction of tax
of income exempt under arrangements

3. (1) The provisions of this Regulation shall have effect where arrangements having effect under section twenty-three of the Law provide for the exemption from Guernsey income tax of any class of income arising to persons resident in the territory with the government of which the arrangements are made, being income from which deduction of tax is authorised by the Law.

(2) Any person who pays income of any such class (referred to in this Regulation as "the Guernsey payer") to a person in the said territory who is beneficially entitled to the income (such person being referred to in this Regulation as "the non-resident") may be required, by notice given by or on behalf of the Administrator, to pay any such income to the non-resident without deduction of tax, and where such notice is given any income from any source specified in the notice, being income for a year for which the arrangements have effect, which the Guernsey payer pays after the date of the notice to the non-resident whose name is specified therein shall, subject to the following provisions of this Regulation, be paid without deduction of tax.

(3) Where, but for the notice, the Guernsey payer would have been entitled to deduct and then required to account for tax on making any payment, tax shall not be charged in respect of the payment if it has been paid without deduction of tax by virtue of the notice.

(4) Where, as respects any income in relation to which the provisions of this Regulation have effect, being dividends paid by a company resident in Guernsey, the Guernsey payer would, but for the notice, have been entitled to deduct and then required to account for tax on making any payment, there shall be made to him, against the tax otherwise payable by him for the year in which the payment became due, an allowance equal to the amount of tax which, but for the notice, he would have been entitled to deduct and then

required to account for on making the payment but by virtue of the notice has not deducted.

(5) Any notice given under paragraph (2) of this Regulation may be expressed to become ineffective if certain specified events happen or, whether so expressed or not, may be cancelled by a notice of cancellation given by or on behalf of the Administrator, and, if to the knowledge of the Guernsey payer any of those events happens or if such notice of cancellation is given, any payment made to the non-resident by the Guernsey payer after the happening of that event becomes known to the Guernsey payer or after the date of that notice, as the case may be, shall be subject to deduction of tax in accordance with the Law.

(6) If it is discovered, after a notice has been given under paragraph (2) of this Regulation, that the non-resident is not entitled to exemption from tax in respect of income from any source specified in the notice, any tax which, but for the notice, would have been deductible from any payment made to the non-resident by the Guernsey payer but by virtue of the notice has not been so deducted,

(a) may be assessed on the non-resident under section thirty-three of the Law, or

(b) shall, if a direction to that effect is given by or on behalf of the Administrator, be deducted by the Guernsey payer out of so much of the first payment made to the non-resident after the date of the direction as remains after the deduction of any tax deductible therefrom under the Law, and any balance which cannot be deducted out of the first such payment shall be deducted, subject to the same limitation, out of the next such payment, and so on until the whole of the tax (the amount of which shall be specified in the direction) has been deducted.

Any tax which the Guernsey payer is required to deduct under subparagraph (b) of this paragraph shall be accounted for as if it was tax deductible under subsection (3) of section thirty-three of the Law.

(7) A notice may be given under paragraph (2) of this Regulation where income is paid to a person authorised to receive that income on behalf of the non-resident, and in such a case the references in this Regulation to payment to the non-resident shall be treated as including references to payment to that person.

Application, citation and commencement

4. (1) These Regulations shall have effect in the Islands of Guernsey, Alderney and Herm.

(2) These Regulations may be cited as the Double Taxation Relief (Taxes on Income) (General) Regulations, 1954.

(3) These Regulations shall come into force on the second day of January, 1954.

Dated this second day of January, 1954.

W. J. CORBET.

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