

Island of



Guernsey

Ordinance of the States

XIII
2014

Made 30th April, 2014

Coming into Operation 30th April, 2014

The Income Tax (Guernsey) (Amendment) Ordinance, 2014

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THE STATES, in pursuance of their Resolution of the 11th December, 2013^a, and in exercise of the powers conferred on them by sections 75Q, 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. Section 75B(8)^c is repealed

3. Immediately before section 75CC^d add the following section -

"Notices under section 75B: ancillary provision.

75CB. (1) A notice under section 75B(2) shall name the taxpayer with whose liability the Director of Income Tax is concerned unless the Director of Income Tax is satisfied -

(a) that the notice relates to a taxpayer whose

^a Article IX (paragraph 1) of Billet d'État No. XXIV of 2013.

^b Ordres en Conseil Vol. XXV, p. 124; sections 75Q and 203A were inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

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

^d Section 75CC was inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013.

identity is not known to him or to a class of taxpayers whose individual identities are not known to him, and

- (b) that the information which is likely to be contained in the documents to which the notice relates is not readily available to the Director of Income Tax from another source.

(2) A notice under section 75B(2) may also, with the express permission of a single member of the Guernsey Tax Tribunal appointed for the purpose by the President (or in his absence the Vice-President) thereof, omit the name of the taxpayer with whose liability the Director of Income Tax is concerned where that single member and the Director of Income Tax are satisfied that -

- (a) it is not necessary to name the taxpayer -
 - (i) for the purpose of obtaining the delivery, making available for inspection or furnishing of the documents or information referred to in section 75B(2), or
 - (ii) otherwise for the purpose of performing the functions of the Director of Income Tax (whether in relation to the implementation, within the meaning of section 75CC, of any approved international agreement or any provision

thereof, or otherwise), or

- (b) it is otherwise necessary or desirable to omit the name of the taxpayer (for example, in the interests of protecting confidentiality).

(3) For the avoidance of doubt the member of the Guernsey Tax Tribunal appointed under subsection (2) is not under any duty to inquire into the substantive issues of law or fact raised in or relating to the notice under section 75B(2) or the contents thereof including, without limitation, any liability or alleged liability, or the circumstances of or giving rise to any liability or alleged liability, to tax under the law of Guernsey or of any other territory.

(4) No appeal lies against a decision of the appointed member under subsection (2).

(5) A member of the Guernsey Tax Tribunal -

- (a) when exercising his functions under this section is not acting on behalf of or as a member of the Guernsey Tax Tribunal but is exercising an independent office, and
- (b) in the case of the appointed member, may not sit as a member of the Guernsey Tax Tribunal when it is hearing any appeal, question or issue connected or relating to the subject matter of the notice.

(6) A member of the Guernsey Tax Tribunal may not perform any function under this section unless he has taken an oath or made an affirmation of confidentiality under section 206(1).

(7) No liability shall be incurred by any member of the Guernsey Tax Tribunal in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this section unless the thing is done or omitted to be done in bad faith or is attributable to his own fraud or wilful misconduct.

(8) The Policy Council may determine the costs, fees, expenses and allowances payable to a member of the Guernsey Tax Tribunal in respect of the performance of any functions under this section."

4. After section 206(1)(b) insert the following paragraph -

"(ba) is a member of the Tribunal, for the purposes of exercising the functions of an appointed member under section 75CB (provided that a person who, immediately prior to the date of commencement of the Income Tax (Guernsey) (Amendment) Ordinance, 2014, was a member of the Tribunal and who, before that date, had taken the oath required to be taken by such a member under paragraph (b), shall be deemed to have taken the oath required by this paragraph), or".

Citation.

5. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Ordinance, 2014.

Commencement.

6. This Ordinance shall come into force on the 30th April, 2014.

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