

Island of



Guernsey

Ordinance of the States

VIII
2015

Made 15th December, 2014
Coming into Operation 1st January, 2015
Laid before the States 25th February, 2015

The Income Tax (Guernsey) **(Amendment) (No. 3)** **Ordinance, 2014**

The Income Tax (Guernsey) (Amendment)

(No. 3) Ordinance, 2014

THE STATES LEGISLATION SELECT COMMITTEE, in pursuance of the States' Resolution of the 24th September, 2014^a, and in exercise of the powers conferred on the States by sections 75Q, 203A and 208C of the Income Tax (Guernsey) Law, 1975^b and all other powers enabling the States in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^c, hereby orders:-

Amendment of 1975 Law.

1. The Income Tax (Guernsey) Law, 1975, as amended, is further amended as follows.
2. In section 43(2)(ii), the proviso is repealed.
3. In section 51(4) after "section thirty-six of this Law" insert "in respect of individuals who are unmarried".
4. In section 51(5) after "under section 36(1)" insert "in respect of individuals who are unmarried".
5. After section 51(6) insert the following subsection -

^a Article VIII of Billet d'État No. XX of 2014.

^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 Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

"(7) Notwithstanding any other provision of this section, a person who is non-resident in any year of charge is not, in respect of that year of charge, entitled to a proportion of the personal and other allowances prescribed under section 36(1) by way of relief from income tax which exceeds in amount the personal and other allowances to which an unmarried individual who is solely or principally resident in Guernsey in that year of charge would be entitled."

6. Section 51A(1)^d is repealed.

7. In section 51A(2) after "section 36(1) of this Law" insert "in respect of individuals who are unmarried".

8. After section 51A(2) insert the following subsections -

"(2A) Notwithstanding the provisions of section 51(1), an individual who is resident, but not solely or principally resident, in Guernsey who is or has been in receipt of a pension arising or accruing or treated as arising or accruing in Guernsey in any year of charge shall, in respect of that year of charge, and provided that the pension is chargeable to tax and subject to the deduction of tax under this Law, be entitled to a proportion of the personal and other allowances prescribed under section 36(1) in respect of individuals who are unmarried by way of relief from income tax at the appropriate rate, and subject to the same conditions, as if he were solely or principally resident in Guernsey, that proportion -

^d Section 51A was inserted by Ordres en Conseil Vol. XXXIV, p. 388).

- (a) not to exceed one fifty-second part of those personal and other allowances in respect of every seven days for which he satisfies the Director of Income Tax that he is in receipt of that pension in that year of charge, and
- (b) to be set off only against his income comprised in that pension (and not against any other income arising or accruing or treated as arising or accruing in Guernsey).

(2B) In subsection (2A) "**pension**" means a pension, superannuation or other allowance described in section 81A(2)(b) or an annuity described in section 81A(2)(bA)."

9. In section 51A(3) -

- (a) the words "or section 51" are repealed, and
- (b) immediately before the words "individual who is solely or principally resident" insert "unmarried".

10. In section 75D(4) -

- (a) after "a person under section 75A or 75B" insert "or under subsection (5)",
- (b) in paragraph (a) after "any document or information produced" insert "or, as the case may be, which the person has told the Director of Income Tax he has in

his possession or power",

- (c) in paragraph (b) after "is not" insert "or, as the case may be, cannot be".

11. In section 75D(5)(a) after "what documents" insert "and information".

12. After section 75F(2)^e insert the following subsection -

"(3) An order of the Royal Court under this section may also direct the person on whom the order is served that he must not -

- (a) inform, or cause or permit to be informed, the taxpayer that the order has been made, or
- (b) disclose, or cause or permit to be disclosed, to any person (including the taxpayer) any information or matter which is likely to prejudice the inquiry to which the order relates or the performance by the Director of Income Tax of his functions,

and a person who fails to comply with a direction under this subsection may be dealt with as if he had committed a contempt of court, unless he can show

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^e Section 75F was inserted by Order in Council No. XVII of 2005.

- (i) that he took all reasonable precautions and exercised all due diligence to avoid the failure to comply by himself and by any person under his control, or
- (ii) in the case of a failure to comply with paragraph (b), that he did not know or suspect that the disclosure was likely to be prejudicial to the inquiry in respect of which the order was made or to the performance by the Director of Income Tax of his functions."

13. After section 75G(4)^f insert the following subsection -

"(5) Subsections (1), (2) and (3) do not apply in respect of an order under section 75F to the extent that the order comprises a direction under section 75F(3)."

14. In section 75I(8)(c)^g after the words "specified in, the warrant" insert "and any other person on the premises appearing to have charge of, or to be otherwise concerned in the operation of, the management, recording or storage of any document which is on or accessible from the premises, whether or not stored or recorded in electronic form, or any system, arrangement or technology in or by virtue of which any such document is stored, recorded or accessed".

^f Section 75G was inserted by Order in Council No. XVII of 2005.

^g Section 75I was inserted by Order in Council No. XVII of 2005.

15. After section 75I(8)(c)(ii)^h insert the following paragraph -

"and (iii) to render all such assistance as may reasonably be requested in order to facilitate the execution of the warrant and the search for, accessing, seizure or removal of any document."

16. In section 75L(2)(c)ⁱ after "section 75A(4)" insert "or 75B(5)".

17. In section 75O(1) for the definition of "taxpayer" substitute the following definition -

"**taxpayer**" means the person whose liability or the amount of whose liability to tax is being inquired into, or whose liability to tax is being or is sought to be enforced, under this Part of this Law, or from whom any amount due is being or is sought to be collected or recovered."

18. After section 172(1) insert the following subsection -

"(1A) For the avoidance of doubt, arrangements made with the government of another territory and specified in a Resolution under this section may, without limitation, and provided that the main purpose or one of the main purposes of the arrangements is that they are made with a view to affording relief from double taxation, make provision in respect of the following matters -

^h Section 75I was inserted by Order in Council No. XVII of 2005.

ⁱ Section 75L was inserted by Order in Council No. XVII of 2005.

- (a) the apportionment of taxing rights,
- (b) variations in the rates of tax, and methods of computing a person's liability to tax, in relation to particular sources of income,
- (c) the exemption from tax of particular sources of income,
- (d) other methods of affording relief from double taxation, in addition to those provided for by section 173 (tax credits), and
- (e) consequential, incidental, supplementary and transitional matters."

19. In section 172(2) immediately before the word "revoked" insert "varied or".

20. After section 193A(2)^j insert the following subsections -

"(2A) An employer -

- (a) who submits to the Director of Income Tax any form, schedule or list which he is required to submit by regulations made under the provisions of section 81A and which is

^j Section 193A was inserted by Ordres en Conseil Vol. XXVII, p. 118.

incorrect or incomplete in any material particular, and

- (b) who does not provide a corrected or completed form, schedule or list within a period specified by notice in writing from the Director of Income Tax (such period being one of not less than 21 days immediately following the date of the notice),

is liable to a penalty not exceeding £300 and is in addition liable to a further penalty not exceeding £50 for every day after the date of the imposition of the original penalty during which the form, schedule or list remains uncorrected or uncompleted.

(2B) Subsection (2A) is without prejudice to section 193(2)."

21. In section 209(1) for the definition of "emoluments" substitute the following -

"**emoluments**", in relation to an office or employment, includes -

- (a) any salary, stipend, fees, wages, earnings, perquisites and profits and payments whatsoever arising therefrom, from the termination thereof, or in consequence of a change in the terms thereof,
- (b) any other benefit, whether or not convertible into cash and irrespective of the identity of its provider, which

is derived by an office holder or employee, or by a member of his family or household, from that office or employment, from the termination thereof, or in consequence of a change in the terms thereof,

whether in pursuance of a legal obligation or not, and whether directly or indirectly, and "emoluments" also includes, for the avoidance of doubt, an award of compensation for unfair dismissal made by the Employment and Discrimination Tribunal under section 21 of the Employment Protection (Guernsey) Law, 1998, ".

Citation.

22. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014.

Commencement.

23. This Ordinance shall come into force on the 1st January, 2015 and shall have effect for the year of charge 2015 and subsequent years.

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