

ORDER IN COUNCIL

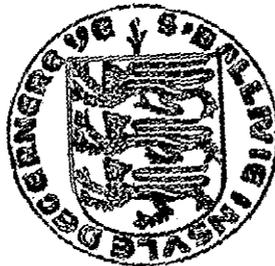
XXIX

Ratifying a Projet de Loi entitled

1949

The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Guernsey) Law, 1949.

(Registered on the Records of the Island of Guernsey
on the 12th day of November, 1949.)



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1949.

ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of November, 1949, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present: Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, James Frederick Carey, Arthur Falla, Quartier Le Pelley, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freaque Clark and Walter John Gavey, Esquires, Jurats.

The Bailiff having this day placed before the Court on Order of His Majesty in Council dated the 28th day of October, 1949, ratifying a *Projet de Loi* entitled the "The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Guernsey) Law, 1949,"—the Court, after the reading of the said Order in Council and after having heard His Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of the said Order in Council together with a copy of this present Act be sent by His Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, for which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 28th day of October, 1949.

Present,

The King's Most Excellent Majesty.

LORD PRESIDENT.
LORD CHAMBERLAIN.
MR. SECRETARY CREECH JONES.
MR. KEY.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the

Committee of Council for the Affairs of Guernsey and Jersey, dated the 14th day of October, 1949, in the words following, viz. :—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

‘1. That, in pursuance of their Resolutions of the 28th day of January, 1949, and of the 27th day of May, 1949, the States of Deliberation at a meeting held on the 21st day of September, 1949, approved a Bill or “Projet de Loi” entitled “The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Guernsey) Law, 1949” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto :
2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Guernsey) Law, 1949”, and to order and direct that the same shall have force of Law in the Islands of Guernsey, Alderney and Herm.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Alderney and Herm.

AND HIS MAJESTY doth hereby further direct that this Order and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

E. C. E. Leadbitter.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Guernsey) Law, 1949.

THE STATES, in pursuance of their Resolutions of the 28th day of January, 1949, and of the 27th day of May, 1949, have approved the following provisions, which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in this Island and in the Islands of Alderney and Herm.

1. The provisions of the Agreements dated respectively the 2nd day of March, 1949, and the 1st day of July, 1949, both made between the States of Jersey of the one part and the States of Guernsey of the other part, which provisions are set out, as regards the former of such Agreements, in the First Schedule hereto and, as regards the latter of such Agreements, in the Second Schedule hereto, shall have force of law in this Island and in the Islands of Alderney and Herm, and shall continue to have such force during such period as the said Agreements shall be in force and binding on the parties thereto.

2. This Law shall be deemed to have come into force on the 1st day of January, 1949.

FIRST SCHEDULE.

Agreement made on the second day of March, nineteen hundred and forty-nine *between* Francis de Lisle Bois, Greffier of the States of Jersey, for and on behalf of the States of Jersey and authorised by Act of the States of Jersey of the eighth day of February, nineteen hundred and forty-nine, of the one part; *and* Wilfred John Corbet, President of the Income Tax

Authority of the States of Guernsey, acting for and on behalf of the States of Guernsey and authorised by resolutions of the States of Guernsey of the twenty-eighth day of January, nineteen hundred and forty-nine, of the other part.

Whereas the States of Jersey and the States of Guernsey are desirous of concluding an agreement for the reciprocal exemption from income tax of persons who, for the purposes of income tax, are resident in the Island of Jersey or the Island of Guernsey, but are not resident in both Islands, and are desirous of making such supplemental, consequential and incidental provisions as appear to be necessary or proper for the purposes of such agreement ;

Now these presents witness as follows :—

1.—(a) Any person who proves to the satisfaction of the Comptroller of Income Tax of the Island of Jersey that, for the purposes of income tax for any year, he is resident in the Island of Guernsey but is not resident in the Island of Jersey shall be entitled to exemption from Jersey income tax for that year in respect of all property situate and all profits or gains arising or accruing in the Island of Jersey for that year.

(b) Any person who proves to the satisfaction of the Administrator of Income Tax of the Island of Guernsey that, for the purposes of income tax for any year, he is resident in the Island of Jersey but is not resident in the Island of Guernsey shall be entitled to exemption from Guernsey income tax for that year in respect of all property situate and all profits or gains arising or accruing in the Island of Guernsey for that year.

(c) Exemption under this Article may be given either by discharge or by repayment of tax, or otherwise, as the said Comptroller or the said Administrator, as the case may be, may decide.

2.—(a) Any person who is entitled to exemption from Jersey income tax by virtue of Article 1 (a) of this agreement in respect of property situate and profits or gains arising or accruing in the Island of Jersey shall, if and so far as may be provided by, and subject to any exemption or relief to which he may be entitled under, the Laws in force in the Island of Guernsey, be chargeable to Guernsey income tax in respect of such property, profits or gains.

(b) Any person who is entitled to exemption from Guernsey income tax by virtue of Article 1 (b) of this agreement in respect of property situate and profits or gains arising or accruing in the Island of Guernsey shall, if and so far as may be provided by, and subject to any exemption or relief to which he may be entitled under, the Laws in force in the Island of Jersey, be chargeable to Jersey income tax in respect of such property, profits or gains.

3. For the purpose of this agreement, a body of persons, corporate or unincorporate, not being a partnership, shall be deemed to be resident in that Island only in which its business is managed and controlled.

4.—(a) With a view to the apportionment, on a fair and equitable basis, between the parties to this agreement, of the loss of revenues resulting from this agreement—

- (i) the States of Jersey shall refund to the States of Guernsey a proportion, calculated in accordance with the provisions of paragraph (b) of this Article, of the tax collected for each year to which this agreement applies in respect of the business profits, as computed for the purposes of income tax, arising or accruing in the Island of Guernsey to persons resident in the Island of Jersey ;
- (ii) the States of Guernsey shall refund to the States of Jersey a proportion, calculated in

accordance with the provisions of paragraph (b) of this Article, of the tax collected for each year to which this agreement applies in respect of the business profits, as computed for the purposes of income tax, arising or accruing in the Island of Jersey to persons resident in the Island of Guernsey.

(b) The proportion of the tax collected on the business profits which is required by this Article to be refunded shall be—

(i) in relation to an individual, one half of an amount which bears the same ratio to the tax charged on his total income for the year, as the amount of the business profits bears to such total income ;

(ii) in any other case, one half of the tax collected.

(c) In this Article “ business profits ” means any profits or gains arising or accruing from any trade, manufacture, adventure or concern in the nature of trade, or from any profession.

5.—(a) Where the standard rate of income tax in one Island for any year exceeds the standard rate of income tax in the other Island for that year, it shall be permissible for the States of the first-mentioned Island to impose a tax, at a rate not exceeding the difference between the said standard rates, on the trading profits, as computed for the purposes of income tax, arising or accruing in that Island to bodies corporate resident in the other Island.

(b) The amount of the tax so imposed shall not be allowed as a deduction in assessing the amount of such profits for the purposes of income tax in the other Island, and it shall not be permissible for a body corporate to deduct the amount of such tax from any dividends payable to the holders of shares therein.

(c) Any tax so imposed shall not be deemed to be income tax for the purposes of any enactment relating to income tax for the time being in force in either of the Islands.

6. The Comptroller of Income Tax of the Island of Jersey and the Administrator of Income Tax of the Island of Guernsey may from time to time make arrangements generally for carrying out this agreement and may in particular make such arrangements as may be practicable to avoid the collection of both Jersey and Guernsey income tax on the same income without allowance for any relief due under this agreement.

7.—(a) Notwithstanding any obligation as to secrecy imposed by any enactment relating to income tax, the taxation authority of either party to this agreement may disclose to the taxation authority of the other party such information as may be necessary to enable full effect to be given to this agreement, but any information so disclosed shall be treated as secret and shall not be disclosed to any persons other than those concerned with the administration of income tax.

(b) In this Article "taxation authority" means, as regards Jersey, the Comptroller of Income Tax or any person, being a sworn member of the Income Tax Department of the States of Jersey, designated by the said Comptroller, and, as regards Guernsey, the Administrator of Income Tax or any person, being a sworn member of the Income Tax Department of the States of Guernsey, designated by the said Administrator.

8.—(a) Any question that may arise between the parties to this agreement as to the interpretation of this agreement, or as to any matter arising out of or incidental to this agreement, shall be determined by such person or persons experienced in matters of income tax as may be agreed between the Finance

Committee of the States of Jersey and the Income Tax Authority of the States of Guernsey, and the determination of such person or persons shall be final.

(b) For the avoidance of doubt, it is hereby declared that references in this agreement to income tax include references to sur-tax.

9. Either party may determine this agreement by giving to the other party six months' previous notice to that effect expiring on the thirty-first day of December in any year.

10. This agreement shall have effect only if and so long as legislation confirming the agreement is in force both in the Island of Jersey and the Island of Guernsey.

Dated this second day of March, 1949.

SECOND SCHEDULE.

Agreement made the first day of July, nineteen hundred and forty-nine *between* Francis de Lisle Bois, Greffier of the States of Jersey, for and on behalf of the States of Jersey and authorized by Act of the States of Jersey of the twenty-fifth day of May, nineteen hundred and forty-nine, of the one part; *and* Wilfred John Corbet, President of the Income Tax Authority of the States of Guernsey, acting for and on behalf of the States of Guernsey and authorized by resolutions of the States of Guernsey of the twenty-seventh day of May, nineteen hundred and forty-nine, of the other part.

Whereas this Agreement is supplemental to an Agreement made on the second day of March, nineteen hundred and forty-nine, between the States of Jersey and the States of Guernsey for the reciprocal exemption from income tax of persons who, for the purposes of income tax, are resident in the Island of Jersey or the Island of Guernsey, but are not resident in both Islands;

And whereas the laws relating to income tax in force in the Island of Guernsey, known as the Income Tax Laws, 1920 to 1948, are also in force in the Islands of Alderney and Herm ;

Now these presents witness as follows :—

1. The said Agreement of the second day of March, nineteen hundred and forty-nine, shall have effect and shall be deemed always to have had effect as if references therein to the Island of Guernsey included references to the Islands of Alderney and Herm.

2. This Agreement shall have effect only if and so long as legislation confirming the said Agreement of the second day of March, nineteen hundred and forty-nine, and this Agreement is in force both in the Island of Jersey and in the Islands of Guernsey, Alderney and Herm.

Dated this first day of July, 1949.

JAMES E. LE PAGE,
H.M. Greffier.