

Island of



Guernsey

Ordinance of the States

XXXI
2015

Made 29th September, 2015

Coming into Operation 2nd October, 2015

The Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015

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THE STATES, in pursuance of their Resolution of the 30th September, 2015^a, and in exercise of the powers conferred on them by sections 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. After section 17(2) insert the following subsection -

"(3) In this section, and for the avoidance of doubt, the expression "income" includes a lump sum which arises in commutation of or in lieu of a pension which would otherwise have been payable to the individual to whom the lump sum is paid."

3. After section 40(kk) insert the following paragraph -

"(ll) a lump sum -

(i) which is paid out of or under the provisions of a pension scheme, annuity scheme or annuity trust scheme, being a scheme which, in the opinion of the Director of Income Tax -

(A) is situated in a place outside Guernsey,

(B) is approved or exempted by the

^a Article XIII of Billet d'État No. XVI of 2015.

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

competent authority in that place under the relevant provisions of the laws relating to income tax there, and

- (C) provides retirement or other benefits of a nature similar to a scheme which may be approved under section 150 or 157A,
- (ii) to the extent that it does not, together with all other lump sum payments made from the scheme to or in respect of the individual, exceed 30%, or such other percentage as the Department may prescribe by regulation, of the value of the fund accumulated under the scheme and attributable to the individual to or in respect of whom the lump sum is paid, the valuation being made immediately before the time of the making of the payment, and
- (iii) which, or part of which, arises in commutation of or in lieu of a pension which would otherwise have been payable to the individual to whom the lump sum is paid out of or under the provisions of that scheme,

being a payment which would otherwise be taxable under section 17."

4. In section 157A(2)(b) after the words "the provisions of subsection (3)" insert "and subsection (12)".

5. After section 157A(11) insert the following subsections -

"(12) Where a payment is or has at any time been made on behalf of an individual into a retirement annuity scheme or retirement annuity trust scheme approved by the Director of Income Tax under this

section from -

- (a) a superannuation fund established in Guernsey which has not been approved or deemed to have been approved by the Director of Income Tax in accordance with section 150(2) or (3) and the income of which is exempt from income tax by virtue of section 40(o), or
- (b) a pension scheme, annuity scheme or annuity trust scheme situated in a place outside Guernsey and described in section 157B(1)(e),

then, provided that the payment from that scheme, or the funds derived from that payment, can be separately identified, and without prejudice to any other retirement or other benefits specified by the rules of the retirement annuity scheme or retirement annuity trust scheme into which the payment was made, the payment or funds may be used, paid, transferred or expended in any manner or for any purpose allowed by -

- (i) the rules of the superannuation fund referred to in paragraph (a), or, as the case may be,
- (ii) the relevant provisions of the laws of the place in which the scheme referred to in paragraph (b) is situated,

as those rules or provisions, as the case may be, have effect at the time of such use, payment, transfer or expenditure.

(13) Subsection (12) is without prejudice to section 153(6) or 157B(2).".

Citation.

6. This Ordinance may be cited as the Income Tax (Pension

Amendments) (Guernsey) Ordinance, 2015.

Commencement.

7. This Ordinance shall come into force on the 2nd October, 2015.

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