

Island of



Guernsey

Ordinance of the States

**LI
2015**

Made 8th December, 2015

Coming into Operation 1st January, 2016

The Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015

**The Income Tax (Zero 10)
(Company Higher Rate)
(Amendment) (Guernsey) Ordinance, 2015**

THE STATES, in pursuance of their Resolution of the 29th October, 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 orders:-

Amendment of 1975 Law.

1. The Income Tax (Guernsey) Law, 1975 ("**the Law**"), as amended, is further amended as follows.

2. After section 2(2)(b)^c insert the following paragraphs -

"(ba) income from gas and hydrocarbons business,

(bb) income from large retail business,".

3. After section 7B^d insert the following section -

"Calculation of income from gas and hydrocarbons business and large retail business.

7BA. For the avoidance of doubt, income from gas and hydrocarbons business and large retail business shall be calculated in the same manner as income from any other business."

^a Proposition II of Billet d'État No. XIX 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.

^c Section 2 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011).

^d Section 7B was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (Order in Council No. VI of 2011).

4. After section 47G(b)^e insert the following paragraphs -

"(ba) gas and hydrocarbons business carried on in Guernsey,

(bb) large retail business carried on in Guernsey,".

5. After section 139(4)^f insert the following subsection -

"(5) In addition, subsection (2) does not apply in any year of charge to the losses of a company where -

(a) in the year of charge 2015 the company's income fell within class 2(2)(d),

(b) the company is carrying on the same business as it was carrying on in the year of charge 2015, and

(c) the company's income falls within class 2(2)(ba) or 2(2)(bb).".

6. In section 209(1) insert the following definitions at the appropriate places -

"gas and hydrocarbons business" means the business of the importation and/or supply of gas or hydrocarbon oil in Guernsey, except where the business does not import gas or hydrocarbon oil and supplies it solely by means of a retail outlet from which it is sold directly to the public solely for use in motor vehicles or boats, and for the purposes of this definition -

^e Section 47G was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (Order in Council No. VI of 2011).

^f Section 139(4) was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015 (Ordinance No. XXV of 2015).

- (a) **"gas"** means -
- (i) any substance in a gaseous state which consists wholly or mainly of -
 - (A) methane, ethane, propane, butane, hydrogen or carbon monoxide,
 - (B) a mixture of two or more of those gases, or
 - (C) a combustible mixture of one or more of those gases and air, and
 - (ii) any other substance in a gaseous state which is gaseous at a temperature of 15 degrees C and a pressure of 1013.25 millibars and which is not exempted by statement of practice issued by the Director under section 204, and
- (b) **"hydrocarbon oil"** means any petroleum oil, coal tar or oil produced from coal, shale, peat or any other bituminous substance, or any liquid hydrocarbon, except any hydrocarbon or bituminous or asphaltic substance which is -
- (i) solid or semi-solid at a temperature of 15 degrees Celsius, or
 - (ii) gaseous at a temperature of 15 degrees Celsius and under a pressure of 1013.25 millibars,

and which is ordinarily used as fuel for the propulsion of any vehicle, vessel or aircraft or as boiler or furnace fuel,"

"large retail business" means a retail business carried on in Guernsey the taxable profits arising or accruing from which in any year of charge exceed £500,000, provided that -

- (a) in the case of a retail business carried on in Guernsey for only a proportion of any year of charge, the threshold of £500,000 referred to in this definition, above which the business from which the taxable profits arose or accrued is considered to be a large retail business, shall in respect of that year of charge be reduced pro rata to the same proportion,
- (b) a retail business more than 95% of the customers of which are outside Guernsey shall not be considered to be a large retail business,
- (c) the taxable profits arising or accruing from associated companies carrying on retail business in Guernsey shall be considered to have arisen or accrued from the same business and shall accordingly be aggregated for the purposes of calculating the threshold of £500,000 referred to in this definition (reduced pro rata where appropriate in accordance with paragraph (a)), and the liability to tax shall be apportioned between the companies according to their respective profits whether or not the taxable profits arising or accruing to the company in question exceeded the said threshold,

- (d) a business shall not be considered to be a retail business for the purposes of this definition to the extent that its taxable profits arise or accrue from the provision of services, and
- (e) for the avoidance of doubt a retail business includes an online retail business, but excludes wholesale trade,

and companies shall be considered to be "**associated companies**" for the purposes of this definition if at the time in question one of the companies has control over the other or both companies are under the control of the same person or persons (and for the purposes of this definition the expression "control" shall be construed in accordance with section 122(1)).

The Department may by regulation amend this definition,".

7. In the Fifth Schedule in the table therein insert the following entries immediately below the entry relating to "Income from trading activities regulated by the Guernsey Competition and Regulatory Authority"⁸ -

"2(2)(ba)	Income from gas and hydrocarbons business	company higher rate	20%
2(2)(bb)	Income from large retail business	company higher rate	20%".

Year of computation: special provision.

8. Section 6(3A) of the Law applies to any company where the applicable rate of taxation of that company's income is altered by the provisions of this Ordinance *mutatis mutandis*.

⁸ The Fifth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011).

Citation.

9. This Ordinance may be cited as the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015.

Commencement.

10. This Ordinance shall come into force on the 1st January, 2016.

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