

PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Law, 1975 *

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Ordres en Conseil Vol. XXV, p. 124; as amended by the: Income Tax (Amendment) (Guernsey) Law, 1976 (Ordres en Conseil Vol. XXVI, p. 146); Income Tax (Amendment) (Guernsey) Law, 1977 (Ordres en Conseil Vol. XXVI, p. 200); Social Insurance (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 292); Income Tax (Amendment) (Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 84); Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 118); Income Tax (Amendment) (Guernsey) Law, 1980 (Ordres en Conseil Vol. XXVII, p. 200); Income Tax (Amendment) (Guernsey) Law, 1981 (Ordres en Conseil Vol. XXVII, p. 333); Income Tax (Amendment) (Guernsey) Law, 1982 (Ordres en Conseil Vol. XXVII, p. 565); Preferred Debts (Guernsey) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 184); Income Tax (Amendment) (Guernsey) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 278); Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984 (Ordres en Conseil Vol. XXVIII, p. 353); Income Tax (Amendment) (Guernsey) Law, 1984 (Ordres en Conseil Vol. XXVIII, p. 409); Income Tax (Amendment) (Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 406); Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 406); Income Tax (Amendment) (Guernsey) Law, 1990 (Ordres en Conseil Vol. XXXII, p. 307); Income Tax (Pension Amendments) (Guernsey) Law, 1991 (No. IV of 1991, Ordres en Conseil Vol. XXXIII, p. 91); Income Tax (Amendment) (Guernsey) Law, 1992 (No. VI of 1992, Ordres en Conseil Vol. XXXIV, p. 201); Income Tax (Allowances Amendments) (Guernsey) Law, 1993 (No. IV of 1993, Ordres en Conseil Vol. XXXIV, p. 387); Income Tax (Pension Amendments) (Guernsey) Law, 1993 (No. VIII of 1993, Ordres en Conseil Vol. XXXIV, p. 440); Income Tax (Pension Amendments) (Guernsey) Law, 1994 (No. XXV of 1994, Ordres en Conseil Vol. XXXV(2), p. 623); Income Tax (Emoluments Amendments) (Guernsey) Law, 1995 (No. III of 1995, Ordres en Conseil Vol. XXXVI, p. 71); Income Tax (International Bodies) (Guernsey) Law, 1995 (No. VII of 1995, Ordres en Conseil Vol. XXXVI, p. 158); Income Tax (Limited Partnership Amendments) (Guernsey) Law, 1996 (No. V of 1996, Ordres en Conseil Vol. XXXVI, p. 571); Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997 (No. IV of 1997, Ordres en Conseil Vol. XXXVII, p. 38); Income Tax (Pension Amendments) (Guernsey) Law, 1997 (No. XXII of 1997, Ordres en Conseil Vol. XXXVII, p. 434); Income Tax (Returns Amendment) (Guernsey) Law, 1999 (No. II of 1999, Ordres en Conseil Vol. XXXIX, p. 32); Social Insurance (Guernsey) (Amendment) Law, 1999 (No. VI of 1999, Ordres en Conseil Vol. XXXIX, p. 107); Income Tax (Year of Computation) (Guernsey) Law, 2000 (No. IV of 2000, Ordres en Conseil Vol. XL, p. 40); Income Tax (States Trading Companies and Public Servants' Pension Scheme) (Guernsey) Law, 2001 (No. VI of 2001, Ordres en Conseil Vol. XLI, p. 234); Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001 (No. XVII of 2001, Ordres en Conseil Vol. XLI, p. 597); Income Tax (Pension Amendments) (Guernsey) Law, 2001 (No. VII of 2002, Ordres en Conseil Vol. XLII(1), p. 222); Insurance Business (Bailiwick of Guernsey) Law, 2002 (No. XXI of 2002, Ordres en Conseil Vol. XLII(2), p. 766); Income Tax (Tax Relief on Maintenance Payments) (Guernsey) Law, 2002 (No. IV of 2003, Ordres en Conseil Vol. XLIII(1), p. 109); Income Tax (Long-term Care Benefit) (Guernsey) Law, 2003 (No. XVIII of 2003, Ordres en Conseil Vol. XLIII(1), p. 532); Income Tax (Guernsey) (Amendment) Law, 2003 (No. XXVI of 2003, Ordres en Conseil Vol. XLIII(2), p. 850); Income Tax (Guernsey) (Amendment) Law, 2004 (No. XII of 2004, Ordres en Conseil Vol. XLIV(1), p. 269); Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004 (No. XVI of 2004, Ordres en Conseil Vol. XLIV(1), p. 417); Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004 (No. V of 2005, Ordres en Conseil Vol. XLV, p. 125); Income Tax (Pension Amendments) (Guernsey) Law, 2004 (No. VI of 2005, Ordres en Conseil Vol. XLV, p. 136); Income Tax (Guernsey) (Amendment) Law, 2005 (No. XVII of 2005, Ordres en Conseil Vol. XLV, p. 424); Income Tax (Residence) (Guernsey) (Amendment) Law, 2005 (No. II of 2006); Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005 (No. VII of 2006); Income Tax (Guernsey) (Amendment) Law, 2007 (No. XXI of 2007); Income Tax (Zero 10) (Guernsey) Law, 2007 (No. V of 2011); Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (No. VI of 2011); Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (No. XXVI of 2008); Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009 (No. XXIV of 2009); Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009 (No. VII of 2011); Income Tax (Guernsey) (Amendment) Law, 2009 (No. IX of 2011); Income Tax (Guernsey) (Amendment) Law, 2010 (No. XII of 2010); Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009 (No. XIII of 2010); Income Tax (Guernsey) (Amendment) Law, 2008 (No. V of 2012); Income Tax (Pension Amendments) (Guernsey) Law, 2011 (No. VI of 2012); Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); Limited Liability Partnerships (Guernsey) Law, 2013 (No. VI of 2014); Income Tax (Guernsey) (Amendment) Law, 2015 (No. XI of 2015); Income Support (Guernsey) Law, 2017 (No. IV of 2018); States' Register of Contact Details (Guernsey and Alderney) Law, 2019 (No. IV of 2020); Secondary Pensions (Guernsey and Alderney) Law, 2022 (No. III of 2023); Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012 (No. XXIV of 2012); Income Tax (Guernsey) (Amendment) Ordinance, 2012 (No. XVI of 2012); Guernsey Competition and Regulatory Authority Ordinance, 2012 (No. XIII of 2012); Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012 (No. LVIII of 2012); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012 (No. XXXV of 2012); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012 (No. VII of 2013); Electronic Census (Guernsey)

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments

Ordinance, 2013 (No. XXX of 2013); Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013 (No. I of 2014); Income Tax (Guernsey) (Amendment) Ordinance, 2014 (No. XIII of 2014); Income Tax (Guernsey) (Approved International Agreements) (Amendment) Ordinance, 2014 (No. XXXI of 2014); Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014 (No. III of 2015); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014 (No. VII of 2015); Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014 (No. VIII of 2014); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015 (No. XXV of 2015); Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015 (No. XXXI of 2015); Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015 (No. LI of 2015); Income Tax (Guernsey) (Amendment) Ordinance, 2015 (No. LVI of 2015); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015 (No. XVI of 2016); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Income Tax (Guernsey) (Amendment) Ordinance, 2016 (No. XXXIV of 2016); Income Tax (Guernsey) (Amendment) Ordinance, 2017 (No. XVI of 2017); Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017 (No. XVII of 2017); Social Insurance (Guernsey) Law (Amendment) Ordinance, 2017 (No. XXIII of 2017); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017 (No. XXXIX of 2017); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017 (No. XL of 2017); Income Tax (Guernsey) (Amendment) Ordinance, 2018 (No. XXIII of 2018); Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVII of 2018); Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018 (No. XXXV of 2018); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018 (No. XLVIII of 2018); Income Tax (Pension Amendments) (Guernsey) Ordinance, 2018 (No. L of 2018); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018 (No. LI of 2018); Income Tax (Guernsey) (Amendment) Ordinance, 2019 (No. XIX of 2019); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2019 (No. XL of 2019); Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019 (No. XLI of 2019); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019 (No. XLII of 2019); Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020 (No. XIX of 2020); Income Tax (Residence) (Amendment) (Guernsey) Ordinance, 2020 (No. VI of 2021); Social Insurance (States Pension) (Amendment) (Guernsey) Ordinance, 2021 (No. V of 2021); Income Tax (Charitable Donations) (Guernsey) (Amendment) Ordinance, 2021 (No. XI of 2021); Income Tax (Guernsey) (Amendment) Ordinance, 2021 (No. XXVIII of 2021); Guernsey Revenue Service Tribunal Ordinance, 2021 (No. XXXIX of 2021); Charities etc. (Guernsey and Alderney) Ordinance, 2021 (No. XXIV of 2021); Income Tax (Guernsey) (Amendment) Ordinance, 2022 (No. XVI of 2022); Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022 (No. XVII of 2022); Income Tax (Guernsey) (Amendment) Ordinance, 2023 (No. XL of 2023); Income Tax (Guernsey) (Amendment) Ordinance, 2024 (No. XII of 2024); Income Tax (Investment Companies) (Guernsey) (Amendment) Ordinance, 2024 (No. XIII of 2024); Income Tax (Guernsey) (Budget) Ordinance, 2024 (No. ** of 2024); Income Tax (Gratuity Schemes) (Guernsey) (Amendment) Ordinance, 2025 (No. ** of 2025); Income Tax (Guernsey) (Budget) Ordinance, 2025 (No. ** of 2025); Income Tax (Substance Requirements) (Implementation) Regulations, 2018 (G.S.I. No. 90 of 2018); Income Tax (Substance Requirements) (Implementation) (Amendment) Regulations, 2019 (G.S.I. No. 84 of 2019); Income Tax (Substance Requirements) (Implementation) (Amendment) (No. 2) Regulations, 2019 (G.S.I. No. 85 of 2020); Income Tax (Standard Charge) (Amendment) Regulations, 2020 (G.S.I. No. 2 of 2021); Income Tax (Substance Requirements) (Implementation) Regulations, 2021 (G.S.I. No. 64 of 2021); Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022 (G.S.I. No. 61 of 2022); Income Tax (Independent Taxation) (Section 42C) Regulations, 2023 (G.S.I. No. 27 of 2023); Secondary Pensions (Guernsey and Alderney) Regulations, 2023 (G.S.I. No. 83 of 2023); Resolution of States of Guernsey of 15th December, 2011 (Billet XXII, propositions 14 and 16); Income Tax (Pensions) (Amendment) Regulations, 2025 (G.S.I. No. 39 of 2025). See also the: Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); Income Tax (Allowances Amendments) (Guernsey) Law, 1993 (*supra*); Income Tax (Exemption of Benefits) Ordinance, 1995 (Recueil d'Ordonnances Tome XXVI, p. 472); Income Tax (Guernsey) (Amendment) Law, 2005 (Commencement of Law and Approval of Agreement) Ordinance, 2006 (No. VI of 2006, Recueil d'Ordonnances Tome XXXI, p. 258); Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007 (No. I of 2008, Recueil d'Ordonnances Tome XXXIII, p. 1); Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012 (*supra*); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (No. XIII of 2017); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (Alderney Ordinance No. VIII of 2018); Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 (G.S.I. No. 55 of 2014); Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (G.S.I. No. 97 of 2015); Income Tax (Substance Requirements) (Implementation) Regulations, 2021 (*supra*); Income Tax (Investment Companies) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2024 (G.S.I. No. 96 of 2024); Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024 (G.S.I. No. 97 of 2024); Income Tax (Pensions) (Amendment) Regulations, 2025 (*supra*); Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025 (G.S.I. No. 135 of 2025). This Law is prospectively amended by the: Economic Statistics (Guernsey and Alderney) Law, 2019 (No. V of 2020).

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listed in the footnote above. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Law, 1975

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PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) Law, 1975

THE STATES, in pursuance of their Resolutions of the fourteenth day of November, nineteen hundred and seventy-three, the twenty-seventh day of March, nineteen hundred and seventy-four, and the twenty-fifth day of September, nineteen hundred and seventy-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Herm.

PART I

INCOME TAX AND INCOME

CHAPTER I

GENERAL PROVISIONS AS TO CHARGE OF TAX AND ASSESSABLE INCOME

Year of charge.

1. A year the income for which is to be assessed and for which tax is to be charged shall be the calendar year, and any such year is in this Law referred to as a "**year of charge**".

NOTE

The following cases have referred to this Law:

McKean v. Administrator of Income Tax (1991) 11.GLJ.50;
States of Guernsey v. Hillcrest Executor and Trustee Company Limited (1993) 16.GLJ.35;

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Administrator of Income Tax v. Gold (1996) 21.GLJ.28;
Administrator of Income Tax v. Scott (1996) 21.GLJ.28;
Bannister v. Administrator of Income Tax (1997) 24.GLJ.33;
Gold v. Administrator of Income Tax (1999) 27.GLJ.144;
Administrator of Taxes v. Tremoille Properties Limited (2002) (Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);
Bath Limited v. Administrator of Income Tax 2003-04 GLR 168;
Carpenter v. Administrator of Income Tax 2003-04 GLR 260;
Administrator of Income Tax v. Broadaker Company Limited 2005–06 GLR 152;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 314;
Yaddehige v. Credit Suisse Trust Limited, Collas Day and MPR Private Clients Limited (2007) (Unreported, Royal Court, 30th March) (Guernsey Judgment No. 8/2007); 2007-08 GLR Note 4;
Glass v. Administrator of Income Tax 2007–08 GLR 229;
Yaddehige v. Credit Suisse Trust Limited, Collas Day and Fortis Reads Private Clients Limited 2007–08 GLR 282;
A, a Taxpayer v. Director of Income Tax, States of Guernsey Income Tax Office (2016) (Unreported, Court of Appeal, 21st December) (Guernsey Judgment No. 54/2016); [2016] GLR 382;
Sargent v The Public Trustee of the Bailiwick of Guernsey (2018) (Unreported, Royal Court, 11th May) (Guernsey Judgment No. 22/2018);
A Taxpayer v. Director of Income Tax [2019]GRC005 (Unreported, Royal Court, 11th February); [2019] GLR 22;
Mourant Trustees and Carezo Limited v Director of the Revenue Service [2023]GRC034 (Unreported, Royal Court, 8th August);
Mourant Trustees Limited and Carezo Limited v Director of Revenue Services [2024]GCA050 (Unreported, Court of Appeal, 26th July);
Mourant Trustees (Guernsey) Limited v The Director of the Revenue Service [2024]GCA057 (Unreported, Court of Appeal, 19th August).

The following case referred to the Income Tax (Guernsey) Law, 1950:

Administrator of Income Tax v. Twentieth Century Banking Corporation Limited (1976) (Unreported, Court of Appeal, 29th June) (Court of Appeal Judgments, 1964-89, p. 117).

In accordance with the provisions of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 8, this Law, when cited together with the Income Tax (Guernsey) Laws, 1975 to 1992, may be cited as the Income Tax (Guernsey) Laws, 1975 to 1993.¹

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 14, with effect from 30th June, 2014, for the purposes of the 2014 Regulations and the Agreements as they have effect by virtue of those Regulations and without prejudice to any other

provision of those Regulations, any reference in this Law to this Law (whether by use of the expression "this Law" or otherwise) or any provision thereof has effect as if the reference were to this Law or that provision as modified in its application by those Regulations; and the provisions of this Law shall be construed and shall have effect subject to those modifications.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 15, with effect from 1st December, 2015, for the purposes of the 2015 Regulations and without prejudice to any other provision of those Regulations, any reference in this Law to this Law (whether by use of the expression "this Law" or otherwise) or any provision thereof has effect as if the reference were to this Law or that provision as modified in its application by those Regulations; and the provisions of this Law shall be construed and shall have effect subject to those modifications.

In accordance with the provisions of the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 34, with effect from 30th June, 2021, for the purposes of the 2021 Regulations and without prejudice to any other provision of those Regulations, any reference in this Law to this Law (whether by use of the expression "this Law" or otherwise) or any provision thereof has effect as if the reference were to this Law or that provision as modified in its application by those Regulations; and the provisions of this Law shall be construed and shall have effect subject to those modifications.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 59, with effect from 1st January, 2025, any reference in the provisions of this Law, however expressed, to "income tax" or "tax" shall, unless the context requires otherwise, include references to the Domestic Top-up Tax payable under the GloBE Model Rules (the "DTT"), and references herein to "taxation", "taxpayer" and other related expressions shall be construed accordingly; second, regulation 68, with effect from that same date and for the purposes of the 2024 Regulations and the GloBE Model Rules, and without prejudice to any other provision of those Regulations, any reference in the provisions of this Law to the Law (whether by use of the expression "this Law" or otherwise), or to any of the provisions of this Law, has effect as if the reference were to this Law or those provisions as modified in their application by the 2024 Regulations, and the provisions of this Law shall be construed and shall have effect subject to those modifications; and, third, regulation 60, with effect from 1st January, 2025 and without prejudice to the generality of regulation 1(3) of the 2024 Regulations, any reference in the provisions of the Law, however expressed, to regulations shall, unless the context requires otherwise, include references to the GloBE Model Rules as they have effect in Guernsey by virtue of the 2024 Regulations.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework)

Regulations, 2025, regulation 29, with effect from 1st January, 2026, for the purposes of the 2025 Regulations and the Crypto-Asset Reporting Framework (“CARF”) Rules, and without prejudice to any other provision of those Regulations, any reference in this Law to this Law (whether by use of the expression “this Law” or otherwise) or any provision thereof has effect as if the reference were to this Law or that provision as modified in its application by those Regulations; and the provisions of this Law shall be construed and shall have effect subject to those modifications; and, in accordance with the provisions of regulation 23 of the 2025 Regulations, and without prejudice to the generality of regulation 1(3) thereof, any reference in the provisions of this Law, however expressed, to regulations shall, unless the context requires otherwise, include references to the CARF Rules as they have effect in Guernsey by virtue of the 2025 Regulations.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017 and, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018, section 1(2) and section 2 of, respectively, the Same-Sex Marriage (Guernsey) Law, 2016 and the Same-Sex Marriage (Alderney) Law, 2017 do not apply in respect of this Law.

[General provisions as to income and the computation thereof.]

2. (1) An individual's income in respect of which tax is chargeable shall be income of one or other of the following classes namely –

- (a) income from businesses,
- (b) income from offices and employments,
- (c) income from the ownership of lands and buildings, and
- (d) income from other sources.

(2) A company's income in respect of which tax is chargeable shall be income of one or other of the following classes namely –

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- (a) income from banking business (as defined in the Fourth Schedule, which may be amended by regulations made by the [Committee]),
- [(aa) income from domestic insurance business (as defined in the Fourth Schedule),
- (ab) income from fiduciary business (as defined in the Fourth Schedule),
- (ac) income from insurance intermediary business (as defined in the Fourth Schedule),
- (ad) income from insurance manager business (as defined in the Fourth Schedule),]
- [(ae) income from the administration of controlled investments (as defined in the Fourth Schedule),]
- [(af) income from the provision of custody services (as defined in the Fourth Schedule),]
- [(ag) income from the provision of investment management individual client services (as defined in the Fourth Schedule),]
- [(ah) income from the operation of an investment exchange (as defined in the Fourth Schedule),
- (ai) income from compliance and other related activities (as defined in the Fourth Schedule),]

- [(aj) income from the operation of an aviation registry,]
- (b) income from activities regulated by [the Guernsey Competition and Regulatory Authority],
- [(ba) income from gas and hydrocarbons business,
- (bb) income from large retail business,]
- [(bc) income from the business of the cultivation or use of the cannabis plant,
- (bd) income from the business of the prescribed production or prescribed use of controlled drugs,]
- (c) income from the ownership of lands and buildings, and
- (d) income from businesses (other than businesses referred to in any other paragraph of this subsection), offices and employments, and other sources.

(3) The income for any year of charge in respect of which tax is chargeable (in this Law referred to as "**assessable income**") shall in the case of each particular class be computed in such manner and by reference to such year of computation or other period as is mentioned in this Law.]

NOTES

Section 2 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 2, with effect from 1st January, 2008.

In section 2,

the word in square brackets in paragraph (a) of subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

paragraph (aa), paragraph (ab), paragraph (ac) and paragraph (ad) of subsection (2) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 2, with effect from 1st January, 2013;

paragraph (ae) of subsection (2) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 2, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

paragraph (af) of subsection (2) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 2, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;

paragraph (ag) of subsection (2) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 2, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

paragraph (ah) and paragraph (ai) of subsection (2) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 2, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

paragraph (aj) of subsection (2) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 2, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance;

the words in square brackets in paragraph (b) of subsection (2) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012;

paragraph (ba) and paragraph (bb) of subsection (2) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 2, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance;

paragraph (bc) and paragraph (bd) of subsection (2) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment)

(Guernsey) Ordinance, 2019, section 2, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance.

The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.

The following cases have referred to section 2:

Bath Limited v. Administrator of Income Tax 2003-04 GLR 168;
Carpenter v. Administrator of Income Tax 2003-04 GLR 260;
Administrator of Income Tax v. Cachemar Limited 2005-06 GLR
161;
Administrator of Income Tax v. Cachemar Limited 2005-06 GLR
314.

Definition of "resident", "solely resident" and "principally resident" in the case of an individual.

3. (1) An individual shall be treated as being "resident" in Guernsey in any particular year of charge if –

- (a) he spends 91 days or more in Guernsey in that year of charge, or
- (b) he spends 35 days or more in Guernsey in that year of charge and, during the four preceding years of charge, he has spent 365 days or more in Guernsey.

(2) An individual shall be treated as being "solely resident" in Guernsey in any particular year of charge if –

- (a) he is resident in Guernsey, within the meaning of subsection (1), in that year of charge, and

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- (b) he is not resident in any other place in that year of charge; and for the purposes of this paragraph an individual shall be treated as being resident in any other place in any particular year of charge only if he spends 91 days or more in that place in that year of charge.

(3) An individual shall be treated as being "principally resident" in Guernsey in any particular year of charge if –

- (a) he spends 182 days or more in Guernsey in that year of charge, or
- (b) he spends 91 days or more in Guernsey in that year of charge and, during the four preceding years of charge, he has spent 730 days or more in Guernsey, or
- (c) he takes up permanent residence in Guernsey in that year of charge; and for the purposes of this paragraph an individual shall be treated as taking up permanent residence in Guernsey in any particular year of charge if –
 - (i) he is resident in Guernsey, within the meaning of subsection (1), in that year of charge, and
 - (ii) he is solely or principally resident in Guernsey in the following year of charge, [and
 - (iii) he was not resident in Guernsey, within the meaning of subsection (1), in the immediately preceding year of charge.]

(4) For the purposes of this Law an individual shall be regarded as being in Guernsey or in any other place on any particular day, or as spending any particular day in Guernsey or in any other place, if he is in Guernsey or, as the case may be, in that other place at midnight on that day.]

[(5) If the Director considers that it is appropriate to do so by reason of the existence of exceptional and compelling events or circumstances, the Director may issue guidance as to the derogations from or other modifications of the provisions of this section that may, in the Director's absolute discretion, be applied in respect of an individual for the purposes of –

- (a) calculating the number of days which the individual is to be treated as having spent in Guernsey, and
- (b) determining whether that individual is resident, solely resident or principally resident in Guernsey,

in any year of charge.

(6) Guidance under subsection (5) –

- (a) may, without limitation, contain provision –
 - (i) as to the method of calculation of the number of days spent in Guernsey in a year of charge, and
 - (ii) for disregarding or augmenting the number of days so spent,

for the purposes of this section, and

- (b) shall be issued by means of a statement of practice under section 204, the provisions of which shall have effect accordingly.]

NOTES

Section 3 was substituted by the Income Tax (Residence) (Guernsey) (Amendment) Law, 2005, section 2, with effect from 1st January, 2006.²

In section 3,

subparagraph (iii) of paragraph (c) of subsection (3) was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017, section 2, with effect from 1st January, 2018;

subsection (5) and subsection (6) were inserted by the Income Tax (Residence) (Amendment) (Guernsey) Ordinance, 2020, section 1, with effect from 1st December, 2020.

Definition of "resident" in the case of a company.

4. (1) Subject to subsection (2), a company shall be treated as resident in Guernsey in a year of charge if –

- [(a) it is controlled in Guernsey, or is centrally managed and controlled in Guernsey, in that year of charge, or]
- (b) it is [registered] in Guernsey and has not been granted an exemption from tax for that year of charge under any Ordinance made under section 40A of this Law.

(2) Notwithstanding subsection (1), a company shall not be treated as resident in Guernsey in a year of charge if it is proved to the satisfaction of the Director that, in that year of charge –

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- (a) the company is, under the domestic law of another territory (Territory A), tax resident in Territory A,
- (b) the [company] is centrally managed and controlled in Territory A,
- (c) either –
 - (i) the company is tax resident in Territory A under the domestic law of Territory A by virtue of –
 - (A) arrangements for double taxation entered into with Territory A and approved by Resolution of the States under section 172, or
 - (B) the provisions of [an approved international agreement or] an international tax measure specified for the purposes of this Law by Resolution of the States under section 75CC(1C) made [in either case] with Territory A, in which a tie-breaker clause applies, or
 - (ii) the highest rate of tax on a company in Territory A is at least 10%, and
- (d) the company's tax resident status in Territory A is not motivated by the avoidance, reduction or deferral of the liability of any person to tax under this Law.

(3) For the avoidance of doubt, the fact that a company is not treated as resident in Guernsey in a year of charge by virtue of subsection (2) is without prejudice to the application, in respect of the company, of the other provisions of this Law or any Ordinance or regulations made under it.]

NOTES

Section 4 (which was previously substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(a), with effect from 1st January, 1990) was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 2, with effect from 1st January, 2019.

In section 4,

first, paragraph (a) of subsection (1) (which was previously substituted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2018, regulation 26A, with effect from 1st January, 2019) and, second, the word in square brackets in paragraph (b) of subsection (1) were substituted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 30, respectively paragraph (1) and paragraph (2), with effect from 30th June, 2021;

the word in square brackets in paragraph (b) of subsection (2) was substituted by the Income Tax (Substance Requirements) (Implementation) (Amendment) Regulations, 2019, regulation 14, with effect from 1st August, 2019;

the words in the first and second pairs of square brackets in paragraph (c)(i)(B) of subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 2, respectively paragraph (a) and paragraph (b), with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

Charge of tax and liability to tax according to residence.

5. (1) Save as is otherwise by or in virtue of this Law provided, income tax at [the appropriate rate] shall be charged and paid on income as follows –

- (a) in the case of an individual solely or principally resident in Guernsey, on his total income, wherever such income may arise or accrue,

- [(b) in the case of an individual resident in Guernsey but not solely or principally resident therein, in accordance with the provisions of Chapter IA,]
- (c) in the case of a company resident in Guernsey, as in the case of an individual solely or principally resident in Guernsey, and
- [(d) in the case of an individual or company not resident in Guernsey, in accordance with the provisions of Chapter IV of Part IV.]

[(1A) For the purposes of [paragraph (b) of subsection (1) of this section [and Chapter IA], distributions], interest, royalties and any other income of a similar nature shall not be regarded as arising or accruing from a source in Guernsey if –

- (a) the individual [...] to which it is paid does not carry on business in Guernsey through a permanent establishment situate in Guernsey, and
- (b) it is paid to that individual [...] by a body to which an exemption from tax has been granted under any Ordinance made under section 40A of this Law.

[For the avoidance of doubt, and without limitation, "**any other income of a similar nature**" does not include income arising or accruing from the ownership of lands and buildings situate in Guernsey.]]

[(1B) For the purposes of paragraphs (b) and (d) of subsection (1) of

this section [and Chapter IA] –

- (i) any income which is wholly derived from the international operations of a limited partnership in which an individual who is not solely or principally resident in Guernsey, or a company which is not resident in Guernsey, is a limited partner, shall not be regarded in the hands of that individual or company as arising or accruing from a source in Guernsey, and
- (ii) any interest paid to such a limited partner under a limited partnership arrangement shall not be regarded as arising or accruing from a source in Guernsey.

[Income falling within paragraphs (i) or (ii) shall be "**disregarded partnership income**".]

[(2) For any year of charge the rates of income tax shall be as set out in the Fifth Schedule, which may be amended by Resolution of the States in respect of that year.]

[(3) When an individual who was not resident in Guernsey in the year preceding the year of charge becomes solely or principally so resident in a year of charge he shall be assessed and charged in that year of charge in respect of assessable income from sources outside Guernsey [...] on the following bases –

- (a) in respect of any such income which he commenced to possess after the date on which he first arrived in Guernsey in the year of charge, on the income arising

or accruing from that source in the year of charge,

- (b) in respect of any such income which he possessed on the date on which he first arrived in Guernsey in the year of charge and continued to possess throughout that year of charge, on the same proportion of the income arising or accruing from that source during the year of charge as the period of his residence in Guernsey during the year of charge bears to a period of twelve months or to the period during which he possessed the source in the year of charge if that period is less than twelve months,
- (c) in respect of any such income which he possessed on the date on which he first arrived in Guernsey and ceased to possess during the year of charge in which he became solely or principally resident as aforesaid, on the income arising or accruing from that source between the date on which he first arrived in Guernsey in the year of charge and the date on which he ceased to possess the source.]

[(4) When an individual who was solely or principally resident in Guernsey in the year preceding the year of charge permanently departs from Guernsey he shall be assessed and charged in the year in which he so departs in respect of assessable income from sources outside Guernsey [...] on the following bases –

- (a) in respect of any such income which he possessed in the year preceding the year of charge and continued to possess on the date on which he permanently departed

from Guernsey, on such proportion of the income arising or accruing from that source in the year of charge as the period during which he resided in Guernsey during the year of charge bears to a period of twelve months,

- (b) in respect of any such income which he possessed at the commencement of the year of charge but ceased to possess before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source during the year of charge,
- (c) in respect of any such income which he commenced to possess after the commencement of the year of charge but before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source before the date on which he so departed.]

NOTES

In section 5,

the words in the first pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

paragraph (b) of subsection (1) was substituted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 2(a), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, this amendment shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law;³

paragraph (d) of subsection (1) was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 3, with effect from 1st January, 2008;⁴

subsection (1A) was inserted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(b), with effect from 1st

January, 1989;

the words in the first pair of square brackets in subsection (1A) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 4(a), with effect from 1st January, 2008;

the words, numerals and letters, first, within the first pair of square brackets in subsection (1A) and, second, in the first pair of square brackets in subsection (1B) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 2(b) and section 2(c), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law;

the words omitted in the square brackets in paragraph (a) and paragraph (b) of subsection (1A) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 4(b), with effect from 1st January, 2008;

the words in the fourth pair of square brackets in subsection (1A) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 4(c), with effect from 1st January, 2008;

subsection (1B) was inserted by the Income Tax (Limited Partnership Amendments) (Guernsey) Law, 1996, section 1(a), with effect from 1st February, 1996;

the words in the second pair of square brackets in subsection (1B) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 5, with effect from 1st January, 2008;

subsection (2) was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 3, with effect from 1st January, 2008;

subsection (3) and subsection (4) were substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, respectively section 3(1) and section 3(2), with effect from 1st January, 2002, subject to the transitional provisions in section 8 of, and the Schedule to, the 2000 Law;

the words omitted in square brackets in subsection (3) and subsection (4) were repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 2, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

The following case has referred to section 5:

McKean v. Administrator of Income Tax (1991) 11.GLJ.50.

[CHAPTER IA
INDIVIDUALS RESIDENT BUT NOT SOLELY OR PRINCIPALLY RESIDENT

Taxation of individuals resident but not solely or principally resident.

5A. This Chapter applies to individuals resident in Guernsey but not solely or principally resident therein ("**relevant individuals**") and provides for their liability to tax.]

NOTE

Chapter IA, and section 5A thereof, were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

[Right to elect to pay standard charge.

5B. (1) Subject to the provisions of this Chapter, a relevant individual may, within a period of two years immediately after the end of any year of charge commencing after 2008, elect to pay, in respect of his income in that year of charge, a charge to tax called the "**standard charge**".

(2) The standard charge is [£40,000] or such other sum as the [Committee] may determine by regulation.

(3) The election to pay the standard charge shall be made in such form and manner, and shall be accompanied by such information and documents, as the [Director of the Revenue Service] may require.]

NOTES

Section 5B was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with

the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

In section 5B,

the symbol and figures in the first pair of square brackets in subsection (2) were substituted by the Income Tax (Standard Charge) (Amendment) Regulations, 2020, regulation 2, with effect from 1st January, 2021;⁵

the word in the second pair of square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in square brackets in subsection (3) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

The following Regulations have been made under section 5B:

*Income Tax (Standard Charge) (Amendment) Regulations, 2015;
Income Tax (Standard Charge) (Amendment) Regulations, 2020.*

Effect of election.

5C. Where in accordance with the provisions of this Chapter a relevant individual elects, in respect of any year of charge, to pay the standard charge –

- (a) he is liable to pay tax on his total income arising or accruing in Guernsey in that year of charge, other than any interest arising in Guernsey upon money deposited with a licensed institution or other person exempted from the requirement to be licensed under the provisions of the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- [(b) his liability to pay tax on his income arising or accruing elsewhere than in Guernsey in that year of charge is

satisfied by his payment of the standard charge,]

- (c) the amount he has paid by way of the standard charge may be set off against the amount of tax which would otherwise be chargeable by virtue of paragraph (a) on his income arising or accruing in Guernsey in that year of charge, and
- (d) he is not entitled to the allowances, reliefs and deductions which may under this Law be set off against the income of an individual (other than deductions which may be made in computing the amount of the profits of a business which are to be charged to tax or which are eligible for relief for a loss under Part XI).]

NOTES

Section 5C was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

In section 5C, paragraph (b) was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2019, section 2 and shall be deemed to have come into force on the 1st January, 2019.

The Banking Supervision (Bailiwick of Guernsey) Law, 1994 has since been repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law.

Individual making election must file declaration.

5D. (1) A relevant individual may only elect, in respect of any year of charge, to pay the standard charge if he makes a declaration, which must be submitted to the [Director of the Revenue Service] with his election, of his income arising or

accruing in Guernsey in that year, other than any interest arising in Guernsey upon money deposited with a licensed institution or other person exempted from the requirement to be licensed under the provisions of the Banking Supervision (Bailiwick of Guernsey) Law, 1994.

(2) The declaration shall be made in such form and manner, and shall be accompanied by such information and documents, as the [Director of the Revenue Service] may require.

(3) The individual making the declaration shall furnish to the [Director of the Revenue Service], within such period as the [Director of the Revenue Service] may specify, such accounts and other information (including, without limitation, accounting records required to be kept by a company under section 238 of the Companies (Guernsey) Law, 2008) relating to the declaration or the contents thereof as the [Director of the Revenue Service] may require.

(4) The accounts and other information referred to in subsection (3) shall be certified, if the [Director of the Revenue Service] so requires, by an accountant –

- (a) who is a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Association of Chartered Certified Accountants, or
- (b) who holds an equivalent qualification approved by the [Director of the Revenue Service].

(5) An individual who makes a declaration under this section in respect of any year of charge is not obliged, unless the [Director of the Revenue

Service] directs otherwise, to deliver a return as to his income in respect of that year in accordance with section 68.]

NOTES

Section 5D was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

In section 5D, the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

The Banking Supervision (Bailiwick of Guernsey) Law, 1994 has since been repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law.

[False declarations, etc.]

5E. This Law applies in relation to a declaration under section 5D(1) as it applies in relation to a return as to income required to be submitted under section 68.]

NOTE

Section 5E was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

[Tax liability where no election and declaration made.]

5F. [(1)] A relevant individual who does not in accordance with the provisions of this Chapter elect, in respect of any year of charge, to pay the standard charge –

- (a) must deliver a return as to his income in accordance with section 68 on the basis of his total income, wherever such income may arise or accrue, in that year of charge,
- (b) is liable to pay tax on his total income, wherever such income may arise or accrue, in that year of charge, and
- (c) is entitled to the allowances, reliefs and deductions which may under this Law be set off against the income of a relevant individual.

[(2) Notwithstanding the provisions of subsection (1)(b), a relevant individual in respect of whom the [Director of the Revenue Service] is satisfied as to the matters set out in subsection (3) is liable, in respect of any year of charge, to pay tax only –

- (a) on his income arising or accruing in Guernsey in that year of charge, and
- (b) on any amount of income not so arising or accruing brought into or received by him in Guernsey in that year of charge; and for the purposes of this section any amount not so arising or accruing and brought into or received by him in Guernsey in that year of charge shall be presumed to be income unless he can establish otherwise to the satisfaction of the [Director of the Revenue Service].

(3) The matters are –

- (a) all the income of the relevant individual arising or accruing in Guernsey in that year of charge, other than any interest arising in Guernsey upon money deposited with a licensed institution or other person exempted from the requirement to be licensed under the provisions of the Banking Supervision (Bailiwick of Guernsey) Law, 1994 –
 - (i) is income of Class 2(1)(b), and
 - (ii) is subject to the deduction of tax under section 81A,
- (b) the sole or main purpose for the relevant individual being present in Guernsey in that year of charge is in order that he may undertake the duties of an employment, and
- (c) the relevant individual has delivered a return as to his income in accordance with section 68 on the basis of –
 - (i) his total income arising or accruing in Guernsey in that year of charge, and
 - (ii) any amount of income not so arising or accruing brought into or received by him in Guernsey in that year of charge,

which return may be delivered instead of the return required by subsection (1)(a).]]

NOTES

Section 5F was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

In section 5F,

first, subsection (1) was renumbered and, second, subsection (2) and subsection (3) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2010, respectively section 2(a) and section 2(b), with effect from 27th January, 2010 and, in accordance with the provisions of section 4 of the 2010 Law, shall have effect in respect of any year of charge after 2009, subject to the transitional provisions set out in section 5I of this Law;

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

The Banking Supervision (Bailiwick of Guernsey) Law, 1994 has since been repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law.

[Categorisation of standard charge.

5G. Without prejudice to the provisions of this Chapter –

- (a) the standard charge shall be regarded for the purposes of this Law as tax, and
- (b) this Law applies in relation to the standard charge as it applies in relation to tax.]

NOTE

Section 5G was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

Interpretation of Chapter 1A.

5H. In this Chapter –

"**relevant individual**" means an individual resident in Guernsey but not solely or principally resident therein, and

"**standard charge**" means the charge to tax which a relevant individual may, subject to the provisions of this Chapter, elect to pay in respect of his income in a year of charge.]

NOTE

Section 5H was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions in section 5I of this Law.

Transitional provisions in respect of year of charge 2009.

5I. (1) Section 5F only has effect in respect of any year of charge after 2009.

(2) Accordingly, in respect of the year of charge 2009, the liability to tax and the entitlements and obligations in respect thereof of a relevant individual who does not in accordance with the provisions of this Chapter elect, in respect of that year of charge, to pay the standard charge shall be governed by the provisions of this Law as they had effect immediately prior to the enactment of the Income Tax (Guernsey) (Amendment) Law, 2009 (and as if that Law had not been enacted).]

NOTE

Section 5I was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 3, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(2) of the 2009 Law, shall have effect in respect of any year of charge after 2008, subject to the transitional provisions herein.

CHAPTER II
COMPUTATION OF INCOME

Year of computation.

6. (1) Save as otherwise by or in virtue of this Law provided, the assessable income of any class shall be the amount of profits or income for the year of computation, and the year of computation shall be [the year of charge]:

[Provided that in the case of a business [or an investment company within the meaning of section 169 (an "**investment company**")]] the year of computation shall be the accounting period ending within the year of charge.]

(2) The accounting period of a business [or an investment company] shall be determined as follows –

- (a) where the accounts of a business [or an investment company] are made up for successive periods of twelve months each of those periods shall be an accounting period,
- (b) in any other case the accounting period shall be such period [...] as the [Director] may determine[:

Provided that –

- (i) in the case of a business or an investment company every year of charge must have an accounting period ending within it, except the year of charge in which the business is commenced or, as the case may be, the investment company is incorporated, and
- (ii) where a business is commenced or, as the case may be, an investment company is incorporated, the first year of charge of the business or the investment company shall be the year of charge within which the first accounting period of the business or the investment company (which shall not exceed 18 months or, in the case of an investment company, such shorter period as the Director may determine) ends.]

[(3) Where prior to 1st January, 2008 a company's income falls within Class 2(2)(a) or Class 2(2)(d) in whole or in part, that company shall be deemed to have ceased trading at midnight on 31st December, 2007 and immediately recommenced on 1st January, 2008 for the purposes of this Law.

(3A) If under section 5(2) the States by Resolution alter the rates of tax chargeable then the accounting period and the year of computation of every business [and of every investment company] shall end on the day before the day on which the alteration of the rates takes effect and subsection (4) shall apply in calculating the profits for the year of computation.]

[(3B) Notwithstanding the provisions of subsection (3) –

- (a) the deemed cessation of trading at midnight on 31 December 2007 does not prevent the company from carrying forward losses available at that date for the purpose of being set-off, in accordance with the provisions of this Law, against profits or income arising in subsequent years, and
- (b) in addition –
 - (i) the proviso in subsection (2) shall apply as if the words from and including "except the year of charge in which the business is commenced" to the end of the subsection were omitted, and
 - (ii) that deemed cessation of trading does not constitute a permanent discontinuance of the business for the purposes of section 142.]

(4) Where [the [Director] makes a determination under [subsection (2)], [or where subsection (3) or (3A) applies,] and] the year of computation does not coincide with the period up to which the accounts of a business [or an investment company] have been made up, such division and apportionment to specific periods of the profits or losses for the period for which accounts have been made up and such aggregation of any such profits or losses, or any apportioned parts thereof, shall be made as is necessary to arrive at the profits for the year of computation.

(5) Any apportionment under the last foregoing subsection shall be made in proportion to the number of months or fractions of months in the respective periods:

Provided that if the profits or losses determined in accordance with the aforesaid

apportionment do not, in the opinion of the [Director], fairly represent the profits or losses of the respective periods, the apportionment shall be made in such other manner as the [Director] may direct.

(6) Where for any of the purposes of this Law it is necessary to compute the amount of profits for any period which is not an accounting period nor a year of computation, subsection (4) of this section shall apply as if for the references to the year of computation there were substituted a reference to the period the profits for which are to be computed.

[(6A) The application of this section to investment companies is without prejudice to the application of Part XIV (special provisions as to investment companies resident in Guernsey and to unit trust schemes).]

(7) ...

NOTES

In section 6,

the words in square brackets in subsection (1) were substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 1, with effect from 1st January, 2002, subject to the transitional provisions in section 8 of, and the Schedule to, the 2000 Law;

the proviso to subsection (1) was substituted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 3, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the words in square brackets, first, within the proviso to subsection (1), second, in the first pair of square brackets in subsection (2) and, third, in square brackets in subsection (2)(a) were all inserted, fourth, the proviso to subsection (2) (which was originally inserted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 4(b), with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law) was substituted, fifth, the words in square brackets in subsection (3A) were inserted, sixth, the word, parentheses and figure in the second pair of square brackets within the first pair of square brackets in subsection (4)

were substituted, seventh, the words in the second pair of square brackets in subsection (4) were inserted and, eighth, subsection (6A) was inserted by the *Income Tax (Investment Companies) (Guernsey) (Amendment) Ordinance, 2024*, respectively section 2, section 3, section 4, section 5, section 6, section 7(a), section 7(b) and section 8, with effect from 1st December, 2024, subject to the transitional provisions in, first, section 10 of the 2024 Ordinance and, second, Part II of the *Income Tax (Investment Companies) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2024*;

the words omitted in the first pair of square brackets in paragraph (b) of subsection (2) were repealed by the *Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004*, section 4(b), with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the word "Director" in square brackets, wherever occurring, was substituted by the *Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018*, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶

subsection (3) (which was previously repealed by the *Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004*, section 5, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law) and subsection (3A) were inserted by the *Income Tax (Zero 10) (Guernsey) Law, 2007*, section 4, with effect from 1st January, 2008;

subsection (3B) was inserted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007*, section 6, with effect from 1st January, 2008;

the words in the first pair of square brackets in subsection (4) were inserted by the *Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004*, section 6, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the words in the third pair of square brackets within the first pair of square brackets in subsection (4) were inserted by the *Income Tax (Zero 10) (Guernsey) Law, 2007*, section 5, with effect from 1st January, 2008;

subsection (7) was repealed by the *Income Tax (Year of Computation) (Guernsey) Law, 2000*, section 3(3), with effect from 1st January, 2002, subject to the transitional provisions in section 8 of, and the Schedule to, the 2000 Law.

In accordance with the provisions of the *Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012*, section 12, with effect from 1st January, 2013, subsection (3A) of this section applies to any company where the applicable rate of taxation of that company's income is altered by the provisions of the 2012 Ordinance *mutatis mutandis*.

Income from businesses.

7. (1) Subject to the succeeding provisions of this section, the amount of the profits of any business for any year of computation shall be computed in accordance with the ordinary commercial principles applicable to the computation of profits of that business.

(2) No deduction shall be permitted in respect of –

- (a) any capital expenditure,
- (b) any item of expenditure or charge except so far as it is laid out or expended wholly and exclusively for the purposes of the business,
- (c) any sum transferred to a reserve account where the transfer would, in accordance with ordinary commercial principles as aforesaid, be treated as an appropriation of profits,
- (d) the maintenance of the person carrying on the business or of his family, or any expenditure for any other domestic or private purpose,
- (e) any liability due under or by virtue of this Law,
- (f) any sum recoverable under an insurance or contract of indemnity,
- [(g) any sum paid by a body to which an exemption from tax has been granted under any Ordinance made under section 40A of this Law which, by virtue of section

5(1A) of this Law, is not regarded in the hands of the recipient as arising or accruing from a source in Guernsey.]

- [(h) any payment made, or any expenditure incurred in making a payment, where the making of the payment constitutes or facilitates the commission of a criminal offence,
 - (i) any payment made, or any expenditure incurred in making a payment, outside Guernsey or to or for the benefit of a person outside Guernsey where the making of a corresponding payment in Guernsey or to or for the benefit of a person in Guernsey would constitute or facilitate a criminal offence there, or
 - (j) any payment made, or any expenditure incurred in making a payment, where the payment is induced by a demand constituting the commission in Guernsey of the offence of blackmail under section 23 of the Theft (Bailiwick of Guernsey) Law, 1983* .]
- (3) Deductions shall be permitted in respect of –
- (a) the replacement of implements, utensils and articles not being machinery, or plant, used for the purpose of the business:

Provided that if a person carrying on an hotel, boarding

* Ordres en Conseil Vol. XXVIII, p. 5.

house, public house, restaurant or café business claims to be allowed an annual allowance in respect of all such implements, utensils and articles in lieu of a deduction in respect of the replacement thereof, all such implements, utensils and articles shall be deemed to be plant,

- (b) current repairs to machinery, plant, furniture and fittings used for the purpose of the business,
- (c) premiums in respect of insurance –
 - (i) against damage or destruction of buildings, machinery, plant, furniture and fittings as aforesaid and of stocks or stores so used,
 - (ii) against loss of profits:

Provided that any sum received by any person under an insurance against loss of profits shall be treated as income of the year in which it is received,

- (iii) in any case where the insurance was effected to cover an expense which would have been an allowable deduction had the insurance not been effected,
- (d) interest on capital borrowed for the purpose of the business [except for interest paid to a person not resident in Guernsey by a body to which an exemption from tax has been granted under any Ordinance made

under section 40A of this Law and which, by virtue of section 5(1A) of this Law, is not regarded in the hands of the recipient as arising or accruing from a source in Guernsey],

- (e) bad and doubtful debts, on so much of the debt as is discovered in the accounting period to have become bad or irrecoverable but not exceeding the amount written off as such in the books of the business:

Provided that, if any amounts received or credited on account of any such debt exceed the amount of the debt as reduced by the deduction allowed, the excess received or credited in any accounting period shall be treated as a receipt of the business in that period,

- (f) rent paid for any premises, or any part of any premises, in which the business is carried on:

Provided that where the business is carried on in a portion of any rented premises, a deduction shall only be allowed in respect of such proportion of the total rent as that portion bears to the whole premises,

- (g) such payments or contributions to any scheme to provide retirement or other benefits for any person employed in the business as may be deducted in accordance with the provisions of Part XIII of this Law, but not otherwise, and for the purposes of this paragraph the expression "**retirement or other benefits**" shall have the meaning assigned to it by

section one hundred and fifty-eight of this Law,

[(h) ...]

- (j) the amount expended by the person carrying on the business in respect of the current repairs and maintenance of any land or building occupied by him and used by him wholly and exclusively for the purposes of the business:

Provided that –

- (i) there shall be left out of account any expenditure in respect of additions or improvements or any other expenditure of a capital nature, and
- (ii) in the case of a glasshouse, the provisions of subsection (4) of this section shall apply.

(4) For the purposes of paragraph (j) of the last foregoing subsection, in the case of a glasshouse –

- (a) in relation to repairs effected before the first day of January, nineteen hundred and seventy-two, the expression "**current repairs**" shall mean painting, glazing and minor repairs, and the amount allowable in respect of minor repairs shall not exceed a sum calculated in accordance with such rate per one hundred feet of glass thirty feet wide as may from time to time be determined by the [Committee] and published in La

Gazette Officielle,

- (b) in relation to repairs effected after the thirty-first day of December, nineteen hundred and seventy-one, the expression "**current repairs**" shall be deemed not to include any operation which consists of the replacement of the whole, or substantially the whole, of the front or fronts of the glasshouse, or of the replacement of the whole, or substantially the whole, of the roof, or a substantial part of the roof, of a glasshouse and expenditure on such an operation shall be deemed to be expenditure of a capital nature,
- (c) notwithstanding the provisions of paragraphs (a) and (b) of this subsection, where a glasshouse has sustained damage by act of God, and the [Director] is satisfied that the glasshouse has been so maintained as to be in a reasonable state of repair immediately prior to such damage, the [Director] may allow such amount on account of the repairs to the glasshouse as may be reasonable and just.

(5) Notwithstanding anything in this section contained, the profits from the ownership of land and buildings shall be computed in accordance with the provisions of section nine of this Law.

(6) The provisions of the First Schedule to this Law shall apply to persons who –

- (a) could have claimed to be allowed a deduction in respect of the replacement of a glasshouse for the year of

charge nineteen hundred and fifty, or

- (b) were for the first time allowed a deduction for depreciation in respect of a glasshouse in any of the years of assessment nineteen hundred and forty-six, nineteen hundred and forty-seven, nineteen hundred and forty-eight or nineteen hundred and forty-nine.

NOTES

In section 7,

paragraph (g) of subsection (2) was inserted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(c), with effect from 1st January, 1989;

paragraph (h), paragraph (i) and paragraph (j) of subsection (2) were inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 2, with effect from 28th January, 2009;

the words in square brackets in paragraph (d) of subsection (3) were inserted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(d), with effect from 1st January, 1989;

paragraph (h) of subsection (3) (which was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(b), with effect from 1st January, 1983) was repealed by the Income Tax (Emoluments Amendments) (Guernsey) Law, 1995, section 1(a), with effect from 1st January 1996;

the word in square brackets in paragraph (a) of subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in square brackets in paragraph (c) of subsection (4) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁷

The following cases have referred to section 7:

Administrator of Taxes v. Tremoille Properties Limited (2002) (Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);

Administrator of Income Tax v. Broadaker Company Limited 2005–06 GLR 152;

Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161.

[Calculation of income from banking business.]

7A. Without prejudice to the provisions of section 7, income from banking business shall be calculated net of the proportion of the bank's overhead costs laid out or expended wholly and exclusively for the purposes of earning that income.]

NOTE

Section 7A was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 6, with effect from 1st January, 2008.

[Calculation of income from activities regulated by OUR.]

7B. For the avoidance of doubt, income from activities regulated by [the Guernsey Competition and Regulatory Authority] shall be calculated in the same manner as income from any other business.]

NOTES

Section 7B was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 7, with effect from 1st January, 2008.

In section 7B, the words in square brackets were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012.

The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.

[Calculation of income from gas and hydrocarbons business[, large retail

business, business of the cultivation or use of the cannabis plant and business of the prescribed production or prescribed use of controlled drugs].

7BA. For the avoidance of doubt, income from gas and hydrocarbons business[, large retail business, business of the cultivation or use of the cannabis plant and business of the prescribed production or prescribed use of controlled drugs] shall be calculated in the same manner as income from any other business.]

NOTES

Section 7BA was inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 3, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance.

In section 7BA and the heading thereto, the words in square brackets were substituted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019, section 3, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance.

[Calculation of income from domestic insurance business, fiduciary business, insurance intermediary business[, insurance manager business[, the administration of controlled investments[, the provision of custody services[, investment management individual client services, [the operation of an investment exchange, compliance and other related activities, and the operation of an aviation registry]]]]].

7C. For the avoidance of doubt, and subject to Part XVII, income from domestic insurance business, fiduciary business, insurance intermediary business[, insurance manager business[, the administration of controlled investments[, the provision of custody services[, investment management individual client services, [the operation of an investment exchange, compliance and other related activities, and the operation of an aviation registry]]]] shall be calculated in the same manner as income from any other business.]

NOTES

Section 7C was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 3, with effect from 1st January, 2013.

In section 7C,

the punctuation and words ", insurance manager business" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 3, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

the punctuation and words ", the administration of controlled investments" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 3, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;⁸

the punctuation and words ", the provision of custody services", wherever occurring, were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 3, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;⁹

the punctuation and words ", investment management individual client services," in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 3, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;¹⁰

the words "the operation of an investment exchange, compliance and other related activities, and the operation of an aviation registry" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 3, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance.¹¹

Income from offices and employments.

8. (1) In the case of income chargeable to tax as income [from offices and employments], the assessable income shall be the full emoluments of the office or employment arising or accruing in the year of computation less the authorised deductions.

[(2) In calculating the assessable income of any employment for the purposes of this section the amount, if any, attributable to any benefit is, subject to subsection (2A) of this section [and section 8A] –

- (a) where the benefit consists of a transfer of the ownership of property otherwise than out of the trading stock of the employer, the market value of that property at the time of that transfer,
- (b) where the benefit consists of the use of property without a transfer of ownership, an amount ascertained in accordance with regulations made from time to time by the [Committee] under this paragraph, which regulations may make different provision as respects different descriptions of property and different circumstances,
- (c) where the benefit consists of the provision of some service or advice normally provided for customers in the course of the employer's business, the average cost to the employer of providing that service or advice for those customers,
- (d) in any other case, the amount of any expense incurred directly or indirectly by the provider of the benefit in or in connection with its provision, including a proper proportion of any expense relating partly to the benefit and partly to other matters,

subject, in each case, to the deduction of any sums paid by the employee in respect of

the provision of the benefit.]

[(2A) There shall be left out of account in calculating the assessable income of any employment –

- (a) any benefit derived by an employee who has the control of the company providing it, if and to the extent that that company is not entitled to make any deduction in computing the profits of its business under section 7 of this Law, or to claim any relief under Part IX, Part X or Part XIV of this Law, in connection with the provision of that benefit or in relation to any asset of whose ownership or use that benefit consists, and
- (b) any benefit which is of such description, and is provided in such circumstances, as the States may from time to time specify by Ordinance under this paragraph; and any Ordinance made under this paragraph may make different provision as respects different descriptions of benefits and circumstances, and may include [(or may authorise the [Committee] to prescribe by regulation)] limitations, conditions, restrictions and qualifications in relation to any description of benefits, or any circumstances, so specified, and
- (c) any emoluments arising from the termination of any employment or from a change in the terms thereof, which under any other provision of this Law are specifically exempted from tax, or are chargeable to tax at a rate less than [the appropriate rate], and

- (d) any emoluments arising from the termination of any employment which do not, when all such emoluments arising from the same termination or from the same group or series of terminations are aggregated, exceed [£30,000], or such other sum as the States may from time to time specify by Ordinance under this paragraph in total,
- [(e) any emoluments arising from any employment as a merchant seaman and constituting overseas earnings.

However –

- (i) where in relation to any year of computation a deduction from the emoluments of an individual's employment is claimed by virtue of this paragraph, then he is not entitled, in relation to that year of computation, to any other allowance, relief or deduction in respect of his income or that of his spouse, and
- (ii) a deduction from the emoluments of an individual's employment may only be claimed by virtue of this paragraph where the individual, within a period of two years immediately after the end of the year of computation to which the claim relates (being a year of computation commencing after 2008), submits an application to the [Director of the Revenue Service], in such form and manner and accompanied by such information and documents as the [Director of

the Revenue Service] may require, containing particulars of his claim.]

(2B) For the purposes of subsections (2) and (2A) of this section –

"benefit" means so much of any emoluments as consist of a benefit (other than salary, stipend, fees, wages, earnings, perquisites and profits) derived from his office or employment, from the termination thereof, or in consequence of a change in the terms thereof (whether or not the benefit is convertible into cash) by an office holder or employee or by a member of his family or household,

[**"British ship"** has the meaning given by the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^{**}, but does not include a fishing vessel within the meaning of that Law,]

"employment" includes **"office"**, and related words and expressions are to be construed accordingly,

[**"merchant seaman"** means an individual employed or engaged as an officer or member of the crew of a British ship,

"overseas earnings" means emoluments –

- (a) which are derived from employment as a merchant seaman, and
- (b) which arise or accrue in respect of duties performed –

^{**} No. VIII of 2004.

- (i) outside the Bailiwick of Guernsey, the Bailiwick of Jersey and the United Kingdom, and
- (ii) during a continuous period of 365 days or more spent by the individual in question in any place or places outside Guernsey, and the requirements of this subparagraph are satisfied if the individual does not during that period of absence –
 - (A) spend more than 183 days continuously in Guernsey, or
 - (B) spend more than 50% in aggregate of the total number of days comprised in that period of absence in Guernsey].]

(3) The authorised deductions to be made from the full emoluments of an office or employment in respect of expenses defrayed by the holder of the office or the employee out of those emoluments shall be the following –

- (a) any expense, wholly, exclusively and necessarily incurred in the performance of the duties of the office or employment,
- (b) the amount of any ordinary contribution to an approved scheme or of any statutory or voluntary contribution in accordance with the provisions of section one hundred and fifty-one of this Law[, subject to any limitations, conditions, restrictions and qualifications prescribed by

or pursuant to that section],

[(bb) the amount of any contribution to a retirement annuity scheme or retirement annuity trust scheme approved by the [Director of the Revenue Service] in accordance with the provisions of section 157A(2) or (4), subject to any limitations, conditions, restrictions and qualifications prescribed pursuant to sections 36 and 157A(10),]

(c) the amount of such relief in respect of certain capital expenditure as is provided for in section one hundred and thirteen of this Law,

(d) such sums on account of replacement of implements, utensils and articles, as would be allowable if the holder of the office or the employee had been carrying on a business if such sums are expenses wholly, exclusively and necessarily incurred in the performance of the duties of the office or employment,

(e) such sums on account of annual fees or subscriptions as are provided for in section sixty-three of this Law.

(4) Every office or employment held or exercised shall constitute a separate source of income and any office or employment held or exercised in Guernsey shall be treated as separate from any office or employment not so held or exercised.

(5) An office or employment shall be treated as held or exercised in Guernsey where the whole or part of the duties thereof are performed in Guernsey,

but if the duties thereof are performed mainly outside Guernsey it shall be so treated only to the extent to which the duties are performed in Guernsey.

[(6) Subject to subsection (7), the office of director, by whatever name called, of a company incorporated in Guernsey shall be treated as held in Guernsey.

(7) The office of director, by whatever name called, of any company shall not be treated as held in Guernsey if –

(a) the meetings of the board of directors or other governing body are ordinarily held outside Guernsey, or

(b) the director, owing to the nature of his duties, is continuously resident outside Guernsey and either –

(i) he is not required to, and does not, attend meetings of the board or other governing body held in Guernsey, or

(ii) the company has been granted an exemption from tax under an Ordinance made under section 40A,

[(c) the director is non-resident.]]

NOTES

In section 8,

the words in square brackets in subsection (1) were substituted by

the Income Tax (Zero 10) (Guernsey) Law, 2007, section 7, with effect from 1st January, 2008;

first, subsection (2) was substituted and, second, subsection (2A) and subsection (2B) were inserted, by the Income Tax (Emoluments Amendments) (Guernsey) Law, 1995, respectively section 1(b) and section 1(c), with effect from 1st January 1996;

the words in square brackets within subsection (2) were inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2025, section 2, with effect from 1st January, 2026;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

paragraph (bb) of subsection (3), the words in square brackets in paragraph (b) of subsection (2A) and the words in square brackets in paragraph (b) of subsection (3) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, respectively section 4, section 2 and section 3 and, in accordance with the provisions of section 17 of the 2011 Law, these amendments shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the words in square brackets in paragraph (c) of subsection (2A) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the figures and symbol in paragraph (d) of subsection (2A) were substituted, and paragraph (e) of subsection (2A) was inserted, by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 4(a) and section 4(b), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2008;

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the definitions of the expressions "British ship", "merchant seaman" and "overseas earnings" in subsection (2B) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 5, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2008;

subsection (6) and subsection (7) were inserted by the Income Tax

(Business Profits) (Guernsey) (Amendment) Law, 2004, section 7, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

paragraph (c) of subsection (7) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 8, with effect from 1st January, 2008.

The following Ordinances have been made under section 8:

*Income Tax (Exemption of Benefits) Ordinance, 1995;
Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1999;
Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2003;
Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2011;
Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2024.*

The following Regulations have been made under section 8:

*Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2010;
Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2016;
Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2019;
Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2022;
Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2025.*

In accordance with the provisions of the Income Tax (Exemption of Benefits) Ordinance, 1995, section 1, with effect from 1st January, 1996. the benefits described in section 2 of that Ordinance shall be left out of account in calculating the assessable income of any employment for the purposes of subsection (1) of this section.

[Share award and share option schemes.]

8A. (1) This section applies in relation to a benefit within the meaning of section 8(2B) which consists of –

- (a) the awarding of shares under a share award scheme, or
- (b) the granting of an option to purchase shares under a share option scheme.

(2) In this section –

"shares" includes stock and other instruments of ownership, any interest of a capital nature and any capital interest of a member in a company limited by guarantee,

"share award scheme" means a scheme whereby shares are awarded or allocated to or acquired for an employee at no cost to the employee or at a price below value,

"share option scheme" means a scheme whereby an employee is granted an option to acquire shares at no cost to the employee or at a price below value,

"value" in relation to shares means actual market value on an arm's length basis,

"vested", in relation to shares, means that the shares are vested unconditionally in the employee's name;

and the Committee may by regulation amend this subsection by adding any definition to it or by removing or varying any definition specified in it.

(3) In the case of –

(a) a share award scheme –

(i) the benefit is considered to arise (and is therefore taxable) when the shares are vested in

the employee, and not at the time of the award,
and

- (ii) the amount of the benefit, when it arises, is the value of the shares at the time of the award, after deduction of any consideration contributed by the employee,

(b) a share option scheme –

- (i) the benefit is considered to arise (and is therefore taxable) when the option to acquire the shares is exercised by, and the shares are vested in, the employee, and not at the time of the grant of the option, and

- (ii) the amount of the benefit, when it arises, is the value of the shares at the time of the grant of the option, after deduction of any consideration contributed by the employee.

(4) Notwithstanding the provisions of subsection (3), if on the expiration of a period of 7 years –

(a) beginning, in the case of a share award scheme, on the date of the award of the shares, the shares or any of them have not been vested in the employee,

(b) beginning, in the case of a share option scheme, on the date of the grant of the option –

Consolidated text

- (i) the option has not been exercised in respect of the shares or any of them, or
- (ii) the option has been exercised in respect of the shares or any of them but the shares have not been vested in the employee,

then (irrespective of any longer period stipulated by the scheme) the shares –

- (A) which, at the time of the expiration of that period, have not been vested in the employee, or, as the case may be,
- (B) in respect of which the option has not been exercised or the option has been exercised but have not been vested in the employee,

shall be deemed to have been vested in the employee, or to have been acquired pursuant to the option and vested in the employee, at that time, and tax under this Law shall be payable accordingly on the basis set out in subsection (3)(a)(ii) or (3)(b)(ii).

(5) Subsection (4) applies only to awards of shares under share award schemes or grants of options under share option schemes occurring after the 31st December, 2025; and in respect of awards of shares or grants of options occurring on or before that date, the provisions of this Law as they had effect on or before that date (subject, where applicable, to Statement of Practice No. E43, "Profit sharing and other share option schemes") shall continue to have effect and tax under this Law shall be payable accordingly.

(6) Notwithstanding the provisions of subsection (3), and in addition to the provisions of subsection (4), if an employee to whom an award of shares has been made under a share award scheme or to whom an option to acquire shares has been granted –

- (a) dies,
- (b) retires or otherwise ceases to be employed by the employer, or
- (c) ceases to be resident in Guernsey,

then any shares –

- (i) which have not been vested in the employee, or, as the case may be,
- (ii) in respect of which the option has not been exercised or the option has been exercised but have not been vested in the employee,

at the time of the event specified in or under paragraphs (a) to (d) shall (unless the award or option is forfeited or otherwise terminated by the event) be deemed to have been vested in the employee, or to have been acquired pursuant to the option and vested in the employee, at that time, and tax under this Law shall be payable accordingly on the basis set out in subsection (3)(a)(ii) or (3)(b)(ii).

(7) If an employee ("E") to whom an award of shares has been made under a share award scheme or to whom an option to acquire shares has been granted becomes liable to tax under this section and section 8 in respect of the award or option, but the shares or any of them have never been vested in E, E may request

the Director to revise E's assessment for the year of charge in which the liability arose.

(8) Upon receipt of a request under subsection (7), and without prejudice to any other power conferred on the Director by this Law, the Director may

–

(a) request such information and documents from the employee, the employer and the trustees or other persons having management of the scheme, and

(b) make such inquiries,

as the Director thinks fit and, if satisfied that the employee never received or benefitted from the shares in question or any of them, may revise the assessment for the relevant year of charge accordingly.]

NOTE

Section 8A was inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2025, section 3, with effect from 1st January, 2026.

[Income from the ownership of land and buildings.]

9. (1) Subject to the provisions of subsection (3) of this section, the assessable income arising from the ownership of any land or building [...] shall, except as provided in sections ten to sixteen of this Law, be the annual value thereof.

(2) The annual value of any land or building [...] shall be the annual rental value thereof subject to the authorised deductions specified in section eleven of this Law.

(3) The provisions of the preceding subsections of this section shall not apply to any land or building [...] which is –

- (a) occupied by the owner thereof, or
- (b) used for the purposes of a business carried on by a partnership in which the owner is a partner in such circumstances that no rent is payable therefor, or
- (c) owned by a company and occupied by the individual who has the control of that company.

[(4) For the purposes of this Law income from the ownership of land and buildings (Class 2(1)(c) income, in the case of an individual, or Class 2(2)(c) income, in the case of a company) includes income from property development.

However –

- (a) income from property development shall be computed for the purposes of this Law in the same manner as if it were income from business, and
- (b) the only allowances and deductions available in respect thereof shall be those available in respect of income from business.]]

NOTES

Section 9 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(c), with effect from 1st January, 1983.

In section 9,

the words omitted in square brackets in subsection (1), subsection (2) and subsection (3) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 10, with effect from 1st January, 2008;

subsection (4) was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 9, with effect from 1st January, 2008.

Annual rental value.

10. (1) Except as otherwise in this section provided, the annual rental value of any land or building [...] [to which section nine of this Law relates] shall be the sum arrived at by taking the reasonable rent at which any land or building would be expected to be let from year to year on the terms that the landlord be liable for all repairs and pay all landlord's rates and taxes and insurances.

(2) If the annual rent or other consideration receivable by the owner under any lease, licence or other agreement is in excess of the sum so arrived at in accordance with the provisions of the last preceding subsection, the amount of such annual rent or other consideration shall be deemed to be the annual rental value.

(3) If the nature of the lease, licence or other agreement is such that the annual rent or other consideration cannot readily be ascertained the annual rental value shall be such sum as the [Director] may determine.

(4) Where it is necessary to have regard to the annual rent or other consideration receivable in order to determine the annual rental value and the annual rent or other consideration includes the value of any goods provided or services rendered or provided by the landlord, otherwise than by way of repair or maintenance of the property, then –

- (a) the value of such goods or services shall be deducted from the annual rent or other consideration for the purposes of determining the annual rental of any land or

building, and

- (b) an amount equal to the difference between the annual rent or other consideration receivable and the annual rental value shall be treated as income of [Class (1)(c) or Class (2)(c)] of section two of this Law arising to the owner of the land or building concerned.

NOTES

In section 10,

the words omitted in the first pair of square brackets in subsection (1) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 10, with effect from 1st January, 2008;

the words in the second pair of square brackets in subsection (1) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(d), with effect from 1st January, 1983;

the word in square brackets in subsection (3) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹²

the words in square brackets in paragraph (b) of subsection (4) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 8, with effect from 1st January, 2008.

Authorised deductions.

11. The authorised deductions to be made from the annual rental value [...] under the provisions of section nine of this Law shall be the following –

- (a) such amount on account of repairs as is mentioned in the next succeeding section,
- (b) where the property is subject to a rente, the annual

amount or a proportion thereof, as the case may be, as is payable in and as respects [the year of charge],

- (c) where the property is subject to a Crown or manorial charge, the amount of such charge,
- (d) where there is payable in and as respects [the year of charge] by the person chargeable with tax an amount, not being of a capital nature or an instalment of a capital sum, as consideration for the extinguishment or the acquisition, in whole or in part, of a usufruct, that amount.

NOTES

In section 11,

the words omitted in square brackets were repealed by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(e), with effect from 1st January, 1983;

the words in square brackets in paragraph (b) and paragraph (d) were substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(1), with effect from 1st January, 2002, subject to the transitional provisions in section 8 of, and the Schedule to, the 2000 Law.

Deductions on account of repairs.

12. (1) Subject to the provisions of the next succeeding subsection, the amount to be deducted from the annual rental value on account of repairs shall be ascertained in accordance with the following provisions –

- (a) where the annual rental value is that of land (other than a quarry) on which there is no building the said deduction shall be [2½%] of the annual rental value,

[(b) where the annual rental value is that of a dwelling house let furnished, the said deduction shall be 15% of the annual rental value,]

[(c) where the annual rental value is that of a glasshouse or other building, other than a dwelling house let furnished, the said deduction shall be 10% of the annual rental value.]

(2) If under the terms of any lease, licence or other agreement in respect of any land or building [...] the owner thereof is not liable for all repairs or to pay all landlord's rates and taxes and insurances, the amount to be deducted on account of repairs shall be such proportion of the deduction ascertained in accordance with the provisions of the last preceding subsection as may be just and reasonable and as the [Director] may determine.

NOTES

In section 12,

the figures and symbol in square brackets in paragraph (a) of subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 9(a), with effect from 1st January, 2008;

paragraph (b) and paragraph (c) of subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, respectively section 9(b) and section 9(c), with effect from 1st January, 2008;

the words omitted in the first pair of square brackets in subsection (2) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 10, with effect from 1st January, 2008;

the word in the second pair of square brackets in subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹³

Additional deductions for repairs.

13. (1) If in respect of any year of charge [prior to 2026], and subject to the provisions of the next succeeding subsection, the owner of any land or building [...] proves that the cost to him of the maintenance, repairs, insurance and management of any such land or building, according to the average of the cost to him in the five years preceding that year of charge, has exceeded the amount to be deducted from the annual rental value on account of repairs as provided in section twelve of this Law he shall, in addition to the authorised deductions, be entitled to have the income which would otherwise be assessable in respect of the land or building on which the expenditure has been incurred reduced by the amount of the excess:

Provided that the amount of such reduction shall in no case exceed the difference between the annual rental value of the said land or building and the authorised deduction on account of the repairs thereof.

[And provided also that, in respect of any year of charge after 2025 –

- (a) the owner of the land or building ("A") may, if A proves that the cost to A of the maintenance, repairs, insurance and management of the land or building has, in any single year of charge after 2025, exceeded the amount to be deducted from the annual rental value on account of repairs as provided in section 12, A shall, in addition to the authorised deductions, be entitled to have the income of that year of charge which would otherwise be assessable in respect of the land or building on which the expenditure has been incurred reduced by the amount of the excess,

Consolidated text

- (b) the first proviso to this subsection, and the other provisions of this Law, shall apply with appropriate modifications to a claim under paragraph (a) of this proviso,
- (c) a claim under this subsection based on the average of the cost to A of the maintenance, repairs, insurance and management of the land or building in the five years preceding that year of charge may not be made, but this paragraph (c) is without prejudice to –
 - (i) for the avoidance of doubt, any such claim under this subsection in respect of any year of charge prior to 2026, and
 - (ii) the provisions of any transitional regulations of the Committee under paragraph (d), and
- (d) the Committee may by regulation make provision for effecting the transition from the provisions of this section as they had effect immediately before the 1st January, 2026 to the provisions of this section as they have effect (subject to the provisions of the regulations) immediately thereafter; and regulations under this paragraph may, without limitation -
 - (i) make such modifications to the provisions of this section as the Committee thinks appropriate for the purposes of effecting the transition, and

- (ii) authorise the Director to make such adjustments and apportionments as respects the liability of any person to tax under this section as may in the Director's opinion be appropriate.]

(2) For the purposes of the last foregoing subsection, the amount to be taken into account in respect of repairs to a glasshouse shall be such an amount as would be a permissible deduction from the profits of a business if the glasshouse had been in the occupation of the owner for the purpose of a business carried on by him.

(3) For the purpose of determining the cost of the maintenance, repairs, insurance and management of any land or building there shall be left out of account –

- (a) any expenditure which has been or may be taken into account as a deduction in computing income or profits under any other provision of this Law,
- (b) any expenditure in respect of additions or improvements or any other expenditure of a capital nature.

(4) In determining the amount to be deducted in respect of current repairs and maintenance under the provisions of paragraph (j) of subsection (3) of section seven of this Law there shall be left out of account any expenditure which would be taken into account for the purpose of determining the cost of the maintenance, repairs, insurance and management of any land or building under the provisions of subsection (3) of this section.

NOTES

In section 13,

the words in, first, the first and, second, the third pairs of square brackets in subsection (1) were inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2025, respectively section 4 and section 5, with effect from 1st January, 2026;

the words omitted in the second pair of square brackets in subsection (1) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 10, with effect from 1st January, 2008.

The following case has referred to section 13:

Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 314.

Interest on borrowed money.

14. (1) Where any land has been acquired or any building has been acquired, constructed, reconstructed or repaired with borrowed money, the income which would otherwise be assessable in respect of that land or building in accordance with the provisions of this Part of this Law in any year of charge shall be reduced by the amount of the interest paid on the borrowed money in [...] that year of charge.

(2) Where any land has been acquired or any building has been acquired, constructed, reconstructed or repaired with borrowed money, and the provisions of subsection (3) of section nine of this Law apply to such land or building, the interest payable on such borrowed money shall be allowed to the person paying the interest in the same [...] year of charge as it would be allowed if the said land or building were land or a building to which subsections (1) and (2) of the said section nine apply.

(3) ...

[(4) No deduction shall be made under the provisions of this section

—

- (a) in respect of any such interest paid to a person not resident in Guernsey by a body to which an exemption from tax has been granted under any Ordinance made under section 40A of this Law and which, by virtue of section 5(1A) of this Law, is not regarded in the hands of the recipient as arising or accruing from a source in Guernsey, or
- (b) if a deduction has been made in respect of the amount of such interest under any other provision of this Law.]

[(5) The provisions of this section are subject to the provisions of any Ordinance under section 39A of this Law.]]

NOTES

Section 14 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(f), with effect from 1st January, 1983.

In section 14,

the words omitted in square brackets in subsection (1) and subsection (2) were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, respectively section 2(2) and section 2(3), with effect from 1st January, 2002;

subsection (3) was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(4), with effect from 1st January, 2002;

subsection (4) was substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(e), with effect from 1st January, 1989;

subsection (5) was inserted by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(2), with effect from 4th September, 2001.

In accordance with the provisions of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, section 1, section 2, section 3 and

section 4, with effect from 1st January, 2008, for the year of charge 2008 and any subsequent year of charge and for the purposes of this section, the availability or otherwise of tax relief on interest payments on money borrowed in the circumstances set out in those sections shall be as set out therein.

Vacancies.

15. Where a building is vacant in [...] any year of charge, the income which would otherwise be assessable in respect of that building in accordance with the provisions of this Part of this Law shall be reduced by an amount which bears the same proportion to a sum equal to the difference between the annual rental value of the building and the authorised deductions for repairs as the period during which the building is wholly vacant bears to a period of a year, or, where the building is let in parts, by an amount, calculated in accordance with the provisions of this section, appropriate to the vacant part.

NOTE

In section 15, the words omitted in square brackets were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(5), with effect from 1st January, 2002.

Lost rent.

16. (1) Where the rent or part of the rent payable in respect of any land or building [...] has in [...] any year of charge been wholly and irrevocably lost by reason of –

- (a) the insolvency or absconding of the tenant or occupier by whom such rent was payable, or
- (b) the fraudulent assignment or removal of his goods by the said tenant or occupier,

the owner may claim that the income which would otherwise be assessable in respect of the said land or building shall be reduced by an amount equal to the difference between the rent so lost and the authorised deduction on account of repairs.

(2) Any claim for relief under this section must be made in writing to the [Director] within [three years] of the end of the year of charge to which the claim relates.

NOTES

In section 16,

the words omitted in the first pair of square brackets in subsection (1) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 10, with effect from 1st January, 2008;

the words omitted in the second pair of square brackets in subsection (1) were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(5), with effect from 1st January, 2002;

the word in the first pair of square brackets in subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁴

the words in the second pair of square brackets in subsection (2) were substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(6), with effect from 1st January, 2002.

Income from other sources.

17. (1) The assessable income from sources not covered by any of sections seven, eight or nine of this Law shall be the income arising or accruing from such sources after deduction of any expenditure [not being –

- (a) a sum paid to a person not resident in Guernsey by a body to which an exemption from tax has been granted under any Ordinance made under section 40A of this

Law and which, by virtue of section 5(1A) of this Law, is not regarded in the hands of the recipient as arising or accruing from a source in Guernsey, or

- (b) in the nature of capital expenditure or personal expenses][or
- (c) any payment or expenditure mentioned in section 7(2)(h), (i) or (j),]

wholly and exclusively incurred for the purpose of earning such income.

(2) In computing income a deduction shall be permitted in respect of any sum which has been paid on account of annual taxes or rates for the year of computation in a place outside Guernsey where the income has arisen in respect of the income or the property from which the income is derived.

[(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.]

NOTES

In section 17,

the words in the first pair of square brackets in subsection (1) were substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(f), with effect from 1st January, 1989;

the words in the second pair of square brackets in subsection (1) were inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 3, with effect from 28th January, 2009;

subsection (3) was inserted by the Income Tax (Pension

Amendments) (Guernsey) Ordinance, 2015, section 2, with effect from 2nd October, 2015.

The following cases have referred to section 17:

Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 314.

Onus of proof as to expenses.

18. The onus of proof that any expenditure is an allowable deduction from profits or income for the purposes of this Law shall be upon the person claiming so to deduct.

NOTE

The following cases have referred to section 18:

Administrator of Taxes v. Tremoille Properties Limited (2002) (Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 314.

Casual receipts.

19. In computing the amount of assessable income under this Law no account shall be taken of –

- (a) profits and losses arising from the realisation of investments except where the varying of investments and the turning of such investments to account is a business or part of a business,
- (b) receipts of a casual or non-recurring nature other than

receipts arising from a business or from the exercise of an office or employment.

NOTE

The following case has referred to section 19:

Carpenter v. Administrator of Income Tax 2003-04 GLR 260.

CHAPTER III
INCOME FROM SOURCES OUTSIDE GUERNSEY

Year of computation in respect of income from sources outside Guernsey.

20. ...

NOTE

Chapter III of Part I, and section 20 thereof, were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

Payment of tax charged in consequence of preliminary assessment.

21. ...

NOTE

Section 21 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

Payment of tax charged in consequence of a definitive assessment.

22. ...

NOTE

Section 22 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

Treatment when tax paid in consequence of a preliminary assessment exceeds tax charged in consequence of a definitive assessment.

23. ...

NOTE

Section 23 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

[Investment income from sources in Guernsey.

24. ...]

NOTE

Section 24 (which was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(h), with effect from 1st January, 1983) was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

Persons becoming solely or principally resident.

25. ...

NOTE

Section 25 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

Persons solely or principally resident who permanently depart from Guernsey.

26. ...

NOTE

Section 26 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(1), with effect from 1st January, 2002.

CHAPTER IV
SOCIAL INSURANCE BENEFITS AND CONTRIBUTIONS

[Benefits from social insurance chargeable to tax.]

27. (1) Subject to the provisions of subsection (2) of this section, benefit of any description payable under or in pursuance of the provisions of the Social Insurance Law [...] shall be chargeable to income tax as if [it were] income in respect of which tax is chargeable as income of [Class (1)(b)] of section two of this Law and for all the purposes of this Law any such benefit [...] shall be deemed to be an emolument chargeable as an emolument of an office or employment.

(2) The provisions of subsection (1) of this section shall not apply to benefit of any of the following descriptions –

- (a) unemployment benefit,
- (b) sickness benefit,
- (c) [incapacity] benefit,
- (d) ...
- (e) maternity grant,

- (f) travelling allowance grant,
- (g) death grant,
- (h) industrial injury benefit,
- (i) industrial disablement benefit,
- (j) industrial medical benefit,
- (k) ...
- (l) ...
- [(m) any widow's allowance payable on or after 1st January, 1990 [or any survivor's grant payable on or after the date of commencement of section 9 of the Social Insurance (Guernsey) (Amendment) Law, 1999][or any bereavement payment payable on or after the date of commencement of the Social Insurance (Guernsey) (Amendment) Law, 2003].]

NOTES

Section 27 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1981, section 1(c), with effect from 1st January, 1981.

In section 27,

the words omitted in the first and fourth pairs of square brackets in subsection (1) were repealed, and the words in the second pair of square brackets therein were substituted, by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 6(a) and section 6(b), with effect from 27th October, 2009;

the words in the third pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 10, with effect from 1st January, 2008;

the word in square brackets in paragraph (c) was substituted by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2017, section 2, with effect from 20th September, 2017;

paragraph (d), paragraph (k) and paragraph (l) of subsection (2) were repealed by the Income Tax (Guernsey) (Amendment) Law, 2009, section 7, with effect from 27th October, 2009;

paragraph (m) of subsection (2) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 4, with effect from 12th December, 1990;

the words in the first pair of square brackets within paragraph (m) of subsection (2) were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 25, with effect from 1st January 2002;

the words in the second pair of square brackets within paragraph (m) of subsection (2) were inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 4, with effect from 28th January, 2009.

No deductions or allowances in respect of contributions for other persons.

28. (1) Subject to the provisions of subsection (2) of this section, no deduction or allowance shall be made in computing the assessable income of any person or the profits of any business in respect of any contribution which any person is required to pay in pursuance of the provisions of the Social Insurance Law [...] in respect of any other person.

(2) Where an employer is required in pursuance of the provisions of the Social Insurance Law [...] to pay a contribution in respect of any person employed by him and but for the provisions of the last preceding subsection that contribution would –

- (a) be allowable as a deduction in pursuance of the provisions of section seven of this Law in computing the profits of any business carried on by the employer,

or

- (b) be included as part of the cost of the maintenance, repair or management of any land or building for the purpose of computing the amount of any additional deduction for repairs to which the employer may be entitled in pursuance of the provisions of section thirteen of this Law, or
- (c) be included in computing the permissible management expenses in respect of which a deduction may be claimed by the employer in pursuance of the provisions of section one hundred and sixty-two of this Law,

the amount of the contribution shall be so deducted or so included.

NOTE

In section 28, the words omitted in square brackets in subsection (1) and subsection (2) were repealed by the Social Insurance (Guernsey) Law, 1978, section 120, Fifth Schedule, with effect from 1st January, 1979.

Interpretation of Chapter IV.

29. In this Chapter, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"contribution" means a contribution paid in pursuance of the Social Insurance Law,

"the Family Allowances Law" means the Family Allowances (Guernsey) Law, 1950,

"the Social Insurance Law" means the Social Insurance (Guernsey) Law, 1978.]

NOTE

Section 29 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1981, section 1(d), with effect from 1st January, 1981.

CHAPTER V
COMMENCEMENTS, CESSATIONS AND SUCCESSIONS

Commencements.

30. ...

NOTE

Section 30 was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 8, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.¹⁵

Cessations.

31. (1) ...

(2) ...

(3) ...

NOTES

In section 31,

subsection (1) was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 8, with effect from 1st January,

2005, subject to the transitional provisions in section 19 of the 2004 Law;¹⁶

subsection (2) and subsection (3) were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(2)(b), with effect from 1st January, 2002.

The following case has referred to section 31:

Bannister v. Administrator of Income Tax (1997) 24.GLJ.33.

Application of sections 30 and 31.

32. ...

NOTE

Section 32 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(3), with effect from 1st January, 2002.

[Directors.

33. ...]

NOTE

Section 33 (which was previously substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(h), with effect from 1st January, 1989) was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 8, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

Change of employment.

34. ...

NOTE

Section 34 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(3), with effect from 1st January, 2002.

Succession to a business.

35. ...

NOTE

Section 35 was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 8, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

PART II

ALLOWANCES TO INDIVIDUALS AND GENERAL RELIEFS

Personal and other allowances.

36. (1) For any year of charge the States may by Resolution prescribe the amount of personal and other allowances to which [an individual who is solely or principally resident] in Guernsey is entitled by way of relief from income tax at the [appropriate rate], [and the limitations, conditions, restrictions and qualifications applicable to such allowances][, and for the avoidance of doubt any such Resolution may authorise the [Committee] to prescribe any matter relating to any such allowance (including, without limitation, any limitations, conditions, restrictions and qualifications) by regulation].

(2) A claim for relief under this section shall not be allowed unless made simultaneously with the return as to income delivered in accordance with section sixty-eight of this Law:

Provided that where the conditions [or qualifications] by reason of which the allowance can be granted have arisen subsequently to the making of such return the relief shall be given if the claim therefore is made on or before the thirty-first day of December of the year following the year of charge to which the allowance relates:

Provided further that notwithstanding anything in this subsection contained the [Director] may, if he is satisfied that reasonable cause existed for not making a claim in the manner hereinbefore prescribed, admit such claim at any time within six years of the end of the year of charge for which the assessment in pursuance of the return was made.

[(3) For any year of charge the States may by Resolution prescribe, in respect of any deduction which, under this Law or any Ordinance or regulation under it, may be made in computing, or set off against, the income or profits of any person or business, any limitations, conditions, restrictions and qualifications applicable to such deduction, in the same manner as if the deduction were an allowance prescribed by Resolution under subsection (1), and any such Resolution may authorise the Committee to prescribe any matter relating to any such deduction (including, without limitation, any limitations, conditions, restrictions and qualifications) by regulation.

(4) The provisions of subsection (3) are in addition to and not in derogation from the provisions of section 39A.

(5) A Resolution under this section –

- (a) may be varied or revoked by a subsequent Resolution, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (without limitation) provision amending, or making exceptions, adaptations and modifications to, any provision of this Law or any Ordinance or regulation under it.]

NOTES

In section 36,

the words in the first pair of square brackets in subsection (1) were substituted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 1;

the words in the second pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

first, the words in the second pair of square brackets in subsection (1) were substituted and, second, the words in square brackets in the first proviso to subsection (2) by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, respectively section 2 and section 3, with effect from 1st January, 2023;

the words in the fourth pair of square brackets in subsection (1) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 5 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in square brackets in the second proviso to subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁷

subsection (3), subsection (4) and subsection (5) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017, section 3, with effect from 1st January, 2018.

The following Resolution has been made by the States under section 36:

Resolution of the States of 15th December, 2011, concerning Billet d'État No. XXII.

The following Regulations have been made under section 36:

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) (No. 2) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2017;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2018.

In accordance with provisions of section 6(1) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 1 thereof applies for the year of charge 1993 and subsequent years of charge.

In accordance with the provisions of the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010, regulation 1A, with effect in respect of any year of charge after 2010, for the purposes of this section the retirement annuity contribution limit in respect of the year of charge 2011 and any succeeding year of charge is £50,000.

In accordance with the provisions of proposition 16(a) of the Resolution of the States of 15th December, 2011, concerning Billet d'État No. XXII, with effect from that date and subject to the provisions of proposition 16(b) of the said Resolution, the allowances claimable for the Year of Charge 2012 by an individual solely or principally resident in Guernsey by way of relief from income tax at the individual standard rate, shall be the allowances specified in the First Schedule to the said proposition 16(a).

Relief in respect of errors and mistakes in returns.

37. (1) Where the amount of tax paid by any person was excessive by reason of some error or mistake in a return or claim made by him or on his behalf, he shall, on a claim being made for the purpose, be entitled to be given by way of repayment such relief as is reasonable and just.

(2) A claim under this section must be made not later than six years after the end of the year of charge for which the assessment in pursuance of the return was made.

(3) No relief shall be granted under this section in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed, if the return was in fact made on the basis of or in accordance with the practice prevailing at the time when the return was made.

[Relief for interest on money borrowed.]

38. (1) [Where] any person resident in Guernsey is required to pay, in respect of money borrowed, any annual interest which cannot be deducted under any other provision of this Law, in computing the income or profits arising or accruing or deemed to arise or accrue to that person for any year of charge, the said interest may be deducted in accordance with the provisions of the following paragraphs from the income or profits which, but for this section, would be assessable to tax –

(a) in the case of an individual who is resident but not solely or principally resident in Guernsey in the year of charge, the amount of interest payable by him in the year of charge which he is able to prove to the satisfaction of the [Director] that he was required to pay out of income which would, but for this section, be assessable to tax for that year of charge,

[(b) in any other case, the amount of interest payable in the year of charge:

Provided that no deduction shall be allowed to any individual who became principally resident in the year of charge for interest payable by him in respect of any period prior to the date on which he first arrived in Guernsey in that year.]

(2) ...

(3) ...

[(4) The provisions of this section are subject to the provisions of any Ordinance under section 39A of this Law.]]

NOTES

Section 38 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(k), with effect from 1st January, 1983.

In section 38,

the word in the first pair of square brackets in subsection (1) was substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(7)(a), with effect from 1st January, 2002;

the word in square brackets in paragraph (a) of subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁸

paragraph (b) of subsection (1) was substituted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(7)(b), with effect from 1st January, 2002, subject to the transitional provisions in section 8 of, and the Schedule to, the 2000 Law;

subsection (2) and subsection (3) were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 2(7)(c), with effect from 1st January, 2002;

subsection (4) was inserted by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(3), with effect from 4th September, 2001.

In accordance with the provisions of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, section 1, section 2, section 3 and section 4, with effect from 1st January, 2008, for the year of charge 2008 and any subsequent year of charge and for the purposes of this section, the availability or otherwise of tax relief on interest payments on money borrowed in the circumstances set out in those sections shall be as set out therein.

National Insurance contributions.

39. The amount of any contribution paid by any person in pursuance of any of the provisions of the National Insurance Act, 1946, or in pursuance of the National Insurance Act (Northern Ireland), 1946, in order to secure a retirement pension, widow's benefit or dependant's pension for that person, his widow or dependants, as the case may be, shall be treated as if it were a premium paid to an

assurance company in respect of a deferred annuity on the life of that person and accordingly as entitling him to any allowance which may be claimable under the provisions of section thirty-six of this Law.

[Power of States to restrict relief on interest paid.]

39A. (1) The States may by Ordinance make such provision as they think fit in respect of the abolition, restriction, limitation or apportionment of relief from the payment of income tax for interest paid on money borrowed that would otherwise be allowable under any other provision of this Law (other than interest properly deductible as a business expense under section 7 of this Law).

(2) An Ordinance under subsection (1) –

(a) without limitation, may make provision by reference to

–

(i) the amount of the loan on which the interest is payable,

(ii) the amount of the interest which is payable,

(iii) the purpose to which the loan on which the interest is payable is applied,

(iv) the use of the property (real or personal) for the purchase or otherwise for the purposes of which the loan was obtained,

(b) without limitation, may prescribe –

(i) allowances, formulae or other bases for the

computation of relief, or the manner in which such allowances, formulae or other bases are to be calculated,

(ii) conditions subject to which relief is to be given,

(c) may be amended or repealed by a subsequent Ordinance thereunder,

(d) may contain such consequential, incidental, transitional and supplementary provision (including, without limitation, provision in respect of the avoidance of income tax) as the States think fit.

(3) The power conferred by this section to make an Ordinance may be exercised –

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases,

or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions.]

NOTES

Section 39A was inserted by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(4), with effect from 4th September, 2001.

The following Ordinances have been made under section 39A:

Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007;

Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2014;

Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014;

Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2015;

Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022;
Income Tax (Guernsey) (Budget) Ordinance, 2025.

Limit on amount of tax payable by a resident individual.

39B. (1) For any year of charge the limit on the amount of income tax payable by a resident individual on qualifying income [and on non-qualifying income] shall be as set out in the Sixth Schedule, which may be amended by Resolution of the States.

(2) For the purposes of this section the qualifying income [and non-qualifying income] shall be calculated net of all [allowances, reliefs and deductions which may under this Law be set off against that income], in order to determine whether or not the limit will apply[: provided that those allowances, reliefs and deductions shall first be set off against the individual's qualifying income].

(3) If the individual is resident in Guernsey for only part of a year of charge the limit may be pro rated by reference to the amount of time spent in Guernsey in the year of charge.

[(4) For the purposes of Part XV, the amount of income tax payable or chargeable in respect of any income against which tax payable in respect of that income in another territory is to be credited shall be calculated as if the limit on the amount of income tax payable imposed by subsection (1) and the Sixth Schedule were not applicable.

(5) In this section [**"qualifying income"** and **"non-qualifying income"** mean] income of the classes or descriptions for the time being specified in the Sixth Schedule.]]

NOTES

Section 39B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 11, with effect from 1st January, 2008.

In section 39B,

the words in, first, the square brackets in subsection (1), second, the first pair of square brackets in subsection (2) and, third, the third pair of square brackets in subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 8(1)(a), section 8(1)(b)(i) and section 8(1)(b)(ii), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2008;

the words in the second pair of square brackets in subsection (2) were substituted, and subsection (4) and subsection (5) were inserted, by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, respectively section 2(a) and section 2(b), with effect from 29th April, 2009;

the words in square brackets in subsection (5) were substituted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 8(1)(c), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, this amendment shall have effect in respect of any year of charge after 2008.

The following Resolutions of the States have been made under section 39B:

Resolution of the States of 15th December, 2011, concerning Billet d'État No. XXII;

Resolution of the States of 29th September, 2015, concerning Billet d'État No. XIX;

Resolution of the States of 9th October, 2017, concerning Billet d'État No. XX.

Effect of tax cap on credits and repayments.

39C. (1) Where in any year of charge –

- (a) the amount of income tax payable by an individual is, by virtue of section 39B, limited as set out in the Sixth Schedule, and
- (b) the individual receives a distribution from a company consisting of income which –
 - (i) arose or accrued to the company in a year of charge before 2008, and
 - (ii) in the individual's hands carries a credit for tax paid or deemed to have been paid by the company,

then the following provisions have effect.

(2) Without prejudice to his entitlement to the credit, the individual is not entitled to any repayment of tax in respect of that credit.

(3) For the purpose of calculating –

- (a) the amount of credit due to the individual in that year of charge, and
- (b) the amount (if any) of any repayment of tax due to him in that year of charge,

there shall be taken into account, before taking into account the amount of the company's distribution, the amount of any other income of any different class, description or source arising or accruing to the individual in that year of charge from which tax has been deducted or in respect of which tax has already been paid.]

NOTE

Section 39C was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 8(2), with effect from 27th October, 2009.

[Effect of tax cap on rolled-forward [...] profits.]

39D. (1) Where in any year of charge –

- (a) the amount of income tax payable by an individual is, by virtue of section 39B, limited as set out in the Sixth Schedule, and
- (b) the individual receives a distribution from a company consisting of income which –

[(i) arose or accrued to the company –

- (A) from the carrying on of a business in Guernsey, or

(B) from any other source whatsoever,

including, without prejudice to the generality of this subparagraph and for the avoidance of doubt, investment and other income arising or accruing to an investment company, and]

(ii) in the individual's hands is non-qualifying income and, in consequence of the individual having made an election in respect of that year of charge in accordance with the Sixth Schedule, is subject to the limit on the amount of income tax payable as set out in that Schedule,

then the following provisions have effect.

(2) There shall be calculated the amount of additional tax that would have been payable by the individual in the year of charge in which the income arose or accrued to the company had the income been distributed by the company in that year of charge.

(3) That amount of tax –

(a) shall be payable by the individual in respect of the year of charge in which he received the distribution referred to in subsection (1)(b), notwithstanding that (apart from this section) the amount of income tax payable by him would, by virtue of section 39B, have been limited as set out in the Sixth Schedule, and

- (b) shall be payable in addition to the amount of income tax that would have been payable (but for this section) by the individual pursuant to the provisions of section 39B and the Sixth Schedule.

(4) ...]

NOTES

Section 39D was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 8(2), with effect from 27th October, 2009.

In section 39D,

first, the word omitted in the marginal note thereto was repealed and, second, subsection (1)(b)(i) was substituted by the Income Tax (Guernsey) (Amendment) Law, 2015, section 1, respectively paragraph (a) and paragraph (b) and, in accordance with the provisions of section 3 of the 2015 Law, shall have effect on and from 26th September, 2013;

subsection (4) was repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 2, with effect from 1st January, 2013.

[Effect of tax cap on distributions made from taxed company income.]

39E. (1) Notwithstanding any other provision of this Law, when any income of a company has been taxed or is taxable in the company's hands at the company intermediate rate or the company higher rate, and in any year of charge the company distributes or is deemed to have distributed that income to an individual resident in Guernsey, then –

- (a) no credit in respect of that year of charge for tax paid by the company may be allowed to the extent to which it would exceed the income tax liability (as limited by virtue of section 39B and the Sixth Schedule) in respect of that year of charge of the individual to whom the

distribution was made or (if different) the individual claiming the credit,

- (b) accordingly, no repayment shall be made to that individual in respect of the amount by which, apart from this section, the credit would have exceeded the amount of his income tax liability.

(2) For the purpose of calculating –

- (a) the amount of credit due to the individual in that year of charge, and
- (b) the amount (if any) of any repayment of tax due to him in that year of charge,

there shall be taken into account, before taking into account the amount of the company's distribution or deemed distribution, the amount of any other income of any different class, description or source arising or accruing to the individual in that year of charge from which tax has been deducted or in respect of which tax has already been paid.]

NOTE

Section 39E was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 2, with effect from 1st January, 2015.

PART III

**[EXEMPTIONS AND ANNUAL FEES PAYABLE BY CERTAIN
EXEMPTED [BODIES]]**

Exemptions.

- 40.** Tax shall not be chargeable in respect of –
- (a) the official emoluments of any servant of Her Majesty or Her Majesty's Government or of any employee of the Corporation of the Trinity House of Deptford Strond in the County of Kent in respect of any office or employment held or carried on by him in Guernsey, provided and for so long as he is liable to pay United Kingdom income tax in respect of such emoluments,
 - (b) the income derived from investments or deposits forming part of a [pension scheme or retirement annuity trust scheme] approved under the provisions of Part XIII of this Law,
 - (c) a wound or disability pension granted in respect of any person's service in Her Majesty's Forces, or an allowance to the widow of any such person in respect of a child of that person,
 - (d) the official emoluments of a consular officer in the service of a foreign state,
 - (e) the emoluments of a scholarship, exhibition, bursary or other similar educational endowment held by an individual receiving full-time instruction in a university, college, school, or other educational establishment,
 - (f) the profits arising from a show or exhibition held by an

agricultural or horticultural society for the purposes of the society if those profits are applied solely to the purposes of the society,

(g) the income of a registered trade union which is precluded, by law or by its rules, from assuring to any person a sum exceeding five hundred pounds by way of gross sum, or one hundred and four pounds a year by way of annuity, so far as that income is applicable and applied solely for the purpose of provident benefits to its members,

(h) (i) the income of an unregistered friendly society whose income for the year of charge does not exceed one hundred and sixty pounds,

[(ii) so much of the income of a registered friendly society as derives from such business, carried on in such circumstances, and subject to such conditions, as the [Committee] may from time to time specify in regulations made under this sub-paragraph,]

(i) the income derived by a savings bank certified as "**a trustee savings bank**" within the meaning of that expression for the purposes of section three of the Trustee Savings Banks Act 1969 from its investments with the National Debt Commissioners,

(j) the income of any savings bank (other than income from lands and buildings not occupied for the purpose

of the business) so far as such income is applied in the payment or credit of interest to any depositor if the bank makes an annual return to the [Director] of the name and address of every depositor to whom interest exceeding fifteen pounds has been paid in any year out of income other than income derived from investments with the National Debt Commissioners,

[(k) the income of a charity registered in accordance with the Charities etc. (Guernsey and Alderney) Ordinance, 2021 which is a relevant entity within the meaning of that Ordinance (a "**Guernsey Registered Charity**") or a charity not required to be registered in accordance with that Ordinance, if and in so far as the income is applied to charitable purposes only, and for the purposes of this Law "**charity**" and "**charitable purposes**" have the same meaning as in the Charities etc. (Guernsey and Alderney) Ordinance, 2021,]

[(l) the income of –

(i) any fund or trading department administered by or on behalf of the States, but excluding the income of a States trading company,

(ii) the Public Servants' Pension Scheme, or

(iii) any parish or parochial institution,]

(m) the income derived from such securities and in such circumstances as the States may by resolution from

time to time prescribe,

- (n) the official emoluments of an ordinary judge of the Court of Appeal, so long as he is not solely or principally resident in Guernsey,
- (o) the income derived from investments or deposits of any superannuation fund which is established in Guernsey and which –
 - (i) is bona fide established under irrevocable trusts in connection with the carrying on of business or the exercise of functions wholly or mainly outside Guernsey,
 - (ii) has for its sole purpose the provision of superannuation benefits for [persons] employed in the business or in connection with the exercise of functions wholly outside Guernsey and, for the widows, children or dependants of persons who are or have been so employed, on the death of those persons, and
 - (iii) is recognised by the employer and by the persons employed in the business or in connection with the exercise of functions,

and for the purposes of this paragraph duties performed in Guernsey, the performance of which is incidental to the performance of other duties outside Guernsey, shall be treated as performed outside of Guernsey,

- (p) any superannuation benefit which is paid out of a superannuation fund to which paragraph (o) of this section applies and which is paid to a person who is not resident in Guernsey,
- (q) ...
- [(r) the income derived from investments or deposits of any body of persons or trust established in the United Kingdom or in the Island of Jersey for charitable purposes only where the person entitled to the income proves to the satisfaction of the [Director] that the Commissioners for Her Majesty's Revenue and Customs or the Comptroller of Income Tax of the Island of Jersey, as the case may be, have allowed a claim for exemption from tax on that income under the relevant provisions of the laws relating to income tax or charities in those territories,]
- (s) the income derived by an assurance company from investments or deposits to the extent that the investments or deposits are referable to the company's pension annuity business carried on in the United Kingdom and where the company proves to the satisfaction of the [Director] that the said income is exempt from tax under the provisions of section three hundred and fourteen of the Income and Corporation Taxes Act 1970,
- (t) any payment of [...] [income support] in pursuance of

the provisions of the [Income Support (Guernsey) Law, 1971]^e,

- (u) ...
- (v) ...
- (w) the income derived from investments and deposits of so much of an insurance company's life assurance fund and separate annuity fund, if any, as is referable to pension business as defined in section one hundred and eighty-eight of this Law,
- (x) any chargeable profit within the meaning of the Dwellings Profits Tax (Guernsey) Law, 1975^h, accruing to a person from a transaction to which that Law applies,
- (y) ...
- [(z) any payment of expense allowances, not exceeding in any year of charge the sum of four hundred pounds or such other sum as the States may from time to time by Resolution prescribe, made to a member of the States or a member of a Committee of the States under and in accordance with the provisions of Resolution No. XI of the twenty-eighth day of September, nineteen hundred and seventy-eight, or any Resolution amending or

^e Ordres en Conseil Vol. XXIII, p. 26.

^h Ordre en Conseil No. VIII of 1975.

replacing the same][,]

[(aa) ...]

[(bb) any pension or allowance which by virtue of the provisions of section nine of the Finance (No. 2) Act 1979 is not treated as income for any purposes of the Income Tax Acts of the United Kingdom][,

(cc) any interest arising in Guernsey upon money deposited with a bank or other person registered or exempted from the requirement to register under the provisions of the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971, as amended, which interest is paid or credited on or after the first day of January, nineteen hundred and eighty-two, to a person not resident in Guernsey][,

(dd) any allowance payable under the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984],]

[(ee) any annuity or lump sum paid pursuant to –

(i) a retirement annuity contract entered into with a company resident in Guernsey or carrying on business through a permanent establishment situate in Guernsey and carrying on in Guernsey the business of granting annuities on human life, or

(ii) a retirement annuity trust scheme established

under irrevocable trusts under the law of Guernsey, and administered in Guernsey,

if the annuity or lump sum is paid –

- (a) to an individual who was not when he entered into the contract or scheme, and who has not been at any time since, resident in Guernsey within the meaning of this Law or resident in Jersey for the purposes of income tax in that island, or
 - (b) to a spouse or dependant of, or to an individual beneficiary under the will of, such a person, if neither the individual who entered into the contract or scheme nor the payee has been so resident at any time since it was entered into,]
- [(ff) any sum payable to an individual under the provisions of the Long-term Care Insurance (Guernsey) Law, 2002 in respect of benefit within the meaning of that Law (provided that only the individual in respect of whom the entitlement to benefit arises shall be exempt from tax thereon).]
- [(gg) any supplement or additional supplement payable by the [Director] under section 199A][,
- (hh) the income derived from the micro-generation of electricity,

- (ii) any Premium Bond prize awarded by National Savings and Investments (a department of Her Majesty's Government),]

- [(jj) any sum on account of an allowance in pursuance of the provisions of the Family Allowances Law,]

- [(kk) the first £50 [...], or such other sum as the [Committee] may determine by regulation, of the total interest receivable by individuals on money deposited with any government, bank, building society or other financial institution or class or description of financial institution approved (generally or in any particular case, and subject to any conditions he thinks proper to impose) by the [Director of the Revenue Service], irrespective of where the account is held: provided that the [Committee] may by regulation amend the preceding descriptions of institution or account should it consider it necessary or expedient to do so for the purposes of clarification or the avoidance of doubt,]

- [(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 the Revenue Service] –
 - (A) is situated in a place outside Guernsey,

- (B) is approved or exempted by the 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 [Committee] 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,]

- [(mm) in the case of an individual who becomes resident in Guernsey in any year of charge, any distribution made

to him by a company of which he is a beneficial member, provided that the following conditions are met –

- (i) the company making the distribution is registered in a place outside Guernsey,
- (ii) the company has not carried on business in Guernsey, whether through a permanent establishment or otherwise,
- (iii) the company has not been used to hold investments in Guernsey, other than money deposited with a licensed institution or other person exempted from the requirement to be licensed under the provisions of the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (iv) the income of the company from which the distribution was made arose prior to the date on which the individual became resident in Guernsey,
- (v) the individual has a beneficial interest in the shares or any part of the shares of the company amounting to not less than 1% of the total of all beneficial interests held in the company, and
- (vi) the distribution is made before the expiration of the second complete year of charge following

the date on which the individual became resident in Guernsey,

and for the purposes of this paragraph the expressions "**beneficial member**", "**beneficial interest**" and "**shares**" shall be construed in accordance with section 62D.

The Committee may by regulation prescribe any matter relating to the exemption from tax created by this paragraph including, without limitation, any limitations, conditions, restrictions and qualifications,]

[(nn) any lump sum or pension, annuity or other income paid out of or under the provisions of –

(i) a gratuity scheme, or

(ii) an international savings plan,

provided that –

(A) the beneficiaries of the scheme or plan are non-resident, and

(B) all income paid out of or under the provisions of the scheme or plan is income from non-Guernsey sources, other than any interest arising in Guernsey on money deposited with a licensed institution within the meaning

of the Banking Supervision (Bailiwick of Guernsey) Law, 2020 or other person exempted by the provisions of that Law from the requirement to be licensed thereunder,

and for the purposes of this paragraph –

"gratuity scheme" means a fund, contract, scheme or trust, or part of a fund, contract, scheme or trust (not being a fund, contract, scheme or trust, or part of a fund, contract, scheme or trust, described in paragraph (a), (b) or (c) of the definition of "pension scheme" below) –

- (a) which has for its sole purpose the provision of benefits in respect of persons' employment wholly outside Guernsey in a trade or undertaking (and, for the purpose of determining whether employment is wholly outside Guernsey, duties performed in Guernsey, the performance of which is incidental to the performance of other duties outside Guernsey, are to be treated as performed outside Guernsey),
- (b) which is established under Guernsey law under contract, statute or irrevocable trusts in connection with a trade or undertaking carried on –

- (i) wholly or partly outside Guernsey, and
 - (ii) by a person not resident in Guernsey, and
- (c) which is administered by a licensed fiduciary within the meaning of Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020 whose licence authorises the carrying on of regulated activities described in section 2(1)(e) of that Law (the formation, management or administration of pension schemes or gratuity schemes, etc),

and "international savings plan" has the same meaning,

"pension scheme" means any fund, contract, scheme or trust –

- (a) which is approved by the Director of the Revenue Service under section 150, 154A, 157A or 157E,
- (b) which is established in Guernsey and exempt from tax under paragraph (o),

- (c) any annuity or lump sum payable pursuant to which is exempt from tax under paragraph (ee),]

- [(oo) payments not exceeding £349 per month (or such other amount as the Committee may determine by regulation) made to an individual who is a sponsor in accordance with the Ukraine Sponsorship Scheme established by the Committee, the payments not being chargeable to tax in the hands of the recipient],

- [(pp) payments made to an individual ("A") for the provision of accommodation in a building situated in Guernsey and occupied by A which is A's principal dwelling, where –
 - (i) the individuals being accommodated are officials, competitors, performers and other accredited persons participating in, or providing necessary support and ancillary services to, a large event (for example, the Island Games),

 - (ii) the large event has been designated for the purposes of this paragraph in a statement of practice issued under section 204 in cases where there is expected to be an insufficiency of visitor accommodation in Guernsey during the period of the event,

 - (iii) the accommodation is provided only during the period of the event and any reasonable period,

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specified in the statement of practice,
immediately before and after the event, and

(iv) the building is not otherwise used by A for
letting,]

[(qq) payments made by lodgers to one or more individuals
(referred to, collectively if more than one, as "A") for
the provision by A of accommodation in a room in a
dwelling house situated in Guernsey and occupied by
A, as owner or tenant, as A's principal dwelling, subject
to the following conditions –

(i) the lodger is aged 18 years or more and is not a
member of A's family,

(ii) the room is let furnished and is not a self-
contained unit within the dwelling house,

(iii) the room is not part of a guest house or bed and
breakfast business,

(iv) not more than two such rooms are so let within
the dwelling house,

(v) a boarding permit under the Tourist Law, 1948
is not held in respect of the dwelling house,

(vi) the maximum gross rental income for each room
that is exempt from tax under this paragraph is
£10,000,

- (vii) A does not claim any deduction under Chapter II of Part I of this Law in respect of the dwelling house or the accommodation or provision thereof, and
- (viii) if A comprises more than one individual, the allowance is equally divisible, and is not transferable, between them.]

NOTES

Immediately after the heading "Part III",

the words in square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1984, section 1(b), with effect from 1st January, 1984;

the word in square brackets within the square brackets immediately after the heading "Part III" was substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 6(a), with effect from 1st January, 1989.

In section 40,

the words in square brackets in paragraph (b) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1983, section 1(b), with effect from 1st January, 1984;

sub-paragraph (ii) of paragraph (h) was substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 1, with effect from 19th January, 1993, subject to the provisions of section 9(3) of the 1992 Law;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁹

paragraph (k) was substituted by the *Charities etc. (Guernsey and Alderney) Ordinance, 2021, section 52(3), Schedule 8, paragraph 2(2), with effect from 29th April, 2022;*²⁰

paragraph (l) was substituted by the *Income Tax (States Trading Companies and Public Servants' Pension Scheme) (Guernsey) Law, 2001, section 1(1), with effect from 1st October, 2001;*

the word in square brackets in sub-paragraph (ii) of paragraph (o) was substituted by the *Income Tax (Amendment) (Guernsey) Law, 1976, section 1(e), with effect from 1st January, 1975;*

paragraph (q) was repealed by the *Income Tax (Zero 10) (Guernsey) Law, 2007, section 12, with effect from 1st January, 2008;*

paragraph (r) was substituted by the *Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 6, with effect from 3rd November, 2008;*

the word *in, first, the first pair of square brackets* in paragraph (t) was repealed and the words *in, second, the second and, third, the third pairs of square brackets therein* were substituted by the *Income Support (Guernsey) Law, 2017, respectively section 3(b), section 3(a) and section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018;*

paragraph (u), paragraph (v) and paragraph (aa) (paragraph (aa) was originally inserted by the *Income Tax (Amendment) (Guernsey) Law, 1980, section 1(a), with effect from 1st January, 1980*) were repealed by the *Income Tax (Guernsey) (Amendment) Law, 2009, section 9(b), with effect from 27th October, 2009;*

paragraph (y) was repealed by the *Income Tax (Amendment) (Guernsey) Law, 1981, section 1(e), with effect from 1st January, 1981;*

paragraph (z) was inserted by the *Income Tax (Amendment) (Guernsey) Law, 1979, section 1(a), with effect from 1st January, 1979;*

paragraph (bb) was inserted, and the punctuation at the end of paragraph (z) was substituted, by the *Income Tax (Amendment) (Guernsey) Law, 1980, section 1(a), with effect from 1st January, 1980;*

paragraph (cc) was inserted, and the punctuation at the end of paragraph (bb) was substituted, by the *Income Tax (Amendment) (Guernsey) Law, 1982, section 1(1), with effect from 1st January, 1983;*

paragraph (dd) was inserted, and the punctuation at the end of paragraph (cc) was substituted, by the *Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, respectively section 25(b) and section 25(a), with effect from 6th January, 1986;*

Consolidated text

the words in square brackets within paragraph (dd) were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(2), First Schedule, paragraph 1, with effect from 1st May, 2014;

paragraph (ee) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 8, with effect from 22nd May, 1991;

paragraph (ff) was inserted by the Income Tax (Long-term Care Benefit) (Guernsey) Law, 2003, section 1, with effect from 7th April, 2003;

paragraph (gg) was inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 2, which insertion shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

paragraph (hh) and paragraph (ii) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 9(c), with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2008;

paragraph (jj) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 9(d), with effect from 27th October, 2009;

paragraph (kk) was inserted by the Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014, section 1, with effect from 1st January, 2015;

the words omitted in the first pair of square brackets within paragraph (kk) were repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 4, with effect from 1st January, 2023;

paragraph (ll) was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015, section 3, with effect from 2nd October, 2015;

paragraph (mm) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2017, section 2, with effect from 18th May, 2017;

paragraph (nn) (which was originally inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 3, with effect from 1st January, 2019) was substituted by the Income Tax (Gratuity Schemes) (Guernsey) (Amendment) Ordinance, 2025, section 1, which amendment, pursuant to section 3 of the 2025 Ordinance, shall be deemed to have come into force on 1st January, 2025 and have effect for the year of charge 2025 and thereafter;

Consolidated text

paragraph (oo) was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 2, with effect from 1st January, 2023;

paragraph (pp) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2023, section 2, with effect from 1st January, 2024;

paragraph (qq) was inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 2, with effect from 1st January, 2025.

The following Regulations have been made under section 40:

Income Tax (Registered Friendly Societies: Tax-exempt Business) Regulations, 1993;

Income Tax (Registered Friendly Societies: Tax-Exempt Business) (Amendment) Regulations, 1997.

In accordance with the provisions of the Dwellings Profits Tax (Suspension of Law) (Guernsey) Ordinance, 2009, section 1, the operation of the Dwellings Profits Tax (Guernsey) Law, 1975, as amended, is suspended during the period of operation of the 2009 Ordinance, with effect from 25th March, 2009, subject to the savings in section 2 of the 2009 Ordinance.

The Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971 has since been repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 1994, section 57(b), with effect from 1st October, 1994, subject to the savings in section 58 of the 1994 Law.

[Exemption of certain [bodies].

- 40A.** (1) The States may, from time to time, by Ordinance provide –
- (a) that a company which complies with the conditions prescribed therein may be eligible for exemption from tax,
 - (b) for such incidental and supplementary matters for which the States may deem it necessary or expedient for the purposes of any such Ordinance to provide.
- (2) Upon application by a [body] which claims to be eligible for

exemption from tax under the provisions of such Ordinance, [the Director of the Revenue Service] may, if [he] is satisfied that the [body] is so eligible, determine that the [body] shall be exempted from tax.

(3) Where in the opinion of [the Director of the Revenue Service] a [body] which has been granted exemption from tax has ceased to comply with the provisions of such Ordinance, [the Director of the Revenue Service] may, subject to the following provisions of this section, revoke such exemption.

(4) [The Director of the Revenue Service] shall not refuse an application for exemption from tax nor revoke an exemption which [he] has granted unless the [body] concerned has first been given a reasonable opportunity to make representations upon the matter to [the Director of the Revenue Service].

(5) The revocation of an exemption from tax granted by [the Director of the Revenue Service] under this section shall take effect as from the first day of January next following the date upon which notice in writing of the revocation is given by [the Director of the Revenue Service] to the [body] concerned.

[(5A) It is hereby declared for the avoidance of doubt that –

- (a) nothing in subsections (3) to (5) of this section precludes the States from prescribing as a condition of eligibility for exemption from tax by an Ordinance made under subsection (1) of this section a condition which is required to be fulfilled throughout any prescribed period (and, accordingly, that non-compliance with that condition at any time during that period may result in the immediate loss of any exemption granted), and

- (b) ...
- (c) an Ordinance under this section may be made so as to come into force on any date not earlier than the 1st January of the year in which it is made.]

(6) Subject to the provisions of subsection (7) of this section a decision of [the Director of the Revenue Service] to grant or to revoke an exemption from tax under this section shall be final.

(7) Where [the Director of the Revenue Service] refuses to grant an exemption from tax or revokes such an exemption, a person who is dissatisfied with such refusal or revocation as being erroneous in point of law may require [the Director of the Revenue Service] to state and sign a case for submission to the Royal Court, in which case the provisions of section eighty of this Law shall apply, with such adaptations as may be necessary, as if such refusal or revocation were the determination of an appeal.]

NOTES

Section 40A was inserted by the Income Tax (Amendment) (Guernsey) Law, 1984, section 1(c), with effect from 1st January, 1984.

In section 40A,

the words "bodies" and "body" in square brackets, wherever occurring, were substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(i), with effect from 1st January, 1989;

the words "T/he Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;²¹

the words in, first, the third pair of square brackets in subsection (2) and, second, the second pair of square brackets in subsection (4) were

substituted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 10(b), with effect from 4th July, 2011;

subsection (5A) was inserted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(j), with effect from 1st January, 1989;

paragraph (b) of subsection (5A) was repealed by the Income Tax (Guernsey) (Amendment) Law, 2009, section 10(c), with effect from 4th July, 2011.²²

The following Ordinances have been made under section 40A:

Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989;
Income Tax (Exempt Bodies: Offshore Insurers) Ordinance, 1992;
Income Tax (Exempt Bodies: Guernsey Limited Partnerships) Ordinance, 1995;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) (No. 2) Ordinance, 2009;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012;
Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014.

[Levy of annual fee upon certain exempted [bodies].

- 40B.** (1) The States may, from time to time, by Ordinance provide –
- (a) for the levying, charging and securing the payment of an annual fee by [bodies] which are exempted from tax in accordance with the provisions of section 40A of this Law in such sum, or according to such formula or scale of fees as may be prescribed therein, and different sums, formulae or scales of fees may be prescribed for different categories of [bodies] or for different classes of [bodies] within any category,
 - (b) for such incidental and supplementary matters for which the States may deem it necessary or expedient

for the purposes of any such Ordinance to provide.

(2) In default of payment of such fee as is mentioned in subsection (1) of this section, the [Director] may proceed to enforce payment as if the amount due were a civil debt.]

NOTES

Section 40B was inserted by the Income Tax (Amendment) (Guernsey) Law, 1984, section 1(c), with effect from 1st January, 1984.

In section 40B,

the word "bodies" in square brackets, wherever occurring, was substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(k), with effect from 1st January, 1989;

the word in square brackets in subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.²³

The following Ordinances have been made under section 40B:

Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989;
Income Tax (Exempt Bodies: Offshore Insurers) Ordinance, 1992;
Income Tax (Exempt Bodies) (Amendment) (Guernsey) Ordinance, 1997;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) (No. 2) Ordinance, 2009;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012;
Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014;
Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017.

PART IV

PROVISIONS APPLICABLE TO SPECIAL CLASSES OF PERSONS AND MATTERS

CHAPTER I
APPLICATION

Application of Part IV.

41. The provisions of this Part of this Law shall apply to persons and matters of the classes and descriptions mentioned therein, but, except so far as modified by the provisions of this Part of this Law, the other provisions of the Law shall have effect and shall apply as respects such persons and matters.

CHAPTER II
PARTNERSHIPS

Method of charging partnerships.

42. (1) In respect of income arising from any business carried on by two or more persons in partnership, and in respect of income arising from any other source and belonging to the partnership, each partner shall be assessed and charged in respect of his share of the profits of the partnership.

(2) ...

NOTES

In section 42, subsection (2) was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 8, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.²⁴

The following case has referred to section 42:

McKean v. Administrator of Income Tax (1991) 11.GLJ.50.

[Duty of partnerships to register with Director.

42A. (1) This section applies to the following descriptions of

partnership –

- (a) a partnership within the meaning of section 1 of the Partnership (Guernsey) Law, 1995 formed in Guernsey, not being a limited partnership or a limited liability partnership referred to in paragraph (b) or (c), which carries on business activity in Guernsey,
- (b) a limited partnership which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995 (whether with or without legal personality),
- (c) a limited liability partnership registered under the Limited Liability Partnerships (Guernsey) Law, 2013,
- (d) a person, entity or arrangement registered, formed or entered into under the laws of a place outside Guernsey (and however named) –
 - (i) which corresponds to a partnership, limited partnership or limited liability partnership described in paragraph (a), (b) or (c), and
 - (ii) which has its place of effective management in Guernsey and carries on business activity in Guernsey.

(2) A partnership described in subsection (1) must register with the Director in such manner, by such means, at such times or intervals and in respect of

such periods as the Director may by notice require.

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a notice of the Director under that subsection –

(a) may require a partnership described in subsection (1) to register with, to use and to provide documents and information by means of an electronic portal specified in the notice for that purpose,

(b) may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Revenue Service or by being set out in a statement of practice issued under section 204.

(4) The "**place of effective management**" of a person, entity or arrangement means the place where the management and commercial decisions necessary for the conduct of the business as a whole of that person, entity or arrangement are substantially made, having regard to all relevant facts and circumstances.]

NOTE

Section 42A was inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 31(1), with effect from 30th June, 2021.

[Duty of partnerships in relation to tax returns.

42B. (1) A partnership described in section 42A(1) must, if so required by the Director, for the purposes of section 68(1) (duty to deliver return as to

income), appoint –

- (a) a partner (or, in the case of a limited partnership, a general partner, or in the case of a limited liability partnership, a member), or
- (b) some other officer of the partnership,

with responsibility for the delivery to the Director of the partnership's return as to its income under that section and all other documents and information required thereunder.

(2) A partnership described in section 42A(1) must give notice to the Director of the name and position within the partnership of the person appointed in accordance with paragraph (1) in such form and manner and accompanied by such information and documents as the Director may require; and the Director may at any time after receipt of the notice require the person giving notice to furnish such additional information and documents in relation to the person appointed and the appointment as the Director may require.]

NOTE

Section 42B was inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 31(1), with effect from 30th June, 2021.

CHAPTER III

[MARRIED COUPLES AND CIVIL PARTNERS]

[Termination of applicability of sections 43 to 47.]

[**42C**]. Sections 43 to 47 and 47AA(2) have effect only in respect of years of charge prior to such date as the Committee may determine by regulation [(that being

the 1st January, 2023)].]

NOTES

The cross heading to Chapter III of Part IV was substituted by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 5(a), with effect from 1st January, 2023.

Section 42C (which was originally inserted as section 42A by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 5(b), with effect from 1st January, 2023), was renumbered as section 42C by the Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022, regulation 5(1), with effect from 1st January, 2023.

In section 42C, the words in square brackets were inserted by the Income Tax (Independent Taxation) (Section 42C) Regulations, 2023, regulation 2, with effect from 1st May, 2023.

In accordance with the provisions of the Income Tax (Independent Taxation) (Section 42C) Regulations, 2023, regulation 1, with effect from 1st May, 2023 and for the purposes of this section, sections 43 to 47 and 47AA(2) of this Law shall have effect only in respect of years of charge prior to 1st January, 2023.

Liability of husband in respect of income of wife.

43. (1) Any income of a married woman living with her husband shall for the purposes of assessment, charge, collection, computation of total income, and reliefs be treated as if it were the income of the husband:

Provided that if, as respects any income of the married woman, the residence of the person entitled to the income is material for determining the question of whether or not that income is income in respect of which tax is chargeable, or the nationality and residence of the person entitled to the income is material for determining the amount of the assessable income, the question shall be determined by reference to the residence, or the nationality and residence, of the married woman, and not of the husband.

- (2) The last preceding subsection shall not apply –
- (i) if an application under section forty-six of this Law is in force, in which case the provisions of section forty-seven of this Law shall apply, or
 - (ii) if one of the spouses is resident in Guernsey in the year of charge, and the other is not so resident, in which case each spouse shall be charged, and entitled to relief as if he or she were unmarried, [...]or
 - (iii) in respect of any year of charge for which the husband is not entitled to a personal allowance for married persons prescribed by the States under section 36(1) by way of relief from income tax, or
 - (iv) in such other cases or circumstances, and subject to such limitations, conditions, restrictions and qualifications, as may be prescribed by Resolution of the States or regulation of the [Committee]].

(3) If for the purposes of this section any question arises as to whether a spouse is or is not wholly maintained by the other spouse the question shall be determined by reference to the financial circumstances of the spouse who is maintained.

(4) Where a married woman is not living with her husband, each spouse shall for all the purposes of this Law be treated as if he or she were unmarried.

(5) For the purposes of this section a married woman shall be treated as living with her husband unless –

(i) they are separated under an order of a court of competent jurisdiction or by deed of separation, or

(ii) they are in fact separated in such circumstances that the separation is likely to be permanent.

(6) ...

NOTES

In section 43,

the words omitted in the first pair of square brackets in subsection (2) were repealed by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 2, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;²⁵

paragraph (iii), paragraph (iv) and the word immediately after paragraph (ii) of subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 2, with effect from 31st May, 2012;

the word in square brackets within paragraph (iv) of subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

subsection (6) was repealed by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 2(a), with effect from 6th December, 1989.

[Alimony and maintenance.

43A. ...]

NOTE

Section 43A (which was inserted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 2(b), with effect from 6th December, 1989) was repealed by the Income Tax (Tax Relief on Maintenance Payments) (Guernsey) Law, 2002, section 1, with effect from 1st March, 2003, subject to the savings in section 2 of the 2002 Law, whereby the repeal effected by section 1 shall not have effect in relation to any order described in section 43A which was made before the 1st March, 2003 (whether or not the order is varied after that date).

Collection from wife of tax assessed on husband attributable to her income.

44. (1) Where –

- (a) an assessment to tax (hereafter in this section referred to as "**the original assessment**") is made on a man or on a man's trustee or guardian, or on a man's personal representative, and
- (b) the [Director] is of opinion that, if an application for separate assessment under section forty-six of this Law (which provides for application for separate charges on husband and wife) had been in force with respect to that year of charge, an assessment in respect of, or of part of, the same income would have fallen to be made on, or on the trustee or guardian of, or on the personal representative of, a woman who is the said man's wife or was his wife in that year of charge, and
- (c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of [30 days] from the time when it became

due,

the [Director] may serve on her, or, if she is dead, on her personal representative, or, if such an assessment as is referred to in paragraph (b) of this subsection could, in the event therein referred to, have been made on her trustee or guardian, on her or on her trustee or guardian, a notice –

- (i) giving particulars of the original assessment and of the amount remaining unpaid thereunder, and
- (ii) giving particulars, to the best of his judgment, of the assessment which would have fallen to be made as aforesaid,

and requiring the person on whom the notice is served to pay the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.

(2) The same consequence as respects –

- (a) the imposition of a liability to pay, and the recovery of, the tax, and
- (b) appeals [...] and the stating of cases for the opinion of the Royal Court, and
- (c) the ultimate incidence of the liability imposed,

shall follow on the service of a notice under subsection (1) of this section on a woman, or on her trustee or guardian, or on her personal representative, as would

have followed on the making on her, or on her trustee or guardian, or on her personal representative, as the case may be, of such an assessment as is referred to in paragraph (b) of subsection (1) of this section, being an assessment which –

- (i) was made on the day of the service of the notice, and
- (ii) charged the same amount of tax as is required to be paid by the notice, and
- (iii) fell to be made and was made by the [Director], and
- (iv) was made by the [Director] to the best of his judgment,

and the provisions of this Law relating to the matters specified in paragraphs (a) to (c) of this subsection shall, with the necessary adaptations, have effect accordingly.

(3) Where a notice is given under subsection (1) of this section, tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment.

(4) Where the amount payable under a notice given under subsection (1) of this section is reduced as the result of an appeal or of the stating of a case for the opinion of the Royal Court –

- (a) the [Director] shall, if, in the light of that result, he is satisfied that the original assessment was excessive, cause such relief to be given by way of repayment or otherwise as appears to him to be just, but

- (b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment.

(5) The [Director] shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under subsection (1) of this section as he would have had with a view to the making of, and otherwise in connection with, such an assessment as is referred to in paragraph (b) of subsection (1) of this section if the necessary conditions had been fulfilled with the making of such an assessment.

(6) The provisions of this section shall, with any necessary adaptations, apply in relation to any tax which was assessed and unpaid on the commencement of this Law.

NOTES

In section 44,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;²⁶

the word and figures in square brackets in paragraph (c) of subsection (1) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the words omitted in square brackets in paragraph (b) of subsection (2) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

Right of husband to disclaim liability for tax on deceased wife's income.

45. (1) Where a woman dies who, at any time before her death, was a married woman living with her husband, he or, if he is dead, his personal representative may, not later than two months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her personal representative, at any date not later than the last day of the second year of charge next following the year of charge in which she died, serve on her personal representative and on the [Director] a notice in writing declaring that, to the extent permitted by this section, he disclaims responsibility for unpaid tax in respect of all income of hers for any year of charge or part of a year of charge during which he was her husband and she was living with him:

Provided that a notice under this section shall not be deemed to be validly served on the [Director] unless it specifies the name and address of the woman's personal representative.

(2) Where such a notice has been duly served on a woman's personal representative and on the [Director] –

- (a) it shall be the duty of the [Director] to exercise such powers as he may then or thereafter be entitled to exercise under the last preceding section in connection with any assessment made on or before the date when the service of the said notice is completed, being an assessment in respect of any of the income to which the said notice relates, and
- (b) the assessments (if any) which may be made after that date shall, in all respects and in particular as respects

the person assessable and the tax payable, be the assessments which would have fallen to be made if –

- (i) an application for separate assessment under section forty-six of this Law (which provides for application for separate charges on husband and wife) had been in force in respect of the year of charge in question, and
- (ii) all assessments previously made had been made accordingly.

NOTE

In section 45, the words in square brackets were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.²⁷

Application for separate charges on husband and wife.

- 46.** (1) An application for separate charges on a husband and a wife –
- (a) must be made by the husband or by the wife,
 - (b) must be made in writing in the manner and form prescribed by the [Director],
 - (c) must be made on or before the thirty-first day of March in the first year of charge as regards which it is to have effect, or if the marriage takes place in the course of that year, at some time between the date of the marriage and the thirty-first day of March in the next subsequent

year of charge,

- (d) shall have effect not only as respects such first year but also as respects all subsequent years of charge up to the year as regards which a notice of withdrawal is given in a manner hereinafter provided.

(2) A notice of withdrawal of application –

- (a) must be given by the party by whom the application was made,
- (b) must be given in writing in the manner and form prescribed by the [Director],
- (c) must be given on or before the thirty-first day of March in the year of charge as regards which it is to take effect.

NOTE

In section 46, the words in square brackets were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.²⁸

Effect of application for separate charges.

47. Whilst any such application is in force the income of the husband and of the wife shall be assessed and tax shall be charged in respect thereof, and reliefs given, as if they were not married, subject however to the following provisions –

- (a) the income of the husband and of the wife shall be

aggregated for the purpose of determining the amount of the allowances to individuals prescribed by the States under section thirty-six of this Law, and that amount shall not exceed the amount which would have been granted had no such application been made,

- (b) the benefit of any such allowances shall be apportioned between the spouses in such manner as the States may by resolution prescribe.

Equivalent treatment for same sex marriages and civil partnerships.

47AA. (1) Two individuals of the same sex who have together entered into a marriage [and two individuals of the same or of the opposite sex who have together entered into a civil partnership] shall be treated for the purposes of this Law in the same way as a husband and wife, and references in this Law or any [Ordinance, regulation or resolution] under it (however expressed) to a husband, wife or widow, a spouse, a marriage or a party to a marriage, or an individual who is married or unmarried, shall be construed accordingly.

[(2) For the purposes of section 43(1) –

- (a) any income of the younger partner to a same sex marriage or same sex civil partnership living with the elder partner thereto shall for the purposes of assessment, charge, collection, computation of total income, and reliefs be treated as if it were the income of the elder partner, and
- (b) any income of the female partner to an opposite sex civil partnership living with the male partner thereto

shall for the purposes mentioned in paragraph (a) be treated as if it were the income of the male partner,

and the other provisions of this Chapter shall apply accordingly, *mutatis mutandis*.]

(3) A marriage under the law of any territory is not prevented from being recognised for the purposes of this Law only because it is the marriage of a same sex couple.

(4) A "**civil partnership**" means –

(a) the relationship between two persons who have registered as civil partners under the Civil Partnership Act 2004^{ha}, or under the Civil Partnership (Jersey) Law 2012, or who are treated under the Civil Partnership Act 2004 as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, or

(b) a relationship established under the law of a territory other than the United Kingdom or Jersey and of a character which in the opinion of the Director is equivalent or substantially similar to a civil partnership formed under the Civil Partnership Act 2004, and which relationship has not been dissolved or annulled.

(5) This section has effect from the 1st January, 2017.

ha An Act of Parliament (2004 c. 33).

- (6) The [Committee] may by regulation amend this section.]

NOTES

Section 47AA was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2015, section 2, with effect from 1st January, 2016 and shall have effect, in accordance with the provisions of section 47AA(5), from 1st January, 2017.

In section 47AA,

first, the words in the first pair of square brackets in subsection (1), second, the words in the second pair of square brackets therein and, third, subsection (2) were substituted by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, respectively section 6(a), section 6(b) and section 7, with effect from 1st January, 2021;

the word in square brackets within subsection (6) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

CHAPTER IV
NON-RESIDENTS

[Introduction

Overview of Chapter.

- 47A.** (1) This Chapter provides for limits on the liability to income tax of non-residents.
- (2) See sections 47B to 47D in the cases of a non-resident individual.
- (3) See sections 47G to 47H in the case of a non-resident company.]

NOTE

Section 47A, and the italicised sub-heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

[Liability to tax for non-resident individuals

Liability to income tax for non-resident individuals.

47B. Subject to the provisions of this Chapter, a non-resident individual is liable to be charged income tax on his income arising or accruing from –

- (a) businesses carried on in Guernsey,
- (b) offices or employments held or exercised in Guernsey,
- (c) the ownership of lands and buildings situate in Guernsey, and
- (d) any other source in Guernsey.]

NOTE

Section 47B, and the heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

[Limit for non-resident individuals

Limit on liability to income tax of non-resident individuals.

47C. (1) This section applies to income tax to which a non-resident individual is liable.

(2) The non-resident individual's liability to income tax for a year of charge is limited to the sum of amounts A and B.

(3) Amount A is the sum of –

- (a) any sums representing income tax deducted from the non-resident individual's disregarded individual income for the year of charge (see section 47D),
- (b) any sums representing income tax that are treated as deducted from or paid in respect of that income, and
- (c) any tax credits in respect of that income.

(4) Amount B is the amount that, apart from this section, would be the non-resident individual's liability to income tax for the year of charge, if the following were left out of account –

- (a) the non-resident individual's disregarded individual income for the year of charge, and
- (b) any allowance to which the non-resident individual is entitled for the year of charge as a result of –
 - (i) section 51, or
 - (ii) double taxation arrangements under Part XV.]

NOTE

Section 47C, and the heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

[Meaning of "disregarded individual income".

47D. (1) For the purposes of this Chapter income arising or deemed to have arisen to a non-resident individual is "**disregarded individual income**" if it is –

- (a) income consisting of distributions where it has been proved to the satisfaction of the [Director] that the person to whom the income arose or was deemed to have arisen was a non-resident individual,
- (b) income consisting of interest,
- (c) income consisting of royalties,
- (d) any other income of a similar nature to income described in paragraph (a), (b) or (c),
- (e) disregarded deemed income (see section 47E),
- (f) disregarded transaction income (see section 47F),
- (g) disregarded partnership income (see section 5(1B)),
- (h) the emoluments of the office of director, or
- (i) income of such other description as the [Committee] may by regulations designate for the purposes of this section.

(2) For the avoidance of doubt, and without limitation, "**any other income of a similar nature**" does not include income arising or accruing from the ownership of lands and buildings situate in Guernsey.

(3) However, if the non-resident individual carries on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income derived from business, then any income to be taken into account in computing the profits so chargeable is not disregarded individual income for the purposes of this Chapter.]

NOTES

Section 47D was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

In section 47D,

the word in square brackets within paragraph (a) of subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;²⁹

the word in square brackets within paragraph (i) of subsection (6) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Meaning of "disregarded deemed income".

47E. (1) In this Chapter –

"deemed income" means –

(a) ...

- (b) a qualifying loan within the meaning of Chapter XII,
and

"disregarded deemed income" means deemed income in respect of which it has been proved to the satisfaction of the [Director] that the person to whom the income arose or was deemed to have arisen was a non-resident individual or a non-resident company.]

NOTES

Section 47E was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

In section 47E,

paragraph (a) of the definition of "deemed income" was repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 3, with effect from 1st January, 2013;

the word in square brackets in the definition of the expression "disregarded deemed income" was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.³⁰

[Meaning of "disregarded transaction income".

47F. (1) Subsection (2) applies if a non-resident individual carries on (alone or in partnership) a business through a broker in Guernsey.

(2) Income is **"disregarded transaction income"**, subject to subsection (3), if –

- (a) it arises from sales or transactions, and
- (b) the independent broker conditions are met in relation to

the sale or transaction in question.

- (3) This section needs to be read with –
- (a) section 47J (the independent broker conditions), and
 - (b) section 47K (transactions through brokers).]

NOTE

Section 47F was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

[Liability to tax for non-resident companies

Liability to income tax for non-resident companies.

47G. Subject to the provisions of this Chapter, a non-resident company is liable to be charged income tax on its income arising or accruing from –

- (a) banking business carried on in Guernsey,
- [(aa) domestic insurance business carried on in Guernsey,
- (ab) fiduciary business carried on in Guernsey,
- (ac) insurance intermediary business carried on in Guernsey,
- (ad) insurance manager business carried on in Guernsey,]
- [(ae) the administration of controlled investments carried on in Guernsey,]

Consolidated text

- [(af) the provision of custody services carried on in Guernsey,]
- [(ag) the provision of investment management individual client services carried on in Guernsey,]
- [(ah) the operation of an investment exchange in Guernsey,
 - (ai) compliance and other related activities carried on in Guernsey,]]
- [(aj) the operation of an aviation registry in Guernsey,]
 - (b) activities in Guernsey regulated by [the Guernsey Competition and Regulatory Authority],
- [(ba) gas and hydrocarbons business carried on in Guernsey,
 - (bb) large retail business carried on in Guernsey,]]
- [(bc) business of the cultivation or use of the cannabis plant carried on in Guernsey,
 - (bd) business of the prescribed production or prescribed use of controlled drugs carried on in Guernsey,]
 - (c) the ownership of lands and buildings situate in Guernsey, and]
- [(d) any other businesses (other than businesses referred to

in any other paragraph of this section) carried on, offices and employments held or exercised, and other sources, in Guernsey.]]

NOTES

Section 47G, and the heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

In section 47G,

paragraph (aa), paragraph (ab), paragraph (ac) and paragraph (ad) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 4, with effect from 1st January, 2013;

paragraph (ae) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 4, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

paragraph (af) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 4, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;

paragraph (ag) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 4, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

paragraph (ah) and paragraph (ai) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 4, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

paragraph (aj) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 4, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance;

the words in square brackets in paragraph (b) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012;

paragraph (ba) and paragraph (bb) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 4, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance;

paragraph (bc) and paragraph (bd) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019, section 4, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance;

paragraph (d) was substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 3, with effect from 29th April, 2009.

The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.

[Limit for non-resident companies

Limit on liability to income tax of non-resident companies.

47H. (1) This section applies to income tax to which a non-resident company is liable.

(2) The non-resident company's liability to income tax for a year of charge is limited to the sum of amounts A and B.

(3) Amount A is the sum of –

- (a) any amounts representing income tax deducted from the non-resident company's disregarded company income for the year of charge (see section 47I),
- (b) any amounts representing income tax that are treated as deducted from or paid in respect of that income, and

(c) any tax credits in respect of that income.

(4) Amount B is the amount that, apart from this section, would be the non-resident company's liability to income tax for the year of charge if the non-resident company's disregarded company income for the year of charge were left out of account.]

NOTE

Section 47H, and the heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

[Meaning of "disregarded company income".

47I. (1) For the purposes of this Chapter income arising or deemed to have arisen to a non-resident company is "**disregarded company income**" if it is –

- (a) income consisting of distributions,
- (b) income consisting of interest,
- (c) income consisting of royalties,
- (d) any other income of a similar nature to income described in paragraph (a), (b) or (c),
- (e) disregarded deemed income (see section 47E),
- (f) income arising from a transaction carried out on behalf of the non-resident company in the course of the company's trade through a broker in Guernsey, in

relation to which the independent broker conditions are met,

- (g) disregarded partnership income (see section 5(1B)),
- (h) the emoluments of the office of director, or
- (i) income of such other description as the [Committee] may by regulations designate for the purposes of this section.

(2) For the avoidance of doubt, and without limitation, "**any other income of a similar nature**" does not include income arising or accruing from the ownership of lands and buildings situate in Guernsey.

(3) However, if the non-resident company carries on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income derived from business, then any income to be taken into account in computing the profits so chargeable is not disregarded company income for the purposes of this Chapter.

(4) This section needs to be read with –

- (a) section 47J (the independent broker conditions),
- (b) section 47K (transactions through brokers).]

NOTES

Section 47I was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2)

Law, 2007, section 11, with effect from 1st January, 2008.

In section 47I, the word in square brackets within paragraph (i) of subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

[The independent broker conditions

The independent broker conditions.

47J. The independent broker conditions are met in relation to a transaction carried out on behalf of a non-resident company or individual by a broker in Guernsey if the following conditions are met –

- (a) that at the time of the transaction the broker is carrying on the business of a broker,
- (b) that the transaction is carried out by the broker in the ordinary course of that business, and
- (c) that the remuneration which the broker receives in respect of the transaction for the provision of the services of a broker to the non-resident [company or] individual is not less than is customary for that class of business.]

NOTES

Section 47J, and the heading thereto, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

In section 47J, the words in square brackets in paragraph (c) were inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 4, with effect from 29th April, 2009.

[Transactions through brokers.]

47K. (1) For the purposes of this Chapter a person is regarded as carrying out a transaction on behalf of another if the person –

- (a) undertakes the transaction, whether on behalf of or to the account of the other, or
- (b) gives instructions for it to be so carried out by another.

(2) In the case of a person who acts as a broker as part only of a business, this Chapter has effect as if that part were a separate business.]

NOTE

Section 47K was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 11, with effect from 1st January, 2008.

Power to charge agent on behalf of non-resident.

48. (1) Subject to the provisions of [this Chapter], where a non-resident person is liable to tax in respect of any income and has an agent in Guernsey the agent shall be chargeable on his behalf with tax in respect of any such income which arises whether directly or indirectly from or through his agency:

Provided that nothing in this section shall affect the liability of the non-resident to be charged in his own name.

(2) This section applies to any agent whether for the purpose of carrying on a business or for any other purpose, and the expression "**agent**" includes a manager and any person receiving or paying income on behalf of or to a non-

resident[, and for the avoidance of doubt includes, in the case of a person paying income to a non-resident, such a person whether he has previously received the income from some other person on behalf of, or for onward transmission to, the non-resident, or whether he is making the payment on his own account]:

Provided that nothing in this section shall render a resident person chargeable in respect of income arising from sales or transactions carried out through him, unless the resident is an authorised person carrying on the regular agency of the non-resident[

...].

[(2A) For the avoidance of doubt, a person shall be regarded as an agent for the purposes of this section whether he pays the income in respect of which the non-resident person is liable to tax –

- (a) directly to the non-resident, or
- (b) indirectly, to or through an agent, intermediary or other third party or any number of agents, intermediaries or other third parties, on behalf of or for onward transmission to the non-resident.]

(3) Tax chargeable on an agent under the provisions of subsection (1) of this section may be deducted by such agent from any sum or sums payable by or through such agent to the non-resident. An agent who has deducted tax under the provisions of this subsection shall remit the tax to the [Director] within one month of the date of the deduction and shall furnish such particulars of the income in respect of which the deduction has been made as the [Director] may require.

(4) Any person who fails to comply with the provisions of the last

preceding subsection shall be liable to [a surcharge or additional surcharge under section 199, for the purposes of calculating which] the tax shall be deemed to be an amount becoming due on the date on which it was deducted.

(5) A person who is chargeable in respect of any income of a non-resident person shall be answerable for the making of returns in the manner provided by this Law and for all other matters required to be done under this Law for the purposes of the assessment of income and the charge and payment of tax.

(6) In this section, the expression "**broker**" includes a general commission agent.

[(7) Notwithstanding the provisions of this section, and for the avoidance of doubt, an agent is not chargeable with tax, and tax is not deductible by an agent, in respect of disregarded individual income within the meaning of section 47D or disregarded company income within the meaning of section 47I.]

NOTES

In section 48,

the words in square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 12(a), with effect from 1st January, 2008;

the words in the first pair of square brackets in subsection (2) were inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 5, with effect from 28th January, 2009;

the words omitted in the second pair of square brackets in subsection (2) were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 12(b), with effect from 1st January, 2008;

subsection (2A) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 3, with effect from 31st May, 2012;

the words in square brackets in subsection (3) were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance,

2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;³¹

the words in square brackets in subsection (4) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 13, with effect from 1st January, 2008;

subsection (7) was inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 5, with effect from 29th April, 2009.

Power to charge occupier on behalf of non-resident tenant, etc.

48A. (1) This section applies where –

- (a) a person ("**the occupier**") occupies any land or building situate in Guernsey,
- (b) the owner of the land or building ("**the owner**") is a non-resident person who is liable to tax in respect of any income arising directly or indirectly from or in respect of a tenancy of the land or building, and
- (c) neither the occupier nor any other person in Guernsey is an agent of the owner within the meaning of section 48 in respect of any income mentioned in paragraph (b) and accordingly chargeable under that section on the owner's behalf with tax in respect of that income.

In this section –

- (i) the "**owner**" of the land or building includes any person who has an interest in it and who is in receipt of any income arising directly or indirectly from or in respect of it, and

- (ii) a "**tenancy**" of the land or building includes a lease, a sub-lease and any other agreement or arrangement, formal or informal, under which a person has or may be granted possession, occupation or enjoyment, whether exclusive or not.

(2) Where this section applies the [Director] may serve notice on the occupier directing him, on or before such date or within such time as may be specified in the notice, to account for tax in respect of any income mentioned in subsection (1)(b) in accordance with this section and any regulations made under subsection (12).

(3) Where an occupier is directed to account for tax in accordance with this section, he is liable for the amount thereof as if it were tax due from him (after deduction of all applicable allowances, reliefs and deductions) in respect of his own income from the ownership of land or buildings; and (subject to the provisions of this section) the provisions of this Law apply accordingly.

(4) A direction of the [Director] under subsection (2) has effect notwithstanding –

- (a) that when the direction is made no assessment has been made in respect of the income to which the direction relates,
- (b) that the income is in whole or in part income which may be chargeable to tax for some year of charge other than the year of charge during which the direction is made.

(5) Any tax accounted for in accordance with this section shall be applied towards the payment of any tax charged or chargeable on the owner for the year of charge in which the income in question arises and for any year of charge prior to that year of charge and any penalty and surcharge and additional surcharge payable by him; and where any tax so accounted for is greater than such tax payable by the owner and any penalty and surcharge and additional surcharge payable by him, the appropriate repayment shall be made by the [Director].

(6) For the avoidance of doubt if any income in respect of which tax has been accounted for in accordance with this section has not been included in any assessment of tax made under section 73(2)(a) then the tax accounted for shall not, under subsection (5), be applied towards the payment of tax due from that assessment.

(7) Any tax to be accounted for in accordance with this section shall be payable by the occupier in such manner and at such times as may be directed by the [Director] or as may be prescribed by or under regulations made under subsection (12).

(8) Where an occupier accounts for tax in accordance with this section the amount thereof is recoverable by him from the owner as a civil debt due to him.

(9) Where an occupier fails to account to the [Director] for tax in accordance with this section, the amount is (without prejudice to the liability of the occupier and any other remedy or penalty under this Law) recoverable by the [Director] from the owner.

(10) This section has effect notwithstanding the provisions of any agreement or arrangement between the occupier and the owner.

(11) Sections 73A and 73B apply in respect of a notice of the [Director] under this section as they apply in respect of a notice of assessment required by section 73(1).

(12) The [Committee] may make regulations for the purpose of carrying out the provisions of this section.

(13) Nothing in this section affects the liability of the owner to be charged in his own name.

(14) For the avoidance of doubt, the civil debt owed to the occupier by virtue of subsection (8) is by way of a private law indemnity and is not to be characterised as a penal, revenue or public law debt.]

NOTES

Section 48A was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 6, with effect from 28th January, 2009.

In section 48A,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;³²

the word in square brackets within subsection (12) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Special basis of computation in certain cases.

49. (1) Where it appears to the [Director] that the amount of the income arising or accruing in Guernsey to a non-resident person cannot be readily ascertained, the [Director] may compute that income on such percentage of the

turnover of the business done in Guernsey as he may consider to be reasonable, or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of this Law) as the amount of business done in Guernsey bears to the aggregate of the amount of the business done in Guernsey and out of Guernsey or in such other manner as the [Director] may agree with the non-resident person.

(2) Where a non-resident person or his agent carries on in Guernsey any business being an agricultural, manufacturing or other productive undertaking and sells the produce of that undertaking outside Guernsey, such proportion of the profits or income arising or accruing to that person shall be deemed to have arisen or accrued in Guernsey as may be just and reasonable having regard to all the circumstances of the case and in particular to the extent of the operations carried on in Guernsey.

(3) Where a non-resident person or his agent is chargeable in respect of any income arising from the sale of goods or produce manufactured or produced out of Guernsey by the non-resident, he may apply to the [Director] to have the income computed on the basis of the profits which might reasonably be expected to have been earned –

- (a) by a merchant, or
- (b) where the goods are retailed by or on behalf of the [manufacture] or producer, by a retailer of the goods sold who had bought from the manufacturer or retailer direct,

and the assessment shall be made or amended accordingly.

NOTES

In section 49, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.³³

The word in square brackets in paragraph (b) of subsection (3) shown, incorrectly, in the printed version of this section as "manufacture" should read "manufacturer".

Interest payable by certain trading companies to non-residents.

50. ...

NOTE

Section 50 was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 14, with effect from 1st January, 2008.

Proportional and other allowances to non-resident individuals.

51. (1) No allowance under section thirty-six of this Law shall be granted to an individual who is [not solely or principally resident] in Guernsey.

(2) ...

(3) ...

[(4) Notwithstanding the provisions of subsection (1) of this section, any non-resident person who satisfies the [Director] that he is or has been employed in Guernsey in any year of charge shall, in respect of that year of charge, be entitled to a proportion of the personal and other allowances prescribed in pursuance of subsection (1) of section thirty-six of this Law [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 that person were solely or principally resident in Guernsey],

such proportion not to exceed one fifty-second part of such personal and other allowances in respect of each week or part of a week for which that person is employed in Guernsey in such year of charge:

PROVIDED that the foregoing provisions of this subsection shall not apply to a person who is a director, by whatever name called, of a company –

- (a) incorporated according to the law of Guernsey, or
- (b) which, in the year of charge –
 - (i) is resident in Guernsey, or
 - (ii) carries on any part of its activities in Guernsey.]

[(5) Notwithstanding the provisions of subsection (1), any non-resident individual 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 [or a [States pension] the entitlement to which arises under section 33 of the Social Insurance (Guernsey) Law, 1978], 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 –

- (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 the Revenue Service] 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).

(6) In subsection (5) "**pension**" means a pension, superannuation or other allowance described in section 81A(2)(b) or an annuity described in section 81A(2)(bA) [and includes a [States pension] the entitlement to which arises under section 33 of the Social Insurance (Guernsey) Law, 1978].]

[(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.]

NOTES

In section 51,

the words in square brackets in subsection (1) were substituted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 2(a);

subsection (2) and subsection (3) were repealed by the Income Tax (Guernsey) (Amendment) Law, 2009, section 12, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(4) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2009;³⁴

subsection (4), and the proviso thereto, were substituted by the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 1(b), with effect from 21st August, 1979;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1,

*with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*³⁵

the words in, first, the second pair of square brackets within subsection (4) and, second, the second pair of square brackets within subsection (5) were inserted and, third, subsection (7) was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, respectively section 3, section 4 and section 5, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

the words in the third pair of square brackets within subsection (4) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the words in the fourth pair of square brackets within subsection (4) were substituted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 2(b);

subsection (5) and subsection (6) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 13, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(4) of the 2009 Law, these amendments shall have effect in respect of any year of charge after 2009;

the words in, first, the first pair of square brackets within subsection (5) and, second, square brackets within subsection (6) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, respectively section 2 and section 3, with effect from 1st January, 2017;

the words "States pension" in square brackets, wherever occurring, were substituted by the Social Insurance (States Pension) (Amendment) (Guernsey) Ordinance, 2021, section 2(c), with effect from 1st March, 2021.

In accordance with the provisions of section 6(1) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendments made by section 2 thereof apply for the year of charge 1993 and subsequent years of charge.

[CHAPTER IVA

INDIVIDUALS NOT SOLELY OR PRINCIPALLY RESIDENT

Proportional personal and other allowances for individuals not solely or principally resident.

51A. (1) ...

(2) Notwithstanding section 51(1) of this Law, an individual who is resident, but not solely or principally resident, in Guernsey in any year of charge, shall in respect of that year of charge be entitled to a proportion of the personal and other allowances prescribed under section 36(1) of this Law [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 not to exceed one fifty-second part of those personal and other allowances for every seven days which he satisfies the [Director] that he spent in Guernsey during that year of charge.

[(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 [or a [States pension] the entitlement to which arises under section 33 of the Social Insurance (Guernsey) Law, 1978], 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 –

- (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 the Revenue Service] 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) [and includes a [States pension] the entitlement to which arises under section 33 of the Social Insurance (Guernsey) Law, 1978].]

[(3) Notwithstanding any provision of this section [...], an individual who is resident but not solely or principally resident in Guernsey 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.]

NOTES

Chapter IVA, and section 51A thereof, were inserted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 2(c).

In section 51A,

first, subsection (1) was repealed, second, the words in the first pair of square brackets in subsection (2) were inserted, third, subsection (2A) and subsection (2B) were inserted, fourth, the words omitted in the first pair of square brackets within subsection (3) were repealed and, fifth, the word in the second pair of square brackets therein was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, respectively section 6, section 7, section 8, section 9(a) and section 9(b), with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

the words in the second pair of square brackets in subsection (2) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;³⁶

the words in square brackets within, first, subsection (2A) and, second, subsection (2B) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, respectively section 4 and section 5, with effect from 1st January, 2017;

the words "States pension" in square brackets, wherever occurring, were substituted by the Social Insurance (States Pension) (Amendment) (Guernsey) Ordinance, 2021, section 2(c), with effect from 1st March, 2021;

subsection (3) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 14, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(4) of the 2009 Law, this amendment shall have effect in respect of any year of charge after 2009.

In accordance with the provisions of section 6(1) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 2(c) thereof applies for the year of charge 1993 and subsequent years of charge.

CHAPTER V

PERSONS UNDER GUARDIANSHIP, TRUSTEES AND PERSONAL REPRESENTATIVES

Persons under guardianship.

52. (1) The person having the direction, control or management of any income of any person under guardianship may be charged with income tax at the [appropriate rate] in respect of that income.

(2) Nothing in this section shall affect the liability of a person under guardianship to be himself charged in his own name.

(3) A person who may be charged with tax in respect of any income of a person under guardianship shall be responsible for making returns and

for all other matters required to be done under this Law for the purposes of the assessment of income and the charge and payment of tax, and if such person submits to the [Director] a return of the total income from all sources of the person under guardianship he may on behalf of that person claim any allowance or relief which that person could have claimed if he had been charged in his own name.

(4) If a person under guardianship is charged with tax in his own name, his guardian shall in default of payment of the tax by the person under guardianship be liable therefor to the extent of the property of the person under guardianship of which he has the direction, control or management, and may be proceeded against accordingly as if he had been the person charged with tax.

(5) Any person who has been duly charged with tax in respect of any income of, or who has lawfully paid tax on behalf of, a person under guardianship may raise and retain out of the property from time to time coming into his hands on behalf of the person under guardianship such sum as is sufficient to pay the tax charged, and shall be acquitted and discharged of so much as is equal to any tax so paid, and if and so far as such property is insufficient shall be entitled to be indemnified for any amount so paid.

NOTES

In section 52,

the words in square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the word in square brackets in subsection (3) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.³⁷

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental

responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Liability to tax in respect of trust property.

53. (1) A trustee may be charged with income tax at the [appropriate rate (as if it were income of the person beneficially entitled to that income)] in respect of any income which he is entitled to receive on behalf of any person or which is derived from property vested in him, but nothing herein contained shall affect the liability of the person beneficially entitled to such income to be charged in his own name.

[(1A) If the income to which subsection (1) relates arises under or is comprised in a settlement which is deemed by section 65(3) to be revocable, references in subsection (1) to the person beneficially entitled to such income and other references of a similar nature may, at the discretion of the [Director], and without prejudice to the liability of the trustee and the person beneficially entitled, be deemed to include references to the settlor.

For the purposes of this subsection "**settlement**" and "**settlor**" have the meanings given by section 65(4).]

(2) If a trustee chargeable under this section submits to the [Director] a return of the total income of the beneficiary from all sources, he may on behalf of the beneficiary claim any allowance or relief which the beneficiary could have claimed if he had been charged in his own name.

(3) Where any person is beneficially entitled to income which is payable to trustees or which is derived from property vested in trustees, and the residence of the person entitled to the income is material for determining the question whether or not that income is income in respect of which tax is chargeable, or the domicile or nationality and residence of the person entitled to the income is material

for determining the amount of the assessable income, that question shall be determined with reference to the residence or domicile or nationality and residence, as the case may be, of the person so beneficially entitled.

(4) It shall be the duty of a trustee [chargeable] under this section to make all such returns and to do all such matters and things which the person beneficially entitled to the income would have been required to make or do if he had himself been [chargeable] in his own name.

NOTES

In section 53,

the words in square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 13, with effect from 1st January, 2008;

subsection (1A) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 14, with effect from 1st January, 2008;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;³⁸

the words in the first and second pairs of square brackets in subsection (4) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1981, section 1(f), with effect from 1st January, 1981.

Liability of personal representative to tax in respect of estate of deceased.

54. (1) On the death of an individual, all rights, duties and liabilities under this Law arising before his death which would have attached to him had he not died, and any liability to be charged with or to pay tax or a penalty [or surcharge or additional surcharge] to which he would have been subject under this Law if he had not died, shall pass to his personal representative, and the amount of tax or penalty [or surcharge or additional surcharge] payable by the personal representative shall be a

debt due from and payable out of the estate of the deceased:

Provided that –

(a) an assessment or an additional assessment of any income arising before his death shall not be made and penalty proceedings shall not be instituted later than the end of the third year of charge following that in which the individual died, and

(b) [...]

(2) On the death of an individual, then as respects income arising in the period commencing at his death which is payable to or derived from property vested in his personal representative, the provisions of the last preceding section shall apply as if the expression "**trustee**" included a personal representative.

NOTES

In section 54,

the words in the first and second pairs of square brackets in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 15, with effect from 1st January, 2008;

the words omitted in the third pair of square brackets in subsection (1) were repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 9, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

CHAPTER VI

GOVERNMENTS OF PARTS OF HER MAJESTY'S DOMINIONS

Government trading.

55. Where a business of any kind is carried on in Guernsey by or on behalf of the Government of any part of Her Majesty's dominions, exclusive of Guernsey, that Government shall in respect of the business and of all income arising in connection therewith be liable to be charged under this Law in the same manner and to the same extent as in the like case a company would be liable:

Provided that the States may by Resolution exempt the whole or any part of such income from charge.

CHAPTER VII
MUTUAL PROFITS

Charge of tax on mutual profits.

56. In the case of an incorporated company (whether incorporated in Guernsey or elsewhere) –

- [(a) that is not a charity or an organisation that is another non profit organisation within the meaning of the Charities etc. (Guernsey and Alderney) Ordinance, 2021, or
- (b) that is a registered organisation within the meaning of the Charities etc. (Guernsey and Alderney) Ordinance, 2021 or a charity not required to be registered under that Ordinance,]

in computing profits for the purpose of section seven of this Law, the profits shall be deemed to include any profit or surplus arising from transactions of the company with its members which would be included in computing profits for the purpose of that section if those transactions were transactions with non-members, and the profit or surplus aforesaid shall be determined for the purpose of that section on the same

principles as those on which profits arising from transactions with non-members would be so determined:

Provided that any discount, rebate, [distribution] or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company (being transactions which are taken into account in the said computation) shall be deducted as expenses if calculated by reference to the said amounts and not by reference to the amount of any share or interest in the capital of the company.

NOTES

In section 56,

paragraph (a) and paragraph (b) were substituted by the Charities etc. (Guernsey and Alderney) Ordinance, 2021, section 52(3), Schedule 8, paragraph 2(3), with effect from 29th April, 2022;³⁹

the word in square brackets in the proviso thereto was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008.

CHAPTER VIII

[MATTERS RELATING TO DISTRIBUTIONS]

Deduction of tax from Guernsey [distributions].

57. (1) The profits or gains to be charged on any company shall be computed in accordance with the provisions of this Law on the full amount of the same before any [distribution] thereof is made in respect of any share, right or title thereto [...].

[(2) ...]

(3) ...

(4) ...

(5) For the purposes of this Law [distributions] shall be deemed to arise and accrue to the person entitled to receive them[, or deemed to have received them in accordance with section 62AB,] at the date on which they are declared.

NOTES

In the heading to Chapter VIII, the words in square brackets were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 16, with effect from 1st January, 2008.

In section 57,

the words "distribution" and "distributions" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 17(a), with effect from 1st January, 2008;

the words omitted in the second pair of square brackets in subsection (1) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 16(a), with effect from 1st January, 2008;

subsection (2) (which was previously substituted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 10, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 16(b), with effect from 1st January, 2008;

subsection (3) and subsection (4) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 16(b), with effect from 1st January, 2008;⁴⁰

the words in the second pair of square brackets in subsection (5) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 17(b), with effect from 1st January, 2008.

[Computation of gross income represented by Guernsey distributions.]

58. Subject as hereinafter provided, a distribution paid by a company resident in Guernsey shall, to the extent to which it is paid out of profits and gains, be

deemed, for all the purposes of this Law, to represent income of such an amount as would, after deduction of tax in accordance with section 81B, be equal to the net amount received.]

NOTE

Section 58 was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 18, with effect from 1st January, 2008.

[Guernsey distributions paid without full deduction of tax.]

59. (1) Where any distribution from which deduction of tax is required by section 81B is paid without deduction of tax, the amount received in respect thereof shall, for the purposes of this Law, be deemed to be a net amount received in respect of a distribution from the gross amount of which such deduction as is required by that section has been made, and the provisions of –

- (a) section 58, and
- (b) section 60 (which relates to the form of dividend warrants and other documents),

shall apply accordingly.

(2) The provisions of this section shall apply where, though a deduction is made from a distribution, that deduction is less than the full amount required, as it applies where no deduction is made.]

NOTE

Section 59 was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 18, with effect from 1st January, 2008.

Explanation of income tax deductions to be annexed to dividend warrants, etc.

60. [(1) Where a company resident in Guernsey distributes any of its undistributed income, the company shall send to the person to whom the distribution was [actually] made a statement in writing showing –

- (a) the gross amount which, after deduction of the income tax appropriate thereto, corresponds to the net amount paid [...],
- (b) the rate and the amount of income tax appropriate to such gross amount, and
- (c) the net amount actually paid [...].

(1A) Every warrant, cheque or other order drawn or made, or purporting to be drawn or made, in payment of any such distribution shall have annexed to it or be accompanied by the statement required by subsection (1).]

[(1B) ...]

(2) If a company fails to comply with the provisions of this section, the Company shall, in respect of each offence, incur [a penalty not exceeding level two on the uniform scale][...].

(3) The provisions of section two hundred of this Law (which relate to proceedings in respect of penalties) and applying in relation to a pecuniary penalty under Part XVIII, other than section one hundred and ninety-eight thereof, of this Law shall apply in relation to a penalty under this section.

NOTE

In section 60,

subsection (1) was substituted, and subsection (1A) was inserted, by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 17(a), with effect from 1st January, 2008;

the word in the first pair of square brackets in subsection (1) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 19(a), with effect from 1st January, 2008;

the words omitted in square brackets in, first, paragraph (a) and, second, paragraph (b) of subsection (1) were repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 4(a), with effect from 1st January, 2013;

subsection (1B) (which was originally inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 17(a), with effect from 1st January, 2008) was repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 4(b), with effect from 1st January, 2013;⁴¹

first, the words in the first pair of square brackets in subsection (2) were substituted and, second, the words in the second pair of square brackets therein were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, respectively section 17(b) and section 17(c), with effect from 1st January, 2008.

Credit in respect of [distributions] from which deduction of tax is [required].

61. Notwithstanding the provisions of section eighty-one of this Law (which relates to the due date of payment of tax and penalty) and subject to the provisions of section one hundred and seventy-four thereof (which relates to the effect on [distributions] of double taxation relief), a person who is [the beneficial member in respect of a distribution from which tax is required to be deducted under the provisions of sections 81B and 81BB, shall] on satisfying the [Director] that the [distribution] is one from which tax has been deducted as aforesaid and of the amount of tax so deducted, be entitled to a credit equal to the amount of the tax [required] to be deducted from the said [distribution] [...] and where the amount of the credit is greater than the tax payable by that person and any penalty [and any surcharge and additional surcharge] payable by him, the appropriate repayment shall be made by the

[Director]:

[Provided that no such repayment shall be made [or credit given] until the tax payable by the person so entitled to the [distribution] has been determined for the year of charge for which the [distribution] is assessable [...] and for every year of charge prior to that year of charge.

[For these purposes an interim assessment made under section 73(2)(a) is not a determination.]]

NOTES

In section 61,

the words "distributions" and "distribution" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the word "required" in square brackets, wherever occurring, was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 20(b), with effect from 1st January, 2008;

the words in the second pair of square brackets were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 20(a), with effect from 1st January, 2008;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁴²

the words omitted in the seventh pair of square brackets were repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 11, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the words in the eighth pair of square brackets were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 18, with effect from 1st January, 2008;

the proviso thereto was substituted by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(d), with effect from 1st January, 1977;

the words in the first pair of square brackets in the proviso thereto were inserted by the Income Tax (Guernsey) (Amendment) Law, 2007, section 2(a) and, in accordance with the provisions of section 5 of the 2007 Law, shall have effect on and from 27th June, 2007;

the words in the second and third pairs of square brackets in the proviso thereto were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the words omitted in the fourth pair of square brackets in the proviso thereto were repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(4), with effect from 1st January, 2002;

the words in the fifth pair of square brackets in the proviso thereto were inserted by the Income Tax (Guernsey) (Amendment) Law, 2007, section 2(b) and, in accordance with the provisions of section 5 of the 2007 Law, shall have effect on and from 27th June, 2007.

[[Distributions] paid by exempt bodies.

62. A body which has been granted an exemption from tax in accordance with an Ordinance made under section 40A shall, on making payment of a [...] ...] distribution to a person resident in Guernsey, furnish such particulars of it as the [Director] may require.]

NOTES

Section 62 was substituted by the Income Tax (Guernsey) (Amendment) Law, 2004, section 1, with effect from 1st June, 2004.⁴³

In section 62,

the word in square brackets in the marginal note thereto was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the words omitted in the first pair of square brackets were repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 21, with effect from 1st January, 2008;

the word omitted in the square brackets within the square brackets (which was previously substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008) was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section

21, with effect from 1st January, 2008;

*the word in the second pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.*⁴⁴

Meaning of distribution.

- 62AA.[(1) For the purposes of this Law a "**distribution**" includes –
- (a) any distribution made out of the assets of a company including a dividend, but does not include any repayment of capital to the member or the amount of value of any new consideration given by the member for that distribution, and
 - (b) any transfer of the assets of the company for the repayment of, or otherwise, in respect of, an advance of money to the company by a member of the company or by a person connected to a member (whether or not the advance is secured), but does not include the repayment of commercial loans made to trading companies,

and for the purposes of paragraph (b) –

- (i) "**commercial loan**" means a loan advanced on an arm's length basis on terms and conditions that would be available from an unconnected third party, carrying a commercial rate of interest, and
- (ii) "**trading company**" means a company deriving income from business.]

(2) Subsection (1) may be amended by regulations of the [Committee].]

NOTES

Section 62AA was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 22, with effect from 1st January, 2008.

In section 62AA,

subsection (1) was substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2025, section 6, with effect from 1st January, 2026;

the word in square brackets within subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Person to whom the distribution is made for the purposes of this Law.

62AB. (1) For the purpose of this Law, where the person ("Person A") to whom the distribution has actually been made is –

- (a) resident in Guernsey, the distribution shall be deemed to have been made to the beneficial member unless Person A requests that it be deemed to have been made to them, or
- (b) not resident in Guernsey, the distribution shall be deemed to have been made to the beneficial member.

(2) The beneficial member referred to in subsection (1) shall be the **"beneficial member"** of a company in respect of that distribution.

(3) For the avoidance of doubt, this section does not require a company to pay a distribution other than to those entitled to receive that distribution.]

NOTE

Section 62AB was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 22, with effect from 1st January, 2008.

[Exempt bodies: distributions to resident beneficial members.]

62AC. (1) Notwithstanding any other provision of this Law, where a person ("person X") is resident in Guernsey and is a beneficial member of an exempt Guernsey company ("company Y"), then, so far as concerns the distributions of –

- (a) company Y, and
- (b) any other company in respect of shares in that company held by company Y,

person X is taxable, and the provisions of section 81B apply to him, only in respect of distributions actually made by company Y.

(2) In this section –

"distributions" of a company include deemed distributions within the meaning of Chapter VIIIA, as that Chapter had effect immediately prior to the 1st January, 2013,

"exempt Guernsey company" means a company incorporated in Guernsey which has been granted an exemption from tax under an Ordinance made under section 40A, and

"shares" includes any interest in a company entitling the holder of the shares to participate in distributions of the company.]

NOTE

Section 62AC (which was originally inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 6, with effect from 29th April, 2009, then repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 5, with effect from 1st January, 2013) was re-inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 6, with effect from 1st January, 2017.⁴⁵

[CHAPTER VIII
[UNDISTRIBUTED INCOME]

[Undistributed company profits and income.]

62A. (1) ...

(2) [In this Law] "**undistributed income**" means income which is assessable to income tax [or, in the case of a non-resident company [(other than a company which has been granted an exemption from tax under an Ordinance made under section 40A)], which would be assessable to income tax were the company resident in Guernsey] (including disregarded company income) and which has arisen or accrued on or after the 1st January, 2008, and –

- (a) which has not been distributed, or
- (b) which has not [before the 1st January, 2013] been deemed under this Chapter [(as it had effect immediately prior to that date)] to have been distributed,

[but excludes income which has been taxed –

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- (i) in Guernsey at the company higher rate [or, if higher, the individual standard rate], or
- (ii) in the case of income arising from a source outside Guernsey, at any numerically equivalent or higher rate imposed by any other jurisdiction].

For the purposes of this Chapter the [Director] may issue a statement of practice as to the method of calculation of undistributed income.

(3) ...

(4) The [Committee] may by Regulation amend, adapt, modify or disapply –

- (a) any provision of this Chapter, and
- (b) any other provision of this Law relating to undistributed income [...],

either generally or in its application to –

- (i) any company or group of companies or class or description thereof,
- (ii) any member or class or description thereof,
- (iii) any distribution or class or description thereof.

For the purposes of this Chapter a "**group**" of companies means a

number of companies associated in the manner specified in the regulations made under this subsection.

(5) Any income which has been taxed as a deemed distribution pursuant to this Chapter [(as it had effect immediately prior to the 1st January, 2013)] is not liable to be taxed again –

- (a) as an actual [...] distribution, or
- (b) as income in the company's hands.

(6) ...

[(7) [...] For the avoidance of doubt, amounts at any time comprising undistributed income –

- (a) shall be deemed to remain undistributed income in the company's hands for the purposes of this Law unless and until distributed [...], and
- (b) ...

This subsection applies notwithstanding –

- (i) any rule of law relating to the circumstances in which a company may lawfully make a distribution, and
- (ii) ...]]

NOTES

Chapter VIIIA, and section 62A thereof, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 23, with effect from 1st January, 2008.

In the Heading to Chapter VIIIA, the words in square brackets were substituted by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 6, with effect from 1st January, 2013.

In section 62A,

the marginal note thereto and subsection (1), subsection (3) and subsection (6) thereof (all of which were originally inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 23, with effect from 1st January, 2008) were, respectively, substituted, repealed, repealed and repealed by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 7(a), section 7(b), section 7(d) and section 7(h), with effect from 1st January, 2013;

the words in the first, second and fifth pairs of square brackets in subsection (2) were, respectively, substituted, inserted and substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, respectively section 7(a), section 7(b) and section 7(c), with effect from 29th April, 2009;

the words in square brackets within the fifth pair of square brackets in subsection (2) were inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 3, with effect from 1st January, 2025;

the words and parentheses within the second pair of square brackets in subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 17, with effect from 27th October, 2009;

the words and figures in the first and the words and parentheses in the second pairs of square brackets in paragraph (b) of subsection (2) were, respectively, substituted and inserted by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 7(c)(i) and section 7(c)(ii), with effect from 1st January, 2013;

the word in the sixth pair of square brackets in subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁴⁶

the word in the first pair of square brackets in subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

first, the words omitted in square brackets in paragraph (b) of

subsection (4) were repealed, second, the parentheses, words and figures in the first pair of square brackets in subsection (5) were inserted and, third, the words omitted in square brackets in paragraph (a) of subsection (5) were repealed by the *Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012*, respectively section 7(e), section 7(f) and section 7(g), with effect from 1st January, 2013;

subsection (7) was substituted by the *Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009*, section 8, with effect from 29th April, 2009;

the words omitted in square brackets in, first, the first and, second, the second pairs of square brackets in subsection (7) were repealed and, third, paragraph (b) and, fourth, paragraph (ii) thereof were repealed by the *Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012*, respectively section 7(i), section 7(j), section 7(k) and section 7(l), with effect from 1st January, 2013.

The following Regulations have been made under section 62A:

Income Tax (Deemed Distributions) (Exemptions) (No. 2) Regulations, 2008;

Income Tax (Deemed Distributions) (Exemptions) Regulations, 2009;

Income Tax (Deemed Distributions) (Exemptions) (Amendment) Regulations, 2012.

[Cases in which income is deemed to have been distributed.]

62B. ...]

NOTE

Section 62B (which was originally inserted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007*, section 23, with effect from 1st January, 2008) was repealed by the *Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012*, section 8, with effect from 1st January, 2013.⁴⁷

[Transitional provisions.]

62C. (1) Assessable income of a company which has accrued or arisen on or prior to the 31st December, 2007 and which on that date –

- (a) has been assessed but on which tax has not been paid, shall be deemed to be undistributed income for the purposes [of this Law] on the 1st January, 2008 ("**the operative date**"), or
- (b) has not been assessed but which is later assessed, and on which tax has not been paid by the reporting date of the calendar quarter after the quarter in which the liability to tax arose, shall be deemed to be undistributed income for the purposes [of this Law] on that reporting date ("**the operative date**"),

unless payment of all outstanding liabilities to tax, penalties, surcharges and additional surcharges is made to the satisfaction of the [Director] in accordance with arrangements approved by the [Director].

On the operative date there shall be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income immediately prior to that date.

(2) When income described in subsection (1) is deemed to be distributed, any tax deducted on the deemed distribution pursuant to sections 62A and 81B [(which sections shall continue to have effect for the purposes of this section as they had effect immediately prior to the 1st January, 2013)] shall be set off against the liability of the company in respect of the unpaid tax on that income.

(3) For the avoidance of doubt, surcharges and additional surcharges shall cease to accrue in respect of tax on income which is deemed to be distributed, and is taxed accordingly, under this section.]

NOTES

Section 62C was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 23, with effect from 1st January, 2008.

In section 62C,

the words in the first and second pairs of square brackets in subsection (1) were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 10, with effect from 29th April, 2009;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁴⁸

the parentheses, words and figures in square brackets in subsection (2) were inserted by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 9, with effect from 1st January, 2013.

Interpretation.

62D. (1) For the purposes of this Law, a "**beneficial member**" of a company means an individual who has a beneficial interest or any part of a beneficial interest in a share or any part of a share in that company (but does not include an individual who holds only the legal title of any share or any part of a share).

(2) An individual has the "**beneficial interest**" in a share or any part of a share of a company if he is the beneficial owner thereof or if he has an equitable interest or contractual interest therein (but does not include a bare legal owner of any share or part of a share).

(3) In order to ascertain whether an individual has a beneficial interest in a company, the interest may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description.

(4) For the purposes of this section –

- (a) **"share"** includes stock, any interest of a capital nature and the capital interest of a member in a company limited by guarantee,
- (b) an **"equitable interest"** includes an interest which arises under a trust, or which may in future arise under a trust as a result of –
 - (i) the exercise of a power or discretion by the trustees or other persons in accordance with the terms of the trust (whether or not with the consent of another),
 - (ii) the effluxion of time, or
 - (iii) a change of residence,
- (c) without limitation, a person has a **"contractual interest"** where, under an agreement or arrangement –
 - (i) he is entitled or permitted to vote in respect of any share or stock,
 - (ii) the exercise of any of the rights of other persons interested in the company or its shares or stock requires his consent, or
 - (iii) other persons interested in the company can be required or are accustomed to exercise their rights in accordance with his instructions.

[(5) If there is no individual who has or who can reasonably be identified as having a beneficial interest or any part of a beneficial interest in a share or any part of a share in a company then, notwithstanding subsection (1) and (2), the beneficial member of the company in relation to that share or part of a share shall be deemed to be the person who holds the legal title to it.]]

NOTES

Section 62D was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 23, with effect from 1st January, 2008.

In section 62D, subsection (5) was inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 11, with effect from 29th April, 2009.

CHAPTER IX

FEEES AND SUBSCRIPTIONS TO PROFESSIONAL BODIES,
LEARNED SOCIETIES, ETC.

Deduction of certain fees and subscriptions.

63. (1) Subject to the succeeding provisions of this section and to the provisions of subsection (3) of section eight of this Law, any annual fee or subscription paid to a body of persons approved for the purposes of this section by the [Director] shall be deemed to be an expense wholly, exclusively and necessarily incurred in the performance of the duties of the office or employment out of the emoluments of which it is defrayed.

(2) The [Director] may on the application of the body approve for the purposes of this section any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects, that is to say –

- (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions),
- (b) the maintenance or improvement of standards of conduct and competence among the members of any profession,
- (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.

(3) If the activities of a body approved for the purposes of this section are to a significant extent directed to objects other than those mentioned in subsection (2) of this section the [Director] may determine that such specified part only of any annual subscription paid to the body may be deducted under this section as corresponds to the extent to which its activities are directed to objects mentioned in that subsection; and in doing so the [Director] shall have regard to all relevant circumstances and, in particular, to the proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.

(4) A fee or subscription shall not be treated as defrayed out of the emoluments of any office or employment unless –

- (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) which is a condition or one of alternative conditions of the performance of the duties of the office or employment,
- (b) the subscription is paid to a body the activities of

which, so far as they are directed to the objects mentioned in subsection (2) of this section, are relevant to the office or employment, that is to say, the performance of the duties of the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.

(5) Any approval given and any determination made under this section may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this section in pursuance of an application made before the end of any year of charge a deduction may be made under this section in respect of a fee or subscription paid to the body in that year, whether the approval is given before or after the end of that year.

(6) Any body aggrieved by the failure of the [Director] to approve that body for the purposes of this section, or by his withdrawal of the approval or by any determination made by him under this section or the variation of or the refusal to withdraw or to vary any such determination shall be entitled to appeal [...].

(7) The provisions of section seventy-six of this Law shall apply in the case of an appeal under the provisions of the last foregoing subsection as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the [Director].

NOTES

In section 63,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁴⁹

the words omitted in the second pair of square brackets in subsection (6) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

CHAPTER X
STATUTORY TRADING CORPORATIONS

Statutory trading corporations.

64. (1) It shall be the duty of the Guernsey Tomato Marketing Board, a body corporate incorporated under the Tomato Marketing (Guernsey) Law, 1952ⁱ (hereafter in this section referred to as "**the Board**"), to furnish to the [Director] within such period, not being less than twenty-one days, as the [Director] may by notice in writing prescribe, in the form and manner prescribed by the [Director], information as to –

- (a) the names and addresses of all persons who have delivered to the Board tomatoes to be exported and marketed by the Board in the year preceding any year of charge,
- (b) the names and addresses of the persons who have engaged in the trade or business of store-packing tomatoes and who have delivered to the Board on behalf of some other person tomatoes to be exported and marketed by the Board in the year preceding any year of charge, and
- (c) the monies arising or accruing to persons referred to in

ⁱ Ordres en Conseil Vol. XV, p. 341.

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paragraphs (a) and (b) of this subsection in respect of tomatoes so exported and marketed and of any sums deducted or deductible from the said monies or otherwise charged or chargeable by the Board to the persons concerned.

(2) It shall be the duty of all persons who have engaged in the business of store-packer and who have delivered to the Board on behalf of some other person or persons tomatoes to be exported and marketed by the Board in the year preceding any year of charge to furnish to the [Director] within such period, not being less than twenty-one days, as the [Director] may by notice prescribe, in the form and manner prescribed by the [Director], information as to –

- (a) the names and addresses of the said other person or persons, and
- (b) the monies arising or accruing to the said other person or persons in respect of tomatoes so delivered and of all sums deducted or deductible from the said monies or otherwise charged or chargeable by the Board or by the person delivering the tomatoes to the Board:

Provided that any person delivering tomatoes to the Board on behalf of some other person shall not be required to furnish information in respect of any transaction not related to the collection, packing, delivering, exporting or marketing of the said tomatoes.

(3) The Board or any person referred to in paragraph (b) of subsection (1) of this section shall, if so required by a supplementary notice given by the [Director], deliver a separate return containing particulars corresponding to those referred to in the last two preceding subsections in respect of tomatoes exported since

the commencement of the year of charge in which the notice is given.

(4) The preceding provisions of this section shall, with such adaptations as may be necessary, apply to and in relation to any corporation incorporated by Law in connection with any industry and having in relation to that industry functions substantially similar to those exercised by the Board in respect of the tomato industry.

NOTES

In section 64, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁵⁰

The Tomato Marketing (Guernsey) Law, 1952 has since been repealed by the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016, section 92, Schedule 11, with effect from 3rd October, 2019.

[CHAPTER XA
DONATIONS TO CHARITY

Application of Chapter.

64A. This Chapter provides for the treatment for income tax purposes of payments made in favour of charities ("**charitable donations**") on or after the 1st January, 2010.]

NOTE

Chapter XA, and section 64A thereof, were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and from 1st January, 2010.

Exempt donations.

64B. (1) A charitable donation is "**exempt**" for the purposes of this Chapter if and only if –

- (a) the donation is made to a Guernsey Registered Charity,
- (b) the donation is made by an individual from his income in respect of which he has been charged to tax and has paid tax at the individual standard rate in the year of charge in which the donation is made,
- (c) the amount of the donation, when aggregated with the amount of any other payment made by the same individual to the same Guernsey Registered Charity in the same year of charge, is at least £500,
- (d) the amount of the donation, when aggregated with the amount of any other payment made by the same individual to the same or any other Guernsey Registered Charity in the same year of charge, does not exceed [£10,000],
- (e) the donation, and any other payment referred to in paragraph (c) or (d), is not made under a deed of covenant entered into before the 1st January, 2010, and
- (f) the individual making the donation makes a written declaration to the Guernsey Registered Charity that the conditions set out in paragraphs (a) to (e) are satisfied.

(2) ...

(3) The States may by Ordinance amend the amounts specified in subsection (1).]

NOTES

Section 64B was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and from 1st January, 2010.

In section 64B,

the symbol and figures in square brackets in subsection (1)(d) were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 4, with effect from 1st January, 2025;⁵¹

subsection (2) was repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 8, with effect from 1st January, 2023.

The following Ordinance has been made under section 64B:

Income Tax (Charitable Donations) (Guernsey) (Amendment) Ordinance, 2021.

[Form of declaration.]

64C. (1) The declaration referred to in section 64B(1)(f) shall be made in such form and manner, and shall be accompanied by such information and documents, as the [Director of the Revenue Service] may require.

(2) Without prejudice to any other provision of this Law, where a declaration, or any document or information produced or furnished in connection with it or otherwise for the purposes of this Chapter, is incorrect or incomplete, or is false, deceptive or misleading, in a material particular, then the declaration is void, and –

(a) the Guernsey Registered Charity concerned shall not, in respect of any payment to it to which the declaration

related, be entitled to claim a repayment of tax in accordance with section 64D, and

(b) the amount of any tax repaid by the [Director of the Revenue Service] to the charity under section 64D in consequence of the declaration is repayable to him on a joint and several basis by –

(i) the individual by whom the declaration was made, and

(ii) the charity,

and may be recovered by him in the same manner as income tax due under this Law.]

NOTES

Section 64C was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and from 1st January, 2010.

In section 64C, the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

[Consequences of exemption.]

64D. (1) Where under section 64B a charitable donation to a Guernsey Registered Charity is "**exempt**" for the purposes of this Law –

(a) the donation is considered to be a payment net of tax in

the charity's hands,

- (b) the charity may claim a repayment of the tax paid in respect of the donation by the individual making the payment,
- (c) the [Director of the Revenue Service] shall pay the amount of the tax so paid to the charity, and
- (d) for the avoidance of doubt, the individual making the donation cannot set off the amount of the donation against his income for the purposes of calculating his liability to tax.

(2) However, any claim by a Guernsey Registered Charity for a repayment of tax under subsection (1) –

- (a) may only be made after the expiration of the year of charge in which the donation in question was made, and
- (b) shall be made in such form and manner, and shall be accompanied by such information and documents (including, without limitation, the declaration referred to in section 64B(1)(f)), as the [Director of the Revenue Service] may require.]

NOTES

Section 64D was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and from 1st January, 2010.

In section 64D, the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

Transitional provisions.

64E. (1) Where an individual entered into a deed of covenant prior to the 1st January, 2010, and the deed remains valid and enforceable on that date, the provisions of this Law as they had effect immediately prior to that date shall continue to apply in relation to that deed and the liability to tax of that individual in respect of covenanted donations made under it until the expiration of the deed.

(2) Without limitation, a deed of covenant is deemed to expire for the purposes of subsection (1) if, at any time after the 31st December, 2009 –

- (a) the covenantor ceases to be under any obligation to make any donations under it,
- (b) the deed is amended in any material respect, or
- (c) the obligations under the deed are extended or renewed.

(3) Covenanted donations to a charity under a deed of covenant entered into prior to the 1st January, 2010 cannot be an exempt charitable donation for the purposes of this Chapter; and accordingly the charity may not claim a repayment of the tax paid in respect of the donation by the individual making the payment.]

NOTE

Section 64E was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and

from 1st January, 2010.

Interpretation of Chapter XA.

64F. For the purposes of this Chapter –

"charitable donation" means a payment made in favour of a charity,

"charity": see section 40(k),

"deed of covenant" means a settlement –

- (a) which contains a covenant by the settlor to make periodic payments to a charity, and
- (b) which complies with the requirements for settlements of that description for the time being prescribed by regulations of the [Committee] under section 65(1),

"exempt", in relation to a charitable donation : see section 64B(1),

[**"Guernsey Registered Charity"** means a charity within the meaning of the Charities etc. (Guernsey and Alderney) Ordinance, 2021 that is registered in accordance with, and is a relevant entity within the meaning of, the provisions of that Ordinance.]]

NOTES

Section 64F was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 18, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, shall have effect on and from 1st January, 2010.

In section 64F,

the word in square brackets in paragraph (b) of the definition of the expression "deed of covenant" was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the definition of the expression "Guernsey Registered Charity" was substituted by the Charities etc. (Guernsey and Alderney) Ordinance, 2021, section 52(3), Schedule 8, paragraph 2(4), with effect from 29th April, 2022.

CHAPTER XI
REVOCABLE SETTLEMENTS AND SETTLEMENTS ON CHILDREN

[Income under certain revocable settlements to be treated as income of the settlor.]

65. (1) [All] income arising to any person by virtue or in consequence of a revocable settlement shall be deemed to be the income of the settlor unless –

- (a) the settlement is not revocable for a period exceeding six years or during the lifetime of the person on whom the settlement has been made, and
- (b) the settlor has divested himself, while the settlement remains irrevocable, of all control over or right to receive any beneficial interest thereunder, and
- (c) the settlement is made in such manner and contains such particulars as may, from time to time, be prescribed by the [Committee] by regulations, under and for the purposes of this Law and any such regulations may make different provisions in respect of different classes of settlement [...].

[(2) ...]

(3) For the purposes of this section, a settlement shall be deemed to be revocable if any income or property which may at any time arise under or be comprised in the settlement is, or will or may become, payable to or applicable for the benefit of the settlor or [(irrespective of whether she or he is resident in Guernsey)] the wife or husband of the settlor in any circumstances whatsoever:

Provided that a settlement shall not be deemed to be revocable –

- (a) if and so long as any income arising under or property comprised in the settlement cannot become payable or applicable as aforesaid except in the event of –
 - (i) the insolvency of some person who is or may become beneficially entitled to that income or property, or
 - (ii) any assignment of or charge on that income or property being made or given by some such person, or
 - (iii) in the case of a marriage settlement, the death of both the parties to the marriage and of all or any of the children of the marriage, or
 - (iv) the death under the age of twenty-five or some lower age of some person who would be beneficially entitled to that income or property on attaining that age, or

- (b) if and so long as some person is alive and under the age of twenty-five during whose life that income or property cannot become payable or applicable as aforesaid except in the event of that person becoming insolvent or assigning or charging his interest in that income or property.

[(3A) For the purposes of this section, references (however expressed) to income which may arise under or be comprised in a settlement, or arising by virtue or in consequence of a settlement, include the income of –

- (a) any company, or
- (b) other entity,

where that company or other entity is held by, vested in or otherwise under the control (direct or indirect) of the trustees of the settlement (whether alone or with any other person) for the purposes of the settlement, being income attributable to the settlement.

(3B) In ascertaining whether –

- (a) any income arises under or is comprised in a settlement, or
- (b) any company or other entity is held by, vested in or otherwise under the control (direct or indirect) of the trustees of a settlement for the purposes of the settlement,

the income or (as the case may be) the holding, vesting or control may be traced

through any number of companies, partnerships, trusts, agreements or other arrangements of any description and, for that purpose, section 62D(2) shall apply (subject to the necessary modifications) in determining whether a person has an interest in any company, partnership, trust, agreement or arrangement through which the interest is traced.

(3C) For the avoidance of doubt –

- (a) income which arises under or is comprised in a settlement and which is not distributed does not, by reason of being accumulated, cease to be chargeable to tax under this Law[, but subject to the provisions of subsection (3CA)],
- (b) income arising under or comprised in a settlement which has been taxed at the individual standard rate or the company higher rate in any person's hands is not liable to be taxed again in that or any other person's hands [except at a rate equivalent to any difference between those two rates in cases where the income is in the hands of a person liable to tax at the higher of those two rates], and
- [(c) income arising under or comprised in a settlement which has been taxed at a rate lower than the company higher rate ("**rate A**") in any person's hands is only liable to be taxed again in that or any other person's hands at a rate equivalent to the difference between rate A and the company higher rate, in the case of a company, or the individual standard rate, in the case of an individual.]

[(3CA) Notwithstanding the preceding provisions of this section, but subject to the provisions of section 67 (general provisions against legal avoidance), a settlor is taxable only in respect of income –

- (a) arising under or comprised in the settlement, or arising by virtue or in consequence of the settlement, and
- (b) which is the income of a company or other entity held by, vested in or otherwise under the control (direct or indirect) of the trustees of the settlement (whether alone or with any other person) for the purposes of the settlement,

being income attributable to the settlement, to the extent that the income is actually distributed (whether or not to the settlor) by or from the company or entity.]

(3D) Where a settlement is deemed revocable under this section, nothing in this section affects the liability of the trustee or any person beneficially entitled to or in receipt of the income to be charged in his own name, irrespective of whether the settlor is resident or non-resident.]

(4) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say –

[...]

"charity" has the meaning assigned to it by paragraph (k) of section forty of this Law,

[...]

"**settlement**" includes any disposition, trust, covenant, agreement or arrangement [and any transfer of assets (including, without limitation, the making of any loan, advance or other transfer of funds or other assets on terms under which those assets will be repaid, or reimbursement will be made, or consideration will be provided in money or money's worth, but not including a bona fide transfer made at arms' length)] made or entered into directly or indirectly by any person, and the expression "**settlor**" shall be construed accordingly [and includes any person who has provided or caused to be provided funds or other property for a settlement or for any entity owned or controlled directly or indirectly by the trustees of the settlement].]

NOTES

Section 65 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1979, section 1(b), with effect from 1st January, 1979.

In section 65,

the word in the first pair of square brackets in subsection (1) was substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 2(a), with effect from 19th January, 1993, subject to the provisions of section 9(4) of the 1992 Law;

the word in square brackets in paragraph (c) of subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

first, the proviso to subsection (1)⁵², second, subsection (2)⁵³ and, third, the words omitted in the first two pairs of square brackets in subsection (4) were repealed by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 19, section 20 and section 21, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(8) of the 2009 Law, these amendments shall have effect on and from 1st January, 2010;

first, the words in square brackets in subsection (3) and, second, subsection (3A), subsection (3B), subsection (3C) and subsection (3D) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, respectively section 24 and section 25, with effect from 1st January, 2008;

first, the words in square brackets in paragraph (a) of subsection (3C) and, second, subsection (3CA) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2018, respectively section 2 and section 3, with effect from 1st October, 2018;

first, the words in square brackets within subsection (3C)(b) were inserted and, second, subsection (3C)(c) was substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, respectively section 5 and section 6, with effect from 1st January, 2025;

the words in the first pair of square brackets in the definition of the expression "settlement" in subsection (4) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 26, with effect from 1st January, 2008;

the words in the second pair of square brackets in the definition of the expression "settlement" in subsection (4) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 19, with effect from 1st January, 2008.

The following Regulations have been made under section 65:

*Income Tax (Guernsey) (Settlements) Regulations, 1979;
Income Tax (Guernsey) (Settlements) Regulations, 1993.*

The following cases have referred to section 65:

Yaddehige v. Credit Suisse Trust Limited, Collas Day and MPR Private Clients Limited (2007) (Unreported, Royal Court, 30th March) (Guernsey Judgment No. 8/2007); 2007-08 GLR Note 4;

Yaddehige v. Credit Suisse Trust Limited, Collas Day and Fortis Reads Private Clients Limited 2007–08 GLR 282.

[Duty of settlor to declare settlement to [Director].

65A. (1) A person who is or who has at any time been the settlor of a settlement, in each case within the meaning of section 65(4), which is or which has been in existence at any time during a year of charge in which the settlor is or was resident in Guernsey, shall notify the [Director] of that fact by the 31st March in the following year of charge.

(2) A notification under subsection (1) shall be in such form, shall contain such information and particulars and shall be accompanied by such documents (verified in such manner) as may be required by the [Director].

- (3) If there is a failure to comply with this section –
- (a) the provisions of section 75 ("additional assessments") shall apply in relation to the person in default in all respects as those provisions apply in relation to a person by or on behalf of whom any form of fraud has been committed in connection with or in relation to tax for the year 1950 or any subsequent year of charge, and
 - (b) the provisions of section 189 ("penalty for failure to give notice of liability") shall apply in relation to the person in default in all respects as those provisions apply in relation to a person who fails to give the [Director] notice of his liability to be charged with tax (and the other provisions of Part XVIII of this Law shall apply accordingly).]

NOTES

Section 65A was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 20, with effect from 1st January, 2008.

In section 65A, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁵⁴

Income under settlements on children.

66. (1) Where by virtue or in consequence of any settlement any income is payable during the lifetime of the settlor to or for the benefit of a child of the settlor in any year of charge, the income shall, if at the commencement of that

year the child was an infant and unmarried, be treated as the income of the settlor for that year.

[(1A) Nothing in this section affects the liability of the trustee or any person beneficially entitled to or in receipt of the income to be charged in his own name, irrespective of whether the settlor is resident or non-resident.]

(2) In this section "**child**" includes stepchild, adopted child and illegitimate child.

NOTES

In section 66, subsection (1A) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 27, with effect from 1st January, 2008.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this section to an "infant" shall be construed as a reference to a "minor", that is to say a person under the age of 18 years.

[CHAPTER XII

LOANS TO PARTICIPATORS

Loans to participators.

66A. (1) If a company with income taxed at a rate less than the company higher rate [or, if higher, the individual standard rate] makes a loan to –

- (a) any participator of the company,
- (b) any officer of the company,

- (c) any person connected to a participator or officer of the company, or
- (d) a third person ("**Person A**") for the benefit of any person mentioned in paragraph (a), (b) or (c) ("**Person B**"),

it shall be a "**qualifying loan**".

(2) Where a qualifying loan has been made under the circumstances described in paragraph (d) of subsection (1), then the loan shall be deemed to have been made to Person B for the purpose of this Chapter, and references to the person to whom the loan was made and cognate expressions shall apply accordingly.

(3) Where a qualifying loan has been made to a person described in paragraph (c) of subsection (1) who is not resident in Guernsey, then the loan shall be deemed to have been made to the participator or officer to whom that person is connected for the purpose of this Chapter, and references to the person to whom the loan was made and cognate expressions shall apply accordingly.

(4) Notwithstanding subsection (1), a loan shall not be a qualifying loan if –

- (a) it was advanced at the company's normal commercial rate, and the company is authorised by the Guernsey Financial Services Commission, or by any person or body exercising, in a place outside the Bailiwick, functions corresponding to the functions of the Commission, to carry on a business which includes the lending of money,

- (b) it is a debt incurred for the supply by the company of goods or services in the ordinary course of its business unless the period of credit given exceeds 6 months or is longer than that normally given to the company's customers,
- (c) it is made to an officer or employee of the company, or an officer or employee of a company with whom the company is connected, unless the officer or employee and any person connected to him has, directly or indirectly, control of more than 5 per cent of the issued share capital of the company or any company connected with it, or
- (d) it is of such class or description, or satisfies such conditions, as may be prescribed by regulations of the [Committee]; and regulations under this paragraph may in addition amend paragraphs (a), (b) and (c), whether by prescribing additional conditions with which loans described in those paragraphs must comply with, or otherwise.

(5) A loan shall become a qualifying loan if it has been made to a person who did not, at the time the loan was made, meet the conditions of subsection (1), but who later meets any of those conditions.

(6) A qualifying loan shall not be permitted as a deduction in calculating the company's profits for the purposes of this Law.

(7) Where a company makes a qualifying loan –

- (a) the loan shall be deemed to comprise income in the hands of the person to whom it was made and shall be assessable and tax shall be charged accordingly,
 - (b) the company must account for tax on the income in accordance with section 66C.
- (8) For the purposes of this Law –
- (a) a person is "**connected to**" another person if –
 - (i) there is a "**corporate relationship**" between them, which exists between a company and the person controlling that company, and between a company and any person with a partnership, personal, or trust relationship with the person controlling the company, control for these purposes includes partial control or control together with other people,
 - (ii) there is a "**partnership relationship**" between them, which exists between two partners in a partnership, and between a partner and any person with a personal relationship to another partner in the partnership,
 - (iii) there is a "**personal relationship**" between them, which includes every form of relationship by blood, adoption, marriage or cohabitation (or any combination of those factors) regardless of

whether the law recognises the validity, legitimacy or existence of the relationship, and includes a former personal relationship which has in law or in fact terminated,

- (iv) there is a "**trust relationship**" between them, which exists between co-trustees, between a trustee and settlor, between a trustee and beneficiary, and between trustees of related trusts, and between a trustee and any person with a corporate, partnership or personal relationship with a settlor or beneficiary, or
 - (v) there is a corporate relationship, partnership relationship, personal relationship, or trust relationship between one of them and a third person, and there is a corporate relationship, partnership relationship, personal relationship, or trust relationship between the other of them and the same third person, and
- (b) "**participator**" means any member of the company or any person having a share or interest in the capital or income of the company and, without prejudice to the generality of the foregoing, includes –
- (i) any person who possesses, or is entitled to acquire, share capital or voting rights in the company,
 - (ii) any loan creditor of the company,

- (iii) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by means of premium on redemption, and
- (iv) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for such person's benefit.

(9) For the purpose of this Chapter "**loan**" includes a debt and any assignment of a loan or a debt due to a third person to the company.]

NOTES

Chapter XII, and section 66A thereof, were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 28, with effect from 1st January, 2008.

In section 66A,

the words in square brackets in subsection (1) were inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 7, with effect from 1st January, 2025;

the word in square brackets in paragraph (d) of subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 66A:

Income Tax (Loans to Participators) (Exemptions) (No. 3) Regulations, 2008;

Income Tax (Loan to Participators) (Exemptions) (No. 3) (Amendment) Regulations, 2012;

*Income Tax (Loans to Participators) (Exemptions) (No. 3)
(Amendment) Regulations, 2013.*

Repayment of qualifying loans.

66B. (1) When a qualifying loan is repaid in whole or in part within 6 years of being made, then the person who paid the tax to the [Director] shall be entitled to claim repayment of the tax paid in respect of the loan or the part repaid.

However, any such claim must be made [within 15 days of the reporting date] for the calendar quarter in which the loan or part thereof is repaid.

(2) Where more than one loan is made to a person, a qualifying loan shall only be considered to have been repaid once –

- (a) any qualifying loan made before it in time, or
- (b) any other loan made before the 1st January, 2008 which would have been a qualifying loan had this section then been in force,

has been repaid.

(3) Where a qualifying loan is written off (in whole or in part) the person to whom the loan was made shall be deemed –

- (a) to have received income in the amount of the loan written off and tax paid in respect of that amount, with a credit for that tax, and
- (b) if the tax was paid by the company, to have paid that tax, save that the deemed payment of tax shall not be

permitted as a deduction in calculating that person's income tax liability.

(4) When a qualifying loan is not repaid in whole or in part within 6 years of being made, then the company shall be deemed to have written off the amount of the loan not repaid.

[(5) For the avoidance of doubt, the provisions of subsections (3) and (4) –

- (a) do not create a second charge to tax, and
- (b) do not create any obligation on the company under section 81B to deduct and account for tax,

on the amount of a loan in respect of which tax has already been paid pursuant to section 66C.]]

NOTES

Section 66B was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 28, with effect from 1st January, 2008.

In section 66B,

the word in the first pair of square brackets in subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁵⁵

the words in the second pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 12, with effect from 29th April, 2009;

subsection (5) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 22, with effect from 27th October, 2009.

[Collection of tax on qualifying loans to participators.]

66C. (1) The provisions of this section have effect for the purpose of requiring tax to be paid when a company makes a qualifying loan, subject to and in accordance with regulations made by the [Committee] under this section.

(2) A loan is chargeable to income tax in the calendar quarter in which it becomes a qualifying loan.

(3) For the purpose of calculating the tax payable on a qualifying loan, the loan shall be deemed to have been paid net of tax.

(4) Where any qualifying loan is made, tax shall be paid to the [Director] by the company that made the loan in accordance with the provisions of this section.

(5) Tax on a qualifying loan shall be paid at –

(a) the individual standard rate (where the person to whom the qualifying loan is made is an individual), or

(b) the company higher rate (where the person to whom the qualifying loan is made is a company).

(6) For the avoidance of doubt if any qualifying loan on which tax has been paid has not been included in any assessment of tax made under section 73(2)(a) then the tax paid on such loan shall not, under subsection (4), be applied towards the payment of tax due from that assessment.

(7) The [Committee] may from time to time make regulations for the purposes of carrying out the provisions of this section.

(8) Any regulations made under subsection (7) do not have effect unless and until approved by a resolution of the States.

(9) Any tax paid by a company on a qualifying loan in accordance with this section shall be payable by the company in such manner and at such times as may be prescribed by or under regulations made under subsection (7).

(10) Where a company fails to pay to the [Director] any tax due on a qualifying loan in the manner and at the times prescribed by or under this section, the amount is (without prejudice to any other remedy or penalty under this Law) recoverable by the [Director] from the person to whom the qualifying loan was made.

(11) Where any qualifying loan is made, the company shall make a quarterly return to the [Director] detailing –

- (a) the name and address of the person to whom the loan is made,
- (b) the date and amount of the loan,
- (c) the date and amount of tax due or paid,
- (d) the dates and amounts of repayments of the loan, and
- (e) the amount of the loan outstanding at the reporting dates.

(12) The quarterly return required under subsection (11) must be filed with the [Director] within 15 days of the relevant reporting date, together with payment for any income tax due under this Chapter.

(13) If the [Director] believes that a company has not complied with the requirements of subsection (12), the [Director] may make an assessment of the tax due, in the same form and manner in which an additional assessment may be made under section 75.]

NOTES

Section 66C was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 28, with effect from 1st January, 2008.

In section 66C,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁵⁶

PART V

LEGAL AVOIDANCE

[General provision against legal avoidance.]

67. (1) Where the effect of a transaction or series of transactions is the avoidance, reduction or deferral of the liability of any person ("**the person concerned**") to tax under this Law, the [Director] may, in his discretion, make such adjustments as respects the liability of the person concerned to tax as may in his opinion be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.

(2) For the purposes of this section, a transaction includes any arrangement, agreement, operation, scheme or event, or any action, omission,

decision or concurrence, whether or not –

- (a) enforceable by legal proceedings,
- (b) involving or dependent on any action by, or any omission, decision or concurrence of, the person concerned or any other person, or more than one person,
- (c) brought to a conclusion, or
- (d) involving or dependent on any other transaction.

(3) For the purposes of this section, and for the avoidance of doubt, it is immaterial –

- (a) when or where the transaction or series of transactions (or any of the series of transactions) occurs,
- (b) whether or not the transaction or series of transactions (or any of the series of transactions) –
 - (i) occurs in a year of charge in which an avoidance, reduction or deferral of liability is effected by or as a result of it,
 - (ii) was undertaken by or on behalf of, or in conjunction with, the person concerned, or
 - (iii) was undertaken by or on behalf of, or in conjunction with, more than one person, or

- (c) whether or not the avoidance, reduction or deferral of liability –
 - (i) was an intended effect of the transaction or series of transactions, or any of the series of transactions, or
 - (ii) was the only or principal effect.

(4) In this section the expression "**avoidance, reduction or deferral**" of liability to tax under this Law includes (without limitation) an increase or enhancement in the entitlement of the person concerned to a repayment of tax under this Law.

[(5) For the avoidance of doubt, and without limitation, the powers conferred on the [Director of the Revenue Service] by this section do not apply in relation to non-resident individuals or non-resident companies to the extent that, but for any transaction or series of transactions with an effect described in subsection (1), their liability to income tax would be limited pursuant to the provisions of Chapter IV of Part IV of this Law.]]

NOTES

Section 67 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 21, with effect from 1st January, 2008.⁵⁷

In section 67,

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁵⁸

subsection (5) was inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 13, with effect from 29th April, 2009.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 9(3), with effect from 30th June, 2014, subsection (3) and subsection (4) of this section have effect for the purposes of regulation 9 of the 2014 Regulation as if references in those subsections to tax under this Law included references to tax imposed by the laws of the other parties to the Agreements which are of a class or description specified in or under the Agreements, or in respect of which the Agreements otherwise have effect; and, in accordance with the provisions of regulation 9(4) of the 2014 Regulations, with effect from that same date, subsection (5) of this section does not have effect for the purpose of regulation 9 of the 2014 Regulations.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 61, with effect from 1st January, 2025, this section applies for the purposes of the 2024 Regulations and the GloBE Model Rules as if, first, references herein, however expressed, to "tax under this Law" or "tax" included references to the Domestic Top-up Tax payable under the GloBE Model Rules (the "DTT") and the Multinational Top-up Tax payable under the Income Inclusion Rule of Chapter 2 of the GloBE Model Rules (the "MTT"), second, references to a year of charge included references to a Fiscal Year, and, third, subsection (5) were omitted.

PART VI

RETURNS AND ASSESSMENTS

Returns as to income.

68. (1) It shall be the duty of every person [(including, for the avoidance of doubt, a partnership described in section 42A(1))] to whom a notice for that purpose has been given, and whether or not he is liable to pay any tax, to deliver to the [Director], [within such period as the [Director] may therein specify, not being less than 21 days from] the date of the issue of such notice, a return as to his income in the form and manner required by the [Director], and every such person shall furnish to the [Director], within such period as the [Director] may specify, such accounts or other information [(including without limitation, [accounting records, accounts and consolidated accounts required to be kept by a company under sections

238, 243 and 244 of the Companies (Guernsey) Law, 2008]] [relating to any such return or the contents thereof] as he may require, certified, if he so requires, [by an accountant who is a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Association of Chartered Certified Accountants, or who holds an equivalent qualification approved by the [Director]].

[(1AAA) The notice from the [Director of the Revenue Service] referred to in subsection (1) requiring a person to deliver a return as to his income may be given –

- (a) in accordance with the provisions of section 73A(1) (and the provisions of that section and of section 73B apply in relation to such a notice as they apply in relation to a notice of assessment required to be served under section 73(1)), or
- (b) by means of a publication (made in La Gazette Officielle and in such other manner as the [Director of the Revenue Service] thinks fit [or made on the official website of the States of Guernsey Revenue Service]) addressed to persons generally or to any class or description of persons (and where the notice is given by means of a publication under this paragraph the notice is considered to be given to the persons concerned on the date of publication),

and references in this Law (however expressed) to the giving or receipt of such a notice shall be construed accordingly.]

[(1A) In the case of any source of income in respect of which the year of charge is also the year of computation the return referred to in subsection (1)

of this section shall include –

- (a) the actual income from that source of the person required to deliver the return for the calendar year preceding the year of charge, and/or
- (b) a bona fide estimate of the income of that person from that source for the year of charge,

as the notice may require.]

[(1AA) Section 75L(3) applies in relation to statements, documents and information given in purported compliance with a duty or requirement imposed by or under this section or otherwise for the purposes of this section.]

(2) [Subject to subsection (1AAA), where any person chargeable with tax] [or any partnership described in section 42A(1)] has not received before the thirtieth day of June in any year of charge a notice from the [Director] requiring him to make a return as to his income it shall be his duty to give notice [within 14 days thereafter] to the [Director] that he is so chargeable [or, as the case may be, is such a partnership].

[(3) The [Director] may under this section require different information, accounts and statements for different periods or in relation to different descriptions of sources of income or in relation to different descriptions of person.

(4) For the avoidance of doubt, the provisions of this section are in addition to the provisions of Part VIA of this Law.]

NOTES

In section 68,

first, the words in the first pair of square brackets in subsection (1), second, the words in the second pair of square brackets in subsection (2) and, third, the words in the sixth pair of square brackets therein were inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 31, respectively paragraph (2), paragraph (3)(a) and paragraph (3)(b), with effect from 30th June, 2021;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁵⁹

the words in the third pair of square brackets in subsection (1) were substituted by the Income Tax (Returns Amendment) (Guernsey) Law, 1999, section 1, with effect from 1st January, 1999;

the words in the seventh pair of square brackets in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 29, with effect from 1st January, 2008;

first, the words and figures in square brackets within the seventh pair of square brackets in subsection (1) were substituted, second, subsection (IAAA) was inserted and, third, the words in the first pair of square brackets in subsection (2) were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012, respectively section 2, section 3 and section 4, with effect from, respectively 31st October, 2012, 1st January, 2013 and 31st October, 2012;

the words in the eighth pair of square brackets in subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 2, with effect from 25th January, 2006;

the words in the ninth pair of square brackets in subsection (1) were substituted by the Income Tax (Guernsey) (Amendment) Law, 2003, section 1(3), with effect from 1st January, 2004;

the words in the second pair of square brackets in paragraph (b) of subsection (IAAA) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 3, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

subsection (IA) was inserted by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 6(1), with effect from 1st January, 2002;

subsection (IAA) was inserted by the Income Tax (Guernsey)

(Amendment) Law, 2005, section 3, with effect from 25th January, 2006;

the words and figures in the fourth pair of square brackets in subsection (2) were inserted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 3(1), with effect from 19th January, 1993;

subsection (3) and subsection (4) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 4, with effect from 25th January, 2006.

The following case has referred to section 68:

States of Guernsey v. Hillcrest Executor and Trustee Company Limited (1993) 16.GLJ.35.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 11, with effect from 30th June, 2014 and without prejudice to the provisions of regulation 4(2) and (3) of the 2014 Regulations, subsection (IAAA) of this section applies in relation to a notice of the Director under regulation 4(1) or (2) of the 2014 Regulations or otherwise given by him under or for the purposes of those Regulations or the Agreements as they have effect by virtue of those Regulations as it applies in relation to a notice of the Director requiring a person to deliver a return as to his income, and references (however expressed) in those regulations or in the Agreements as they have effect by virtue of those Regulations to the giving or receipt of such a notice shall be construed accordingly.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 13, with effect from 1st December, 2015 and without prejudice to the provisions of regulation 4(1) and (2) of the 2015 Regulations, subsection (IAAA) of this section applies in relation to a notice of the Director under regulation 4(1) or (2) of the 2015 Regulations or otherwise given by the Director for the purposes of those Regulations as it applies in relation to a notice of the Director requiring a person to deliver a return as to income, and references (however expressed) in those regulations to the giving or receipt of such a notice shall be construed accordingly.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 62, with effect from 1st January, 2025, this section applies in relation to a person required to submit a return under the 2024 Regulations or the GloBE Model Rules as it applies in relation to a person required by notice of the Director to deliver a return as to income under this section; and, second, regulation 63, with effect from that same date, subsection (IAAA) applies in relation to a notice of the Director given under or in respect of the implementation of the 2024 Regulations or the GloBE Model Rules as it applies in relation to a notice of the Director requiring a person to deliver a return as to income, and references (however

expressed) in the 2024 Regulations or the GloBE Model Rules to the giving or receipt of such a notice shall be construed accordingly.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 25, with effect from 1st January, 2026, subsection (1AAA) of this section applies in respect of those Regulations subject to the provisions therein.

[Returns to be submitted in electronic form and by electronic means.]

68AA. (1) Where under section 68 a return as to a person's income is required to be delivered to the [Director of the Revenue Service], the return and all accounts, statements and other documents accompanying it shall be submitted –

- (a) in the case of an individual –
 - (i) in electronic form and by electronic means, or
 - (ii) if the individual so chooses, in non-electronic form and by non-electronic means,
- (b) in the case of a company –
 - (i) in electronic form and by electronic means, or
 - (ii) in such non-electronic form and by such non-electronic means as the [Director of the Revenue Service] may in his absolute discretion determine in any particular case or class of cases.

(2) Subsection (1) is in addition to and not in derogation from the provisions of section 68.]

NOTES

Section 68AA was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012, section 5, with effect from 31st October, 2012.

In section 68AA, the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 12, with effect from 30th June, 2014, this section applies in respect of the 2014 Regulations and the Agreements as if –

- (a) references in subsections (1) and (2) of this section to section 68 included references to those Regulations, and the Agreements as they have effect by virtue of those Regulations,*
- (b) references in subsection (1) of this section to a return as to a person's income included references to a return or other document or information required or authorised to be provided by, under or for the purposes of those Regulations, or the Agreements as they have effect by virtue of those Regulations,*
- (c) paragraph (a) of subsection (1) of this section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.*

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 14, with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 64, with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model Rules as if, first, references in subsections (1) and (2) to section 68 included references to the 2024 Regulations and the GloBE Model Rules, second, references in subsection (1) to a return as to a person's income included references to a disclosure, or any document, notification or information, required or authorised to be made or provided by, under or in respect of the implementation of the 2024 Regulations or the GloBE Model Rules, and,

third, paragraph (a) of subsection (1) and, in paragraph (b) thereof the words "in the case of a company", were omitted.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 26, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Duty to declare income on which tax chargeable [or deductible].

68A. Without prejudice to any other provision of this Law, a person shall, whether or not he has received a notice from the [Director] under section 68 requiring him to make a return as to his income [or under section 70(1) requiring him to deliver a return as to his employees], on discovering that he has failed –

- (a) to declare any income which is chargeable to tax [or from which tax is deductible (as the case may be)], or
- [(aa) to pay any tax in accordance with section 66C, or]
- (b) to deduct any tax from income in accordance with section 81A or 81B,

give notice of the fact within fourteen days thereafter to the [Director].]

NOTES

Section 68A was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 30, with effect from 1st January, 2008.

In section 68A,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶⁰

the words in first, the second pair of square brackets, second, the square brackets in paragraph (a) and, third, the square brackets in the marginal note thereto were substituted by the Income Tax (Guernsey) (Amendment) Law, 2008, respectively section 6(1)(b), section 6(1)(c) and section 6(1)(a), with effect from 1st January, 2009;

paragraph (aa) was inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 14, with effect from 29th April, 2009.

Returns as to [distributions] and interest.

69. A company resident in Guernsey or registered under any law applicable from time to time to companies in Guernsey, when required to do so by notice for that purpose given by the [Director], shall deliver to the [Director] within such time and in such manner as he shall direct, lists showing respectively the [distributions] and interest paid or payable during the calendar year preceding the year of charge to persons resident in Guernsey and to persons not so resident, together with the names and addresses of the persons entitled to such [distributions] and interest.

NOTES

In section 69,

the word "distributions" in square brackets, wherever occurring, was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁶¹

Returns as to employees.

70. (1) Every employer when required to do so by notice for that purpose given by the [Director] and whether such notice be given by individual notice in writing or by a general notice published in La Gazette Officielle, shall, within the

time limited by the notice, deliver a return containing –

- (a) the names and addresses of the persons employed by him during the year preceding the year of charge,
- [(b) the full emoluments of those persons in respect of that employment for that preceding year, declaring whether or not any of those emoluments are benefits within the meaning given in section 8(2B) of this Law, and showing for each person separately the amount attributable to each such benefit in accordance with section 8(2) of this Law,]
- (c) the deductions made from such emoluments for items in respect of which the employee is entitled to a deduction or allowance under the provisions of this Law,
- (d) in the case of persons who entered or left the employment in the course of that preceding year, the dates on which they entered or left the employment.

(2) The employer shall, if so required by the notice or by a supplementary notice given by the [Director], include in his return, or deliver a separate return containing, corresponding particulars in respect of persons employed by him since the commencement of the year of charge in which the notice is given.

(3) Where the employer is a company, any director of the company or person engaged in the management of the company shall for the purposes of this section be deemed to be a person employed by the company.

NOTES

In section 70,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶²

paragraph (b) of subsection (1) was substituted by the Income Tax (Emoluments Amendments) (Guernsey) Law, 1994, section 1(d), with effect from 1st January 1997.

Returns as to lodgers, etc.

71. Every person who provides or offers to provide accommodation for hire or reward otherwise than under a tenancy agreement shall, when required to do so by notice for that purpose given by the [Director], and whether such notice be given by individual notice in writing or by a general notice published in La Gazette Officielle, deliver to the [Director] a return within the time limited by the notice, of all individuals who have been accommodated by him for hire or reward during such year as the [Director] may in such notice as aforesaid specify, and who during such year have been so accommodated for a period or periods amounting to [91 days or more in the aggregate].

NOTES

In section 71,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶³

the words in the fourth pair of square brackets were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 3, with effect from 1st January, 2015.

Returns on behalf of companies.

72. Where the person required to deliver a return under this Part of this Law is a company, the secretary or other officer performing the duties of secretary (by whatever name called) shall be responsible for delivering the return.

Making of assessments.

73. [(1)] Assessments shall be made by the [Director], and a notice giving particulars of the assessment (a "**notice of assessment**") and stating the amount of tax chargeable in consequence of the assessment shall be served on the person concerned.]

[(2) In the case of any source of income in respect of which the year of charge is also the year of computation –

- (a) an interim assessment for that year of charge (hereafter referred to as an "**interim assessment**") may be made on any person at any time [whether before or] after the commencement of that year, taking into account the estimated amount of that income for the whole of that year; and the tax charged in consequence of an interim assessment shall be payable, subject to [sections 66C, 76A, 81A and 81B] of this Law, in the manner prescribed by section 81 of this Law,
- (b) a final assessment for that year of charge (hereafter referred to as a "**final assessment**") may be made on any person, subject to sections 54(1) and 75 of this Law, at any time; and the tax charged in consequence of a final assessment shall be payable within [30 days] from the date of the issue of the notice of assessment:

Provided that in determining the amount of tax to be

charged in consequence of the final assessment a deduction shall be made equal to the amount of any tax which has been charged in consequence of any interim assessment made in respect of any such income for the same year of charge.

(3) When the tax paid in consequence of an interim assessment for any year of charge is found to exceed the tax charged in consequence of a final assessment for the same year of charge, the excess shall be applied in payment or part payment of any tax which has been charged, either in respect of the year of charge in which the final assessment has been made, or in respect of any year of charge prior to that year of charge, and which has not been paid; and where there is no such tax charged and unpaid the excess shall be repaid.]

[(4) Where a company's income is comprised solely of income from other sources within section 2(2)(d), the [Director] may, in his discretion, decide not to make an assessment on that company in accordance with subsection (1).

(5) If the [Director] decides not to make an assessment in accordance with subsection (4) –

- (a) the company may request such an assessment when it sends the [Director] its return of income in accordance with section 68, and
- (b) his decision does not affect the status of the company's income as assessable income.]

NOTES

Section 73 was re-designated as section 73(1), and subsection (2) and

subsection (3) were inserted, by the *Income Tax (Year of Computation) (Guernsey) Law, 2000, section 6(2), with effect from 1st January, 2002.*

In section 73,

subsection (1) was substituted by the *Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 7, with effect from 28th January, 2009;*

the word "Director" in square brackets, wherever occurring, was substituted by the *Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*⁶⁴

the words in the first pair of square brackets within paragraph (a) of subsection (2) were inserted by the *Income Tax (Guernsey) (Amendment) Ordinance, 2022, section 2, with effect from 1st October, 2022;*

the words, figures and letters in the second pair of square brackets within paragraph (a) of subsection (2) were substituted by the *Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 8, with effect from 1st January, 2017;*⁶⁵

the word and figures in square brackets in paragraph (b) of subsection (2) were substituted by the *Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;*

subsection (4) and subsection (5) were inserted by the *Income Tax (Zero 10) (Guernsey) Law, 2007, section 22, with effect from 1st January, 2008.*

The following case has referred to section 73:

Gold v. Administrator of Income Tax (1999) 27.GLJ.144.

[Assessments where no return is required to be made.]

73AA. (1) This section applies to any person who has been notified by the Director that, in respect of any year of charge, and notwithstanding the provisions of section 68, he is not required to deliver to the Director a return as to his income.

The notification from the Director –

- (a) may be given in such manner as the notice from the Director referred to in section 68(1) requiring a person to deliver a return as to his income may be given (and section 68(1AAA) shall apply accordingly), and
- (b) may have effect in respect of any year of charge or any particular year of charge (whether or not the year of charge is particularised in the notification).

(2) Persons to whom this section applies are referred to in this section as "**relevant taxpayers**".

(3) Subject to the provisions of subsections (4) and (5), a relevant taxpayer on whom a notice of assessment is served by the Director under section 73(1) is deemed for the purposes of this Law to have delivered a return as to his income under section 68(1) –

- (a) declaring the same sources and amounts of income, and
- (b) claiming the same personal and other allowances, reliefs and deductions,

as are set out in the assessment.

(4) A relevant taxpayer shall, within a period of 30 days immediately following the date of the issue of a notice of assessment under section 73(1), or such longer period as the Director may in his absolute discretion determine in any particular case, give written notice (an "**amendment notice**") to the Director, in such form and manner and accompanied by such information and documents as may be required by the Director, setting out any error, defect, omission or other mistake or irregularity in the assessment.

(5) Where the relevant taxpayer gives an amendment notice to the Director in accordance with subsection (4), then –

(a) the Director shall, within a period of 30 days immediately following the date of receipt of the notice, issue confirmation of receipt of the amendment notice (and sections 73A and 73B apply in relation to any such confirmation as they apply in relation to a notice of assessment required to be served under section 73(1)), and

(b) the return as to his income that the taxpayer is deemed to have delivered to the Director by virtue of subsection (3) shall be deemed for the purposes of this Law to consist of the assessment made by the Director under section 73(1) –

(i) incorporating any exceptions, adaptations, modifications and other amendments set out in the amendment notice, and

(ii) with every part, element or component of the assessment that was not subject to any such exceptions, adaptations, modifications and other amendments continuing to be included therein and remaining unchanged.

(6) If the relevant taxpayer does not give an amendment notice to the Director in accordance with subsection (4), then the tax due under the assessment shall thereupon be payable in accordance with the provisions of this Law.

(7) If the relevant taxpayer gives an amendment notice to the Director in accordance with subsection (4), the Director shall take the notice into account, and having done so shall, without prejudice to the provisions of section 73(2)(b), issue a further notice of assessment or confirm his earlier notice of assessment.

(8) For the avoidance of doubt, a right of appeal arises in accordance with the provisions of section 76 in respect of any assessment issued or confirmed in accordance with subsection (7).

(9) The following sections –

- (a) section 68 (other than subsections (1AAA) and (2)),
- (b) section 68AA (insofar as it relates to accounts, statements and other documents), and
- (c) section 68A,

apply in respect of a relevant taxpayer in the same manner as if he had received a notice from the Director under section 68(1) requiring him to make a return as to his income.

(10) The provisions of this section –

- (a) are without prejudice to any other provision of this Law in respect of the making of inquiries, the obtaining of information, the making of assessments, directions or orders or the imposition of penalties, surcharges or additional surcharges,

- (b) are without prejudice to the first proviso in section 76 (power of appropriate body to admit appeal out of time in specified circumstances), and
- (c) have effect in respect of assessments made and notices of assessment served in respect of relevant taxpayers under any provision of this Law as they have effect in respect of assessments made and notices of assessment served under section 73(1).]

NOTE

Section 73AA was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 7, with effect from 1st January, 2017.

[Service of notices of assessment and other documents.]

73A. (1) Service of a notice of assessment required by section 73(1) is deemed to be effected if the notice is –

- (a) addressed to the person concerned –
 - (i) at his usual or last known place of residence or at his relevant address, or
 - (ii) in the case of a company, at its principal place of business or at its relevant address, and
- (b) delivered by hand, posted or transmitted to that place or address,

and in this section –

["**document**" and "**electronic form**" have the meanings given by section 75O, and references to the production of documents, however expressed, shall be construed accordingly,]

"posted" means prepaid and sent by [special delivery, recorded or signed for delivery] or ordinary letter post (and, in the case of a notice which is posted, service is deemed to be effected when the notice would be delivered in the ordinary course of post),

"relevant address" means an address with which, in the opinion of the [Director], the person concerned has a personal, business or other connection and at which a document served is likely to come to his attention and (without limitation) includes, in the case of a company, its registered office [and, in the case of any person, and for the avoidance of doubt, an electronic address (which includes, without limitation, an e-mail address and telecommunications address)], and

"transmitted" means transmitted by electronic communication [(that is to say, in electronic form and by electronic means)], facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication.

(2) A notice of assessment required to be served under section 73(1) must contain a statement –

- (a) that a right of appeal is conferred by this Law, and
- (b) of the time within which notice of appeal must be given.

(3) For the avoidance of doubt, an assessment is valid notwithstanding that the notice of assessment required to be served under section 73(1) is not received by the person concerned.

(4) This section and section 73B apply in relation to any notice or notification of –

(a) any penalty, direction or order imposed or made by the [Director] under this Law (but not a notice given under section 75A or 75B),

(b) any surcharge or additional surcharge under section 199[, any surcharge or additional surcharge, or anything else required to be stated, under section 199AA] or any supplement or additional supplement under section 199A, or

(c) any decision or determination of the [Director] or the [Committee] not covered by paragraph (a) or (b) but in respect of which a right of appeal or right to have a case stated [is conferred by this Law or by any Ordinance or regulation made under it],

as they apply in relation to a notice of assessment required to be served under section 73(1).]

NOTES

Section 73A was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 8, with effect from 28th January, 2009.

In section 73A,

first, the definition of the expressions "document" and "electronic form", second, the words and parentheses in the second pair of square brackets in the definition of the expression "relevant address" and, third, the words and parentheses in square brackets in the definition of the expression "transmitted" in subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012, respectively section 6(a), section 6(b) and section 6(c), with effect from 31st October, 2012;

first, the words in square brackets in the definition of the expression "posted" and, second, the words in the third pair of square brackets in paragraph (c) of subsection (4) were substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, respectively section 17 and section 18, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶⁶

the words in square brackets in paragraph (b) of subsection (4) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 4, with effect from 1st January, 2015;

the word in the second pair of square brackets in paragraph (c) of subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 25, with effect from 1st January, 2026, subsection (1) of this section applies in respect of those Regulations subject to the provisions therein.

[Proof of delivery, posting or transmission under section 73A.]

73B. For the purposes of section 73A(1), a document shall be deemed to have been –

- (a) addressed to the person concerned, and
- (b) delivered by hand[, posted] or transmitted to a place or

address,

if the person effecting service certifies that it was addressed, and delivered[, posted] or transmitted (as the case may be), in accordance with that section.]

NOTES

Section 73B was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 8, with effect from 28th January, 2009.

In section 73B, the punctuation and word ", posted" in the first and second pairs of square brackets were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 19, respectively paragraph (a) and paragraph (b), with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 25, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

Provision for speedy assessments in certain cases.

74. If the [Director] has reason to believe that a business carried on or an office or employment exercised in Guernsey is so temporarily established or exercised in this Island that the ordinary process of assessment under this Law is inappropriate, he may at any time serve on the person responsible for the conduct of that business or on the person exercising such office or employment a notice requiring him within such time as may be specified therein to deliver to the [Director] a return of the estimated income of the business, office or employment arising in Guernsey up to the probable date of the cessation of such business, office or employment in Guernsey, and the provisions of this Law shall, so far as may be, apply as if the notice were a notice issued under subsection (1) of section sixty-eight of this Law:

Provided that, notwithstanding anything in section eighty-one of this Law, the tax shall be payable in one instalment on such day or within such period as the [Director] may determine.

NOTE

In section 74, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁶⁷

Additional assessments.

75. If as respects any year of charge the [Director] discovers that any income that ought to have been assessed has not been assessed, or that the assessment in respect of any income is or has become insufficient, he may, subject to the provisions of subsection (1) of section fifty-four of this Law, at any time not later than six years after the end of such year of charge, make an assessment or an additional assessment, as the case may be, on the person chargeable on such income and all the provisions of this Law shall thereupon apply to such assessment or additional assessment:

[Provided that –

- (a) where any form of fraud has been committed by or on behalf of any person in connection with or in relation to tax for the year 1950 or any subsequent year of charge, an assessment or additional assessment on that person to tax for that year may, for the purpose of making good to the States any loss of tax attributable to the fraud, be made at any time,

- (b) where there has been any negligence by or on behalf of any person in connection with or in relation to tax for the year of charge 2001 and any subsequent year of charge, an assessment or additional assessment on that person to tax for that year may, for the purpose of making good to the States any loss of tax attributable to the negligence, be made at any time not later than 20 years after the end of that year of charge,

notwithstanding that, apart from this section, the time limited by law for the making of the assessment or additional assessment has expired.]

NOTES

In section 75,

the word in the first pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶⁸

the proviso thereto was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 23, with effect from 1st January, 2008.

[PART VIA
INFORMATION

Power to call for documents, etc, from taxpayer.

75A. (1) Subject to the provisions of this section, the [Director] may by notice in writing, for the purposes of performing his functions, require a person –

- (a) to deliver to him such documents as are in that person's possession or power and which in the [Director]'s opinion contain, or may contain, information relevant to

- (i) any liability to tax to which that person is or may be subject, or
 - (ii) the amount of any such liability, [or
 - (iii) the enforcement of any such liability and the collection and recovery of any amount due,]
- (b) to furnish him with such information as the [Director] may require as being relevant to, or to the amount of, any such liability, [or to the enforcement of any such liability and the collection and recovery of any amount due,] and
- (c) without prejudice to the generality of paragraphs (a) and (b), to furnish him with such evidence of residence, in Guernsey or elsewhere, as the [Director] may require.

(2) Before a notice is given to a person by the [Director] under this section, the person must be given a reasonable opportunity to deliver the documents in question or to furnish the information or evidence in question, unless the [Director] believes that that would prejudice the inquiry to which the document, information or evidence relates or the performance by the [Director] of his functions.

(3) A notice under subsection (1) does not oblige a person to deliver documents or furnish information created for the purposes of any pending appeal in respect of tax by him –

- (a) under this Law, or

- (b) under the laws relating to taxation in force in any other territory.

(4) To comply with a notice under subsection (1), copies of documents may be delivered instead of originals, but –

- (a) the copies must be in such form as the [Director] may specify, and
- (b) if so required by the [Director], the originals of the documents must be made available for inspection by the [Director] in accordance with the requirement,

and a failure to comply with a requirement under this subsection constitutes a failure to comply with the notice under subsection (1).

(5) A person who without reasonable excuse fails to comply with any provision of a notice under this section is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale and to a further fine not exceeding level 3 on the uniform scale for each day on which the failure to comply continues after the date of conviction.]

NOTES

Part VIA, and section 75A thereof, were inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75A,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁶⁹

first, sub-paragraph (iii) of paragraph (a) of subsection (1) and the word immediately after paragraph (ii) thereof and, second, the words in square brackets in paragraph (b) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, respectively section 4 and section 5, with effect from 31st May, 2012.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 65(1), with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model Rules as if there were added at the end of subsection (1)(a)(iii) the words "and/or compliance with the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024 and the GloBE Model Rules implemented thereby".

[Power to call for documents, etc, relating to taxpayer.]

75B. (1) The powers conferred by this section may be used for the purpose of inquiring into the liability [or the amount of the liability] to tax of any person ("**the taxpayer**")[, or for the purpose of the enforcement of any such liability and the collection and recovery of any amount due,] [or for the purpose of the implementation (within the meaning of section 75CC) of any approved international agreement[, or international tax measure, or any provision thereof, or for the purposes of regulations made under section 171A (regulations in respect of substance requirements)],] in any case in which the [Director] believes it necessary or desirable to do so for the purposes of performing his functions.

(2) Subject to the provisions of this section, the [Director] may by notice in writing require any person other than the taxpayer to deliver to the [Director] or, if so required by the [Director], to make available for inspection by the [Director] such documents, and to furnish the [Director] with such information, as are in that person's possession or power and which (in the [Director]'s opinion) are, or may be, relevant to –

- (a) any liability to tax to which the taxpayer is or may be, or may have been, subject, and

- (b) the amount of any such liability [and/or
- (c) the enforcement of any such liability and the collection and recovery of any amount due].

(3) Before a notice is given to a person by the [Director] under subsection (2), that person must be given a reasonable opportunity to deliver or make available the documents in question or to furnish the information in question [voluntarily], unless the [Director] believes that that would prejudice the inquiry to which the document or information relates or the performance by the [Director] of his functions.

[(3A) However, in respect of a person or body of persons, corporate or unincorporated, holding or deemed to hold a licence, registration or authorisation from the Guernsey Financial Services Commission under the regulatory Laws, subsection (3) applies as if for the word "must" there were substituted the word "may"; and accordingly there is no obligation pursuant to that subsection, before giving a notice under subsection (2), to give such a person or body a reasonable opportunity to deliver or make available the documents in question or to furnish the information in question voluntarily.

(3B) In subsection (3A) the "**regulatory Laws**" means –

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,

- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,
- (f) the Registration of Non-Regulated Financial Services Businesses Law, 2008,
- (g) any other enactment or statutory instrument prescribed for the purposes of this section by regulations of the [Committee].]

(4) The [Director] may direct a person to whom a notice is given under subsection (2) [or who is, pursuant to subsection (3), given a reasonable opportunity to deliver or make available the documents in question or to furnish the information in question voluntarily] that he must not –

- (a) inform, or cause or permit to be informed, the taxpayer that the notice [or, as the case may be, the opportunity] has been given, 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 notice [or, as the case may be, the opportunity] relates or the performance by the [Director] of his

functions,

and a person who fails to comply with such a direction is guilty of an offence and liable on summary conviction to fine not exceeding twice level 5 on the uniform scale, unless he can show –

- (i) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself and by any person under his control, or
- (ii) in the case of an offence under paragraph (b), that he did not know or suspect that the disclosure was likely to be prejudicial to the inquiry or to the performance by the [Director] of his functions,

and, for the avoidance of doubt, the institution and prosecution of an appeal under section 75K against the decision of the [Director] to give the notice under subsection (2) does not of itself constitute a failure to comply with a direction under this subsection.

(5) To comply with a notice under subsection (2), copies of documents may be delivered instead of originals, but –

- (a) the copies must be in such form as the [Director] may specify, and
- (b) if so required by the [Director], the originals of the documents must be made available for inspection by the [Director] in accordance with the requirement,

and a failure to comply with a requirement under this subsection constitutes a failure to comply with the notice under subsection (2).

(6) A person who without reasonable excuse fails to comply with any provision of a notice under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale and to a further fine not exceeding level 3 on the uniform scale for each day on which the failure to comply continues after the date of conviction.

(7) For the avoidance of doubt, and without limitation, the persons to whom a notice may be given under subsection (2) include States departments and committees and officers and servants thereof.

(8) ...]

NOTES

Section 75B was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75B,

first, the words in the first pair of square brackets and second the words in the second pair of square brackets in subsection (1) and, third, paragraph (c) and the words immediately after paragraph (b) of subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, respectively section 6(a), section 6(b) and section 7, with effect from 31st May, 2012;

the words in the third pair of square brackets in subsection (1) were inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013, section 3, with effect from 1st January, 2014;

the words in square brackets within the third pair of square brackets in subsection (1) were substituted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 2, with effect from 1st December, 2018;

*the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*⁷⁰

first, the word in the second pair of square brackets in subsection (3), second, subsection (3A) and subsection (3B), third, the words in the second pair of square brackets in subsection (4), fourth, the words in square brackets in paragraph (a) of subsection (4) and, fifth, the words in the first pair of square brackets in paragraph (b) of subsection (4) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012, respectively section 7, section 8, section 9, section 10 and section 11, with effect from 31st October, 2012;

the word in square brackets within subsection (3B) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

*subsection (8) was repealed by the Income Tax (Guernsey) (Amendment) Ordinance, 2014, section 2, with effect from 30th April, 2014.*⁷¹

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5, with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 65(2), with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model Rules as if there were added at the end of subsection (2)(c) the words "and/or compliance with the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024 and the GloBE Model Rules implemented thereby".

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect

from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

[Notices under section 75A and 75B: requests for information.]

75C. (1) [The Director shall exercise] his powers under sections 75A and 75B if, pursuant to the provisions of an approved international agreement, a request for information [or for assistance in collection] is made to him by the competent authority of a requesting state.

[(2) ...]

(3) The [Director] may ask the competent authority for further information, documents and particulars in support of a request for information [or for assistance in collection].

(4) In this Part of this Law –

"approved international agreement" means an agreement or arrangement providing for the [obtaining, delivery, making available, furnishing and/or exchanging of documents and information] in relation to tax [or taxation][, which is made between the States of Guernsey and the government of another territory, or which is otherwise binding upon Guernsey and governed by international law (including, without limitation, an agreement [or arrangement] which has been acceded to or ratified by the United Kingdom on behalf of Guernsey) [or specified in a Resolution of the States under section 172]], and which is specified for the purposes of this Law by Ordinance of the States,

[**"assistance in collection"** means an arrangement for the enforcement

of tax debts due in another territory, or claims or judgments for the collection, recovery or payment of tax so due, or other revenue claims, corresponding to the arrangement set out in Article 27 ("assistance in the collection of taxes") of the double taxation agreement between the States of Guernsey and the Government of the United Kingdom of Great Britain and Northern Ireland for the Elimination of Double Taxation with Respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance and Protocol given effect by an exchange of letters between the two governments on the 2nd July, 2018 , implemented by Part VIII B of this Law,]

"competent authority" means the person or authority designated by the requesting state as the competent authority for the purposes of the approved international agreement pursuant to which the request for information [or for assistance in collection] is made [or specified as the competent authority for the purposes of this Law by regulations of the [Committee]], and

"requesting state" means the party to the approved international agreement on behalf of which the request for information [or for assistance in collection] is made.

(5) This section is without prejudice to the generality of sections 75A and 75B.]

NOTES

Section 75C was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75C,

first, the words in the first pair of square brackets in subsection (1) were substituted, second, the words in the second pair of square brackets therein were inserted, third, subsection (2) was repealed, subject to the

provisions of section 5(2) of the 2021 Ordinance (whereby that repeal has effect in relation to requests for information made by the competent authority of a requesting state only when made after the date of the repeal), fourth, the second pair of square brackets in subsection (3) were inserted, fifth, the definition of the expression "assistance in collection" in subsection (4) was inserted and, sixth, the words "or for assistance in collection" wherever else occurring in that subsection were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, respectively section 4(a), section 4(b), section 5(1), section 6, section 7(1)(a) and section 7(1)(b), with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);⁷²

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁷³

the words in, first, the first pair of square brackets in the definition of the expression "approved international agreement" and, second, the second pair of square brackets in the definition of the expression "competent authority" in subsection (4) were, respectively, substituted and inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013, section 4(a) and section 4(b), with effect from 1st January, 2014;

the words in, first, the second pair of square brackets in the definition of the expression "approved international agreement" in subsection (4) and, second, in the first pair of square brackets within the third pair of square brackets in the definition of that expression were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 3, respectively paragraph (a) and paragraph (b), with effect from 1st December, 2018;

the words in the third pair of square brackets in the definition of the expression "approved international agreement" in subsection (4) were substituted by the Income Tax (Guernsey) (Approved International Agreements) (Amendment) Ordinance, 2014, section 2, with effect from 25th September, 2014;

the words in the second pair of square brackets within the third pair of square brackets in the definition of the expression "approved international agreement" in subsection (4) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2019, section 2, with effect from 1st October, 2019;

the word in square brackets within the second pair of square brackets in the definition of the expression "competent authority" in subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Ordinances have been made under section 75C:

Income Tax (Guernsey) (Amendment) Law, 2005 (Commencement of Law and Approval of Agreement) Ordinance, 2006;

Income Tax (Guernsey) (Approval of Agreements) Ordinance, 2009;

Income Tax (Guernsey) (Approval of Agreement with United Kingdom) Ordinance, 2009;

Income Tax (Guernsey) (Approval of Agreements with France, Germany and Ireland) Ordinance, 2009;

Income Tax (Guernsey) (Approval of Agreement with New Zealand) Ordinance, 2009;

Income Tax (Guernsey) (Approval of Agreement with Australia) Ordinance, 2010;

Income Tax (Guernsey) (Approval of Agreement with Portugal) Ordinance, 2010;

Income Tax (Guernsey) (Approval of Agreements with San Marino, Greece and China) Ordinance, 2011;

Income Tax (Guernsey) (Approval of Agreements with Romania, Canada and South Africa) Ordinance, 2011;

Income Tax (Guernsey) (Approval of Agreements with Indonesia and Mexico) Ordinance, 2011;

Income Tax (Guernsey) (Approval of Agreements with Argentina, the Bahamas and Cayman Islands) Ordinance, 2011;

Income Tax (Guernsey) (Approval of Agreements with the Czech Republic and Slovenia) Ordinance, 2012;

Income Tax (Guernsey) (Approval of Agreements with India, Japan, Poland, Seychelles and St Kitts and Nevis) Ordinance, 2012;

Income Tax (Guernsey) (Approval of Agreement with Turkey) Ordinance, 2012;

Income Tax (Guernsey) (Approval of Agreements with Italy and Latvia) Ordinance, 2012;

Income Tax (Guernsey) (Approval of Agreement with Malta) Ordinance, 2013;

Income Tax (Guernsey) (Approval of Agreement with Chile) Ordinance, 2013;

Income Tax (Guernsey) (Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore) Ordinance, 2013;

Income Tax (Guernsey) (Approval of Agreement with Qatar) Ordinance, 2013;

Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013;

Income Tax (Guernsey) (Approval of Agreements with Bermuda, Gibraltar, Hungary, Slovakia, Swaziland and Switzerland) Ordinance, 2014;

Income Tax (Guernsey) (Approval of Agreements with Costa Rica, Mauritius, the Seychelles, the United States of America and the United Kingdom) Ordinance, 2014;

Income Tax (Guernsey) (Approval of Agreement with Monaco) Ordinance, 2014;

Income Tax (Guernsey) (Approved International Agreements)

(Amendment) Ordinance, 2014;

Income Tax (Guernsey) (Approval of Agreements with Cyprus, Turks and Caicos and Uruguay) Ordinance, 2014;

Income Tax (Guernsey) (Approval of Agreement with Macao) Ordinance, 2015;

Income Tax (Guernsey) (Approval of Agreement with the British Virgin Islands) Ordinance, 2015;

Income Tax (Guernsey) (Approval of Agreement with Gibraltar) Ordinance, 2015;

Income Tax (Guernsey) (Approval of Agreement with Bulgaria) Ordinance, 2016;

Income Tax (Guernsey) (Approval of Agreements with British Virgin Islands, Cayman Islands, South Korea and Spain) Ordinance, 2016;

Income Tax (Guernsey) (Approval of Agreements with Seychelles and Turks and Caicos) Ordinance, 2016;

Income Tax (Guernsey) (Approval of Agreement with the Bahamas) Ordinance, 2018;

Income Tax (Guernsey) (Approval of Agreement with the San Marino) Ordinance, 2018;

Income Tax (Guernsey) (Approval of Agreement with the United Kingdom) Ordinance, 2018;

Income Tax (Guernsey) (Approval of Agreement with Bermuda) Ordinance, 2019;

Income Tax (Guernsey) (Approval of Agreement with Estonia) Ordinance, 2020;

Income Tax (Guernsey) (Approval of Agreement with Isle of Man) Ordinance, 2020;

Income Tax (Guernsey) (Approval of Agreement with New Zealand) Ordinance, 2020;

Income Tax (Guernsey) (Approval of Agreement with Anguilla) Ordinance, 2020;

Income Tax (Guernsey) (Approval of Agreement with Finland) Ordinance, 2020;

Income Tax (Guernsey) (Approval of Agreement with Qatar) Ordinance, 2023;

Income Tax (Guernsey) (Approval of Agreement with Montserrat) Ordinance, 2024;

Income Tax (Guernsey) (Approval of Agreement with Bahrain) Ordinance, 2025.

The following cases have referred to section 75C:

A, a Taxpayer v. Director of Income Tax, States of Guernsey Income Tax Office (2016) (Unreported, Court of Appeal, 21st December) (Guernsey Judgment No. 54/2016); [2016] GLR 382;

A Taxpayer v. Director of Income Tax [2019]GRC005 (Unreported, Royal Court, 11th February); [2019] GLR 22;

Mourant Trustees Limited and Carezo Limited v Director of Revenue Services [2024]GCA050 (Unreported, Court of Appeal, 26th July).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 13, with effect from 30th June, 2014, this section applies in respect of the 2014 Regulations and the Agreements as if references in subsections (1), (2), (3) and (4) of this section to a request for information included references to a notification by a competent authority pursuant to article 4 of the U.K. Agreement or article 5 of the U.S. Agreement ("Collaboration on Compliance and Enforcement"); and references to "requests" and related expressions shall be construed accordingly.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5, with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 65(3), with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model Rules as if, first, references herein to an approved international agreement included references to an international tax measure, and, second, references to a competent authority of a requesting state included references to a competent authority designated by the Director for the purposes of the 2024 Regulations and the GloBE Model Rules.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Scrutiny of requests for information under TIEA's.

75CA. ...]

NOTE

Section 75CA (which was originally inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 3, with effect from 31st May, 2012) was repealed by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 10, with effect from 31st May, 2012.⁷⁴

[Notices under section 75B: ancillary provision.

75CB. (1) A notice under section 75B(2) shall name the taxpayer with whose liability the [Director of the Revenue Service] is concerned unless the [Director of the Revenue Service] is satisfied –

- (a) that the notice relates to a taxpayer whose 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 the Revenue Service] from another source.

(2) A notice under section 75B(2) may also, with the express permission of a single member of [the Guernsey Revenue Service 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 the Revenue Service] is concerned where that single member and the [Director of the Revenue Service] 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 the Revenue Service] (whether in relation to the implementation, within the meaning of section

75CC, of any approved international agreement[, or international tax measure, or any provision thereof, or for the purposes of regulations made under section 171A (regulations in respect of substance requirements)], 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 Revenue Service 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 Revenue Service Tribunal] –

- (a) when exercising his functions under this section is not acting on behalf of or as a member of [the Guernsey Revenue Service 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 Revenue Service Tribunal]

when it is hearing any appeal, question or issue connected or relating to the subject matter of the notice.

(6) ...

(7) No liability shall be incurred by any member of [the Guernsey Revenue Service 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 & Resources Committee] may determine the costs, fees, expenses and allowances payable to a member of [the Guernsey Revenue Service Tribunal] in respect of the performance of any functions under this section.]

NOTES

Section 75CB was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2014, section 3, with effect from 30th April, 2014.

In section 75CB,

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022;

the words in the second pair of square brackets in subsection (2)(a)(ii) were substituted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 4, with effect from 1st December, 2018;

subsection (6) was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 2, with effect from 1st

October, 2022;⁷⁵

the words in the first pair of square brackets in subsection (8) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(a), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 65(2)(a), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Implementation of approved international agreements [and international tax measures] by regulation.

75CC. (1) The [Committee] may by regulation make such provision as it may consider necessary or expedient for the purpose of the implementation of any approved international agreement or any provision thereof.

[(1A) The Committee may, without prejudice to its powers under subsection (1), by regulation make such provision as it may consider necessary or expedient for the purpose of the implementation of, or of any provision of –

(a) any agreement or arrangement in respect of tax or taxation –

(i) made between the States of Guernsey and the government of another territory (or their respective delegates acting within the scope of their authority), or

(ii) which is otherwise binding upon Guernsey and governed by international law (including, without limitation, an agreement or arrangement which has been acceded to or ratified by the United Kingdom on behalf of Guernsey), or

(b) any regulation, directive, decision, recommendation, opinion, obligation, standard, report, code, guidance, finding or other measure in respect of tax or taxation made, issued, adopted, established or otherwise promulgated by or by any institution of the European Union or any international organisation or multilateral body or governed by international law.

(1B) An agreement, arrangement or measure described in paragraph (a) or (b) of subsection (1A) is referred to in this Law as an "**international tax measure**".

(1C) The power to enact regulations conferred on the Committee by subsection (1A) arises only in the case of an international tax measure which has been specified for the purposes of this Law by Resolution of the States.]

(2) For the purposes of this Law the expression "**implementation**" of an approved international agreement[, or international tax measure,] or any provision thereof includes the enforcement or enactment of the agreement[, measure] or provision, and the securing of the administration, execution, recognition, exercise or enjoyment of the agreement[, measure] or provision, in or under domestic law.

(3) For the purposes of this section the expression "**any provision**" of an approved international agreement [or international tax measure] includes –

- (a) any provision contained in or arising under the agreement [or measure], and
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under the agreement [or measure].

(4) Regulations under subsection (1) [or (1A)] –

- (a) may make provision for the purpose of dealing with matters arising out of or related to any approved international agreement[, or international tax measure,] or any provision thereof,

- (b) may direct that any approved international agreement[, or international tax measure,] or any provision thereof shall extend to Guernsey with such exceptions, adaptations and modifications as may be specified in the regulations,
- (c) without prejudice to the provisions of paragraph (b), may make provision by reference to, and may adopt or incorporate (by reference, annexation or otherwise), any approved international agreement[, or international tax measure,] or any provision thereof, or any provision of any Act of Parliament or of any order, rule, regulation, resolution, scheme, byelaw or other instrument made under any Act of Parliament, which agreement[, measure,] or provision shall (subject to such exceptions, adaptations and modifications as may be specified in the regulations) thereupon have the same force and effect as regulations under this Law,
- (d) may make provision for the application of this Law or any provision thereof to or for the purposes of any approved international agreement[, or international tax measure,] or any provision thereof subject to such exceptions, adaptations and modifications as may be specified in the regulations,
- (e) may (without limitation) impose obligations as to –
 - (i) the keeping of records, and

- (ii) the obtaining, delivery, making available, furnishing and/or exchanging of documents and information,

from, by, to or between the Director, the competent authority, persons or bodies described in section 75B(3A) and any other person, body or authority or class or description of person, body or authority specified in the regulations,

- (f) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (g) may repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law, and
- (h) may make any such provision of any such extent as might be made by an Ordinance under this Law.]

NOTES

Section 75CC was inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013, section 5, with effect from 1st January, 2014.

In section 75CC,

first the words in square brackets in the heading thereto, second, subsection (1A), subsection (1B) and subsection (1C), third, the words in the first and, fourth, the second and third pairs of square brackets in subsection (2), fifth, the words in the first pair of square brackets in subsection (3), sixth, the words in square brackets in paragraph (a) and paragraph (b) of subsection (3), seventh, the word, parentheses, figure and letter in the first pair of square brackets in subsection (4), eighth, the words in square brackets in paragraph (a), paragraph (b) and in the first pair of square brackets in paragraph (c) of subsection (4), ninth, the words in the second

pair of square brackets in paragraph (c) of subsection (4) and, tenth, the words in square brackets in paragraph (d) of subsection (4) were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, respectively section 5, section 6, section 7(a), section 7(b), section 8(a), section 8(b), section 9(a), section 9(b), section 9(c) and section 9(d), with effect from 1st December, 2018;

the word in square brackets within subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 75CC:

Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014;

Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) (Amendment) Regulations, 2015;

Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015;

Income Tax (Approved International Agreements) (Implementation) (Country by Country Reporting) Regulations, 2016;

Income Tax (Approved International Agreements) (Common Reporting Standard) (Amendment) Regulations, 2020;

Income Tax (Approved International Agreements) (Implementation) (Mandatory Disclosure Rules) Regulations, 2020;

Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) (Amendment) Regulations, 2021;

Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) (Amendment) Regulations, 2021;

Income Tax (Substance Requirements) (Implementation) Regulations, 2021;

Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024;

Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) (Amendment) Regulations, 2025;

Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 2, with effect from 30th June, 2014, the provisions of the Agreements referred to in column 3 of the Schedule to the 2014 Regulations (being, first, the Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey to Improve International Tax Compliance and, second, the Agreement Between the Government of the States of Guernsey and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA) shall, subject to such exceptions,

adaptations and modifications as may be specified in that column in respect of those provisions, have the same force and effect as regulations under this Law.

[Sections 75A and 75B: supplementary.]

75D. (1) The persons who may be treated as the taxpayer for the purposes of sections 75A and 75B include a company which has ceased to exist and an individual who has died.

(2) In sections 75A and 75B –

- (a) references to documents do not include items subject to legal professional privilege (within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^{ia}), and
- (b) references to information do not include information contained in such items.

(3) Subject to the provisions of subsection (2), references in sections 75A and 75B to documents and information are to documents and information specified or described (or of a class or description specified or described) in the notice in question, and –

- (a) the notice may require documents to be delivered or made available, or information to be furnished, within such time, in such form, and authenticated and attested in such manner, as may be specified in the notice, and
- (b) the person to whom they are delivered, made available

^{ia} Order in Council No. XXIII of 2003.

or furnished may take copies of them or extracts from them.

(4) Where a notice is given to a person under section 75A or 75B [or under subsection (5)], the [Director] may require him –

- (a) to give an explanation of and to answer questions relating to any document or information produced [or, as the case may be, which the person has told the [Director of the Revenue Service] he has in his possession or power] or anything in it, and for that purpose to attend at such time and place as may be required,
- (b) if any document specified or described in the notice is not [or, as the case may be, cannot be] produced, to state to the best of his knowledge and belief its whereabouts,
- (c) to make any statement or give any information on oath or affirmation (administered, if the [Director] thinks fit, by himself),

and a failure to comply with a requirement under this subsection constitutes a failure to comply with the notice under section 75A or 75B.

(5) Where the [Director] intends to give a notice to a person under section 75A or 75B, the [Director] may by notice require him –

- (a) to tell him what documents [and information] he has in his possession or power which are or may be relevant to

the liability to tax to which the notice under section 75A or 75B would relate or the amount thereof, [or to the enforcement of any such liability and the collection and recovery of any amount due,]

- (b) not to remove, tamper with, falsify or destroy any documents to which the notice under section 75A or 75B would relate or cause or permit them to be removed, tampered with, falsified or destroyed, and
- (c) to take any steps which appear to be necessary for preserving them or preventing interference with them,

and a failure to comply with a requirement of a notice under this subsection is punishable in the same manner as a failure to comply with a notice under section 75A or 75B.]

NOTES

Section 75D was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75D,

first, the words in the first pair of square brackets in subsection (4), second, the words in square brackets in paragraph (a) of subsection (4), third, the words in square brackets in paragraph (b) of subsection (4) and, fourth, the words in the first pair of square brackets in paragraph (a) of subsection (5) were inserted, by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, respectively section 10(a), section 10(b), section 10(c) and section 11, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional

provisions in section 2 of the 2018 Ordinance;⁷⁶

the words in the second pair of square brackets in paragraph (a) of subsection (5) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 11, with effect from 31st May, 2012.

The following case has referred to section 75D:

A Taxpayer v. Director of Income Tax [2019]GRC005 (Unreported, Royal Court, 11th February); [2019] GLR 22.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(b), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(a) and, second, regulation 65(2)(b), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Court orders for delivery of documents, etc, from taxpayer.]

75E. (1) The Royal Court may make an order under this section if satisfied by information on oath given by the [Director] –

- (a) that a notice has been served under section 75A(1) and there are reasonable grounds for suspecting –
 - (i) that the notice has not been complied with, or
 - (ii) that any information or document furnished pursuant to the notice is false, misleading, inaccurate or incomplete,

Consolidated text

- (b) that it is not practicable to serve a notice under that section, or
- (c) that there are reasonable grounds for suspecting that if such a notice were served –
 - (i) it would not be complied with, or
 - (ii) any documents to which it would relate would be removed, tampered with, falsified or destroyed, or
 - (iii) the service of the notice might seriously prejudice the performance by the [Director] of his functions.

(2) An order under this section is an order requiring the person to whom the notice under section 75A(1) was or could be given –

- (a) to deliver to the [Director] such documents as are in that person's possession or power and as contain, or may contain, information relevant to –
 - (i) any liability to tax to which that person is or may be subject, or
 - (ii) the amount of any such liability, [or
 - (iii) the enforcement of any such liability and the collection and recovery of any amount due,]

and, if so required by the [Director], to give an explanation of any such document,

- (b) if any document specified or described in the order is not produced, to state to the best of that person's knowledge and belief its whereabouts,
- (c) to furnish to the [Director] such information as the Court may specify as being relevant to, or to the amount of, any such liability, [or to the enforcement of any such liability and the collection and recovery of any amount due,] and
- (d) without prejudice to the generality of paragraphs (a), (b) and (c), to furnish to the [Director] such evidence of residence, in Guernsey or elsewhere, as the Court may specify.]

NOTES

Section 75E was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75E,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁷⁷

first, sub-paragraph (iii) of paragraph (a) of subsection (2), and the word immediately after sub-paragraph (ii) thereof, and, second, the words in square brackets in paragraph (c) of subsection (2) were, respectively, substituted and inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 12 and section 13, with effect from 31st May, 2012.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules)

Regulations, 2024, regulation 65(1)(b), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

[Court orders for delivery of documents, etc, relating to taxpayer.]

75F. (1) The Royal Court may make an order under this section if satisfied by information on oath given by the [Director] –

- (a) that a notice has been served under section 75B(2) and there are reasonable grounds for suspecting –
 - (i) that the notice has not been complied with, or
 - (ii) that any information or document furnished pursuant to the notice is false, misleading, inaccurate or incomplete,
- (b) that it is not practicable to serve a notice under that section, or
- (c) that there are reasonable grounds for suspecting that if such a notice were served –
 - (i) it would not be complied with, or
 - (ii) any documents to which it would relate would be removed, tampered with, falsified or destroyed, or
 - (iii) the service of the notice might seriously prejudice the performance by the [Director] of

his functions.

(2) An order under this section is an order requiring the person who appears to the Court to have in his possession or power the documents specified or described in the order –

- (a) to deliver them to the [Director],
- (b) if so required by the [Director], to give an explanation of any of them, and
- (c) if any of them are not produced, to state to the best of his knowledge and belief their whereabouts.

[(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 the Revenue Service] 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 –

- (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 the Revenue Service] of his functions.]]

NOTES

Section 75F was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75F,

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

subsection (3) was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 12, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(c), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 65(2)(c), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this

section applies in respect of those Regulations subject to the provisions therein.

[Court orders under sections 75E and 75F: supplementary.]

75G. (1) An order under section 75E or 75F must be complied with by the person on whom it is served –

- (a) within 7 days after the day on which notice of the order is served on him, or
- (b) within such shorter or longer period as may be specified in the order.

(2) If a person fails to comply with an order made under section 75E or 75F, he may be dealt with as if he had committed a contempt of court.

(3) Where an order under section 75E or 75F applies to a document stored or recorded in electronic form, the order shall be taken to require the person to deliver the document in a form –

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(4) Sections 75E and 75F do not apply to items subject to legal professional privilege (within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003).

[(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).]]

NOTES

Section 75G was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75G, subsection (5) was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 13, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(d), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(c) and, second, regulation 65(2)(d), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Court orders under sections 75E & 75F: notice and procedure.

- 75H.** (1) A person is entitled –
- (a) to at least 14 days' notice of an application for an order against him under section 75E or 75F,
 - (b) to appear and be heard at the hearing of the application,

unless the Royal Court is satisfied that this would or may significantly prejudice the inquiry to which the order relates or the performance by the [Director] of his

functions, in which case the Royal Court may reduce the period of notice to be given or order the application to be heard *ex parte*.

(2) A person who has been given notice of an application for an order under section 75E or 75F shall not –

- (a) conceal, destroy, alter or dispose of any document to which the application relates, or
- (b) disclose to any other person information or any other matter likely to prejudice the inquiry to which the order relates or the performance by the [Director] of his functions.

(3) Subsection (2)(a) does not prevent anything being done –

- (a) with leave of the Royal Court,
- (b) with the written permission of the [Director],
- (c) after the application for the order has been dismissed or abandoned, or
- (d) after any order made on the application has been complied with.

(4) Subsection (2)(b) does not prevent a professional legal adviser from disclosing any information or other matter –

- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the

client, or

- (b) to any person –
 - (i) in contemplation of, or in connection with, legal proceedings, and
 - (ii) for the purpose of those proceedings.

(5) Subsection (4) does not apply in relation to any information or other matter which is disclosed with a view to furthering a criminal purpose.

(6) A person who contravenes subsection (2)(a) or (b) may be dealt with as if he had committed a contempt of court.]

NOTES

Section 75H was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75H, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁷⁸

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(e), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(d) and, second, regulation 65(2)(e), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this

section applies in respect of those Regulations subject to the provisions therein.

[Entry with warrant to obtain material.]

75I. (1) If the Bailiff is satisfied by information on oath given by the [Director] –

- (a) that an order has been made under section 75E or 75F and there are reasonable grounds for suspecting –
 - (i) that the order has not been complied with, or
 - (ii) that any information or document furnished pursuant to the order is false, misleading, inaccurate or incomplete,
- (b) that it is not practicable to apply for an order under section 75E or 75F, or
- (c) that there are reasonable grounds for suspecting that if an order under section 75E or 75F were made –
 - (i) it would not be complied with,
 - (ii) any documents to which it would relate would be removed, tampered with, falsified or destroyed, or
 - (iii) the making of the order or any attempt to enforce it might significantly prejudice any inquiry to which the order would relate or the

performance by the [Director] of his functions,

the Bailiff may issue a warrant authorising the [Director] or any other person named in, or of a class or description specified in, the warrant to enter any premises specified in the warrant, using such force as may be necessary for the purpose, at any time within 14 days from the time of issue of the warrant, and to search them.

- (2) The premises which may be specified in the warrant are –
 - (a) premises which are occupied by the person against whom the order under section 75E or 75F was made,
 - (b) premises upon which the documents to which the order relates are reasonably believed to be or upon which evidence as to the whereabouts of those documents is reasonably believed to be,
 - (c) where no order under section 75E or 75F has been made, premises which are occupied by the person against whom the order could be made or upon which the documents to which the order would relate are reasonably believed to be, or
 - (d) premises upon which any document relevant to an inquiry to which the order relates, or any evidence relevant to such an inquiry, [or any document or evidence relevant to the performance of the Director's functions,] is reasonably believed to be.
- (3) The powers conferred by a warrant under this section shall not be exercisable –

- (a) outside such times of day as may be specified in the warrant,
- (b) if the warrant so provides, otherwise than in the presence of an officer of police.

(4) A person acting under the authority of a warrant under this section may, when entering any premises under the authority of the warrant –

- (a) take with him such other persons as appear to him to be necessary,
- (b) seize and remove anything whatsoever found there which he has reasonable cause to believe –
 - (i) was required to be delivered by the order under section 75E or 75F,
 - (ii) if no such order was made, is of a class or description specified in the warrant, or
 - (iii) is relevant for the purpose of an inquiry described in subsection (1)(c)(iii) or (as the case may be) the performance by the [Director] of his functions, and
- (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such thing (but no person shall be searched except by a person of the same sex).

(5) In the case of any document which is stored or recorded in electronic form and which is accessible from the premises, the power of seizure under subsection (4) includes a power to require the document to be produced in a form –

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(6) Nothing in subsection (4) authorises the seizure and removal of items subject to legal professional privilege within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003.

(7) Items held with the intention of furthering a criminal purpose are not items subject to legal professional privilege.

(8) A person acting under the authority of a warrant under this section may also –

- (a) instead of seizing and removing anything mentioned in subsection (4)(b), take any steps which appear to be necessary for preserving it or preventing interference with it,
- (b) take copies of or extracts from any document which may be seized and removed, and
- (c) require any person named in, or of a class or description specified in, the warrant [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] –

- (i) to state to the best of his knowledge and belief the whereabouts of any such document, and
- (ii) to make an explanation of any such document, [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.]

(9) A person seeking to exercise the powers conferred by a warrant under this section or, if there is more than one person, whoever of them is in charge of the search –

- (a) shall, if the occupier of the premises concerned is present at the time the search is to begin, supply a copy of the warrant endorsed with his name to the occupier,
- (b) shall, if at that time the occupier is not present but a person who appears to be in charge of the premises is present, supply such a copy to that person, or

(c) shall, if paragraphs (a) and (b) do not apply, leave such a copy in a prominent place on the premises.

(10) A person entering any premises under the authority of a warrant under this section shall, if so requested by the occupier of the premises or, if the occupier is not present, by a person who appears to be in charge of the premises, produce evidence of his identity and office.

(11) Where entry to premises has been made with a warrant under this section, and the person making the entry has seized anything under the authority of the warrant, he shall endorse on or attach to the warrant a list (or, if a list is impracticable, a description) of the things seized.

(12) The provisions of section 18 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 ("additional powers of seizure") apply to a person acting under the authority of a warrant under this section as they apply to a police officer.

(13) A person who without reasonable excuse obstructs or fails to comply with any requirement imposed by a person exercising or purporting to exercise any power conferred by this section or by a warrant under this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one year, to a fine not exceeding twice level 5 on the uniform scale, or to both.]

NOTES

Section 75I was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75I,

the word "Director" in square brackets, wherever occurring, was

*substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*⁷⁹

the words in square brackets in paragraph (d) of subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 8, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

first, the words in square brackets in paragraph (c) of subsection (8) and, second, paragraph (c)(iii) and the word immediately after paragraph (c)(ii) of subsection (8) were inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, respectively section 14 and section 15, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(f), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(e) and, second, regulation 65(2)(f), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

Procedure where documents etc. are removed.

75J. (1) A person who removes anything in the exercise of the powers conferred by section 75I shall, if so requested by a person showing himself –

- (a) to be the occupier of the premises from which it was removed, or
- (b) to have had custody or control of it immediately before the removal,

provide that person with a record (which shall comprise a list or, if a list is impracticable, a description) of what has been removed.

(2) The record shall be provided within a reasonable time from the making of the request for it.

(3) Where anything removed by any person in exercise of the powers conferred by section 75I is of such a nature that a photograph or copy of it would be sufficient –

(a) for use as evidence –

(i) in proceedings for an offence, or

(ii) in civil proceedings, whether before [the Guernsey Revenue Service Tribunal], the Royal Court or otherwise, or

(b) for the purpose of investigating –

(i) an offence, or

(ii) a liability to tax or the amount of any such liability, [or

(iii) matters relevant to the enforcement of any such liability and the collection and recovery of any amount due,]

it shall not be retained longer than is necessary to establish that fact and to obtain the

photograph or copy.

(4) Subject to the provisions of subsection (8), if a request for permission to be granted access to anything which –

(a) has been removed, and

(b) is retained for the purpose of investigating an offence,

is made to the [Director] by a person who had custody or control of the thing immediately before it was removed or by someone acting on his behalf, the [Director] shall allow the person who made the request access to it subject to such terms and conditions as the [Director] thinks fit.

(5) Subject to the provisions of subsection (8), if a request for a photograph or copy of any such thing as is described in subsection (4) is made to the [Director] by a person who had custody or control of the thing immediately before it was removed or by someone acting on his behalf, the [Director] shall –

(a) allow the person who made the request access to it under the supervision of the [Director] for the purpose of photographing or copying it, or

(b) himself photograph or copy it or cause it to be photographed or copied.

(6) Where anything is photographed or copied under subsection (5)(b) the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the [Director] has reasonable grounds for believing that to do so would prejudice –

- (a) the investigation of an offence for the purposes of which the thing was removed,
- (b) the investigation of another offence,
- (c) any criminal proceedings which may be brought as a result of any investigation mentioned in paragraph (a) or (b), or
- (d) the performance by the [Director] of his functions.]

NOTES

Section 75J was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75J,

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022;

sub-paragraph (iii) of paragraph (b) of subsection (3), and the word immediately after sub-paragraph (ii) thereof, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 14, with effect from 31st May, 2012;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁸⁰

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey

Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(g), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(f) and, second, regulation 65(2)(g), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Right of appeal to Royal Court.]

75K. (1) A person aggrieved by a decision of the [Director] to give him notice under section 75A or 75B may, subject to subsection (3), appeal against the decision to the Royal Court.

(2) A person appealing against a decision to give notice is referred to in this section as "**the appellant**".

(3) An appeal against a decision to give notice may not be instituted unless the Bailiff, on the application of the appellant made within a period of [30 days] immediately following the date of the notice, gives leave to appeal.

(4) An application to the Bailiff for leave under subsection (3) must be instituted by summons served on the [Director] stating the grounds and material facts on which the appellant intends to rely on his appeal to the Royal Court.

(5) An appeal from a decision of the Bailiff made under subsection (3) –

- (a) lies to the Court of Appeal (which may for the purposes of this subsection be constituted by a single judge of that Court) on a question of law, and
- (b) must be instituted within a period of 7 days immediately following the date of the Bailiff's decision [or such longer period as the Court of Appeal may in any particular case allow],

and the decision of the Court of Appeal (whether sitting fully constituted or as a single judge) is final.

(6) The grounds of appeal to the Royal Court against a decision to give notice under section 75A or 75B are –

- (a) that the decision was *ultra vires* or unreasonable in law or that some other error of law [(not being one mentioned in paragraph (b))] has been made, or
- (b) that a material error as to the facts has been made,

but where the [Director] (pursuant to section 75C) gives notice under [section 75A or 75B] in response to a request for information [or for assistance in collection] made by the competent authority of a requesting state pursuant to the provisions of an approved international agreement [or a request for information [or for assistance in collection] made pursuant to the provisions of an international tax measure] then, provided that the request is made in accordance with the provisions of the agreement

[or measure], the decision to give notice in response to the request cannot be challenged under the ground mentioned in paragraph (b) [unless the Bailiff, when giving leave to appeal under subsection (3), is satisfied –

- (i) that the material error as to the facts relates to the notice itself (including, without limitation, facts relating to the identity of the taxpayer or other person to whom the notice is addressed) and not to the circumstances of or giving rise to the liability or alleged liability to tax under the law of the requesting state [or (as the case may be) of the territory from or in respect of which the request for information [or for assistance in collection] is made], and
- (ii) that it would be just and convenient for the decision to be challenged on that ground in the courts of Guernsey].

(7) An appeal against a decision to give notice must be instituted –

- (a) within a period of 7 days immediately following the day on which leave to appeal was given pursuant to subsection (3) or (5) [or such longer period as the Royal Court may in any particular case allow], and
- (b) by summons served on the [Director] stating the grounds and material facts on which the appellant relies.

(8) The [Director] may, where an appeal against a notice, or

against a decision of the Bailiff under subsection (3), has been instituted, apply to the relevant tribunal, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and, upon hearing such an application, the relevant tribunal may –

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the relevant tribunal may direct), or
- (b) make such other order as the relevant tribunal considers just,

and in this section "**the relevant tribunal**" means the Royal Court or, in cases where the Court of Appeal or a single judge thereof is seized of the matter, the Court of Appeal or, as the case may be, that single judge.

(9) The provisions of subsection (8) are without prejudice to the inherent powers of the court or to the provisions of rule 36(2) of the Royal Court Civil Rules, 1989^{ib}.

(10) On an appeal against a decision to give notice the Royal Court may –

- (a) set the notice aside and, if the Court considers it appropriate to do so, remit the matter to the [Director] with such directions as the Court thinks fit, or
- (b) confirm the notice, in whole or in part.

^{ib} O.R.C. No. VII of 1989.

- (11) Pending the determination of –
- (a) an application for leave to appeal against a notice, and
 - (b) an appeal against a decision to give notice,

the notice does not have effect unless the relevant tribunal, on the application of the [Director] and on such terms and subject to such modifications as the relevant tribunal thinks just, directs otherwise.

(12) The Bailiff, where an application is made to him for leave under sub section (3), or the relevant tribunal, where an appeal to it is instituted under this section, may order the applicant or appellant –

- (a) to lodge with the court all or any of the documents sought by the [Director] in his notice under section 75A or 75B,
- (b) to provide any information (whether or not under oath or affirmation) relating to any such documents or their whereabouts (including, without limitation, a list of documents), and
- (c) to enter into such undertakings on such terms as may be specified,

and a contravention of or failure to comply with an order or undertaking under this subsection is punishable as a contempt of court.

(13) An appeal from a decision of the Royal Court made under this section lies, with leave of the Royal Court or the Court of Appeal, to the Court of

Appeal on a question of law.

(14) Section 21 of the Court of Appeal (Guernsey) Law, 1961^{ic} ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under subsection (13) as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

(15) The Royal Court sitting as a Full Court may by Order make rules for the purposes of appeals and applications under this section, and such rules may modify any provision of this section and may be amended or repealed by subsequent rules hereunder.]

NOTES

Section 75K was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75K,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸¹

the words in, first, the fifth and, second, the sixth pairs of square brackets in subsection (6) and, third, the words in the square brackets within paragraph (i) of that subsection were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 10, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 1st December, 2018;

first, the word and figures in square brackets in subsection (3), second, the words in square brackets in paragraph (b) of subsection (5), third, the words in the first pair of square brackets in subsection (6), fourth, the words, figures and letters in the third pair of square brackets in subsection (6), fifth, the words in the seventh pair of square brackets in subsection (6) and, sixth, the words in the first pair of square brackets in subsection (7) were, respectively, substituted, inserted, inserted, substituted, inserted and inserted by the Income Tax (Guernsey) (Amendment) Law,

^{ic} Ordres en Conseil Vol. XVIII, p. 315.

2008, section 4(a), section 4(b), section 4(c)(i), section 4(c)(ii), section 4(c)(iii) and section 4(d), with effect from 31st May, 2012;

the words "or for assistance in collection" in square brackets, wherever occurring in subsection (6), were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 9, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

The following cases have referred to section 75K:

A, a Taxpayer v. Director of Income Tax, States of Guernsey Income Tax Office (2016) (Unreported, Court of Appeal, 21st December) (Guernsey Judgment No. 54/2016); [2016] GLR 382;

Mourant Trustees and Carezo Limited v Director of the Revenue Service [2023]GRC034 (Unreported, Royal Court, 8th August);

Mourant Trustees Limited and Carezo Limited v Director of Revenue Services [2024]GCA050 (Unreported, Court of Appeal, 26th July);

Mourant Trustees (Guernsey) Limited v The Director of the Revenue Service [2024]GCA057 (Unreported, Court of Appeal, 19th August).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(h), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(g) and, second, regulation 65(2)(h), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

The Royal Court Civil Rules, 1989 have since been revoked by the Royal Court Civil Rules, 2007, rule 91, with effect from 4th February, 2008, subject to the transitional provisions in rule 94 of the 2007 Rules.

Provision of returns as to interest payments.

75KA. (1) A person carrying on banking business in Guernsey, including a person carrying on such business through a branch in Guernsey, (the "**bank**"), must, with effect from the 1st January 2015, provide the Director with –

- (a) a return of the amount of any interest paid or credited by the bank, in any calendar year specified by notice of the Director, not being a calendar year preceding 2014, to an individual resident in Guernsey (the "**depositor**"),
- (b) a return of the amount of any interest paid by an individual resident in Guernsey (the "**borrower**") in any calendar year specified by notice of the Director, not being a calendar year preceding 2014, to the bank on borrowed money secured against any land or building, wherever situate, or otherwise borrowed for the acquisition of any land, or the acquisition, construction, reconstruction or repair (including extension and renovation) of any building, wherever situate,
- (c) in the case of a return relating to a calendar year after 2014, the tax identification number (the "**TIN**") of the depositor or (as the case may be) the borrower (and for the purposes of this paragraph the TIN means the social insurance registration number allocated to the individual in question under the Social Insurance (Contributions) Regulations, 2000 or such other identification number, word or expression as the Director may specify),
- (d) where the bank made or received no payment described in paragraph (a) or (b), a return containing a statement to that effect,

- (e) such other documents or information or class or description of documents or information as may be required for the purposes of this section or the performance by the Director of his functions and as the Director may by notice specify.

(2) Returns and other documents and information required to be provided by or under subsection (1) must be provided in such form and manner, by such means and at such times or intervals as the Director may by notice require.

(3) For the purposes of, but without prejudice to the generality of, subsections (1) and (2) –

- (a) the notices referred to in those subsections may require a bank to register with the Director and to use and to provide information and documents by means of an electronic portal specified in the notices for that purpose,
- (b) the notices may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey [Revenue Service] or by being set out in a statement of practice issued under section 204.

(4) Without prejudice to any other duty or power arising or imposed by or under this Law –

- (a) in the case of accounts established or (as the case may be) loans made on or after the 1st January, 2015, the bank must request the depositor's or (as the case may be) the borrower's TIN,
- (b) the depositor or (as the case may be) the borrower must upon request provide the bank and the Director with his TIN,
- (c) the Director may himself disclose the TIN to the bank, and
- (d) the TIN must (unless the Director determines otherwise) be used in all communications between the bank and the Director relating to the depositor or (as the case may be) the borrower.

(5) A person who without reasonable excuse fails to comply with any provision of subsection (4)(a) or (b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(6) Without prejudice to subsections (2) and (3), section 68(1AAA) (giving of notice from Director) applies in relation to a notice of the Director under subsection (1) or (2) or otherwise given by him under or for the purposes of this section as it applies in relation to a notice of the Director requiring a person to deliver a return as to his income, and references (however expressed) in this Law to the giving or receipt of such a notice shall be construed accordingly.

(7) Section 68AA (returns to be submitted in electronic form and by electronic means) applies in respect of this section as if –

- (a) references in subsections (1) and (2) of that section to section 68 included references to this section,
- (b) references in subsection (1) of that section to a return as to a person's income included references to a return or other document or information required or authorised to be provided by, under or for the purposes of this section,
- (c) paragraph (a) of subsection (1) of that section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.]

NOTES

Section 75KA was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 5, with effect from 1st January, 2015.

In section 75KA, the words in square brackets were substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 3, with effect from 1st January, 2023.

[Offences in relation to falsification, etc, of documents.]

75L. (1) Subject to the provisions of subsection (2), a person is guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which –

- (a) he has been required by a notice under section 75A or 75B or an order under section 75E or 75F, or
- (b) he has been given an opportunity in accordance with section 75A(2) or 75B(3),

to deliver or make available for inspection.

(2) A person does not commit an offence under subsection (1) if he acts –

- (a) with the written permission of the [Director],
- (b) after the document has been delivered to the [Director] and thereafter returned, or
- (c) after a copy has been delivered in accordance with section 75A(4) [or 75B(5)] and the original has been inspected.

(3) A person who, in purported compliance with a requirement imposed by or under this Part [or Part VIIIA or VIIIB] of this Law or a notice or order under this Part [or Part VIIIA or VIIIB] of this Law, or in purported compliance with a duty or requirement imposed by or under section 68, or otherwise for the purposes of this Part [or Part VIIIA or VIIIB] of this Law or section 68 –

- (a) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes or causes or permits to be produced or furnished any information or document

which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

- (d) dishonestly or otherwise, recklessly produces or furnishes or recklessly causes or permits to be produced or furnished any information or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

(4) A person guilty of an offence under subsection (1) or (3) is liable on summary conviction to imprisonment for a term not exceeding two years, to a fine not exceeding twice level 5 on the uniform scale, or to both.

(5) For the avoidance of doubt, the provisions of this section are in addition to the provisions of sections 193 and 201.]

NOTES

Section 75L was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75L,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸²

the word, figures, letter and parentheses in square brackets in paragraph (c) of subsection (2) was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 16, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

the words, figures and letters "or Part VIIIA or VIIIB" in square

brackets, wherever occurring in subsection (3), were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 10, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 6(1), with effect from 30th June, 2014, this section applies in respect of those Regulations and the Agreements Scheduled thereto as if –

- (a) references in subsection (1) of this section to a document required by a notice under section 75A to be delivered included references to a return or other document or information required to be provided by or under those Regulations, or the Agreements as they have effect by virtue of those Regulations,*
- (b) paragraphs (b) and (c) of subsection (2) were omitted,*
- (c) subsection (3), and the reference thereto in subsection (4), were omitted.*

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 5(i), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(h) and, second, regulation 65(2)(i), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Duties of confidentiality, liens, and self-incrimination.]

75M. (1) A requirement imposed by or under –

- (a) section 75A, 75B, 75D, 75E or 75F [or 75KA],

Consolidated text

- (b) a notice or order under any of those sections, or
- (c) section 75I or a warrant granted thereunder, [or
- (d) regulations made under section 75CC or for the purposes of an approved international agreement [or international tax measure],][or
- (e) regulations made under section 171A (regulations in respect of substance requirements),] [or
- (f) Part VIIIA or VIIIB,]

has effect notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement.

(2) Where a person claims a lien on a document, its production under –

- (a) section 75A, 75B, 75D, 75E or 75F [or 75KA],
- (b) a notice or order under any of those sections, or
- (c) section 75I or a warrant granted thereunder, [or
- (d) regulations made under section 75CC or for the purposes of an approved international agreement [or international tax measure],] [or

- (e) regulations made under section 171A (regulations in respect of substance requirements),][or
- (f) Part VIIIA or VIIIB,]

is without prejudice to his lien.

(3) A direction given by the [Director] under section 75B(4) to a person that he must not –

- (a) inform, or cause or permit to be informed, the taxpayer that a notice has been given under that section, 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 notice relates or the performance by the [Director] of his functions,

has effect notwithstanding any contractual or other obligation to which the person to whom the direction was given is subject; and, accordingly, the obligation is not contravened by compliance with the direction.

[(4) A statement made by a person in response to a requirement described in subsection (1) –

- (a) may be used in evidence against him in proceedings other than criminal proceedings, and
- (b) may not be used in evidence against him in criminal proceedings except –

- (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or
- (ii) in proceedings for –
 - (A) an offence under section 75L(3),
 - (B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,
 - (C) perjury, or
 - (D) perverting the course of justice,

and for the purposes of this subsection proceedings under this Law in respect of the enforcement of a penalty or surcharge are not criminal proceedings.]]

NOTES

Section 75M was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75M,

the word, figures and letter in the first pairs of square brackets in subsection (1) and subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 6, with effect from 1st January, 2015;

the words in the second pairs of square brackets subsection (1) and

subsection (2) were inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013, section 6, with effect from 1st January, 2014;

first, the words in the square brackets within paragraph (d) of subsection (1), second, paragraph (e) of that subsection, third, the words in the square brackets within paragraph (d) of subsection (2) and, fourth, paragraph (e) of that subsection were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, respectively section 11(a), section 11(b), section 12(a) and section 12(b), with effect from 1st December, 2018;

first, paragraph (f) of subsection (1), and the word immediately after paragraph (e) thereof, were inserted and, second, paragraph (f) of subsection (2), and the word immediately after paragraph (e) thereof by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, respectively section 11 and section 12, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸³

subsection (4) was substituted by the Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009, section 1, Schedule, with effect from 5th August, 2010.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 6(2), with effect from 30th June, 2014, this section applies in respect of those Regulations and the Agreements Scheduled thereto as if in subsection (4)(b)(ii)(A) of this section for the words "section 75L(3)" there were substituted "section 201(1) by virtue of a contravention of section 201(4)".

The following case has referred to section 75M:

Mourant Trustees Limited and Carezo Limited v Director of Revenue Services [2024]GCA050 (Unreported, Court of Appeal, 26th July).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 8(1), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 66, with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model

Rules as if in subsection (4)(b)(ii)(A) after the words "section 75L(3)" there was inserted "or section 201(1) by virtue of a contravention of section 201(4)".

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(i) and, second, regulation 65(2)(j), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27 and regulation 28, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Constitution of Royal Court under sections 75E and 75F.]

75N. (1) For the purpose of performing its functions under sections 75E and 75F –

- (a) the Royal Court is properly constituted if it consists of the Bailiff sitting unaccompanied by the Jurats, and
- (b) the Royal Court may, where it consists of the Bailiff so sitting, sit otherwise than in open court.

(2) Any order or finding made or other thing done pursuant to subsection (1) has effect for all purposes as if made or done by the Royal Court.]

NOTES

Section 75N was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, first, regulation 65(1)(j) and, second, regulation 65(2)(k), with effect from 1st January, 2025, this section applies in respect of those Regulations subject to the provisions therein.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025, regulation 27, with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

Interpretation of Part VIA.

75O. In this Part of this Law –

"approved international agreement" has the meaning given by section 75C,

[**"assistance in collection"** has the meaning given by section 75C,]

"Bailiff" means the Bailiff, Deputy-Bailiff, Lieutenant-Bailiff or Juge Délégué,

"competent authority" has the meaning given by section 75C,

"document" includes, subject to the provisions of section 75D(2) and 75G(4), information stored or recorded in any form (including, without limitation, in electronic form); and, in relation to information stored or recorded otherwise than in legible form, references to its production, however expressed, include (without limitation) references to the production of the information in a form –

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form,

"electronic form", in relation to the storage or recording of

documents, includes storage or recording by means of any form of information storage technology,

["**international tax measure**" has the meaning given by section 75CC(1B),]

"**requesting state**" has the meaning given by section 75C,

"**Royal Court**" means the Royal Court sitting as an Ordinary Court,

["**tax**" means –

- (a) income tax under this Law, and
- (b) any tax imposed by the laws of another territory and of a class or description specified in or under –
 - (i) an approved international agreement or international tax measure, or
 - (ii) regulations made under section 75CC,

and "**taxation**" shall be construed accordingly,]

["**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.]]

NOTES

Section 750 was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 750,

the definition of the expression "assistance in collection" was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 13, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the definition of the expression "international tax measure" was inserted and the definition of the expression "tax" was substituted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 13, respectively paragraph (a) and paragraph (b), with effect from 1st December, 2018;

the definition of the expression "taxpayer" was substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 17, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years.⁸⁴

The following Regulations have been made under section 750:

Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024;

Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025.

[Regulations as to the keeping of records, etc.]

75P. (1) The [Committee] may by regulation make such provision as they think fit in relation to the making, maintenance, keeping and retention by any person of records and other documents in respect of tax and liability thereto.

(2) Regulations under subsection (1) may make provision as to criminal and civil sanctions, penalties and remedies in respect of contraventions of the regulations, including, without limitation, provision as to –

- (a) the creation of offences, whether in relation to the falsification, concealment, destruction or other disposal of documents or otherwise, and

- (b) the trial and punishment of offences,

but may not specify criminal penalties which exceed those for the time being specified by section 75L(4).]

NOTES

Section 75P was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

In section 75P, the word in square brackets within subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 75P:

*Income Tax (Keeping of Records, etc) Regulations, 2006;
Income Tax (Keeping of Records etc) (Amendment) Regulations,
2012.*

[Power to amend Part VIA by Ordinance.

75Q. The States may by Ordinance amend –

- (a) this Part of this Law, and
- (b) any other provision of this Law for the purpose of giving effect to this Part of this Law as from time to time amended.]

NOTES

Section 75Q was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 5, with effect from 25th January, 2006.

The following Ordinances have been made under section 75Q:

Income Tax (Guernsey) (Amendment) Ordinance, 2012;
Income Tax (Approved International Agreements) (Implementation)
(Guernsey) Ordinance, 2013;
Income Tax (Guernsey) (Amendment) Ordinance, 2014;
Income Tax (Guernsey) (Approved International Agreements)
(Amendment) Ordinance, 2014;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014;
Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014;
Guernsey Revenue Service Tribunal Ordinance, 2021;
Income Tax (Guernsey) (Amendment) Ordinance, 2021.

PART VII
APPEALS

Right of appeal.

76. Any person aggrieved by an assessment made upon him by the [Director] [(other than an interim assessment made under section 73(2)(a))], or by any penalty, direction or order imposed or made by the [Director] under this Law [(but not a notice given under section 75A or 75B)], [or by a decision of the Director under section 76A(1)(c) in respect of the suspension or deferral of tax due under an interim assessment (whether as to the amount of the suspension or deferral or otherwise),] [or by the acceptance for the purposes of collection of a revenue claim pursuant to section 83J following receipt by the Director of an Instrument Permitting Enforcement under that section,] [or by any surcharge or additional surcharge under section 199 [or 199AA] or any supplement or additional supplement under section 199A,] shall be entitled to appeal to [the appropriate body] on giving to the [Director] notice in writing (stating the grounds of appeal) within [30 days] of the date of the issue of the notice of assessment or of the order imposing the penalty, or other order or direction[, or (as the case may be) [the date of the issue of the notice of the Director under section 83J(4)(b), or] [the date of the issue of the notification of [the decision in respect of the suspension or deferral or] the surcharge], additional surcharge, supplement or additional supplement]:

Provided that [the appropriate body] may admit an appeal if it is satisfied that owing

to absence, sickness or other reasonable cause a person has been prevented from giving the aforesaid notice within the time limited[:

and provided also that in the case of an appeal in respect of –

- (a) the imposition of, or the amount of, a surcharge or additional surcharge under section 199, the sole grounds of appeal are that –
 - (i) the surcharge or additional surcharge is not payable,
 - (ii) the surcharge or additional surcharge has been miscalculated, or
 - (iii) in the case of an additional surcharge, and in the circumstances set out in section 199(6)(a), the additional surcharge has become payable by virtue of an unreasonable delay of not less than six months between the receipt by the [Director] of the fully completed return of income and the making by the [Director] of an assessment or additional assessment on the basis of that return,
- [(aa) the imposition of, or the amount of, a surcharge or additional surcharge under section 199AA, the sole grounds of appeal are that –
 - (i) the imposition of the surcharge or additional surcharge is unreasonable as a matter of law,

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having regard to all facts and circumstances of the case, or

- (ii) the surcharge or additional surcharge has been miscalculated,]
- (b) the non-payment of, or the amount of, a supplement or additional supplement under section 199A, the sole grounds of appeal are that the supplement or additional supplement is payable or that it has been miscalculated,
- [(c) an additional assessment made by the Director under section 75, the appeal may only be instituted in respect of any new, additional or modified part, element or component of the assessment, and not in respect of any part, element or component included in and unchanged from a previous assessment in respect of which the time for appealing has expired or which is or has been the subject of a previous appeal,
- (d) a decision of the Director under section 76A(1)(c) in respect of the suspension or deferral of tax due under an interim assessment, the sole grounds of appeal are that the decision is unreasonable as a matter of law, having regard to all facts and circumstances of the case],
- [(e) the acceptance for the purposes of collection of a revenue claim pursuant to section 83J following receipt by the Director of an Instrument Permitting Enforcement under that section, the sole ground of appeal is that the notice of the Director under section

83J(4)(b) is, having regard to section 83J(7) (Instrument Permitting Enforcement is admissible in evidence and irrebuttable proof of matters stated therein), invalid.]]

NOTES

In section 76,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸⁵

the words in, first, the second pair of square brackets, second, the fifth pair of square brackets and, third, the square brackets within the second pair of square brackets within the eleventh pair of square brackets were inserted and, fourth, paragraph (c) and paragraph (d) of the second proviso were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 9, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 1st January, 2017;

the words in the fourth pair of square brackets were inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 6, with effect from 25th January, 2006;

first, the words in the sixth pair of square brackets, second, the words in the first pair of square brackets within the eleventh pair of square brackets and, third, paragraph (e) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 15, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the words and figures in, first, the seventh pair of square brackets and, second, the words in the eleventh pair of square brackets were inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, respectively section 4(a) and section 4(c), which insertions shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

first, the word, figures and letters in square brackets within the seventh pair of square brackets were inserted, second, the words in the second pair of square brackets within the eleventh pair of square brackets were substituted and, third, paragraph (aa) was inserted by the Income Tax

(Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 7, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 1st January, 2015;

the words "the appropriate body" in square brackets, wherever occurring, were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(a), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the figures and word in the tenth pair of square brackets were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 4(b), which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the second proviso thereto was inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 4(d), which insertion shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

The following case has referred to section 76:

Administrator of Taxes v. Tremoille Properties Limited (2002) (Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002).

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (as amended by G.S.I. No.131 of 2025), regulation 4A(2), with effect from 1st January, 2026, this Part applies in respect of those Regulations subject to the provisions therein.

Procedure in respect of interim assessments.

76A. (1) Where the Director has made an interim assessment under section 73(2)(a) –

- (a) the taxpayer may, within a period of 30 days immediately following the date of the issue of the interim assessment, make written representations to the Director explaining why, having regard to the contents of the assessment, collection of the tax due under it

should be suspended or deferred in whole or in part pending submission by the taxpayer of a fully completed return of income (within the meaning of section 199(12)) and the issue of a final assessment,

- (b) if the taxpayer does not make such representations within that 30 day period, then the tax due under the interim assessment shall thereupon be payable in accordance with the provisions of this Law,
- (c) if the taxpayer, within that 30 day period (or such longer period as the Director may in his absolute discretion determine in any particular case), makes such representations to the Director, the Director shall take the representations into account, and having done so shall –
 - (i) decide whether or not to suspend or defer in whole or in part the tax due under the interim assessment, and
 - (ii) if he decides not to suspend or defer in whole or in part the tax due under the interim assessment in accordance with the taxpayer's representations, serve on the taxpayer a notice in writing stating –
 - (A) the terms of his decision, and
 - (B) that the taxpayer may, within a period of 30 days immediately following the date

of the issue of that notice, appeal against the decision to the appropriate body in accordance with the provisions of section 76,

and if the Director does not serve such a notice within a period of 30 days immediately following the date of receipt of the taxpayer's representations, then he shall be deemed to have decided to suspend or defer in whole or in part the tax due under the interim assessment in accordance with the taxpayer's representations,

- (d) subject to paragraph (e) –
 - (i) a decision of the Director to suspend or defer the tax due under the interim assessment in whole or in part shall have effect for the purposes of this Law, and
 - (ii) the balance (if any) due under the interim assessment shall thereupon be payable in accordance with the provisions of this Law, and
 - (e) a taxpayer aggrieved by a decision of the Director under paragraph (c) in respect of the suspension or deferral of tax due under an interim assessment may appeal against the decision to the appropriate body in accordance with the provisions of section 76.
- (2) An interim assessment under section 73(2)(a) may (without

prejudice to the provisions of section 73(2)(b)) be confirmed as, revised into or replaced by –

- (a) a final assessment, when the Director has received a fully completed return of income (within the meaning of section 199(12)) within the time permitted for the submission of the return (or such longer period as the Director may in his absolute discretion determine in any particular case), or
 - (b) a final assessment made in whole or in part on an estimated basis in cases where paragraph (a) does not apply.
- (3) For the avoidance of doubt –
- (a) a right of appeal arises in accordance with the provisions of section 76 in respect of any such final assessment as is mentioned in subsection (2)(a) or (b), but
 - (b) there is no right of appeal against a refusal by the Director to exercise his power under section 82(1) (as that section has effect subject to subsection (4) below) to allow the tax charged in consequence of any such final assessment as is described in subsection (2)(a) or (b) or any part thereof to remain unpaid.
- (4) In respect of any such final assessment as is described in subsection (2)(b), the power of the Director under section 82(1) to allow the tax charged in consequence of the assessment or any part thereof to remain unpaid does

not apply unless the Director in his absolute discretion, on being satisfied that there were exceptional and compelling reasons for the failure of the taxpayer to submit a fully completed return of income (within the meaning of section 199(12)) within the time permitted for the submission of the return, determines otherwise in any particular case.

(5) This section is without prejudice to the first proviso in section 76 (power of appropriate body to admit appeal out of time in specified circumstances).]

NOTE

Section 76A was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 10, with effect from 1st January, 2017.

Appeal meetings.

77. [The appropriate body] shall meet from time to time for the hearing of appeals, and shall cause reasonable notice to be given to each appellant of the date, time and place for hearing his appeal.

NOTE

In section 77, the words in square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(a), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

Hearing of appeals.

78. (1) The [Director] shall be entitled to be present during all the time of the hearing of an appeal, to give reasons in support of the assessment or other order made by him and to be present when the determination of [the appropriate body] is announced.

[(2) The appellant and the [Director] shall be entitled at the hearing of any appeal to appear as follows –

- (a) the appellant may be represented by any person, whether or not legally qualified, except that if in any particular case the appropriate body is satisfied that there are good and sufficient reasons for doing so it may refuse to permit a particular person, other than one who is legally qualified or who has been admitted a member of an incorporated society of accountants, to represent the appellant,
- (b) the [Director] may be represented by any person who is legally qualified, by any officer of the [Committee] or by any other person appointed by the [Director] to represent him.]

(3) If [the appropriate body] is satisfied that the appellant has been prevented by absence, sickness or other reasonable cause from attending on the day fixed for hearing the appeal, it may postpone the hearing for such time as it may think necessary.

(4) Where, on the hearing of an appeal, the appellant desires to put forward any ground of appeal which was not specified in the notice of appeal, [the appropriate body], if in its opinion the omission of that ground from the notice was not wilful or unreasonable, may allow the appellant to put forward that ground and may take it into consideration.

(5) [The appropriate body] may, by notice sent by post, summon any person, (other than the appellant) whom it thinks able to give relevant evidence,

to appear before it to be examined.

(6) Any witness before [the appropriate body] may be examined on oath, but where the witness is the appellant or any agent or servant of the appellant or any other person confidentially employed in his affairs, the witness shall not be compelled to give evidence on oath or to answer any question to which he objects.

(7) Any member of [the appropriate body] shall have power to administer the oath referred to in the last preceding subsection.

(8) [The appropriate body] may adjourn any appeal from time to time.

NOTES

In section 78,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸⁶

the words "T/the appropriate body" in square brackets, wherever occurring, were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(a), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

subsection (2) was substituted by the Income Tax (Guernsey) (Amendment) Law, 2003, section 1(4), with effect from 1st January, 2004;

the word in the third pair of square brackets within subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following case has referred to section 78:

Carpenter v. Administrator of Income Tax 2003-04 GLR 260.

Reference of points of law to Royal Court.

78A. (1) A question of law arising on an appeal to the appropriate body may, if the appropriate body thinks fit, and with the consent of the appellant and the [Director], be referred by the appropriate body for decision to the Royal Court sitting as an Ordinary Court.

(2) The reference shall be made in such manner and within such time as may be prescribed by order of the Royal Court.

(3) An appeal lies from the Ordinary Court to the Court of Appeal on a question of law referred to it under this section.

(4) The provisions of this section are in addition to the provisions of section 80.]

NOTES

Section 78A was inserted by the Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004, section 2, with effect from 15th November, 2004.

In section 78A, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁸⁷

The following Order has been made by the Royal Court under section 78A:

Royal Court (Guernsey Tax Tribunal) Order, 2008.

Determination of appeals.

79. (1) In disposing of an appeal [the appropriate body] may –

(a) in the case of an assessment [(other than an interim assessment made under section 73(2)(a))] –

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- (i) confirm, reduce, increase or annul the assessment, or
 - (ii) set aside the assessment and direct the [Director] to make a fresh assessment after making such further enquiry as the [Director] thinks fit or [the appropriate body] may direct, or
- (b) in the case of an order imposing a penalty – confirm or cancel such order or vary it so as either to increase or reduce the penalty, or
- (c) in the case of any other direction or order – make such order thereon as it thinks fit[, or]
- [(cc) in the case of an appeal in respect of a decision of the Director under section 76A(1)(c) in respect of the suspension or deferral of tax due under an interim assessment, confirm or annul the decision and/or increase or reduce the amount of the suspension or deferral,]
- [(d) in the case of an appeal in respect of a surcharge or additional surcharge under section 199 [or 199AA], confirm or annul the imposition thereof or increase or reduce the amount thereof, or
- (e) in the case of an appeal in respect of a supplement or additional supplement under section 199A, confirm or annul the non-payment thereof or increase or reduce the

amount thereof.]

(2) Save as provided in section eighty of this Law orders made by [the appropriate body] shall be final and conclusive.

NOTES

In section 79,

the words "the appropriate body" in square brackets, wherever occurring, were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(a), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

first, the words in square brackets in paragraph (a) and, second, paragraph (cc) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 11, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2017;

the word "Director" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸⁸

paragraph (d) and paragraph (e) of subsection (1) and the word in square brackets immediately after paragraph (c) thereof were inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 5, which insertions shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the word, figures and letters in square brackets within paragraph (d) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 8, with effect from 1st January, 2015.

The following cases have referred to section 79:

*Gold v. Administrator of Income Tax (1999) 27.GLJ.144;
Carpenter v. Administrator of Income Tax 2003-04 GLR 260.*

Case for opinion of Royal Court.

80. (1) Upon the determination of an appeal the appellant or the

[Director], if dissatisfied with the determination as being erroneous in point of law, may require [the appropriate body] to state and sign a case for submission to the Royal Court.

(2) Such requirement shall be made by delivering, at any time within twenty-one days after the determination of the appeal, a notice in writing to the President of [the appropriate body].

(3) The case shall set forth the facts and the determination of [the appropriate body].

(4) The case when stated and signed shall be delivered by the President to the party who required it.

(5) The party to whom the case has been delivered shall, within twenty-one days after he has received it, transmit the case to Her Majesty's Greffier and send to the other party a copy of the case, together with notice in writing that he has so transmitted it.

(6) The Royal Court sitting as an Ordinary Court shall hear and determine any question of law arising on the case, and may reverse, affirm, or amend the determination of [the appropriate body], remit the matter to [the appropriate body], with the opinion of the Court thereon, or make such other order as the Court may think fit.

(7) The Court may cause the case to be sent back for amplification or clarification and thereupon the case shall be amplified or clarified accordingly and returned to the Court and the last preceding subsection shall thereupon apply.

(8) Where the amount of the assessment is to be altered in consequence of the judgment of the Court, the [Director] shall alter the assessment

and charge accordingly.

(9) An appeal shall lie from the Ordinary Court to the Court of Appeal.

[(10) The Royal Court may by order make provision in respect of –

(a) the preparation by the appropriate body of, and the form and manner of, cases for submission to the Ordinary Court under this section, and

(b) generally, the hearing of such cases by the Ordinary Court and of appeals therefrom to the Court of Appeal, including provision as to the form, manner, conduct and procedure of such hearings.]

NOTES

In section 80,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁸⁹

the words "the appropriate body" in square brackets, wherever occurring, were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(a), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

subsection (10) was inserted by the Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004, section 3, with effect from 15th November, 2004.

The following Order has been made by the Royal Court under section 80:

Royal Court (Guernsey Tax Tribunal) Order, 2008.

The following cases have referred to section 80:

Gold v. Administrator of Income Tax (1999) 27.GLJ.144;
Administrator of Taxes v. Tremoille Properties Limited (2002)
(Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);
Carpenter v. Administrator of Income Tax 2003-04 GLR 260;
Administrator of Income Tax v. Broadaker Company Limited 2005–
06 GLR 152;
Glass v. Administrator of Income Tax 2007–08 GLR 229.

Interpretation.

80A. In this Part of this Law "**the appropriate body**" –

- (a) where the appeal relates to an assessment, penalty, direction or order made or imposed in relation to a year of charge for which the appellant has not delivered a return as to his income in accordance with section 68 of this Law, means the [[the Guernsey Revenue Service Tribunal] established by the Third Schedule (and for the purposes of an appeal described in this paragraph a quorum of [the Guernsey Revenue Service Tribunal] shall be a single member appointed by the President or, in his absence, the Vice President thereof)], and
- (b) in any other case, means [the Guernsey Revenue Service Tribunal] [...].]

NOTES

Section 80A was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(1)(b), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

In section 80A,

the words in the first pair of square brackets in paragraph (a) were

*substituted, and the words omitted in the second pair of square brackets in paragraph (b) were repealed, by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 23(a) and section 23(b), with effect from 4th July, 2011;*⁹⁰

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

PART VIII

COLLECTION AND RECOVERY

Due date of payment of tax and penalty.

81. (1) [Subject to the provisions of [sections 66C, 81A and 81B], tax] for any year of charge [up to and including the year of charge 2022] shall be payable in two equal instalments as follows –

- (a) the first instalment on or before the thirtieth day of June in that year:

Provided that where the assessment in consequence of which the tax is chargeable has not been made before [the first day of June] in that year the first instalment shall be payable within [30 days] from the date of the issue of the notice of assessment,

- (b) the second instalment on or before the thirty-first day of December in that year:

Provided that where the assessment in consequence of which the tax is chargeable is made after [the first day of December] in that year the second instalment shall be payable within [30 days] from the date of the issue of the notice of assessment.

[(1A) Subject to the provisions of sections 66C, 81A and 81B, tax for any year of charge following the year of charge 2022 shall be payable in four equal instalments as follows –

- (a) the first instalment on or before the 15th April in that year,
- (b) the second instalment on or before the 15th July in that year,
- (c) the third instalment on or before the 15th October in that year,
- (d) the fourth instalment on or before the 15th January in the next year of charge,

Provided that, in respect of each of paragraphs (a), (b), (c) or (d), where the assessment in consequence of which the tax is chargeable is not made before the 17th March, 16th June, 16th September or 17th December (as the case may be) in that year, the relevant instalment shall be payable within 30 days from the date of the issue of the notice of assessment.]

(2) A penalty shall be payable within thirty days from the date of the order communicating the penalty:

Provided that the [Director] may, at his discretion, allow a further time for payment.

NOTES

In section 81,

the words in the first pair of square brackets in subsection (1) were substituted by the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 1(c), with effect from 21st August, 1979;

the words, figures and letters in square brackets within the first pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 16, with effect from 29th April, 2009;

first, the words in the second pair of square brackets in subsection (1) and, second, subsection (1A) were both inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2022, respectively section 3 and section 4, with effect from 1st October, 2022;

the words in the first pairs of square brackets in the provisos to paragraph (a) and paragraph (b) of subsection (1) were substituted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 9, with effect from 28th January, 2009;

the words and figures "30 days" in square brackets, wherever occurring, were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitutions shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the word in square brackets in the proviso to subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.⁹¹

[[Collection of tax on certain emoluments and pensions by instalments.]

81A. (1) The provisions of this section shall have effect for the purpose of requiring tax to be deducted upon the making of any payment of, or on account of, any income chargeable to tax [arising from offices and employments and any other income chargeable under this Law] specified herein, subject to and in accordance

with regulations made by the [Committee] under this section, notwithstanding –

- (a) that when the payment is made no assessment has been made in respect of the income to which that payment relates,
 - (b) that such income is in whole or in part income which may be chargeable to tax for some year of charge other than the year of charge during which the payment is made,
 - (c) the provisions of subsection (1) of section forty-three of this Law [(as read with [[section 42C] and] section 47AA)] which prescribe the circumstances in which the income of a married woman living with her husband shall be treated as the income of the husband.
- (2) Where, on or after the first day of January, [1992] –
- (a) any payment of, or on account of, emoluments is made by an employer carrying on business or exercising functions in Guernsey, or
 - (b) any payment of, or on account of, a pension, superannuation or other allowance given to an individual in respect of the past services of that individual or the past services of any deceased person is made, or
 - [(bA) any payment is made of an annuity which is treated by virtue of section 157A(5) of this Law as earned income

arising in Guernsey, or]

- (c) [subject to subsection (2A) of this section,] any payment, other than a payment to which paragraph (a) of this subsection applies, is made by a person carrying on business or exercising functions in Guernsey to an individual in respect of manual labour [...], notwithstanding that the amount of the payment may be chargeable to tax upon the recipient as income [other than income arising from offices and employments],

tax shall be deducted and withheld therefrom by the person making the said payment in accordance with the provisions of this section.

[(2A) Subsection (2) of this section does not apply to a payment made in the circumstances described in paragraph (c) of that subsection if –

- (a) the payment is in whole or in part in respect of manual labour performed by somebody other than the individual to whom it is made ("**the payee**"), and
- (b) the payee has produced to the person making the payment ("**the payer**") a currently valid E.T.I. exemption certificate in the payee's name, and
- (c) the payer complies with any regulations made under subsection (4) of this section as to the keeping of records and making of returns to the [Director].]

(3) Any tax deducted in accordance with the provisions of subsection (2) of this section shall be applied towards the payment of any tax charged

or chargeable upon the person who has borne the deduction for the year of charge in which the payment is made and for any year of charge prior to that year of charge and any penalty [and any surcharge and additional surcharge] payable by him and where any tax so deducted is greater than such tax payable by that person and any penalty [and any surcharge and additional surcharge] payable by him, the appropriate repayment shall be made by the [Director][; and in this subsection "**the person who has borne the deduction**" means, where the relevant payment is made in whole or in part in respect of manual labour performed by somebody other than the payee, the person who performed the manual labour].

[(3A) For the avoidance of doubt if any income from which tax has been deducted has not been included in any assessment of tax made under section 73(2)(a) then the tax deducted from such income shall not, under subsection (3), be applied towards the payment of tax due from that assessment.]

(4) The [Committee] may from time to time make regulations for the purposes of carrying out the provisions of this section.

[(4A) For the avoidance of doubt, regulations under subsection (4) of this section may, in relation to an E.T.I. exemption certificate, empower the [Director], if he considers that to do so would be in the interests of efficient tax collection –

- (a) to require an applicant to provide additional information,
- (b) to refuse to issue a certificate,
- (c) to attach conditions to the issue or continued validity of a certificate (including conditions requiring tax deducted to be paid to him at more frequent intervals

than those for the time being generally prescribed by such regulations),

- (d) to reduce or extend a certificate's period of validity,
- (e) to cancel a certificate and publish a notice to that effect in La Gazette Officielle.]

[(4B) Regulations under subsection (4) may, in relation to applications for and the grant and renewal of E.T.I. exemption certificates, empower the [Director] to levy fees of such amount and in respect of such matters as may be specified in the regulations.]

(5) Any regulations made under the provisions of subsection (4) of this section shall not have effect unless and until approved by a resolution of the States.

(6) Any tax deducted by an employer from an employee in accordance with the provisions of this section shall be payable by the employer in such manner and at such times as may be prescribed by [or under] regulations made under the provisions of subsection (4) of this section.

(7) Where an employer fails to deduct from the emoluments of any employee the tax which he is required to deduct under the provisions of this section the amount of such tax shall be payable by the employer as if it had been so deducted and where the amount of any such tax is paid by the employer –

- (a) that amount shall be deemed to be tax deducted in accordance with the provisions of subsection (2) of this section,

- (b) that amount shall be recoverable by the employer from the employee as a civil debt due to the employer,
- (c) that amount shall not be recoverable by the [Director] from the employee.

(8) Every agreement for payment without deduction of tax of any emoluments to which this section relates shall be void.

(9) Where an employee proves to the satisfaction of the [Director] that he has borne a deduction of tax from his emoluments he shall be entitled to have such deduction treated as a payment of tax made by him.

[(10) In the event of any proceedings "en désastre" in respect of the personal property of an employer or of the compulsory or voluntary winding-up of the affairs of an employer who is a body corporate, the amount of any tax deducted by the employer from the emoluments of an employee in accordance with the provisions of this section which has not been paid shall rank for payment in accordance with the provisions of the Preferred Debts (Guernsey) Law, 1983.]

(11) Where an employee objects to the particulars shown on a notice issued to him by the [Director] specifying the manner in which his employer is to calculate the amount of tax to be deducted from his emoluments (hereinafter called a "**coding notice**"), or where an individual objects to a decision of the [Director] to refuse, cancel, attach a condition to, or reduce the period of validity of, an E.T.I. exemption certificate, he may appeal [...] in accordance with the provisions of Part VII of this Law and for the purposes of the said Part VII the coding notice[, or the [Director]'s decision, as the case may be,] shall be deemed to be a direction made by the [Director].

(12) In this section and in any regulations made hereunder –

- (a) the person making any of the payments referred to in [paragraph (b), (bA) or (c)] of subsection (2) of this section shall be deemed to be the employer of the person to whom the payment is made,
- (b) the recipient of such payment shall be deemed to be the employee of the person making the payment,
- (c) the amount of such payment shall be deemed to be an emolument of employment,
- [(d) an "**E.T.I. exemption certificate**" means a certificate issued by the [Director] in accordance with regulations made under subsection (4) of this section, and is "**currently valid**" until the earlier of –
 - (i) the expiry date shown on it, or
 - (ii) publication in La Gazette Officielle of notice of its cancellation.]

[(13) References in this section and in any regulations made under it to the payment of, or on account of, any income or emoluments arising or accruing from an office or employment include references to the provision of any benefit derived from that office or employment and comprised in the emoluments thereof.]]

NOTES

Section 81A was inserted by the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 1(d), with effect from 21st August, 1979.

In section 81A,

the marginal note thereto was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 24(a), with effect from 1st January, 2008;

the words in the first pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 24(b), with effect from 1st January, 2008;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in square brackets in paragraph (c) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2015, section 3, with effect from 1st January, 2016;

the word "and" in square brackets within the square brackets in paragraph (c) of subsection (1) was inserted by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 9, with effect from 1st January, 2023;

the word, figures and letter "section 42C" in square brackets in subsection (1)(c) was substituted by the Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022, regulation 5(2), with effect from 1st January, 2023;⁹²

the date in square brackets in subsection (2) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 5(a), with effect from 1st January, 1992;⁹³

paragraph (bA) of subsection (2) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 5(b), with effect from 1st January, 1992;

the words in the first pair of square brackets in paragraph (c) of subsection (2) were inserted, and the words omitted in the second pair of square brackets therein were repealed, by the Income Tax (Amendment) (Guernsey) Law, 1990, respectively section 2(1)(b)(i) and section 2(1)(b)(ii), with effect from 1st January, 1991;

the words in the third pair of square brackets in paragraph (c) of subsection (2) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 24(c), with effect from 1st January, 2008;

subsection (2A) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(c), with effect from 1st January, 1991;

the word "Director" in square brackets, wherever occurring, was

*substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*⁹⁴

the words in the first and second pairs of square brackets in subsection (3) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 24(d), with effect from 1st January, 2008;

the words in the fourth pair of square brackets in subsection (3) were inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(d), with effect from 1st January, 1991;

subsection (3A) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2007, section 3 and, in accordance with the provisions of section 5 of the 2007 Law, shall have effect on and from 27th June, 2007;

subsection (4A) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(e), with effect from 12th December, 1990;

subsection (4B) was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 10, with effect from 28th January, 2009;

the words in square brackets in subsection (6) were inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(f), with effect from 12th December, 1990;

*subsection (10) was substituted by the Preferred Debts (Guernsey) Law, 1983, section 5, with effect from 5th July, 1983;*⁹⁵

the words in the second and fourth pairs of square brackets in subsection (11) were inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, respectively section 2(1)(g)(i) and section 2(1)(g)(ii), with effect from 12th December, 1990;

the words omitted in the third pair of square brackets in subsection (11) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the words in square brackets in paragraph (a) of subsection (12) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 5(c), with effect from 1st January, 1992;

paragraph (d) of subsection (12) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(h), with effect from 12th December, 1990;

subsection (13) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 6(2), with effect from 1st January, 2009.

The following Regulations have been made under section 81A:

Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007;

Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) (No. 2) Regulations, 2009;

Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2014;

Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2016;

Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017.

[Collection of tax on distributions [...] by instalments.]

81B. (1) The provisions of this section have effect for the purpose of requiring tax to be deducted when a company distributes any of its undistributed income, subject to and in accordance with regulations made by the [Committee] under this section, notwithstanding –

- (a) that when the distribution is made no assessment has been made in respect of the income to which that distribution relates,
- (b) that the income is in whole or in part income which may be chargeable to tax for some year of charge other than the year of charge during which the distribution is made,
- (c) the provisions of section 43(1) [(as read with [[section 42C] and] section 47AA)] which prescribe the circumstances in which the income of a married woman living with her husband shall be treated as the income of the husband.

(2) Where any distribution of a company's undistributed income is made, tax shall be deducted and withheld therefrom by the person making the distribution in accordance with the provisions of this section.

[(3) Tax shall be deducted –

(a) where the person to whom the distribution is made is an individual, at a rate equivalent to the difference between –

(i) the company rate at which the income from which the distribution was made has been taxed or is taxable, and

(ii) the individual standard rate,

and where tax is deducted pursuant to this paragraph, then for the purposes of –

(A) section 58, the reference in that section to the deduction of tax in accordance with section 81B shall be construed as a reference to the deduction of,

(B) section 61, the reference in that section to the amount of the tax credit shall be construed as a reference to a credit equal to,

the amount of tax paid or payable by the company in

respect of that distribution plus the amount of tax deducted from that distribution pursuant to this paragraph, and

(b) where the person to whom the distribution is made is a company, at the company standard rate.]

(4) Any tax deducted in accordance with the provisions of subsection (2) shall be applied towards the payment of any tax charged or chargeable upon the person who has borne the deduction for the year of charge in which the distribution is made and for any year of charge prior to that year of charge and any penalty and surcharge and additional surcharge payable by him and where any tax so deducted is greater than such tax payable by that person and any penalty and surcharge and additional surcharge payable by him, the appropriate repayment shall be made by the [Director].

(5) For the avoidance of doubt if any income from which tax has been deducted has not been included in any assessment of tax made under section 73(2)(a) then the tax deducted from such income shall not, under subsection (4), be applied towards the payment of tax due from that assessment.

(6) The [Committee] may from time to time make regulations for the purposes of carrying out the provisions of this section.

(7) Any regulations made under [subsection (6)] do not have effect unless and until approved by a resolution of the States.

(8) Any tax deducted by a company from a distribution in accordance with this section shall be payable by the company in such manner and at such times as may be prescribed by or under regulations made under subsection (6).

(9) [Where a company fails to deduct from a distribution of undistributed income the tax which it is required to deduct under this section, the amount of tax payable shall be determined in accordance with section 59 and shall be payable by the company as if it had been deducted accordingly, and where the amount of any such tax is paid by the company –]

- (a) that amount shall be deemed to be tax deducted in accordance with subsection (2),
- (b) that amount shall be recoverable by the company from the person to whom the distribution was made as a civil debt due to the company, and
- (c) that amount is not recoverable by the [Director] from the person to whom the distribution was made.

(10) Where a company fails to pay to the [Director] any tax deducted by it from a distribution in the manner and at the times prescribed by or under this section, the amount is (without prejudice to any other remedy or penalty under this Law) recoverable by the [Director] from the person to whom the distribution was made.

(11) Every agreement for the making without deduction of tax of any distribution to which this section relates is void.

(12) Where any distribution is made, the company shall make a quarterly return to the [Director] detailing –

- (a) the name [and address] of the person to whom the distribution is made,

- (b) the date and amount of the distribution, and
- (c) the date and amount of tax paid.

(13) The quarterly return required under subsection (12) must be filed with the [Director] within 15 days of the relevant reporting date, together with payment for any income tax due under this section [...].

(14) If the [Director] believes that a company has not complied with the requirements of subsection (13), the [Director] may make an assessment of the tax due or an additional assessment under section 75.

(15) ...

[(16) Where a distribution has been deemed to have been made to an individual ("Person A") under section 62AB or 62D, then references in this section (except subsection (12)) to the person to whom the distribution was made shall be construed as referring to Person A only.]

[(17) If a company makes a distribution within the meaning of section 62AA, the distribution shall be deemed to have been made from the company's undistributed income and only from the company's [other income and] capital to the extent that the company's undistributed income is insufficient to cover the amount of the distribution; and the provisions of this section shall, subject to the provisions of section 62A(5), apply accordingly.]

[(18) ...]

[(19) For the avoidance of doubt, and subject to the provisions of regulations under subsection (20), the provisions of this section do not apply in relation to a company which has been granted an exemption from tax under an

Ordinance made under section 40A.

(20) The [Committee] may, notwithstanding any other provision of this Law, by regulations –

- (a) extend the application of this section to any specified class or description of company,
- (b) exempt any specified class or description of company from the application of this section,
- (c) prescribe conditions subject to which any such extension or exemption is to have effect, and
- (d) make consequential modifications to this section or any other provision of this Law in its application to any specified class or description of company.

"Specified" means specified in the regulations.

(21) The provisions of section 203 (requirement to lay regulations before a meeting of the States) apply to regulations made under subsection (20).]]

NOTES

Section 81B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 25, with effect from 1st January, 2008.

In section 81B,

the words omitted in square brackets in, first, the marginal note thereto and, second, in the second pair of square brackets in subsection (13) were repealed and, third, subsection (15) and, fourth, subsection (18) (which latter subsection was originally inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 18, with effect from 29th April,

2009) were repealed by the *Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012*, respectively section 10(a), section 10(c), section 10(d) and section 10(f), with effect from 1st January, 2013;⁹⁶

the word "Committee" in square brackets, wherever occurring, was substituted by the *Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016*, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in square brackets in paragraph (c) of subsection (1) were inserted by the *Income Tax (Guernsey) (Amendment) Ordinance, 2015*, section 4, with effect from 1st January, 2016;

the word "and" in square brackets within the square brackets in paragraph (c) of subsection (1) was inserted by the *Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020*, section 10, with effect from 1st January, 2023;

the word, figures and letter "section 42C" in square brackets in subsection (1)(c) was substituted by the *Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022*, regulation 5(2), with effect from 1st January, 2023;⁹⁷

subsection (3) was substituted by the *Income Tax (Guernsey) (Budget) Ordinance, 2024*, section 8, with effect from 1st January, 2025;⁹⁸

the word "Director" in square brackets, wherever occurring, was substituted by the *Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018*, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;⁹⁹

the word, figure and parentheses in subsection (7) were substituted by the *Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009*, section 17, with effect from 29th April, 2009;

the words in the first pair of square brackets in subsection (9) were substituted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007*, section 31(b), with effect from 1st January, 2008;

the words in square brackets in paragraph (a) of subsection (12) were inserted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007*, section 31(c), with effect from 1st January, 2008;

subsection (16) was inserted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007*, section 31(e), with effect from 1st January, 2008;

subsection (17) was inserted by the *Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009*, section 18, with effect from 29th April, 2009;

the words in square brackets within subsection (17) were inserted by the Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 10(e), with effect from 1st January, 2013;

subsection (19), subsection (20) and subsection (21) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 24, with effect from 27th October, 2009.

The following Regulations have been made under section 81(B):

Income Tax (Tax Deductions from Company Distributions) Regulations, 2008.

[Collection of tax on disregarded individual income and disregarded company income.]

81BB. Notwithstanding the provisions of Chapter XII of Part IV (in the case of a qualifying loan within the meaning of that Chapter) and sections 81A and 81B, tax shall not be deducted on disregarded individual income within the meaning of section 47D or on disregarded company income within the meaning of section 47I.]

NOTE

Section 81BB was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 32, with effect from 1st January, 2008.

[Income from service companies.]

81C. If an individual ("**the worker**") personally performs, or is under an obligation personally to perform, services for a business carried on by another person ("**the client**") and –

- (a) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third person,
- (b) if the services were provided under a contract directly

between the client and the worker, the worker would be regarded for the purposes of this Law as an employee of the client,

- (c) there is a corporate or partnership relationship between the worker and the third person, and
- (d) there is no corporate or partnership relationship between the client and the third person, unless the worker or any person connected to him –
 - (i) has, where the client is a company, directly or indirectly control of more than 5 per cent of the issued share capital of the client or any company connected with it, or
 - (ii) is, where the client is a partnership, a partner therein,

then the monies paid to, and all expenses of, the third person shall be deemed to be the Class 2(1)(b) income of, and the expenses of, the worker for tax purposes, and section 81A shall apply accordingly as if the worker were the employee of the third person.]

NOTE

Section 81C was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 26, with effect from 1st January, 2008.

Collection of tax and penalty pending appeal.

82. (1) Where notice of an appeal to the [Committee] [or [the

Guernsey Revenue Service Tribunal]] against an assessment [(other than an interim assessment made under section 73(2)(a), in respect of which the provisions of section 76A apply)] or a penalty [or surcharge or additional surcharge] has been given, the [Director] may, at his discretion, allow such part of the tax charged in consequence of the assessment as appears to him to be in dispute, and the whole or part of the penalty [or surcharge or additional surcharge] imposed, to remain unpaid pending the result of such appeal.

(2) On the determination of the appeal any balance of tax or penalty [or surcharge or additional surcharge] shall become payable, and any tax or penalty [or surcharge or additional surcharge] overpaid shall be repaid.

NOTES

In section 82,

the word in the first pair of square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in the second pair of square brackets in subsection (1) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(3), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022;

the words in the third pair of square brackets in subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 12, with effect from 1st January, 2017;

the words "or surcharge or additional surcharge" in square brackets, wherever occurring, were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 27, with effect from 1st January, 2008;

the word in the fifth pair of square brackets in subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to

*the savings and transitional provisions in section 2 of the 2018 Ordinance.*¹⁰⁰

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

Enforcement of payment [and service of summons].

83. [(1)] In default of payment of tax[, including any tax [payable under the provisions of section 66C or] deducted or deductible under the provisions of section [81A or 81B],] or penalty by the due date, the [Director] may proceed to enforce payment as if the amount due were a civil debt.

[(2)] Service of a summons on a person to appear before the Royal Court, Magistrate's Court or Court of Alderney for the payment of income tax, penalties, surcharges or additional surcharges under this Law or for the enforcement, collection or recovery of a revenue claim pursuant to section 83J is deemed to be effected, and shall enable the matter to proceed in all respects, if the summons is –

- (a) addressed to the person concerned –
 - (i) at his or her usual or last known place of residence or at his or her relevant address, or
 - (ii) in the case of a company, at its principal place of business or at its relevant address, and
- (b) delivered by hand or posted to that place or address,

and in this subsection –

"posted" means prepaid and sent by tracked delivery, recorded delivery or signed for delivery (and, in the case of a summons which is posted, service is deemed to be effected when the summons is delivered),

"relevant address" means an address with which, in the opinion of the Director, the person concerned has a personal, business or other connection and at which a document served is likely to come to his or her attention and (without limitation) includes, in the case of a company, its registered office.

(3) For the purposes of subsection (2), a summons shall be deemed to have been –

- (a) addressed to the person concerned, and
- (b) delivered by hand or posted to a place or address,

if the person effecting service certifies that it was addressed, and delivered or posted (as the case may be), in accordance with that subsection.

(4) Subsections (2) and (3) are in addition to and not in derogation from the provisions of the Royal Court Civil Rules, 2007, the Court of Alderney Civil Rules, 2005 and any other enactment or rule of law relating to the service of documents.]

NOTES

In section 83,

first, the words in square brackets in the heading thereto were inserted, second, subsection (1) was re-numbered and, third, subsection (2), subsection (3) and subsection (4) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 16, respectively

paragraph (a), paragraph (b) and paragraph (c), with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the words in the first pair of square brackets were inserted by the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 1(e), with effect from 21st August, 1979;

the words, figures and letters in the first and second pairs of square brackets within the first pair of square brackets were, respectively, inserted and substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, respectively section 19(a) and section 19(b), with effect from 29th April, 2009;

the word in the second pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁰¹

[PART VIIIA

ONSITE VISITS IN RESPECT OF BUSINESS PREMISES

Powers to enter premises and inspect documents.

83A. (1) The Director may, during normal business hours or at any other reasonable time, if the Director considers it necessary to do so for the prescribed purposes –

- (a) enter any business premises, and
- (b) inspect the premises and any business documents therein.

(2) The "**prescribed purposes**" are –

- (a) the purposes of ascertaining whether the provisions of this Law or any Ordinance or regulation under it or of any approved international agreement or international

tax measure (the "**relevant tax provisions**") are applicable,

- (b) the purposes of ascertaining compliance with the relevant tax provisions,
 - (c) otherwise, the purposes of the relevant tax provisions, or
 - (d) the purposes of the performance of the Director's functions in respect of the relevant tax provisions.
- (3) The entry and inspection may only take place if –
- (a) the occupier of the premises consents,
 - (b) the Director has given the occupier at least 7 days' written notice of the entry and inspection and when it will take place (and written notice under this paragraph may be served by the Director in the same manner as a notice of assessment may be served under section 73A(1)), or
 - (c) the entry and inspection has been approved by the Bailiff under section 83B and the Director complies with section 83C.
- (4) The Director may not inspect –
- (a) any part of the premises used solely as a dwelling,

- (b) items subject to legal professional privilege within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 (but for the purposes of this section items held with the intention of furthering a criminal purpose are not items subject to legal professional privilege), or
- (c) a document relating to the conduct of any appeal relating to tax or taxation.

(5) The powers of inspection conferred by this section include power to obtain and record information (whether electronically or otherwise) relating to business premises and business documents inspected.

(6) In this Part of this Law –

"business documents" means documents which relate to the carrying on of a business and which –

- (a) are of a class or description required under this Law (or any Ordinance or regulation under it) to be kept in respect of the business, or
- (b) contain or may contain information relevant to any of the prescribed purposes,

"business premises" means premises or any parts of premises which the Director has reason to believe are used in connection with the carrying on of a business.]

NOTE

Part VIIIA, and section 83A thereof, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Approval of entry and inspection by Bailiff.]

83B. (1) The Director shall, where the Director wishes to obtain approval of an entry and inspection for the purposes of section 83A(3)(c), make a written application accompanied by information on oath to the Bailiff.

(2) The application must specify the reasons for making it and identify the premises, the occupier and the business documents or class or description of business documents to which the application relates.

(3) The application may, with the approval of the Bailiff, and subject to such terms and conditions as the Bailiff may direct, be made *ex parte*.

(4) The Bailiff may give approval in writing if satisfied that the Bailiff is reasonably justified in doing so in all the circumstances of the case.

(5) The approval may be given on such terms and conditions (including, without limitation, a term or condition that the Director must or may be accompanied by any person specified, or of a class or description specified, in the approval) and subject to such penalty as the Bailiff thinks just.

(6) In this Part of this Law the "**Bailiff**" means the Bailiff, Deputy-Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué and, where the premises in question are in Alderney, includes the Chairman of the Court of Alderney or, if the Chairman is unavailable, a Jurat thereof.]

NOTE

Section 83B was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Notice requirement for entry and inspection.

83C. The Director must, when entering premises pursuant to the approval of the Bailiff under section 83B, give notice –

- (a) to the occupier of the premises, if the occupier is present,
- (b) if the occupier is not present, to another person who appears to be in charge of the premises, or
- (c) if there is no such person, by leaving the notice in a prominent place in the premises.]

NOTE

Section 83C was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Power to require reasonable assistance.

83D. (1) This section applies if the Director has entered business premises pursuant to the approval of the Bailiff under section 83B.

(2) The Director may require a person described in subsection (3) who is present on the premises to give the Director all such assistance as may reasonably be requested to facilitate the execution of the search for, accessing,

inspection or removal of any document and otherwise to enable the performance of the Director's functions for the purposes of the entry and inspection (an "**assistance requirement**").

- (3) The persons referred to in subsection (2) are –
- (a) the person whose tax position, business or activities are being examined (the "**investigated person**"),
 - (b) a tax adviser of the investigated person,
 - (c) anyone employed or engaged by the investigated person or the tax adviser to perform work at the business premises, and
 - (d) 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.

(4) When making an assistance requirement of a person, the Director must inform the person in writing that a contravention of the requirement is an offence under this Law.]

NOTE

Section 83D was inserted by the Income Tax (Guernsey) (Amendment)

Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Other provisions in respect of documents.]

83E. (1) The Director may take copies of or extracts from any business document.

(2) The Director may –

- (a) at any reasonable time, remove any business document and retain it for a reasonable period, or
- (b) take any steps which appear to be necessary for preserving any business document or preventing interference with it.

(3) The Director may require any person who was required to produce a business document –

- (a) to attend at such time and place as may be required and to give an explanation of and to answer questions relating to it or anything in it, and
- (b) if the document is not produced, to state, to the best of his knowledge and belief, where it is.

(4) If a business document is stored or recorded in electronic form, the Director may require the document to be produced in a form –

- (a) in which it can be taken away, and

- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.

(5) The Director must, if the owner of any business document removed and retained under this section so requests at any time, give the owner –

- (a) a receipt for the document, and
- (b) if the owner reasonably requires the document for any immediate purpose, and the Director does not wish to return it, a copy of the document, which must be given free of charge.

(6) If a business document is lost or damaged before it is returned to the owner, the Director must compensate the owner for any costs reasonably incurred in the document's replacement or repair.]

NOTE

Section 83E was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Offences of obstruction, etc.]

83F. A person who, without reasonable excuse, contravenes an assistance requirement made of that person under section 83D or otherwise obstructs or fails to comply with any requirement imposed by a person exercising or purporting to exercise any power conferred by or under this Part of this Law is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale.]

NOTE

Section 83F was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Other powers of investigation, etc, not prejudiced.]

83G. The provisions of this Part of this Law are in addition to and not in derogation from any other provision of this Law or any Ordinance or regulation under it.]

NOTE

Section 83G was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[PART VIII B

ASSISTANCE IN COLLECTION OF OVERSEAS TAX DEBTS

Implementation of provisions of approved international agreements about assistance in collection.

83H. (1) The purpose of this Part of this Law is to implement (within the meaning of section 75CC) the provisions of Article 27 ("assistance in the collection of taxes") of the double taxation agreement between the States of Guernsey and the Government of the United Kingdom of Great Britain and Northern Ireland for the Elimination of Double Taxation with Respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance and Protocol given effect by an exchange of letters between the two governments on the 2nd July,

2018^{id}.

(2) This Part of this Law has effect notwithstanding any rule of private international law (applied in *Government of India v. Taylor*^{ie}, and however expressed) prohibiting or restricting the enforcement in Guernsey, directly or indirectly, of –

- (a) tax debts due to,
- (b) claims for the collection, recovery or payment of taxes or other revenue claims by, or
- (c) judgments for the payment of taxes given by the courts of,

another territory.

(3) The Committee may by regulation provide that the provisions of this Part of this Law apply (with such exceptions, adaptations and modifications as may be specified in the regulations) in respect of the provisions of an approved international agreement or international tax measure specified in the regulations as they apply in respect of the provisions of the double taxation agreement with the Government of the United Kingdom referred to in subsection (1).]

id The agreement was specified in a Resolution of the States of Deliberation under section 172 of the Law on the 12th December, 2018 (Billet d'État XXVII of 2018, Article XXIII), and therefore has effect for the purposes of that section; and was also specified, pursuant to section 75C of the Law, as an approved international agreement for the purposes of the Law by the Income Tax (Guernsey) (Approval of Agreement with the United Kingdom) Ordinance, 2018.

ie (1955) A.C. 491.

NOTE

Part VIIIB, and section 83H thereof, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

Meaning of "revenue claims".

83I. (1) The claims which can be collected under this Part of this Law ("revenue claims") are for –

- (a) amounts owed in respect of United Kingdom tax, and
- (b) interest, administrative penalties and costs of collection and conservancy related to such amounts (including, without limitation and for the avoidance of doubt, costs and fees incurred in respect of proceedings in the courts of Guernsey).

(2) In this Part of this Law –

- (a) "**United Kingdom tax**" means any tax or duty imposed under the domestic law of the United Kingdom including, without limitation, income tax, corporation tax, capital gains tax, VAT and excise duties, and
- (b) "**United Kingdom**" means the United Kingdom or any part thereof.]

NOTE

Section 83I was inserted by the Income Tax (Guernsey) (Amendment)

Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Collection of revenue claims.

83J. (1) When a revenue claim of the United Kingdom is, at any time –

- (a) enforceable under the law of the United Kingdom, and
- (b) owed by a person who, at that time, cannot, under the law of the United Kingdom, prevent its collection,

that revenue claim shall, at the request of the competent authority of the United Kingdom, be accepted for the purposes of collection by the Director.

(2) For the avoidance of doubt and without limitation, it is not necessary for the competent authority of the United Kingdom to have obtained a court judgment in the United Kingdom in respect of a revenue claim for it to be owed, for the purposes of subsection (1), by a person who cannot, under the law of the United Kingdom, prevent its collection.

(3) For the purposes of subsection (1) a revenue claim shall be deemed –

- (a) to be enforceable under the law of the United Kingdom, and
- (b) to be owed by a person who cannot, under the law of the United Kingdom, prevent its collection,

if the Director has received from the competent authority of the United Kingdom a

certificate called for the purposes of this Part of this Law an "**Instrument Permitting Enforcement**" stating that the circumstances specified in paragraphs (a) and (b) are made out and particularising the identity of the debtor, the amount of the claim and the description of United Kingdom tax in respect of which the claim is owed.

(4) Upon receipt of an Instrument Permitting Enforcement in respect of a revenue claim –

(a) the revenue claim shall, for the purposes of enforcement, collection and recovery, be treated under the law of Guernsey in all respects as if the amount owed were a liability to tax under this Law arising in consequence of a final assessment the time limit for appealing against which under section 76 has expired,

(b) the Director shall –

(i) issue a notice to the person named in the Instrument Permitting Enforcement stating that the revenue claim is to be collected from that person, and

(ii) pursue the collection of the revenue claim in Guernsey from that person in accordance with the provisions of this Law and the law of Guernsey applicable to the enforcement, collection and recovery of a liability to tax under this Law, and

(c) the settlement date in respect of the revenue claim for the purposes of section 199(1) shall be the 30th day

immediately following the date of the notice referred to in paragraph (b)(i).

(5) Service of an Instrument Permitting Enforcement and a notice of the Director under subsection (4)(a) shall be effected in accordance with section 73A in all respects as if the Instrument and notice were a notice of assessment, and the provisions of sections 73A and 73B shall apply accordingly.

(6) In enforcing, collecting and recovering a revenue claim under this section, the Director may rely in all respects upon –

- (a) the Instrument Permitting Enforcement, and
- (b) all information, documents and particulars provided by the competent authority of the United Kingdom in support of it.

(7) In any legal proceedings (criminal or otherwise), whether or not under the provisions of or for the purposes of this Law, an Instrument Permitting Enforcement is admissible in evidence in any court, tribunal or administrative review body and irrefutable proof of the matters stated therein.

(8) The Director may ask the competent authority of the United Kingdom for further information, documents and particulars in support of an Instrument Permitting Enforcement.]

NOTE

Section 83J was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Conservancy measures.]

83K. (1) When a revenue claim of the United Kingdom is a claim in respect of which the United Kingdom may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of the United Kingdom, be accepted for the purposes of taking measures of conservancy by the Director (including, without limitation and by way of example, arrêts conservatoires and injunctions).

(2) The Director shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of this Law and the law of Guernsey as if the revenue claim were a liability to tax under this Law even if, at the time when such measures are applied, the revenue claim is not enforceable in the United Kingdom or is not owed by a person who cannot, under the law of the United Kingdom, prevent its collection.

(3) In taking measures of conservancy in pursuance of a request under this section, the Director may rely in all respects upon –

- (a) the request, and
- (b) all information, documents and particulars provided by the competent authority of the United Kingdom in support of it.

(4) In any legal proceedings (criminal or otherwise), whether or not under the provisions of or for the purposes of this Law, a request to take measures of conservancy is admissible in evidence in any court, tribunal or administrative review body and irrebuttable proof of the matters stated therein.

(5) The Director may ask the competent authority of the United

Kingdom for further information, documents and particulars in support of a request to take measures of conservancy.]

NOTE

Section 83K was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Prescription and preferences not applicable.]

83L. Notwithstanding the provisions of section 83J and 83K, a revenue claim of the United Kingdom accepted by the Director for the purposes of those sections shall not, in Guernsey –

- (a) be subject to the time limits or accorded any priority applicable to a claim for the enforcement, collection and recovery of a liability to tax under this Law by reason of its nature as such, or
- (b) have any priority or preference applicable to such a claim under the law of Guernsey.]

NOTE

Section 83L was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Merits of revenue claim not justiciable in Guernsey.]

83M. (1) Proceedings with respect to the existence, validity or amount of a revenue claim of the United Kingdom shall not, provided that the Director has

received the Instrument Permitting Enforcement referred to in section 83J(4) or the request to take measures of conservancy referred to in section 83K, be brought before the courts, tribunals or administrative review bodies of Guernsey by or on behalf of the person who owes or is alleged to owe the revenue claim.

(2) The Instrument Permitting Enforcement and the request to take measures of conservancy are irrebuttable evidence of the existence, validity and amount of a revenue claim of the United Kingdom and evidence seeking to rebut statements of those matters in the Instrument Permitting Enforcement or request to take measures of conservancy may not be adduced before any court or tribunal in Guernsey.]

NOTE

Section 83M was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 14, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

PART IX

RELIEFS FOR CERTAIN CAPITAL EXPENDITURE

CHAPTER I

ANNUAL ALLOWANCES—GENERAL

Annual Allowances.

84. (1) Subject to the provisions of this Part of this Law, where a person carries on a business in any year of charge, an allowance (hereafter in this Part of this Law referred to as an "**annual allowance**") shall be made to him for that year of charge on account of the depreciation of any machinery, plant, building or glasshouse which belongs to him and is in use for the purposes of the business at the end of the basis period for that year of charge.

(2) Where, after the thirty-first day of December, nineteen hundred and eighty, a person carries on a business in any year of charge and incurs, for the purposes of that business, capital expenditure on the acquisition of patent rights, there shall be made to him an annual allowance in respect of that expenditure and for the purposes of the provisions of this Part of this Law such expenditure shall be deemed to be expenditure on the provision of machinery and plant.]

NOTE

Section 84 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1984, section 1(d), with effect from 1st January, 1982.

[Exclusion of double allowances on investment in hotel business.

84A. No allowance shall be made under this Part of this Law in respect of any expenditure if, for the same or any previous or subsequent year of charge, an allowance is or can be made in respect of that expenditure under Chapter III of Part X of this Law.]

NOTES

Section 84A was inserted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 4.

In accordance with the provisions of section 6(2) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 4 thereof applies for the year of charge 1991 and subsequent years of charge.

Rates of annual allowances.

85. The annual allowance shall be at such rates and computed in such manner as may, from time to time, be determined by the [Committee] and published in La Gazette Officielle, and different annual allowances may be prescribed as

aforesaid for different classes or descriptions of machinery, plant, building or glasshouse.

NOTE

In section 85, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Annual allowances for part of a year of charge.

86. If an annual allowance falls to be made to any person in respect of any machinery, plant, building or glasshouse in charging the profits of any business which is carried on by him for part only of the year of charge the said allowance shall be proportionately reduced.

Effect on annual allowances of previous user which has not attracted an annual allowance.

87. (1) In determining whether any, and if so what, annual allowance falls to be made to a person for any year of charge in respect of any machinery, plant, building or glasshouse which has been owned by him during any previous year of assessment or charge, there shall be deemed to have been made to him for every previous year of assessment or charge (including years during which the machinery, plant, building or glasshouse was not used for the purposes of the business, and years during which the business was not carried on by him) such annual allowance as would have fallen to be made to him if all the conditions specified in subsection (2) of this section had been fulfilled in relation to every such previous year.

(2) The said conditions are as follows, that is to say –

- (a) that the business had been carried on by the person in question ever since the date on which he acquired the machinery, plant, building or glasshouse and had been

so carried on by him in such circumstances that the profits thereof were liable to assessment to tax, and

- (b) that the machinery, plant, building or glasshouse had been used by him for the purposes of the business ever since that date, and
- (c) that a proper claim had been duly made by him for an annual allowance in respect of the machinery, plant, building or glasshouse for every relevant year of assessment or charge, and
- (d) that no question arose in connection with any year of assessment or charge as to the machinery, plant, building or glasshouse having been wholly or partly used by him otherwise than for the purposes of the business.

CHAPTER II

ANNUAL ALLOWANCES—MACHINERY AND PLANT

Effect on annual allowances of part-time use otherwise than for business purposes.

88. An annual allowance may be made in respect of any machinery or plant in charging the profits of any business for any year of charge notwithstanding that the machinery or plant is also used in that year for purposes other than those of the business, but where, in the basis period for any year of charge, machinery or plant is used for purposes other than those of the business, the annual allowance to be made in respect thereof shall be so much only of the allowance that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent and nature of the use for the said other

purposes during the basis period and to the capital expenditure which would necessarily have been incurred if only such machinery and plant had been acquired as was necessary for the purpose of the business.

Adjustments of annual allowances in special circumstances.

89. If the [Director] is satisfied in respect of any year of charge that the manner in which or the extent to which any machinery or plant is used in any basis period is such that the depreciation thereof is greater or less than that which might be expected to be caused by the use thereof in the normal manner and to the normal extent, he may direct that the annual allowance in respect of that machinery or plant for the said year of charge shall be at such rate, being a greater or lesser rate than the rate determined by the [Committee] under section eighty-five of this Law, as may from time to time be prescribed under this section by the [Committee].

NOTES

In section 89,

the word in the first pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁰²

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Allowances to lessors of machinery and plant.

90. (1) Where machinery or plant is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor, there shall be made to him, for each year of charge, an allowance on account of the depreciation of so much of the machinery or plant as is in use at the end of the basis period for the year of charge:

Provided that if the letting continues for part only of the year, the allowance shall be proportionately reduced.

(2) The preceding provisions of this Part of this Law shall apply in relation to any such lessor of machinery or plant as is mentioned in subsection (1) of this section as if the machinery or plant were, during the period of the letting, in use for the purposes of a business carried on by him, and as if any reference to annual allowances included a reference to any allowance made under this section.

[(3) For the purposes of this section the expression "**machinery and plant**" does not include furnishings.]

NOTE

In section 90, subsection (3) was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 28, with effect from 1st January, 2008.

Exclusion of double allowances.

91. No allowance shall be made under this Chapter or under Chapter I of this Part of this Law in respect of, or of the expenditure on, any machinery or plant if, for the same or any previous or subsequent year of charge, an allowance is or can be made in respect of that expenditure under the provisions of Chapter IV of this Part of this Law.

CHAPTER III

ANNUAL ALLOWANCES—BUILDINGS

Effect on annual allowances of part-time use otherwise than for business purposes.

92. An annual allowance may be made in respect of any building in charging the profits of any business for any year of charge notwithstanding that the

building is also used in that year for purposes other than those of the business, but where, in the basis period for any year of charge, the building is used for purposes other than those of the business, the annual allowance to be made in respect thereof shall be so much only of the allowance that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent and nature of the use for the said other purposes during the said basis period.

Change of ownership of building in use.

93. Where any building which is used in any year of charge by the person to whom it belongs for the purposes of a business carried on by him ceases in that year of charge, for any reason whatsoever, to belong to that person and commences to belong to some other person, then, for the purposes of this Part of this Law, the building shall be deemed to have been sold by the first-mentioned person to the said other person for a sum equal to the amount of the expenditure on the provision of the building still unallowed immediately before the building ceased to belong to the first-mentioned person.

Change of ownership of building not in use.

[94. Where –

- (a) in any year of charge, a building which is not used by the person to whom it belongs for the purposes of a business carried on by him in that year ceases, for any reason whatsoever, to belong to that person (hereinafter referred to as "**the first-mentioned person**") and commences to belong to another person (hereinafter referred to as "**the second-mentioned person**"), and
- (b) within a period of five years of the date on which the said building was last used for the purposes of a

business by the first-mentioned person or by any other person to whom it formerly belonged during the said period of five years, the second-mentioned person commences to use the said building for the purposes of a business carried on by him,

then, for the purposes of this Part of this Law, the said building shall be deemed to have been used by the first-mentioned person for the purposes of a business carried on by him in the year of charge in which it ceased to belong to him.]

NOTE

Section 94 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(e), with effect from 1st January, 1977.

CHAPTER IV
ANNUAL ALLOWANCES—GLASSHOUSES

Change of ownership of glasshouse.

95. Where any glasshouse which is used by the person to whom it belongs for the purposes of a business carried on by him in any year of charge ceases, for any reason whatsoever, to belong to that person and commences to belong to some other person, then for the purposes of this Part of this Law, the glasshouse shall be deemed to have been sold by the first-mentioned person to the said other person for a sum equal to the amount of the expenditure on the provision of the glasshouse still unallowed immediately before the glasshouse ceased to belong to the first-mentioned person.

Additional deductions under section 7.

96. Where any glasshouse to which the last preceding section of this Law applies ceases, for any reason whatsoever, to belong to one person and commences to

belong to another person then the second-mentioned person shall be entitled to such additional deductions, if any, under and by virtue of subsection (6) of section seven of this Law (which relates to income from businesses) as those to which the first-mentioned person would have been entitled if he had continued to own the glasshouse.

Allowances to lessors of glasshouses.

97. (1) Where a glasshouse is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor, there shall be made to him, for each year of charge, an allowance on account of the depreciation of so much of the glasshouse as is in use at the end of the basis period for the year of charge:

Provided that if the letting continues for part only of the year the allowance shall be proportionately reduced:

Provided further that any allowance which falls to be made under this section shall be reduced by the amount of any allowance in respect of the same glasshouse which falls to be made for the same year of charge under any other provision of this Law.

(2) The preceding provisions of this Part of this Law shall apply in relation to any such lessor of a glasshouse as is mentioned in subsection (1) of this section as if the glasshouse were, during the period of the letting, in use for the purposes of a business carried on by him, and as if any reference to annual allowances included a reference to any allowance made under this section.

(3) Any allowance made under or by virtue of this section shall be available primarily against the income arising from the ownership of the glasshouse.

(4) Where any glasshouse or any machinery or plant associated therewith is leased by the States of Guernsey to any person and is used by that person for the purpose of any business carried on by him, then for the purpose of calculating

any allowance or charge which falls to be made to or on any person under the provisions of this Part of this Law or under the provisions of Chapter I of Part X of this Law, such glasshouse, machinery or plant shall be deemed to belong to a person who is subject to tax in accordance with the provisions of this Law, and to be used by that person for the purposes of a business carried on by him.

Determination in certain cases of expenditure incurred on provision of glasshouse.

98. Where, as respects any glasshouse in relation to which the provisions of subsection (6) of section seven of this Law (which relates to income from businesses) have effect, and where for the purposes of that subsection the cost of the glasshouse falls to be determined in accordance with the provisions of sub-paragraph (b) of paragraph 3 of the First Schedule to this Law the amount of the cost so determined shall, for the purposes of this Part of this Law, be deemed to be the amount of the expenditure incurred on the provision of that glasshouse.

Replacement of demolished glasshouse.

99. Where any glasshouse which is used by the person to whom it belongs for the purposes of a business carried on by him in a year of charge is demolished and replaced by another glasshouse of substantially similar or greater dimensions, a replacement allowance shall be made to that person equal to the amount of the expenditure on the provision of the demolished glasshouse still unallowed immediately before it was demolished after the deduction therefrom of any sale, insurance, salvage or compensation monies received in respect of the demolished glasshouse and an amount equal to the open-market price at the time of demolition of any salvaged part of the glasshouse retained by that person.

CHAPTER V

BALANCING ALLOWANCES AND BALANCING
CHARGES—MACHINERY AND PLANT

Balancing allowances and balancing charges.

100. (1) Subject to the provisions of this section, where any of the following events occurs in the case of any machinery or plant in respect of which an annual allowance or an initial allowance has been made for any year of charge to a person carrying on a business, that is to say, either –

- (a) any event occurring after the setting up and before the permanent discontinuance of the business whereby the machinery or plant ceases to belong to the person carrying on the business (whether on a sale of machinery or plant or in any other circumstances of any description), or
- (b) any event occurring as aforesaid whereby the machinery or plant (while continuing to belong to the person carrying on the business) permanently ceases to be used for the purposes of the business carried on by him, or
- (c) the permanent discontinuance of the business, the machinery or plant not having previously ceased to belong to the person carrying on the business,

an allowance or charge (in this Law referred to as a "**balancing allowance**" or a "**balancing charge**") shall, in the circumstances mentioned in this section, be made to, or, as the case may be, on, that person for the year of charge in his basis period for which that event occurs.

(2) Where there are no sale, insurance, salvage or compensation monies, or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event

exceeds those monies, a balancing allowance shall be made and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid, or, as the case may be, of the excess thereof over the said monies.

(3) If the sale, insurance, salvage or compensation monies exceed the amount, if any, of the said expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the said amount still unallowed is nil, to the said monies.

(4) Notwithstanding anything in subsection (3) of this section, in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts, that is to say –

- (a) the amount of any annual allowance made to him in respect of the machinery or plant in question, and
- (b) the amount of any balancing allowance previously made to him in respect of the said expenditure, and
- (c) the amount of any obsolescence allowance made to him, and
- (d) the amount of the initial allowance, if any, made to him in respect of the said expenditure.

Effect on balancing allowances and balancing charges of part-time use otherwise than for business purposes.

101. Where any machinery or plant which has been used by a person for the purposes of a business carried on by him has also been used by him for other purposes, then, in determining whether a balancing allowance or balancing charge

falls to be made to or on him in charging the profits of the business and in determining the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes, and there shall be made to or on him an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

Effect on balancing allowances and balancing charges of previous user which has not attracted an annual allowance.

102. (1) Subject to the provisions of this section, the provisions of section eighty-seven of this Law (which relates to the effect on annual allowances of previous user which has not attracted an annual allowance) shall apply for the purposes of determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on a person as they apply for the purpose of determining whether any, and if so what, annual allowance falls to be made to a person.

(2) The only years for which an annual allowance is to be deemed for the purposes of this section to have been made shall be years during which the machinery or plant was not used by the person in question for the purposes of the business and years during which the business was not carried on by him, or was not carried on by him in such circumstances that the profits thereof were liable to assessment to tax.

(3) Nothing in this section shall affect the provisions of subsection (4) of section one hundred of this Law (which relates to balancing allowances and balancing charges).

Discontinuance of business by sale, demolition, destruction or loss of machinery or plant.

103. Where an event occurs which gives rise or might give rise to a

balancing allowance or balancing charge in respect of machinery or plant, and the event is the permanent discontinuance of a business, and at or about the time of the discontinuance there occurs in relation to the machinery or plant any [event such as is mentioned] in paragraphs (a) to (c) of the definition of the expression "sale, insurance, salvage or compensation monies" in section one hundred and twenty-two of this Law (which relates to the interpretation of this Part of this Law), not being a sale at less than the open-market price other than a sale to which section one hundred and eight of this Law (which relates to sales, etc., of machinery or plant between associated persons) applies, then for the purposes of determining –

- (a) whether the discontinuance gives rise to a balancing allowance or balancing charge, and, if so,
- (b) the amount of the allowance or, as the case may be, the amount on which the charge is to be made,

the amount of any net proceeds, compensation, receipts or insurance monies mentioned in the said paragraphs (a) to (c) which arise on the last-mentioned event shall be deemed to be an amount of sale, insurance, salvage or compensation monies arising on the permanent discontinuance of the business.

NOTE

In section 103, the words in square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1979, section 1(c), with effect from 1st January, 1979.

Discontinuance of business by occurrence of certain events and transfer of machinery or plant.

104. (1) Subject to the provisions of section one hundred and seven of this Law (which provides for an option in case of gift or sale of machinery or plant), subsection (2) of this section shall have effect where an event occurs which gives rise

or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, and either –

- (a) the event is the permanent discontinuance of the business and immediately after the time of the discontinuance the machinery or plant continues to belong to the person by whom the business was carried on immediately before the said time and the case is one not falling within the last preceding section of this Law, or
- (b) the event is the permanent discontinuance of the business and at the time of the discontinuance the machinery or plant is either sold at less than the open-market price, the sale not being one to which section one hundred and eight of this Law (which relates to sales, etc., of machinery or plant between associated persons) applies, or the machinery or plant is given away, or
- (c) the event is the sale of the machinery or plant at less than the open-market price, not being a sale to which the said section one hundred and eight of this Law applies, or is the gift of the machinery or plant, or
- (d) the event is that, after the setting-up and before the permanent discontinuance of the business, the machinery or plant permanently ceases to be used for the purposes of a business carried on by the person by whom the first-mentioned business is being carried on, and so ceases either by reason of that person's

transferring the machinery or plant to other use or, on a transfer of the business which is not treated as involving the discontinuance thereof, by reason of the retention of the machinery or plant by the transferor.

(2) For the purpose of determining whether a balancing allowance or balancing charge falls to be made and, if so, the amount of the allowance or, as the case may be, the amount on which the charge is to be made the event shall be treated as if it had given rise to sale, insurance, salvage or compensation monies of an amount equal to the open-market price of the machinery or plant.

Effect, in certain cases, of succession to businesses.

105. Where a person succeeds to a business as a beneficiary under the will or on the intestacy of a deceased person who carried on that business, the following provisions shall, if the beneficiary by notice in writing to the [Director] so elects, have effect in relation to any machinery or plant which passes to him together with the business, being machinery or plant previously owned by the deceased person and used by him for the purposes thereof, that is to say –

- (a) the reference in subsection (1) of section one hundred and nine of this Law (which relates to the effect, in certain cases, of succession to businesses, etc.) to the open-market price shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the succession in question, whichever is the less, and
- (b) notwithstanding anything in the said subsection (1),

such balancing charge, if any, shall be made on the beneficiary on any event occurring after his succession as would have fallen to be made on the deceased if he had not died and had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the beneficiary or the successor on any previous succession as is mentioned in the last foregoing paragraph.

NOTE

In section 105, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁰³

CHAPTER VI

MISCELLANEOUS AND GENERAL

Gift or sale of machinery or plant.

106. Subject to the provisions of the next succeeding section of this Law, where subsection (2) of section one hundred and four of this Law (which relates to the discontinuance of business by occurrence of certain events and transfer of machinery or plant) has effect by reason of the gift or sale of machinery or plant to any person, and that person receives or purchases it with a view to using it for the purposes of a business carried on by him, then in determining whether any, and if so what, annual allowances, balancing allowances or balancing charges are to be made in connection with that business the like consequences shall ensue as if the recipient or purchaser had purchased the machinery or plant at the open-market price.

Option in case of gift or sale of machinery or plant.

107. (1) Where in a case falling within the last preceding section the recipient or purchaser and the donor or seller by notice in writing to the [Director] jointly so elect, the following provisions shall have effect.

(2) Subsection (2) of section one hundred and four of this Law (which relates to the discontinuance of business by occurrence of certain events and transfer of machinery or plant) and the last preceding section of this Law shall have effect as if for the references to the open-market price there were substituted references to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the gift or sale, whichever is the less.

(3) Notwithstanding anything in this Part of this Law, such balancing charge, if any, shall be made on the recipient or purchaser on any event occurring after the date of the gift or sale as would have fallen to be made on the donor or seller if the donor or seller had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the recipient or purchaser.

NOTE

In section 107, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁰⁴

Sales, etc., of machinery or plant between associated persons.

108. (1) The provisions of this section shall have effect in relation to any sale of any machinery or plant after the fourth day of August, nineteen hundred and fifty-four, where either –

(a) the buyer is a body of persons over whom the seller has

control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them, or

- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under this Part of this Law.

(2) Where the machinery or plant is sold at a price other than the open-market price, then, subject to the following provisions of this section, the like consequences shall ensue for the purposes of this part of this Law, in their application to the tax of all persons concerned, as would have ensued if the machinery or plant had been sold for the open-market price.

(3) Subject to the provisions of this subsection and to the provisions of subsection (4) of this section, if the open-market price is greater than the limit of recharge on the seller, subsection (2) of this section shall have effect as if for the reference to the open-market price there were substituted a reference to the said limit of recharge:

Provided that this subsection shall not apply in relation to a sale of machinery or plant which has never been used if the business or part of the business of the seller was the manufacture or supply of machinery or plant of that class and the sale was effected in the ordinary course of the seller's business.

(4) Where the sale is one to which paragraph (a) of subsection (1) of this section applies and paragraph (b) of that subsection does not apply, and the

parties to the sale by notice in writing to the [Director] so elect, the following provisions shall have effect –

- (a) subsection (2) of this section shall have effect as if for the reference to the open-market price there were substituted a reference to that price or to the sum hereinafter mentioned whichever is the less, and
- (b) subsection (3) of this section shall not apply, and
- (c) notwithstanding anything contained in the preceding provisions of this section, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances or deductions in connection therewith as were done by or allowed to the buyer.

(5) The sum referred to in paragraph (a) of subsection (4) of this section is the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the sale, computed in accordance with the provisions of section one hundred and nineteen of this Law (which provides for the meaning of "expenditure unallowed").

(6) Reference in this section to a body of persons includes a body corporate, a body unincorporate and a partnership.

(7) In this section "**the limit of recharge**" means, in relation to a person who sells machinery or plant –

- (a) if he provided that machinery or plant for himself before the first day of January, nineteen hundred and fifty, the actual cost to him of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on machinery or plant by way of renewal, improvement or reinstatement,
- (b) if he provided the machinery or plant for himself on or after the first day of January, nineteen hundred and fifty, the expenditure incurred by him on the provision thereof.

NOTE

In section 108, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁰⁵

Effect, in certain cases, of succession to businesses, etc.

109. (1) Where a person succeeds to any business which until that time was carried on by another person [...], any machinery or plant which, immediately before the succession takes place, was in use for the purposes of the discontinued business and, without being sold, is, immediately after the succession takes place, in use for the purposes of the new business, shall, for the purposes of this Part of this Law, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the open-market price.

(2) Where, after the setting up and on or before the permanent discontinuance of a business which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge in respect of machinery or plant, any balancing allowance or balancing charge, which,

if the business had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the business at the time of that event, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the business and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

NOTE

In section 109, the words omitted in square brackets in subsection (1) were repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 13, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

Apportionment of consideration, and exchanges.

110. (1) Any reference in this Part of this Law to the sale of any property includes a reference to the sale of that property together with any other property and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as, on a just apportionment, is properly attributable to the first-mentioned property shall, for the purposes of this Part of this Law, be deemed to be the net proceeds of the sale of the first-mentioned property, and references to expenditure incurred on the provision or the purchase of the property shall be construed accordingly.

(2) For the purposes of subsection (1) of this section, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for certain items of that property or that there are or purport to be separate sales of separate items of that property.

(3) The provisions of subsection (1) of this section shall, with the

necessary adaptations, apply in relation to other sale, insurance, salvage or compensation monies as they apply in relation to the net proceeds of sales.

(4) This Part of this Law shall have effect as if any reference therein (including any reference in the preceding provisions of this section) to the sale of any property included a reference to the exchange of any property and any provisions of this Part of this Law referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange and references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.

Effect on partnerships.

111. (1) Where a business is carried on in partnership, for the purpose of assessing and charging the share of the profits of each partner of the partnership, the same allowances, deductions and charges shall be allowed or made in respect of any machinery, plant, building or glasshouse used for the purposes of that business and belonging to one or more of the partners but not being partnership property as would fall to be allowed or made if the machinery, plant, building or glasshouse had at all material times belonged to all the partners and been partnership property and everything done by or to any of the partners in relation thereto had been done by or to all the partners.

(2) Notwithstanding anything in section one hundred of this Law (which relates to balancing allowances and balancing charges), a sale or gift of machinery or plant used for the purposes of a business carried on in partnership, being a sale or gift by one or more of the partners to one or more of the partners, shall not be treated as an event giving rise to a balancing allowance or balancing charge if the machinery or plant continues to be used after the sale or gift for the purposes of that business.

(3) References in the foregoing provisions of this section to use for the purposes of a business do not include references to use in pursuance of a letting by the partner or partners in question to the partnership or to use in consideration of the making to the partner or partners in question of any payment which may be deducted in computing the profits of the business.

Application to shares in machinery or plant.

112. The provisions of this Part of this Law, other than the provisions of this section, shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant, and for the purposes of the said provisions a share in machinery or plant shall be deemed to be used for the purposes of a business so long as, and only so long as, the machinery or plant is used for the purposes thereof.

Application to offices and employments.

113. The provisions of this Part of this Law shall, with any necessary adaptations and to the extent that the machinery or plant is exclusively and necessarily so used, apply in relation to machinery or plant used in the performance of the duties of an office or employment as they apply in relation to machinery or plant used in a business.

Manner of charging tax and granting allowances in case of businesses, etc.

114. (1) Any claim by a person for an allowance falling to be made to him under any of the provisions of this Part of this Law in charging the profits of his business shall be included in the annual return of income required to be delivered under this Law and the allowance shall be made as a deduction in charging those profits.

(2) Where full effect cannot be given to any such allowance as aforesaid in any year owing to there being no profits chargeable for that year, or

owing to the profits chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall, for the purpose of making the assessment for the following year, be added to the amount of such allowances as aforesaid for that year, and be deemed to form part of those allowances, or, if there are no such allowances for that year, be deemed to be the allowances for that year, and so on for succeeding years.

(3) Any charge falling to be made under any of the provisions of this Part of this Law on a person for any year of charge in charging the profits of his business shall be made by means of an assessment on the profits of that business for that year of charge in addition to any other assessment falling to be made thereon for that year.

(4) Where a balancing charge falls to be made under this Part of this Law, the person on whom the balancing charge falls to be made may –

- (a) where the business to which the balancing charge relates has been carried on for the whole of the two years of charge next preceding the year of charge in which the balancing charge would fall to be made, elect to have the balancing charge made by three equal assessments on the profits of the business to which the balancing charge relates, the said assessments to be made for the year of charge in which, but for the election, the balancing charge would fall to be made and for each of the next two preceding years of charge, or
- (b) where the business to which the balancing charge relates has not been carried on for the whole of the two years of charge next preceding the year of charge in

which the balancing charge would fall to be made, elect to have the balancing charge made by two equal assessments, the said assessments to be made for the year of charge in which, but for the election, the balancing charge would fall to be made and for the next preceding year of charge.

(5) An election under subsection (4) of this section shall be made by notice in writing given to the [Director] not later than the end of the year of charge next following that in which the balancing charge falls to be made.

(6) Nothing in this section applies to any deduction allowable under any provision of this Part of this Law in computing the profits of a business.

NOTE

In section 114, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁰⁶

Option where allowance greater than income or profits.

115. Where, under any of the provisions of this Part of this Law, an allowance falls to be made to a person for any year of charge and the amount to be allowed is greater than the amount of his income or profits from the business or other source to which the allowance relates, the amount by which the allowance exceeds the said income or profits may if the person so elects, by notice in writing given to the [Director] [within the two years] next following the year of charge to which the allowance relates, be deemed to be a loss sustained in that business or in respect of the source of income or profits to which the allowance relates:

Provided that any part of any allowance which cannot be set off in the year of charge

against other income belonging to the claimant in accordance with the provisions of Part XI of this Law shall be carried forward in accordance with the provisions of subsection (2) of the last preceding section.

NOTES

In section 115,

the word in the first pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁰⁷

the words in the second pair of square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(n), with effect from 1st January, 1983.

Manner of making allowances and charges.

116. (1) Subject to the provisions of this section and of subsection (3) of section ninety-seven of this Law (which relates to allowances to lessors of glasshouses), any allowance or charge made to or on any person under the provisions of this Part of this Law shall be made to or on that person in charging the profits of his business.

(2) Any allowance made under or by virtue of section ninety of this Law (which relates to allowances to lessors of machinery and plant) shall be available primarily against the income or profits from the letting of machinery or plant.

(3) Any charge made under or by virtue of the said section ninety shall be made as if the charge was on an income or profit from the letting of machinery or plant.

Meaning of "annual allowance".

117. Any reference in this Law to an annual allowance shall, in relation to any year of assessment or charge before the year of charge nineteen hundred and fifty-five, include a reference to any deduction on account of depreciation under the Income Tax (Guernsey) Law, 1950^k, or under any enactment repealed by that Law.

Meaning of "basis period".

118. (1) In this Law "basis period" has the meaning assigned to it by the following provisions of this section.

(2) In the case of a person to or on whom an allowance or charge falls to be made in charging the profits of his business, his basis period for any year of charge is the period on the profits of which tax for that year falls to be finally computed in respect of that business:

[...]

(3) ...

NOTE

In section 118, the words in square brackets in subsection (2), and subsection (3), were repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, respectively section 14 and section 15, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

Meaning of "expenditure unallowed".

119. References in this Part of this Law to the amount still unallowed of any expenditure –

^k Ordres en Conseil Vol. XIV, p. 235.

- (a) on any machinery or plant as at any time shall be construed as references to the amount of that expenditure less –
 - (i) any annual allowances made to the person who incurred it in respect of the machinery or plant on the provision of which the expenditure was incurred, being allowances made for a year of assessment or charge before the year of charge nineteen hundred and fifty-five or for a year of charge the basis period for which ended before the time in question, and
 - (ii) the amount of any obsolescence allowance made to him under the Income Tax (Guernsey) Law, 1950, and
 - (iii) any balancing allowance made to him in respect of that expenditure,
 - (iv) the amount of the initial allowance, if any, made to him in respect of that expenditure,
- (b) on any building as at any time shall be construed as references to the amount of that expenditure less any annual allowances made or deemed to have been made in respect of the building on the provision of which the expenditure was incurred, being allowances made or deemed to have been made for a year of assessment or charge before the year of charge nineteen hundred and fifty-five or for a year of charge the basis period for

which ended before the time in question,

- (c) on any glasshouse as at any time shall be construed as references to the amount of that expenditure less any annual allowances made or deemed to have been made in respect of the glasshouse on the provision of which the expenditure was incurred, being allowances made or deemed to have been made for a year of assessment or charge before the year of charge nineteen hundred and fifty-five or for a year of charge the basis period for which ended before the time in question.

Interpretation of certain references to expenditure, etc.

120. (1) References in this Part of this Law to capital expenditure and capital sums –

- (a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of tax, the income or profits of a business carried on by him or any other source belonging to him,
- (b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the income or profits of any business carried on by him or any other source of income belonging to him.

(2) Any reference in this Part of this Law to the date on which the expenditure is incurred shall be construed as a reference to the date when the sums in

question become payable.

(3) Expenditure shall not be regarded for any of the purposes of this Part of this Law as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the States of Guernsey or by any government or public or local authority, whether in the Island of Guernsey or elsewhere.

(4) In considering, for the purposes of subsection (3) of this section, how far any expenditure has been or is to be met directly or indirectly by the States of Guernsey or by any government or authority, there shall be left out of account any insurance moneys or other compensation moneys payable in respect of any asset which has been demolished, destroyed or put out of use.

Interpretation of references to allowances.

121. Any reference in this Part of this Law to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or other income against which to make it.

Other provisions as to interpretation of Part IX.

122. (1) In this Part of this Law, except where the context otherwise requires –

"building" does not include a glasshouse,

"control" means –

- (a) in relation to a body corporate, the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers

conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person,

- (b) in relation to a partnership, the right to a share of more than one half of the assets, or of more than one half of the income of the partnership,
- (c) in relation to a body corporate or a partnership, the power of a person, who is a loan creditor thereof and who is, in the opinion of the [Director], able to exercise that power, to secure that the affairs thereof are conducted in accordance with the wishes of that person,

"open-market price", in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question,

"sale, insurance, salvage or compensation monies" means, in relation to an event which gives rise or might give rise to a balancing allowance or a balancing charge to or on any person –

- (a) where the event is a sale of any property, the net proceeds to that person of the sale,
- (b) where the event is the demolition or destruction of any property, the net amount received by him for the remains of the property, together with any insurance monies received by him in respect of the demolition or destruction and any other compensation of any

description received by him in respect thereof, in so far as that compensation consists of capital sums, and

- (c) as respects machinery or plant, where the event is the permanent loss thereof otherwise than in consequence of its demolition or destruction, any insurance monies received by him in respect of the loss and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums.

(2) Any reference in this Part of this Law to any machinery, plant, building or glasshouse, shall be construed as including a reference to a part of any machinery, plant, building or glasshouse.

(3) Any reference in this Part of this Law to the time of any sale of any machinery or plant shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

(4) Any reference in this Part of this Law to the setting up or permanent discontinuance of a business includes, except where the contrary is expressly provided, a reference to the occurring of any event which, under any of the provisions of this Law, is to be treated as equivalent to the setting up or permanent discontinuance of a business.

(5) ...

NOTES

In section 122,

the word in square brackets was substituted by the Director of

*Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;*¹⁰⁸

subsection (5) was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 15, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

[Amendment of Parts IX and X by regulation.]

122A. (1) The [Committee] may by regulation amend –

- (a) this Part and Part X of this Law, and
- (b) any other provision of this Law for the purpose of giving effect to this Part and Part X of this Law as from time to time amended.

(2) Regulations under subsection (1) may make such provision as the [Committee] thinks necessary or expedient for the purpose mentioned in subsection (1)(a) including, for the avoidance of doubt and without limitation, provision –

- (a) adding any annual or initial allowance, or any class or description thereof, to this Part or Part X of this Law,
- (b) removing, varying or suspending any such allowance, or any class or description thereof, for the time being specified in this Part or Part X of this Law, and
- (c) specifying or varying the rate of any such allowance, or of any class or description thereof, for the time being specified in this Part or Part X of this Law.

(3) Regulations under subsection (1), and any regulations amending or repealing such regulations, may be made by the [Committee] only with the prior agreement of the [Policy & Resources Committee].]

NOTES

Section 122A was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 11, with effect from 28th January, 2009.

In section 122A,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in square brackets in subsection (3) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The following Regulations have effect as if made under section 122A:

Income Tax (Guernsey) (Capital Allowances on Glasshouses) Regulations, 1973.

PART X
INITIAL ALLOWANCES

CHAPTER I
INITIAL ALLOWANCE ON GLASSHOUSES

Initial allowance on glasshouses.

123. (1) Subject to the provisions of this Part of this Law, where, after the thirty-first day of December, nineteen hundred and sixty-four, a person carrying on a business incurs, for the purposes of that business, capital expenditure for any or all of the purposes referred to in subsection (3) of this section, he may claim that there shall be made to him for the year of charge in [...] which the expenditure is incurred an allowance (in this Chapter referred to as an "**initial allowance**") equal to one-quarter of that expenditure or to such other proportion of that expenditure as the States may from time to time by Resolution prescribe.

(2) Where a glasshouse is let upon such terms that the burden of the depreciation thereof falls directly upon the lessor and –

- (a) the lessor is entitled to an allowance on account of the depreciation of the glasshouse under the provisions of section ninety-seven of this Law, and
- (b) the lessor incurs capital expenditure for any or all of the purposes referred to in subsection (3) of this section,

he may claim that there shall be made to him such initial allowance as would fall to be made if he were carrying on a business and the capital expenditure had been incurred for the purpose of that business.

(3) An initial allowance shall be made in accordance with the

provisions of the preceding subsections of this section in respect of capital expenditure –

- (a) on the provision of a glasshouse situate on an approved site and constructed so as to conform to such standards as the [Committee] may from time to time by regulation prescribe, or
- (b) on the provision and installation of heating apparatus which conforms to such standards as the [Committee] may from time to time by regulation prescribe and which is installed in a glasshouse which is so situate and so constructed that it satisfies the requirements of paragraph (a) of this subsection or in a glasshouse which is deemed to warrant improvement, or
- (c) on the provision and installation of apparatus for the automatic control of ventilation which conforms to such standards as the [Committee] may from time to time by regulation prescribe and which is installed in a glasshouse which is so situate and so constructed that it satisfies the requirements of paragraph (a) of this subsection or in a glasshouse which is deemed to warrant improvement, or
- (d) on the improvement of heating apparatus which has previously been installed in a glasshouse which is deemed to warrant improvement if, after the expenditure has been incurred, the heating apparatus as so improved conforms to such standards as the [Committee] may from time to time by regulation

prescribe, or

- (e) on the provision on an approved site of roadways and turning points which conform to such standards as the [Committee] may from time to time by regulation prescribe.

(4) For the purposes of subsection (3) of this section, a glasshouse shall be deemed to warrant improvement if it was constructed on an approved site before the first day of January, nineteen hundred and sixty-four; and –

- (a) it is well constructed and has been so maintained as to be in an efficient state of repair, and
- (b) the height of the fronts of the glasshouse is not less than five feet when measured from ground level inside the glasshouse, and
- (c) the width of the glass used in the construction of the glasshouse is not less than sixteen inches.

(5) Any capital expenditure incurred for the purposes of a business after the thirty-first day of December, nineteen hundred and sixty-four, by a person about to carry on the said business which if it had been incurred by that person after the date on which he commenced to carry on the business would have fallen to be treated as capital expenditure for the purposes of subsection (1) of this section shall for the purposes of that subsection be treated as if it had been incurred by that person on the first day on which he commenced to carry on that business.

NOTES

In section 123,

the words omitted in square brackets in subsection (1) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(o), with effect from 1st January, 1983;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Power to vary amount of initial allowance.

124. The States may, from time to time, by Resolution suspend the operation of the provisions of the last preceding section or may vary the amount of the initial allowance prescribed in that section.

Claims for initial allowance and right of election in respect thereof.

125. (1) An initial allowance shall not be made unless a claim that an initial allowance be made is submitted to the [Director] in writing by the person entitled to the allowance not later than [two years] after the end of the year in which the expenditure in respect of which the relief is claimed was incurred.

(2) Where an individual is entitled to claim an initial allowance and for the year of charge for which the initial allowance would, but for the provisions of this section, fall to be made the sum of the initial allowance and annual allowance which would otherwise fall to be made exceeds the amount of the profits which, but for the allowances, would be chargeable to tax, the individual may elect that one-half of the initial allowance be made for the year of charge in the basis period for which the expenditure was incurred and that one-half of the initial allowance shall be made for the next succeeding year of charge.

(3) Any election made in accordance with the provisions of subsection (2) of this section shall be made in writing by the individual entitled to the allowance not later than [three years] after the end of the year in which the

expenditure in respect of which relief is claimed was incurred.

NOTES

In section 125,

the word in the first pair of square brackets in subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁰⁹

the words in the second pair of square brackets in subsection (1) and in square brackets in subsection (3) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, respectively section 1(p) and section 1(q), with effect from 1st January, 1983.

Transfer of property within six years of receiving initial allowance.

126. (1) If within six years of the end of a year of charge for which an initial allowance has been made any property in respect of which the initial allowance was so made ceases to belong to one person and commences to belong to another person then the assessment for each year of charge for which the tax which would otherwise have been chargeable has been reduced as a direct or indirect consequence of the making of an initial allowance, shall be amended and tax shall be charged as if an initial allowance had not been claimed.

(2) The provisions of sections seventy-three, seventy-four and seventy-six of this Law shall apply with such adaptations as may be necessary to assessments made under this section.

(3) Assessments may be made under the provisions of this section at any time not later than six years after the end of the year of charge in which the change of ownership giving rise to the assessment takes place.

(4) The tax chargeable as a consequence of an assessment made under this section shall be payable within [30 days] from the date of the issue of the

notice of assessment and the provisions of sections eighty-two and eighty-three of this Law shall apply to the tax so chargeable.

NOTE

In section 126, the words in square brackets in subsection (4) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

Application of Part IX to initial allowances.

127. (1) The provisions of section ninety-seven of this Law shall apply as if any reference to an allowance on account of depreciation of a glasshouse included a reference to any initial allowance made under the provisions of this Part of this Law.

(2) The provisions of subsection (2) of section one hundred and fourteen of this Law shall apply to any initial allowance made under the provisions of this Part of this Law as if the allowance were an allowance made under Part IX of this Law.

(3) The provisions of section one hundred and fifteen of this Law shall apply as if an initial allowance made under the provisions of this Part of this Law were an allowance made under the provisions of Part IX of this Law.

(4) The provisions of subsection (1) of section one hundred and sixteen of this Law shall apply to the making of allowances and charges under this Part of this Law as if such allowances and charges were made under the provisions of Part IX of this Law.

(5) The provisions of paragraph (c) of section one hundred and

nineteen of this Law shall apply as if any reference to annual allowances in that paragraph included a reference to any initial allowance made under the provisions of this Part of this Law.

(6) The provisions of section one hundred and twenty of this Law shall apply, with such adaptations as may be necessary, to any reference to capital expenditure in this Part of this Law.

Expenditure on draining or levelling land.

128. Where expenditure is incurred on the levelling or draining of land in order to secure that such land may become an approved site and there is thereafter erected on such land a glasshouse in respect of which an initial allowance may be claimed, the expenditure so incurred shall be deemed to constitute part of the expenditure on the provision of the glasshouse.

Regulations for the purposes of Part X.

129. ...

NOTE

Section 129 was repealed by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 12, with effect from 28th January, 2009.

Appeals.

130. (1) Any person aggrieved by a decision of the [Director] given under any regulation of the [Committee] made under the provisions of section one hundred and twenty-nine of this Law shall be entitled to appeal [...] on giving to the [Director] notice in writing, stating the grounds of appeal, within [30 days] of the date of the issue of the notice of assessment or the notice of the [Director]'s decision.

(2) If any regulation of the [Committee] made under the provisions of section one hundred and twenty-nine of this Law allows a discretion to the [Director], any person aggrieved by the refusal of the [Director] to exercise any such discretion shall be entitled to appeal [...] on the ground that the [Director] has unreasonably declined to exercise the discretion allowed to him, on giving notice to the [Director], in writing, within [30 days] of the date of the issue of the notice of assessment or the notice of the [Director]'s decision, as the case may be.

(3) The provisions of Part VII of this Law shall apply in the case of an appeal under the provisions of subsection (1) or subsection (2) of this section as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the [Director], with such adaptations as may be necessary.

NOTES

In section 130,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹⁰

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words omitted in the third pair of square brackets in subsection (1) and in the fourth pair of square brackets in subsection (2) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the words in the fifth pair of square brackets in subsection (1) and in the seventh pair of square brackets in subsection (2) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitutions shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

Meaning of "approved site".

131. In this Part of this Law, unless the context otherwise requires, the expression "**approved site**" means a site which complies with such requirements as the [Committee] may from time to time by regulation prescribe.

NOTE

In section 131, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

CHAPTER II

INITIAL ALLOWANCE ON SHIPS AND AIRCRAFT

Initial allowance on ships and aircraft.

132. (1) Subject to the provisions of this Law, where, on or after the first day of January, nineteen hundred and fifty-seven, a person carrying on a trade incurs capital expenditure on the provision of a new ship or a new aircraft for the purposes of that trade there shall be made to him for the year of charge in [...] which the expenditure is incurred, an allowance (in this Chapter referred to as "**an initial allowance**") equal to three-tenths of the expenditure.

(2) Any expenditure incurred for the purposes of a trade on or after the date prescribed in subsection (1) of this section by a person about to carry on the said trade shall be treated for the purposes of that subsection as if it had been incurred by that person on the first day on which he commences to carry on the trade.

(3) The amount of any initial allowance made under subsection (1) of this section shall be taken into account for the purpose of determining whether any, and, if so, what, balancing allowance or balancing charge falls to be made to or on the person to whom the initial allowance has been made.

(4) The States may, from time to time, by Resolution vary the provisions of or may suspend the operation of the provisions of subsection (1) of this section.

(5) A Resolution under the provisions of the last preceding subsection may make different provisions for different classes of ships or aircraft and may make different provisions for different categories of ships or aircraft within those classes.

NOTE

In section 132, the words omitted in square brackets in subsection (1) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(r), with effect from 1st January, 1983.

[CHAPTER III

INITIAL ALLOWANCE ON INVESTMENT IN HOTEL BUSINESS

Initial allowance on hoteliers' premises.

132A. (1) Subject to the provisions of this Part of this Law, if, on or after 1st January, 1991, an hotelier incurs capital expenditure on the construction, reconstruction, extension, renovation or alteration of premises owned by him or leased to him, which are used wholly for the purposes of his business as an hotelier, he may claim that there shall be made to him for the year of charge in which the expenditure is incurred an allowance (in this Chapter referred to as "**an initial allowance**") equal to three tenths, or such other proportion as the States may from time to time resolve, of that expenditure.

(2) In this Chapter "**an hotelier**" means a person who carries on the business of providing sleeping accommodation for reward in accordance with a

boarding permit granted under the Tourist Law, 1948^{ka}, but also includes –

- (a) where premises are let to an hotelier on such terms that the burden of their depreciation falls directly on the lessor, the lessor of the premises, and
- (b) a person who is about to carry on that business, provided that expenditure incurred before the business is commenced shall be treated as if incurred on the day when the business is commenced.

(3) The States may from time to time by Resolution suspend the operation of this section or vary its provisions by altering the proportion referred to in subsection (1) or otherwise.]

NOTES

Chapter III of Part X, and section 132A, were inserted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 3.

In accordance with the provisions of section 6(2) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 3 thereof applies for the year of charge 1991 and subsequent years of charge.

[Claims for initial allowance and right of election.]

132B. (1) A claim for an initial allowance under section 132A must be submitted in writing to the [Director] within two years after the end of the year in which the expenditure is incurred.

(2) If an initial allowance under section 132A exceeds what would

ka Ordres en Conseil Vol. XIII, p. 329.

otherwise be an individual's chargeable profits for the year of charge in which the expenditure is incurred, he may elect that the allowance shall be split equally between that year of charge and the next.

(3) An election under subsection (2) of this section must be submitted in writing to the [Director] within three years after the end of the year in which the expenditure is incurred.]

NOTES

Section 132B was inserted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 3.

In section 132B, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹¹¹

In accordance with the provisions of section 6(2) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 3 thereof applies for the year of charge 1991 and subsequent years of charge.

[Withdrawal of initial allowance.

- 132C.** (1) This section applies where –
- (a) an initial allowance under this Chapter has been made in respect of any premises, and
 - (b) within six years after the end of the year of charge for which it was made –
 - (i) the premises cease, otherwise than on his death or in consequence of saisie proceedings, to be

owned by the person to whom the initial allowance was made, or

- (ii) in the case of an initial allowance made to a lessee, the lease is assigned, or is surrendered, forfeited or otherwise determined, or
- (iii) the premises cease to be used wholly for the purposes of the business of an hotelier.

(2) Where this section applies tax shall be charged as if the initial allowance had not been claimed, any relevant assessments shall be amended, and sections 73, 74, 76, 82 and 83 of this Law shall apply with any necessary adaptations.

(3) An assessment may be made in accordance with this section at any time within six years after the end of the year of charge in which an event referred to in paragraph (1)(b) occurs, and the tax chargeable in consequence of it is payable within [30 days] from the date of issue of the notice of assessment.]

NOTES

Section 132C was inserted by the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, section 3.

In accordance with the provisions of section 6(2) of the Income Tax (Allowances Amendments) (Guernsey) Law, 1993, the amendment made by section 3 thereof applies for the year of charge 1991 and subsequent years of charge.

In section 132C, the words in square brackets in subsection (3) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

PART XI
RELIEF IN RESPECT OF LOSSES

Losses may be set off against profits.

133. Where a person carries on, either solely or in partnership, two or more distinct businesses the profits of which fall to be computed in accordance with the provisions of section seven of this Law (which relates to income from businesses), and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation in respect of one or more of those businesses, that person may require [, subject to section 133A,] that the loss or his share of the loss shall be set off against the assessable income of any other such business for that year of charge:

Provided that if such other business is carried on by him in partnership the amount to be so set off against the assessable income thereof shall not exceed his share of the profits thereof.

NOTE

In section 133, the words in square brackets were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 29, with effect from 1st January, 2008.

[Set off of losses between classes.

133A. Losses from one class may only be set off against the assessable income from another class where those losses and the income are taxed at the same rate, as set out in the Fifth Schedule.]

NOTE

Section 133A was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 30, with effect from 1st January, 2008.

Set off of losses in relation to sources of income of same class.

134. Where a person possesses two or more sources of income of the same class, other than businesses to which the last preceding section applies, and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation in respect of one or more of those sources of income, that person may require that the loss shall be set off against the assessable income from any other source of income of the same class for that year of charge.

Set off of losses in other cases.

135. (1) Where the computation of the assessable income of any business or of income from any source for any year of charge shows that a loss has been sustained in any year of computation which cannot be set off either wholly or in part against the income of any other business or against the income from any other source of income of the same class under the provisions of the last two preceding sections then, subject to the provisions of this section, the person who has sustained the loss may require that the loss or the unrelieved part thereof shall be set off against income of any other class which, but for this section, would be wholly assessable to tax in that year of charge.

(2) Any such loss or any part thereof which may be set off under the provisions of this section shall first be set off against income of the corresponding type belonging to the person who has sustained the loss [...].

(3) Any such loss or any part thereof which cannot be set off against income of the corresponding type belonging to the person who has sustained the loss [...] shall [...] be set off against any other income belonging to that person [...].

(4) Where a person –

- (a) carries on, either solely or in partnership, two or more distinct businesses and the loss or losses sustained in respect of one or more of those businesses cannot be wholly set off under the provisions of section one hundred and thirty-three of this Law (which provides that losses may be set off against profits), because the loss or the aggregate of the losses sustained in the year of computation exceeds the assessable profits or the aggregate of the assessable profits of that business or of those businesses in respect of which a loss has not been sustained in the year of computation or because there are no such profits, or

- (b) possesses two or more sources of income of the same class, other than businesses to which the said section one hundred and thirty-three applies, and the loss or losses sustained in respect of one or more of such sources of income cannot be wholly set off against income of the same class because the loss or the aggregate of the losses sustained in the year of computation exceeds the assessable income of that source or of those sources of that class of income in respect of which a loss has not been sustained in the year of computation or because there is no such income,

the loss or that part thereof which has not been relieved under the provisions of the said section one hundred and thirty-three or of the last preceding section shall be deemed to be a loss which may be set off under and in accordance with the preceding provisions of this section.

[(5) This section is subject to section 133A.]

NOTES

In section 135,

the words omitted in square brackets in, first, subsection (1), second, the first, third, the second and, fourth, the third pairs of square brackets in subsection (3) were all repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, respectively section 11, section 12(a), section 12(b) and section 12(c), with effect from 1st January, 2023;

subsection (5) was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 31, with effect from 1st January, 2008.

Relief for partnership losses in certain cases.

136. Where the profits or income of any partnership include any profits or income which do not fall to be included in the computation made in accordance with the provisions of section seven of this Law (which relates to income from businesses), and the computation of the assessable income for any year of charge shows that a loss has been sustained in the year of computation then each partner shall be entitled to such relief in respect of his share of the loss as he would have been entitled to if the said share of the loss had been a loss sustained in respect of a source of income possessed by him.

Relief in certain cases where losses exceed income or profits.

137. (1) Where in any year of charge the aggregate of the losses sustained by any person in that year of charge exceeds the aggregate of –

- (a) the income or profits of any business or businesses carried on by that person in respect of which a loss has not been sustained, and

- (b) that person's share of the income or profits of any business or businesses carried on by him in partnership in respect of which a loss has not been sustained, and
- (c) the income or profits arising or accruing, or deemed to arise or accrue to that person, from any source or sources, other than those referred to in the last two preceding paragraphs of this subsection, in respect of which a loss has not been sustained,

[then –

- (i) any income or profits, or that person's share of any income or profits, of the business in respect of which the loss was sustained, or (as the case may be),
- (ii) any income or profits arising or accruing, or deemed to arise or accrue, to that person from the source in respect of which the loss was sustained,

which, but for this section, would be assessable to tax in the previous year of charge, shall be reduced by the amount of the excess:]

Provided that the said excess shall first be set off against income of the type in respect of which the greatest part of the aggregate of the losses has been sustained, then against income of the type in respect of which the next greatest part of the aggregate of the losses has been sustained, and so on until the amount of the said excess has as far as possible been relieved.

[(2) Nothing in subsection (1) of this section shall prevent tax for the said year of charge being charged and payment being enforced but an appropriate repayment of tax shall be made by the [Director] provided that the claim for repayment under this section is made within two years after the end of the year of charge in which the loss was sustained.]

(3) Subject to the provisions of section one hundred and forty-one of this Law (which imposes a restriction on set off and carrying forward of losses), for the purposes of this section a loss sustained in any business in a year of computation ending within the year of charge shall be deemed to be a loss sustained in relation to that year of charge.

[(4) This section is subject to section 133A.]

NOTES

In section 137,

the words in square brackets immediately after paragraph (c) of subsection (1) were substituted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 16(a), with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

subsection (2) was substituted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 16(b), with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the word in square brackets within subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹²

subsection (4) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 5, with effect from 1st January, 2013.

Relief in respect of losses where business is transferred to a company.

138. If, where a business carried on by any individual or by any individuals in partnership has been transferred to a company in consideration solely or mainly of the allotment of shares of the company to that individual or those individuals, the total income of any individual to whom or to whose nominee or nominees shares have been so allotted for any year of charge throughout which he is the beneficial owner of the shares, and throughout which the company carries on the business, includes any income derived by him from the company, whether by way of dividends on those shares or otherwise, the provisions of the next succeeding section shall apply as if the income so derived were income from a business on which that individual was assessable in respect of that business for that year.

Right to carry forward losses to future years.

139. [(1)] Where in relation to any year of charge a person has, in any business carried on by him either solely or in partnership, sustained a loss, that person may claim that the loss or any part thereof in respect of which relief cannot be given under any provision of this Part of this Law shall be carried forward to the next following year of charge, and, as far as may be, set off against his income or profits from the same business for that year of charge, and so on from year to year.

[(2)] This section is subject to section 133A.

(3) Subsection (2) does not apply in any year of charge to the losses of a company where –

- (a) in the year of charge 2012 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 2012, and

- (c) the company's income falls within class 2(2)(aa), 2(2)(ab), 2(2)(ac) or 2(2)(ad).]

[(4) 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 2014 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 2014, and
- (c) the company's income falls within class 2(2)(ae).]

[(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 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)(af).]

[(7) 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 2017 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 2017, and
- (c) the company's income falls within class 2(2)(ag).]

[(8) 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 2018 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 2018, and
- (c) the company's income falls within class 2(2)(ah) or (ai).]

[(9) 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 2019 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 2019, and
- (c) the company's income falls within class 2(2)(bc) or (bd).]

[(10) 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 2019 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 2019, and
- (c) the company's income falls within class 2(2)(aj).]

NOTES

In section 139,

subsection (1) was renumbered, and subsection (2) and subsection (3) were inserted, by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 6, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2013;

subsection (4) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 5, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

subsection (5) was inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 5, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance;

subsection (6) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 5, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;

subsection (7) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 5, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

subsection (8) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 5, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

subsection (9) was inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019, section 5, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance;

subsection (10) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 5, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance.

[Right to carry forward post-2007 profits to future years.]

139A. (1) Where –

- (a) in relation to any year of charge after 2007 a company has sustained a loss, and
- [(b) in relation to any preceding year of charge after 2007 that company has undistributed income of Class 2(2)(d),]

then the company may claim that the income or any part thereof against which any loss has not previously been offset shall be carried forward to the year of charge in

relation to which the loss was sustained and, as far as may be, set off against that loss.

(2) However, if the States by Resolution change the company standard rate under section 5(2) then income taxed at the new rate may not be carried forward under this section unless the Resolution specifically so provides.]

NOTES

Section 139A was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 33, with effect from 1st January, 2008.

In section 139A, paragraph (b) was substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 20, with effect from 29th April, 2009.

Relief for losses in respect of glasshouses.

140. Where a person owns a glasshouse and is entitled to a deduction on account of depreciation under the provisions of section ninety-seven of this Law (which relates to allowances to lessors of glasshouses) and in the computation of the assessable income for any year of charge the computation shows that a loss has been sustained in the year of computation in respect of that glasshouse, the loss shall, for the purpose of determining how that loss shall be relieved, be deemed to be a loss sustained by that person in carrying on a business the profits of which are assessable under the provisions of section seven of this Law (which relates to income from businesses):

Provided that nothing in this section shall be so construed that a loss so sustained shall first be set off against any earned income arising to that person [...].

NOTE

In section 140, the words omitted in square brackets in the proviso were repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 13, with effect from 1st January,

2023.

Restriction on set off and carrying forward of losses.

141. The amount of any loss set off or carried forward under any of the provisions of this Part of this Law shall not in any case exceed the amount of the loss sustained and where the year of computation or other period by reference to which any assessable income or profits for any year of charge fall to be computed is also in whole or in part a year of computation or other period by reference to which any assessable income or profits of any other year of charge fall to be computed, so much of the loss as may, under the said provisions, be set off or carried forward in the first-mentioned year of charge shall not be set off or carried forward as if it were a loss sustained in any subsequent year of charge.

Right to carry back loss sustained in last year of business.

142. (1) Where a business is permanently discontinued and a balancing allowance falls to be made to the person by whom the business was carried on immediately before the permanent discontinuance thereof and by reason of that balancing allowance that person sustains a loss which cannot be set off or carried forward under any provision, other than this section, of this Part of this Law, then, subject to the provisions of this section, he may claim that the amount of the loss or the unrelieved part thereof shall, as far as may be, be deducted from or set off against the amount of the income or profits on which he has been charged or may be chargeable to tax in respect of the business for the two years of charge last preceding that in which the discontinuance occurs, and there shall be made all such reductions of assessments or repayments of tax as may be necessary to give effect to the claim.

(2) Any relief under this section shall be given as far as possible from the assessment for a later rather than for an earlier year of charge.

(3) The provisions of this section shall, with any necessary adaptations, apply in relation to an office or employment as they apply in relation to a

business.

[(4) This section is subject to section 133A.]

NOTE

In section 142, subsection (4) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 7, with effect from 1st January, 2013.

[Group loss relief.]

142A. (1) Where this section applies, and the computation of the assessable income of a business carried on by a company (the surrendering company) calculated in accordance with this Law results in a net loss over an accounting period relevant to any year of charge, that loss may be surrendered to another company (the claimant company) to the extent that relief cannot be given for it under section 133, 134, 135 or 137 of this Law, to be set off against the assessable income of the claimant company for any year of charge based in whole or in part on the same accounting period:

PROVIDED that if any such assessable income of the claimant company is based partly on the same accounting period and partly on another accounting period, the net loss of the surrendering company may only be set off against such proportion of that assessable income as is referable to that same accounting period.

- (2) This section only applies if the [Director] is satisfied –
- (a) that at all times during the relevant accounting period –
- (i) both companies were either incorporated in Guernsey or carrying on business in Guernsey through a permanent establishment in Guernsey,

and

- (ii) both companies were members of the same group, and
- (b) that neither company has in respect of any year of charge concerned –
- (i) been granted an exemption from tax under any Ordinance made under section 40A of this Law, or
 - (ii) ...
 - (iii) ...
- (c) where an election has been made under section 115 of this Law and the allowance which falls to be made includes an allowance brought forward under section 114(2) of this Law, that the conditions set out in paragraphs (a) and (b) of this subsection are satisfied throughout all of the years for which the allowance brought forward was originally available.

(3) A claim for relief under this section must be made by the claimant company within two years after the end of the calendar year in which the relevant accounting period ended, and must be accompanied by a declaration by the surrendering company that it consents to the surrender.

(4) An assessment granting relief under this section shall not be altered except to the extent that any adjustment is required –

- (a) ...
- (b) in consequence of a determination under section 79 or judgment under section 80 of this Law, or
- (c) in consequence of the withdrawal of an allowance under section 132C of this Law, or
- (d) because, for any other reason, the relief granted is found to have been or to have become excessive.

(5) Any payment made by a claimant company to a surrendering company in respect of an amount surrendered under this section (being a payment not exceeding that amount) shall not be taken into account in computing the profits or losses of either company.

[(6) This section is subject to section 133A.]

NOTES

Section 142A was inserted by the Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997, section 1(a), with effect from 4th March, 1997, subject to the transitional provision in section 4 of the 1997 Law, and by virtue of the provisions of section 3 thereof, applies in respect of any accounting period ending on or after 1st January 1992.

In section 142A,

the word in the first pair of square brackets in subsection (2) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹³

sub-paragraph (ii) and sub-paragraph (iii) of paragraph (b) of subsection (2) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 32, with effect from 1st January, 2008;

paragraph (a) of subsection (4) was repealed by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 17, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

subsection (6) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 8, with effect from 1st January, 2013.

Exclusion of double relief.

143. [(1)] In so far as relief has been given under any provision of this Part of this Law to any person in respect of any loss that person shall not be entitled to claim relief in respect of that loss under any other provision of this Part of this Law.

[(2) In so far as relief has been given to a claimant company under section 142A of this Law the surrendering company shall not be entitled to claim relief under any other provision of this Part of this Law in respect of the loss surrendered.]

NOTES

In section 143, subsection (1) was renumbered, and subsection (2) was inserted, by the Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997, section 1(b), with effect from 4th March, 1997, subject to the transitional provisions in section 4 of the 1997 Law.

The Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997, by virtue of the provisions of section 3 thereof, applies in respect of any accounting period ending on or after 1st January 1992.

Claims for relief.

144. Except as otherwise provided under or by virtue of this Part of this Law, no relief shall be given for any loss sustained by any person unless a claim for relief in respect of the loss is made within the six years next following the year of

charge to which the claim relates.

New businesses.

145. Where a new business is commenced and in the year of charge in which the business is commenced or in the two years next following any loss is sustained which cannot be set off under any of the foregoing provisions of this Part of this Law during that year of charge, the business shall, for the purposes of this Part of this Law, continue to be treated as a separate business.

Saving.

146. Nothing in this Part of this Law shall be so construed as to permit the set off or the carrying forward of any loss which has been set off or carried forward under any enactment repealed by this Law.

Computation of losses.

147. The amount of a loss sustained shall be computed in like manner as profits are computed.

Interpretation of Part XI.

148. (1) In this Part of this Law, except where the context otherwise requires –

"earned income" means, in relation to any individual –

- (a) any income arising or accruing from any office or employment held or exercised by the individual, including any income from property which is attached to the office or employment or from which any part of the emoluments of the office or employment is derived,
- (b) any income immediately derived by the individual from

the carrying on by him of any business either as an individual, or in the case of a partnership, as a partner personally acting therein,

- (c) any income arising or accruing from a pension, superannuation or other allowance given to the individual in respect of the past services of the individual or the past services of any deceased person,
- [(d) any payment of benefit under the Social Insurance (Guernsey) Law, 1978, and any sum on account of an allowance in pursuance of the provisions of the Family Allowances (Guernsey) Law, 1950, other than any sum on account of such an allowance payable in respect of any period commencing on or after the first day of January, nineteen hundred and eighty-one,]

"income of the corresponding type" means earned or unearned income according as income arising during the same period as the loss to the person sustaining it from income or profits of the same business or same source would have been that person's earned or unearned income,

[...]

(2) ...

[(3) For the purposes of this Part of this Law two or more companies are members of the same group if –

- (a) one of those companies is beneficially entitled to 90% or more of the capital of the other, or

- (b) a third company, or one individual, [...] is beneficially entitled to 90% or more of the capital of each of those companies,

and for the purposes of this definition entitlement to capital means entitlement to any profits available for distribution to members, and to any assets available on a winding up for distribution to members.]

NOTES

In section 148,

paragraph (d) of the definition of the expression "earned income" in subsection (1) was substituted by the Income Tax (Amendment) (Guernsey) Law, 1981, section 1(g), with effect from 1st January, 1981;

first, the words omitted in square brackets immediately after the definition of the expression "income of the corresponding type" in subsection (1), second, subsection (2) and, third, the words omitted in square brackets within subsection (3) were all repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, respectively section 14, section 15 and section 16, with effect from 1st January, 2023;

subsection (3) was inserted by the Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997, section 1(c), with effect from 4th March, 1997.

The Income Tax (Group Loss Relief Amendment) (Guernsey) Law, 1997, by virtue of the provisions of section 3 thereof, applies in respect of any accounting period ending on or after 1st January 1992.

PART XII

EXPENDITURE INCURRED PARTLY FOR PRIVATE PURPOSES

Expenditure incurred partly for private purposes.

149. (1) In computing the profits of any business for any year of computation there may, as respects any machinery or plant being machinery or plant

to which section eighty-eight of this Law (which relates to the effect on annual allowances of part-time use otherwise than for business purposes) applies, be deducted only such expenditure in connection with the repair, maintenance or operation thereof as is incurred wholly or exclusively for the purposes of the business.

(2) The provisions of this section shall, with any necessary adaptations, apply in relation to an office or employment as they apply in relation to a business, provided that the expenditure is exclusively and necessarily incurred in the performance of the duties of the office or employment.

PART XIII

[PENSION SCHEMES, RETIREMENT ANNUITY SCHEMES AND RETIREMENT ANNUITY TRUST SCHEMES]

Approval of pension schemes.

150. (1) In this Part of this Law the expression "**approved scheme**" means a pension scheme or part of a pension scheme approved by the [Director] in accordance with the succeeding provisions of this section.

(2) The [Director] may approve a pension scheme if, but not unless, it is shown to the satisfaction of the [Director] that the following conditions are satisfied –

- (a) the scheme is bona fide established as a trust,
- (b) the scheme is established in connection with the carrying on of business, or the exercise of functions, [...],
- (c) the scheme has for its sole or main purpose the provision of retirement or other benefits –

Consolidated text

- (i) for persons employed in connection with such business or functions, on their retiring at an age, not exceeding [seventy-five] years, specified in the rules of the scheme or on their becoming incapacitated at some earlier age,
- (ii) for the widows, children or dependants of persons who are or have been so employed, on the death of those persons,
- (d) the person carrying on the business or exercising the functions (hereinafter referred to as "**the employer**") is a contributor to the scheme,
- (e) the scheme is recognised by the employer and by the persons so employed,
- (f) the nature of the benefits afforded by the scheme is the same in relation to all the persons to whom the scheme relates,
- (g) each person to whom the scheme relates is entitled by virtue of the provisions of the scheme to benefits defined therein and has been made aware of the terms of the scheme,
- [(h) no service of a person while he is a proprietary director or a proprietary employee may be taken into account for any purposes of the scheme:

Provided that the [Director] may approve a scheme, subject to compliance with such further conditions as may be imposed under section 155(1) of this Law, under which service as a full-time working director/employee of a trading company may be taken into account,]

- (j) no sum paid by an employer for the purposes of providing benefits under the scheme may be applied to any other purpose or may be repaid to the employer unless –
 - (i) the amount of the sums paid by the employer for the purpose of providing the benefits under the scheme in respect of any person exceeds the amount required to provide those benefits, in which event such excess may be repaid,
 - (ii) upon the dissolution of the scheme the amount of the sums paid by the employer for the purpose of providing all the benefits under the scheme in respect of all the persons entitled to those benefits exceeds the amount required to provide such benefits, in which event such excess may be repaid,
- (k) the retirement or other benefits provided by the scheme shall not exceed such limits as the [Committee] may from time to time by regulation prescribe:

[Provided that such regulations may permit the

[Director] to approve a pension scheme under which retirement or other benefits may exceed such limits if the [Committee] so resolves in relation to that particular scheme and subject to any conditions specified in the [Committee]'s resolution],

- (l) where any person holding an office or exercising an employment contributes to the cost of providing benefits under the scheme no sum contributed by that person may be applied to any purpose other than the provision of those benefits and shall not be refunded to that person except on the cessation of that person's [membership of the scheme] in such circumstances that he does not become entitled to any other benefits under the rules of the scheme, and
- (m) the benefits provided under the scheme are not assignable in whole or in part and cannot be surrendered otherwise than for a pension for a widow or dependant:

Provided that if the business is not carried on, or the functions are not exercised, wholly in Guernsey, or the employer is not resident in Guernsey, the [Director] may, as he thinks fit, approve the scheme as a whole or as to a part only thereof,

- [(n) each person to whom the scheme relates is entitled under the scheme, if he ceases to be a member of the scheme at a time when he has [two years] of qualifying service or less, to a refund of his contributions (if any),]

[(na) in relation to –

- (i) any scheme which is approved, or the rules of which are amended, in the calendar year 2002, and
- (ii) any other scheme after the 1st January, 2003,

each person to whom the scheme relates is entitled under the scheme, if he ceases to be a member of the scheme at a time when he has more than two years of qualifying service but has not reached normal retirement age, to choose between –

- (A) a refund of his contributions (if any), or
- (B) the making of a transfer payment into another approved scheme, or
- (C) the making of a transfer payment into a retirement annuity scheme or a retirement annuity trust scheme,]

[(o) each person to whom the scheme relates is entitled under the scheme, if he ceases to be a member of the scheme at a time when he has more than five years of qualifying service but has not reached normal retirement age, to choose between –

- (i) a refund of his contributions (if any), or

- (ii) deferred benefits, or
 - (iii) the making of a transfer payment into another approved scheme, or
 - (iv) the making of a transfer payment into a retirement annuity scheme or a retirement annuity trust scheme,
- (p) if the scheme permits the making of transfer payments in relation to people with five years of qualifying service or less into other approved schemes, it must permit the making of transfer payments in relation to such people, on terms which are no less favourable, into retirement annuity schemes and retirement annuity trusts schemes.]

[(2A) For the purposes of subsection (2) of this section –

- (a) "**qualifying service**", in relation to a member of an occupational pension scheme, means the aggregate of any period during which the person concerned has in fact been a member of –
 - (i) that scheme, or
 - (ii) any other scheme in respect of which a transfer payment has been received by that scheme in relation to the person concerned,

- (b) **"deferred benefits"** means benefits payable at a later date (but commencing not later than the date when the person concerned reaches his normal retirement age) which are of the same type as the benefits payable under the scheme in respect of a member who retires at his normal retirement age, and which are no less in value than whichever is the greater of –
- (i) the benefits which would be payable under the scheme to the person concerned if he retired at his normal retirement age having been a member of the scheme for the length of time, and in all the circumstances, that he has in fact been a member of the scheme, or
 - (ii) the benefits which could be provided by investment of his contributions (if any) between the date when he ceases to be a member of the scheme and the date when he reaches his normal retirement age,
- (c) a **"transfer payment"** means a payment equal to the value at the time when the transfer payment is made, as determined by a Fellow of the Institute of Actuaries, a Fellow of the Faculty of Actuaries or a person holding other actuarial qualifications approved by the [Director], [of –
- (i) the deferred benefits which the person concerned is entitled to choose under the scheme concerned, or

- (ii) in cases where the person concerned is not entitled, under the scheme concerned, to choose deferred benefits, the deferred benefits which he could have chosen had he been so entitled,]

- (d) a person's "**normal retirement age**" is the age at which the scheme concerned entitles that person to immediate benefits on his retirement, irrespective of his state of health,

and, both in subsection (2) and in the foregoing definitions in this subsection, references to a person's contributions are to the aggregate of any contributions which he has made in accordance with the scheme concerned and any contributions which he has made in accordance with any other scheme in respect of which a transfer payment has been received in relation to him by the scheme concerned.]

(3) Where, prior to the first day of January, one thousand nine hundred and seventy-four, a retirement benefit scheme was approved by the [Committee] under the provisions of section twenty-two of the Income Tax (Amendment) (Guernsey) Law, 1964^I, or a superannuation fund was approved by the [Committee] under the provisions of section thirty-one of the said Law, and –

- (a) there has been no alteration to the rules of the scheme or of the fund, or in the case of a fund, to the instrument under which the fund is established, since the date on which the scheme or fund was last approved by the [Committee], and

^I Ordres en Conseil Vol. XIX, p. 405.

- (b) the [Committee] has not withdrawn its approval to the scheme or fund,

the scheme or fund shall be deemed for all the purposes of this Law to be an approved scheme:

Provided that if there is any alteration to the rules of such a scheme or fund, or in the case of a fund to the instrument under which the fund is established, then –

- (a) the rules of the scheme or fund, and
- (b) in the case of a fund, the instrument under which the fund is established,

shall be amended to conform to the provisions of the preceding subsections of this section.

[(4) A pension scheme or part of a pension scheme which –

- (a) was approved by the [Director] in accordance with the provisions of subsection (2) of this section, or
- (b) was deemed to be an approved scheme by virtue of subsection (3) of this section,

before the date when paragraphs (n), (o) and (p) of subsection (2) of this section came into force shall cease to be an approved scheme on 1st January 1992 unless it is shown to the satisfaction of the [Director] before 1st January 1992 that the conditions contained in each of those paragraphs are satisfied.]

[(5) The Public Servants' Pension Scheme shall be deemed to be an

approved scheme for the purposes of this Part of this Law.]

NOTES

Immediately after the heading "Part XIII", the words in square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1983, section 1(c), with effect from 1st January, 1984.

In section 150,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹⁴

the words omitted in square brackets in paragraph (b) of subsection (2) were repealed by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 6 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the words in square brackets in sub-paragraph (i) of paragraph (c) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1994, section 1(a), with effect from 16th January, 1995;

paragraph (h) of subsection (2) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 1(a), with effect from 1st January 1998;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the proviso to paragraph (k) of subsection (2) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 1(1), with effect from 22nd May, 1991;

the words in square brackets in paragraph (l) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 3(1), with effect from 24th August, 1993;

paragraph (n) of subsection (2) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 2(1), with effect from 22nd May, 1991;

the words in square brackets within paragraph (n) of subsection (2) were substituted, and paragraph (na) thereof was inserted, by the Income

Tax (Pension Amendments) (Guernsey) Law, 2001, respectively section 1(1)(a) and section 1(1)(b), with effect from 1st January, 2002;

first, paragraph (o) and paragraph (p) of subsection (2) and, second, subsection (2A) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, respectively section 2(1) and section 2(2), with effect from 22nd May, 1991;

the words in the second pair of square brackets in paragraph (c) of subsection (2A) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 2001, section 1(1)(c), with effect from 1st January, 2002;

subsection (4) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 3, with effect from 22nd May, 1991;

subsection (5) was inserted by the Income Tax (States Trading Companies and Public Servants' Pension Scheme) (Guernsey) Law, 2001, section 1(2), with effect from 1st October, 2001.

The following Regulations have been made under section 150:

Income Tax (Guernsey) (Limit of Retirement and Other Benefits) Regulations, 1977;

Income Tax (Guernsey) (Limit of Retirement and Other Benefits) (Amendment) Regulations, 1991;

Income Tax (Guernsey) (Limit of Retirement and other Benefits) (Amendment) Regulations, 1997;

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011.

The following case has referred to section 150:

Sargent v The Public Trustee of the Bailiwick of Guernsey (2018) (Unreported, Royal Court, 11th May) (Guernsey Judgment No. 22/2018).

[Deemed approval of the Guernsey and Alderney Pension Trust.

150A. The Guernsey and Alderney Pension Trust established pursuant to section 25 of the Secondary Pensions (Guernsey and Alderney) Law, 2022 shall be deemed to be a scheme approved by the Director pursuant to section 150(2) [insofar as the scheme contains occupational pensions] and the provisions of this Law shall have effect accordingly.]

NOTES

Section 150A was inserted by the Secondary Pensions (Guernsey and Alderney) Law, 2022, section 28, with effect from 4th September, 2023.

In section 150A, the words in square brackets were inserted by the Secondary Pensions (Guernsey and Alderney) Regulations, 2023, regulation 8(2), with effect from 16th October, 2023.

Deduction claimable by employees.

151. (1) In computing the income of an individual from –

- (a) any office or employment held or exercised by him, or
- (b) a pension payable to him in consequence of an office or employment formerly held or exercised by him,

there shall be deducted the amount of any ordinary contributions to an approved scheme or of any statutory or voluntary contributions made by him out of the said income in the year of computation:

[Provided that no such deduction shall be made in respect of contributions to the extent that they exceed, in the aggregate, the lesser of the following amounts –

- (a) an amount equal to 100% of the aggregate of the said income and any other income of the individual in question in respect of which tax is chargeable and arising or accruing in the year of computation, or
- (b) such amount as the [Committee] may prescribe by regulation.]

[(1A) Where in any year of computation an individual has made

contributions described in subsection (1) of an aggregate amount which is less than the maximum amount he is entitled to deduct from his income in that year by virtue of the proviso to that subsection –

- (a) he may carry forward the unused balance to any succeeding year not being later than the sixth year immediately following the year of computation in which the unused balance accrued,
- (b) in that succeeding year the maximum deduction that may be made in respect of such contributions shall not exceed the aggregate of –
 - (i) the maximum amount he is entitled to deduct in that succeeding year by virtue of the said proviso, and
 - (ii) the amount of the unused balance carried forward, and
- (c) any such contribution made in any succeeding year which exceeds the maximum amount an individual is entitled to deduct in that succeeding year by virtue of the said proviso shall be set off against the amount of the unused balance carried forward irrespective of whether the result of such setting off is to reduce the amount of tax payable by him in respect of that year.]

(2) In this section, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"ordinary contribution" means a periodic contribution, fixed in amount, or calculated on some definite basis by reference to earnings,

"statutory contribution" means –

- (i) a contribution required by law to be made towards the expense of providing a pension or gratuity to the contributor on his retirement, or on his death to his widow, children, or dependants or to his legal personal representative, or
- (ii) any contribution made by a member of the scheme established in accordance with the provisions of the States of Guernsey Civil Service (Pensions and Other Benefits) Rules, 1972, or of any scheme amending, replacing or extending the said scheme, and any contribution which a person employed by, or holding an office with, the States of Guernsey makes and which is authorised by Resolution of the States of Guernsey towards the expense of providing a pension or other benefit to the said member or person, as the case may be, on his retirement or on his death to his widow, children or dependants or to his legal personal representative.

NOTES

In section 151,

the proviso to subsection (1) was substituted, and subsection (1A) was inserted, by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, respectively section 7 and section 8 and, in accordance with the provisions of section 17 of the 2011 Law, these amendments shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 151:

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) (No. 2) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2017;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2018.

In accordance with the provisions of the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010, regulation 1A(2), with effect in respect of any year of charge after 2010, for the purposes of the proviso to subsection (1) of this section the prescribed amount in respect of the year of charge 2011 and any succeeding year of charge is £50,000.

Deduction claimable by employers and sums repaid to employers or applied to other purposes.

152. (1) If a contribution to an approved scheme is made by the employer, then, in computing his income arising from the business in connection with which the scheme is established –

- (a) if the contribution is an ordinary contribution, the amount thereof shall be allowed as a deduction in the accounting period in which it is paid,
- (b) if the contribution is not an ordinary contribution, then,

according as the [Director] may direct, the amount thereof shall either –

- (i) be allowed as a deduction for the accounting period in which it is paid, or
- (ii) be apportioned to such accounting periods as the [Director] thinks proper, and the amount apportioned to any accounting period shall be allowed as a deduction for that period.

(2) In this section the expression "**ordinary contribution**" means a periodic contribution fixed in amount or calculated on some definitive basis by reference to the earnings or contributions of the members of the scheme, or to the number of such members, or in the case of a body corporate, a periodic contribution consisting of a share of the profits arising to that body from the business in connection with which the scheme is established and computed according to a formula approved by the [Committee].

[(3) Where –

- (a) any sum paid by an employer for the purpose of providing benefits under an approved scheme is applied to any other purpose, or
- (b) any payment is made to an employer out of funds which are or have been held for the purposes of an approved scheme,

it shall be deemed to be income arising to the employer in the year of charge in which it is so applied or made and shall be charged to tax at the [appropriate rate (applicable

in respect of the income from which the payment was made)] in force in that year of charge.]

NOTES

In section 152,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹⁵

the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

subsection (3) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 4, with effect from 23rd November, 1990;

the words in square brackets in subsection (3) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 34, with effect from 1st January, 2008.

Charge of tax on retirement or other benefits and treatment of transfer payments.

153. (1) Subject to the provisions of this section –
- (a) contributions (including voluntary contributions) repaid and any interest thereon paid to directors or employees and lump sums paid out of or under the provisions of an approved scheme in commutation of or in lieu of pensions, shall be treated as income of the year in which they are repaid or paid, and tax in respect thereof shall be chargeable on the trustee or other person having the management of the scheme [

- [(a)] in the case of lump sums, at the [appropriate rate], and
 - [(b)] in any other case, at one half of the standard rate, in force for the year of charge in which the contributions are repaid or the interest or lump sums are paid,]
- (b) statutory and voluntary contributions repaid and any interest thereon shall be treated as income of the year in which they are repaid or paid and tax in respect thereof shall be chargeable on the person by or through whom the repayment or payment is made at one half of the standard rate of tax in force in the year of charge in which the contributions are repaid or the interest is paid,
- (c) the trustee or other person having the management of an approved scheme or the person by or through whom a statutory contribution is repaid or by or through whom interest thereon is paid shall deduct the amount of tax chargeable under the provisions of the preceding paragraphs from the contributions, interest or other sums paid and shall remit the tax so deducted to the [Director] within one month of the date on which it was deducted, and shall at the same time furnish to the [Director], in the form and manner which the [Director] may require, an account of the payment and of the tax deducted out of the payment and the [Director] shall assess and charge the tax on that person,

Consolidated text

- (d) any person who fails to comply with the provisions of the preceding paragraph shall be liable to [a surcharge or additional surcharge under section 199, for the purposes of calculating which] the tax shall be deemed to be an amount becoming due on the date on which it was deducted,
- (e) where any person has failed to deliver to the [Director] such account of a payment as is required by paragraph (c) of this subsection within the time set out in that paragraph or where the [Director] is not satisfied with the account so delivered, the [Director] may make an assessment on that person to the best of his judgment,
- (f) nothing in this subsection shall affect the liability of a person to be charged to tax in his own name,
- (g) any contribution repaid or any interest thereon or any lump sum paid out of or under the provisions of an approved scheme and which is to be treated as income by virtue of the provisions of this subsection shall, for all the purposes of this Law, be treated as income arising or accruing from a source in Guernsey,
- (h) [the foregoing provisions of this subsection] shall not apply to contributions repaid or to interest paid to the extent that contributions were originally paid in respect of –
 - (i) services performed wholly outside Guernsey, unless the services in question were services to

which the provisions of subsection (7) of this section relate, or

- (ii) any period when the scheme was not approved,

and the interest relates to the contributions so paid.

(2) The [Committee] may in its absolute discretion exempt from tax a lump sum or part of a lump sum paid out of an approved scheme in commutation of or in lieu of a pension which would otherwise be chargeable to tax under the provisions of paragraph (a) of the preceding subsection if the [Committee] is satisfied that [the total of all such sums exempt from tax, paid to the person concerned out of any approved scheme, retirement annuity scheme or retirement annuity trust scheme] does not exceed such limit as the [Committee] may from time to time by regulation prescribe.

(3) Any annuity or pension payable out of or under the provisions of an approved scheme shall, for all the purposes of this Law, be treated as income arising or accruing from a source in Guernsey[...].

(4) Where an annuity or pension is paid out of or under the provisions of an approved scheme the person chargeable with tax shall be the person entitled to the annuity or pension:

Provided that if the person entitled to the annuity or pension is not resident in Guernsey the trustees or other persons having the management of the scheme shall be charged with tax on behalf of the non-resident person, and the provisions of section forty-eight of this Law shall apply accordingly[...].

(5) Where interchange arrangements are made as between the States of Guernsey and an employing authority in the United Kingdom with the

object of providing for a single superannuation award in cases where persons may be transferred from service in the United Kingdom to service in Guernsey or from service in Guernsey to service in the United Kingdom, then any transfer payments made by the States of Guernsey shall be treated as if they were statutory contributions repaid and shall be chargeable to tax at one half of the [appropriate rate] in force in the year of charge in which the transfer is made:

Provided that such transfer payments may be exempt from tax if the [Committee] determines that having regard to the nature of the interchange arrangements it is equitable that the payments should be so exempt.

(6) Where any person ceases to be a member of an approved scheme in Guernsey (hereinafter referred to as "**the Guernsey scheme**") and becomes a member of a pension scheme outside Guernsey (hereinafter referred to as "**the other scheme**") and a transfer payment is made out of the Guernsey scheme into the other scheme with the object of providing for retirement and other benefits out of the other scheme only, then any such transfer payment made out of the Guernsey scheme shall be treated as a refund of contributions and shall be chargeable to tax at one half of the [appropriate rate] in force for the year of charge in which the transfer is made:

Provided that any such transfer payment shall be exempt from tax if the [Director] is satisfied that [(in the case only of a scheme referred to in subparagraph (i), (ii) or (iii) below) the transfer is made either in respect of a person who has not been resident in Guernsey at any time or in respect of a person who is resident in the UK, and that] the other scheme is –

- (i) a "**statutory scheme**" as defined in [section 612(1) of the Income and Corporation Taxes Act 1988], or

- [(ii) a "**personal pension scheme**" approved by the Commissioners of Inland Revenue under section 631 of the Income and Corporation Taxes Act 1988, or]
- (iii) an "**exempt approved scheme**" as defined by [section 592(1) of the Income and Corporation Taxes Act 1988], or
- (iv) a pension scheme approved by the competent authority under the laws relating to income tax in Jersey, the Isle of Man or the Republic of Ireland, as the case may be, which provides retirement or other benefits of a nature similar to a pension scheme which may be approved under the provisions of section one hundred and fifty of this Law.

[(6A) Subsection 6 of this section also applies, with the necessary modifications, where a person ceases to be a member of an approved scheme in Guernsey and –

- (a) becomes a member of a superannuation fund to which paragraph (o) of section 40 of this Law applies, or
- (b) effects a contract for the purposes of an annuity to which paragraph (ee) of section 40 of this Law applies.]

(7) Where any person ceases to be a member of a pension scheme outside Guernsey (hereinafter referred to as "**the other scheme**") and becomes a member of an approved scheme in Guernsey (hereinafter referred to as "**the**

Guernsey scheme") and a transfer payment is made out of the other scheme into the Guernsey scheme with the object of providing for retirement and other benefits out of or under the provisions of the Guernsey scheme only, then [...] all service to which such transfer payment relates shall be deemed to be service performed in Guernsey.

(8) The provisions of paragraph (a) of subsection (1) of this section shall not apply to lump sums paid in commutation of or in lieu of pensions which would have been exempt from tax under the provisions of paragraph (b) of the proviso to subsection (2) of section forty-three of the Income Tax (Guernsey) Law, 1950, if that section had not been repealed and –

- (a) the fund was approved by the [Committee] in pursuance of the provisions of section thirty-nine of the said Law before the twenty-sixth day of June, nineteen hundred and sixty-three, and
- (b) the person entitled to receive the lump sum was a contributor to the fund, in the capacity of a director or employee, before that date, and
- (c) between that date and the date on which the lump sum was paid there was no alteration to the rules of the fund which would permit the payment of lump sums which would not have been payable but for the alteration.

(9) In this section the expressions "**approved scheme**" and "**pension scheme**" shall be deemed to include a statutory scheme and any scheme authorised by Resolution of the States of Guernsey.

NOTES

In section 153,

the words in square brackets in paragraph (a) of subsection (1) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 1(b), with effect from 1st January 1998;

the words "appropriate rate" in square brackets, wherever occurring, were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹⁶

the words in square brackets in paragraph (d) of subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 33, with effect from 1st January, 2008;

the words in square brackets in paragraph (h) of subsection (1) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1976, section 1(g), with effect from 1st January, 1975;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in the third pair of square brackets in subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 1(c), with effect from 1st January 1998;

the words omitted in square brackets in, first, subsection (3), second, subsection (4) and, third, subsection (7) were repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, respectively section 9, section 10 and section 11, with effect from 1st January, 2015;

the words in square brackets in, first, item (i) and, second, item (iii) of the proviso to subsection (6) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, respectively section 2(3)(a) and section 2(3)(d), with effect from 22nd May, 1991;

item (ii) of the proviso to subsection (6) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 1(1), with effect from 24th August, 1993;¹¹⁷

the words in the second pair of square brackets in the proviso to subsection (6) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 4, with effect from 1st January, 2019;

subsection (6A) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 2(4), with effect from 22nd May, 1991.

The following Regulations have been made under section 153:

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010;

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011.

The letters in square brackets in paragraph (a) of subsection (1) shown, incorrectly, in the printed version of this section as "(a)" and "(b)" should read "(i)" and "(ii)".

[Full commutation of benefits under pension schemes permitted in certain circumstances.]

153A. (1) Notwithstanding any provision of or under this Law imposing a limitation on the amount of a lump sum that may be paid out of an approved scheme in commutation of or in lieu of a pension (whether the limitation is expressed by reference to the years of service and final remuneration or to the value of the fund or otherwise), a lump sum may, at the discretion of the trustee or other person having the management of an approved scheme, be paid out of or under the provisions of the scheme in full commutation of or in lieu of a pension in the following circumstances

—

- (a) the individual in question has attained the age of 50 years and the aggregate value of the funds attributable to him and accumulated under —
 - (i) that scheme,
 - (ii) ...
 - (iii) ...

does not exceed [£50,000], the valuation being made immediately before the time of the making of the payment,

(b) the individual has attained the age of 50 years and the aggregate value of the fund attributable to him and accumulated under that scheme does not exceed £15,000, the valuation being made immediately before the time of the making of the payment, or

(c) the individual has not attained the age of 50 years and the aggregate value of the fund attributable to him and accumulated under that scheme does not exceed £15,000, the valuation being made immediately before the time of the making of the payment [or,

(d) a pension is already being paid out of or under the provisions of that scheme, and the aggregate value of the funds attributable to the individual in question and accumulated under that scheme does not exceed –

(A) £50,000, the valuation being made immediately before the time of the making of the payment, or

(B) £100,000, the valuation being made immediately before the time of the making of the payment, provided that the individual in question has a guaranteed minimum aggregate retirement income (from whatever source) for the remainder of his life of £20,000 per annum (or such other threshold as the Committee may

specify by regulation); provided that the Committee may by regulation specify an amount or amounts of funds or other capital which, if attributable to the individual in question, would on an actuarial basis yield for him an equivalent amount of such income or any proportion thereof and which accordingly may be taken into account in determining whether the threshold of £20,000 (as amended from time to time) is reached in his case].

(2) A lump sum paid to an individual by virtue of subsection (1) shall be treated as income of the year in which it is paid and tax in respect thereof shall be chargeable in accordance with the provisions of or under this Law –

- (a) in the case of a lump sum paid by virtue of [paragraph (b)] of subsection (1), at one half of the appropriate rate in force for the year of charge in which the lump sum is paid, and
- (b) in the case of a lump sum paid by virtue of [paragraph (a), (c) or (d)] of subsection (1), at the appropriate rate in force for the said year of charge.

(3) For the purposes of this section the value of the fund accumulated under an approved scheme and attributable to an individual shall be calculated by the trustees or other persons having the management of the scheme on the advice of a Fellow of the Institute and Faculty of Actuaries or a person holding other actuarial qualifications approved by the [Director of the Revenue Service], who shall have taken into account the formula used to calculate the value of a transfer payment (within the meaning of section 150(2A)) out of the scheme into another

pension scheme approved by the [Director of the Revenue Service] in accordance with the provisions of section 150.

(4) The [Committee] may by regulation amend this section.]

NOTES

Section 153A was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 9 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010.

In section 153A,

subparagraph (ii) and subparagraph (iii) of paragraph (a) of subsection (1) were repealed by the Income Tax (Pension Amendments) (Guernsey) Regulations, 2019, regulation 1(2), with effect from 1st January, 2020,¹¹⁸

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

first, the symbol and figures in paragraph (a) of subsection (1) were substituted, second, paragraph (d) of subsection (1) and the word immediately after paragraph (c) thereof were inserted, third, the words in square brackets in paragraph (a) of subsection (2) and, fourth, the words in square brackets in paragraph (b) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2018, section 1, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 1st January, 2019;

the word in square brackets in subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 153A:

*Income Tax (Pension Amendments) (Guernsey) Regulations, 2019
Income Tax (Pension Amendments) (Revocation) (Guernsey) Regulations, 2023.*

Application for approval of pension schemes.

154. (1) Any employer desirous of obtaining the approval of the [Director] to a pension scheme or part of a pension scheme in pursuance of the provisions of section one hundred and fifty of this Law shall make application in that behalf to the [Director] and such application shall be in such form and shall contain such information as he may, from time to time, require [and shall, if the [Director of the Revenue Service] so requires, be accompanied] by a copy of the instrument under which the scheme is established, a copy of the rules and of the accounts of the scheme for the last year for which such accounts have been drawn up [and by such other documents as the Director may require].

(2) Upon the receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the [Director] may require the applicant to supply him with such information [and documents] as he may require.

NOTES

In section 154,

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹¹⁹

the words in the third pair of square brackets in subsection (1) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 10 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the words in, first, the fourth pair of square brackets in subsection (1) and, second, the second pair of square brackets in subsection (2) were inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017, section 2, respectively paragraph (a) and paragraph (b), with effect from 30th June, 2017.

[Application for approval of schemes, etc, exempted from tax under section 40.

154A. (1) This section applies to –

- (a) a superannuation fund to which section 40(o) applies,
- (b) a retirement annuity contract or retirement annuity trust scheme entered into with an individual for the purposes of an annuity or lump sum to which section 40(ee) applies, and
- (c) such other class or description of fund, contract, scheme or trust in respect of pensions as the Committee may prescribe by regulation, including (without limitation) any class or description of fund, contract, scheme or trust set out in any other paragraph of section 40.

(2) The relevant person may make an application for the approval of the fund, contract, scheme or trust by the Director for the purposes of this section.

(3) The application shall be in such form and shall contain such information and be accompanied by such documents as the Director may require.

(4) Upon receipt of an application under subsection (2), and at any time thereafter, the Director may require the relevant person to supply him with such additional information and documents as he may require.

(5) The information and documents required to be provided by or under subsection (3) or (4) may include (without limitation) –

- (a) a copy of the instrument under which the fund, contract, scheme or trust is established,

- (b) a copy of the rules and of the accounts of the fund, contract, scheme or trust for the last year for which such accounts have been drawn up and any other year or accounting period specified by the Director, and
- (c) information and documents in respect of –
 - (i) contributions made to the fund, contract, scheme or trust,
 - (ii) the members or beneficiaries of the fund, contract, scheme or trust and any other persons in receipt of annuities, lump sums or other payments from it,
 - (iii) the amount of the annuities, lump sums or other payments,
 - (iv) particulars of contributions repaid, and
 - (v) the accounts of the fund, contract, scheme or trust.

(6) The "**relevant person**" in subsection (2) means the trustee, administrator, employer or other person having the management of the fund, contract, scheme or trust or, as the case may be, the company referred to in section 40(ee) with whom the retirement annuity contract was effected.]

NOTE

Section 154A was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017, section 3, with effect from 30th June, 2017.

Grant, refusal or withdrawal of approval.

155. (1) Upon the receipt of an application under the provisions of [section 154 or 154A] the [Director] may –

- (a) approve the pension scheme or part of the pension scheme [or the fund, contract, scheme or trust] in pursuance of the provisions of [section 150 or 154A, as the case may be], or
- (b) refuse such approval, or
- (c) approve such a scheme or part of a scheme, [or such a fund, contract, scheme or trust,] as the case may be, subject to such conditions as he may think it necessary or expedient to impose.

(2) If the [Director] approves a pension scheme or part of a pension scheme [or a fund, contract, scheme or trust, as the case may be,] he shall, as soon as may be thereafter, notify the applicant, in writing, of such approval together with such conditions, if any, as may be attached thereto and the date upon which such approval is to take effect.

(3) The [Director] may at any time revoke any approval given under the provisions of subsection (1) of this section and may at any time vary any conditions attached to any such approval and he may at any time revoke any approval of a superannuation fund or retirement benefit scheme previously approved by the [Committee].

- (4) Where –
- (a) under the provisions of subsection (1) of this section the [Director] refuses to approve a scheme or part of a scheme [or a fund, contract, scheme or trust, as the case may be,] or approves a scheme or part of a scheme [or a fund, contract, scheme or trust, as the case may be,] subject to conditions, or
 - (b) under the provisions of subsection (3) of this section the [Director] revokes any approval previously given or varies any conditions attached to any approval previously given,

he shall, as soon as may be thereafter, notify the applicant, in writing, of such refusal, revocation or variation, the reasons therefore and in the case of any revocation or variation, the date (which may be a date prior to such notice) upon which such revocation or variation is to take effect.

(5) Any applicant who is aggrieved by any conditions attached to any approval given by the [Director] under the provisions of subsection (1) of this section or by such refusal, revocation or variation as is referred to in the preceding subsection shall be entitled to appeal [...] on giving to the [Director] notice in writing, stating the grounds of appeal, within [30 days] of the date of the issue of the notice of the [Director]'s decision.

(6) The provisions of Part VII of this Law shall apply in the case of an appeal under the provisions of the preceding subsection as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the [Director], with such adaptations as may be necessary.

NOTES

In section 155,

first, the words, figures and letter in the first pair of square brackets in subsection (1) were substituted, second, the words in the first pair of square brackets in paragraph (a) of subsection (1) were inserted, third, the words, figures and letter in the second pair of square brackets in paragraph (a) of subsection (1) were substituted, fourth, the words in square brackets in paragraph (c) of subsection (1) were inserted, fifth, the words in the second pair of square brackets in subsection (2) were inserted and, sixth, the words in the second and third pairs of square brackets in paragraph (a) of subsection (4) were inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017, section 4, respectively paragraph (a), paragraph (b)(i), paragraph (b)(ii), paragraph (c), paragraph (d) and paragraph (e), with effect from 30th June, 2017;

the word "Director" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹²⁰

the word in the second pair of square brackets in subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words omitted in the second pair of square brackets in subsection (5) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the figures and word in the fourth pair of square brackets in subsection (5) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

Information and documents to be furnished.

156. (1) Where an approval has been granted by the Director under the provisions of section 150, 154A, 157A or 157E, the trustee, employer or other person having the management of the fund, contract, scheme or trust and any other person who is a relevant person within the meaning of section 154A(6) in relation to the

fund, contract, scheme or trust must provide the Director with such information and documents or class or description of information or documents as may be required –

- (a) by, under or for the purposes of this Law or any regulations made under it, or
- (b) for the purposes of the performance by the Director of his functions, and as the Director may by notice specify.

(2) The information and documents required to be provided by or under subsection (1) include (without limitation) any information and documents described in paragraphs (a) to (c) of section 154A(5).

(3) Information and documents required to be provided by or under subsection (1) must be provided in such form and manner, by such means, at such times or intervals and in respect of such periods of time as the Director may by notice require.

(4) For the purposes of, but without prejudice to the generality of, subsections (1) and (3), the notices referred to in those subsections may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey [Revenue Service] or by being set out in a statement of practice issued under section 204.

(5) Without prejudice to subsections (3) and (4), section 68(1AAA) (giving of notice from Director) applies in relation to a notice of the Director under subsection (1) or (3) or otherwise given by him under or for the purposes of this section as it applies in relation to a notice of the Director requiring a person to deliver a return as to his income, and references (however expressed) in this

Law to the giving or receipt of such a notice shall be construed accordingly.

(6) Section 68AA (returns to be submitted in electronic form and by electronic means) applies in respect of this section as if –

- (a) references in subsections (1) and (2) of that section to section 68 included references to this section,
- (b) references in subsection (1) of that section to a return as to a person's income included references to a document or information required or authorised to be provided by, under or for the purposes of this section, and (c) paragraph (a) of subsection (1) of that section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.

(7) Section 75M (duties of confidentiality, liens, and self-incrimination) applies in respect of this section and a notice or requirement of the Director under it as if –

- (a) in subsections (1)(a) and (2)(a) the words "or 156" were included after "75KA", and
- (b) in subsection (4)(b)(ii)(A) of that section after the words "section 75L(3)" there was inserted "section 201(1) by virtue of a contravention of section 201(4)".]

NOTES

Section 156 was substituted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017, section 5, with effect from 30th June, 2017.¹²¹

In section 156, the words in square brackets were substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 3, with effect from 1st January, 2023.

Regulations as to approvals.

- 156A.** (1) The Committee may by regulation –
- (a) prescribe any matter relating to approvals under section 150, 154A, 157A and 157E including, without limitation, any limitations, conditions, restrictions and qualifications, and
 - (b) make such other provision as they think fit for the purposes of carrying this Part of this Law, and any other provision of this Law so far as necessary for the purpose of giving effect to this Part, into effect.

(2) Any limitations, conditions, restrictions and qualifications prescribed by regulation under subsection (1) are (for the avoidance of doubt) in addition to and not in derogation from any conditions imposed by the Director in respect of an approval under section 150, 154A, 157A or 157E.]

NOTE

Section 156A was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017, section 6, with effect from 30th June, 2017.

Aggregation and severance of schemes.

- 157.** (1) References in this Part of this Law to a pension scheme –
- (a) shall, in relation to an agreement, series of agreements, or other arrangements providing for retirement or other

benefits for persons of two or more classes, be construed as references to so much thereof as relates to persons of a single class, and accordingly an agreement, series of agreements, or other arrangements so providing shall be treated for the purposes of this Part of this Law as constituting two or more pension schemes relating respectively to the different classes,

- (b) shall be construed as including references to an agreement, series of agreements, or other arrangements providing for retirement or other benefits for a person or persons consisting of or including a director or employee, or directors or employees or, in a case falling within paragraph (a) of this subsection, to so much thereof as relates to a person or persons of any one class.

(2) For the purpose of satisfying himself that the conditions set out in section one hundred and fifty of this Law are satisfied, the [Director] shall take into account any other pension scheme subsisting in connection with the employer and relating to persons of the class to which the scheme in question relates and if the said conditions are satisfied in the case of all the pension schemes taken together, those conditions shall be taken to be satisfied in the case of each of them, and, if not, those conditions shall be taken to be satisfied in the case of none of them.

- (3) The [Director] may, if he thinks fit –
 - (a) approve a part of a pension scheme, or
 - (b) approve such a scheme notwithstanding that, having regard to another such scheme subsisting in connection

with the employer, the scheme in question is to be treated by virtue of the last preceding subsection as not satisfying the conditions aforesaid,

and references in this Part of this Law to an approved scheme shall be deemed to include references to a part of a scheme approved under this subsection.

NOTE

In section 157, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹²²

[Approval of retirement annuity schemes and trust schemes.]

157A. (1) In this Part of this Law the expressions "**retirement annuity scheme**" and "**retirement annuity trust scheme**" mean, respectively, an annuity contract approved by the [Director] in accordance with the provisions of subsection (2) of this section and a trust scheme approved by the [Director] in accordance with the provisions of sub-section (4) of this section.

(2) [The [Director] may, subject to any conditions he thinks proper to impose, approve a contract if –]

- (a) the contract is made by [an individual, [...] whether or not he is] in receipt of relevant earnings subject to income tax under the provisions of this Law with a company, resident in Guernsey or carrying on business through a permanent establishment situate in Guernsey, and carrying on in Guernsey the business of granting annuities on human life,

- (b) subject to the provisions of subsection (3) [and subsection (12)] of this section, the contract does not –
 - (i) provide for the payment by the company during the life of the individual of any sum except sums payable by way of annuity to the individual, or
 - (ii) provide for the annuity payable to the individual to commence before he attains the age of [fifty] years or after he attains the age of [seventy-five] years, or
 - (iii) provide for the payment by the company of any other sums except sums payable by way of annuity to the surviving spouse of the individual and any sums which, in the event of no annuity becoming payable either to the individual or his surviving spouse, are payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits, or
 - (iv) provide for the annuity, if any, payable to the surviving spouse of the individual to be of a greater annual amount than that paid or payable to the individual, or
 - (v) provide for the payment of any annuity otherwise than for the life of the individual or

his surviving spouse, or

- (vi) provide for the payment of any premium which, together with any other premium payable under a contract of a similar nature with the same or another company, shall exceed such limits as the [Committee] may from time to time by regulation prescribe [(and such regulations may prescribe different limits for different cases and circumstances generally, and in particular in relation to those individuals who are, and those who are not, in receipt of relevant earnings)],
- (c) the contract does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment:

Provided that the contract may give the individual the right to receive, by way of commutation of part of the annuity payable to him, a lump sum not exceeding [[30% (or such other percentage as the [Committee] may prescribe by regulation)] of the fund accumulated under the contract or trust] [and may also give the individual the right to elect to take the lump sum or (subject to the aggregate amount taken by the individual by way of lump sum by virtue of the contract not exceeding the percentage amount for the time being specified in or under this proviso) any part thereof on attaining the age of 50 years or at any time after attaining that age.

If, in the opinion of the [Director of the Revenue Service], the individual's occupation is one in which persons customarily retire before attaining the age of 50 years, then the right to elect to take the lump sum or any part thereof may instead be exercised by the individual on attaining the customary age of retirement in respect of that occupation or at any time after attaining that age].

(3) The [Director] may, if he thinks fit, and subject to any conditions he thinks proper to impose, approve a contract otherwise satisfying the conditions contained in subsection (2) of this section notwithstanding that the contract provides for one or more of the following matters –

- (a) for the payment of a lump sum on the death of an individual who died prior to the date on which the annuity would have become payable,
- (b) for the payment after the individual's death of an annuity to a dependant not the surviving spouse of the individual,
- (c) for the annuity payable to any person to continue for a term certain, not exceeding ten years, notwithstanding his death within that term,
- (d) for the payment to the individual of an annuity commencing before the age of [fifty] years, if the annuity is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for

which he is trained or fitted,

[(e) if, in the opinion of the [Director], the individual's occupation is one in which persons customarily retire before attaining the age of fifty years, for the annuity to commence before he attains that age,]

(f) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by his personal representatives in the distribution of the estate,

(g) ...

(4) The preceding provisions of this section shall apply, with the necessary adaptations, in relation to the approval of a retirement annuity trust scheme by the [Director] as they apply in relation to the approval of a retirement annuity scheme, with the modification that for the condition as to the Company with which the contract is made, there shall be substituted a condition that the scheme –

(a) is established under the law of the United Kingdom or of Guernsey and is administered in the United Kingdom or in Guernsey, and

[(b) is established for the purpose of providing retirement annuities for individuals, with or without subsidiary benefits for their families or dependants, and],

(c) is so established under irrevocable trusts.

(5) Any annuity payable under the terms of a contract or a retirement annuity trust scheme approved under the preceding provisions of this section to an individual who has contributed under such contract or scheme or to his surviving spouse or dependant shall, for all the purposes of this Law, be treated as earned income arising in Guernsey.

[(5A) Subject to subsection (5B) –

- (a) any lump sum paid under the terms of an approved retirement annuity scheme or retirement annuity contract in accordance with the proviso to paragraph (2)(c) above shall be treated as income of the year in which it is paid, and tax in respect thereof shall be chargeable on the person by or through whom it is paid at the [appropriate rate] in force for the year of charge in which it is paid,
- (b) the person by or through whom any such lump sum is paid shall deduct the tax chargeable under paragraph (a) above and remit it to the [Director] within one month, and shall at the same time furnish to the [Director], in the form and manner which the [Director] may require, an account of the payment and of the tax deducted out of the payment, and the [Director] shall assess and charge the tax on that person,
- (c) any person who fails to comply with paragraph (b) shall be liable to [a surcharge or additional surcharge under section 199, for the purposes of calculating which] the tax shall be deemed to be an amount becoming due on the date on which it was deducted,

- (d) where any person has failed to deliver to the [Director] such account of a payment as is required by paragraph (b) within the time set out in that paragraph, or where the [Director] is not satisfied with the account so delivered, the [Director] may make an assessment on that person to the best of his judgment,
- (e) nothing in this subsection shall affect the liability of a person to be charged to tax in his own name,
- (f) any lump sum which is to be treated as income by virtue of this subsection shall, for all the purposes of this Law, be treated as income arising or accruing from a source in Guernsey.

(5B) The [Committee] may in its absolute discretion exempt from tax a lump sum or part of a lump sum which would otherwise be chargeable to tax under paragraph (5A)(a) above if the [Committee] is satisfied that the total of all such sums exempt from tax, paid to the person concerned out of any retirement annuity scheme, retirement annuity trust scheme or approved scheme does not exceed such limit as the [Committee] may from time to time by regulation prescribe.]

(6) ...

[(7) The [Director] may at any time –

- (a) revoke any approval of a retirement annuity scheme or a retirement annuity trust scheme given under this section if there is a contravention of or failure to comply with any condition subject to which the

approval was given, and

- (b) vary any condition attached to any such approval.

(7A) Where the [Director] decides –

- (a) to refuse his approval of a retirement annuity scheme or a retirement annuity trust scheme under this section or to give his approval subject to conditions, or
- (b) to revoke any such approval or to vary any condition attached to any such approval,

he shall, as soon as is reasonably practicable, give written notice to the applicant (or, in the case of a revocation or variation, the person to whom the approval was given) of –

- (i) the decision,
- (ii) the reasons therefor, and
- (iii) in the case of a revocation or variation, the date (which may be a date prior to the notice) on which the revocation or variation is to take effect.

(7B) A person aggrieved by a decision described in subsection (7A) may appeal on giving to the [Director] written notice, stating the grounds of appeal, within [30 days] of the date of the notice of the [Director]'s decision.]

(8) The provisions of Part VII of this Law shall apply in the case

of an appeal under the provisions of the preceding subsection as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the [Director], with such adaptations as may be necessary.

(9) In this section –

(a) the expression "**relevant earnings**" in relation to any individual means any income of his chargeable to tax, being –

(i) income arising in respect of emoluments from an office or employment held by him other than a pensionable office or employment, or

(ii) income which is chargeable under [Class (1)(a)] of section two of this Law and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation either as an individual, or in the case of a partnership, as a partner personally acting therein[:

Provided always that the expression "**relevant earnings**" shall not include income arising in respect of emoluments –

(A) from the office of proprietary director of an investment company,

(B) from the termination thereof, or

(C) in consequence of a change in the terms thereof,]

[(b) the expression "**pensionable office or employment**" means an office or employment if, and only if, service in it is service which is taken into account for the purposes of providing for an individual retirement or other benefits payable on or after his retirement which are (disregarding any provision of regulations permitting augmentation of benefits which are in payment or deferred) the maximum benefits which may be provided by a pension scheme approved under section 150 of this Law –

(i) by a pension scheme approved under that section, or

(ii) by a States' scheme, or

(iii) by a statutory scheme.]

[(c) the expression "**approved scheme**" shall be deemed to include a statutory scheme and any scheme authorised by Resolution of the States of Guernsey.]

(10) Any premium paid by [an individual [...]] under a retirement annuity scheme and any contribution paid by [an individual [...]] under a retirement annuity trust scheme shall be eligible for any allowance which may be claimable under the provisions of section thirty-six of this Law, subject to any conditions which may be applied thereunder.

[(11) Where in any year of computation an individual has paid premiums under a retirement annuity scheme or contributions under a retirement annuity trust scheme of an aggregate amount which is less than the maximum amount he is entitled to deduct from his income in that year by virtue of the Resolution of the States under section 36 which is applicable in respect of that year –

- (a) he may carry forward the unused balance to any succeeding year not being later than the sixth year immediately following the year of computation in which the unused balance accrued [to the extent that the unused balance would not have been withdrawn by the withdrawal of personal allowances as prescribed by Resolution of the States had it been claimed],
- (b) in that succeeding year the maximum deduction that may be made in respect of such premiums or contributions shall not exceed the aggregate of –
 - (i) the maximum amount he is entitled to deduct in that succeeding year by virtue of the Resolution of the States under section 36 which is applicable in respect of that year, and
 - (ii) the amount of the unused balance carried forward, and
- (c) any such premium or contribution made in any succeeding year which exceeds the maximum amount an individual is entitled to deduct in that succeeding year by virtue of the Resolution of the States under section 36 which is applicable in respect of that year

shall be set off against the amount of the unused balance carried forward irrespective of whether the result of such setting off is to reduce the amount of tax payable by him in respect of that year.]

[(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 the Revenue Service] 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 the Revenue Service] 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).]]

NOTES

Section 157A was inserted by the Income Tax (Amendment) (Guernsey) Law, 1983, section 1(d), with effect from 1st January, 1984.

In section 157A,

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹²³

the words in the first pair of square brackets in subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 2004, section 2, with effect from 12th April, 2005;

the words in square brackets in paragraph (a) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(a), with effect from 22nd May, 1991;

the words omitted in square brackets within the square brackets in paragraph (a) of subsection (2) were repealed by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 11 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;¹²⁴

first, the words in square brackets in paragraph (b) of subsection (2) and, second, subsection (12) and subsection (13) were inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015, respectively section 4 and section 5, with effect from 2nd October, 2015;

the words in, first, the first and second pairs of square brackets in sub-paragraph (ii) of paragraph (b) of subsection (2) and, second, square brackets in paragraph (d) of subsection (3) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1994, respectively section 1(b) and section 1(c), with effect from 16th January, 1995;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words in the second pair of square brackets in sub-paragraph (vi) of paragraph (b) of subsection (2) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(b), with effect from 22nd May, 1991;

the words in square brackets in the proviso to paragraph (c) (not to paragraph (b) as shown, incorrectly, in the printed version of the 1997 Law) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 2(a), with effect from 1st January 1998;

the words in, first, square brackets within the first pair of square brackets in the proviso to paragraph (c) of subsection (2) and, second, the second pair of square brackets in the said proviso were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, respectively section 12(a) and section 12(b) and, in accordance with the provisions of section 17 of the 2011 Law, these amendments shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

paragraph (e) of subsection (3) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1994, section 1(d), with effect from 16th January, 1995;

paragraph (g) of subsection (3) was repealed by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 7(2), with effect from 22nd May, 1991;

paragraph (b) of subsection (4) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(c), with effect from 22nd May, 1991;

subsection (5A) and subsection (5B) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 2(b), with effect from 1st January 1998;

the words in square brackets in paragraph (a) of subsection (5A) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the words in square brackets in paragraph (c) of subsection (5A)

were substituted by the *Income Tax (Zero 10) (Guernsey) Law, 2007, section 34, with effect from 1st January, 2008;*

subsection (6) was repealed by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 17, with effect from 1st January, 2023;

subsection (7) was substituted, and subsection (7A) and subsection (7B) were inserted, by the Income Tax (Pension Amendments) (Guernsey) Law, 2004, section 3, with effect from 12th April, 2005;¹²⁵

the words in the second pair of square brackets in paragraph (7B) were substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 3, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the words in square brackets in sub-paragraph (ii) of paragraph (a) of subsection (9) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 35, with effect from 1st January, 2008;¹²⁶

the proviso to sub-paragraph (ii) of paragraph (a) of subsection (9) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2001, section 2(1), with effect from 1st January, 2002;

paragraph (b) of subsection (9) was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 2(1), with effect from 24th August, 1993;¹²⁷

paragraph (c) of subsection (9) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 2(c), with effect from 1st January 1998;

the words in the first and second pairs of square brackets in subsection (10) were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(d), with effect from 22nd May, 1991;

the words omitted in square brackets within the first and second pairs of square brackets in subsection (10) were repealed by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 13 and, in accordance with the provisions of section 17 of the 2011 Law, these amendments shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;¹²⁸

subsection (11) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2011, section 14 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010;

the words in square brackets in paragraph (a) of subsection (11) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 5, with effect from 1st January, 2019;

The following Regulations have been made under section 157A:

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1984;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1986;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1987;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1988;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1989;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1990;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) (Amendment) Regulations, 1991;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010;

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) (No. 2) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2017;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2018.

In accordance with the provisions of the Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010, regulation 1A(1), with effect in respect of any year of charge after 2010, for the purposes of subsection (10) of this section the retirement annuity contribution limit in respect of the year of charge 2011 and any succeeding year of charge is £50,000.

[Taxation of residual fund of retirement annuity trust scheme.

157AA. (1) For the avoidance of doubt, any assets of a retirement annuity trust scheme which, at the relevant time, are held by or otherwise under the control of the trustees of the scheme for the purpose of providing a retirement annuity for an individual shall, on the death of that individual, and provided that payment of the

annuity has commenced, be treated as income of the year in which he died, and tax in respect thereof is chargeable at the [appropriate rate] then in force on the person by or through whom the annuity would have been payable to that individual had he not died.

(2) In subsection (1) the "**relevant time**" is the time immediately prior to the death of the individual described in that subsection.

(3) The provisions of paragraphs (b) to (f) of section 157A(5A)^{la} apply in relation to assets described in subsection (1) as they apply in relation to a lump sum paid, under the terms of an approved retirement annuity trust scheme, in accordance with the proviso to section 157A(2)(c), but as if the references in those paragraphs –

- (a) to the lump sum, were references to those assets, and
- (b) to the person by or through whom the lump sum is paid, were references to the person by or through whom an annuity would have been payable to the individual described in subsection (1) had he not died.]

NOTES

Section 157AA was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2004, section 4, with effect from 12th April, 2005.

In section 157AA, the words in square brackets were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008.

[Transfers into approved annuity schemes.]

la Section 157A(5A) was inserted by No XXII of 1997.

157B. (1) In this section "**an approved inward transfer payment**" means a payment made on behalf of an individual into a retirement annuity scheme or a retirement annuity trust scheme approved by the [Director] under section 157A of this Law, from –

- (a) a retirement annuity scheme, or a retirement annuity trust scheme, approved by the [Director] under section 157A of this Law, or
- (b) a pension scheme approved by the [Director] under section 150 of this law, or
- [(bA) a States' scheme, or
- (bB) a statutory scheme, or]
- (c) a superannuation fund of a description set out in paragraph (o) of section 40 of this Law, or
- (d) a contract entered into for the purposes of an annuity to which section 40(ee) of this Law applies, or
- (e) a pension scheme, annuity scheme, or annuity trust scheme which, in the opinion of the [Director] –
 - (i) is situated in a place outside Guernsey, and
 - (ii) is approved or exempted by the competent authority in that place under the laws relating to income tax there, and

Consolidated text

- (iii) provides benefits of a nature similar to a scheme which may be approved under section 157A of this Law[, or
- (f) an "**exempt approved scheme**" as defined by section 592(1) of the Income and Corporation Taxes Act 1988].

(2) It is hereby declared that the making of an approved inward transfer payment does not constitute or involve –

- (a) the application to another purpose of a sum paid by an employer or contributor for the purpose of providing benefits under a pension scheme, within the meaning of sections 150(2)(j), 150(2)(l) or 152(3) of this Law, or
- (b) the provision of a benefit by a pension scheme within the meaning of section 150(2)(k) of this law, or
- (c) the surrender of a benefit under a pension scheme, within the meaning of section 150(2)(m) of this Law, or
- (d) the payment of a lump sum in commutation or in lieu of a pension, within the meaning of section 153(1)(a) of this Law, or
- (e) the payment of a sum otherwise than by way of annuity, within the meaning of section 157A(2)(b)(i) or 157A(2)(b)(iii) of this Law, or
- (f) the payment of a premium or contribution, within the meaning of section 157A(2)(b)(vi) or 157A(10) of this

Law, or

- (g) the surrender, commutation or assignment of an annuity within the meaning of section 157A(2)(c) of this Law.]

NOTES

Section 157B was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 7(1), with effect from 22nd May, 1991.

In section 157B,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹²⁹

paragraph (bA) and Paragraph (bB) of subsection (1) were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 2(2), with effect from 24th August, 1993;

paragraph (f) of subsection (1), and the word and punctuation immediately after sub-paragraph (iii) of paragraph (e) thereof, were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 1(2), with effect from 24th August, 1993.

[Transfers out of approved annuity schemes.]

157C. (1) In this section "**an approved outward transfer payment**" means payment made on behalf of an individual out of a retirement annuity scheme or a retirement annuity trust scheme approved by the [Director] under section 157A of this Law, into –

- (a) a retirement annuity scheme, or a retirement annuity trust scheme, approved by the [Director] under section 157A of this Law, or
- (b) a contract entered into for the purposes of an annuity to

which section 40(ee) of this Law applies, or

- (c) an annuity scheme or annuity trust scheme which, in the opinion of the [Director] –
 - (i) is situated in a place outside Guernsey, and
 - (ii) is approved or exempted by the competent authority in that place under the laws relating to income tax there, and
 - (iii) provides benefits of a nature similar to a scheme which may be approved under section 157A of this Law[, or
- (d) an "**exempt approved scheme**" as defined by section 592(1) of the Income and Corporation Taxes Act 1988][, or
- (e) any of the following descriptions of occupational pension scheme –
 - (i) a pension scheme approved by the [Director] under section 150,
 - (ii) a States' scheme,
 - (iii) a statutory scheme,
 - (iv) a superannuation fund of a description set out in section 40(o),

- (v) a pension scheme which, in the opinion of the [Director] –
 - (A) is situated in a place outside Guernsey,
 - (B) is approved or exempted by the competent authority in that place under the laws relating to income tax there, and
 - (C) provides benefits of a nature similar to a pension scheme which may be approved under section 150,
- (vi) any other description of occupational pension scheme specified for the purposes of this section by Ordinance of the States.]

(2) It is hereby declared that the making of an approved outward transfer payment does not constitute or involve –

- (a) the payment of a sum otherwise than by way of annuity, within the meaning of section 157A(2)(b)(i) or 157A(2)(b)(iii) of this Law, or
- (b) the payment of a premium or contribution, within the meaning of section 157A(2)(b)(vi) or 157A(10) of this Law, or
- (c) the surrender, commutation or assignment of an annuity

within the meaning of section 157A(2)(c) of this Law.

(3) A payment which is an approved outward transfer payment by virtue of paragraph (b) or paragraph (c) of subsection (1) of this section shall [(subject to the provisions of the Income Tax (Pensions) (Amendment) Regulations, 2025)] be chargeable to tax at one half of the [appropriate rate] in force for the year of charge in which the transfer is made:

[Provided that the payment shall be exempt from tax if the [Director] is satisfied that the scheme into which it is made falls within proviso (i), (ii) or (iii) to section 153(6) of this Law.]]

NOTES

Section 157C was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 7(1), with effect from 22nd May, 1991.

In section 157C,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹³⁰

paragraph (d) of subsection (1), and the word and punctuation immediately after sub-paragraph (iii) of paragraph (c) thereof, were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 1(3), with effect from 24th August, 1993;

paragraph (e) of subsection (1), and the word immediately after paragraph (d) thereof, were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2004, section 5, with effect from 12th April, 2005;

the words in the first pair of square brackets in subsection (3) were inserted by the Income Tax (Pensions) (Amendment) Regulations, 2025, regulation 6, with effect from 1st June, 2025;

the words in the second pair of square brackets in subsection (3) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 2, with effect from 1st January, 2008;

the proviso to subsection (3) was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 1(4), with effect from 24th August, 1993.

In accordance with the provisions of the Income Tax (Pensions) (Amendment) Regulations, 2025, regulation 1, with effect from 1st June, 2025 and for the purposes of subsection (3) of this section, where the provisions of subparagraphs (a), (b) and (c) of regulation 1(2) of the 2025 Regulations are complied with, the approved outward transfer payment is not chargeable to tax at one half of the appropriate rate in force for the year of charge in which the transfer is made.

[Full commutation of benefits under approved annuity schemes permitted in certain circumstances.]

157CA. (1) Notwithstanding any provision of or under this Law imposing a limitation on the amount of a lump sum that may be paid out of a retirement annuity scheme or retirement annuity trust scheme approved by the [Director of the Revenue Service] in accordance with the provisions of section 157A(2) or (4) in commutation of or in lieu of a pension (whether the limitation is expressed by reference to the value of the fund accumulated under the contract or trust or otherwise), a lump sum may, at the discretion of the company, trustee or other person having the management of such a scheme, be paid out of or under the provisions of the scheme in full commutation of or in lieu of a pension in the following circumstances –

- (a) the individual in question has attained the age of 50 years and the aggregate value of the fund attributable to him and accumulated under –
 - (i) that scheme,
 - (ii) ...
 - (iii) ...

does not exceed [£50,000], the valuation being made immediately before the time of the making of the payment,

(b) the individual has attained the age of 50 years and the aggregate value of the fund attributable to him and accumulated under that scheme does not exceed £15,000, the valuation being made immediately before the time of the making of the payment, or

(c) the individual has not attained the age of 50 years and the aggregate value of the fund attributable to him and accumulated under that scheme does not exceed £15,000, the valuation being made immediately before the time of the making of the payment [or,

(d) a pension is already being paid out of or under the provisions of that scheme, and the aggregate value of the funds attributable to the individual in question and accumulated under that scheme does not exceed –

(A) £50,000, the valuation being made immediately before the time of the making of the payment, or

(B) £100,000, the valuation being made immediately before the time of the making of the payment, provided that the individual in question has a guaranteed minimum aggregate retirement income (from whatever source) for the remainder of his life of £20,000 per annum (or such other threshold as the Committee may

specify by regulation); provided that the Committee may by regulation specify an amount or amounts of funds or other capital which, if attributable to the individual in question, would on an actuarial basis yield for him an equivalent amount of such income or any proportion thereof and which accordingly may be taken into account in determining whether the threshold of £20,000 (as amended from time to time) is reached in his case].

(2) A lump sum paid to an individual by virtue of subsection (1) shall be treated as income of the year in which it is paid and tax in respect thereof shall be chargeable in accordance with the provisions of or under this Law –

(a) in the case of a lump sum paid by virtue of [paragraph (b)] of subsection (1), at one half of the appropriate rate in force for the year of charge in which the lump sum is paid, and

(b) in the case of a lump sum paid by virtue of [paragraph (a), (c) or (d)] of subsection (1), at the appropriate rate in force for the said year of charge.

(3) ...

(4) The [Committee] may by regulation amend this section.]

NOTES

Section 157CA was inserted by the Income Tax (Pension Amendments)

(Guernsey) Law, 2011, section 15 and, in accordance with the provisions of section 17 of the 2011 Law, this amendment shall have effect on and from the 27th April, 2011 and in respect of any year of charge after 2010.

In section 157CA,

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

first, subparagraph (ii) and subparagraph (iii) of paragraph (a) of subsection (1) and, second, subsection (3) were repealed by the Income Tax (Pension Amendments) (Guernsey) Regulations, 2019, respectively regulation 1(3)(a) and regulation 1(3)(b), with effect from 1st January, 2020;¹³¹

first, the symbol and figures in paragraph (a) of subsection (1) were substituted, second, paragraph (d) of subsection (1) and the word immediately after paragraph (c) thereof were inserted, third, the words in square brackets in paragraph (a) of subsection (2) and, fourth, the words in square brackets in paragraph (b) of subsection (2) were substituted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2018, section 2, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 1st January, 2019;

the word in square brackets in subsection (4) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have been made under section 157CA:

*Income Tax (Pension Amendments) (Guernsey) Regulations, 2019;
Income Tax (Pension Amendments) (Revocation) (Guernsey) Regulations, 2023.*

Profits of certain annuity business.

157D. It is hereby declared for the avoidance of doubt that a company or trust which, anywhere in the world, enters into –

- (a) a contract for the purpose of providing an annuity or lump sum to which paragraph (ee) of section 40 of this Law applies, or

- (b) a retirement annuity scheme, or a retirement annuity trust scheme, approved by the [Director] under section 157A of this Law,

is thereby carrying on business in Guernsey, and that income arising or accruing to that company or trust in consequence of that contract or scheme is accordingly income arising or accruing to it from business carried on in Guernsey.]

NOTES

Section 157D was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 10, with effect from 22nd May, 1991.

In section 157D, the word in square brackets in paragraph (b) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹³²

[Enhanced rate of tax on unauthorised payments.]

- 157DA.** (1) Where a payment is made from –
- (a) a pension scheme approved by the Director in accordance with the provisions of section 150, or
 - (b) a retirement annuity scheme or retirement annuity trust scheme approved by the Director in accordance with the provisions of section 157A,

in contravention of the conditions of the Director's approval or the provisions of this Law, or in circumstances where the conditions for approval of the scheme imposed by the provisions of this Law are no longer fulfilled –

- (i) the payment shall be treated as income of the year in which it is made in the hands of the recipient,
- (ii) income tax is due, and deductible by the person ("**person A**") by or through whom the payment is made, at a rate of 50% (the "**enhanced rate**") unless the Director decides to abate that liability in whole or in part on the ground that the Director considers it just and reasonable to do so in all the circumstances of the case, and
- (iii) person A, having deducted the tax chargeable under subparagraph (ii), shall remit it to the Director within a period of one month, and section 157A(5A)(b), (c), (d), (e) and (f) apply with appropriate modifications in respect of person A and a payment described in this section as they apply in respect of a person by or through whom a lump sum described in section 157A(5A)(a) is paid and such a lump sum.

(2) The amount of tax paid in any year of charge by an individual at the enhanced rate in respect of a payment described in subsection (1) –

- (a) may be set off against any tax at the individual standard rate that would otherwise have been due from that individual in that year of charge in respect of that payment, and

- (b) is not to be taken into account in calculating the amount of tax paid by that individual in that year of charge for the purposes of determining that individual's eligibility for any limitation or cap specified by the provisions of this Law on the maximum amount of tax payable by that individual in that year of charge under the provisions of this Law,

and, notwithstanding the provisions of section 5C, no amount that an individual has elected to pay by way of the standard charge in accordance with section 5B may be set off against the amount of tax due from that individual at the enhanced rate.

- (3) This section is without prejudice to –
 - (a) the powers of the Director to revoke, or vary any conditions attached to, the approval of a scheme described in subsection (1), or
 - (b) any other sanction, measure or consequence set out in the provisions of this Law in respect of –
 - (i) a contravention of the conditions of the Director's approval or the provisions of this Law, or
 - (ii) a non-fulfilment of the conditions for approval of such a scheme imposed by the provisions of this Law.

(4) A person aggrieved by the imposition of a charge to income tax at the enhanced rate or by a decision of the Director not to abate such a charge, or to

abate it only in part, may appeal to the Guernsey Revenue Service Tribunal on giving to the Director notice in writing, stating the grounds of appeal, within a period of 30 days beginning on the date of the notice imposing the charge or (as the case may be) stating the Director's decision.

(5) The Guernsey Revenue Service Tribunal may admit an appeal under subsection (4) after the expiration of the 30 day period if satisfied that owing to absence, sickness or other reasonable cause a person was prevented from giving notice of appeal within that period.

(6) The sole grounds of appeal are that –

(a) the charge to income tax at the enhanced rate is not payable because the payment in respect of which the charge was levied was not made from a scheme described in subsection (1) –

(i) in contravention of the conditions of the Director's approval or the provisions of this Law, or

(ii) in circumstances where the conditions for approval of the scheme imposed by the provisions of this Law were no longer fulfilled,

(b) the charge to income tax at the enhanced rate has been miscalculated, or

(c) the decision of the Director not to abate the charge, or to abate it only in part, was unreasonable as a matter of

law having regard to all facts and circumstances of the case.

(7) In disposing of an appeal the Guernsey Revenue Service Tribunal may –

- (a) confirm, annul or vary the charge in whole or in part, or
- (b) set aside the charge and order the Director to make a fresh determination after making such further enquiry as –
 - (i) the Director thinks fit, or
 - (ii) the Guernsey Revenue Service Tribunal may direct.

(8) Subject to section 80, the decision of the Guernsey Revenue Service Tribunal is final and conclusive.

(9) This section applies to the exclusion of sections 76 and 79.

(10) Sections 77, 78, 78A and 80 apply in relation to an appeal under this section as they apply in relation to an appeal under section 76.

(11) In this section –

- (a) the "**enhanced rate**" has the meaning given in subsection (1)(ii),
- (b) references, however expressed –

- (i) to a pension scheme approved by the Director in accordance with the provisions of section 150 include references to a part of a pension scheme so approved,
- (ii) to the provisions of this Law include references to any Ordinance, regulation or resolution made under it,
- (iii) to conditions include references to limitations, restrictions and qualifications.]

NOTE

Section 157DA was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 4, with effect from 1st January, 2023.

Exempt pension contracts and exempt pension trusts.

157E. (1) For the purposes of this Law the expressions "**exempt pension contract**" and "**exempt pension trust**" mean, respectively, a contract approved by the Director in accordance with the provisions of subsection (2) and a trust approved by the Director in accordance with the provisions of subsection (4).

(2) The Director may, subject to any conditions he thinks proper to impose, approve a contract as an exempt pension contract if the following conditions are satisfied –

- (a) the contract is made by an individual, whether or not he is in receipt of relevant earnings subject to income tax under the provisions of this Law, and called a

"member" in this section and sections 157F to 157L, with a company that is –

- (i) resident in Guernsey or carrying on business through a permanent establishment situate in Guernsey,
 - (ii) carrying on in Guernsey the business of the administration, management and granting of annuities on human life, and
 - (iii) carrying on business under the authority and in accordance with the conditions of a licence, registration or authorisation granted under any of the regulatory laws,
- (b) the contract has for its sole or main purpose the provision of pension savings to provide benefits –
- (i) to the member on attaining an age of not less than 55 years, and/or
 - (ii) to the surviving spouse, civil partner, children or other dependants of the member on the death of that member,

and, in either case, subject to the provisions of subsection (3),

- (c) the contract's rules provide that at least 70% of the member's UK tax-relieved scheme funds, if any, are

designated by the administrator or other person having the management of the contract for the purpose of providing that member with an income for the life of that member,

- (d) without prejudice to any provisions in the contract for the matters set out in subsection (3)(d), the contract provides that no income payable under it shall be capable in whole or in part of surrender, commutation or assignment provided that the contract may give the member the right at any time on attaining the age of not less than 55 years to receive, by way of commutation of part of the income payable to him, a lump sum not exceeding 30% of the funds accumulated under the contract at the date on which such lump sum is paid,
- (e) resident individuals and non-resident individuals are eligible to enter into the contract.

(3) Provided that the conditions set out in subsection (2)(a), (c), (d) and (e) are satisfied the Director may, if he thinks fit, and subject to any conditions he thinks proper to impose, approve a contract otherwise satisfying the conditions contained in subsection (2)(b) notwithstanding that the contract provides for one or more of the following matters –

- (a) for the payment of a lump sum to the personal representative of a deceased member, or to the surviving spouse, civil partner, children or other dependants of a deceased member on the death of the member prior to the date on which an income for life

Consolidated text

would have become payable to the member had he not died,

- (b) for the payment after the death of the member of an income for life to the surviving spouse, civil partner, children or other dependants of that member,
- (c) for the payment of an income to any person to continue for a term certain, not exceeding ten years, notwithstanding his death within that term,
- (d) for the payment to the member of an income for life commencing before the age of 55 years, where the administrator or other person having the management of the contract accepts qualified medical advice to the effect that the member is and will continue to be medically incapable either physically or mentally as a result of injury, sickness, disease or disability of continuing the member's current occupation and as a result of such injury, sickness, disease or disability ceases to carry on that occupation,
- (e) in the case of an income which is to continue for a term certain, for the income to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by the personal representatives in the distribution of his estate.

(4) The preceding provisions of this section shall apply, with the necessary adaptations, in relation to the approval of an exempt pension trust by the Director as they apply in relation to the approval of an exempt pension contract, with

the modification that for the condition in subsection (2)(a)(i), (ii) and (iii) as to the company with which the contract is made, there shall be substituted and added as appropriate the following conditions –

- (a) the trust is established under irrevocable trusts under the laws of the island of Guernsey and is administered and managed in Guernsey,
- (b) the number of trustees of the trust shall not be less than two, unless a corporate trustee is acting,
- (c) each trustee is resident in Guernsey,
- (d) each trustee carries on in Guernsey the business of the administration and management of trusts, and
- (e) each trustee carries on business under the authority and in accordance with the conditions of a licence, registration or authorisation granted under any of the regulatory laws.]

NOTE

Section 157E was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Tax treatment of payments into and income from exempt pension contracts and trusts.

157F. (1) For the purposes of this Law –

Consolidated text

- (a) no payment or contribution by a member to any exempt pension contract or any exempt pension trust shall be eligible for any allowance which may be claimable under the provisions of section 36,
 - (b) no payment or contribution to any exempt pension contract or any exempt pension trust –
 - (i) shall be an authorised deduction from the emoluments of an office or employment of a member for the purposes of section 8(3), or
 - (ii) where made by an employer for the benefit of a member –
 - (A) may be exempted from tax by Ordinance under section 8(2A), or
 - (B) shall be left out of account in calculating the assessable income of any employment for the purposes of section 8(1), and
 - (c) no payment or contribution to any exempt pension contract or any exempt pension trust to provide retirement or other benefits for any person employed in the business shall be permitted as a deduction under section 7(3)(g) in the computation of the amount of the profits of any business for any year of computation.
- (2) Notwithstanding any other provision of this Law, tax shall not

be chargeable in respect of any payment made, or income arising or accruing, to or for the benefit of a member by way of pension savings under an exempt pension contract or an exempt pension trust, whether the member is a resident individual or a non-resident individual at the time the payment is made or the income arises or accrues.

(3) In accordance with section 40(b), income derived from investments or deposits forming part of an exempt pension contract or an exempt pension trust shall not be chargeable to tax under this Law and accordingly when paid out under the terms of the contract or trust shall be paid gross as being a benefit in respect of pension savings.]

NOTE

Section 157F was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Revocation, refusal or variation of approval.]

157G. (1) The Director may at any time –

- (a) revoke an approval of any exempt pension contract or any exempt pension trust given under section 157E if there is a contravention of or failure to comply with –
 - (i) any condition subject to which the approval was given, or
 - (ii) any restriction, obligation or requirement imposed by or under this Law or any other enactment in relation to the regulation of exempt pension contracts or exempt pension

trusts or the administration or management thereof, or

(b) vary any condition attached to any such approval.

(2) Where the Director decides –

(a) not to grant approval of an exempt pension contract or an exempt pension trust under section 157E or to grant approval subject to conditions, or

(b) to revoke any such approval or to vary any condition attached to any such approval,

he shall, as soon as is reasonably practicable, give written notice to the applicant (or, in the case of a revocation or variation, the person to whom the approval was given) of –

(i) the decision,

(ii) the reasons therefor, and

(iii) in the case of a revocation or variation, the date (which may be a date prior to the notice) on which the revocation or variation is to take effect.]

NOTE

Section 157G was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Appeals against revocation, etc.]

157H. (1) A person aggrieved by a decision described in section 157G(2) may appeal on giving to the Director written notice, stating the grounds of appeal, within 30 days of the date of the notice of the Director's decision.

(2) The provisions of Part VII of this Law shall apply in the case of an appeal under the provisions of subsection (1) as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the Director, with such adaptations as may be necessary.]

NOTE

Section 157H was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Transfer payments into exempt pension contracts or trusts.]

157I. (1) In this section "**an exempt pension inward transfer payment**" means a payment or transfer of any property made on behalf of an individual into an exempt pension contract or an exempt pension trust for the benefit of that individual under the contract or trust as the case may be where the payment or transfer is from –

- (a) an exempt pension contract or an exempt pension trust,
- (b) a retirement annuity scheme or a retirement annuity trust scheme approved by the Director under section 157A,
- (c) a pension scheme approved by the Director under section 150,

- (d) a superannuation fund of a description set out in section 40(o),
- (e) a retirement annuity contract or a retirement annuity trust scheme of a description set out in section 40(ee),
- (f) with the prior written consent of the Director, a pension scheme, annuity scheme or annuity trust scheme which, in the opinion of the Director –
 - (i) is situated in a place outside Guernsey,
 - (ii) is approved or exempted by the competent authority in that place under the laws relating to income tax there,
 - (iii) provides benefits of a nature similar to a scheme which may be approved under section 157E, and
 - (iv) is not a scheme to which paragraph (g) applies,
- (g) a "registered pension scheme" within the meaning of section 153 of and Schedule 36 to the Finance Act 2004^{lb}, or
- (h) a States' scheme or a statutory scheme.

^{lb} An Act of Parliament (2004 c. 12).

(2) The trustees, administrators or other persons having management of an exempt pension contract or an exempt pension trust may, subject to the provisions of sections 157E to 157M, accept an exempt pension inward transfer payment of any property from any trustee, administrator or other person having management of a scheme referred to in subsection (1).

(3) The making of an exempt pension inward transfer payment does not constitute or involve –

- (a) the application to another purpose of a sum paid by an employer or contributor for the purpose of providing benefits under a pension scheme, within the meaning of sections 150(2)(j), 150(2)(l) or 152(3),
- (b) the provision of a benefit by a pension scheme, within the meaning of section 150(2)(k),
- (c) the surrender of a benefit under a pension scheme, within the meaning of section 150(2)(m),
- (d) the payment of a lump sum in commutation or in lieu of a pension, within the meaning of section 153(1)(a),
- (e) the payment of a sum otherwise than by way of annuity, within the meaning of section 157A(2)(b)(i) or 157A(2)(b)(iii),
- (f) the payment of a premium or contribution, within the meaning of section 157A(2)(b)(vi) or 157A(10),

- (g) the surrender, commutation or assignment of an annuity, within the meaning of section 157A(2)(c), or
- (h) the surrender, commutation or assignment of any income, within the meaning of section 157E(2)(d).]

NOTE

Section 157I was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Duty to account for tax on exempt pension inward transfer payments.]

157J. (1) If the whole or any part of an exempt pension inward transfer payment comprises or is derived from Guernsey tax-relieved scheme funds then the whole or that part of the payment shall be deemed to be income arising to the trustee, administrator or other person having the management of the scheme from which the payment is made and shall be chargeable to tax at the individual standard rate.

(2) Where the whole or any part of an exempt pension inward transfer payment comprises or is derived from funds which were at any time prior to the date of the payment charged to tax at a rate of one half of the individual standard rate pursuant to sections 153(6), 153(6A) or 157C, then the whole or that part of the payment shall be deemed to be income arising to the trustee, administrator or other person having the management of the scheme from which the payment was made and shall be chargeable to tax at a rate of one half of the individual standard rate.

(3) The trustee, administrator or other person having the management of a scheme making an exempt pension inward transfer payment shall, when making the payment, deduct the amount of tax chargeable under subsection (1) or (2) from the payment and shall remit the tax so deducted to the Director within one month of the date of deduction, and shall at the same time furnish to the Director, in

such form and manner as the Director may require, an account of the payment and the exempt pension contract or the exempt pension trust to which the payment is made and of the tax deducted pursuant to subsection (1) or (2).

(4) Any person who fails to comply with the provisions of subsection (3) shall be liable to a surcharge or additional surcharge under section 199 for the purposes of calculating which the tax shall be deemed to be an amount becoming due on the date on which it was required to be deducted.

(5) Where any person has failed to deliver to the Director the account required by subsection (3) within the time set out in that paragraph or where the Director is not satisfied with the account so delivered, the Director may make an assessment on that person to the best of his judgment.

(6) In the event that tax due under subsection (1) or (2) is not paid the Director may collect the tax and any other sums due under subsection (4) as if it were the joint and several liability of –

- (a) the member,
- (b) any other person beneficially entitled to or in receipt of the exempt pension inward transfer payment, or
- (c) the trustee, administrator or other person having the management of the exempt pension contract or the exempt pension trust to which the exempt pension inward transfer payment is made.]

NOTE

Section 157J was inserted by the Income Tax (Pension Amendments)

(Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Application by approved schemes for conversion to exempt contract or trust.

157K. (1) On the application in writing by the trustee, administrator or other person having the management of a scheme referred to in section 157I(1)(b) or (c) (an "**approved transferor scheme**"), the Director may –

- (a) subject to receiving payment of any tax chargeable under this section, release the scheme from the application of section 150 or section 157A, as the case may be, and
- (b) subject to the provisions of section 157E, grant approval for the scheme as an exempt pension contract or an exempt pension trust, as the case may be, under that section.

Upon the granting of such release and approval, the scheme shall cease to be governed by section 150 or section 157A, as the case may be, and shall instead be governed by the provisions of sections 157E to 157M.

(2) If the whole or any part of the funds of an approved transferor scheme comprises or is derived from Guernsey tax-relieved scheme funds then the whole or that part of the funds of the scheme as at the date on which the scheme ceases to be governed by section 150 or section 157A, as the case may be, shall be deemed to be income arising to the trustee, administrator or other person having the management of the scheme as at that date and shall be chargeable to tax at the individual standard rate.

(3) The trustee, administrator or other person having the management of the approved transferor scheme shall deduct the amount of tax

chargeable under subsection (2) from the funds of the scheme and shall remit the tax so deducted to the Director with the application under subsection (1) and shall at the same time furnish to the Director, in such form and manner as the Director may require, an account of the funds comprised in the scheme and of the tax deducted pursuant to subsection (2).

(4) Where the Director is not satisfied with the amount of tax paid or the account delivered pursuant to subsection (3), he may –

- (a) refuse to release the approved transferor scheme from the application of section 150 or section 157A, as the case may be, and any sums remitted to the Director with the application shall be returned forthwith, or
- (b) grant such release on condition that tax due under an assessment on the trustee, administrator or other person having the management of the scheme made by the Director in accordance with his best judgment is paid forthwith; and in this case, if the tax due is not paid, the release shall not be granted and the scheme shall not cease to be governed by section 150 or section 157A, as the case may be, and any sums remitted to the Director with the application shall be returned forthwith.]

NOTE

Section 157K was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Transfer payments out of exempt pension contracts or trusts.

157L. A transfer may only be made out of an exempt pension contract or

exempt pension trust to a scheme which is –

- (a) an exempt pension contract or an exempt pension trust,
- (b) a retirement annuity scheme or a retirement annuity trust scheme approved by the Director under section 157A,
- (c) a pension scheme approved by the Director under section 150,
- (d) in the opinion of the Director –
 - (i) situated in a place outside Guernsey,
 - (ii) approved or exempted by the competent authority in that place under the laws relating to income tax there, and
 - (iii) a scheme which provides benefits of a nature similar to a scheme which may be approved under section 157E,
- (e) a superannuation fund of a description set out in section 40(o), or
- (f) a retirement annuity contract or a retirement annuity trust scheme of a description set out in section 40(ee),

and which has provisions in respect of benefits that comply with section 157E(2)(b), (c) and (d) and are otherwise no more generous to the member than those permitted

under a contract which is, subject to section 157E(3), eligible for approval as an exempt pension contract under that section.]

NOTE

Section 157L was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

[Bar on approvals of and contributions into exempt pension contracts/trusts.]

- 157LA.** (1) From the date of the coming into force of this section –
- (a) the Director shall not approve any contract as an exempt pension contract or any trust as an exempt pension trust in accordance with the provisions of section 157E, and
 - (b) no payment, transfer or contribution may be made into an exempt pension contract or exempt pension trust.

(2) This section shall be deemed to have come into force on the 27th June, 2012.]

NOTE

Section 157LA was inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 5, with effect from 1st January, 2023.

[Power to make regulations as to sections 157E to [157LA].

157M. The [Committee] may by regulation amend sections 157E to [157LA] and make such other provision as they think fit for the purposes of carrying those sections into effect.]

NOTES

Section 157M was inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 2, with effect from 26th March, 2012.

In section 157M,

the figures and letters "157LA" in square brackets, wherever occurring, were substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 6, with effect from 1st January, 2023;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Interpretation of Part XIII.

158. In this Part of this Law, the following expressions have the meanings hereby respectively assigned to them, that is to say –

["**approved transferor scheme**": see section 157K(1),]

["**civil partner**" means a person who has registered as the civil partner of the deceased under the Civil Partnership Act 2004, or who is treated under that Act as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled,]

["**dependant**" means an individual who is dependent for the ordinary necessities of life upon –

- (a) an employee who is a member of a pension scheme approved under this Part of this Law, or

- (b) a person who contributes under an annuity contract approved under this Part of this Law,]

"employee" –

- (a) in relation to a company, includes any officer of the company, any director of the company and any other person taking part in the management of the affairs of the company, and
- (b) in relation to any employer, includes a person who is to be or has been an employee,

and **"employer"** and other cognate expressions shall be construed accordingly,

[**"exempt pension contract"** and **"exempt pension trust"**: see section 157E(1),]

[**"exempt pension inward transfer payment"**: see section 157I(1),]

[**"full-time working director/employee of a trading company"** means a director or employee who devotes more than 30 hours each week to his directorship of or employment with a company [deriving income from business],]

[**"Guernsey tax-relieved scheme funds"** means any funds (including income, profits and gains arising or accruing from the investment of such funds) which are or have been, or would have been had there been no limitation on the amounts so available in the relevant year of charge, the

subject of –

- (a) any deduction against profits or income for the purposes of computing sums assessable to tax, or
- (b) any allowance or relief against sums which would otherwise be assessable to tax,

under the provisions of this Law,]

["**investment company**" has the meaning given by section 169,]

["**member**": see section 157E(2)(a),]

["**pension savings**" means retirement or other benefits which are provided by a bona fide pension scheme, and which provide an income for life,]

"**proprietary director**" means a director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control more than fifteen per cent of the ordinary share capital of the company,

"**proprietary employee**" means, in relation to a company, an employee who is the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control more than fifteen per cent of the ordinary share capital of the company,

["**regulatory laws**" means –

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, and
- (f) any other enactment or statutory instrument prescribed for the purposes of this Part of this Law by regulations of the [Committee,]

"retirement or other benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person occurring during his service or of his death by accident so occurring and for no other reason,

"service" means service as an employee of the employer in question and other expressions, including **"retirement"** shall be construed

accordingly[,

"States' scheme" means any scheme established by Resolution of the States for the purpose of providing pensions or other benefits for employees or members of the States when they retire, or for their spouses, children, dependants or legal personal representatives when they die,

"statutory scheme" has the meaning assigned by section 612(1) of the Income and Corporation Taxes Act 1988].

[**"UK tax-relieved scheme funds"** means any funds which are UK tax-relieved scheme funds within the meaning of regulation 2(5) of the Pensions Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006^{lc}.]

NOTES

In section 158,

the definitions of the expressions "approved transferor scheme", "civil partner", "exempt pension contract" and "exempt pension trust", "exempt pension inward transfer payment", "Guernsey tax-relieved scheme funds", "member", "pension savings", "regulatory laws" and "UK tax-relieved scheme funds" were inserted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 3, with effect from 26th March, 2012;

the definition of the expression "dependant" was substituted by the Income Tax (Amendment) (Guernsey) Law, 1983, section 1(e), with effect from 1st January, 1984;

the definition of the expression "full-time working director/employee of a trading company" was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1997, section 1(d), with effect from 1st January 1998;

^{lc} United Kingdom S. I. 2006/206.

the words in square brackets within the definition of the expression "full-time working director/employee of a trading company" were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 36, with effect from 1st January, 2008;

the definition of the expression "investment company" was inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 2001, section 2(2), with effect from 1st January, 2002;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the definitions of the expressions "States' scheme" and "statutory scheme" were inserted by the Income Tax (Pension Amendments) (Guernsey) Law, 1993, section 2(3), with effect from 24th August, 1993.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

Regulations for the purposes of Part XIII.

159. The [Committee] may, from time to time, make regulations for the purposes of carrying into effect the provisions of this Part of this Law as respects approved schemes[, [retirement annuity schemes, retirement annuity trust schemes, exempt pension contracts and exempt pension trusts].]

NOTES

In section 159,

the word in the first pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the punctuation in the second pair of square brackets was substituted by the Income Tax (Amendment) (Guernsey) Law, 1983, section 1(f), with effect from 1st January, 1984;

the words in square brackets within the second pair of square brackets were substituted by the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012, section 4, with effect from 26th March, 2012.¹³³

The following Regulations have been made under section 159:

Income Tax (Guernsey) (Limit of Retirement and Other Benefits) Regulations, 1977;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1984;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1986;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1987;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1988;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1989;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) Regulations, 1990;

Income Tax (Guernsey) (Limit of Retirement and Other Benefits) (Amendment) Regulations, 1991;

Income Tax (Guernsey) (Retirement Annuity Schemes and Retirement Annuity Trust Schemes) (Amendment) Regulations, 1991;

Income Tax (Guernsey) (Limit of Retirement and other Benefits) (Amendment) Regulations, 1997;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010;

Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) (No. 2) Regulations, 2015;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2017;

Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2018;

Income Tax (Pensions) (Amendment) Regulations, 2025.

EMPLOYEE BENEFIT TRUSTS & SIMILAR ARRANGEMENTS

Employee benefit trusts, etc, and deferred benefits.

159A. (1) Where a scheme is established, whether or not as a settlement within the meaning of section 65(4), in connection with the carrying on of a business, and –

(a) the purpose or one or the purposes of the scheme is the provision of benefits for persons who are or who at any time have been or are to be –

(i) employed, or

(ii) the holders of offices,

in connection with the business,

(b) the person carrying on the business ("**the employer**"), or any person on his behalf, is a contributor to the scheme, and

(c) contributions (whether of money or other assets) made to the scheme by or on behalf of the employer are, pending their payment out of the scheme, held by or vested in persons other than persons for whose benefit they are (wholly or in part) to be paid,

then, for the purposes of this Law, but subject to the provisions of subsection (3), no contribution made to the scheme by or on behalf of the employer may be deducted from the income of the employer (or of any other person who made the contribution on behalf of the employer) for the purpose of calculating his liability to tax under this

Law unless and until, and except to the extent that –

- (A) the contribution, or money or other assets representing the contribution, has been paid out of the scheme to persons described in paragraph (a), and
- (B) the contribution, or money or other assets representing the contribution, so paid out comprises income which is chargeable to tax in those persons' hands.

(2) For the purposes of this section a contribution of monies or other assets is considered to be made to a scheme by or on behalf of an employer if the monies or other assets are set aside, reserved or otherwise earmarked for the scheme by him or on his behalf.

(3) This section does not apply in respect of –

- (a) a scheme which is an approved scheme within the meaning of Part XIII of this Law,
- (b) any amount paid into the scheme by or on behalf of the employer which, under any other provision of this Law, is chargeable to tax in the hands of a person described in subsection (1)(a) for the year of charge in which the payment into the scheme is made,
- (c) where the employer is a body corporate with a share capital, a scheme the sole purpose of which is to confer,

on persons described in subsection (1)(a), options to acquire shares in the employer, or

- (d) any contribution made by or on behalf of the employer before the date of commencement of the Income Tax (Zero 10) (Guernsey) Law, 2007.]

NOTES

Part XIII A, and section 159A thereof, were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 37, with effect from 1st January, 2008.

The Income Tax (Zero 10) (Guernsey) Law, 2007 entered into force on 1st January, 2008.

PART XIV

**SPECIAL PROVISIONS AS TO INVESTMENT COMPANIES
RESIDENT IN GUERNSEY AND TO UNIT TRUST SCHEMES**

Computation of income.

160. For the avoidance of doubt it is hereby declared that, subject as hereinafter provided in relation to the expenses of management of investment companies, the assessable income arising or accruing to an investment company from the ownership of any land and any building situate in Guernsey shall be determined in accordance with the provisions of sections nine to sixteen of this Law, and the assessable income arising or accruing from any other investment shall be determined in accordance with the provisions of section seventeen of this Law.

NOTE

The following cases have referred to section 160:

Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161;

Administrator of Income Tax v. Cachemar Limited 2005–06 GLR
314.

Application of Chapter III of Part I.

161. ...

NOTE

Section 161 was repealed by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 4(2), with effect from 1st January, 2002.

Expenses of management.

162. A deduction from the income arising or accruing to an investment company for any year of charge may be permitted by the [Director] in respect of sums disbursed as permissible management expenses in the year of computation if a claim for the deduction is made in writing simultaneously with a return as to income submitted in the form and manner required by the [Director] in accordance with the provisions of section sixty-eight of this Law.

NOTES

In section 162, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹³⁴

The following cases have referred to section 162:

Administrator of Taxes v. Tremoille Properties Limited (2002)
(Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR
161;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR
314.

Management expenses not relieved.

163. When in any year of charge an investment company is unable to obtain relief for the whole of its permissible management expenses in pursuance of the provisions of the last preceding section, because it has no income, or because its income is less than the said expenses, an amount equal to its permissible management expenses, or to such part of its permissible management expenses as has not been relieved, whichever is the less, shall be carried forward and treated as permissible management expenses for the next succeeding year of charge and so on from year to year:

Provided that no amount shall be so carried forward if it can be carried forward or set off under any of the provisions of this Law relating to relief from losses.

No deduction for interest paid to non-residents.

164. ...

NOTE

Section 164 was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.

Interest payable to non-residents out of income or profits brought into charge.

165. ...

NOTE

Section 165 was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.

Interest payable to non-residents not out of income or profits brought into charge.

166. ...

NOTE

Section 166 was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.¹³⁵

Relief in respect of interest not payable out of income or profits brought into charge.

167. ...

NOTE

Section 167 was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.

Interest payable to non-residents with permanent establishment in Guernsey.

[168. ...]

NOTE

Section 168 (which was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(f), with effect from 1st January, 1977) was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.

[Ordinances restricting relief on interest paid.]

168A. ...]

NOTE

Section 168A (which was originally inserted by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(5), with effect

from 4th September, 2001) was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 35, with effect from 1st January, 2008.

Interpretation of Part XIV.

169. In this Part of this Law the following expressions have the meanings hereby respectively assigned to them, that is to say –

"investment company" means a company which is resident in Guernsey within the meaning of section four of this Law and [whose activities consist] wholly or mainly in the making of investments and the principal part of whose income is derived therefrom,

"permissible management expenses" means, in the case of an investment company, such items of expenditure as are laid out or expended wholly and exclusively for the purpose of managing the company as would be permissible deductions in accordance with such provisions of this Law as relate to the computation of the profits of a business if the profits of the company fell to be computed in accordance with those provisions, but does not include –

- (a) any item of expenditure which may be deducted or taken into account under any provision of this Law which does not relate specifically to expenses of management, or
- (b) any expense of management which may be taken into account for the purpose of determining the amount of any additional deduction which may be claimable under the provisions of section thirteen of this Law.

NOTES

In section 169, the words in square brackets in the definition of the expression "investment company" were substituted by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(s), with effect from 1st January, 1983.

The following cases have referred to section 169:

Administrator of Taxes v. Tremoille Properties Limited (2002) (Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002);
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 161;
Administrator of Income Tax v. Cachemar Limited 2005–06 GLR 314.

Trustees of unit trust scheme to be treated as investment company.

170. (1) The provisions of this Law shall have effect in respect of income arising or accruing to the trustees of a unit trust scheme which has been approved by the [Committee] for that purpose as respects any year of charge as if the trustees were an investment company resident in Guernsey and as if the rights of the unit holders were shares of the company, and so much of the income arising or accruing as aforesaid as is available for payment to unit holders or for investment were dividends on such shares paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be –

- (a) the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question,
 - (b) if no date is so provided, the last day of the distribution period.
- (2) Without prejudice to the generality of the foregoing subsection –

- (a) sums periodically appropriated out of income arising or accruing as aforesaid shall be treated for the purposes of section one hundred and sixty-two of this Law as sums disbursed as permissible management expenses,
- (b) the proportion of income attributable to any unit holder, being income not paid to unit holders but available for investment shall be treated as an amount paid to a unit holder after such deduction of tax as is [required] by [section 81B],
- (c) section sixty of this Law shall apply with any necessary modifications.

NOTES

In section 170,

the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in the first pair of square brackets in paragraph (b) of subsection (2) was substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 21, with effect from 29th April, 2009;

the word, figures and letter in square brackets in paragraph (b) of subsection (2) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 36, with effect from 1st January, 2008.

Meaning of "unit trust scheme" and supplementary provisions.

171. (1) In the last preceding section and in this section the expression "**unit trust scheme**" means any arrangements made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust established in Guernsey, in profits or income arising from the acquisition,

holding, management or disposal of securities or any other property whatsoever, and the expression "**unit holder**" means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

(2) In ascertaining the amount available to unit holders in respect of any distribution period the trustees of a unit trust scheme may make such adjustments as may be reasonably required to allow for liabilities to, and relief from, tax where the amount of the liability or relief is not yet ascertained.

(3) The last preceding section shall have effect, in relation to any unit trust scheme, from the beginning of the first distribution period of the scheme beginning after the thirty-first day of December, nineteen hundred and sixty-three.

(4) In the last preceding section and in this section the expression "**distribution period**" in relation to a unit trust scheme, means a period over which income from investments subject to the trust is aggregated for the purpose of ascertaining the amount available for distribution to unit holders.

[PART XIVA
SPECIAL PROVISIONS AS TO BUSINESS TAXATION –
SUBSTANCE REQUIREMENTS

Regulations in respect of substance requirements.

171A. (1) The Committee may by regulation make such provision as it thinks fit in respect of the requirements and criteria that must be complied with or fulfilled by or in respect of a company resident in Guernsey ("**substance requirements**") in order to ensure that real economic activity is being carried on or undertaken in Guernsey in respect of the profits and income of the company.

(2) In determining whether or not real economic activity is being carried on or undertaken for the purposes of subsection (1), regard may be had

(without limitation, and in addition to the matters set out in subsection (3)) to the substantial economic presence and substantial activities of the company in question in Guernsey and to the adequacy of the nexus between the company's activities and its profits or income.

(3) Substance requirements may include, without limitation, requirements and criteria in respect of –

- (a) the company's connection with and activity and presence in Guernsey (whether business, financial, physical, legal, economic or otherwise),
- (b) its governance, decision-making, direction, management, administration, control and ownership (legal and beneficial),
- (c) without prejudice to paragraph (b), its board meetings and the minutes thereof and its company records,
- (d) its profits and income and the source and generation thereof,
- (e) its employees and other staff and their numbers, tasks, skills and qualifications,
- (f) its overheads, costs, expenses and other expenditure (operating, capital or otherwise),
- (g) its offices and other premises and other physical assets,

- (h) its core income-generating activity and the conduct thereof,
 - (i) its compliance with obligations arising under any statutory provisions applicable to it or its business or undertaking,
 - (j) the adequacy of any of the matters referred to in the preceding paragraphs.
- (4) For the purposes of this section –
- (a) subsection (4) of section 75CC applies to substance requirements as it applies to an approved international agreement, and
 - (b) the reference in section 75CC(4) to regulations under subsection (1) of section 75CC includes a reference to regulations under subsection (1) of this section.]

NOTES

Part XIVA, and section 171A thereof, were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 14, with effect from 1st December, 2018.

The following Regulations have been made under section 171A:

Income Tax (Substance Requirements) (Implementation) Regulations, 2021.

[Specific matters in relation to which regulations may make provision.]

171B. (1) Regulations under section 171A may, without limitation, and

without prejudice to any other power under this Law in respect of the making of regulations, make provision in respect of –

- (a) the class or description of companies in respect of which substance requirements apply (including, without limitation, provision that substance requirements apply, exclusively or otherwise, in respect of companies carrying on or undertaking business or other activities of a class or description specified in the regulations as "relevant activities"),
- (b) the definition of relevant activities and other expressions used in section 171A and in the regulations,
- (c) the identification of companies –
 - (i) carrying on or undertaking relevant activities or other business or activities specified in the regulations,
 - (ii) of classes or descriptions specified in the regulations (including, without limitation, companies which are holding companies or collective investment vehicles or which receive income arising from intellectual property assets or rights), or
 - (iii) in respect of which or the profits or income of which there is or is considered to be a greater risk of artificial profit shifting,

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- (d) the substance requirements applicable to companies described in paragraph (c),
- (e) appeals in respect of determinations that the substance requirements are or are not applicable and met, penalties and other matters,
- (f) the issue by the Director of guidance –
 - (i) in respect of substance and the adequacy thereof and the meaning of expressions used in the regulations, and
 - (ii) generally for the purposes of providing clarification or guidance in respect of the provisions of or for the purposes of, or in connection with the administration, implementation or enforcement of, the regulations,
- (g) audit requirements,
- (h) the obtaining, delivery, making available, furnishing and/or exchanging of documents and information (including, without limitation, on a spontaneous basis),
- (i) the designation of competent authorities and other authorities, bodies or entities in Guernsey and in other jurisdictions and, without prejudice to paragraph (h), the disclosure of documents and information to them,

- (j) the reporting and notification of matters specified in the regulations and the filing of documents and information in respect thereof,
- (k) the making of statements and declarations,
- (l) the detection, investigation, prosecution, sanctioning and other consequences (civil, criminal, administrative or regulatory) of contraventions of or failures to comply with the regulations and otherwise in respect of enforcement, remedies, penalties, procedures and proceedings including, in relation to companies registered in the Register of Companies within the meaning of section 496 of the Companies (Guernsey) Law, 2008 or section 163 of the Companies (Alderney) Law, 1994, and without limitation, striking-off,
- (m) the supervision, monitoring and verification of compliance,
- (n) the making of site visits (with agreement, with notice and without agreement, or without notice or agreement and subject to judicial approval), including without limitation provision as to –
 - (i) the powers that may be exercised in the course of or in consequence of, or otherwise for the purposes of, site visits,
 - (ii) the persons who may exercise those powers,

- (iii) the purposes for which, and the grounds upon which, site visits may be made or any of those powers may be exercised, and
- (iv) the premises at which site visits may be made,
- (o) the suspension of the operation of all or any of the provisions of any regulations under section 171A during the period of operation of the suspending regulations or during such period as may be specified therein.

(2) Regulations under section 171A may make provision in respect of persons or entities or classes or descriptions of persons or entities other than companies, and references in section 171A and this section to companies shall be construed accordingly.]

NOTES

Section 171B was inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 14, with effect from 1st December, 2018.

The following Regulations have been made under section 171B:

Income Tax (Substance Requirements) (Implementation) Regulations, 2021.

[PART XIVB

FINANCIAL INSTITUTIONS – REGISTRATION REQUIREMENT,
INSPECTORS AND OTHER PROVISIONS

Duty of financial institutions to register with Revenue Service.

- 171C.** (1) A person or entity which is –
- (a) a Guernsey Financial Institution within the meaning of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014^{lca} (the "**FATCA regulations**"), or
 - (b) a Financial Institution in Guernsey within the meaning of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015^{lcb} (the "**CRS regulations**"),

must register with (and, to the extent required by notice of the Director, make disclosures, and provide information and documents, by means of) an electronic portal specified by notice of the Director.

(2) A person or entity described in subsection (1)(a) or (b) is referred to in this Part of this Law as a "**relevant institution**".

(3) Registration under subsection (1) by a relevant institution must contain a declaration –

- (a) of the institution's classification as a Reporting Financial Institution, Non-Reporting Financial Institution, Participating Jurisdiction Financial Institution or Non-Participating Financial Institution,

lca G.S.I. 2014 No. 55; there are amendments not material to this enactment.

lcb G.S.I. 2015 No. 97; there are amendments not material to this enactment.

and the category, class or description of such institution into which it falls, under the FATCA or CRS regulations, or

(b) where paragraph (a) is inapplicable, that it is not an institution of any such classification.

(4) Registration under subsection (1) shall be effected in such form and manner and by such means, and accompanied by such information and documents, as the Director may by notice require.

(5) A relevant institution must also, in each calendar year before the final day of February, submit a return to the Director (an "**annual validation**"), in such form and manner and by such means, and containing or accompanied by such information and documents, as the Director may by notice require.

(6) The information and documents contained in or accompanying the annual validation shall be correct and complete as at the date of submission.

(7) The annual validation –

(a) shall state that the information provided upon registration and subsequently as to classification and category, class or description remains correct and complete, or

(b) shall, if that information is not or is no longer correct and complete, and without prejudice to subsection (8), provide correct and complete information, specifying the manner in which the registered information has changed.

(8) If, in respect of a relevant institution, there is any change of fact or circumstance, or any change to any of the information provided to the Director by or on behalf of the institution upon registration and subsequently (whether by virtue of the information becoming out of date, or being found to be incomplete or inaccurate, or otherwise), the institution shall inform the Director of the change as soon as practicable after becoming aware of the change and in any event within a period of 14 days thereafter (or such other period as the Director may determine).

(9) Notices of the Director under this Part –

- (a) may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Revenue Service or by being set out in statements of practice issued under section 204, and
- (b) may be given to any particular relevant institution, or any particular person or entity reasonably believed to be a relevant institution, or to any category, class or description of such institutions, persons or entities, or to all such institutions, persons or entities.

(10) A person who contravenes any provision of this section is guilty of an offence and liable –

- (a) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale,
- (b) on conviction on indictment, to a fine,

and in either case to a further fine not exceeding level 3 on the uniform scale for each day on which the failure to comply continues after the date of conviction.

(11) In this Part of this Law an "**entity**" includes a scheme, trust, structure, arrangement and cell of a protected cell company.

(12) The duty to register imposed by subsection (1) does not come into effect until the 1st July 2021 or such later date as may be specified by regulations of the Committee.]

NOTE

Part XIVB, and section 171C thereof, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 20, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

Directions to non-compliant institutions.

171D. (1) The Director may by notice in writing give such directions to a relevant institution as appear to the Director to be necessary or desirable for the purposes of securing compliance with the international tax provisions.

- (2) The "**international tax provisions**" are –
- (a) the provisions of any approved international agreement or international tax measure, and
 - (b) the provisions of this Law or any Ordinance or regulation under it implementing or applicable in respect of any such agreement or measure.

(3) The Director may vary or rescind a direction by notice in writing served on the relevant institution.

(4) Without prejudice to the generality of subsection (1), directions thereunder may require the relevant institution to do or not to do any thing.

(5) A direction shall remain in force until rescinded by the Director, unless it is expressed to be of limited duration in which case it shall remain in force until –

- (a) the occurrence of such date, time, event or circumstance as may be specified in it,
- (b) such prohibitions, restrictions or requirements as may be so specified are complied with to the satisfaction of the Director, or
- (c) rescinded by the Director, if earlier.

(6) A person who contravenes any provision of a direction under subsection (1) is guilty of an offence and liable –

- (a) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale,
- (b) on conviction on indictment, to a fine.

(7) In the event of failure by the relevant institution to comply with a direction under this section, the Director may, without prejudice to any other penalties, powers or proceedings in respect of the failure to comply, apply to the Royal Court for an order requiring the relevant institution to comply, in such manner

as the Royal Court thinks fit, with the direction; and an order of the Royal Court under this subsection may contain such incidental, ancillary, consequential and supplementary provision, and may be made on such terms and conditions and subject to such penalty, as the Royal Court thinks proper.]

NOTE

Section 171D was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 20, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Appointment of independent inspectors.

171E. (1) The Director may, in relation to a relevant institution which has or is reasonably suspected of having contravened the international tax provisions set out in section 171D(2), and whether or not the Director has served a notice giving directions under section 171D(1), if the Director considers it necessary or desirable to do so for the purpose of investigating and securing compliance with the international tax provisions and any such direction, by notice in writing appoint, or require the relevant institution to appoint, one or more competent persons ("**inspectors**").

(2) Inspectors shall –

- (a) investigate the institution's compliance with the international tax provisions and any direction given by notice under section 171D(1),
- (b) oversee any necessary remedial measures, making such recommendations as they consider necessary,

- (c) validate the effectiveness of the remedial measures in moving the institution into a position of compliance, and
- (d) report to the Director on such compliance, remediation and validation at such times and intervals and in such form and manner as the Director may require.

(3) A report of an inspector under this section shall be in such form as may be specified in the notice of the appointment referred to in subsection (1) or as the Director may otherwise determine.

(4) A person appointed as an inspector –

- (a) must, if appointed by the relevant institution, be nominated or approved by the Director, and
- (b) must appear to the Director to have the qualifications, skill and resources necessary to enable the inspector to conduct the investigation, and to make the report, in question.

(5) A relevant institution being investigated under this section and any person described in subsection (6) –

- (a) shall produce to an inspector, at such time and place and in such form and manner as the inspector may require, all documents in their custody or power relating to the relevant institution; and the inspector may take copies of or extracts from any documents produced under this paragraph,

- (b) shall attend before an inspector at such time and place as the inspector may require and answer such questions and give such explanations as the inspector may put or require in relation to the relevant institution, and
- (c) otherwise shall give an inspector all assistance in connection with the investigation that is reasonably able to be given.

(6) The persons referred to in subsection (5) are a person who is or has been a director, partner (or fellow member, in the case of a limited liability partnership), manager, employee, agent, banker, auditor, actuary, advocate or other legal adviser of a relevant institution being investigated under this section.

(7) An inspector shall, if so required, produce evidence of his or her authority.

(8) A person who without reasonable excuse –

- (a) contravenes any provision of subsection (5), or
- (b) obstructs, fails to comply with any requirement of or fails to give all reasonable assistance to an inspector exercising or purporting to exercise any power conferred by this section,

is guilty of an offence and liable –

- (i) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not

exceeding twice level 5 on the uniform scale, or to both,

- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(9) A statement made by a person ("A") in response to a requirement imposed under this section –

- (a) may be used in evidence against A in proceedings other than criminal proceedings, and

- (b) may not be used in evidence against A in criminal proceedings except –

- (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of A, or

- (ii) in proceedings for –

- (A) an offence under subsection (8) or section 75L(3) or 201(4) (but only in relation to a requirement imposed by or under this section),

- (B) some other offence where, in giving evidence, A makes a statement inconsistent with it, but the statement is

only admissible to the extent necessary to establish the inconsistency,

(C) perjury, or

(D) perverting the course of justice.

(10) A requirement imposed under this section has effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure, or by any other act or omission, pursuant to such a requirement.

(11) Nothing in this section compels the production or divulgence of a communication or item subject to legal professional privilege when it is in the possession of a person who is entitled to possession of it; but an advocate or other legal adviser may be required to give the name and address (including an electronic address) of any client.

(12) Where a person claims a lien on a document its production under this section is without prejudice to the lien.

(13) Subject to subsection (14), the costs, fees and expenses of an investigation and report under this section shall be met by the relevant institution which is being investigated under subsection (1); and those costs, fees and expenses may, subject as aforesaid, be recovered by the Director from the relevant institution as a civil debt.

(14) Any sum in respect of the costs, fees and expenses of an investigation and report under subsection (1) may be recovered by the Director from a relevant institution as a civil debt except where and to the extent that the court is

satisfied that –

- (a) the sum is not reasonable in amount or was not reasonably incurred, or
- (b) the Director acted unreasonably, frivolously or vexatiously in incurring that sum.

For the avoidance of doubt, the burden of establishing the matters referred to in paragraphs (a) and (b) lie on the person from whom recovery is sought.

(15) No liability is incurred by an inspector in respect of anything done or omitted to be done in connection with the preparation of a report under, or otherwise for the purposes of, this section except to the extent that the liability arises from the inspector's own fraud, wilful misconduct or gross negligence.

(16) The powers conferred by this section are in addition to and not in derogation from the powers conferred by section 171D (directions to non-compliant institutions).]

NOTE

Section 171E was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 20, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Failure to obtain self-certification and freezing orders, etc.]

171F. (1) Where a relevant institution is authorised or required under the FATCA or CRS regulations to rely on a valid self-certification of an account holder or other description of person but –

- (a) has been unable to obtain a self-certification, or
- (b) having obtained a self-certification from the account holder or other relevant description of person and reviewed it for validity, correctness and reliability in accordance with the due diligence procedures set out under the said regulations, knows or has reasonable grounds to suspect that the self-certification is or has subsequently become incorrect or unreliable,

the relevant institution must immediately notify the Director that the circumstances set out in paragraph (a) or (b) are made out.

(2) Notification under subsection (1) must be made in such form and manner and by such means, and must be accompanied by such information and documents, as the Director may by notice require.

(3) On receipt of notification under subsection (1) and at any time thereafter the Director –

- (a) may require the relevant institution to provide any further information and documents or to make any further review or inquiry, and
- (b) may make an order (a "**freezing order**") prohibiting the relevant institution from –
 - (i) making any transfer, withdrawal or payment from, or

Consolidated text

- (ii) effecting any transfer, assignment or other dealing or arrangement in respect of,

the account holder's financial account except under the authority of and in accordance with the conditions of a prior express written permission of the Director.

(4) A freezing order under subsection (3)(b) made against a relevant institution in respect of a financial account has effect, and must be acted on by the institution, notwithstanding –

- (a) any duty, obligation or commitment otherwise binding on the institution under any agreement, contract or other engagement, or

- (b) any right, interest or power otherwise exercisable –

- (i) by or on behalf of the account holder, or

- (ii) in respect of the financial account or the funds or other assets comprised in it,

under any agreement, contract or other engagement.

(5) Any interest or increment accruing to the frozen account in respect of the funds or other assets comprised in it shall also be frozen and is to be added to the funds or assets on their release.

(6) A relevant institution which –

- (a) fails to give notification under subsection (1), or

- (b) contravenes or causes or permits the contravention of a freezing order under subsection (3)(b),

is guilty of an offence and liable –

- (i) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding twice level 5 on the uniform scale, or to both,
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(7) The powers conferred by this section are in addition to and not in derogation from the powers conferred by section 171D (directions to non-compliant institutions).]

NOTE

Section 171F was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 20, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

[Right of appeal against decisions under sections 171D, 171E and 171F.]

171G. (1) A person aggrieved by a decision of the Director –

- (a) to give a direction under section 171D,

- (b) to appoint, or require the appointment of, an inspector under section 171E,
- (c) to impose a requirement under section 171F(3)(a), or
- (d) to make a freezing order under section 171F(3)(b),

may appeal to [the Guernsey Revenue Service Tribunal] on giving to the Director notice in writing, stating the grounds of appeal, within a period of 30 days beginning on the date of the notice of the Director's decision.

(2) [The Guernsey Revenue Service Tribunal] may admit an appeal under subsection (1) after the expiration of the 30 day period if satisfied that owing to absence, sickness or other reasonable cause a person was prevented from giving notice of appeal within that period.

(3) In the case of an appeal against a decision described in subsection (1)(a) or (b), the sole grounds of appeal are that (as the case may require) –

- (a) the institution on which notice of the decision was served –
 - (i) is not a relevant institution within the meaning of this Law,
 - (ii) is in compliance with the international tax provisions set out in section 171D(2), or
 - (iii) is in compliance with any relevant directions given by the Director under section 171D, or

(b) the decision is unreasonable as a matter of law, having regard to all facts and circumstances of the case.

(4) In the case of an appeal against a decision described in subsection (1)(c) or (d), the sole grounds of appeal are that the decision is unreasonable as a matter of law, having regard to all facts and circumstances of the case.

(5) In disposing of an appeal [the Guernsey Revenue Service Tribunal] may –

(a) confirm, annul or modify the decision in question, or

(b) set the decision aside and remit it to the Director with such directions as the Tribunal thinks fit.

(6) Subject to section 80 of this Law, the decision of [the Guernsey Revenue Service Tribunal] is final and conclusive.

(7) This section applies to the exclusion of sections 76 and 79 of this Law.

(8) Sections 77, 78, 78A and 80 of this Law apply in relation to an appeal under this section as they apply in relation to an appeal under section 76 of this Law.]

NOTES

Section 171G was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 20, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee).

In section 171G, the words "T/the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

PART XV

RELIEF FROM DOUBLE TAXATION

Relief from double taxation.

172. (1) If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.

[(1AA) The arrangements that may be specified in a Resolution under this section include (without prejudice to subsection (1A) –

- (a) arrangements amending, modifying or extending –
 - (i) double taxation arrangements entered into by or otherwise binding upon Guernsey, or
 - (ii) any arrangements of a description set out in paragraph (b) for the time being specified in a Resolution under this section,

including, without limitation, the arrangements effected by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on the 24th November, 2016^{ld}, and

- (b) other arrangements containing provisions that relate to, or are consequential, incidental, supplementary or ancillary to, such double taxation arrangements or double taxation matters.]

[(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 –

- (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,

ld The Treaty is set out in Appendix 1 to the report of the Policy & Resources Committee dated the 2nd October, 2018 entitled "Revision of Double Taxation Agreements (arising from the effects of the OECD/G20 Base Erosion and Profit Shifting Multilateral Instrument)" (see p. 2018/110 of Billet d'État No. XXVII of 2018).

- (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.]

(2) Any Resolution made under this section may be [varied or] revoked by a subsequent Resolution.

(3) Where arrangements have effect by virtue of this section, [the prohibition on the disclosure of information imposed by section 205A] shall not prevent the disclosure of such information as is required to be disclosed under the arrangements to any authorised officer of the government with which the arrangements are made by any Member of the [Committee], the [Director], the [Deputy Director] or any person for the time being authorised in writing in that behalf by the [Director]; and the [Director] may at any time revoke any authorisation given by him under this subsection.

NOTES

In section 172,

subsection (1AA) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2019, section 3, with effect from 1st October, 2019;

first, subsection (1A) and, second, the words in square brackets in subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, respectively section 18 and section 19, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

the words in the first pair of square brackets in subsection (3) were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 3, with effect from 1st October, 2022;

the word in the second pair of square brackets in subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "Director" and "Deputy Director" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹³⁶

Tax credits.

173. (1) The provisions of this section shall have effect where, under arrangements having effect under the preceding section of this Law, tax payable in respect of any income in the territory with the government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Guernsey; and in this section the expression "**foreign tax**" means any tax payable in that territory which under the arrangements is to be so allowed and the expression "**income tax**" means tax chargeable under this Law.

[(1A) Where the person entitled to the income is a company, and –

- (a) the income is liable to be taxed in the company's hands at [a rate lower than the company higher rate], or
- (b) the company is incorporated in Guernsey or controlled in Guernsey within the meaning of section 122, then, if the company distributes that income or any part thereof –
 - (i) to an individual resident in Guernsey, or
 - (ii) to a company resident in Guernsey in a case where the income is liable to be taxed in that

company's hands at [a rate higher than the company standard rate],

that individual or company shall (with effect from the 1st November 2015, in the case of paragraph (b)) be deemed to be the person entitled to the income and shall for the purposes of this section (with effect from that date, in the case of paragraph (b)) be entitled to the credit against tax or the balance of the credit by way of double taxation relief accordingly.]

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit:

Provided that credit shall not be allowed against income tax for any year of charge unless the person entitled to the income is resident in Guernsey in that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Law and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before the allowance of credit due under any arrangements having effect under the preceding section of this Law) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of the preceding subsection the total credit for foreign tax to be allowed to a person for any year of charge under all arrangements having effect under the preceding section of this Law shall not exceed the total income tax payable by him for the year of charge other than income tax payable by him as an agent for a person not resident in Guernsey.

(5) In computing the amount of the income –

(a) no deduction shall be allowed in respect of foreign tax

(whether in respect of the same or any other income),

- (b) where the income tax chargeable depends on the amount received in Guernsey, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income,
- (c) where the income includes a [distribution] and under the arrangements foreign tax not chargeable directly or by deduction in respect of the [distribution] is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the [distribution] the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit,

but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefore.

(6) Paragraphs (a) and (b) of the preceding subsection of this section (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3) of this section, and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under the preceding section of this Law.

(7) Where –

- (a) the arrangements provide, in relation to [distributions]

of some classes, but not in relation to [distributions] of other classes, that foreign tax not chargeable directly or by deduction in respect of [distributions] is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the [distributions], and

- (b) a [distribution] is paid which is not of a class in relation to which the arrangements so provide,

then if the [distribution] is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the [distribution], credit shall be allowed as if the [distribution] were a [distribution] of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements referred to in the last preceding section against income tax chargeable in respect of the income of any person for any year of charge if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than six years after the end of the relevant year of charge in the form and manner required by the [Director] and in the event of any dispute as to the amount allowable the claim shall be subject to appeal in like manner as an assessment and the provisions of Part VII and Part VIII of this Law shall apply to any such appeal.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Guernsey or elsewhere, nothing in this Law limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than

six years from the time when all such assessments, adjustments and other determinations have been made, whether in Guernsey or elsewhere, as are material in determining whether any and if so what credit falls to be given.

NOTES

In section 173,

subsection (1A) (which was originally inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 37, with effect from 1st January, 2008), was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 6, with effect from 1st January, 2019;

the words in square brackets in, first, subsection (1A)(a) and, second, subsection (1A)(b)(ii) were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, respectively section 9 and section 10, with effect from 1st January, 2025;

the words in square brackets in subsection (5) and subsection (7) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the word in square brackets in subsection (9) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹³⁷

Effect on [distributions] of double taxation relief.

174. (1) Subject to the provisions of subsections (2) and (3) of this section, the amount of tax which is [required] by [section 81B] to be deducted from any [distribution] shall be determined without taking into account any reduction, by reason of double taxation relief, of the Guernsey income tax payable directly or by deduction by the company.

(2) Notwithstanding the provisions of section sixty-one of this Law, the credit in respect of tax deducted or [required] to be deducted from any [distribution] shall be restricted, where necessary, so as to secure that no relief in respect of tax so deducted shall be allowed and no tax in respect thereof shall be

repaid at a rate exceeding the rate (hereinafter referred to as "**the net Guernsey rate**") of the Guernsey income tax payable directly or by deduction by the company after taking double taxation relief into account.

(3) ...

(4) In this section, the following expressions have the meanings hereby respectively assigned to them, that is to say –

[...]

"double taxation relief" means any credit for tax payable in any territory outside Guernsey which is allowable against Guernsey income tax by virtue of arrangements having effect under section one hundred and seventy-two of this Law or by way of relief from double taxation under section one hundred and seventy-six thereof and includes any credit or relief which has been taken into account for the purpose of determining the net Guernsey rate applicable to any [distribution] received by the company,

"the company" means the company paying the [distribution].

NOTES

In section 174,

the word in square brackets in the marginal note thereto was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

the words in, first, the first pair of square brackets in subsection (1) and, second, the first pair of square brackets in subsection (2) were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 21, with effect from 29th April, 2009;

the word, figures and letter in the second pair of square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) (No.

2) Law, 2007, section 38, with effect from 1st January, 2008;

the words in, first, the third pair of square brackets in subsection (1), second, the second pair of square brackets in subsection (2) and, third, the second and third pairs of square brackets in subsection (4) were substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15, with effect from 1st January, 2008;

subsection (3) was repealed by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 39, with effect from 1st January, 2008;¹³⁸

the words omitted in the first pair of square brackets in subsection (4) were repealed by the Income Tax (Guernsey) (Amendment) Law, 2009, section 25, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(9) of the 2009 Law, 2009, this amendment shall be deemed to have had effect on and from the 1st January, 2008.¹³⁹

Regulations for the purposes of double taxation relief.

175. The [Committee] may from time to time make regulations generally for carrying out the provisions of section one hundred and seventy-two of this Law or any arrangements having effect thereunder and for carrying out the provisions of the last preceding section, and may, in particular, by those regulations provide –

- (a) for securing that relief from taxation imposed by the law of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled thereto, and
- (b) for prescribing the principles upon which the net Guernsey rate is to be determined for the purposes of the last preceding section.

NOTES

In section 175, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have effect as if made under section 175:

*Double Taxation Relief (Taxes on Income) (General) Regulations,
1954.*

Unilateral provisions with regard to relief from double taxation.

176. (1) If any person resident in Guernsey, who has paid, by deduction or otherwise, or is liable to pay, tax under this Law for any year of charge on any part of his income, proves to the satisfaction of the [Director] that he has paid, by deduction or otherwise, or is liable to pay income tax in respect of the same income under the law of any other territory and that the said income is not income arising in a territory in respect of which an arrangement made under the provisions of section one hundred and seventy-two of this Law is in force in respect of that year of charge, he shall be entitled to relief from tax paid or payable by him in Guernsey on the said part of his income at a rate thereon to be determined as follows –

- (i) if the effective rate of tax paid or payable in the territory in which the income arises does not exceed three-quarters of the effective rate of Guernsey tax the rate at which relief is to be given shall be the effective rate of tax paid or payable in the territory in which the income arises,
- (ii) in any other case the rate at which relief is to be given shall be three-quarters of the effective rate of Guernsey tax.

[(1A) Where the person entitled to the income is a company, and the income is liable to be taxed in the company's hands at [the company intermediate rate or the company standard rate], then, if the company distributes that income or any part thereof –

- (a) to an individual resident in Guernsey, or
- (b) to a company resident in Guernsey in a case where the income is liable to be taxed in that company's hands at [the company intermediate rate or the company higher rate],

that individual or company shall be deemed to be the person entitled to the income and shall for the purposes of this section be entitled to relief from taxation accordingly.]

- (2) For the purposes of this section –
 - (a) the effective rate of Guernsey tax in respect of any person for any year of charge shall be taken to be the rate obtained by dividing the total amount of the income tax paid or payable by him under this Law for that year (before the deduction of any relief granted under this section or under section one hundred and seventy-two of this Law) by the amount of his total income assessable to Guernsey tax for that year,
 - (b) the effective rate of tax paid or payable in relation to any other territory in respect of which it is necessary for the purposes of this section to determine the effective rate of tax in respect of any person for any year of charge shall be taken to be the rate determined as nearly as may be in accordance with the principles regulating the determination of the effective rate of Guernsey tax.

(3) In computing the amount of any income for the purposes of this section –

(a) the provisions of subsection (2) of section seventeen of this Law (which relates to deduction of annual taxes and rates) in so far as they apply to taxation on income shall not apply to any income in respect of which relief is claimed under this section,

(b) where the income tax chargeable depends on the amount received in Guernsey, the said amount shall be increased by the appropriate amount of the tax paid or payable in any territory in which the income has arisen in respect of that income,

but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the tax paid or payable by deduction or otherwise in any territory in respect of the income exceeds the relief allowable under subsection (1) of this section.

(4) A claim for relief under this section shall be made within the two years next following the year of charge to which it relates:

Provided that any such claim, though not made within the said two years, shall be admitted if made within the six years next following the said year of charge and within the six months next following the date on which the relevant amount of income tax in respect of which relief is being claimed under this section has been ascertained.

NOTES

In section 176,

the word in square brackets in subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁴⁰

subsection (1A) was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 25, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(9) of the 2009 Law, this amendment shall be deemed to have had effect on and from the 1st January, 2008;

the words in the first and second pairs of square brackets in subsection (1A) were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, respectively section 11 and section 12, with effect from 1st January, 2025.

Disclosure of information.

177. Where relief from double taxation is claimed under the provisions of the last preceding section in respect of income arising in any territory to which that section applies, [the prohibition on the disclosure of information imposed by section 205A] shall not prevent the disclosure of such facts as may be necessary to enable the proper relief to be given in any case where relief is claimed from income tax in Guernsey to any authorised officer of such territory by any member of the [Committee], the [Director], the [Deputy Director] or any person for the time being authorised in writing in that behalf by the [Director]; and the [Director] may at any time revoke any authorisation given by him in that behalf.

NOTES

In section 177,

the words in the first pair of square brackets were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 4, with effect from 1st October, 2022;

the word in the second pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "Director" and "Deputy Director" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁴¹

Savings in respect of years of charge prior to year of charge 1973.

178. Notwithstanding the provisions of section one hundred and seventy-six of this Law, the provisions relating to relief from double taxation of any enactment repealed or amended by the Income Tax (Amendment) (Guernsey) Law, 1974 shall continue to apply in relation to tax for any year of charge prior to the year of charge nineteen hundred and seventy-three to the same extent as they would have applied thereto if that Law had not been passed.

[Effect on double taxation relief of limit on individual income tax.

178A. The provisions of this Part are subject to the provisions of section 39B(4).]

NOTE

Section 178A was inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 22, with effect from 29th April, 2009.

[Meaning of "distribution" in Part XV.

178B. In this Part "**distribution**" means a distribution from which the deduction of tax is required by section 81B, and related expressions shall be construed accordingly.]

NOTE

Section 178B was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 27, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(9) of the 2009 Law, 2009, shall be deemed to have had effect on and from the 1st January, 2008.

PART XVI
LIFE ANNUITIES

Purchased life annuities other than retirement annuities.

179. (1) A purchased life annuity (not being of a description excepted by subsection (5) of this section) shall, for the purposes of the provisions of this Law relating to tax on annuities, which but for this section would fall to be charged to tax as income of [Class (1)(d)] of section two of this Law, be treated as containing a capital element and, to the extent of the capital element, as not being income of that class.

(2) In the case of any purchased life annuity to which this section applies –

- (a) the capital element shall be determined by reference to the amount or value of the payment made or other consideration given for the grant of the annuity, and
- (b) the proportion which the capital element in any annuity payment bears to the total amount of that payment shall be constant for all payments on account of the annuity, and
- (c) where neither the term of the annuity nor [the amount of any annuity] payment depends on any contingency other than the duration of a human life or lives, that proportion shall be the same proportion which the total amount of value of the consideration for the grant of the annuity bears to the actuarial value of the annuity

payments, and

- (d) where the last foregoing paragraph does not apply the said proportion shall be such as may be just, having regard to that paragraph and to the contingencies affecting the annuity.

(3) For the purposes of the last foregoing subsection –

- (a) any entire consideration given for the grant of an annuity and for some other matter shall be apportioned as appears just (but so that a right to a return of premiums or other consideration for an annuity shall not be treated for this purpose as a distinct matter from the annuity),
- (b) where it appears that the amount or value of the consideration purporting to be given for the grant of an annuity has affected, or has been affected by, the consideration given for some other matter, the aggregate amount or value of those considerations shall be treated as one entire consideration given for both and shall be apportioned under the foregoing paragraph accordingly, and
- (c) the actuarial value of any annuity payments shall be taken to be their value as at the date when the first of those payments begins to accrue, that value being determined by reference to such tables of mortality as the [Committee] may, from time to time, approve and without discounting any payment for the time to elapse

between that date and the date it is to be made.

(4) For the purposes of this section "**life annuity**" means an annuity payable for a term ending with (or at a time ascertainable only by reference to) the end of a human life, whether or not there is provision for the annuity to end during the life on the expiration of a fixed term or on the happening of any event or otherwise, or to continue after the end of the life in particular circumstances, and "**purchased life annuity**" means a life annuity granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life.

(5) This section shall not apply –

- (a) to any annuity which would, apart from this section, be treated for the purposes of the provisions of this Law relating to tax on annuities as consisting to any extent in the payment or repayment of a capital sum, or
- (b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief of tax prescribed by any Resolution of the States made in pursuance of section thirty-six of this Law, or
- (c) to any annuity purchased in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement (whether with or without resort to capital), or
- (d) to any annuity purchased under or for the purposes of

any pension scheme which has been approved under any of the provisions of this Law or in pursuance of any obligation imposed, or offer or acceptance made, under or in connection with any such scheme, or to any annuity purchased by any person in recognition of another's services (or past services) in any office or employment.

(6) Any question whether an annuity is a purchased life annuity to which this section applies or as to what is the capital element in such annuity shall be determined by the [Director].

(7) Where a person is aggrieved by a determination of the [Director] in pursuance of the provisions of the last preceding subsection he may appeal [...].

(8) The provisions of Part VII of this Law shall apply in the case of an appeal under the provisions of the last foregoing subsection as they apply in the case of an appeal from an assessment, penalty, direction or order made or imposed by the [Director].

NOTES

In section 179,

the words in square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 39, with effect from 1st January, 2008;

the words in square brackets in paragraph (c) of subsection (2) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1979, section 1(d), with effect from 1st January, 1979;

the word in square brackets in paragraph (c) of subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st

May, 2016;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁴²

the words omitted in the second pair of square brackets in subsection (7) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

Regulations for the purposes of Part XVI.

180. The [Committee] may, from time to time, make regulations for the purposes of carrying into effect the foregoing provisions of this Part of this Law and for prescribing anything which is to be prescribed thereunder.

NOTES

In section 180, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Regulations have effect as if made under section 180:

Income Tax (Guernsey) (Purchased Life Annuities) Regulations, 1959.

The following Regulations have been made under section 180:

Income Tax (Guernsey) (Purchased Life Annuities) (Amendment) Regulations, 1992.

Penalties for offences against Part XVI.

181. (1) If any person for the purpose of obtaining under this Part of this Law, either for himself or for any other person, any relief from or any repayment of tax or in order not to be charged with tax or to be charged with a less amount of tax than that which he or that other person ought to be charged, knowingly makes any

false statement or false representation, he shall be liable to a penalty of five hundred pounds.

(2) In any case where the [Director] is of opinion that there are *prima facie* grounds for believing that a person is liable to a pecuniary penalty under the provisions of the last preceding subsection, the provisions of subsections (1), (2) and (4) of section two hundred of this Law shall apply as they apply in the case where the [Director] is of opinion that there are *prima facie* grounds for believing that a person is liable to pecuniary penalty under any of the provisions of Part XVIII of this Law other than section one hundred and ninety-eight thereof.

NOTE

In section 181, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁴³

PART XVII

SPECIAL PROVISIONS RELATING TO INSURANCE
COMPANIES, ETC.

Separation of different classes of business.

182. (1) Where an insurance company carries on life assurance business in conjunction with insurance business of any other class, the life assurance business shall, for the purposes of this Law, be treated as a separate business from any other business carried on by the company.

(2) Where an insurance company carries on both ordinary life assurance business and industrial life assurance business, the business of each class shall, for the purposes of this Law, be treated as though it were a separate business

and the provisions of section one hundred and eighty-three of this Law shall apply separately to each such class of business.

Basis of computation of profits.

183. (1) Subject to the provisions of this section, the [Director] may, for any year of charge, elect that the profits of a life assurance business be charged upon one of the following bases, that is to say –

- (a) the amount of those profits as computed in accordance with the provisions of section seven of this Law, or
- (b) the amount of the relevant investment income of such business for that year of computation.

(2) Where the profits are computed in accordance with the provisions of paragraph (a) of subsection (1) of this section, the following provisions shall apply –

- (a) where the varying of investments is part of the business, any profits or losses derived from the realisation of such investments shall be taken into account in the said computation,
- (b) a deduction shall be made in respect of such part of those profits as belongs to, or is reserved for, or expended on behalf of, policyholders or annuitants but if any profits so deducted as being reserved for policyholders or annuitants cease at any time to be so reserved and are not allocated or expended on behalf of policyholders or annuitants, those profits shall be treated as profits of the business for the accounting

period in which they cease to be so reserved.

(3) Where the profits are computed in accordance with the provisions of paragraph (b) of subsection (1) of this section, there shall be deducted any sums disbursed as relevant permissible management expenses for the year of computation:

Provided that –

- (a) relief in respect of the said relevant permissible management expenses shall not be given so far as it would reduce the profits to an amount less than the profits would have been if they had been computed in accordance with the provisions of paragraph (a) of subsection (1) of this section and where relief has been withheld for any year of computation by virtue of this proviso, the amount to be carried forward by virtue of the provisions of the next succeeding paragraph shall be increased accordingly,
- (b) where the relevant permissible management expenses cannot be deducted in whole or in part because the relevant investment income is less than the said expenses or because there is no such income, an amount equal to the relevant permissible management expenses or to such part thereof as has not been deducted, whichever is the lesser, shall be carried forward and treated as relevant permissible management expenses for the next succeeding year of charge and so on from year to year:

Provided that no amount shall be so carried forward if it can be carried forward or set off under any of the provisions of Part XI of this Law (which relates to relief from losses).

NOTE

In section 183, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁴⁴

General annuity and pension business.

184. (1) Subject to the provisions of this section, profits arising to an insurance company from general annuity business or pension business shall be computed separately for each such class of business in accordance with the provisions of section seven of this Law:

Provided that this subsection shall not apply to an insurance company assessed in accordance with the provisions of paragraph (a) of subsection (1) of section one hundred and eighty-three of this Law in respect of the profits of its ordinary life assurance business.

(2) In the computation of such profits under the provisions of the preceding subsection, the following provisions shall apply –

- (a) the provisions of paragraph (b) of subsection (2) of section one hundred and eighty-three of this Law shall apply with the necessary modifications and in particular with the omission therefrom of all references to policyholders other than holders of policies referable to pension business, and

- (b) no deduction shall be made for any expenses of management which have been taken into account for the purposes of section one hundred and eighty-three of this Law,
- (c) in the case of a company carrying on general annuity business –
 - (i) where the varying of investments is a part of such business, any profits or losses arising from the realisation of such investments shall be taken into account in the said computation,
 - (ii) a deduction shall be allowed for any relevant investment income included in a computation made under the provisions of paragraph (b) of subsection (1) of section one hundred and eighty-three of this Law,
- (d) in the case of a company carrying on pension business –
 - (i) the exemption from tax conferred by paragraph (w) of section forty of this Law shall not exclude any sums from being taken into account in computing profits or losses for any of the purposes of this Law,
 - (ii) where the varying of investments is part of the pension business of the company, any profits or

losses arising from the realisation of such investments shall be excluded from the said computation.

(3) Any division to be made between general annuity business, pension business and other life assurance business shall be made on the principle of –

- (a) referring to pension business any premiums attributable to such business falling within the definition of that term contained in section one hundred and eighty-eight of this Law, together with the incomings, outgoings and liabilities referable to those premiums and the policies and contracts under which they are or have been paid,
- (b) allocating to general annuity business all other annuity business and references to "pension fund" and "general annuity fund" shall be construed accordingly whether or not any such funds are kept separate from the insurance company's life assurance fund.

Capital redemption business.

185. (1) Subject to the provisions of this section, where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of this Law, be treated as a separate business from any other class of business carried on by that person.

(2) The profit from carrying on a capital redemption business shall be computed in accordance with the provisions of section seven of this Law.

(3) Any profits or losses derived from investments held in connection with the capital redemption business shall be taken into account in

computing the profits of that business.

Non-resident insurance companies—charge on profits.

186. The provisions of the preceding sections of this Part of this Law shall apply to a non-resident insurance company carrying on a business in Guernsey through a branch or agency in Guernsey as they apply to a resident company carrying on such a business:

Provided that –

- (i) the amount of profits chargeable for the purposes of this Law shall be limited to the amount of the profits attributable to the business carried on in Guernsey, and
- (ii) where the amount of such profits cannot readily be determined, the company shall be liable upon the same proportion of its total profits computed in accordance with the provisions of this Law as its relevant premiums bear to the total premiums of the company or on such other proportion or part of such total profits as the [Director] may agree with the company.

NOTE

In section 186, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁴⁵

Unrelieved losses incurred prior to year of charge 1974.

187. Where an insurance company to which the provisions of the preceding sections of this Part of this Law apply, has sustained a loss in any year of charge prior to the year of charge nineteen hundred and seventy-four for which relief has not been given under any of the provisions of this Law, such loss shall be set off against any profits chargeable under the foregoing provisions of this Law and, to the extent that it cannot be so set off, it shall be carried forward and so set off in the next following year of charge, and so on from year to year.

[Offshore insurers.]

187A. ...]

NOTE

Section 187A (which was previously inserted by the Income Tax (Amendment) (Guernsey) Law, 1989, section 1, with effect from 18th July, 1989) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 40, with effect from 1st January, 2008.

Interpretation of Part XVII.

188. In this Part of this Law, unless the context otherwise requires, the following expressions shall have the meanings respectively assigned to them, that is to say –

"annuity business" means the business of granting annuities on human life,

"annuity fund" means, where an annuity fund is not kept separately from the life assurance fund of an insurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts,

"capital redemption business" means the business (not being life

assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds, endowment certificates or otherwise, whereby in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future,

"general annuity business" means any annuity business which is not pension business,

["insurance company" means any insurer which is licensed under the Insurance Business (Bailiwick of Guernsey) Law, 2002 in respect of long term business and any insurer which is exempt from the requirements of that Law to be licensed in respect of long term business by virtue of section 5 of that Law,]

"investment income" includes income from money placed on deposit,

"life assurance business" includes the business of granting annuities on human life,

["pension business" means –

- (a) any contract with the trustees or other persons having the management of an approved pension scheme approved under the provisions of Part XIII of this Law, or
- (b) any contract entered into with an individual for the purposes of a retirement annuity scheme approved under the provisions of Part XIII of this Law, or

- (c) any contract entered into with the trustees of a retirement annuity trust scheme approved under the provisions of Part XIII of this Law, or
- (d) any contract with the trustees or other persons having the management of a superannuation fund to which the provisions of paragraph (o) or (q) of section 40 of this Law apply, or
- (e) any contract or scheme entered into with an individual for the purposes of an annuity to which paragraph (ee) of section 40 of this Law applies,

entered into for the purposes only of that approved scheme, that fund, or that annuity, as the case may be,]

"premiums" includes any consideration for an annuity,

"relevant investment income" means the total gross investment income relating to a particular class of life assurance business,

"relevant permissible management expenses" means, in relation to a life assurance company, the sum of –

- (i) permissible management expenses of the nature referred to in section one hundred and sixty-nine of this Law, and
- (ii) any annual interest which the life assurance company is required to pay in respect of money

borrowed and which cannot be deducted under any other provision of this Law,

less any income of that business from sources other than investments and from any fines, fees or profits arising from reversions,

"relevant premiums" means premiums received from policyholders resident in Guernsey and premiums received from policyholders not so resident whose proposals were made to the company at or through its branch or agency in Guernsey,

"varying of investments" includes the turning of such investments to account.

NOTES

In section 188,

the definition of the expression "insurance company" was substituted by the Insurance Business (Bailiwick of Guernsey) Law, 2002, section 100(2), Schedule 6, Part II, with effect from 5th November, 2002;

the definition of the expression "pension business" was substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 9, with effect from 22nd May, 1991.

[PART XVIII
INTERNATIONAL BODIES

Qualifications for international tax status applicants.

188A. ...]

NOTE

Part XVIIIA, and section 188A thereof (which were previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.

[Beneficial ownership requirements.]

188B. ...]

NOTE

Section 188B (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.

[Application for international tax status.]

188C. ...]

NOTE

Section 188C (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993, subject to the transitional provision in section 2 of the 1995 Law) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.

[Grant or refusal of international tax status.]

188D. ...]

NOTE

Section 188D (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.¹⁴⁶

Effect of international tax status.

188E. ...]

NOTE

Section 188E (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.¹⁴⁷

Duration and loss of international tax status.

188F. ...]

NOTE

Section 188F (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.

Interpretation of Part XVIII.

188G. ...]

NOTE

Section 188G (which was previously inserted by the Income Tax (International Bodies) (Guernsey) Law, 1995, section 1, with effect from 1st July, 1993) was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 41, with effect from 1st January, 2008.

PART XVIII

PENALTIES[, SURCHARGES AND SUPPLEMENTS]

Penalty for failure to give notice of liability.

[189. [(1)] A person who fails to give to the [Director] such notice of his liability to be charged with tax as he is required to give in accordance with section 68(2) of this Law shall be liable –

- (a) if that failure was occasioned by his negligence, to a penalty not exceeding three times the amount of tax chargeable for the year of charge in relation to which that notice should have been given:

Provided that if he gives such notice before the [Director] institutes enquiries which reveal such negligent failure he shall not be liable to any penalty under this paragraph,

- (b) if that failure was occasioned by his fraud, to a penalty not exceeding three times the total amount of tax which he would be liable to pay for the year of charge in relation to which that notice should have been given, if no reduction were made in respect of any of the allowances to individuals.

[The amount of tax referred to in paragraphs (a) and (b) shall be (for the purposes of determining the amount of the penalty) calculated at [the highest rate of tax set out in the Fifth Schedule applicable to that person, in that person's capacity as an individual or a company, notwithstanding the rate of tax for the class or classes in which that person's income falls].]

[(2) A partnership which fails to give to the Director notice in accordance with section 68(2) is liable –

- (a) if the failure was occasioned by its negligence, to a penalty not exceeding £10,000:

Provided that if the partnership gives such notice before the Director institutes enquiries which reveal the negligent failure, it is not liable to a penalty under this paragraph,

- (b) if the failure was occasioned by its fraud, to a penalty not exceeding £20,000.]]

NOTES

The words in square brackets in the heading to Part XVIII were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 42, with effect from 1st January, 2008.

Section 189 was substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 3(2), with effect from 19th January, 1993, subject to the provisions of section 9(5) of the 1992 Law.

In section 189,

first, subsection (1) was re-numbered and, second, subsection (2) was inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 31, respectively paragraph (4)(a) and paragraph (4)(b), with effect from 30th June, 2021;

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁴⁸

the words in the third pair of square brackets in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 43, with effect from 1st January, 2008;

the words in square brackets within the third pair of square brackets in subsection (1) were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 13, with effect from 1st January, 2025.

Penalty for failure to deliver return as to income.

190. [(1)] A person who fails to make a return of his income within the period prescribed by the Law for that purpose shall be liable to a penalty not exceeding [£300] and he shall in addition be liable to a further penalty not exceeding [£50] for every date after the date of the imposition of the original penalty, during which the failure continues:

Provided that –

- (i) [if on or before the day on which the return is required to be delivered to the [Director of the Revenue Service]] such person delivers a correct and complete return, he shall not be liable to any penalty,
- (ii) if he proves that if he had made a return he would not have been liable to pay any tax in respect thereof, the penalty shall not exceed [£50][, but this paragraph does not apply in respect of a company [...]].

[(2) A penalty or further penalty is not payable under this section in such cases as may be prescribed by regulations of the [Committee] or any statement of practice issued by the [Director of the Revenue Service].]

NOTES

In section 190,

subsection (1) was renumbered, the words in square brackets in paragraph (i) of subsection (1) as so renumbered were substituted and subsection (2) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, respectively section 16(a), section 16(b) and section 16(c),

with effect from 31st May, 2012;

the figures and symbols in square brackets, wherever occurring, were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990;

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the words in the second pair of square brackets in paragraph (ii) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2012, section 12, with effect from 31st October, 2012;

the words omitted in the square brackets within the second pair of square brackets in paragraph (ii) of subsection (1) were repealed by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 21, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the word in square brackets within subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

Penalty for negligence in return as to income.

191. A person who delivers a return of income which is incorrect or incomplete in any material particular, [or who fails to comply with section 68A,] shall, if he acted negligently, be liable to a penalty not exceeding [...] a sum equal to three times the difference between the amount of tax which would have been chargeable if a correct and complete return had been made and the amount of tax which would be chargeable on the assumption that the return actually made was correct and complete:

[The amount of tax referred to in this section shall be (for the purposes of determining the amount of the penalty) calculated at [the highest rate of tax set out in the Fifth Schedule applicable to that person, in that person's capacity as an individual or a company, notwithstanding the rate of tax for the class or classes in which that person's income falls].]

Provided that if at any time before the [Director] institutes enquiries as a result of which it is discovered that an incomplete or incorrect return has been delivered such person delivers a correct and complete return he shall not be liable to any penalty.

NOTES

In section 191,

the words in the first pair of square brackets were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 41, with effect from 1st January, 2008;

the words omitted in the second pair of square brackets were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990;

the words in the third pair of square brackets were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 44, with effect from 1st January, 2008;

the words in square brackets within the third pair of square brackets were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 14, with effect from 1st January, 2025;

the word in the fourth pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁴⁹

Penalty for fraud in return as to income.

192. A person who delivers a return of income which is incorrect or incomplete in any material particular [or who fails to comply with section 68A,] shall, if he acted fraudulently, be liable to a penalty not exceeding [...] a sum equal to three times the total amount of tax which he would be liable to pay for the year of charge to which the return relates, no reduction being made in respect of any of the allowances to individuals.

[The amount of tax referred to in this section shall be (for the purposes of determining

the amount of the penalty) calculated at [the highest rate of tax set out in the Fifth Schedule applicable to that person, in that person's capacity as an individual or a company, notwithstanding the rate of tax for the class or classes in which that person's income falls].]

NOTES

In section 192,

the words in the first pair of square brackets were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 41, with effect from 1st January, 2008;

the words omitted in the second pair of square brackets were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990;

the words in the third pair of square brackets were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 45, with effect from 1st January, 2008;

the words in square brackets within the third pair of square brackets were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 15, with effect from 1st January, 2025.

Penalties in respect of returns not relating to income.

193. (1) A person who fails to deliver to the [Director] a return other than a return of income within the time prescribed for that purpose shall be liable to a penalty not exceeding [£300] and he shall in addition be liable to a further penalty not exceeding [£50] for every day after the date of the imposition of the original penalty during which the failure continues:

Provided that if at any time before the [Director] [makes the order under section 200(5) directing the payment of the penalty] such person delivers a correct and complete return he shall not be liable to any penalty.

(2) A person who delivers a return, other than a return of income,

to the [Director] which is incorrect or incomplete in any material particular shall be liable to a penalty not exceeding –

- (i) if he acted negligently, [£1,000]:

Provided that if at any time before the [Director] issues the notice referred to in the said section two hundred the person delivers a correct and complete return he shall not be liable to any penalty,

- (ii) if he acted fraudulently, [£5,000].

(3) For the purposes of this section, the expression "**return**" includes any list, statement, particulars, accounts or other information which the [Committee] or the [Director] may require any person to furnish under the provisions of this Law.

NOTES

In section 193,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵⁰

the figures and symbols in square brackets in subsection (1) and subsection (2) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990;

the words in the second pair of square brackets in the proviso to subsection (1) were substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 22, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the word in the first pair of square brackets in subsection (3) was

substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 5 (as amended by G.S.I. No. 47 of 2021), with effect from 29th April, 2021, this section applies in respect of those Regulations and the Agreements Scheduled thereto subject to the provisions therein.¹⁵¹

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 7 (as amended by G.S.I. No 46 of 2021), with effect from 29th April, 2021, this section applies in respect of those Regulations subject to the provisions therein.¹⁵²

[Penalties for contravention of regulations made under section 81A of this Law.

193A. (1) An employer who fails to submit to the [Director] any form[, schedule or list] which he is required to submit by regulations made under the provisions of section eighty-one A of this Law within the time prescribed by such regulations shall be liable to a penalty not exceeding [£300] and he shall in addition be liable to a further penalty not exceeding [£50] for every day after the date of the imposition of the original penalty during which the failure continues.

(2) An employer who fails to comply with any provision of such regulations [requiring him to keep any record or] requiring him to provide any document to an employee at or within a time prescribed by the regulations shall be liable to a penalty not exceeding [£300] and he shall in addition be liable to a further penalty not exceeding [£50] for every day after the date of the imposition of the original penalty during which the failure continues.

[(2A) An employer –

(a) who submits to the [Director of the Revenue Service] any form, schedule or list which he is required to

submit by regulations made under the provisions of section 81A and which is 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 the Revenue Service] (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).]

(3) ...

(4) In this section the expression "**employer**" includes a person making any of the payments referred to in paragraph (b) or paragraph (c) of subsection (2) of section eighty-one A of this Law and the expression "**employee**" includes a person receiving any such payment.]

NOTES

Section 193A was inserted by the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 1(f), with effect from 21st August, 1979.

In section 193A,

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵³

the words in, first, the second pair of square brackets in subsection (1) and, second, the first pair of square brackets in subsection (2) were inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, respectively section 2(2)(a) and section 2(2)(b), with effect from 1st January, 1991;

the figures and symbols in square brackets in, first, the third and fourth pairs of square brackets in subsection (1) and, second, the second and third pairs of square brackets in subsection (2) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3, with effect from 12th December, 1990;

subsection (2A) and subsection (2B) were inserted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 20, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;

subsection (3) was repealed by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 6, which repeal shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.¹⁵⁴

[Penalties for contravention of section [66C or] 81B and regulations made thereunder.

193B. (1) A company which fails to submit to the [Director] any form, schedule or list which it is required to submit by any provision of section [66C or] 81B or of any regulations made thereunder within the time prescribed by that provision is liable to a penalty not exceeding £300 and in addition to a further penalty not exceeding £50 for every day after the date of the imposition of the original penalty during which the failure continues.

(2) A company which fails to comply with any provision of section [66C or] 81B or of any regulations made thereunder requiring it to keep any record or provide any document to a member[, participator or other person] at or within a time prescribed by that provision is liable to a penalty not exceeding £300 and in addition to a further penalty not exceeding £50 for every day after the date of the imposition of the original penalty during which the failure continues.]

NOTES

Section 193B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 46, with effect from 1st January, 2008.

In section 193B,

the words, figures and letters in, first, the marginal note thereto, second, the second pair of square brackets in subsection (1) and, third, the first pair of square brackets in subsection (2) were inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 23(a), with effect from 29th April, 2009;

the word in the first pair of square brackets in subsection (1) was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵⁵

the words in the second pair of square brackets in subsection (2) were inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 23(b), with effect from 29th April, 2009.

Liability of companies for penalties.

194. Where the person responsible for delivering the return is by virtue of section seventy-two of this Law the secretary or other officer of a company, the company and not the secretary or other officer shall be liable to any pecuniary penalty entailed by any failure, negligence or fraud on the part of the secretary or other officer in connection with the return.

Penalties for negligence or fraud in connection with claims.

195. (1) A person who on his own behalf makes a claim in connection with any relief or allowance from or in respect of tax which is incorrect or incomplete in any material particular, or who in connection with such claim produces any false evidence, shall if he acted negligently be liable to a penalty not exceeding [...] a sum equal to three times the difference between the relief or allowance which would be allowable on the assumption that the claim actually made was correct and the relief or allowance which would have been allowable if a correct claim had been made; and if

he acted fraudulently to a penalty not exceeding [...] a sum equal to three times the total amount of tax which he would be liable to bear for the year of charge to which the claim relates, no reduction being made in respect of any of the allowances to individuals.

[The amount of tax referred to in this paragraph shall be (for the purposes of determining the amount of the penalty) calculated at [the highest rate of tax set out in the Fifth Schedule applicable to that person, in that person's capacity as an individual or a company, notwithstanding the rate of tax for the class or classes in which that person's income falls].]

(2) A person who on behalf of another person makes any such claim as aforesaid shall, if he acted negligently, be liable to a penalty not exceeding [£1,000], and if he acted fraudulently, to a penalty not exceeding [£5,000].

NOTES

In section 195,

the words omitted in the first and second pairs of square brackets in subsection (1) were repealed by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990;

the words in the third pair of square brackets in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 47, with effect from 1st January, 2008;

the words in square brackets within the third pair of square brackets were substituted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, section 16, with effect from 1st January, 2025;

the figures and symbols in square brackets in subsection (2) were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990.

Penalty for fraudulent practices.

196. A person who in order not to be charged with tax or to be charged with

a less amount of tax than that with which he ought to be charged, is guilty of any fraud whatsoever, shall be liable to the penalty imposed by section one hundred and ninety-two of this Law.

Penalties for aiding and abetting.

197. A person who wilfully aids or abets another person in committing any offence against the provisions of this Law shall, if the said offence involves fraud, be liable to a penalty not exceeding [£5,000].

NOTE

In section 197, the figures and symbol in square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990.

Penalties on witnesses at appeals.

198. A person duly summoned to appear as a witness at any hearing before the [Committee] [or [the Guernsey Revenue Service Tribunal]] who refuses or fails without reasonable cause to appear at such hearing or who, having appeared, refuses to answer any lawful question touching the matter under consideration shall be liable to a penalty not exceeding [level 5 for the time being on the uniform scale of fines or such other amount as the States may prescribe by Ordinance].

NOTES

In section 198,

the word in the first pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in the second pair of square brackets was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(3), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the words "T/the Guernsey Revenue Service Tribunal" in square

brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022;

the words in the third pair of square brackets were substituted by the Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004, section 4, with effect from 15th November, 2004.¹⁵⁶

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

[Surcharges for late payment.]

199. (1) A person becomes liable to a surcharge if any amount due from him under this Law (including, for the avoidance of doubt, any penalty) is not paid on or before the settlement date.

(2) The settlement date is the date on or before which the amount in question is payable.

(3) The surcharge shall be at such rate and computed in such manner as may be determined by the [...] [Committee] by regulation.

(4) If the whole or any part of –

(a) the amount outstanding at the expiration of the settlement date, and/or

(b) the amount of any surcharge payable thereon or of any additional surcharge payable under this subsection,

remains unpaid at the expiration of a period of six months immediately after the

settlement date, or at the expiration of any successive period of six months, an additional surcharge is payable on the total of the amounts then outstanding.

(5) The additional surcharge is payable at the rate for the time being specified in regulations under subsection (3).

(6) Notwithstanding the provisions of subsections (1) and (2), if as respects any year of charge –

(a) the [Director] receives a fully completed return of income after [...] –

(i) the 15th January [(or such later date as the Director of the Revenue Service may by notice specify, the notice being given in such manner as a notice from the Director referred to in section 68(1) requiring the delivery of a return as to income may be given)] in the year following [the year in which the notice from the [Director of the Revenue Service] referred to in section 68(1) requiring a person to deliver a return as to his income was published [...] in accordance with section 68(1AAA)(b) (in the case of persons to whom the notice was addressed or to whom it applied)], or

(ii) the expiration of one year after the date [on which the notice requiring delivery of their return was given (in the case of any other persons)],

and makes an assessment or an additional assessment on the basis of that return, or

- (b) otherwise than as mentioned in paragraph (a), the [Director] makes an assessment or an additional assessment under section 75 as a consequence of –
 - (i) a failure to give notice of liability to be charged to tax in accordance with section 68(2), or
 - (ii) an error or omission in any information, return, account or other document delivered under any provision of this Law,
- [(c) for the avoidance of doubt, a return of income is made consequent to a failure to give notice as referred to in paragraph (b)(i),]

surcharges and additional surcharges (including arrears thereof) are payable in respect of the tax arising in the same manner, and in the same amount, and with effect from the same dates, as if the tax had been charged in an assessment made in respect of that year of charge in sufficient time to enable the tax to have been paid on the 30th June and the 31st December in that year [(in respect of any year of charge up to and including the year of charge 2022) or on the 15th April, 15th July and 15th October in that year and the 15th January in the next year of charge (in respect of any year of charge following the year of charge 2022)].

- (7) Surcharges and additional surcharges are not payable –
 - (a) where their total amount is less than the sum specified by regulations of the [...] [Committee], or

- (b) in such other cases as may be prescribed by regulations of the [...] [Committee] or any statement of practice issued by the [Director].

(8) Surcharges become payable on the 30th day after the settlement date; and surcharges and additional surcharges are recoverable as a civil debt.

(9) Subsection (8) is without prejudice to any other legal remedy available in respect of defaults in the payment of amounts due under this Law.

(10) For the purposes of subsection (2), the date on or before which an amount due under this Law is payable pursuant to the provisions of section 81 is not affected by any forbearance or failure by the [Director] to enforce payment of the amount, unless –

- (a) the [Director] has expressly agreed that the amount due may remain unpaid, and
- (b) on or before the later of the dates mentioned in subparagraphs (i) and (ii) of subsection (6)(a) he receives a fully completed return of income the examination of which discloses that the amount is due,

in which case, for the purposes of subsection (2), the date on or before which the amount is payable is the final day of a period of 30 days from the date of issue of the assessment or order which declares the sum to be due.

(11) For the avoidance of doubt –

- (a) when a surcharge or additional surcharge ("**the**

original surcharge") becomes payable in respect of an amount due under this Law, the original surcharge remains payable notwithstanding any subsequent reduction of the amount on which the original surcharge was based, and

- (b) [in respect of a surcharge or additional surcharge (including arrears thereof) payable by virtue of subsection (6)(a),] if as respects any year of charge the [Director] receives a fully completed return of income on or before whichever of the following is later –
 - (i) the 15th January [(or such later date as the Director of the Revenue Service may by notice specify, the notice being given in such manner as a notice from the Director referred to in section 68(1) requiring the delivery of a return as to income may be given)] in the year following [the year in which the notice from the [Director of the Revenue Service] referred to in section 68(1) requiring a person to deliver a return as to his income was published [...] in accordance with section 68(1AAA)(b) (in the case of persons to whom the notice was addressed or to whom it applied)], or
 - (ii) the expiration of one year after the date [on which the notice requiring delivery of their return was given (in the case of any other persons)],

and makes an assessment or an additional assessment on the basis of that return, and any tax falling due in consequence of that assessment or additional assessment is paid on or before the settlement date, then no surcharge or additional surcharge is payable in respect of the tax so falling due.

(12) In this section a fully completed return of income means a return which is complete and in respect of which any supporting documentation and information required by the [Director] has been supplied; and a fully completed return is deemed to be received by the [Director] only when it and all required supporting documentation and information is received by him.

[(13) For the avoidance of doubt a surcharge or additional surcharge

—

(a) is not a penalty for the purposes of this Law, and

(b) is payable in addition to any penalty under this Law.]]

NOTES

Section 199 was substituted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 7, which substitution shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1, subject to the transitional provisions in section 12(1) of the 2005 Law.

In section 199,

the words omitted in, first, the square brackets in subsection (3) and, second, in the first and second pairs of square brackets in subsection (7) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 48, with effect from 1st January, 2008;

the word "Committee" in square brackets, wherever occurring, was

substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵⁷

first, the words omitted in the second pair of square brackets in subsection (6) were repealed, second, the words in the fourth pair of square brackets therein were substituted, third, the words in the fifth pair of square brackets therein were substituted and, fourth, paragraph (c) of subsection (6) was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, respectively section 12, section 13, section 14 and section 15, with effect from 1st January, 2015;

the words in the first pairs of square brackets in subsection (6)(a)(i) and subsection (11)(b)(i) were inserted by the Income Tax (Surcharges) (Amendment) (Guernsey) Ordinance, 2020, section 1, with effect from 22nd December, 2020;

the words omitted in the square brackets within, first, the fourth pair of square brackets in subsection (6) and, second, the fourth pair of square brackets in subsection (11) were repealed by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 23, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the words in the eighth pair of square brackets in subsection (6) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2022, section 5, with effect from 1st October, 2022;

the words in the first, fourth and fifth pairs of square brackets in subsection (11) were, respectively, inserted, substituted and substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, respectively section 16, section 17 and section 18, with effect from 1st January, 2015;

subsection (13) was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 49, with effect from 1st January, 2008.

The following Regulations have been made under section 199:

Income Tax (Surcharges and Supplements) (Guernsey) Regulations, 2005.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules)

Regulations, 2024, regulation 67(1), with effect from 1st January, 2025, this section applies in respect of the 2024 Regulations and the GloBE Model Rules as if, first, the Domestic Top-up Tax payable under the GloBE Model Rules (the "DTT") or the Multinational Top-up Tax payable under the Income Inclusion Rule of Chapter 2 of the GloBE Model Rules (the "MTT") were amounts due under the Law and, second, subsections (6), (10), (11)(b) and (12) were omitted.

[[Surcharges in cases of unjustified suspension or deferral of tax.]

199AA. (1) Notwithstanding subsections (1), (2), (10) and (11) of section 199, if as respects any year of charge –

- (a) the Director has made an interim assessment,
- (b) ...
- [(c) the Director has, under section 76A, decided or been deemed to have decided to suspend or defer collection of the tax due under that assessment in whole or in part pending submission by the taxpayer of a fully completed return of income (within the meaning of section 199(12)),]
- (d) ...
- (e) the Director has reasonable cause to believe that his decision [or deemed decision] to suspend or defer collection of the tax due under the assessment in whole or in part was based on information, submissions or calculations provided or made by the taxpayer or any person acting on the taxpayer's behalf unreasonably, negligently, fraudulently or in bad faith, or without proper regard to the amount likely to be payable,

the Director may serve a notice under subsection (2).

- (2) A notice under this subsection must state –
 - (a) that the Director proposes, by reason of the matters set out in subsection (1)(e) and any other relevant matters, to impose surcharges and additional surcharges (including arrears thereof) in respect of the tax arising in the same manner, and in the same amount, and with effect from the same dates, as if the tax had been charged in an assessment made in respect of the year of charge concerned in sufficient time to enable the tax to have been paid on the 30th June and the 31st December in that year [(in respect of any year of charge up to and including the year of charge 2022) or on the 15th April, 15th July and 15th October in that year and the 15th January in the next year of charge (in respect of any year of charge following the year of charge 2022)],
 - (b) a reasoned explanation of the matters referred to in paragraph (a),
 - (c) the amount and manner of calculation of the proposed surcharges and additional surcharges,
 - (d) that the taxpayer may, within a period of 30 days immediately following the date of the issue of the notice, make written or oral representations to the Director explaining why, having regard to the contents

of the Director's notice, the proposed surcharges and additional surcharges should not be imposed, and

- (e) that if the taxpayer does not make such representations within that period, then surcharges and additional surcharges (including arrears thereof) shall be payable in accordance with the Director's notice.

(3) If the taxpayer, within the 30 day period mentioned in subsection (2)(d), makes representations to the Director in accordance with that subsection, the Director shall review his notice, taking into account any representations made by the taxpayer, and having done so shall –

- (a) confirm or vary the proposed decision to impose surcharges and additional surcharges (including arrears thereof), or rescind it and make a new decision as to the matter in question, and

- (b) serve on the taxpayer a second notice in writing stating –

- (i) the terms of, and the grounds for, the decision as confirmed or varied or, as the case may be, the new decision, and

- (ii) that the taxpayer may, within a period of 30 days immediately following the date of the issue of the second notice, appeal against the decision under section 76.

(4) If the taxpayer, within the 30 day period mentioned in

subsection (2)(d), does not make representations to the Director in accordance with that subsection –

- (a) the proposed decision of the Director to impose surcharges and additional surcharges (including arrears thereof) is final,
- (b) the taxpayer may not appeal against the decision under section 76, and
- (c) the Director shall issue notification to the taxpayer of the surcharge and additional surcharge.

(5) This section is without prejudice to the first proviso in section 76 (power of appropriate body to admit appeal out of time in specified circumstances).]

NOTES

Section 199AA was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 19, with effect from 1st January, 2015.

In section 199AA,

first, the section heading thereto was substituted, second, paragraph (b) of subsection (1) was repealed, third, paragraph (c) of subsection (1) was substituted, fourth, paragraph (d) of subsection (1) was repealed and, fifth, the words in square brackets in paragraph (e) of subsection (1) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 13, respectively paragraph (a), paragraph (b), paragraph (c), paragraph (d) and paragraph (e), with effect from 1st January, 2017;

the words in square brackets in subsection (2)(a) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2022, section 6, with effect from 1st October, 2022.

[Supplements for late repayment.]

199A. (1) If as respects any year of charge the [Director] receives a fully completed return of income the examination of which discloses an overpayment of tax, then, if the amount of tax overpaid is not repaid on or before the repayment date, a supplement is payable in addition to the tax repayable.

(2) The repayment date is the day of the expiration of one year after the end of the month in which the return was received by the [Director].

(3) A supplement payable by the [Director] shall be at such rate and computed in such manner as may be determined by the [...] [Committee] by regulation.

(4) If the whole or any part of –

(a) an overpayment of tax, and/or

(b) a supplement, or any additional supplement payable under this subsection,

remains unpaid at the expiration of a period of six months immediately after the repayment date, or at the expiration of any successive period of six months, an additional supplement is payable on the total of the amounts then outstanding.

(5) The additional supplement is payable at the rate for the time being specified in regulations under subsection (3).

(6) In this section a fully completed return of income means a return which is complete and in respect of which any supporting documentation and information required by the [Director] has been supplied; and a fully completed return is deemed to be received by the [Director] only when it and all required supporting documentation and information is received by him.

[(7) A supplement is not payable in respect of the repayment of any tax deducted on the amount of a qualifying loan.]]

NOTES

Section 199A was inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 7, which insertion shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1, subject to the transitional provisions in section 12(2) of the 2005 Law.

In section 199A,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵⁸

the words omitted in the second pair of square brackets in subsection (3) were repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 50, with effect from 1st January, 2008;

the word in the third pair of square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

subsection (7) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 42, with effect from 1st January, 2008.

The following Regulations have been made under section 199A:

Income Tax (Surcharges and Supplements) (Guernsey) Regulations, 2005.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024, regulation 67(2), with effect from 1st January, 2025 and for the purposes of the 2024 Regulations and the GloBE Model Rules, this section does not apply in respect of the Domestic Top-up Tax payable under the GloBE Model Rules (the "DTT") or the Multinational Top-up Tax payable under the Income Inclusion Rule of Chapter 2 of the GloBE Model Rules (the "MTT") and overpayments thereof.

Proceedings in respect of penalties.

200. (1) If the [Director] is of opinion that there are *prima facie* grounds for believing that a person is liable to a pecuniary penalty under any section of this Part of this Law [other than [section 190,] [section 193(1),] section 193A [or section 193B] or section 198] of this Law, [not being a surcharge or additional surcharge under section 199 [or 199AA],] he may send to such person a notice in writing stating the grounds of his belief, and subject to the provisions of this section may, if he finds such person liable, make an order directing him to pay a penalty.

(2) ...

(3) If the [Committee] [or [the Guernsey Revenue Service Tribunal]] is satisfied that a person is liable to a penalty under section one hundred and ninety-eight of this Law, it shall, before directing such person to pay a penalty, inform him that he may request that proceedings against him shall be taken before the Royal Court sitting as an Ordinary Court. If such person so requests, the [Committee] [or [the Guernsey Revenue Service Tribunal]] shall take no further action in the matter but may, within three months of the date of such request, cause penalty proceedings to be instituted before that Court.

(4) In no case shall the [Committee] [or [the Guernsey Revenue Service Tribunal]] or the [Director] order the payment of a penalty [other than a penalty under [section 190,] [section 193(1),] section 193A [or section 193B] of this Law] [and other than a surcharge or additional surcharge under section 199] [or 199AA] unless the person liable has had a reasonable opportunity of stating his case.

[(5) If the [Director] is satisfied that a person is liable to a penalty under [section 190,] [section 193(1),] section 193A [or section 193B] of this Law he may make an order directing that person to pay a penalty, and in such a case –

(a) no such notice as is referred to in subsection (1) of this

section need be sent,

(b) ...

(c) subsection (4) of this section does not apply.]

[(6) An order imposing a penalty under section 190, 193(1), 193A(1) or 193A(2) [or 193B(1) or 193B(2)] may impose both the original penalty and the additional daily penalties provided for in those sections, and any additional daily penalties so imposed shall accrue after the date of the imposition of the original penalty without further notice; and accordingly, and for the avoidance of doubt, no separate notice or order is required to be served by the [Director] in respect of the additional daily penalties.]

NOTES

In section 200,

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁵⁹

the words, figures and letters in, first, the second pair of square brackets in subsection (1) and, second, the fourth pair of square brackets in subsection (4) were, respectively, substituted and inserted by the Income Tax (Amendment) (Guernsey) Law, 1992, respectively section 4(a) and section 4(b), with effect from 19th January, 1993;

the word, figures and punctuation "section 190," in square brackets, wherever occurring, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 17, with effect from 31st May, 2012;

the word, figures, parentheses and punctuation "section 193(1)," in square brackets, wherever occurring, were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 24, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the words, figures and letters "or section 193B", wherever occurring,

were inserted by the *Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 24(a)*, with effect from 29th April, 2009;

the words in, first, the third pair of square brackets in subsection (1) and, second, the fifth pair of square brackets in subsection (4) were inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, respectively section 8(a) and section 8(c), which insertions shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the word, figures and letters "or 199AA", wherever occurring, were inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 20, with effect from 1st January, 2015;

subsection (2), and paragraph (b) of subsection (5), were repealed by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, respectively section 8(b) and section 8(d), which repeals shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word "or" in square brackets, wherever occurring, was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(3), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law;

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022;

subsection (5) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 4(c), with effect from 19th January, 1993;

the words, figures, letters and parentheses in the first pair of square brackets within subsection (6) were inserted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 24(b), with effect from 29th April, 2009;

subsection (6) was inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 8(e), which insertion shall come into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

The following cases have referred to section 200:

States of Guernsey v. Hillcrest Executor and Trustee Company Limited (1993) 16.GLJ.35;
Administrator of Income Tax v. Gold (1996) 21.GLJ.28;
Administrator of Income Tax v. Scott (1996) 21.GLJ.28.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (as amended by G.S.I. No.131 of 2025), regulation 4A(2), with effect from 1st January, 2026, this section applies in respect of those Regulations subject to the provisions therein.

[Discretion to prosecute in cases involving fraud, etc.]

201. (1) Notwithstanding any provision of this Law, a person who contravenes subsection (4) or (5) is guilty of an offence and may be prosecuted.

(2) ...

(3) A person prosecuted for an offence under subsection (1) is liable –

(a) on summary conviction, to imprisonment for a term not exceeding 2 years, or to a fine not exceeding –

(i) twice the maximum penalty which the [Director] could have imposed had the case been dealt with by him, or

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(ii) in a case where the [Director] could not have dealt with the matter by way of penalty, twice level 5 on the uniform scale,

or to both such imprisonment and fine,

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine –

(i) not exceeding four times the maximum penalty which the [Director] could have imposed had the case been dealt with by him, or

(ii) in a case where the [Director] could not have dealt with the matter by way of penalty, of four times level 5 on the uniform scale,

or to both such imprisonment and fine.

(4) A person shall not –

(a) in any return, form, schedule, notification or other document which he, or any person on whose behalf he is acting, is required or authorised to provide by or under this Law or any Ordinance or regulation under it,

(b) for the purpose of obtaining –

(i) any relief or exemption from, or any repayment of, or any reduction in liability to, tax, penalties,

surcharges or additional surcharges under this Law, or

- (ii) any supplement or additional supplement under section 199A,

either on his own behalf or on that of any other person,

- (c) in purported compliance with any requirement imposed by or under, or otherwise for the purposes of, this Law or any Ordinance or regulation under it,
- (d) in proceedings before the [Committee] or [the Guernsey Revenue Service Tribunal], or
- (e) otherwise than as mentioned in paragraphs (a) to (d) but in circumstances in which he intends, or could reasonably be expected to know, that the statement, information or document made, produced or furnished by him would or might be used by the [Director], the [Committee] or [the Guernsey Revenue Service Tribunal] for the purpose of exercising their respective functions,

do any of the following –

- (i) make a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

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- (ii) dishonestly or otherwise, recklessly make a statement which is false, deceptive or misleading in a material particular,
 - (iii) produce or furnish or cause or permit to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (iv) dishonestly or otherwise, recklessly produce or furnish or recklessly cause or permit to be produced or furnished any information or document which is false, deceptive or misleading in a material particular, or
 - (v) fraudulently do, or omit to do, any other act whatsoever.
- (5) A person shall not, without reasonable excuse –
- (a) fail to give notice to the [Director] that he is chargeable to tax within such time, in such form and manner, and containing such information and particulars, as may be required by or under the provisions of this Law or any Ordinance or regulation under it, or
 - [(aa) being a partnership described in section 42A(1), fail to register with the Director in accordance with the provisions of section 42A(2), or]

- (b) fail to provide a return of income or any other return, form, schedule, [notice,] notification or other document which he is required to provide by or under those provisions within such time, in such form and manner, and containing such information and particulars, as may be required by or under those provisions.

(6) In this section "**statement**" includes a written or oral statement or representation.]

NOTES

Section 201 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 51, with effect from 4th April, 2011.¹⁶⁰

In section 201,

subsection (2) was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 21, with effect from 1st January, 2015;¹⁶¹

the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁶²

first, paragraph (aa) of subsection (5) and, second, the word in square brackets in paragraph (5)(b) (and not, as shown, incorrectly, in the printed version of the 2021 Regulations, in paragraph (5)(a)) were inserted by the Income Tax (Substance Requirements) (Implementation) Regulations, 2021, regulation 31, respectively paragraph (5) and paragraph (6), with effect from 30th June, 2021;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 6(3), with effect from 30th June, 2014, this section applies in respect of those Regulations and the Agreements Scheduled thereto as if –

- (a) the reference in subsection (2) of this section (which subsection has since been repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 21, with effect from 1st January, 2015) to section 200 were omitted,*
- (b) references in subsections (4) and (5) of this section to regulations under this Law included references to the Agreements as they have effect by virtue of the 2014 regulations,*
- (c) references in those subsections to the Director included references to any other person, body or authority (including the Competent Authorities in the case of the other party within the meaning of the Agreement concerned) upon whom functions corresponding to those of the Director are conferred by or under those Regulations, or the Agreements as they have effect by virtue of those Regulations, and*
- (d) references in those subsections to tax, penalties, surcharges or additional surcharges under this Law included references to tax, penalties and other liabilities imposed by the laws of the other parties to the Agreements –*
 - (i) which are of a class or description specified in or under the Agreements, or*
 - (ii) in respect of which the Agreements otherwise have effect.*

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 8(2), with effect from 1st December, 2015, this section applies in respect of those Regulations subject to the provisions therein.

[[Offences relating to ETI certificates and deductions at source.]

201A. (1) A person who, having deducted tax from a payment in accordance with section 81A [or 81B] of this Law, fails to pay that tax to the [Director] within the time provided by [that section or by regulations thereunder], is guilty of an offence and liable on conviction to –

- (a) imprisonment for a term not exceeding two years, or
- (b) a fine not exceeding ten times level 5 on the uniform scale, or
- (c) both.

[(1A) A person who fails to pay tax to the [Director of the Revenue Service] in accordance with the provisions of section 66C or any regulations thereunder is guilty of an offence and liable on conviction to –

- (a) imprisonment for a term not exceeding 12 months, or
- (b) a fine not exceeding level 5 on the uniform scale, or
- (c) both.]

(2) A person who wilfully fails to deduct the tax which he is required, by section 81A [or 81B] of this Law, to deduct from any payment is guilty of an offence and liable, on conviction, to –

- (a) imprisonment for a term not exceeding 12 months; or
- (b) a fine not exceeding level 5 on the uniform scale; or

(c) both.

(3) A person who –

(a) uses or attempts to use an E.T.I. exemption certificate which is not currently valid; or

(b) fails to surrender an E.T.I. exemption certificate when required to do so by the [Director], or

(c) permits another person to possess an E.T.I. exemption certificate for that other person's unauthorised use,

is guilty of an offence and liable on conviction to –

(i) imprisonment for a term not exceeding six months, or

(ii) a fine not exceeding level 4 on the uniform scale, or

(iii) both.]

NOTES

Section 201A was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(3), with effect from 12th December, 1990.

In section 201A,

the marginal note thereto was substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 43(a), with effect from 1st January, 2008;

the words, figures and letters in the first pair of square brackets in

subsection (1) and in the square brackets in subsection (2) were inserted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 43(b)*, with effect from 1st January, 2008;

the words "Director" and "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the *Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1*, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁶³

the words in the third pair of square brackets in subsection (1) were substituted by the *Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 43(c)*, with effect from 1st January, 2008;

subsection (1A) was inserted by the *Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 25*, with effect from 29th April, 2009.

Power to amend Part XVIII by Ordinance.

201B. The States may by Ordinance amend this Part of this Law.]

NOTES

Section 201B was inserted by the *Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 10*, with effect from 1st January, 2006.

The following Ordinance has been made under section 201B:

Income Tax (Surcharges) (Amendment) (Guernsey) Ordinance, 2020.

PART XIX

GENERAL AND ADMINISTRATION

Transactions in certificates of deposit.

202. (1) Where a person acquires the right to receive the amount (with or without interest) stated in a certificate of deposit issued to him or any other person, any profits arising to him from the disposal of that right or, except so far as it is a

right to receive interest, from its exercise shall, if not falling to be taken into account as a business receipt, be treated as income chargeable to tax under [Class (1)(d) or Class (2)(d)] of section two of this Law.

(2) Where a person sustains a loss in a transaction which, if a profit had arisen from it, would be chargeable to tax by virtue of subsection (1) of this section, then, if he is chargeable to tax in respect of the interest payable on the amount stated in the certificate of deposit concerned, in computing the amount of interest chargeable to tax the amount of his loss shall be deducted from the interest.

(3) In this section "**certificate of deposit**" means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to the bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest is transferable.

NOTE

In section 202, the words in square brackets in subsection (1) were substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 52, with effect from 1st January, 2008.

Regulations to be laid before the States.

203. Any regulations made by the [Committee] under the provisions [of this Law, other than any regulations made under the provisions of section [66C, 81A or 81B],] shall be laid before a meeting of the States as soon as may be after the making thereof and if, at that meeting or the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the [Committee] of any new regulations.

NOTES

In section 203,

the words in the first and third pairs of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2014;

the words in the second pair of square brackets were substituted by the Income Tax (Amendment) (Guernsey) Law, 1980, section 1(b), with effect from 1st January, 1980;

the word, figures and letters in the square brackets within the second pair of square brackets were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 26, with effect from 29th April, 2009.

Ordinances, regulations and Orders.

203A. (1) Any Ordinance of the States, any regulations of the [Committee] and any Order of the Royal Court under this Law –

- (a) may be amended or repealed by a subsequent Ordinance, regulation or Order, as the case may be, and
- (b) may contain such consequential, incidental, supplementary[, savings] and transitional provision as may appear to be necessary or expedient, including (without limitation) provision as to the creation and punishment of offences [and provision amending any enactment].

(2) Any power conferred by this Law to make an Ordinance, regulation or Order may be exercised –

- (a) in relation to all cases to which the power extends, or in

relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.]

NOTES

Section 203A was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 7, with effect from 25th January, 2006.

In section 203A,

the word in the first pair of square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in the first pair of square brackets in paragraph (b) of subsection (1) was inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 15, with effect from 1st December, 2018;

the words in the second pair of square brackets in paragraph (b) of

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subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 53, with effect from 1st January, 2008.

The following Ordinances have been made under section 203A:

Income Tax (Surcharges) (Amendment) (Guernsey) Ordinance, 2020;
Guernsey Revenue Service Tribunal Ordinance, 2021;
Income Tax (Charitable Donations) (Guernsey) (Amendment) Ordinance, 2021;
Income Tax (Guernsey) (Amendment) Ordinance, 2021;
Income Tax (Guernsey) (Amendment) Ordinance, 2022;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022;
Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022;
Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2024;
Income Tax (Guernsey) (Amendment) Ordinance, 2024;
Income Tax (Guernsey) (Budget) Ordinance, 2024;
Income Tax (Investment Companies) (Guernsey) (Amendment) Ordinance, 2024;
Income Tax (Guernsey) (Budget) Ordinance, 2025;
Income Tax (Gratuity Schemes) (Guernsey) (Amendment) Ordinance, 2025.

The following Regulations have been made under section 203A:

Income Tax (Approved International Agreements) (Common Reporting Standard) (Amendment) Regulations, 2020;
Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022;
Income Tax (Approved International Agreements) (Implementation) (OECD Pillar Two GloBE Model Rules) Regulations, 2024;
Income Tax (Investment Companies) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2024;
Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) (Amendment) Regulations, 2025;
Income Tax (Approved International Agreements) (Implementation) (Crypto-Asset Reporting Framework) Regulations, 2025.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 10(9), with effect from 30th June, 2014, subsection (2) of this section applies in respect of guidance notes under the 2014 Regulations as it applies in respect of regulations.

In accordance with the provisions of the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 12(6), with effect from 1st December, 2015, subsection (2) of this section applies in respect of guidance notes under the 2015 Regulations as it applies in respect of regulations.

[Statements of Practice.]

204. (1) The [Director] may issue statements of practice for the purpose of providing practical guidance in respect of any provision made by or under this Law and in connection with the administration of this Law.

(2) Statements of practice shall come into force on such date as the [Director] may appoint.

(3) The [Director] may revoke or vary any statement of practice, and a statement of practice may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(4) The [Director] shall publish statements of practice and any revision thereof in such manner as he considers appropriate.

(5) Statements of practice must be taken into account by the [Director] in exercising his functions under this Law.

(6) In any proceedings –

(a) before the appropriate body under section 76, or

(b) before the Royal Court on a reference or appeal from the appropriate body,

a relevant provision of a statement of practice may be relied on as tending to support or, as the case may be, defeat the [Director]'s decision.

(7) The powers conferred by subsection (1) are without prejudice to any other power conferred by this Law to issue statements of practice.

(8) Section 203A(2) applies to statements of practice as it applies to regulations.]

NOTES

Section 204 (which, prior to its insertion was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 54, with effect from 1st January, 2008) was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 44, with effect from 1st January, 2008.

In section 204, the word "Director" in square brackets, wherever occurring, was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁶⁴

[Statements of practice in relation to administrative relief.]

204A. (1) Without prejudice to the generality of section 204, statements of practice thereunder may make provision in respect of the granting by the Director of relief from liability to pay tax ("**administrative relief**") in any particular and exceptional case where, in the Director's absolute discretion, the administrative effort (whether by reason of the potential expenditure of time, resources or money, or otherwise) of pursuing the debt would clearly outweigh the benefit (financial, fiscal or other) of recovering it.

(2) For the avoidance of doubt, there is no enforceable right or expectation to be granted administrative relief.]

NOTE

Section 204A was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 5, with effect from 1st October, 2022.

The [Director] and his staff.

205. [(1)] Subject to the general direction and control of the [Committee], Income Tax shall be under the care and management of a [Director], to assist whom there may be appointed a [Deputy Director of the Revenue Service]. The States [Policy & Resources Committee] shall appoint such [officers] and other persons as may be necessary, and such [officers] and other persons shall be under the control of the [Director].

[(1A) For the avoidance of doubt, more than one [Deputy Director of the Revenue Service] may be appointed under this section; and references in this Law and in any other enactment, statutory instrument or statement of practice to the [Deputy Director of the Revenue Service] are references to any person for the time being appointed to that office.]

[(2) The [Director]'s functions include, for the purposes of the implementation [(within the meaning of section 75CC)] and administration of any approved international agreement (within the meaning of section 75C) [or international tax measure, or for the purposes of regulations made under section 171A (regulations in respect of substance requirements)], [the obtaining, delivery, making available, furnishing and/or exchanging of documents and information] in relation to –

- (a) income tax, or
- (b) tax of a class or description [specified in or under the agreement, measure or regulations]

[and the performance of all other functions in respect of the implementation and administration of any such agreement, measure or regulations (including, without limitation, functions relating to investigating, ascertaining, securing and validating compliance therewith)].

(3) ...]

NOTES

In section 205,

subsection (1) was renumbered, and subsection (2) and subsection (3) were inserted, by the Income Tax (Guernsey) (Amendment) Law, 2005, respectively section 8(a) and section 8(c), with effect from 25th January, 2006;

the words "Director" and "Deputy Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁶⁵

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the words "Policy & Resources Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;¹⁶⁶

the word "officers" in square brackets, wherever occurring, was substituted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 8(b), with effect from 25th January, 2006;

subsection (1A) was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 19, with effect from 31st May, 2012;

the words in the second and fourth pairs of square brackets within subsection (2) were, respectively, inserted and substituted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013, section 7(a) and section 7(b), with effect from 1st January, 2014;

the words in the third pair of square brackets within subsection (2) were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 16, with effect from 1st December, 2018;

the words in square brackets in paragraph (b) of subsection (2) were substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2019, section 4, with effect from 1st October, 2019;

the words in square brackets after paragraph (b) of subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 25, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

subsection (3) was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 6, with effect from 1st October, 2022.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁶⁷

The following case has referred to section 205:

States of Guernsey v. Hillcrest Executor and Trustee Company Limited (1993) 16.GLJ.35.

Prohibition on disclosure of information.

- 205A.** (1) Subject to the provisions of section 205B –
- (a) no person who under the provisions of or for the purposes of this Law, or any Ordinance, regulation or resolution made under it, receives information –
 - (i) comprised in or forming part of the official records of the Committee, or
 - (ii) relating to the business, property or affairs of any person or body,
 - (b) no person who –

- (i) obtains any such information directly or indirectly from a person who has so received it, or
- (ii) otherwise gains access to any such information,

shall disclose the information without the consent of the person, if any, to whom it relates and (if different) the person from whom it was so received or obtained or from whom, or through or by means of whom, access to it was so gained.

(2) A person who discloses information in contravention of this section is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding twice level 5 on the uniform scale, or to both.

(3) For the avoidance of doubt, and without limitation, the prohibition on the disclosure of information imposed by this section –

- (a) is binding on persons to whom it applies in perpetuity,
- (b) applies to persons –
 - (i) who receive, obtain or gain access to the information unintentionally or in an unauthorised or accidental manner, or
 - (ii) who are authorised to perform any function or task in the course of which they may receive, obtain or gain access to such information, and
- (c) applies to –

- (i) past and present members of, and clerks or deputy clerks to, the Guernsey Revenue Service Tribunal and the former Guernsey Tax Tribunal, including past and present members in respect of the exercise by them of the functions of an appointed member under section 75CB, and
 - (ii) past and present members of the Committee.
- (4) The "**official records of the Committee**" means –
- (a) any information under the control of the Committee or the Director relating to the income or profits of, or to any tax paid or payable by, any identifiable individual, other person or body, or
 - (b) any other information obtained, received or created under the provisions of or for the purposes of this Law or any Ordinance, regulation or resolution made under it,

whether held in electronic or non-electronic form.]

NOTE

Section 205A was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 7, with effect from 1st October, 2022.

[Cases where disclosure is permitted.]

205B. (1) Section 205A does not preclude the disclosure by the Director

or any person authorised by the Director of information –

- (a) which at the time of disclosure is or has already been made available to the public from other sources,
- (b) in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it,
- (c) for the purpose of enabling or assisting the Director to perform the Director's functions,
- (d) to any person for the time being authorised to carry out any functions in connection with the operation of this Law or any Ordinance, regulation or resolution made under it,
- (e) to any person, body or authority for the purposes of –
 - (i) an approved international agreement (within the meaning of section 75C),
 - (ii) an international tax measure (within the meaning of section 75CC(1B)), or
 - (iii) regulations made under section 171A (regulations in respect of substance requirements),

Consolidated text

- (f) under the authority of or in accordance with the requirements of any other provision of this Law or the provisions of any other enactment,
- (g) in connection with or for the purposes of any proceedings, penalty, action, sanction or remedy (civil, criminal or administrative) arising out of or under the provisions of this Law or any Ordinance, regulation or resolution made under it,
- (h) with the express consent of the person to whom it relates,
- (i) without prejudice to paragraph (g), for the purposes of legal proceedings to obtain or enforce an order for the making of payments for the maintenance or education of a spouse, former spouse, child or dependant,
- (j) to Her Majesty's Procureur as to any suspected offence under the provisions of this Law or otherwise (and whether in the Bailiwick or elsewhere),
- (k) to any of the following persons, bodies or authorities for the purpose of enabling or assisting them to perform their respective functions –
 - (i) the Administrator appointed under section 94 of the Social Insurance (Guernsey) Law, 1978, provided that the information disclosed may only be –

Consolidated text

- (A) the name and address of any person,
 - (B) information relating to the income of any person, and
 - (C) information relevant to any liability to tax, or contributions under the Social Insurance (Guernsey) Law, 1978, to which any person is or may be subject, or the amount of any such liability,
- (ii) the electronic census supervisor, or any census officer, appointed under the Electronic Census (Guernsey) Ordinance, 2013, provided that the information disclosed may only be information relating to the income of any person,
 - (iii) the Registrar of Beneficial Ownership of Legal Persons appointed under the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017,
 - (iv) the Registrar of Beneficial Ownership of Legal Persons in Alderney appointed under the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,
 - (v) the Registrar of Companies appointed under section 495(1) of the Companies (Guernsey) Law, 2008,

- (vi) the person appointed to the office of Greffier under section 20 of the Government of Alderney Law, 2004, in respect only of the functions of Registrar arising out of or under the provisions of the Companies (Alderney) Law, 1994,
- (vii) Her Majesty's Greffier, in respect only of the functions of Her Majesty's Greffier arising out of or under the provisions of the Document Duty (Guernsey) Law, 2017 and the Document Duty (Anti-Avoidance) (Guernsey) Law, 2017,
- (viii) an officer appointed under section 13(1) of the Minimum Wage (Guernsey) Law, 2009, in cases where a breach of any provision of the Minimum Wage (Guernsey) Law, 2009 is suspected, provided that the information disclosed may only be –
 - (A) the name and address of any employer suspected of breaching any provision of that Law,
 - (B) the name, address, tax number and social insurance number of any employee in respect of whom such a breach is suspected, and
 - (C) the evidence upon which it is suspected that there has been such a breach,

- (ix) the supervisor, deputy supervisor and economic statistics officers appointed under the provisions of the Economic Statistics (Guernsey and Alderney) Law, 2019,
- (x) the Administrator of Population Management, the office of which was established by section 1 of the Population Management (Guernsey) Law, 2016,

and information disclosed by the Director or any person authorised by the Director by virtue of this paragraph to any of the persons, bodies or authorities specified in the above subparagraphs may, without prejudice to the provisions of any other enactment restricting or authorising the disclosure and use of information, be used by them for the purpose of enabling or assisting them to perform their respective functions.

- (2) Section 205A does not preclude the disclosure of information –
 - (a) in connection with or for the purposes of any proceedings (civil, criminal or administrative), whether arising out of or under the provisions of this Law or otherwise, or
 - (b) in compliance with an order of the court.]

NOTE

Section 205B was inserted by the Income Tax (Guernsey) (Amendment) (No.

2) Ordinance, 2022, section 7, with effect from 1st October, 2022.

[Prohibition on unauthorised access to information.]

205C. (1) A person who, without lawful authority or reasonable excuse, gains access to information comprised in the official records of the Committee is guilty of an offence and liable –

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twice level 5 on the uniform scale, or to both,
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(2) For the purposes of this section persons have lawful authority to gain access to information comprised in the official records of the Committee if –

- (a) those persons themselves are entitled to control access of the kind in question to the information, or
- (b) those persons have consent to such access by them from any person who is so entitled.]

NOTE

Section 205C was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 7, with effect from 1st October, 2022.

[Oaths of secrecy.]

206. ...]

NOTE

Section 206 (which was originally substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 5, with effect from 19th January, 1993) was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 8, with effect from 1st October, 2022.¹⁶⁸

[Power to make payments for information, etc.]

206ZA. (1) The Director may pay a reward to a person in return for a service which relates to the functions of the Director.

(2) Without prejudice to the generality of section 204, the Director may issue statements of practice under that section in relation to –

- (a) the payment and administration of rewards under this section, and
- (b) the practice and procedure of the Director and the officers, employees and other persons under his control in respect thereof.

(3) Any payment made by the Director under this section –

- (a) is assessable and taxable in the same way as income of class 2(1)(b), and
- (b) is subject to the deduction of tax under section 81A as if the Director were an employer carrying on business or exercising functions in Guernsey (except that regulations under subsection (4) of that section do not apply in respect of the payment).

(4) Documents and information received or obtained by the Director by virtue of this section may be disclosed and used for the purposes of the performance of his functions or otherwise [in accordance with the provisions of section 205B].

(5) The receipt, obtaining, disclosure and use of documents or information by the Director by virtue of this section does not constitute a contravention on his part of any obligation as to confidentiality or other restriction on the disclosure of documents or information imposed by statute, contract or otherwise.

(6) This section is without prejudice to any other provision of this Law, or any other enactment conferring functions on the Director, authorising the obtaining, delivery, making available, furnishing, disclosure, use and/or exchanging of documents and information.]

NOTES

Section 206ZA was inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2016, section 14, with effect from 1st January, 2017.

In section 206ZA, the words in square brackets in subsection (4) were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 9, with effect from 1st October, 2022.

[Exchange of information with Committee for Employment & Social Security.

206A. ...]

NOTE

Section 206A (which was originally inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 8, with effect from 31st May, 2012 was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 10, with effect from 1st October, 2022.¹⁶⁹

[Disclosure of information to supervisor etc. under Electronic Census (Guernsey) Ordinance, 2013.]

206AA. ...]

NOTE

Section 206AA (which was originally inserted by the Electronic Census (Guernsey) Ordinance, 2013, section 16, with effect from 30th October, 2013 was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 10, with effect from 1st October, 2022.¹⁷⁰

[Disclosure of information etc. under States' Register of Contact Details (Guernsey and Alderney) Law, 2019.]

206AB. (1) Nothing in [section 205A] precludes the Director of the Revenue Service from disclosing to the Registrar any designated information where required or authorised to do so under any provision of the States' Register of Contact Details (Guernsey and Alderney) Law, 2019.

(2) In subsection (1), "**designated information**" and "**the Registrar**" have the respective meanings given by section 25 of the States' Register of Contact Details (Guernsey and Alderney) Law, 2019.]

NOTES

Section 206AB was inserted by the States' Register of Contact Details (Guernsey and Alderney) Law, 2019, section 27(1), Schedule 5, with effect from 7th April, 2020, subject to the provisions of section 27(2) of the 2019 Law.

In section 206AB, the word, figures and letter in square brackets were substituted by the Income Tax (Investment Companies) (Guernsey) (Amendment) Ordinance, 2024, section 9, with effect from 1st December, 2024, subject to the transitional provisions in, first, section 10 of the 2024 Ordinance and, second, Part II of the Income Tax (Investment Companies) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2024.

[Power to amend sections relating to disclosure of information.]

206B. ...]

NOTE

Section 206B (which was originally inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 8, with effect from 31st May, 2012 was repealed by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 10, with effect from 1st October, 2022.¹⁷¹

Audit.

207. For the purpose of audit the [Director] is authorised to place at the disposal of the States Auditor all books and information that he may require.

NOTE

In section 207, the word in square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁷²

Provision as to inspection.

208. The [Committee] may from time to time employ a qualified person to inspect the work of the [Director] and his staff, and to make a report thereon.

NOTES

In section 208,

the word in the first pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;

the word in the second pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.¹⁷³

[Criminal liability of directors, etc.]

208A. (1) Where an offence under the provisions of this Law or any Ordinance or regulations made under it is committed by an incorporated company or other legal person and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any of the following persons –

- (a) in the case of an incorporated company, any director, secretary or other similar officer thereof,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a limited liability partnership, any member,
- (d) in the case of a foundation, any foundation official, or
- (e) any person purporting to act in any capacity described in paragraph (a), (b), (c) or (d),

that person as well as the company or other legal person (as the case may be) is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of an incorporated company or other legal person are managed by its members, subsection (1) applies to a member in connection with that member's functions of management as if that member were a director.]

NOTE

Section 208A (which was originally inserted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 9, with effect from 25th January, 2006) was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 11, with effect from 1st October, 2022.

[Criminal proceedings against unincorporated bodies.

208AA. (1) Where an offence under the provisions of this Law or any Ordinance or regulations made under it is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any of the following persons –

- (a) in the case of –
 - (i) a partnership, any partner thereof, but subject to the provisions of subparagraph (ii),
 - (ii) a limited partnership without legal personality, any general partner thereof,
- (b) in the case of any other unincorporated body, any director of that body or other officer thereof who is bound to fulfil any duty of which the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where an offence under the provisions of this Law or any Ordinance or regulations made under it is alleged to have been committed by an unincorporated body, proceedings for the offence shall, without prejudice to subsection (1), be brought in the name of that body and not in the name of any of its members.

(3) A fine imposed on an unincorporated body on its conviction of an offence under the provisions of this Law or any Ordinance or regulations made under it shall be paid from the funds of that body.]

NOTE

Section 208AA was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 11, with effect from 1st October, 2022.

[Power to amend penalties by Ordinance.]

208B. The States may by Ordinance amend any penalty specified in this Law which is expressed in a monetary amount.]

NOTE

Section 208B was inserted by the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 11, with effect from 1st January, 2006.

[Power to amend Law by Ordinance.]

- 208C.** (1) The States may by Ordinance –
- (a) amend this Law, and
 - (b) make such other provision as they think fit for the purposes of carrying this Law into effect.

(2) The provisions of subsection (1) are without prejudice to any other provision of this Law conferring power to enact Ordinances or regulations (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt, and without limitation –

- (a) create new liabilities (including, without limitation, liabilities to new classes or descriptions of tax or enhanced liabilities to existing classes or descriptions of tax), obligations, penalties and offences,
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law, and
- (c) empower the [Committee] and any other body (including, without limitation, any court in Guernsey or Alderney) to make or issue orders, rules, regulations, codes or guidance as to matters in respect of which an Ordinance can be made under this Law.]

NOTES

Section 208C was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 55, with effect from 1st January, 2008.

In section 208C, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The following Ordinances have been made under section 208C:

*Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012;
Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance,*

2012;
Income Tax (Guernsey) (Amendment) Ordinance, 2012;
Electronic Census (Guernsey) Ordinance, 2013;
Income Tax (Approved International Agreements) (Implementation)
(Guernsey) Ordinance, 2013;
Income Tax (Guernsey) (Amendment) Ordinance, 2014;
Income Tax (Tax Relief on Interest Payments) (Guernsey)
(Amendment) Ordinance, 2014;
Income Tax (Guernsey) (Approved International Agreements)
(Amendment) Ordinance, 2014;
Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance,
2014;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014;
Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014;
Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015;
Income Tax (Tax Relief on Interest Payments) (Guernsey)
(Amendment) Ordinance, 2015;
Income Tax (Zero 10) (Company Higher Rate) (Amendment)
(Guernsey) Ordinance, 2015;
Income Tax (Guernsey) (Amendment) Ordinance, 2015;
Income Tax (Zero 10) (Company Intermediate Rate) (Amendment)
(Guernsey) (No. 2) Ordinance, 2015;
Income Tax (Guernsey) (Amendment) Ordinance, 2016;
Income Tax (Guernsey) (Amendment) Ordinance, 2017;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017;
Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017;
Income Tax (Zero 10) (Company Intermediate Rate) (Amendment)
(Guernsey) Ordinance, 2017;
Social Insurance (Guernsey) Law (Amendment) Ordinance, 2017;
Director of Income Tax (Transfer of Functions) (Guernsey)
Ordinance, 2018;
Income Tax (Guernsey) (Amendment) Ordinance, 2018;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018;
Income Tax (Pension Amendments) (Guernsey) Ordinance, 2018;
Income Tax (Zero 10) (Company Intermediate Rate) (Amendment)
(Guernsey) Ordinance, 2018;
Income Tax (Independent Taxation) (Guernsey) (Amendment)
Ordinance, 2020;
Income Tax (Surcharges) (Amendment) (Guernsey) Ordinance,
2020;
Guernsey Revenue Service Tribunal Ordinance, 2021;
Income Tax (Charitable Donations) (Guernsey) (Amendment)
Ordinance, 2021;
Income Tax (Guernsey) (Amendment) Ordinance, 2021;
Income Tax (Guernsey) (Amendment) Ordinance, 2022;
Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022;
Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022;
Income Tax (Guernsey) (Amendment) Ordinance, 2024;
Income Tax (Guernsey) (Budget) Ordinance, 2024;
Income Tax (Investment Companies) (Guernsey) (Amendment)

Ordinance, 2024;
Income Tax (Guernsey) (Budget) Ordinance, 2025;
Income Tax (Gratuity Schemes) (Guernsey) (Amendment)
Ordinance, 2025.

[Formal defects not to invalidate assessments, etc.]

208D. No assessment, penalty, direction, order, notice, notification or other document issued by or on behalf of the [Director] or the [Committee] under this Law is invalidated by any formal error, defect or omission, or any other error, defect or omission not going to the substance of the document, if the content and meaning of the document are clear and the document, in substance, is correct and conforms with, or is in accordance with the purposes of, this Law.]

NOTES

Section 208D was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 16, with effect from 28th January, 2009.

In section 208D,

the word in the first pair of square brackets was substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;¹⁷⁴

the word in the second pair of square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

PART XX

**COMMENCEMENT, CONSTRUCTION, INTERPRETATION,
REPEALS, ETC.**

General interpretation.

209. (1) In this Law, unless the context otherwise requires –

[the "**Director**" and the "[**Director of the Revenue Service**]" mean the [Director of the Revenue Service] referred to in section 205, and include the [Deputy Director of the Revenue Service],]

["**annual validation**": see section 171C(5),]

["**administration of controlled investments**" has the meaning assigned by the Fourth Schedule,]

["**appropriate rate**" means the rate of income tax applicable to the class into which the income in question falls, as detailed in the Fifth Schedule,]

["**banking business**" has the meaning assigned by the Fourth Schedule,]

["**business documents**": see section 83A(6),]

["**business premises**": see section 83A(6),]

"[**Committee**]" means the [Policy & Resources Committee],

"**basis period**" has the meaning assigned to it by section one hundred and eighteen of this Law,

["**beneficial member**" has the meaning assigned to it in section 62D(1),]

"**business**" includes any profession, trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

[**"business of"** –

(a) the **"cultivation of the cannabis plant"** means the business of the cultivation of plants of the genus Cannabis carried on under the authority of a licence issued by the Committee for Health & Social Care under section 11 of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997,

(b) the **"use of the cannabis plant"** means the business of the use of plants or any part of plants of the genus Cannabis cultivated under the authority of a licence mentioned in paragraph (a) for –

(i) the production of industrial hemp, supplements, cannabidiol, fibre, medicinal products or any other products, or

(ii) any processing, any other activity or any other use,

where the production, processing, activity or other use is carried on under the authority of a licence issued by the Committee for Health & Social Care under the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 or the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997,

(c) the **"prescribed production of controlled drugs"** means the business of the production of controlled drugs carried on under the authority of a licence issued

by the Committee for Health & Social Care under section 4 of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997, where such production is prescribed by regulations of the Policy & Resources Committee, and

(d) the "**prescribed use of controlled drugs**" means the business of the use of controlled drugs or any part of controlled drugs produced under the authority of a licence mentioned in paragraph (c), for any production, processing, activity or other use –

(i) carried on under the authority of a licence issued by the Committee for Health & Social Care under the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 or the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997, and

(ii) prescribed by regulations of the Policy & Resources Committee.]

["**calendar quarter**" means a period of 3 consecutive calendar months expiring on any of the reporting dates,

"class" means one of the classes of income set out in section 2,]

["**connected to**" has the meaning assigned to it in section 66A(8)(a),]

"company" means any body of persons corporate or unincorporate, not being a partnership,

["**compliance and other related activities**" has the meaning assigned by the Fourth Schedule,]

"control" has the meaning assigned to it in section one hundred and twenty-two of this Law,

["**corporate relationship**" has the meaning assigned to it in section 66A(8)(a)(i),]

"the Court of Appeal" means the Court of Appeal established by the Court of Appeal (Guernsey) Law, 1961^P,

["**CRS regulations**": see section 171C(1)(b),]

["**custody services**" has the meaning assigned by the Fourth Schedule,]

["**day**", for the purposes of determining whether an individual is in Guernsey or in any other place on any particular day, or spends any particular day in Guernsey or in any other place, shall be construed in accordance with section 3(4),]

"director", in relation to a company, means a member of the board of directors or other managing body of the company by whatever name called,

["**disregarded company income**" has the meaning assigned to it in section 47I(1),]

["**disregarded individual income**" has the meaning assigned to it in

^P Ordres en Conseil Vol. XVIII, p. 315.

section 47D(1),]

["**distribution**" has the meaning assigned to it in section 62AA,]

["**domestic insurance business**" has the meaning assigned by the Fourth Schedule,]

["**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,]

"**earned income**" has the meaning assigned to it by section one hundred and forty-eight of this Law,

["**entity**": see section 171C(11),]

["**FATCA regulations**": see section 171C(1)(a),]

["**fiduciary business**" has the meaning assigned by the Fourth Schedule,]

["**freezing order**": see section 171F(3),]

["**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 –

(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,]

"glasshouse" includes boilers, pipes, mills, pumps and other ancillary apparatus of a substantially similar and permanent nature used in connection with the glasshouse,

"Guernsey" includes Herm [and (for the avoidance of doubt) Alderney],

[**"implementation"** of an approved international agreement, etc: see section 75CC(2),]

[**"income from banking business"** has the meaning assigned to it in

the Fourth Schedule,]

["**income from the ownership of land and buildings**" means income from the ownership of land and buildings situate in Guernsey, and cognate expressions shall be construed accordingly,]

["**inspectors**": see section 171E(1),]

["**Instrument Permitting Enforcement**": see section 83J(3),]

["**insurance intermediary business**" has the meaning assigned by the Fourth Schedule,]

["**insurance manager business**" has the meaning assigned by the Fourth Schedule,]

["**international operations**", with reference to a limited partnership, means business operations conducted on behalf of a limited partnership with, and investments made on behalf of a limited partnership in, persons who are not resident in Guernsey for the purposes of this Law,]

["**international tax provisions**": see section 171D(2),]

["**investment management individual client services**" has the meaning assigned by the Fourth Schedule,]

["**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 [Committee] may by regulation amend this definition,]

["**LLP**" means –

- (a) a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013, or
- (b) an entity formed under the laws of a place outside Guernsey, being an entity corresponding to an LLP described in paragraph (a),]

["**limited partnership**" means –

- (a) an arrangement which is registered as such, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or
- (b) an arrangement entered into under the laws of a place outside Guernsey between two or more persons, under which the [Committee] is satisfied that –
 - (i) one or more of them is, or are jointly and

severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and

- (ii) the others have (by whatever means) contributed or agreed to contribute specified amounts pursuant to the arrangement, and are not liable for those debts and obligations (unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount of those contributions,]

["**loan creditor**", in relation to a company, means a creditor –

- (a) in respect of any redeemable loan capital issued by the company, or
- (b) in respect of any debt incurred by the company –
 - (i) for any money borrowed or capital assets acquired by the company,
 - (ii) for any right to receive income created in favour of the company, or
 - (iii) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon),

but does not include –

- (A) any person in respect of any loan capital issued or debt incurred by the company for the supply by him of goods or services in the ordinary course of his business unless the period of credit given exceeds 6 months or is longer than that normally given to his customers, or

- (B) any person authorised by the Guernsey Financial Services Commission, or by any person or body exercising, in a place outside the Bailiwick, functions corresponding to the functions of the Commission, to carry on a business which includes the lending of money in respect of any loan capital issued or debt incurred by the company for money advanced by that person to the company at his normal commercial rate,]

["**non-resident**", in the case of any person, means that he is not resident or solely or principally resident,]

["**oath**" includes an affirmation [...],]

["**official records of the Committee**": see section 205A(4),]

["**operation of an aviation registry**" means operating an aviation registry in accordance with the Aviation Registry (Guernsey) Law, 2013,]

["**operation of an investment exchange**" has the meaning assigned by the Fourth Schedule,]

"owner", in relation to any real property means –

- (a) where the real property is the subject of saisie proceedings which have resulted in the making of a preliminary vesting order or an interim vesting order, the person in whose favour such order has been made,
- (b) where that real property is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary,
- (c) where the real property is not the subject of such saisie proceedings or of such vested right of usufruct –
 - (i) the beneficial owner, if that real property is not held in trust, or
 - (ii) the trustees, if that real property is held in trust,

and the expressions "**owned**" and "**ownership**" shall be construed accordingly,

["**participator**" has the meaning assigned to it in section 66A(8),]

["**partnership**" includes a limited partnership and an LLP,]

["**partnership relationship**" has the meaning assigned to it in section

66A(8),]

["**permanent establishment**" includes –

- (a) a branch,
- (b) a factory, shop, workshop, quarry or building site,
- (c) a place of management,

but the fact that a body's directors regularly meet at a particular place does not in itself make that place a permanent establishment of that body,]

["**personal relationship**" has the meaning assigned to it in section 66A(8),]

"**personal representative**" includes any person to whom has passed any legal or beneficial interest in the real or personal estate of a deceased individual,

["**prescribed purposes**": see section 83A(2),]

["**principally resident**", in the case of an individual, shall be construed in accordance with section 3,]

["**property development**" includes the exploitation of land by the exploration, excavation, excision, extrication, extirpation, exsiccation, expropriation or extraction or recovery of stone, minerals and other inorganic solid materials for the purpose of profit,]

["**Public Servants' Pension Scheme**" means the scheme of that name

established and maintained under the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 1999, as from time to time amended, re-enacted (with or without modification), extended or applied,]

["**qualifying loan**" has the meaning assigned to it in [section 66A(1)],]

["**relevant activities**": see section 171B(1)(a),]

["**relevant institution**": see section 171C(2),]

["**relevant tax provisions**": see section 83A(2)(a),]

["**reporting dates**" shall be 31st March, 30th June, 30th September and 31st December of any calendar year,]

["**resident**", in the case of an individual or a company, shall be construed in accordance with section 3 or (as the case may be) section 4,]

["**revenue claim**": see section 83I(1),]

["**royalties**" means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience,]

["**solely resident**", in the case of an individual, shall be construed in accordance with section 3,]

"States" means the States of Guernsey,

["**States trading company**" means a company for the time being

designated by Ordinance under section 1 of the States Trading Companies (Bailiwick of Guernsey) Law, 2001,]

["**substance requirements**": see section 171A(1),]

["**trust relationship**" has the meaning assigned to it in section 66A(8),]

["**undistributed income**" has the meaning assigned by section 62A(2),]

["**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989,]

"**year of computation**" means the year [or other period] by reference to the income of which assessable income is to be computed.

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as [from time to time] amended, repealed, replaced, extended or applied by or under any other enactment including this Law[; and in this subsection "**enactment**" includes any regulation, order or rule].

(3) Any power conferred by this Law to make an Ordinance or regulations shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance or regulations.

NOTES

In section 209,

the words in the first pair of brackets in subsection (1) were substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 22(a), with effect from 1st January, 2015;¹⁷⁵

the definition of the expressions "annual validation", "business documents", "business premises", "CRS regulations", "entity", "FATCA regulations", "freezing order", "implementation", "inspectors", "Instrument Permitting Enforcement", "international tax provisions", "prescribed purposes", "relevant institution", "relevant tax provisions", "revenue claim" and "uniform scale" were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2021, section 26, with effect from 15th July, 2021 (or such later date as may be specified by regulations of the Policy and Resources Committee);

the words "Director of the Revenue Service" and "Deputy Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the definition of the expression "administration of controlled investments" in subsection (1) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 6, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

the definitions of the expressions "appropriate rate", "beneficial member", "connected to", "corporate relationship", "disregarded company income", "disregarded individual income", "distribution", "income from the ownership of land and buildings", "participator", "partnership relationship", "personal relationship", "property development", "qualifying loan" and "trust relationship" in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 45(1), with effect from 1st January, 2008;

the definition of the expression "business of" in subsection (1) was inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019, section 6, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance;

the definitions of the expressions "compliance and other related activities" and "operation of an investment exchange" were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 6, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

the definitions of the expressions "banking business", "loan creditor" and "undistributed income" in subsection (1) were inserted by the Income

Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, respectively section 27(a), section 27(b) and section 27(d), with effect from 29th April, 2009;

the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 1, section 2, Schedule 1, paragraph 15(a) and section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;¹⁷⁶

the definitions of the expressions "calendar quarter", "class", "income from banking business" and "reporting dates" in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 56, with effect from 1st January, 2008;

the definition of the expression "custody services" was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 6, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;

the definitions of the expressions "day", "non-resident", "principally resident", "resident" and "solely resident" in subsection (1) were inserted by the Income Tax (Residence) (Guernsey) (Amendment) Law, 2005, section 4, with effect from 1st January, 2006;

the definitions of the expressions "domestic insurance business", "fiduciary business", "insurance intermediary business" and "insurance manager business" were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 9, with effect from 1st January, 2013;

the definition of the expression "emoluments" in subsection (1) was substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2014, section 21, with effect from 1st January, 2015 and, in accordance with the provisions of section 23 of the 2014 Ordinance, this amendment shall have effect for the year of charge 2015 and subsequent years;¹⁷⁷

the definitions of the expressions "gas and hydrocarbons business" and "large retail business" were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 6, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance;

the words in square brackets in the definition of the expression "Guernsey" in subsection (1) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 45(2), with effect from 1st January, 2008;

the definitions of the expressions "international operations" and

"limited partnership" in subsection (1) were inserted by the Income Tax (Limited Partnership Amendments) (Guernsey) Law, 1996, respectively section 1(b)(i) and section 1(b)(ii), with effect from 1st February, 1996;

the definition of the expression "investment management individual client services" in subsection (1) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 6, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

the definition of the expression "LLP" in subsection (1) was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 22(b), with effect from 1st January, 2015;¹⁷⁸

the definition of the expression "oath" in subsection (1) was inserted by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 17, with effect from 28th January, 2009;

first, the words omitted in square brackets within the definition of the expression "oath" in subsection (1) were repealed and, second, the definition of the expression "official records of the Committee" therein was inserted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022, section 12, respectively paragraph (a) and paragraph (b), with effect from 1st October, 2022;

the definition of the expression "operation of an aviation registry" in subsection (1) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 6, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance;

the definition of the expression "partnership" in subsection (1) was substituted by the Limited Liability Partnerships (Guernsey) Law, 2013, section 115, Schedule 6, paragraph 2(b), with effect from 13th May, 2014;¹⁷⁹

the definition of the expression "permanent establishment" in subsection (1) was substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(m), with effect from 1st January, 1989;

the definitions of the expressions "Public Servants' Pension Scheme" and "States trading company" in subsection (1) were inserted by the Income Tax (States Trading Companies and Public Servants' Pension Scheme) (Guernsey) Law, 2001, respectively section 1(3)(a) and section 1(3)(b), with effect from 1st October, 2001;

the word, figures, letter and parentheses in the square brackets within the definition of the expression "qualifying loan" in subsection (1) were substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 27(c), with effect from 29th April, 2009;

the definitions of the expressions "relevant activities" and "substance requirements" in subsection (1) were inserted by the Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018, section 17, with effect from 1st December, 2018;

the definition of the expression "royalties" in subsection (1) was inserted by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(h)(ii), with effect from 1st January, 1977;

the words in square brackets in the definition of the expression "year of computation" in subsection (1) were inserted by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 18, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law;

the words in the first pair of square brackets in subsection (2) were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 45(3), with effect from 1st January, 2008;

the words in the second pair of square brackets in subsection (2) were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 28, with effect from 4th July, 2011.

The functions, rights and liabilities of the Treasury and Resources Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 15(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁸⁰

The following cases have referred to section 209:

*McKean v. Administrator of Income Tax (1991) 11.GLJ.50;
Carpenter v. Administrator of Income Tax 2003-04 GLR 260;
Glass v. Administrator of Income Tax 2007-08 GLR 229.*

Repeals and savings.

210. The enactments set out in the Second Schedule to this Law (hereinafter referred to as "**the repealed Laws**") are hereby repealed:

Provided that the provisions of this Law shall not apply to income tax for the year of charge nineteen hundred and seventy-three or to any previous year of assessment or

charge and the provisions of the repealed Laws shall continue to apply to income tax for any such year to the same extent that they would have applied thereto if this Law had not been enacted.

Saving of appointments.

211. (1) Subject to the provisions of subsection (2) of this section, any person who was appointed to any office under the repealed Laws and who was holding such office on the first day of January, nineteen hundred and seventy-four, shall be deemed to have been appointed to that office under this Law.

(2) Any person to whom this section applies shall, before the expiration of the period of six months commencing on the date of the registration of this Law, take an oath in the appropriate form required by section two hundred and six of this Law and –

- (a) if he fails to do so, his appointment shall be deemed to be terminated, and
- (b) until he does so, the provisions as to impartiality and secrecy contained in the repealed Laws shall apply to him to the same extent as they would have applied if this Law had not been enacted.

Continuity and construction of references to old and new law.

212. (1) The continuity of the operation of the law relating to income tax shall not be affected by the substitution of this Law for the repealed Laws.

(2) Any reference, whether express or implied, in any enactment, instrument or document (including this Law) to, or to things done or falling to be done under, or for the purposes of, any provision of this Law shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times,

years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed Laws has or had effect, a reference to or, as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

(3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed Laws and enactments, instruments and documents passed or made after the passing of this Law) to, or to things done or falling to be done under, or for the purposes of, any of the repealed Laws shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Law has effect, a reference to or, as the case may be, to things done or deemed to be done or falling to be done under, or for the purposes of, that corresponding provision.

(4) Subject to the provisions of section two hundred and eleven of this Law (which relates to the saving of appointments made under the repealed Laws), the repeals made by this Law shall not affect any enactment or instrument made or other thing done under the repealed Laws and, if it was made or done under any enactment reproduced in this Law, this Law shall have effect as if it had also been made or done under the corresponding provision of this Law.

Commencement.

213. This Law shall be deemed to have come into force on the first day of January, nineteen hundred and seventy-four.

Citation.

214. This Law may be cited as the Income Tax (Guernsey) Law, 1975.

FIRST SCHEDULE

Section 7

DEDUCTIONS IN RESPECT OF CERTAIN GLASSHOUSES

1. In the case of a person to whom the provisions of this Schedule apply there shall be calculated –

- (a) the written-down value of the glasshouse,
- (b) the amount which results from subtracting the written-down value from the actual cost of the glasshouse,
- (c) the amount which results from subtracting from the amount arrived at under sub-paragraph (b) the aggregate of the deductions allowed in respect of the depreciation of the glasshouse.

2. Whenever such person incurs expenditure on repairs to the glasshouse which cannot be deducted under the provisions of section 7(3)(j) of this Law an additional deduction shall be permitted equal to the amount of such expenditure, provided that the aggregate of such additional deductions shall not exceed the amount calculated in accordance with sub-paragraph (c) of paragraph 1 of this Schedule.

3. For the purpose of paragraph 1 of this Schedule "**written-down value**" means the actual cost of the glasshouse to the person to whom the glasshouse belongs reduced by the aggregate amount of the depreciation to which he would have been entitled if he had claimed a deduction for depreciation from the date on which he acquired the glasshouse or from the 1st day of January, 1920, whichever is the later, up to the end of the last accounting period ending on or before the 31st day of January, 1950, and "**actual cost**" means –

- (a) where proper information is available—the cost of

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acquiring the glasshouse adjusted by the addition of the amount of any capital expenditure incurred upon the glasshouse since the date of acquisition:

Provided that the amount of any capital expenditure which has been allowed as a deduction from profits shall be left out of account.

- (b) where proper information is not available—the amount arrived at by calculating the value of the glasshouse according to the following table:

Year of Acquisition	Value per foot (30 feet wide)	
	Heated	Cold
Prior to 1915	£1.50	£1.00
1915-1933	£2.50	£1.50
1934-1940	£3.00	£2.00

so however that if the width of the glasshouse is greater or less than 30 feet the value per foot shall be increased or reduced proportionately.

SECOND SCHEDULE
ENACTMENTS REPEALED

Section 210

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

The Income Tax (Guernsey) Law, 1950^b.

The Non-Resident Traders Tax (Guernsey) Law, 1950^c.

The Income Tax (Guernsey) Amendment Law, 1951^d.

The Income Tax (Guernsey) Amendment (No. 2) Law 1951^e.

The Income Tax (Guernsey) Amendment Law, 1953^f.

The Income Tax (Guernsey) Law, 1955^g.

The Income Tax (Guernsey, Alderney, Herm and Jersey Reciprocal Exemption) (Savings) (Guernsey) Law, 1955^h.

The Income Tax (Amendment) (Guernsey) Law, 1959ⁱ.

The Income Tax (Amendment) (No. 2) (Guernsey) Law, 1959^j.

The Income Tax (Amendment) (Guernsey) Law, 1961^k.

The Income Tax (Amendment) (No. 2) (Guernsey) Law, 1962^l.

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- a** Ordres en Conseil Vol. XIV, p. 190.
b Ordres en Conseil Vol. XIV, p. 235.
c Ordres en Conseil Vol. XIV, p. 316.
d Ordres en Conseil Vol. XV, p. 55.
e Ordres en Conseil Vol. XV, p. 227.
f Ordres en Conseil Vol. XV, p. 489.
g Ordres en Conseil Vol. XVI, p. 283.
h Ordres en Conseil Vol. XVI, p. 344.
i Ordres en Conseil Vol. XVIII, p. 46.
j Ordres en Conseil Vol. XVIII, p. 88.
k Ordres en Conseil Vol. XVIII, p. 344.

The Income Tax (Amendment) (Guernsey) Law, 1964^{**m**}.

The Income Tax (Amendment) (Guernsey) Law, 1968^{**n**}.

The Income Tax (Amendment) (Guernsey) Law, 1969^{**o**}.

The Income Tax (Amendment) (Guernsey) Law, 1973^{**p**}.

The Income Tax (Amendment) (Guernsey) Law, 1974^{**q**}.

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- l** Ordres en Conseil Vol. XIX, p. 90.
m Ordres en Conseil Vol. XIX, p. 405.
n Ordres en Conseil Vol. XXI, p. 257.
o Ordres en Conseil Vol. XXII, p. 16.
p Ordre en Conseil No. XIII of 1973.
q Ordre en Conseil No. II of 1974.

[THIRD SCHEDULE Section 80A(b)
[THE GUERNSEY REVENUE SERVICE TRIBUNAL]

Establishment and functions of the Tribunal.

1. (1) There is established by, and in accordance with the provisions of, this Schedule a body to be known as [the Guernsey Revenue Service Tribunal].

(2) The Tribunal 's functions consist of –

- (a) hearing and determining appeals, and,
- (b) stating and signing cases for submission to the Ordinary Court,

in relation to any matter which may be referred to it under, and in accordance with the provisions of, any enactment.

Membership of the Tribunal.

2. (1) The Tribunal is to comprise –

- (a) a President, and
- (b) a Vice-President, and
- (c) not more than seven other members,

appointed from time to time by the Full Court.

(2) A member of the Tribunal shall hold office until whichever is the earlier of –

- (a) the date specified in that behalf in the Act of Court appointing him, or
- (b) ...
- (c) his death, or
- (d) his resignation in accordance with sub-paragraph (3) of this paragraph, or
- (e) his removal in accordance with sub-paragraph (4) of this paragraph.

(3) A member of the Tribunal may resign his office by giving not less than one month's written notice –

- (a) in the case of the President, to the Bailiff, or
- (b) in the case of any other member, to the Tribunal's President.

(4) The Full Court may, at the instance of Her Majesty's Procureur, remove a Tribunal member from office if it appears to the Court that he –

- (a) has misbehaved in his office as such, or
- (b) is incapable of continuing as a member by reason of physical or mental illness, or
- (c) has been declared insolvent, or

- (d) has been unavailable without reasonable cause to sit as a member of the Tribunal for a period in excess of six consecutive months.
- (5) When a person ceases to be a member of the Tribunal –
 - (a) a member to replace him shall be appointed by the Full Court, but
 - (b) the vacancy does not affect the validity of anything done by the Tribunal, and
 - (c) any appeal which has been commenced but not completed may be continued, even if the former member was sitting on the hearing of the appeal, notwithstanding paragraph 5(2)(a) of this Schedule.

Clerk, support services and expenses.

3. (1) The States [Policy & Resources Committee] shall appoint a person who appears to [the Committee], after consultation with the Tribunal's President, to have appropriate qualifications and experience to be the clerk to the Tribunal.

[(1A) The [Policy & Resources Committee] may also appoint a person who appears to [the Committee], after consultation with the Tribunal's President, to have appropriate qualifications and experience to be the deputy clerk to the Tribunal with authority to exercise the clerk's functions during any period in which the clerk is unavailable or unable to act or during any vacancy in that office.

(1B) A function exercised by a deputy clerk pursuant to an appointment under this paragraph is for all purposes exercised by the clerk; and every

decision taken or other thing done by a deputy clerk pursuant to such an appointment has the same effect as if taken or done by the clerk.

(1C) An appointment under this paragraph of a deputy clerk –

- (a) is subject to variation and termination in the same manner as the appointment of the clerk, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment,
- (b) does not prevent the exercise of the function by the clerk while the appointment subsists.]

(2) The clerk shall –

- (a) be responsible for the Tribunal's administration, and
- (b) advise the Tribunal when so requested on questions of law.

(3) The appointment of the clerk shall be on such terms (as to his remuneration and otherwise) as the States [Policy & Resources Committee] may from time to time determine, but he shall not be removed from office without the consent of the Tribunal's President.

(4) The States [Policy & Resources Committee] shall provide for the Tribunal such accommodation and such secretarial, clerical and recording services as are reasonably necessary to enable it to discharge its functions.

(5) A member of the Tribunal shall be entitled to be paid an allowance in respect of his expenses in attending for the hearing of an appeal or for

any meeting of the Tribunal, of such amount as the States [Policy & Resources Committee] may from time to time resolve, but shall not be paid any remuneration for his services as such a member.

(6) The cost of meeting the requirements of this paragraph[, subject to the provisions of any regulations of the [Policy & Resources Committee] as to costs and fees and the recovery thereof under paragraph 5(5),] shall be paid by the States [Policy & Resources Committee] from the general revenue account of the States.

Oaths of secrecy.

4. ...

Appeal hearings.

5. [(1) The [Director of the Revenue Service] shall –

- (a) at any time after receiving notice of an appeal in relation to any matter which may be referred to the Tribunal under any enactment, and
- (b) either of his own motion or at the request of the appellant,

forward the notice to the Tribunal, whose President or Vice-President shall convene sufficient members to constitute a quorum.]

(2) At the hearing of an appeal –

- (a) any three members constitute a quorum [except where the Tribunal is giving directions preliminary to the hearing of an appeal, or is considering an application

for an adjournment, [or is hearing an appeal described in section 80A(a),] in which case any one member constitutes a quorum],

(b) the President or the Vice-President shall preside [unless they are both unavailable or unable to sit, in which case

–

(i) the remaining members shall, if necessary, appoint sufficient additional members to constitute a quorum, and

(ii) when quorate, the members shall elect one of their number to preside],

(c) a member shall not sit if he has any direct or indirect pecuniary interest in the appeal,

(d) every member, party, representative and witness has the same protections, immunities and duties as he would have if sitting or appearing in proceedings before the Ordinary Court,

(e) the proceedings shall be conducted –

(i) in accordance with natural justice,

(ii) with as little formality, and with as much expedition, as a proper consideration of the matters before the Tribunal will permit,

- (f) every question shall be determined by the opinion of the majority of the members sitting but if they are equally divided the opinion of the person presiding shall prevail,
- (g) subject to this Schedule [and any regulations made under it] and the provisions of any other enactment, the Tribunal's procedure is within its discretion.

(3) Proceedings before the Tribunal are not to be held bad for want of form or void by reason of any informality.

(4) The President or Vice-President [or other person presiding] may, by means of a certificate signed by him, correct any error arising from an accidental slip or omission in a decision of the Tribunal.

[(5) The [Policy & Resources Committee] may by regulation make rules of procedure in relation to the hearing of cases by the Tribunal, including provision as to the form, manner, practice, conduct and administration of appeals and hearings and provision as to costs and fees and the recovery thereof.

(6) Rules under subparagraph (5) may (without limitation) make provision in connection with matters preparatory to and subsequent to hearings as well as in connection with the conduct of hearings.]

Interpretation.

6. In this Schedule –

"the clerk" means the clerk to the Tribunal appointed in accordance with paragraph 3(1) of this Schedule,

"the Full Court" means the Royal Court sitting as a Full Court,

"member" means a member, including the President and the Vice-President, of the Tribunal,

"the Ordinary Court" means the Royal Court sitting as an Ordinary Court,

"the Tribunal" means [the Guernsey Revenue Service Tribunal] established by this Schedule.]

NOTES

The Third Schedule was inserted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(4), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

In the Third Schedule,

first, the words "the Guernsey Revenue Service Tribunal" in square brackets, wherever occurring, were substituted by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(b), with effect from 1st January, 2022; and, second, paragraph 2(2)(b) was repealed by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 9, with effect from 1st January, 2022;

the words, first, "Policy & Resources Committee" and, second, "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 10(a) and section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016;¹⁸¹

first, sub-paragraph (1A), sub-paragraph (1B) and sub-paragraph (1C) of paragraph 3 and, second, the words in the first pair of square brackets in sub-paragraph (6) thereof, were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively section 29(a) and section 29(b), with effect from 4th July, 2011;

paragraph 4 was repealed by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 18, with effect from 28th January, 2009;

sub-paragraph (1) of paragraph 5 was substituted by the Income Tax (Guernsey) (Amendment) Law, 2009, section 29(c), with effect from 4th July, 2011,¹⁸²

the words "Director of the Revenue Service" in square brackets, wherever occurring, were substituted by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance;

the words in square brackets in, first, sub-paragraph (2)(a) of paragraph 5, second, sub-paragraph (2)(b) of paragraph 5 and, third, sub-paragraph (4) thereof were inserted by the Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004, respectively, section 5, section 6 and section 7, with effect from 15th November, 2004;

first, sub-paragraph (5) and sub-paragraph (6) of paragraph 5, second, the words in square brackets within the square brackets in sub-paragraph (2)(a) of paragraph 5 and, third, the words in square brackets in sub-paragraph (2)(g) thereof were inserted by the Income Tax (Guernsey) (Amendment) Law, 2009, respectively, section 29(f), section 29(d) and section 29(e), with effect from 4th July, 2011.

The jurisdiction, privileges, functions, rights and liabilities of the Guernsey Tax Tribunal and of its members and officers arising under or by virtue of this Law were transferred to and vested in, respectively, the Guernsey Revenue Service Tribunal and its members and officers by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 1, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 5 and section 6 of the 2021 Ordinance.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁸³

The following cases have referred to the Third Schedule:

*Gold v. Administrator of Income Tax (1999) 27.GLJ.144;
Administrator of Taxes v. Tremoille Properties Limited (2002)
(Unreported, Royal Court, 27th May) (Guernsey Judgment No. 4/2002)
Carpenter v. Administrator of Income Tax 2003-04 GLR 260.*

BANKING AND OTHER DESCRIPTIONS OF BUSINESS]

1. For the purposes of this Law "**banking business**" shall mean business carried on by a bank that is a licensed institution under the Banking Supervision (Bailiwick of Guernsey) Law, 1994 [and any business that, in the usual course of its business, provides or makes available credit facilities.

"**Credit facilities**" means the making of any advance or the granting of any credit to customers and includes –

- (1) the provision, in connection with the supply of goods by hire-purchase, conditional sale or credit sale, of credit in instalments for which a separate charge is made and disclosed to the customer, and
- (2) any assignment to the business of an advance or credit repayable to a third person.].

2. "**Income from banking business**" shall be any income –

- (1) arising from the reinvestment or utilisation of customer deposits including any ancillary or administrative income arising therefrom (including fees and commissions), or
- (2) which is funded by the amount of capital needed to satisfy the bank's minimum regulatory requirements under the Banking Supervision (Bailiwick of Guernsey) Law, 1994, [or
- (3) arising from the provision or making available of credit facilities.]

including interest on income, gains and losses (including exchange gains and losses), payments and receipts from transactions in related derivatives together with any associated fee income.

For the avoidance of doubt, income arising from capital surplus to the bank's regulatory requirements is not income from banking business.

For the purpose of this paragraph "**customer deposits**" shall include current, call, omnibus, notice, and fixed deposit accounts, certificates of deposit, bonds, structured products and other similar investment products.

[DOMESTIC INSURANCE BUSINESS

2A. (1) For the purposes of this Law "**domestic insurance business**" means the carrying on of insurance business which is domestic business within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002.

(2) "**Income from domestic insurance business**" shall be any income arising from domestic insurance business carried on by a licensed insurer within the meaning of that Law.

FIDUCIARY BUSINESS

2B. (1) For the purposes of this Law "**fiduciary business**" means the carrying on of regulated activities within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000.

(2) "**Income from fiduciary business**" shall be any income arising from fiduciary business carried on by a licensed fiduciary within the meaning

of that Law.

INSURANCE INTERMEDIARY BUSINESS

2C. (1) For the purposes of this Law "**insurance intermediary business**" means the carrying on of business as an insurance intermediary within the meaning of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

(2) "**Income from insurance intermediary business**" shall be any income arising from insurance intermediary business carried on by a licensed insurance intermediary within the meaning of that Law.

INSURANCE MANAGER BUSINESS

2D. (1) For the purposes of this Law "**insurance manager business**" means acting as an insurance manager within the meaning of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

(2) "**Income from insurance manager business**" shall be any income arising from insurance manager business carried on by a licensed insurance manager within the meaning of that Law.]

[ADMINISTRATION OF CONTROLLED INVESTMENTS

2E. (1) For the purposes of this Law the "**administration of controlled investments**" means the provision to an unconnected third party of any administrative, secretarial or clerical services in relation to a controlled investment (within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987), including –

- (a) the provision of general accountancy and book-keeping services, but not the audit of accounts, and
- (b) the provision of valuation services on a continuing basis in connection with any dealing in an investment,

and for the purposes of this paragraph services are provided to an unconnected third party only where the person who provides the services, and the person to whom the services are provided, are not connected to each other within the meaning of section 66A(8)(a).

(2) **"Income from the administration of controlled investments"** shall be any income arising from the administration of controlled investments.]

[CUSTODY SERVICES

2F. (1) For the purposes of this Law **"custody services"** means services which constitute custody (within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987), that is to say –

- (a) holding as trustee or custodian the assets underlying a collective investment scheme, within the meaning of category 1 in Schedule 1 to that Law, or the evidence of title to those assets, and
- (b) safeguarding assets belonging to others which comprise general securities and derivatives within the meaning of category 2 in Schedule 1 to that Law, or the evidence of title to such assets,

where the services are provided to an unconnected third party; and for the purposes of this paragraph services are provided to an unconnected third party only where the person who provides the services, and the person to whom the services are provided, are not connected to each other within the meaning of section 66A(8)(a).

(2) **"Income from the provision of custody services"** shall be any income arising from the provision of custody services when carried on by an institution or business described in paragraph 1 of this Schedule.]

[INVESTMENT MANAGEMENT INDIVIDUAL CLIENT SERVICES

2G. (1) For the purposes of this Law **"investment management individual client services"** means the provision to individual clients, by a person licensed to carry on controlled investment business within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, of services comprising the restricted activity of management in relation to an investment or in relation to the assets underlying an investment (within the meaning of that Law), not being services rendered to, or in respect of, collective investment schemes (also within the meaning of that Law).

(2) **"Income from the provision of investment management individual client services"** shall be any income arising from the provision of investment management individual client services when carried on by a person licensed as mentioned in subparagraph (1) to carry on controlled investment business referred to in that subparagraph.]

[OPERATION OF AN INVESTMENT EXCHANGE

2H. (1) For the purposes of this Law the **"operation of an investment exchange"** means the restricted activity of operating an investment exchange within the meaning of paragraph 9 of Schedule 2 to the Protection of Investors (Bailiwick of

Guernsey) Law, 1987, when carried on by a person licensed to carry on that restricted activity under the provisions of that Law.

(2) **"Income from the operation of an investment exchange"** shall be any income arising from the operation of an investment exchange.

COMPLIANCE AND OTHER RELATED ACTIVITIES

2I. (1) For the purposes of this Law **"compliance and other related activities"** includes, without limitation, advising on and monitoring corporate governance, ethics, standards of conduct, risk management and compliance with the provisions of or made under –

- (a) the regulatory Laws within the meaning of section 75B(3B),
- (b) the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991,
- (c) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (d) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (e) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,
- (f) the Disclosure (Bailiwick of Guernsey) Law, 2007,

- (g) the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008,
- (h) the Data Protection (Bailiwick of Guernsey) Law, 2017,
or
- (i) any other enactment or statutory instrument prescribed for the purposes of this paragraph by regulations of the Committee.

(2) **"Income from compliance and other related activities"** shall be any income arising from compliance and other related services when provided to a person or body of persons, corporate or unincorporated, holding or deemed to hold a licence, registration or authorisation from the Guernsey Financial Services Commission under the regulatory Laws within the meaning of section 75B(3B).]

3. This Schedule may be amended by regulations of the [Committee].]

NOTES

The Fourth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 57, with effect from 1st January, 2008.

In the Fourth Schedule,

the words, figures and parentheses in the heading thereto were substituted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 7, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance;

the words in square brackets in, first, paragraph 1 and, second, paragraph 2 were inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, respectively section 46 and section 47, with effect from 1st January, 2008;

paragraph 2A, paragraph 2B, paragraph 2C and paragraph 2D

were inserted by the *Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 10, with effect from 1st January, 2013;*

paragraph 2E was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 7, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

paragraph 2F was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 7, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance;

paragraph 2G was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 7, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

paragraph 2H and paragraph 2I were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 7, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

the word in square brackets in paragraph 3 was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 1, with effect from 1st May, 2016.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

[FIFTH SCHEDULE
INCOME TAX RATES

Section 5(2)

Classes of individuals' income		Rate description	Rate
2(1)(a)	Income from businesses	} individual standard rate	20%
2(1)(b)	Income from offices and employments		20%
2(1)(c)	Income from the ownership of lands and buildings		20%
2(1)(d)	Income from other sources.		20%
Classes of companies' income			
2(2)(a)	Income from banking business	company intermediate rate	10%
[2(2)(aa)	Income from domestic insurance business	company intermediate rate	10%

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2(2)(ab)	Income from fiduciary business	company intermediate rate	10%
2(2)(ac)	Income from insurance intermediary business	company intermediate rate	10%
2(2)(ad)	Income from insurance manager business	company intermediate rate	10%]
[2(2)(ae)	Income from the administration of controlled investments	company intermediate rate	10%]
[2(2)(af)	Income from the provision of custody services	company intermediate rate	10%]
[2(2)(ag)	Income from the provision of investment management individual client services	company intermediate rate	10%]
[2(2)(ah)	Income from the operation of an investment exchange	company intermediate rate	10%]

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[2(2)(ai)	Income from compliance and other related services	company intermediate rate	10%]
[2(2)(aj)	Income from the operation of an aviation registry	company intermediate rate	10%]
2(2)(b)	Income from trading activities regulated by [the Guernsey Competition and Regulatory Authority]	company higher rate	20%
[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%]
[2(2)(bc)	Income from the business of the cultivation or use of the cannabis plant	company higher rate	20%]
[2(2)(bd)	Income from the business of the prescribed production or prescribed use of controlled drugs	company higher rate	20%]

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2(2)(c)	Income from the ownership of lands and buildings	company higher rate	20%
2(2)(d)	Income from businesses, offices and employments, and other sources	company standard rate	0%

]

NOTES

The Fifth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 57, with effect from 1st January, 2008.

In the Fifth Schedule,

the entries in the Table corresponding to section 2(2)(aa), section 2(2)(ab), section 2(2)(ac) and section 2(2)(ad) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012, section 11, with effect from 1st January, 2013;

the entry in the Table corresponding to section 2(2)(ae) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 8, subject to the provisions of section 9 of the 2015 Ordinance; and, in accordance with the provisions of section 11 of the 2015 Ordinance, this amendment shall be deemed to have come into force on 1st January, 2015;

the entry in the Table corresponding to section 2(2)(af) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 8, subject to the provisions of section 9 of the 2015 Ordinance;

the entry in the Table corresponding to section 2(2)(ag) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 8, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance;

the entries in the Table corresponding to section 2(2)(ah) and section 2(2)(ai) were inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 8, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance;

the entry in the Table corresponding to section 2(2)(aj) was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2019, section 8, with effect from 1st January, 2020, subject to the provisions of section 9 of the 2019 Ordinance;

the words "the Guernsey Competition and Regulatory Authority", wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012;

the entries in the Table corresponding to section 2(2)(ba) and section 2(2)(bb) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015, section 7, with effect from 1st January, 2016, subject to the provisions of section 8 of the 2015 Ordinance;

the entries in the Table corresponding to section 2(2)(bc) and section 2(2)(bd) were inserted by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2019, section 7, with effect from 1st January, 2020, subject to the provisions of section 8 of the 2019 Ordinance.

The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.

[SIXTH SCHEDULE
LIMIT ON TAX PAYABLE BY AN INDIVIDUAL

Section 39B

1. Individuals resident in Guernsey [...]

Subject to paragraph 3 below, an individual resident in Guernsey shall pay a maximum of [£160,000] in tax in a year of charge, in respect of income from the following sources –

Qualifying income

- (1) Any income derived from non-Guernsey sources, including:
 - (a) income from businesses,
 - (b) income from offices and employments,
 - (c) income from the ownership of lands and buildings, and
 - (d) income from other sources.
- [(2) Income derived from a body which has been granted an exemption from tax for that year of charge under an Ordinance made under section 40A, including for the avoidance of doubt income from the ownership of lands and buildings situate in Guernsey but excluding income arising or accruing from an office or employment held or exercised in Guernsey.]
- (3) Any interest arising in Guernsey upon money deposited with a licensed institution or other person exempted from the requirement to be licensed under the provisions of the Banking Supervision (Bailiwick of Guernsey) Law, 1994.

Income tax on income from any other sources (referred to in this Law as "**non-qualifying income**") shall not be subject to this limit.

[However, notwithstanding the preceding provisions of this Schedule, an individual resident in Guernsey in receipt of non-qualifying income may, within a period of six years immediately after the end of any year of charge, elect to pay in respect of that year of charge in respect of both qualifying and non-qualifying income, other than non-qualifying income arising or accruing in the circumstances set out below (the tax on which is, for the avoidance of doubt, payable in addition to the amount of the limit on tax specified in this Schedule), a maximum of [£320,000] in tax, and in that case –

- (a) the maximum figure specified above of [£160,000] in tax in the year of charge in respect of qualifying income does not apply, and
- (b) the individual shall pay in respect of that year of charge in respect of both qualifying and non-qualifying income, other than non-qualifying income arising or accruing in the circumstances set out below (the tax on which is, for the avoidance of doubt, payable in addition to the amount of the limit on tax specified in this Schedule) a maximum of [£320,000] in tax.

The circumstances referred to above are that the non-qualifying income arises or accrues from the ownership of land and buildings situate in Guernsey, or arises –

- (i) from the payment of a lump sum out of or under the provisions of an approved scheme in full commutation of or in lieu of a pension under section 153A(1),
- (ii) from the payment of a lump sum out of or under the provisions of an approved retirement annuity scheme or approved

retirement annuity trust scheme in full commutation of or in lieu of a pension under section 157CA(1),

- (iii) from the payment of a lump sum out of or under the provisions of an approved scheme in commutation of or in lieu of a pension as referred to in section 153(1) to the extent to which such lump sum is not exempted from tax under section 153(2),
- (iv) from the payment of a lump sum under the terms of –
 - (A) an approved retirement annuity scheme by way of commutation of part of an annuity in accordance with the proviso to section 157A(2)(c), or
 - (B) an approved retirement annuity trust scheme in accordance with that proviso as it has effect in relation to a retirement annuity trust scheme by virtue of section 157A(4),

to the extent to which such lump sum is not exempted from tax under section 157A(5B),

to the extent only, in relation to income arising in the circumstances set out in items (i) to (iv) above, that the payment referred to relates to contributions which have been the subject of any allowance or relief (or would have been had there been no limitation on the amounts so available in the relevant year of charge) against sums which would otherwise have been assessable to tax under this Law.]

Income from non-Guernsey sources does not include any income arising or accruing from –

- (a) businesses carried on in Guernsey,
- (b) offices or employments held or exercised in Guernsey,
- (c) the ownership of lands and buildings situate in Guernsey, and
- (d) any other source in Guernsey.

2. Individuals resident in Alderney

An individual resident in Alderney shall pay a maximum of [£65,000] [(or such other amount as the States may by Resolution prescribe)] in tax in any year of charge from 2016 to [2025] in respect of Alderney qualifying income save where that individual has in any previous year of charge by virtue of section 39B claimed the limit on tax payable under this schedule as it had effect prior to 1 January 2016, in which case that individual may claim the limit on tax payable available under paragraph 1 of this schedule as if he were instead resident in Guernsey.

["**Alderney qualifying income**" means income from any sources (including income derived from a body which has been granted an exemption from tax for that year of charge under an Ordinance made under section 40A, including for the avoidance of doubt income from the ownership of lands and buildings situate in Guernsey (including, for the avoidance of doubt, Alderney)) except Alderney non-qualifying income.]

["**Alderney non-qualifying income**" means –

- (a) income arising or accruing from the ownership of lands and buildings situate in Guernsey (including, for the avoidance of doubt, Alderney), and

- (b) income arising –
 - (i) from the payment of a lump sum out of or under the provisions of an approved scheme in full commutation of or in lieu of a pension under section 153A(1),
 - (ii) from the payment of a lump sum out of or under the provisions of an approved retirement annuity scheme or approved retirement annuity trust scheme in full commutation of or in lieu of a pension under section 157CA(1),
 - (iii) from the payment of a lump sum out of or under the provisions of an approved scheme in commutation of or in lieu of a pension as referred to in section 153(1) to the extent to which such lump sum is not exempted from tax under section 153(2),
 - (iv) from the payment of a lump sum under the terms of –
 - (A) an approved retirement annuity scheme by way of commutation of part of an annuity in accordance with the proviso to section 157A(2)(c), or
 - (B) an approved retirement annuity trust scheme in accordance with that proviso as it has effect in relation to a retirement annuity trust scheme by virtue of section 157A(4),
- to the extent to which such lump sum is not exempted from tax under section 157A(5B),
- to the extent only, in relation to income arising in the circumstances

set out in items (i) to (iv), that the payment referred to relates to contributions which have been the subject of any allowance or relief (or would have been had there been no limitation on the amounts so available in the relevant year of charge) against sums which would otherwise have been assessable to tax under this Law,

and such income shall not be subject to the limit (and, for the avoidance of doubt, the tax on such income is payable in addition to the amount of the limit on tax specified in this Schedule).]

3. Individuals [...] resident in Guernsey who have purchased a Part A open market property

Where an individual [...] resident in Guernsey

- (i) has paid £50,000 or more in document duty in respect of the purchase of a property on Part A of the Open Market Register on or after 1 January 2018 ("**the relevant purchase**"),

[Provided that, on and from the 1st January, 2024 –

- (A) an individual ("A") shall be deemed for the purposes of this subparagraph to have paid £50,000 or more in document duty in respect of the purchase of a property on Part A of the Open Market Register if A has paid £50,000 or more in anti-avoidance duty under the provisions of the Document Duty (Anti-Avoidance (Guernsey) Law, 2017 in respect of a relevant transaction (within the meaning of that Law) conferring on A a significant benefit (also within the meaning of that Law) arising from, or relating to, that property,

- (B) that property is owned by a company which is limited by shares and the relevant transaction consists of a transfer of the legal or beneficial ownership of all of the shares of that company,
 - (C) references in this paragraph to the relevant purchase shall include references to a relevant transaction described in (A) and (B), and
 - (D) the Policy and Resources Committee may by regulation amend this Proviso,] and
- (ii) has made the relevant purchase on a date either up to [twelve] months prior to, or up to [twelve] months after, the date on which the individual takes up permanent residence in Guernsey ("**the permitted period**"), and
 - (iii) has not been resident in Guernsey at any time in the previous three years prior to the relevant purchase save for the permitted period,

such individual may, instead of claiming the tax cap in paragraph 1 above, pay an annual maximum of [£60,000] [(or such other amount as the States may by Resolution prescribe)] in tax (the "**open market tax cap**") in respect of each of the years of charge specified hereafter. The open market tax cap may only be applied to the year of charge in which the individual takes up permanent residence and to each of the three consecutive years immediately thereafter. [The open market tax cap shall apply in respect of both qualifying and non-qualifying income as defined in paragraph 1, other than non-qualifying income arising or accruing in the circumstances set out below (the tax on which is, for the avoidance of doubt, payable in addition to the amount of the limit on tax specified in this Schedule).

The circumstances referred to above are that the non-qualifying income arises or

accrues from the ownership of land and buildings situate in Guernsey, or arises –

- (i) from the payment of a lump sum out of or under the provisions of an approved scheme in full commutation of or in lieu of a pension under section 153A(1),
- (ii) from the payment of a lump sum out of or under the provisions of an approved retirement annuity scheme or approved retirement annuity trust scheme in full commutation of or in lieu of a pension under section 157CA(1),
- (iii) from the payment of a lump sum out of or under the provisions of an approved scheme in commutation of or in lieu of a pension as referred to in section 153(1) to the extent to which such lump sum is not exempted from tax under section 153(2),
- (iv) from the payment of a lump sum under the terms of –
 - (A) an approved retirement annuity scheme by way of commutation of part of an annuity in accordance with the proviso to section 157A(2)(c), or
 - (B) an approved retirement annuity trust scheme in accordance with that proviso as it has effect in relation to a retirement annuity trust scheme by virtue of section 157A(4),

to the extent to which such lump sum is not exempted from tax under section 157A(5B),

to the extent only, in relation to income arising in the circumstances set out in items

(i) to (iv) above, that the payment referred to relates to contributions which have been the subject of any allowance or relief (or would have been had there been no limitation on the amounts so available in the relevant year of charge) against sums which would otherwise have been assessable to tax under this Law.]

[3A. Alderney Property Tax Cap

(1) Where an individual resident in Alderney ("A") –

(a) has paid £50,000 or more in –

(i) document duty, in respect of the purchase by A of a residential dwelling in Alderney,

(ii) transfer duty under the provisions of the Duty on Share Transfers (Alderney) Law, 1994, in respect of the transfer to A of all of the share capital of a land holding corporation which is –

(A) the legal or beneficial owner, or

(B) the holding company of a land holding corporation which is the legal or beneficial owner,

of a residential dwelling in Alderney, or

(iii) leasehold duty under the provisions of the Duty on Long Leases (Alderney) Law, 1994, in respect of the grant or assignment to A of a long lease of land comprising a residential dwelling in Alderney,

in each case on or after the 1st January 2025 ("**the relevant acquisition**"),

- (b) has made the relevant acquisition on a date either on, or up to twelve months prior to, or up to twelve months after, the date on which A takes up permanent residence in Alderney ("**the permitted period**"), and
- (c) has not been resident in Guernsey (including, for the avoidance of doubt, Alderney) at any time in the previous three years prior to the relevant acquisition save for the permitted period,

such individual may, instead of claiming the tax cap in paragraph 1 or 2 above, pay an annual maximum of £60,000 (or such other amount as the States may by Resolution prescribe) in tax (the "**Alderney property tax cap**") in respect of each of the years of charge specified in subparagraph (2).

- (2) The Alderney property tax cap may only be applied to the year of charge in which A takes up permanent residence and to each of the three consecutive years of charge immediately thereafter.
- (3) The Alderney property tax cap shall apply in respect of both qualifying and non-qualifying income as defined in paragraph 1, other than non-qualifying income arising or accruing in the circumstances set out in subparagraph (4), the tax on which is, for the avoidance of doubt, payable in addition to the amount of the limit on tax specified in subparagraph (1).
- (4) The circumstances referred to in subparagraph (3) are that the non-qualifying income arises or accrues from the ownership of land and buildings situate in Guernsey (including, for the avoidance of doubt, Alderney), or arises –

- (a) from the payment of a lump sum out of or under the provisions of an approved scheme in full commutation of or in lieu of a pension under section 153A(1),
- (b) from the payment of a lump sum out of or under the provisions of an approved retirement annuity scheme or approved retirement annuity trust scheme in full commutation of or in lieu of a pension under section 157CA(1),
- (c) from the payment of a lump sum out of or under the provisions of an approved scheme in commutation of or in lieu of a pension as referred to in section 153(1) to the extent to which such lump sum is not exempted from tax under section 153(2),
- (d) from the payment of a lump sum out of or under the provisions of –
 - (i) an approved retirement annuity scheme by way of commutation of part of an annuity in accordance with the proviso to section 157A(2)(c), or
 - (ii) an approved retirement annuity trust scheme in accordance with that proviso as it has effect in relation to a retirement annuity trust scheme by virtue of section 157A(4),to the extent to which such lump sum is not exempted from tax under section 157A(5B),

to the extent only, in relation to income arising in the circumstances set out in items (a) to (d) above, that the payment referred to relates to contributions which have been the subject of any allowance or relief (or would have been had there been no limitation on the amounts so available in the relevant year

of charge) against sums which would otherwise have been assessable to tax under this Law.

- (5) Expressions used in subparagraph (1)(a)(ii) and (iii) have, so far as they are respectively defined therein, the same meanings as in the Duty on Share Transfers (Alderney) Law, 1994 or (as the case may be) the Duty on Long Leases (Alderney) Law, 1994.]

4. Determination of where income arises

In determining for the purposes of this Schedule whether any income does arise in, or from the ownership of lands and buildings situate in, Guernsey (including, for the avoidance of doubt, Alderney) the income may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description and, for that purpose, section 62D(2) shall apply (subject to the necessary modifications) in determining whether a person has an interest in, or income arises from, any company, partnership, trust, agreement or arrangement through which the interest or income is traced.]

NOTES

The Sixth Schedule (which was originally inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 57, with effect from 1st January, 2008) was substituted in accordance with the provisions of proposition 10 of the Resolution of the States of 9th October, 2017 concerning Billet d'État No. XX.¹⁸⁴

In the Sixth Schedule,

first, the words omitted in square brackets in the heading to paragraph 1 were repealed and, second, paragraph 3A was inserted by the Income Tax (Guernsey) (Budget) Ordinance, 2024, respectively section 17 and section 18, with effect from 1st January, 2025;

the symbols and figures, first, "£160,000" and, second, "£320,000" in square brackets, wherever occurring, were substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2023, section 3, respectively paragraph

(a) and paragraph (b), with effect from 1st January, 2024,¹⁸⁵

first, paragraph (2) under the definition of "Qualifying income", second, the figures "2025" in square brackets in the paragraph under the heading "2. Individuals resident in Alderney" and, third, the definition of the expression "Alderney qualifying income" were all substituted, fourth, the words omitted in the first two pairs of square brackets in paragraph 3 (including the heading thereto) were repealed and, fifth, the word "twelve" in square brackets in subparagraph (ii) of that paragraph, wherever occurring, was substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 7, respectively paragraph (b), paragraph (d), paragraph (e), paragraph (f)(i) and paragraph (f)(ii), with effect from 1st January, 2019;

first, the symbol and figures "£65,000" in square brackets within paragraph 2 were substituted, second, the Proviso in the third pair of square brackets in paragraph 3 was inserted and, third, the symbol and figures "£60,000" in the sixth pair of square brackets in that paragraph were substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2023, respectively section 4, section 5(a) and section 5(b), with effect from 1st January, 2024;

the words in, first, the second pair of square brackets in paragraph (2) and, second, the second pair of square brackets immediately after paragraph 3(iii) were inserted by the Income Tax (Guernsey) (Amendment) Ordinance, 2024, section 1, respectively paragraph (a) and paragraph (b), with effect from 1st June, 2024;

first, the words in the third pair of square brackets, second, the definition of the expression ""Alderney non-qualifying income" and, third, the words in the seventh pair of square brackets in paragraph 3 were all substituted by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2019, respectively section 3, section 4 and section 5, with effect from 1st January, 2020.¹⁸⁶

In accordance with the provisions of the Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022, regulation 2, and having regard to paragraph 2 of this Schedule, the savings and transitional provisions relating to the Alderney tax cap contained in that regulation shall have effect from 1st January, 2023.

In accordance with the provisions of the Income Tax (Independent Taxation) (Commencement and Transitional Provisions) Regulations, 2022, regulation 3, and having regard to paragraph 3 of this Schedule, the savings and transitional provisions relating to the open market tax cap contained in that regulation shall have effect from 1st January, 2023.

The Banking Supervision (Bailiwick of Guernsey) Law, 1994 has since been repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings

and transitional provisions in section 68 of the 2020 Law.

1 Previously, collective title provisions were included in the Income Tax (Amendment) (Guernsey) Law, 1977, section 3; the Income Tax (Amendment) (Guernsey) Law, 1979, section 3; the Income Tax (Amendment) (No. 2) (Guernsey) Law, 1979, section 3(2); the Income Tax (Amendment) (Guernsey) Law, 1980, section 3(2); the Income Tax (Amendment) (Guernsey) Law, 1981, section 4(2); the Income Tax (Amendment) (Guernsey) Law, 1982, section 3(2); the Income Tax (Amendment) (Guernsey) Law, 1983, section 3(2); the Income Tax (Amendment) (Guernsey) Law, 1984, section 3(2); the Income Tax (Amendment) (Guernsey) Law, 1989, section 3; the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 5; the Income Tax (Amendment) (Guernsey) Law, 1990, section 7; the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 13(2); the Income Tax (Amendment) (Guernsey) Law, 1992, section 8(2).

2 Prior to its substitution, section 3 was amended by the following: the Income Tax (Amendment) (Guernsey) Law, 1981, section 1(a) and section 1(b), with effect from 1st January, 1981.

3 Prior to its substitution, paragraph (b) of subsection (1) was amended by: by the Income Tax (Residence) (Guernsey) (Amendment) Law, 2005, section 3, with effect from 1st January, 2006; the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

4 Paragraph (d) of subsection (1) was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(a), with effect from 1st January, 1977.

5 Previously this figure was altered in accordance with the provisions of the Income Tax (Standard Charge) (Amendment) Regulations, 2011, regulation 1, with effect from 1st January, 2012; the Income Tax (Standard Charge) (Amendment) Regulations, 2015, regulation 1, with effect from 1st January, 2016.

6 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

7 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th

February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

8 These words were previously substituted, in part, by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015, section 3, subject to the provisions of section 9 of the 2015 Ordinance; which amendment, in accordance with the provisions of section 11 of the 2015 Ordinance, was deemed to have come into force on 1st January, 2015.

9 These words were previously substituted, in part, by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015, section 3, with effect from 1st January, 2016, subject to the provisions of section 9 of the 2015 Ordinance.

10 These words were previously substituted, in part, by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017, section 3, with effect from 1st January, 2018, subject to the provisions of section 9 of the 2017 Ordinance.

11 These words were previously substituted, in part, by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018, section 3, with effect from 1st January, 2019, subject to the provisions of section 9 of the 2018 Ordinance.

12 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

13 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

14 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

15 Prior to its repeal, section 30 was amended by: the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(i), with effect from 1st January, 1983; the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(1), with effect from 1st January, 2002.

16 Prior to its repeal, subsection (1) was amended by the Income Tax (Year of Computation) (Guernsey) Law, 2000, section 5(2)(a), with effect from 1st January, 2002.

17 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

18 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

19 The word "Director" was previously substituted by the Administrator of Income Tax

(Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

20 Paragraph (k) was previously substituted by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 5, with effect from 3rd November, 2008; and amended by the Income Tax (Guernsey) (Amendment) Law, 2009, section 9(a), with effect from 28th October, 2009.

21 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 18, with effect from 6th May, 2004; the Income Tax (Guernsey) (Amendment) Law, 2009, section 10(a), with effect from 4th July, 2011.

22 Prior to its repeal, paragraph (b) was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

23 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

24 Prior to its repeal, subsection (2) was amended by the Income Tax (Amendment) (Guernsey) Law, 1982, section 1(m), with effect from 1st January, 1983.

25 Prior to its repeal, the proviso to subsection (2) was amended by the Income Tax (Guernsey) (Amendment) Law, 2009, section 11, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(4) of the 2009 Law, that amendment had effect in respect of any year of charge after 2009.

26 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

27 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

28 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

29 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

30 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009

Ordinance.

31 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

32 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

33 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

34 Prior to its repeal, subsection (2) was amended by the Income Tax (Guernsey) (Amendment) Law, 2003, section 1(2), with effect from 1st January, 2004.

35 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

36 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

37 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

38 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

39 Paragraph (a) and paragraph (b) were previously substituted by the substituted by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 7, with effect from 3rd November, 2008; and paragraph (b) was previously amended by the Income Tax (Guernsey) (Amendment) Law, 2009, section 15, with effect from 27th October, 2009 which amendment, in accordance with the provisions of section 33(7) of the 2009 Law, was deemed to have had effect on and from the 28th October, 2008.

40 Prior to its repeal, subsection (4) was amended by the Income Tax (Amendment) (Guernsey) Law, 1977, section 1(c), with effect from 1st January, 1977.

41 Prior to its repeal, subsection (1B) was amended by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 19(b), with effect from 1st January, 2008.

42 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009

Ordinance.

43 Section 62 was previously substituted by the Income and Corporation Taxes (Amendment) (Guernsey) Law, 1989, section 1(1), with effect from 1st January, 1989.

44 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

45 Prior to its repeal, section 62AC was amended by the Income Tax (Guernsey) (Amendment) Law, 2009, section 16, with effect from 27th October, 2009.

46 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

47 Prior to its repeal, section 62B was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; and the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 9, with effect from 29th April, 2009.

48 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

49 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

50 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

51 The symbol and figures in square brackets in subsection (1)(d) were previously substituted by the Income Tax (Charitable Donations) (Guernsey) (Amendment) Ordinance, 2021, section 1; and that amendment was deemed to have come into force on the 1st January, 2021 (and accordingly had effect for the year of charge 2021).

52 The proviso to subsection (1) was originally inserted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 2(b), with effect from 19th January, 1993, subject to the provisions of section 9(4) of the 1992 Law; prior to its repeal, the proviso to subsection (1) was substituted by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 8, with effect from 3rd November, 2008.

53 Prior to its repeal, subsection (2), save for the proviso thereto, was substituted by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 9(1), with effect from 3rd November, 2008; the proviso to subsection (2) was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 2(c), with effect from 19th January, 1993, subject to the provisions of section 9(4) of the 1992 Law; and

amended by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, section 9(2), with effect from 3rd November, 2008.

54 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

55 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

56 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

57 Prior to its substitution, section 67 was amended by the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, section 12, with effect from 1st January, 2005, subject to the transitional provisions in section 19 of the 2004 Law.

58 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

59 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

60 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

61 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

62 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

63 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

64 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

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65 These words, figures and letters in paragraph (a) of subsection (2) were previously substituted by the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 15, with effect from 29th April, 2009.

66 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

67 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

68 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

69 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

70 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

71 Prior to its repeal, subsection (8) was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009.

72 The words in the first pair of square brackets in subsection (1) were previously amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; the Income Tax (Guernsey) (Amendment) Law, 2008, section 1, with effect from 31st May, 2012; the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 8, with effect from 31st May, 2012; the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance; subsection (2) was previously amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 31st May, 2012, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; then repealed by the Income Tax (Guernsey) (Amendment) Law, 2008, section 1, with effect from 31st May, 2012; then substituted by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 9, with effect from 31st May, 2012; then amended by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

73 The word "Director" was previously substituted by the Administrator of Income Tax

(Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

74 Prior to its repeal, section 75CA was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 31st May, 2012, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

75 Prior to its repeal, subsection (6) was amended by the Guernsey Revenue Service Tribunal Ordinance, 2021, section 8(2)(a), with effect from 1st January, 2022.

76 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

77 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

78 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

79 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

80 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

81 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

82 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

83 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

84 Prior to its substitution, the definition of the expression "taxpayer" was amended by the by the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 15, with effect from 31st May, 2012.

85 This word was previously substituted by the Administrator of Income Tax

(Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

86 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

87 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

88 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

89 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

90 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 18, with effect from 6th May, 2004.

91 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

92 This amendment was previously amended by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 9, with effect from 1st January, 2023.

93 This date was previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(1)(a), with effect from 1st January, 1991.

94 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

95 Prior to its substitution, subsection (10), in its application to the Island of Alderney, was modified by the Alderney (Application of Legislation) (Income Tax) Ordinance, 1979, section 1, Schedule, with effect from 26th September, 1979.

96 Prior to its repeal, subsection (15) was amended by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 31(d), with effect from 1st January, 2008.

97 This amendment was previously amended by the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020, section 10, with effect from 1st January, 2023.

98 Subsection (3) was previously substituted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 31(a), with effect from 1st January, 2008; and amended by the

Income Tax (Zero 10) (Deemed Distributions) (Repeal) (Guernsey) Ordinance, 2012, section 10(b), with effect from 1st January, 2013.

99 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

100 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

101 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

102 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

103 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

104 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

105 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

106 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

107 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

108 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

109 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th

February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

110 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

111 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

112 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

113 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

114 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

115 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

116 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

117 Prior to its substitution, item (ii) of the proviso to subsection (6) was amended by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 2(3)(b) and section 2(3)(c), with effect from 22nd May, 1991.

118 Prior to its repeal, subparagraph (iii) was amended by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

119 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

120 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009

Ordinance.

121 Prior to its substitution, section 156 was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

122 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

123 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

124 Prior to their repeal, these words were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(a), with effect from 22nd May, 1991.

125 Prior to its substitution, subsection (7) was amended by the Income Tax (Amendment) (Guernsey) Law, 1990, section 1(2), with effect from 15th June, 1992, subject to the transitional provisions relating to appeals in section 1(7) of, and Schedule 2 to, the 1990 Law.

126 These words were previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1992, section 6(c), with effect from 1st January, 1984.

127 Prior to its substitution, paragraph (b) of subsection (9) was amended by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 1(2), with effect from 22nd May, 1991.

128 Prior to their repeal, these words were substituted by the Income Tax (Pension Amendments) (Guernsey) Law, 1991, section 6(d), with effect from 22nd May, 1991.

129 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

130 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

131 Prior to its repeal, subparagraph (ii) was amended by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

132 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

133 These words were previously substituted by the Income Tax (Amendment)

(Guernsey) Law, 1983, section 1(f), with effect from 1st January, 1984.

134 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

135 Prior to its repeal, section 166 was amended by the Income Tax (Zero 10) (Guernsey) Law, 2007, section 38, with effect from 1st January, 2008.

136 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

137 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

138 Prior to its repeal, subsection (3) was amended by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(6), with effect from 18th July, 2001.

139 The words repealed were previously amended by: the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 15 and section 40, with effect from 1st January, 2008; the Income Tax (Zero 10, etc) (Guernsey) (Amendment) Law, 2009, section 21, with effect from 29th April, 2009.

140 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

141 These words were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

142 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

143 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

144 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

145 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009

Ordinance.

146 Prior to its repeal, section 188D was amended by the Income Tax (Guernsey) (Amendment) Law, 2003, section 1(5), with effect from 1st January, 2004.

147 Prior to its repeal, section 188E was amended by the Income Tax (Restriction of Tax Relief on Interest) (Guernsey) Law, 2001, section 1(7), with effect from 18th July, 2001.

148 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

149 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

150 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

151 Previously, similar provision was made by the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014, regulation 5, with effect from 30th June, 2014.

152 Previously, similar provision was made by the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015, regulation 7, with effect from 1st December, 2015.

153 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

154 Prior to its repeal, subsection (3) was amended by the Income Tax (Amendment) (Guernsey) Law, 1990, section 2(2)(c), with effect from 1st January, 1991.

155 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

156 These words were previously substituted by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(1), Schedule 3 with effect from 12th December, 1990.

157 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

158 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

159 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

160 Prior to its substitution, section 201 was amended by the Income Tax (Amendment) (Guernsey) Law, 1990, section 3(2), with effect from 12th December, 1990; the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005, section 9 (which amendment came into force in accordance with the provisions of the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law 2005 (Commencement) Ordinance, 2005, section 1); the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

161 Prior to its repeal, subsection (2) was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 4th April, 2011, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 18, with effect from 31st May, 2012.

162 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

163 The word "Director" was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

164 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

165 The word "Director" and the words "Deputy Director of the Revenue Service", where these latter appear in subsection (1) (as renumbered), were previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

166 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

167 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

168 Prior to its repeal, section 206 was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 18,

with effect from 6th May, 2003; the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009, section 13, section 14 and section 15, with effect from 28th January, 2009; the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; the Income Tax (Guernsey) (Amendment) Law, 2008, section 5 and section 7, with effect from 31st May, 2012; the Income Tax (Guernsey) (Amendment) Ordinance, 2012, section 20, with effect from 31st May, 2012; the Income Tax (Guernsey) (Amendment) Ordinance, 2014, section 4, with effect from 30th April, 2014; the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance; and transfers of functions were made by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 18, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 15(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

169 Prior to its repeal, section 206A was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance; the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016; and transfers of functions were made by the the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 13, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

170 Prior to its repeal, section 206AA was amended by the Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, with effect from 1st November, 2018, subject to the savings and transitional provisions in section 2 of the 2018 Ordinance.

171 Prior to its repeal, section 206B was amended by the States' Register of Contact Details (Guernsey and Alderney) Law, 2019, section 27(1), Schedule 5, with effect from 7th April, 2020, subject to the provisions of section 27(2) of the 2019 Law.

172 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

173 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

174 This word was previously substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

175 These words were previously substituted by the Income Tax (Guernsey) (Amendment) Law, 2005, section 10, with effect from 25th January, 2006; and amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

176 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 18, with effect from 6th May, 2004.

177 The definition of the expression "emoluments" in subsection (1) was previously substituted by the Income Tax (Emoluments Amendments) (Guernsey) Law, 1995, section 1(e), with effect from 1st January 1996.

178 The definition of the expression "LLP" in subsection (1) was previously inserted by the Limited Liability Partnerships (Guernsey) Law, 2013, section 115, Schedule 6, paragraph 2(a), with effect from 13th May, 2014.

179 The definition of the expression "partnership" in subsection (1) was previously inserted by the Income Tax (Limited Partnership Amendments) (Guernsey) Law, 1996, section 1(b)(iii), with effect from 1st February, 1996.

180 The functions, rights and liabilities of the Treasury and Resources Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Income Tax Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 18, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

181 These words (save for those in paragraph 3(1A), within the first pair of square brackets in paragraph 3(6) and in paragraph 5(5)) were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), with effect from 6th May, 2004.

182 Prior to its substitution, paragraph 5(1) was amended by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

183 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Advisory and Finance Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

184 Prior to its substitution, the Sixth Schedule was amended by the Income Tax (Guernsey) (Amendment) Law, 2009, section 30, with effect from 27th October, 2009 and, in accordance with the provisions of section 33(3) of the 2009 Law, those amendments had effect in respect of any year of charge after 2008; in accordance with the provisions of the Resolution of the States of 15th December, 2011 on proposition 14(a) of Billet d'État No. XXII, with effect from that date; by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 23, section 24(a) and section 24(b), with effect from 1st January, 2015; and by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007, section 48, with effect

from 1st January, 2008 and substituted in accordance with the provisions of proposition 8 of the Resolution of the States of 29th September, 2015 concerning Billet d'État No. XIX.

185 These symbols and figures were previously substituted by the: Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 7(a), with effect from 1st January, 2019; Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 7, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2023.

186 The words in the third pair of square brackets were previously amended by the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2018, section 7(a) and section 7(c), with effect from 1st January, 2019.