

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Income Tax (Exemption of Benefits) Ordinance, 1995 \***

[CONSOLIDATED TEXT]

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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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\* Recueil d'Ordonnances Tome XXVI, p. 472; as amended by the: Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1998 (No. XIX of 1998); Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1999 (No. XXXII of 1999); Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2001 (No. XV of 2001); Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2003 (No. XXX of 2003); Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2011 (No. VIII of 2011); Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVII of 2018); Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022 (No. \*\* of 2022); Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2024 (No. \*\* of 2024). See also the Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011 (G.S.I. No. 6 of 2011).

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**The Income Tax (Exemption of Benefits) Ordinance, 1995**

ARRANGEMENT OF SECTIONS

1. Exemption of benefits from tax.
2. Descriptions of exempt benefits.
3. Interpretation and construction.
4. Citation.
5. Commencement.

(Made on 25th October, 1995.)

## **The Income Tax (Exemption of Benefits) Ordinance, 1995**

**THE STATES**, in pursuance of their Resolutions of 28<sup>th</sup> July, 1994<sup>a</sup> and 25<sup>th</sup> October 1995<sup>b</sup>, and in exercise of the powers conferred on them by section 8(2A)(b) of the Income Tax (Guernsey) Law, 1975<sup>c</sup>, hereby order: –

### **Exemption of benefits from tax.**

1. The benefits described in section 2 of this Ordinance shall be left out of account in calculating the assessable income of any employment for the purposes of section 8(1) of the Law.

### **Descriptions of exempt benefits.**

2. [ (1)] The descriptions of benefits exempted from tax by virtue of section 1 of this Ordinance are –

- (a) contributions made by an employer to an approved pension scheme,
- (b) contributions made by an employer in respect of his liability under the Social Insurance (Guernsey) Law,

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**a** On Article 19 of Billet d'État No. XVI of 1994.

**b** On Article 5 of Billet d'État No. XXI of 1995.

**c** Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Nos. XIV and XXIII of 1989; No. XXVI of 1990; No. IV of 1991; No. VI of 1992; Nos. IV and VIII of 1993; No. III of 1995: section 8(2A)(b) was inserted by Order in Council No. III of 1995.

1978<sup>d</sup>,

- (c) interest which an employee has not been required to pay as a consequence of a preferential rate loan to the extent that, had the loan been made at a commercial rate of interest, the interest that the employee would then have been required to pay would have qualified as a deduction under the provisions of section 14 or section 38 of the Law,
- (d) the use by an employee of plant, machinery, specialised uniform or protective clothing provided by his employer for, and used only in, the performance of the duties of the employment; and for the purposes of this paragraph the wearing of a uniform or protective clothing between an employee's place of residence and normal place of work is deemed to be use in the performance of the duties of the employment,
- (e) the provision by an employer of catering services or catering facilities in areas within the normal business premises of the employer and which are set aside wholly or mainly for that purpose, in such circumstances that the use of those services or facilities is available to the employer's employees generally,
- (f) premiums paid to provide medical or life insurance in respect of periods when an employee is required by his

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<sup>d</sup> Ordres en Conseil, Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; No. V of 1994.

employer or otherwise by the nature of the duties of his employment to perform those duties outside of the Bailiwick,

- (g) the provision of car parking facilities, other than facilities near to an employee's place of residence provided for his sole use and used principally for private purposes,
- (h) the provision of entertainment facilities to an employee, whether by his employer or a third party, for the sole or main purpose of conducting business to which the duties of the employee are relevant,
- (i) the provision by an employer of training (including the provision of relevant books, study materials, accommodation, travel and other direct expenditure), or the meeting by an employer of the cost of training provided by a third party, including the cost of training leading towards a professional qualification, provided that the subject matter of the training is related to the duties or anticipated future duties of the employee,
- (j) the provision by an employer of an award (not being cash) in respect of an employee who has provided service to the employer totalling ten years or more, provided that the exemption shall be limited to a value of £50 for each year of service so provided,
- (k) transport between an employee's place of residence and normal place of work on a journey which the employee

*Consolidated text*

is required to commence between 10.00 p.m. and 6.00 a.m.,

- (l) the provision by an employer of transport between an employee's place of residence and normal place of work where the employee is severely disabled,
- (m) the provision, running and maintenance of a motor vehicle –
  - (i) used only during the performance of an employee's duties, or
  - (ii) where an employee is required to carry out the duties of his employment outside of his employer's normal business hours or normal business premises and needs the motor vehicle to travel to and from places where those duties are to be performed, used only during the performance of those duties and between the employee's place of residence and normal place of work,
- [(ma) the provision by an employer to an employee of a bus pass for the purpose of travel between the employee's place of residence and normal place of work or otherwise for the purposes of the performance of the employee's duties (including a bus pass made available also for the employee's private use),
- (mb) the provision by an employer to an employee of a

bicycle (including an e-bicycle) for the purpose of travel between the employee's place of residence and normal place of work or otherwise for the purposes of the performance of the employee's duties (including a bicycle made available also for the employee's private use),

- (mc) the payment of a mileage allowance by an employer to an employee who is required to use the employee's own bicycle (including e-bicycle) for the purposes of the performance of the employee's duties, provided that the payment is made in accordance with a statement of practice issued under section 204 of the Law,]
- (n) the provision of crèche facilities within the normal business premises of an employer, provided that the use of such facilities is available to the employer's employees generally,
- (o) the first £2.50 per working day of the value of non-transferable meal vouchers provided to an employee, where catering services or catering facilities are not provided and where such vouchers are made available to the employer's employees generally,
- (p) the payment by an employer of actual, reasonable expenditure incurred in relation to an employee newly recruited or transferred to Guernsey from a place outside Guernsey, in his removal and re-establishment, including expenditure incurred in respect of –

*Consolidated text*

- (i) removal to Guernsey of household furniture and effects (including motor vehicles),
- (ii) storage of household furniture and effects (including motor vehicles) for up to 12 months,
- (iii) estate agents fees, legal fees, taxes and duties incurred in respect of the purchase of a dwelling in Guernsey and the disposal of a dwelling outside Guernsey which the employee owned and occupied immediately prior to his removal to Guernsey,

and [the first [such sum as is payable from time to time under the Civil Service Housing Benefit Scheme] of a disturbance allowance],

- (q) the provision of accommodation for a clergyman or minister of any religious denomination where the accommodation belongs to any parochial authority, charity or ecclesiastical body,
- (r) the provision by an employer of insurance covering an employee's liability in respect of alleged negligence in the performance of his duties,
- (s) the provision of medical screening, where available to all employees of the employer to whom such screening may be appropriate,
- (t) the provision by an employer of newspapers,

periodicals and other publications of a similar nature which are relevant to, and necessary for, the efficient discharge of the employee's duties,

- (u) the provision by an employer of the facility for his employees to participate in a scheme providing health insurance, provided the contract relating to the scheme is made between the employer and the insurance provider and participation in the scheme is available to the employer's employees generally,
- (v) [ the first [£900 (or such other amount as the Policy and Resources Committee may determine by regulation)] ] in any year of the aggregate of all benefits to an employee which are not to be left out of account by virtue of any other provision of this subsection; but this paragraph does not apply to any benefit whose value is for the time being to be ascertained in accordance with Regulations made under section 8(2)(b) of the Law,
- (w) any benefits which are not to be left out of account by virtue of any other provision of this section and which arise in respect of any expenditure incurred by an employer wholly and exclusively for the purposes of his business and where the benefit to the employee is both insignificant and wholly incidental in nature.

[ (2) The Department may by regulation prescribe limitations, conditions, restrictions and qualifications in relation to any description of benefits, or any circumstances, specified in subsection (1).]

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**NOTES**

*In section 2,*

*subsection (1) was renumbered and subsection (2) was inserted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2011, respectively section 1(a) and section 1(b), with effect from 27th April, 2011, and these amendments shall have effect in respect of any year of charge after 2010;*

*paragraphs (ma), (mb) and (mc) were inserted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2024, section 1, with effect from 1st March, 2024 and, in accordance with the provisions of section 3 of the 2024 Ordinance, this amendment shall have effect in respect of any year of charge after 2023;*

*the words in square brackets in paragraph (p) were substituted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1998, section 1, with effect from 30th September, 1998;*

*the words in square brackets within the square brackets in paragraph (p) were substituted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2003, section 1, and apply in respect of any disturbance allowance payable on or after 1st January, 2003;<sup>1</sup>*

*the words in square brackets in paragraph (v) were substituted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1999, section 1, with effect from 1st January, 2000;*

*the symbol, figures and words in the square brackets within the square brackets in paragraph (v) of subsection (2) were substituted by the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022, section 12, with effect from 1st January, 2023.<sup>2</sup>*

*The following Regulations have been made under section 2:*

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

*Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2015.*

*In accordance with the provisions of the Income Tax (Pensions) (Amendments and Miscellaneous Provisions) Regulations, 2011, regulation 5(1), with effect from 27th April, 2010, in respect of any year of charge after 2010, and for the purposes of paragraph (a) of subsection (1) of this section, contributions made by an employer to an approved pension scheme shall only be exempt from tax by virtue of section 1 of this Ordinance, and accordingly shall only be left out of account in calculating the assessable income of any employment for the purposes of section 8(1) of the Law, to the*

*extent that the condition set out in regulation 5(2) of the 2011 Regulations is met in respect of the contributions.*

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**Interpretation and construction.**

3. In this Ordinance –

**"the [Director]"** means the [Director of the Revenue Service] referred to in section 205 of the Law,

**"approved pension scheme"** means a pension scheme approved in accordance with section 150 of the Law or referred to in section 151(2) of the Law [or 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) of the Law],

**"Guernsey"** includes Alderney,

**"the Law"** means the Income Tax (Guernsey) Law, 1975, as amended,

**"a non-transferable meal voucher"** means a voucher provided to an employee solely for the purpose of allowing the employee to exchange that voucher for food and other refreshment and not for cash or other goods or services,

**"a preferential rate loan"** means a loan advanced to an employee at no interest or at a rate of interest less than the normal commercial rate of the person advancing the loan,

and other expressions have the same meanings as in the Law.

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**NOTES**

*In section 3,*

*the words in square brackets in the definition of the expression "the Director" 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;<sup>3</sup>*

*the words in square brackets in the definition of the expression "approved pension scheme" were inserted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 2011, section 2, with effect from 27th April, 2011, and this amendment shall have effect in respect of any year of charge after 2010;*

*the words in square brackets within the words in square brackets in the definition of the expression "approved pension scheme" 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.*

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**Citation.**

4. This Ordinance may be cited as the Income Tax (Exemption of Benefits) Ordinance, 1995.

**Commencement.**

5. This Ordinance shall come into force on 1<sup>st</sup> January, 1996.

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**1** These words were previously substituted by the Income Tax (Exemption of Benefits (Amendment) Ordinance, 2001, section 1, in respect of any disturbance allowance payable on or after 1st January, 2001.

**2** The symbol and figures were previously substituted by the Income Tax (Exemption of Benefits) (Amendment) Ordinance, 1999, section 1, with effect from 1st January, 2000.

**3** 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.