

**THE INCOME TAX (GUERNSEY) (AMENDMENT) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**EXPLANATORY MEMORANDUM**

This Ordinance exempts from charge to Guernsey tax, distributions from the accumulated profits of a company which is not incorporated in Guernsey, and which has not carried on business in Guernsey whether through a permanent establishment or otherwise, nor been used to hold Guernsey investments (other than bank deposits), which arose prior to the date the beneficial member of that company becomes resident in Guernsey, providing the individual has a beneficial interest in the company of 1% or more; and the distribution is made by the end of the second full year of charge since the individual became resident. It also empowers the Committee to prescribe by regulation any limitations, conditions, restrictions and qualifications it considers necessary.



## **The Income Tax (Guernsey) (Amendment) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 2<sup>nd</sup> November, 2016<sup>a</sup>, and in exercise of the powers conferred on them by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of 1975 Law.**

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

2. After section 40(II)<sup>c</sup> insert the following paragraph -

"(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,

---

<sup>a</sup> Billet d'État No. XXVI of 2016 (proposition 4).

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

<sup>c</sup> Paragraph (II) of section 40 was inserted by section 3 of the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2015 (Ordinance No. XXXI of 2015).

- (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."

**Citation.**

3. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Ordinance, 2017.

**Commencement.**

4. This Ordinance shall come into force on the 18<sup>th</sup> May, 2017.