

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE INCOME TAX (INDEPENDENT TAXATION) (GUERNSEY) (AMENDMENT)**  
**ORDINANCE, 2020**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020", 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 further amends the Income Tax (Guernsey) Law, 1975 to provide that, in the case of married persons, each individual's income and entitlement to allowances will be assessed independently and separately, thereby terminating the historic position that the income of the wife was considered to be the income of the husband except in certain situations (e.g., where separate assessment had been expressly requested). The same principle of independent and separate assessment will apply to the parties to same sex marriages and same sex and opposite sex civil partnerships. It is not proposed to depart from the principle that the unused personal tax allowances of one party to the marriage or civil partnership may be transferred to the other party (a matter currently dealt with by resolution of the States under section 36 of the Income Tax Law).



# **The Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020**

**THE STATES**, in pursuance of their Resolution of the 8<sup>th</sup> November, 2017<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 is further amended as follows.
2. In section 36(1) for the words “and the conditions applicable to such allowances” substitute “and the limitations, conditions, restrictions and qualifications applicable to such allowances”.
3. In section 36(2) in the first proviso after the words “where the conditions” insert “or qualifications”.
4. In section 40(kk) the words “(or £100 for a married couple where each party to the marriage is in receipt of interest)” are repealed.
5. In Chapter III of Part IV -

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<sup>a</sup> Billet d'État No. XX of 2017 (proposition 13).

<sup>b</sup> Ordres en Conseil Vol. XXV, p. 124; sections 75Q and 203A were inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

- (a) for the cross heading (“Husband and wife”) substitute “Married couples and civil partners”, and
- (b) immediately before section 43 insert the following section –

**“Termination of applicability of sections 43 to 47.**

**42A.** 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.”.

**6.** In section 47AA(1) –

- (a) for the words “or a civil partnership” substitute “and two individuals of the same or of the opposite sex who have together entered into a civil partnership”, and
- (b) for “Ordinance or regulation” substitute “Ordinance, regulation or resolution”.

**7.** For section 47AA(2) substitute the following subsection –

“(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*.”.

8. Section 64B(2) is repealed.
9. In section 81A(1)(c) after the words “as read with” insert “section 42A and”.
10. In section 81B(1)(c) after the words “as read with” insert “section 42A and”.
11. In section 135(2) the words “and then, to the extent to which it cannot be so set off, against income of the corresponding type belonging to that person’s spouse” are repealed.
12. In section 135(3) –
  - (a) the words “or belonging to that person's spouse” are repealed,
  - (b) the word “first” is repealed, and

- (c) the words following “income belonging to that person” are repealed.

13. In the proviso to section 140 the words “or to that person’s spouse” are repealed.

14. In section 148(1) the definition of “spouse” is repealed.

15. Section 148(2) is repealed.

16. In section 148(3)(b) the words “or one individual with his or her spouse,” are repealed.

17. Section 157A(6) is repealed.

**Citation.**

18. This Ordinance may be cited as the Income Tax (Independent Taxation) (Guernsey) (Amendment) Ordinance, 2020.

**Commencement.**

19. This Ordinance shall come into force as follows –

- (a) sections 6 and 7 shall come into force on the 1<sup>st</sup> January, 2021,  
and
- (b) the remainder of this Ordinance shall come into force on the day appointed by the Policy & Resources Committee by regulation; and different days may be appointed for different provisions and different purposes.