

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE INCOME TAX (GUERNSEY) (AMENDMENT) (NO. 3) ORDINANCE, 2022

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Income Tax (Guernsey) Law 1975 and certain Ordinances made under that Law.

Section 2 of the Ordinance amends the 1975 Law by exempting, from tax, payments made to sponsors under the Ukraine Sponsorship Scheme established by the Policy & Resources Committee.

Section 3 amends two outdated references to "the Income Tax office" (now the Revenue Service).

Section 4 inserts a new section 157DA which provides for the imposition of an enhanced 50% rate of tax on unauthorised payments from approved pension and annuity schemes.

Section 5 inserts a new section 157LA affirming the closure of section 157E exempt pension contracts and exempt pension trusts with effect from the 27th June 2012 following their de-recognition by HMRC as qualifying schemes ("QROPS") in May that year and the subsequent statement made to the States by the Minister of the Treasury and Resources Department announcing their closure.

Section 6 makes a consequential amendment in respect of section 5.

Section 7 increases the tax caps set out in the Sixth Schedule for individuals resident in Guernsey from £130,000 and £260,000 to £150,000 and £300,000 respectively.

Section 9 amends section 1 of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007 by postponing the withdrawal of tax relief for interest payments on borrowed money for a principal private residence until 2026 and increasing the amount of relief for 2023, 2024 and 2025.

Section 10 amends section 2 of that Ordinance to phase out, by 2026, tax relief against letting income for interest payments on borrowed money for a domestic residential dwelling.

Section 11 allows the Policy & Resources Committee to make regulations as to the meaning of the expression "domestic residential dwelling" in section 10.

Section 12 amends section 2(1)(v) of the Income Tax (Exemption of Benefits) Ordinance, 1995 by increasing the amount of employee benefits in kind exempt from tax (being benefits which are not the subject of any specific provision to the contrary) from £450 to £900 (or such other amount as the Policy & Resources Committee may determine by regulation).

The Ordinance comes into force on the 1st January, 2023.

The Income Tax (Guernsey)

(Amendment) (No. 3) Ordinance, 2022

THE STATES, in pursuance of their Resolution of the 2nd November, 2022^a, and in exercise of the powers conferred on them by sections 39A, 203A and 208C of the Income Tax (Guernsey) Law, 1975^b, 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. After section 40(nn) insert the following paragraph –

"(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."

3. In sections 75KA(3)(b) and 156(4) for "Income Tax office" substitute "Revenue Service".

4. After section 157D insert the following section –

^a Article I (propositions 2, 3, 4, 6 and 7) of Billet d'État No. XIX of 2022.

^b Ordres en Conseil Vol. XXV, p. 124; the Law has been amended.

"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."

5. After section 157L insert the following section –

"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."

6. In section 157M for "157L" where appearing in the title and the text of the section substitute "157LA".

7. In paragraph 1 of the Sixth Schedule –

(a) for "£130,000" in both places appearing substitute "£150,000",
and

(b) for "£260,000" in both places appearing substitute "£300,000".

Amendment of 2007 Tax Relief Ordinance.

8. The Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007^c is further amended as follows.

9. In the table in section 1(2)(b)(ii) –

(a) for the entry in column 1 in respect of the year of charge 2023 ("2,000") substitute "3,500",

(b) for the entry in column 1 in respect of the year of charge 2024 ("1,000") substitute "2,000",

^c Ordinance No. I of 2008; the Ordinance has been amended.

- (c) immediately after the entries in respect of the year of charge 2024 insert new entries of "£1,000" and "2025" in columns 1 and 3 respectively,
- (d) in column 3 for "2025 and subsequent years of charge" substitute "2026 and subsequent years of charge".

10. After section 2(2)(c) insert the following paragraph –

- "or (d) subject to the provisions of section 1, where the borrowed money was used for the acquisition, construction, reconstruction or repair of a domestic residential dwelling situate in the Bailiwick of Guernsey;

Provided that deductions shall continue to be allowed under subsection (1) against income from the letting of such a dwelling on a tapering proportion of the interest paid in accordance with the following table (where column 1 is the proportion of the interest paid in respect of which tax relief may be claimed and column 2 is the applicable year of charge) –

1.	2.
Proportion of interest paid eligible for tax relief	Year of charge in which that percentage may be

against letting income	claimed
75%	2023
50%	2024
25%	2025
0%	2026 and subsequent years of charge

Provided also that, notwithstanding the provisions of subsection (3), no such relief against interest paid in a year of charge in respect of a domestic residential dwelling situate in the Bailiwick of Guernsey may be carried forward to, and allowed as a deduction in, a later year of charge in which income in respect of the letting of that dwelling first arises (should that be after the year of charge 2025).".

11. After section 2(2) insert the following subsection –

"(2A) The Policy and Resources Committee may make regulations as to the meaning of the expression "domestic residential dwelling".".

Amendment of 1995 Exemption of Benefits Ordinance.

12. In section 2(1)(v) of the Income Tax (Exemption of Benefits) Ordinance,

1995^d, for "£450" substitute "£900 (or such other amount as the Policy and Resources Committee may determine by regulation)".

Citation.

13. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) (No. 3) Ordinance, 2022.

Commencement.

14. This Ordinance shall come into force on the 1st January, 2023.

^d Recueil d'Ordonnances Tome XXVI, p. 472; the Ordinance has been amended.