

**ARRANGEMENT BETWEEN THE STATES OF GUERNSEY AND
THE STATES OF JERSEY FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

1. (1) The taxes which are the subject of this Arrangement are -
 - (a) In Guernsey:

The income tax (hereinafter referred to as "Guernsey tax").
 - (b) In Jersey:

The income tax (hereinafter referred to as "Jersey tax").
- (2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in Guernsey or Jersey after this Arrangement has come into force.
2. (1) In this Arrangement, unless the context otherwise requires -
 - (a) The term "Guernsey" means any island of the Bailiwick in which the Income Tax (Guernsey) Law, 1950, or any law amending or replacing that law, is in force.
 - (b) The terms "one of the territories" and "the other territory" mean Guernsey or Jersey, as the context requires.
 - (c) The term "tax" means Guernsey tax or Jersey tax, as the context requires.
 - (d) The term "person" includes any body of persons, corporate or not corporate.
 - (e) The term "company" includes any body corporate.
 - (f) The terms "resident of Guernsey" and "resident of Jersey" mean respectively any person who is resident in Guernsey for the purposes of Guernsey tax and not resident in Jersey for the purposes of Jersey tax and any person who is resident in Jersey for the purposes of Jersey tax and not resident in Guernsey for the purposes of Guernsey tax; and a company shall be regarded as resident in Guernsey if its business is managed and controlled in Guernsey and as resident of Jersey if its business is managed and controlled in Jersey.
 - (g) The terms "resident of one of the territories" and "resident of the other territory" means a person who is a resident of Guernsey or a person who is a resident of Jersey, as the context requires.

- (h) The terms "Guernsey enterprise" and "Jersey enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Guernsey and an industrial or commercial enterprise or undertaking carried on by a resident of Jersey; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Guernsey enterprise or Jersey enterprise, as the context requires.
- (i) The term "industrial or commercial profits" includes rentals in respect of cinematograph films.
- (j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a bona fide broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

- (2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.
- (3) In the application of the provisions of this Arrangement by Guernsey or Jersey, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of Guernsey, or, as the case may be, Jersey, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Guernsey enterprise shall not be subject to Jersey tax unless the enterprise is engaged in trade or business in Jersey through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Jersey but only on so much of them as is attributable to that permanent establishment.
 - (2) The industrial or commercial profits of a Jersey enterprise shall not be subject to Guernsey tax unless the enterprise is engaged in trade or business in Guernsey through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Guernsey, but only on so much of them as is attributable to that permanent establishment.
 - (3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.
 - (4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.
4. Where -
- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and
 - (c) in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,
- then any profits which would but for these conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.
5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) Remuneration, including pensions, paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other territory if the individual is not ordinarily resident in that other territory or (where the remuneration is not a pension) is ordinarily resident in that other territory solely for the purpose of rendering those services.
- (2) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.
7. (1) An individual who is a resident of Guernsey shall be exempt from Jersey tax on profits or remuneration in respect of personal (including professional) services performed within Jersey in any year of assessment if -
 - (a) he is present within Jersey for a period or periods not exceeding in the aggregate 183 days during that year, and
 - (b) the services are performed for or on behalf of a person resident in Guernsey, and
 - (c) the profits or remuneration are subject to Guernsey tax.
- (2) An individual who is a resident of Jersey shall be exempt from Guernsey tax on profits or remuneration in respect of personal (including professional) services performed within Guernsey in any year of charge if -
 - (a) he is present within Guernsey for a period or periods not exceeding in the aggregate 183 days during that year, and
 - (b) the services are performed for or on behalf of a person resident in Jersey, and
 - (c) the profits or remuneration are subject to Jersey tax.
- (3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.
8. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.
9. (1) Subject to the provisions of the law of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey, Jersey tax payable, whether directly or by deduction in respect of income from sources within Jersey, shall be allowed as a credit against any Guernsey tax payable in respect of that income.

- (2) Subject to the provisions of the law of Jersey regarding the allowance as a credit against Jersey tax of tax payable in a territory outside Jersey, Guernsey tax payable, whether directly or by deduction, in respect of income from sources within Guernsey, shall be allowed as a credit against any Jersey tax payable in respect of that income.
- (3) For the purposes of this paragraph, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.
10. (1) The taxation authorities of Guernsey and Jersey shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.
- (2) As used in this paragraph, the term "taxation authorities" means the Administrator of Income Tax or his authorised representative in the case of Guernsey and the Comptroller of Income Tax or his authorised representative in the case of Jersey.
11. This Arrangement shall come into force on the date on which the last of all such things shall have been done in Guernsey and Jersey as are necessary to give the Arrangement the force of law in Guernsey and Jersey respectively and shall thereupon have effect-
- (a) In Guernsey:
- for any year of charge, beginning on the first day of January, 1956, and subsequent years.
- (b) In Jersey:
- for any year of assessment, beginning on the first day of January, 1956, and subsequent years.
12. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the 30th day of June in any calendar year after the year 1957 give notice of termination to the other Government and, in such event, this Arrangement shall cease to be effective -

(a) In Guernsey:

for any year of charge, beginning on or after the first day of January in the calendar year next following that in which such notice is given.

(b) In Jersey:

for any year of assessment, beginning on or after the first day of January in the calendar year next following that in which such notice is given.

EXPLANATORY NOTE

**(This note is not part of the Arrangement
but is intended to indicate its general purport)**

Under the foregoing Arrangement with the States of Jersey, certain classes of income derived from one territory by a resident of the other territory are (subject to certain conditions) exempt from tax in the former territory; these classes are shipping and air transport profits, certain trading profits not arising through a "permanent establishment", and earnings of temporary business visitors.

Government salaries and pensions are normally taxed by the paying Government only.

In other cases where income continues to be taxable in both territories, credit is to be given in the territory of the taxpayer's residence for the tax payable in the territory of origin of the income.

Provision is included for the exchange of information between the Taxation Authorities of the two territories.

The Arrangement came into force on the eleventh day of July 1956, and is expressed to take effect, in Guernsey, as respects income tax for any year of charge beginning on the first day of January 1956, and subsequent years.