

**THE INCOME TAX (GUERNSEY) (AMENDMENT) (NO. 2) 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) (No. 2) 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 implements propositions 9 and 11 of the Budget, Billet d'Etat No. XX (paragraphs 5.43 and 5.29). The Ordinance amends the Income Tax Law to ensure that a resident only individual, who has been resident only for more than one year, shall not be regarded retrospectively as being principally resident if they become principally resident in the following year. Further, the Ordinance allows statutory tax deductions to be treated, in effect, as allowances, thus creating a mechanism by Resolution to extend the withdrawal of allowances for higher earners to tax relief on pension contributions with effect from 1 January 2018.



## **The Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 7<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, as amended, is further amended as follows.

2. After section 3(3)(c)(ii)<sup>c</sup> insert the following subparagraph -

"and (iii) he was not resident in Guernsey, within the meaning of subsection (1), in the immediately preceding year of charge."

3. After section 36(2) insert the following subsections -

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<sup>a</sup> Billet d'État No. XX of 2017 (propositions 9 and 11).

<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> Section 3 was substituted by section 2 of the Income Tax (Residence) (Guernsey) (Amendment) Law, 2005 (Order in Council No. II of 2006).

"(3) For any year of charge the States may by Resolution prescribe, in respect of any deduction which, under this Law or any Ordinance or regulation under it, may be made in computing, or set off against, the income or profits of any person or business, any limitations, conditions, restrictions and qualifications applicable to such deduction, in the same manner as if the deduction were an allowance prescribed by Resolution under subsection (1), and any such Resolution may authorise the Committee to prescribe any matter relating to any such deduction (including, without limitation, any limitations, conditions, restrictions and qualifications) by regulation.

(4) The provisions of subsection (3) are in addition to and not in derogation from the provisions of section 39A.

(5) A Resolution under this section -

- (a) may be varied or revoked by a subsequent Resolution, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (without limitation) provision amending, or making exceptions, adaptations and modifications to, any provision of this Law or any Ordinance or regulation under it."

**Citation.**

4. This Ordinance may be cited as the Income Tax (Guernsey)

(Amendment) (No. 2) Ordinance, 2017.

**Commencement.**

5. This Ordinance shall come into force on the 1<sup>st</sup> January, 2018.