States of Guernsey
Income Tax

GSCCA Circular 7
13 November 2017

Income Tax Measures within 2018 Budget (Billet XX of 2017)

Withdrawal of personal allowances for high earners – Phase 2

With effect from 1 January 2018 the following tax allowances and withdrawable deductions will also be withdrawn at a ratio of £1 for every £3 that a person's "calculated income" exceeds the threshold (set at the upper earnings limit on Social Security contributions which is £142,896 for 2018):

- *Personal Allowance (£10,500 for 2018)*
- *Age Related Allowance (£950 for 2018 – frozen at 2016 levels)*
- Dependent Relative Allowance (£3,375 for 2018 – noting that with effect from 1 January 2018 this allowance was closed to new claims in respect of a child receiving higher education)
- Infirm Person (£3,375 for 2018)
- Housekeeper Allowance (£3,375 for 2018)
- Charge of Children Allowance (£7,125 for 2018)
- Retirement Annuity Allowance and Superannuation (£35,000 for 2018 in aggregate) – albeit each individual will retain a maximum tax relief of £1,000
- Mortgage Interest Relief (£9,500 for 2018)

"Calculated income" is an individual's income net of deductions but gross of any withdrawable deductions to which that individual is entitled.

"Withdrawable deductions" are pension contributions (namely RAA and contributions to an approved occupational or personal pension scheme over the £1,000 maximum which shall not be withdrawn) and Mortgage Interest Relief.

The threshold will be pro-rated in the year of arrival and permanent departure.

Those individuals likely to be impacted have been identified and will receive a letter advising them of the Phase 2 changes with their 2018 coding notice or they will receive notification with their interim assessment for 2018 when issued next May.

Our website and FAQ's have been updated to provide examples which will explain how the changes will affect our customers. We will also be updating the website on a regular basis throughout 2018 to ensure answers to common queries raised throughout the year can be found easily.

It should be anticipated that section 67 will be invoked if an employee enters into arrangements with their employer to limit the impact of any withdrawal of allowances for high earners, for example by negotiating a lower salary (or no annual increase) in return for an employer increasing the employer contributions into a pension scheme. Statement of Practice M45 is in the process of being updated reflect this.

The table below has been produced to show the effect of this proposal on a single individual under the age of 64 who contributed £10,000 into a personal pension and paid £9,500 mortgage interest on their principal private residence:

Calculated Income	Personal Allowance withdrawn	Mortgage Interest Relief Withdrawn	Retirement Annuity Allowance Withdrawn	Total Allowances /Reliefs Withdrawn	Total Allowances / Reliefs received
142,896	-	-	-	-	30,000
160,000	5,701	-	-	5,701	24,299
180,000	10,500	1,868	-	12,368	17,632
200,000	10,500	8,534	-	19,034	10,966
220,000	10,500	9,500	5,701	25,701	4,299
234,396	10,500	9,500	9,000	29,000	1,000

Personal and Other Tax Allowances

There were two other minor amendments to allowances in the 2018 Budget:

- An individual will continue to be able to claim the Charge of Children Allowance if a child is in higher education (following the closure of Dependent Relative Allowance to new claims in respect of a child receiving higher education with effect from 1 January 2018)
- If a marriage or a civil partnership end by reason of death, any unused personal and other tax allowances will be transferred to the surviving spouse in full in that year, irrespective of which spouse survives, ensuring equality of treatment.

Following approval of the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017 by the States on 18th October 2017, coding notices will not be issued by post to those individuals where only the personal allowance is claimed and all of that individual's income has tax deducted at source. Instead, notification will be given of the relevant personal allowances on the gov.gg website. Part 2 coding notices will continue to be issued to employers/pension providers in the normal way.

Move to Independent Taxation

The States approved proposals that would introduce independent taxation, without any changes to the current entitlement to transfer unused personal allowances between spouses or co-habiting couples with children. This will remove discrimination against women and the youngest spouse in a same sex marriage or civil partnership, by treating people independently for tax purposes and assessing them in their own right.

> **Phase 1** – effective 1 January 2018 – each individual's income and entitlement to allowances will be considered separately, albeit there will be continued joint assessment for married couples/civil partnerships (unless an election for separate assessment is made). *Changes introduced through amendment to Schedules to 2018 Budget, which have replaced the single person's allowance, married person's allowance and spouse's earned income allowance with a personal allowance, with conditions for when this may be transferred.*
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> **Phase 2** – timing to be confirmed (albeit will likely coincide with the introduction of a new IT system) – introduction of independent taxation, removing joint taxation for married couples, so each spouse would be responsible for their own tax affairs and required to submit their own return. *Legislation required to implement changes, which will be communicated to customers impacted, enabling time for islanders to adjust to the changes.*

Stimulating the open market – lower "open market tax cap"

In order to stimulate the open market, and in recognition of the beneficial impact that high net worth individuals have on the Guernsey economy, the States resolved to introduce a lower open market tax cap of £50,000 for new residents of Guernsey who have paid a minimum of £50,000 in document duty on the purchase of a property on Part A of the open market (approx. minimum property price would need to be £1.5m).

An individual will be able to claim this cap for the year they take up permanent residence and then three consecutive years, where the property purchase has taken place within 6 months prior to/after their permanent arrival in Guernsey. They will need to have been non-resident for the previous three years.

This cap has the same conditions as currently applied to the income tax cap of £220,000, therefore does not apply to income arising or accruing from the ownership of lands and buildings situate in Guernsey, the tax on which is payable in addition.

The Sixth Schedule has been amended by resolution to give effect to this decision from 1 January 2018, and a Statement of Practice to set out some administrative guidance is currently being prepared in conjunction with representatives from the tax sub-committee of the GSCCA. The timelimit for electing for any tax cap has been extended from 2 to 6 years.

Residence – change to section 3(3)(c)

Reacting to feedback from the GSCCA tax sub-committee, the States resolved to amend the income tax law to ensure that Guernsey's tax regime is competitive with other jurisdictions in order to attract and retain high net worth individuals. This change is expected to encourage resident only individuals to spend more days in Guernsey, by ensuring that where such an individual has been resident only for more than one year, they shall not be regarded as principally resident in the preceding year if they subsequently become principally resident.

It is anticipated that the Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017 which will give effect to this resolution, will be approved by the States at their December meeting, and will therefore be effective from 1 January 2018.

Revocable settlements – change to section 65

Again reacting to feedback from the GSCCA tax sub-committee, the States resolved to amend the anti-avoidance provisions of section 65 to ensure that Guernsey's tax regime is consistent with other jurisdictions in order to be attractive to high net worth individuals who are considering relocating to Guernsey. This change will mean that a settlor is only liable to tax on distributions from a company or other entity held or under the control of trustees of a revocable settlement, rather than the income which arises to such a company or entity, which is the current position.

This change will be without prejudice to the application by the Director of Income Tax of the anti-avoidance provisions of section 67, which will be invoked where an individual or trustee attempts to transfer, or otherwise attribute income personal to the settlor, to a company held or under the control of the trustees of a revocable settlement (e.g. with the purpose of benefitting from the distribution basis).

The Director is aware that not all tax advisors applied the provisions of section 65 following the repeal of deemed distributions with effect from 1 January 2013, therefore some of their clients will not have disclosed income from companies held within revocable trusts on their personal income tax return.

The Director does not intend to pursue any cases where a taxpayer has not previously disclosed income from companies held within revocable settlements where:

- There was full disclosure by the taxpayer of the settlement on their personal income tax return; and
- There has been no transfer or attribution of income personal to the settlor, to a company held or under the control of the trustees of the revocable settlement.

All other cases should be voluntarily disclosed by the settlor.

Legislation is required to give effect to the States resolution, which is currently being prepared. Statement of Practice M45 will be updated to reflect this change, and is in the process of being updated to give guidance on disclosure of income from revocable settlements, in conjunction with representatives from the tax sub-committee of the GSCCA.

Investment Managers

The States resolved to extend the company intermediate tax rate (10%) to income from investment management activities provided by persons licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, but specifically excluding the activities of managing collective investment schemes and associated vehicles.

It is anticipated that the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017 which will give effect to this resolution, will be approved by the States at their December meeting, and will therefore be effective from 1 January 2018. A Statement of Practice set out examples and providing further guidance is currently being prepared in conjunction with representatives from the tax sub-committee of the GSCCA and other industry bodies.

The website and relevant forms will be updated to reflect these changes in early 2018.

N Forshaw
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