

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE INCOME TAX (GUERNSEY) (AMENDMENT) ORDINANCE, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) Ordinance, 2019", 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 puts beyond doubt that amendments to Guernsey's double taxation agreements which may be considered as relating to, or which could be considered as consequential or supplementary to, non-double taxation issues, may be declared by resolution of the States as having effect in relation to income tax; and that the Director's powers to require the provision of documents and information should be correspondingly extended.

The Income Tax (Guernsey) (Amendment) Ordinance, 2019

THE STATES, in pursuance of their Resolution of the 14th December, 2018^a, and in exercise of the powers conferred on them by sections 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 amended as follows.

2. In section 75C(4)^c, in the definition of “approved international agreement”, after “on behalf of Guernsey)” insert “or specified in a Resolution of the States under section 172”.

3. After section 172(1) insert the following subsection -

“(1AA) The arrangements that may be specified in a Resolution under this section include (without prejudice to subsection (1A) -

(a) arrangements amending, modifying or

^a Article XXII of Billet d'État No. XXVII of 2018.

^b 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; there are other amendments not material to this Ordinance.

^c Section 75C was inserted by Order in Council No. XVII of 2005; and amended by Ordinance No. XXXI of 2014.

extending –

- (i) double taxation arrangements entered into by or otherwise binding upon Guernsey, or
- (ii) any arrangements of a description set out in paragraph (b) for the time being specified in a Resolution under this section,

including, without limitation, the arrangements effected by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting done at Paris on the 24th November, 2016^d, and

- (b) other arrangements containing provisions that relate to, or are consequential, incidental, supplementary or ancillary to, such double taxation arrangements or double taxation matters.”.

^d The Treaty is set out in Appendix 1 to the report of the Policy & Resources Committee dated the 2nd October, 2018 entitled “Revision of Double Taxation Agreements (arising from the effects of the OECD/G20 Base Erosion and Profit Shifting Multilateral Instrument)” (see p. 2018/110 of Billet d’État No. XXVII of 2018).

4. In section 205(2)(b)^e for the words “set out in the agreement” substitute “specified in or under the agreement, measure or regulations”.

Citation.

5. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Ordinance, 2019.

Commencement.

6. This Ordinance shall come into force on the 1st October, 2019.

^e Section 205(2)(b) was inserted by Order in Council No. XVII of 2005.