



States of Guernsey
Revenue Service

International Savings Plans

Guidance Notes

Revenue Service
PO Box 37
St Peter Port
GY1 3AZ

Telephone: + 44 (0) 1481 705700
Tax Evasion Hotline + 44 (0) 1481 747900

E-Mail: revenueservice@gov.gg
Web Site: www.gov.gg/revenueservice

(Please contact the Revenue Service if you require further information)

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Background

These Guidance Notes Have been prepared to assist pension providers following the enacting of Section 40(nn) of the Income Tax (Guernsey) Law, 1975 (as amended) with effect from 1 January 2019 (referred to as Section 40(nn) and the Income Tax Law, respectively, in these Guidance Notes). These provide general guidance only and should not be taken as a definitive statement of the law on any specific aspect or in relation to any specific case and action should not be taken as a result of these guidance notes alone. Any further enquiries may be addressed to the Pension Schemes Supervisor at the States of Guernsey Revenue Service.

International Savings Plans

For the purposes of these Guidance Notes, International Savings Plans are Gratuity Schemes as such schemes are defined within Section 2(1)(e) of the Regulation of Fiduciaries, Administration Businesses and Company Directors etc. (Bailiwick of Guernsey) Law, 2000 (as amended). Under that law, the formation, management or administration of a Gratuity Scheme (or provision of advice thereon) is a regulated activity if carried out by way of business and pension providers have an obligation to register and report on such Gratuity Schemes to the Guernsey Financial Services Commission. It is expected that a Gratuity Scheme will be so managed by a regulated pension provider in order to fall within the provisions of Section 40(nn).

In practice, Gratuity Schemes are frequently referred to as International Savings Plans and are referred to as ISPs in these Guidance Notes.

Section 40(nn)

Section 40(nn) provides that any lump sum or pension, annuity or other income paid out of an ISP is exempted from Guernsey income tax provided that:-

- (i) The beneficiaries of the ISP are all non-residents of Guernsey, and
- (ii) All income of the ISP is income from non-Guernsey sources (other than bank interest)

For this purpose, “Guernsey” is defined as in the Income Tax Law and includes Alderney and Herm, but not Sark. The beneficiaries of the ISP are as determined by the Rules of the ISP. If either of these conditions ceased to be satisfied then the ISP would cease to be within Section 40(nn). However, if action is taken to again meet those requirements (for example by removing from the ISP any beneficiary who was a Guernsey resident) then the ISP would then fall within Section 40(nn). The exemption from Guernsey income tax on income payable to a beneficiary of the ISP ceases to apply if that beneficiary becomes a Guernsey resident. Section 40(nn) does not require that the ISP is established under Guernsey Law or that it is established under irrevocable trust. In particular, ISPs may be established under contract or under trust.

Recognition and Reporting

There is no requirement to notify the Revenue Service of the establishment of an ISP and there is no system of Income Tax approval of ISPs. However, the Revenue Service is willing to issue on request a letter of recognition of Section 40(nn) status in the same way that it has issued such recognition letters for international pension plans recognised under Section 40(o) of the Income Tax Law.

ISPs are not able to be approved under Section 154A of the Income Tax Law.

There are no regular ongoing reporting requirements to the Revenue Service other than the obligations to report under the FATCA and CRS regulations. However, the Revenue Service would expect to be notified of any change of trustee (or manager for a non-trustee arrangement) and any change in the participating employers and may request additional information from time to time in order for the Section 40(nn) recognition to be maintained. The Revenue Service would also expect to be informed where an ISP which has been recognised under Section 40(nn) ceases to be eligible for such recognition, or wishes such recognition to be removed.

Dual Recognition

It is permissible for part of a retirement savings plan to be recognised as an ISP under Section 40(nn) and another part to be recognised as an international pension plan under Section 40(o)

of the Income Tax Law. Thus, dual recognition can apply to a single arrangement established on that basis. There is no requirement to segregate the assets of the two parts, but only the ISP part will be eligible for Section 40(n) recognition.

Investment of Funds

There are no restrictions on the investment of the funds of the ISP. Provided that the income of the ISP is income from non-Guernsey sources (other than bank interest) then such income is exempted from Guernsey income tax.

Contributions and Benefits

There are no restrictions on contributions and benefits or on the age at which benefits are payable. These should be paid in accordance with the Rules of the ISP.

Loans to members are permitted subject to the Rules of the ISP.

Payment of Benefits

Benefits should be paid in the circumstances and at the times set out in the Rules of the ISP. While ISPs are normally established to provide benefits on or after cessation of employment this is not a requirement if the Rules of the ISP provide for payment in other circumstances.

Transfers to and from an ISP

Subject to the Rules of the ISP, transfers may be paid to an ISP from other international savings plans or other retirement savings plans.

Subject to the Rules of the ISP, transfers may be paid from an ISP to other international savings plans or other retirement savings plans. No Guernsey income tax liability will arise from such transfers.

Discontinuance

The Rules of an ISP may provide for its discontinuance, for example because of the bankruptcy or liquidation of the sponsoring employer or at the discretion of the sponsoring employer. There is no restriction on the distribution of assets on discontinuance. These should be distributed in accordance with the Rules of the ISP.