

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

15th December, 2020

Proposition No. P.2020/193

Policy & Resources Committee

The States of Guernsey Annual Budget for 2021

AMENDMENT

Proposed by: Deputy M. A. J. Helyar
Seconded by: Deputy P. T. R. Ferbache

Immediately after Proposition 20 to add the following proposition:

“20A. To declare that Economic Substance Requirements for entities carrying on or undertaking relevant activities as set out by the OECD Forum on Harmful Tax Practices and detailed in Criterion 2.2 of the EU non-cooperative jurisdictions listing process¹ are specified for the purposes of the Income Tax (Guernsey) Law, 1975, as amended as an International Tax Measure in accordance with section 75CC(1A) and (1C) of that Law and to make any necessary consequential modifications to that Law including ones relating to the spontaneous exchange of information for the purposes of any such Measure.”.

Explanatory note – Proposition 20A

Economic Substance Requirements were introduced with effect from 1 January 2019 to meet OECD international tax standards and address EU Code of Conduct Group on Business Taxation concerns that Guernsey did not have a “legal substance requirement for entities doing business in or through the jurisdiction.”

¹ Criterion 2.2 is that “the jurisdiction should not facilitate offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction.”
<https://data.consilium.europa.eu/doc/document/ST-14166-2016-INIT/en/pdf>

A technical amendment is required to The Income Tax (Substance Requirements) (Implementation) Regulations, 2018 to enable the proper and efficient administration of the Economic Substance Requirements, by enabling the Director of the Revenue Service to spontaneously exchange information with jurisdictions that have no tax system in place. This will ensure that there is clarity between the tax authorities as to in which jurisdiction a company is subject to the economic substance requirements.

Recognising the Economic Substance requirements as an international tax measure, will enable the Policy and Resources Committee to make the necessary amending Regulations in an expedient manner.