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PROJET DE LOI

ENTITLED

The Income Tax (Guernsey) (Amendment) Law, 2015

THE STATES, in pursuance of their Resolution of the 11th December, 2013^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the islands of Guernsey and Herm.

Amendment of 1975 Law.

1. In section 39D of the Income Tax (Guernsey) Law, 1975, as amended^b -

(a) in the heading to the section the word "business" is repealed,
and

(b) for subsection (1)(b)(i) substitute the following subparagraph -

"(i) arose or accrued to the company -

(A) from the carrying on of a business in
Guernsey, or

^a Article IX.9 of Billet d'État No. XXIV of 2013.

^b Ordres en Conseil Vol. XXV, p. 124; section 39D was inserted by the Income Tax (Guernsey) (Amendment) Law, 2009 (No. IX of 2011).

(B) from any other source whatsoever,

including, without prejudice to the generality of this subparagraph and for the avoidance of doubt, investment and other income arising or accruing to an investment company, and".

Citation.

2. This Law may be cited as the Income Tax (Guernsey) (Amendment) Law, 2015.

Commencement.

3. This Law shall have effect, by virtue of the States' resolution of the 28th January, 2015^c, under and subject to the provisions of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992^d, on and from the 26th September, 2013, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

^c Article ** of Billet d'État No. ** of 2015.

^d Ordres en Conseil Vol. XXXIV, p. 247.

The Income Tax (Guernsey) (Approval of Agreement with Macao) Ordinance, 2015

THE STATES, in exercise of the powers conferred on them by section 75C of the Income Tax (Guernsey) Law, 1975 as amended^a and all other powers enabling them in that behalf, hereby order:-

Approval of Agreement.

1. The agreement providing for the obtaining, furnishing and exchanging of information in relation to tax made between the States of Guernsey and the Government of the Macao Special Administrative Region Of The People's Republic Of China, signed on the 3rd September, 2014, is, pursuant to section 75C of the Income Tax (Guernsey) Law, 1975, as amended, hereby specified for the purposes of that Law.

Citation.

2. This Ordinance may be cited as the Income Tax (Guernsey) (Approval of Agreement with Macao) Ordinance, 2015.

Commencement.

3. This Ordinance shall come into force on the 28th January, 2015.

^a Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by section 5 of Order in Council No. XVII of 2005, and section 75C has subsequently been amended Order in Council No. XVI of 2002; No. I of 2014; and No. XXXI of 2014.

**The Air Navigation (Bailiwick of Guernsey)
(Environmental Standards) Ordinance, 2015**

THE STATES, in pursuance of their Resolution of the 1st day of November, 2012^a, and in exercise of the powers conferred on them by sections 145(2) and 151 of the Air Navigation (Bailiwick of Guernsey) Law, 2012^b and all other powers enabling them in that behalf, hereby order:-

Requirement for noise certificate for aircraft.

1. Subject to section 7, an aircraft to which ICAO aircraft noise standards are applicable, and registered –

- (a) in Guernsey, shall not fly unless it has a noise certificate issued by the Director of Civil Aviation, in accordance with section 2,
- (b) elsewhere, shall not fly in the Bailiwick unless it has a noise certificate issued by or on behalf of the State of Registry certifying compliance with those standards.

Issue of noise certificate by Director of Civil Aviation .

2. (1) The Director of Civil Aviation shall issue a noise certificate to an aircraft registered in Guernsey if satisfied that it complies with the applicable ICAO aircraft noise standards.

^a Article V of Billet d'État No. XXI of 2012.

^b Order in Council No. XI of 2013.

(2) For the purposes of subsection (1) the applicant shall furnish such evidence and submit the aircraft to such flying trials and other tests as the Director of Civil Aviation may require.

(3) The Director of Civil Aviation shall issue every noise certificate subject to a condition as to the maximum total weights at which the aircraft may land or take-off and may impose other conditions relating to noise standards.

Validity of noise certificate.

3. Subject to section 11, a noise certificate issued under section 2 shall only cease to be valid –

- (a) if the aircraft or any part of it is modified in any way which affects the ability of the aircraft to comply with the applicable noise standards, except if such modification is done in a manner and with material of a type approved by the Director of Civil Aviation, and
- (b) until the satisfactory completion of any inspection or test of the aircraft required by the Director of Civil Aviation for the purpose of ascertaining whether the aircraft continues to comply with the applicable noise standards.

Information to be included in flight manual.

4. (1) This section applies to any aircraft first registered in Guernsey in respect of which a noise certificate must be carried under section 9.

(2) An aircraft to which this section applies shall not fly unless the flight manual in respect of that aircraft includes the ICAO mandatory information.

Requirement for emissions certification for aircraft .

5. (1) Subject to section 7, an aircraft to which ICAO aircraft engine emissions standards are applicable, and registered –

(a) in Guernsey shall not fly unless it has been certified by the Director of Civil Aviation as complying with those standards,

(b) elsewhere, shall not fly in the Bailiwick unless it has been certified by or on behalf of the State of Registry as complying with those standards.

(2) For the purpose of subsection (1) aircraft may either be certified individually, or as a type.

Issue of emissions certification for types by Director of Civil Aviation.

6. (1) The Director of Civil Aviation shall certify a type of aircraft, turbojet engine, or turbofan engine if satisfied that the type in question complies with the applicable ICAO aircraft engine emissions standards.

(2) For the purposes of subsection (1), the applicant shall furnish such evidence and subject aircraft or engines of the type in respect of which the application has been made to such tests as the Director of Civil Aviation may require.

Exception

7. The requirement for a noise certificate (under section 1) or to have an emissions certification (under section 5) does not apply to –

(a) an aircraft flying in accordance with a permit to fly under section 6 of the Law, or

- (b) an aircraft landing or taking off at a prescribed place.

Exemptions

8. The Director of Civil Aviation may exempt any aircraft or engine or persons or classes of aircraft or engine or persons from the provisions of sections 1 to 6, either absolutely or subject to conditions.

Noise certificate to be carried

9. An aircraft registered –
- (a) in Guernsey shall, when in flight, carry the noise certificate required by section 1 in respect of that aircraft unless the flight is intended to begin and end at the same aerodrome in the Bailiwick in which case the certificate may be kept at that aerodrome instead,
 - (b) elsewhere, shall not land or take-off in Bailiwick unless it carries the noise certificate that it is required to carry under the law of the State of Registry.

Production of noise certificate

10. Within a reasonable time after being requested to do so by the Director of Civil Aviation or an authorised person –

- (a) the commander of an aircraft, or
- (b) the operator of an aircraft,

as the case may be, shall cause to be produced to the Director of Civil Aviation or that person every noise certificate in force in respect of that aircraft.

Revocation, suspension and variation of noise certificate

11. (1) The Director of Civil Aviation may provisionally suspend any noise certificate, exemption or other document issued under this Ordinance pending inquiry into or consideration of the case.

(2) The Director of Civil Aviation may, after due inquiry, revoke, suspend or vary any such certificate, exemption or other document.

(3) The holder or any person having the possession or custody of any noise certificate, exemption or other document revoked, suspended or varied shall surrender it to the Director of Civil Aviation within a reasonable time after being required to do so.

(4) Breach of any condition subject to which any noise certificate, exemption or other document has been issued under this Ordinance renders the document invalid during the continuance of the breach.

Prohibition in relation to noise certificates and emissions certification

12. A person shall not purport to issue any noise certificate or emissions certification under this Ordinance unless authorised to do so by the Director of Civil Aviation.

Power to prevent aircraft flying.

13. (1) If it appears to the Director of Civil Aviation or an authorised person that any aircraft is intended or likely to be flown in such circumstances that sections 1 or 5 would be contravened, the Director of Civil Aviation or that authorised person may direct the operator or the commander of the aircraft not to permit the aircraft to make the flight or any other flight specified, until the direction has been revoked by the Director of Civil Aviation or by an authorised person, and, if the aircraft is in the Bailiwick, the Director of Civil Aviation or that authorised person may take such steps as are necessary to detain the aircraft.

(2) The operator or, as the case may be, the commander of an aircraft shall comply with any direction given to him under subsection (1), unless he has reasonable excuse not to do so.

(3) For the purposes of subsection (1), the Director of Civil Aviation or any authorised person may enter upon and inspect any aircraft.

Obstruction of persons

14. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Order.

Offences by legal persons, etc

15. (1) Where an offence under this Ordinance is committed by a legal person and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person,
or

(b) any person purporting to act in any such capacity,

he as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

(3) Where an offence under this Law is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

he as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

Extent

16. (1) Except where the context otherwise requires, the provisions of this Ordinance –

- (a) insofar as they apply to aircraft registered in Guernsey, apply to such aircraft wherever they may be,
- (b) insofar as they apply to other aircraft apply to such aircraft when they are within the Bailiwick, and
- (c) insofar as they prohibit, require or regulate the doing of anything by the commander of an aircraft registered

in Guernsey, apply to the commander wherever the commander may be.

Interpretation.

17. (1) In this Ordinance -

"**ICAO aircraft engine emission standards**" means the current edition of Volume II of Annex 16 to the Chicago Convention, published by the International Civil Aviation Organisation,

"**ICAO aircraft noise standards**" means the current edition of Volume I of Annex 16 to the Chicago Convention, published by the International Civil Aviation Organisation,

"**ICAO mandatory information**" means that specified in Part II, Chapter 1 of the ICAO aircraft noise standards,

"**the Law**" means the Air Navigation (Bailiwick of Guernsey) Law, 2012,

"**noise certificate**" means a certificate issued by the Director of Civil Aviation in accordance with section 2 or a certificate or other document issued or validated in accordance with section 1(b),

and other words or expressions have the same meaning as in the Law.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Ordinance throughout the Bailiwick

^c Ordres en Conseil Vol. XIII, p. 355

(3) Any reference in these regulations to an enactment is a reference thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

Citation.

18. This Ordinance may be cited as the Air Navigation (Bailiwick of Guernsey) (Environmental Standards) Ordinance, 2015.

Commencement.

19. This Ordinance shall come into force on 2nd February, 2015.

The Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014

THE STATES LEGISLATION SELECT COMMITTEE, in pursuance of the States' Resolution of the 31st October, 2014^a, and in exercise of the powers conferred on the States by sections 39A, 40A, 40B, 203A and 208C of the Income Tax (Guernsey) Law, 1975^b and all other powers enabling the States in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^c, hereby orders:-

Amendment of 1975 Law.

1. After section 40(jj) of the Income Tax (Guernsey) Law, 1975, as amended^d, add the following paragraph -

"(kk) the first £50 (or £100 for a married couple where each party to the marriage is in receipt of interest), or such other sum as the Department may determine by regulation, of the total interest receivable by individuals on money deposited with any government, bank, building society or other financial institution or class or description of financial institution approved

^a Article I of Billet d'État No. XXII of 2014.

^b Ordres en Conseil Vol. XXV, p. 124; section 39A was inserted by Order in Council No. XVII of 2001; sections 40A and 40B were inserted by Order in Council No. IX of 1984; 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.

^c Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

^d Ordres en Conseil Vol. XXV, p. 124; paragraph (jj) was inserted by Order in Council No. IX of 2011.

(generally or in any particular case, and subject to any conditions he thinks proper to impose) by the Director of Income Tax, irrespective of where the account is held: provided that the Department may by regulation amend the preceding descriptions of institution or account should it consider it necessary or expedient to do so for the purposes of clarification or the avoidance of doubt."

Amendment of Exempt Bodies Ordinance.

2. In section 5(1) of the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, as amended^e, for "£600" substitute "£1,200".

Amendment of Tax Relief on Interest Payments Ordinance.

3. In section 1(2)(b)(ii) of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, as amended^f, for "£25,000" and "£50,000" substitute respectively "£15,000" and "£30,000".

Citation.

4. This Ordinance may be cited as the Income Tax (Guernsey) (Miscellaneous Amendments) Ordinance, 2014.

Commencement.

5. This Ordinance shall come into force on the 1st January, 2015.

^e Recueil d'Ordonnances Tome XXV, p. 106; section 5(1) was substituted by Order in Council No. V of 2011.

^f Ordinance No. I of 2008; subparagraph (ii) was inserted by the Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2015.

The Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2014

THE STATES LEGISLATION SELECT COMMITTEE, in pursuance of the States' Resolution of the 28th November, 2012^a, and in exercise of the powers conferred on the States by sections 533 and 538 of the Companies (Guernsey) Law, 2008, as amended^b, and all other powers enabling the States in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948, as amended^c, hereby orders:-

Amendment of Law.

1. The Companies (Guernsey) Law, 2008, as amended, is further amended as follows.

2. In section 369 for the words "dissolved under the provisions of this Part" substitute "struck off under this Part, or dissolved under section 111(2)(d) or Part XXII or XXIII and removed from the Register of Companies,".

3. In the cross heading immediately preceding section 370 for the words "*Restoration to the Register*" substitute "*Restoration of struck-off and dissolved companies to the Register*".

^a Article VII of Billet d'État No. XXIII of 2012.

^b Order in Council No. VIII of 2008; No. XIII of 2010; No. I of 2013; Recueil d'Ordonnances Tome XXXIII, p. 122; Tome XXXIII, p. 327; Tome XXXIII, p. 472; Tome XXXIII, p. 487; Ordinance No. XI of 2010; No. XXXI of 2012; No. XXXI of 2013; G.S.I. No. 34 of 2009 and G.S.I. No. 37 of 2013.

^c Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

4. For section 370(1)(a) substitute the following paragraph -

"(a) a company which has been -

(i) struck off under this Part, or

(ii) dissolved under section 111(2)(d) or Part XXII or XXIII and removed from the Register of Companies,".

5. In section 370(3) after "struck off" insert "or, as the case may be, dissolved and removed from the Register of Companies".

6. In section 371(2)(a) immediately before the words "that the company was" insert "in the case of a company which has been struck off under this Part,".

7. In section 371(2)(b) -

(a) the word "otherwise" is repealed, and

(b) the words "and equitable" are repealed.

8. For section 371(3)(b) substitute the following paragraph -

"(b) in the case of a company which has been -

(i) struck off or dissolved under section 111(2)(d) and removed from the Register of Companies, whether the persons who were directors at the time the company was struck off or dissolved

consent to being directors if the company is restored, or

- (ii) dissolved under Part XXII or XXIII and removed from the Register of Companies, whether any person who was a liquidator prior to the company's dissolution consents to be a liquidator if the company is restored,"

9. In section 371(3)(c) after the words "struck off" insert "or dissolved".

10. In section 371(4)(a) immediately before the word "dissolved" insert "struck off or".

11. In section 371(5)(b) after the words "striking off" insert "or dissolution".

12. In section 371(8) -

- (a) after the words "An order under this section" insert "may be made on such terms and conditions and",
- (b) after the word "fit" insert "including, without limitation, terms, conditions, directions and provision", and
- (b) immediately before the word "dissolved" insert "struck off or".

13. In section 371(9)(a) and (b) after "struck off" insert "or dissolved".

14. In section 371(10) for the words "a struck off company" substitute "a company which has been struck off under this Part (but not a company which has been dissolved under section 111(2)(d) or Part XXII or XXIII and removed from the Register of Companies)".

15. For section 371(10)(a) substitute the following paragraph -

"(a) the company was struck off in error (whether the error was that of the Registrar, the company or any of its directors or any other person) or in circumstances in which, under the provisions of this Part, it should not have been struck off or, provided that the Registrar has previously consulted Her Majesty's Procureur, Her Majesty's Receiver-General and, in the case of a company which was a supervised company, the Commission, if the Registrar is satisfied that -

- (i) all the grounds, circumstances or defaults resulting in the company's striking off no longer exist or have been remedied, and
- (ii) any payments specified in subsections (4) and (5) and any other fees, penalties and amounts due under or by virtue of this Law have been paid,".

16. In section 372(1) for the word "dissolution" wherever appearing substitute "striking off or, as the case may be, dissolution and removal from the Register of Companies".

Citation.

17. This Ordinance may be cited as the Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2014.

Commencement.

18. This Ordinance shall come into force on the 24th day of November, 2014.