



Jersey

INCOME TAX (AMENDMENT No. 46) (JERSEY) LAW 2021

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INCOME TAX (AMENDMENT No. 46) (JERSEY) LAW 2021

A LAW to amend the Income Tax (Jersey) Law 1961 to remove the prior-year basis method of paying income tax.

<i>Adopted by the States</i>	<i>4th November 2020</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>10th February 2021</i>
<i>Registered by the Royal Court</i>	<i>12th February 2021</i>
<i>Coming into force</i>	<i>in accordance with Article 10</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Amendment of the Income Tax (Jersey) Law 1961

- (1) This Law amends the Income Tax (Jersey) Law 1961¹.
- (2) In this Law, a reference to an Article is a reference to that Article in the Income Tax (Jersey) Law 1961.

2 Article A39 (interpretation of Part 7) substituted

For Article A39 there is substituted –

“A39 Interpretation of Part 7

In this Part –

- (a) expressions defined in Article A15 (interpretation of Part 4) have the same meaning, unless the context requires otherwise; and
- (b) “tax” means income tax.”.

3 Article 41A (duty to pay instalment in May (individuals and unincorporated bodies)) substituted

For Article 41A there is substituted –

“41A Duty to pay instalments (taxpayers other than companies)

- (1) A person who is not a company must pay instalments of income tax for a year of assessment beginning on or after 1st January 2021 if –
 - (a) 25% or less of the person’s total income for the year before the year of assessment consists of earnings; and
 - (b) the amount of the instalment payable under paragraph (3) is £100 or more.
- (2) A person who is required to pay instalments of income tax for a year of assessment must pay 2 instalments for the year, which are due and payable as follows –
 - (a) the first instalment is due and payable on 30th November in the year of assessment; and
 - (b) the second instalment is due and payable on 31st May in the year following the year of assessment.
- (3) The amount of a person’s first instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;
- B is 0.5 if the person’s income for the year before the year of assessment did not include any earnings, and is 0.4 in any other case;
- C is the person’s liability to income tax for the year before the year of assessment; and
- D is the amount of income tax already paid for the year of assessment (not including an amount deducted during the year under Article 41B or 41E).

- (4) If, at the time the second instalment is payable, an income tax assessment has not been made for a person for the year of assessment, the amount of the person’s second instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;
- B is 0.5 if the person’s income for the year before the year of assessment did not include any earnings, and is 0.4 in any other case;
- C is the person’s liability to income tax for the year before the year of assessment; and
- D is the amount of income tax already paid for the year of assessment (not including an amount deducted during the year under Article 41B or 41E and the amount paid for the first instalment).

- (5) If, at the time the second instalment is payable, an income tax assessment has been made for a person for the year of assessment, the amount of the person’s second instalment is the lower of –

- (a) the person's remaining income tax liability for the year of assessment; and
 - (b) the amount calculated using the formula in paragraph (4).
- (6) This Article applies regardless of whether, at the time an instalment is due and payable, an assessment has been made for the year of assessment or any prior year.
- (7) This Article does not apply in respect of tax charged under Part 19 on a scheme manager of an approved Jersey scheme, an approved drawdown contract or an approved trust (as defined in Article 130).

41AA Applications to waive or reduce amount of instalment

- (1) A person may apply to the Comptroller to waive or reduce the amount of an instalment payable under Article 41A that is due one month or more after the date the Comptroller receives the application if –
- (a) the person's income tax liability for the year of assessment is likely to be substantially less than the sum of the instalments payable for the year; or
 - (b) the person's income for the year of assessment from sources other than earnings is likely to be substantially less than the person's income for the previous year from those sources.
- (2) The Comptroller may accept an application that is received less than a month before the date the instalment is payable if the Comptroller is satisfied that the applicant was not able to apply at an earlier time due to absence, sickness or another reasonable cause.
- (3) On receipt of an application, –
- (a) the Comptroller may waive or reduce the amount of the instalment; and
 - (b) the Comptroller must notify the applicant of the outcome of their application.
- (4) If the Comptroller refuses accept a late application or to waive or reduce the amount of an instalment payable by a person, –
- (a) the person may appeal the refusal to the Commissioners by giving notice in writing to the Comptroller within 40 days of the date on which the notice of refusal is issued; but
 - (b) the instalment remains due and payable by the date specified in Article 41A(2).
- (5) If the Commissioners conclude that the instalment should be waived or reduced, the Comptroller must repay any amount determined to have been overpaid.
- (6) Part 6 applies, with the necessary modifications, to an appeal under this Article as if it were an appeal against an assessment.”.

4 Article 41AA (duty to pay instalment (companies)) renumbered

Article 41AA (duty to pay instalment (companies)) is renumbered as Article 41AB.

5 Article 41C (calculation of rate) substituted

For Article 41C there is substituted –

“41C Calculation of rate

- (1) The rate applicable to an employee for a year is the lower of –
 - (a) the rate calculated using the formula in paragraph (2), rounded up to the nearest whole number; and
 - (b) the maximum rate for the employee in paragraph (3).
- (2) The formula to calculate an employee’s rate is –

$$A = \frac{B + C - D}{E} \times 100$$

Where –

- A is the rate;
 - B is the employee’s estimated liability to income tax for the year to which the rate applies;
 - C is the employee’s total arrears of income tax (if any) for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears) and any costs recoverable in respect of those arrears;
 - D is the amount of income tax already paid for the year to which the rate applies (not including any amount deducted during the year under Article 41B or 41E); and
 - E is the estimated sum, for the year to which the rate applies, of the amount of income for which the employee is liable to be assessed and the amount of income from which the employee is liable to allow the deduction of tax.
- (3) The maximum rate for an employee is –
 - (a) 20%, if the employee has no arrears of income tax;
 - (b) 25%, if the employee has arrears of income tax for one year of assessment;
 - (c) 30%, if the employee has arrears of income tax for 2 years of assessment; and
 - (d) 35%, if the employee has arrears of income tax for 3 or more years of assessment.

41CA Revised rates: initiated by Comptroller

- (1) If one or more of the variables used to calculate an employee’s rate changes, the Comptroller may determine a revised rate for the employee by applying Article 41C using the new variables.

- (2) If the Comptroller considers that the revised rate determined under paragraph (1) will not recover the employee's income tax liability (including arrears for previous years) by the end of the year to which the rate applies, the Comptroller may determine a revised rate that is the lower of –
- (a) the rate calculated using the formula in paragraph (3), rounded up to the nearest whole number; and
 - (b) the maximum rate for the employee in Article 41C(3).
- (3) The formula for calculating a revised rate in the circumstances described in paragraph (2) is –

$$A = \frac{B + C - D}{E} \times 100$$

Where –

- A is the revised rate;
- B is the amount of the employee's estimated liability to income tax for the year to which the rate applies;
- C is the employee's total arrears of income tax (if any) for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears) and any costs recoverable in respect of those arrears;
- D is the amount of income tax already paid for the year to which the rate applies, including any amount deducted during the year under Article 41B or 41E; and
- E is the estimated sum, for the remainder of the year to which the rate applies, of the amount of income for which the employee is liable to be assessed and the amount of income from which the employee is liable to allow the deduction of tax.

41CB Revised rates: initiated by employee

- (1) An employee may request that the Comptroller determine a revised rate for the employee that is higher than the rate determined under Article 41C or 41CA.
- (2) The Comptroller may approve or refuse a request.

41CC Notification of rate

- (1) After determining the rate applicable to an employee (including a revised rate), the Comptroller may issue a notice in writing to the employee and the employee's employer that states the rate and the day from which it applies.
- (2) A notice issued by the Comptroller has effect until the earlier of –
 - (a) the day stated in the notice;
 - (b) the day on which a rate specified in a further notice applies; or
 - (c) the end of the year to which the rate applies.

41CD Appeals against rates decisions

- (1) An employee may appeal to the Commissioners against a rate determined to apply to the employee by giving notice in writing to the Comptroller within 40 days of the date on which the notice of the rate is issued to the employee.
- (2) An employee may appeal against a refusal by the Comptroller to determine a rate to apply to the employee by giving notice in writing to the Comptroller within 40 days of providing the Comptroller with sufficient information to determine a rate.
- (3) The rate that applies to the employee before the employee gives notice of an appeal (whether it is the rate determined by the Comptroller or the rate applicable under Article 41B(2)(b)) continues to apply until the appeal is determined.
- (4) Part 6 applies, with the necessary modifications, to an appeal under this Article as if it were an appeal against an assessment.

41CE False and altered rate notices

- (1) A person must not give another person –
 - (a) a document purporting to be a notice issued by the Comptroller under Article 41CC, knowing it to be false; or
 - (b) a notice issued by the Comptroller under Article 41CC, knowing that the notice has been altered by a person other than the Comptroller.
- (2) A person who breaches this Article commits an offence and is liable to a fine.

41CF Rates do not prevent recovery of arrears

The Comptroller may continue to pursue the recovery of arrears of income tax for an earlier year of assessment and any costs recoverable in respect of those arrears, regardless of whether those amounts are used in determining a rate to apply to an employee.”.

6 Article 41G (treatment of amounts received by Comptroller) substituted

For Article 41G there is substituted –

“41G Treatment of amounts received by Comptroller

- (1) The Comptroller must apply an amount deducted and remitted under Article 41B or 41E –
 - (a) as a payment of income tax by the employee or sub-contractor from whom it was deducted; or
 - (b) if the employee or sub-contractor from whom it was deducted is a spouse B to whom Article 121(1) (general rule as to income tax on married persons) applies or a civil partner B to

whom Article 122B(1) (general rule as to income tax on civil partners) applies, as a payment of income tax by the employee's or sub-contractor's spouse A or civil partner A.

- (2) The Comptroller must apply the amount to the year of assessment in which it was deducted (the "deduction year") unless paragraph (3) or (4) applies.
- (3) If the amount was deducted from an employee whose effective rate accounts for the recovery of arrears of income tax or costs recoverable with them, the Comptroller must apportion the amount between the employee's liability to income tax for the deduction year and the employee's liability to pay the arrears or costs (the apportionment must reflect the proportion each liability makes up of the total liability).
- (4) If the amount was deducted from a sub-contractor who has arrears of income tax from a previous year of assessment or costs recoverable with those arrears, –
 - (a) the Comptroller must apply any amount received that exceeds the sub-contractor's liability to income tax in the deduction year as a payment of the arrears or costs; and
 - (b) if the arrears or costs are from more than one previous year of assessment, the Comptroller must apply the excess to the earliest year of assessment first."

7 Article 41H (arrangements for new taxpayers and certain exempt persons) amended

For Article 41H there is substituted –

"41H Requirement to provide information when entering or resuming employment or sub-contracting

- (1) This Article applies to a person who –
 - (a) begins employment in Jersey for the first time or after being non-resident in Jersey for at least one year of assessment; or
 - (b) enters into a contract as a sub-contractor of a building contractor in Jersey for the first time or after being non-resident in Jersey for at least one year of assessment.
- (2) The person must, no later than one month after beginning or resuming the employment or entering into or resuming the contract, notify the Comptroller in writing of –
 - (a) the person's full name and place or places of residence;
 - (b) the reference number assigned to the person for the purposes of the Social Security (Jersey) Law 1974²;
 - (c) the person's date of birth;
 - (d) the number of children dependent on the person;
 - (e) the date (if any) the person arrived in Jersey;
 - (f) the name and address of –

- (i) if the person is an employee, the person's employer, or
 - (ii) if the person is a sub-contractor of a building contractor, the building contractor;
 - (g) the date the employment or building contract began;
 - (h) an estimate, for the year in which the employment or contract began, of the person's –
 - (i) earnings from the employment or payments under the building contract, and
 - (ii) income from all other sources.
- (3) If the person is married or in a civil partnership, the person must also notify the Comptroller of –
 - (a) the date of the marriage or formation of the civil partnership;
 - (b) which spouse or civil partner is spouse A or civil partner A and which spouse or civil partner is spouse B or civil partner B; and
 - (c) the information required by paragraph (2) in respect of their spouse or civil partner.
- (4) The Comptroller may –
 - (a) require the information to be provided in a form, and in a manner, approved by the Comptroller; and
 - (b) require the person providing the information to sign a declaration that the information is true, complete and correct to the best of the person's knowledge.”.

8 Schedule 5 (savings, transitional and similar provisions: general) amended

In Schedule 5, after paragraph 21 there is inserted –

“22 Interpretation of paragraphs 23 to 25

In paragraphs 23 to 25 –

“2019 liability” means the amount of income tax assessed (or to be assessed) for the year beginning 1st January 2019;

“new taxpayer” means a person –

- (a) to whom Article 41H (as in force before amended by Income Tax (Amendment No. 46) (Jersey) Law 2021³) applied for the year beginning 1st January 2019; or
- (b) who chose to be treated as if Article 41H applied to them for the year beginning 1st January 2019.

23 Income Tax (Amendment No. 46) (Jersey) Law 2021: deferral of 2019 liability

- (1) The 2019 liability for a person who is not a new taxpayer –

- (a) is not due and payable by the dates set out in Articles 39, 41A and 41AA; but
 - (b) will become due and payable as specified in Regulations made under this paragraph.
- (2) Article 41I does not apply in relation to the 2019 liability for a person who is not a new taxpayer.
- (3) The States must, no later than 31st March 2021, make Regulations that –
- (a) provide for the payment of the 2019 liability;
 - (b) provide for any other matter that the States consider necessary to provide for the payment of the 2019 liability.
- (4) Regulations made under this paragraph may –
- (a) provide for recovery of the 2019 liability –
 - (i) from a person who becomes non-resident before their 2019 liability is paid in full, and
 - (ii) from the estate of a person who dies before their 2019 liability is paid in full; and
 - (b) allow the Comptroller to vary the payment dates that apply to a person on application from the person.
- (5) Regulations made under this paragraph must not waive, or reduce the amount of, a person's 2019 liability.

24 Income Tax (Amendment No. 46) (Jersey) Law 2021: transfer of payments from 2019 to 2020

- (1) This paragraph applies to a payment if –
- (a) the payment was made before 1st January 2021;
 - (b) the payment was not received as a payment by a new taxpayer; and
 - (c) the payment was applied to the 2019 liability or to any penalties or surcharges in respect of the 2019 year of assessment.
- (2) The Comptroller must treat a payment to which this paragraph applies as a payment of income tax for the 2020 year of assessment.

25 Income Tax (Amendment No. 46) (Jersey) Law 2021: payment of instalment for 2020

- (1) A person must pay an instalment of income tax for the 2020 year of assessment ("2020") if –
- (a) the person is not a company;
 - (b) 25% or less of the person's total income for the 2019 year of assessment consists of earnings; and
 - (c) the amount of an instalment payable under this paragraph is £100 or more.

- (2) The instalment of income tax for 2020 is due and payable on 31st May 2021.
- (3) If, at 31st May 2021, an income tax assessment has not been made for the person for the 2020 year of assessment, the amount of the person's instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;
 - B is 0.5 if the person's income for 2019 did not include any earnings, and is 0.4 in any other case;
 - C is the person's 2019 liability; and
 - D is the amount of income tax already paid for 2020 (not including an amount deducted during the year under Article 41B or 41E).
- (4) If, at 31st May 2021, an income tax assessment has been made for a person for the 2020 year of assessment, the amount of the person's instalment is the lower of –
 - (a) the person's remaining income tax liability for the 2020 year of assessment; and
 - (b) the amount calculated using the formula in sub-paragraph (3).
 - (5) This paragraph does not apply in respect of tax charged under Part 19 on a scheme manager of an approved Jersey scheme, an approved drawdown contract or an approved trust (as defined in Article 130).
 - (6) In this paragraph, "earnings" has the meaning given in Article A15.
 - (7) Article 41AA applies, with necessary modifications, to the waiver or reduction of amount of an instalment payable under this paragraph."

9 Minor and consequential amendments

The Schedule contains consequential amendments to give effect to the amendments made by this Law and other minor amendments.

10 Citation and commencement

- (1) This Law may be cited as the Income Tax (Amendment No. 46) (Jersey) Law 2021.
- (2) Article 8 comes into force on 16th November 2020.
- (3) The remainder of this Law comes into force on 1st January 2021.

SCHEDULE

(Article 15)

MINOR AND CONSEQUENTIAL AMENDMENTS**1 Article 39 (tax when due) amended**

- (1) In Article 39 for “Article 41A and 41AA” there is substituted “Article 41A and 41AB”.
- (2) In Article 39(b) for “Article 41AA(7)” there is substituted “Article 41AB(7)”.

2 Article 41B (duty of employer to deduct and account for tax) amended

In Article 41B(2)(a) for “Article 41C” there is substituted “Article 41CC”.

3 Article 41D (deductions in respect of spouses) amended

- (1) In Article 41D(1)(a) for “Article 41C(2)” there is substituted “Article 41C, 41CA or 41CB”.
- (2) In Article 41D(1)(b) for “Article 41C” there is substituted “Article 41CC”.
- (3) For Article 41D(3A) there is substituted –
“(3A) Article 41CD applies to a refusal by the Comptroller to issue a notice under paragraph (3) of this Article as it applies to a refusal to determine a rate to apply to an employee.”.
- (4) In Article 41D(5)(c) for “Article 41C” there is substituted “Article 41CC”.

4 Article 41DA (deductions in respect of civil partners) amended

- (1) In Article 41DA(1)(a) for “Article 41C(2)” there is substituted “Article 41C”.
- (2) In Article 41DA(1)(b) for “Article 41C” there is substituted “Article 41CC”.
- (3) For Article 41DA(3A) there is substituted –
“(3A) Article 41CD applies to a refusal by the Comptroller to issue a notice under paragraph (3) of this Article as it applies to a refusal to determine a rate to apply to an employee.”.
- (4) In Article 41DA(5)(c) for “Article 41C” there is substituted “Article 41CC”.

5 Article 41I (late payment surcharge) amended

- (1) In Article 41I(1)(b) for “Article 41AA(7)” there is substituted “Article 41AB(7)”.
- (2) For Article 41(3) there is substituted –

“(3) Paragraph (2) does not apply in respect of a person who is required to pay an instalment under Article 41A (Duty to pay instalments (taxpayers other than companies)) if –

- (a) the person’s income for the year before the year of assessment to which the instalment relates included earnings; and
- (b) the person has paid 70% or more of the required instalment by the specified date.

(3) For Article 41I(10) there is substituted –

“(10) This Article does not apply in relation to an individual person if more than 25% of the person’s total income for the year before the year of assessment consists of earnings.”.

6 Article 42 (proceedings for recovery of tax) amended

In Article 42(1AA) for “Article 41AA” there is substituted “Article 41AB”.

7 Social Security (Long-Term Care Contributions) (Jersey) Order 2014 amended

For paragraph 1 of the Social Security (Long-Term Care Contributions) (Jersey) Order 2014⁴ there is substituted –

“1 Exception from liability to pay LTC contribution for non-taxpayer

An insured person is not liable to pay an LTC contribution for a year if the person is not liable to pay income tax for that year.”.

ENDNOTES**Table of Endnote Reference**

<i>1</i>	<i>chapter 24.750</i>
<i>2</i>	<i>chapter 26.900</i>
<i>3</i>	<i>L.1/2021</i>
<i>4</i>	<i>chapter 26.900.41</i>