



Jersey

# **INCOME TAX (JERSEY) LAW 1961**

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Jersey

## INCOME TAX (JERSEY) LAW 1961

### Arrangement

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Jersey

## INCOME TAX (JERSEY) LAW 1961<sup>1</sup>

A LAW relating to income tax

Commencement [[see endnotes](#)]

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### PART 1

#### PRELIMINARY

##### 1 Charge of income tax

Where any Law enacts that income tax shall be charged for any year at any rate,<sup>2</sup> then, subject to the provisions of this Law, the tax at that rate shall be charged for that year in respect of all property, profits or gains respectively described or comprised in the Schedules contained in the Articles of this Law enumerated below, that is to say –

Schedule A – Article 51;

Schedule D – Article 61,

and in accordance with the provisions of this Law respectively applicable to those Schedules.<sup>3</sup>

##### 2 Yearly assessments

Every assessment and charge to tax shall be made for a year commencing on 1st January and ending on the following 31st December.

## PART 2

### INTERPRETATION

#### 3 General provisions as to interpretation

- (1) In this Law, unless the context otherwise requires –
- “51% subsidiary” shall be construed in accordance with Article 3AB;
- “accounting date” shall be construed in accordance with Article 4A;
- “annuity equivalent” has the meaning given in Article 131CA(1)(a);
- “approved drawdown contract” means a contract approved under Article 131D;
- “approved trust” means a trust approved under Article 131E;
- “assessable income” means the amount of that income as calculated in accordance with the provisions of this Law;
- “authorized insurance company” means a person who is –
- (a) authorized by a permit granted under Article 7 of the Insurance Business (Jersey) Law 1996<sup>4</sup>; or
- (b) registered, or exempted from registration, under section 7 or section 5 respectively of the Insurance Business (Bailiwick of Guernsey) Law 2002 (other than a protected cell company within the meaning of that Law),
- and who carries on business through a branch or agency in Jersey or in Guernsey as the case may be;
- “body of persons” means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate;
- “collective investment fund” means a collective investment fund, within the meaning of the Collective Investment Funds (Jersey) Law 1988<sup>5</sup>, which holds a permit by virtue of being a functionary within Group 1 in Part 2 of the Schedule to that Law;
- “Commissioners” means a Commission of Appeal constituted in accordance with Article 10;
- “Comptroller” has the meaning assigned thereto by Article 6;
- “connected” and “unconnected” shall be construed in accordance with Article 3A;
- “deemed dividend” shall be construed in accordance with Articles 81D and 81G;
- “document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its being furnished include references to furnishing a copy of the information in legible form;
- “earned income” means –

- 
- (a) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation, or other allowance, deferred pay, or compensation for loss of office, given in respect of the past services of the individual or of the husband, wife or parent of the individual in any office or employment of profit, or given to the individual in respect of the past services of any deceased person, whether the individual or husband, wife or parent of the individual has contributed to such pension, superannuation allowance or deferred pay or not;
  - (b) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual;
  - (c) any income which is charged under Schedule A, by virtue of Article 51(1)(b) or (c), or under Schedule D, and is immediately derived by the individual from the carrying on or exercise by the individual of the individual's trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein; and
  - (d) any other payment required by any provision of this Law to be treated as or deemed to be earned income;

“eligible investment scheme” shall be construed in accordance with Article 3AC;

“eligible participant” shall be construed in accordance with Article 3AD;

“emoluments” means –

- (a) all salaries, fees, wages, perquisites or profits or gains whatsoever arising from an office or employment, including any other benefit (whether or not convertible into cash) –
  - (i) derived by the office holder or employee or by a member of that person's family or household from that office or employment or from its commencement or termination or in consequence of a change in its terms, and
  - (ii) provided by the office holder's or employee's employer or by a person connected with the employer; and
- (b) the amount of any pension;

“enactment” includes any enactment of the United Kingdom;

“financial period” shall be construed in accordance with Article 4A;

“financial services company” means any company that –

- (a) is registered under the Financial Services (Jersey) Law 1998 to carry out –
  - (i) investment business,
  - (ii) trust company business, or
  - (iii) fund services business, as an administrator or custodian in relation to an unclassified fund or an unregulated fund;

- (b) is registered under the Banking Business (Jersey) Law 1991<sup>6</sup>, other than a company registered for business continuity under that Law, pursuant to Article 9A of the Banking Business (General Provisions) (Jersey) Order 2002<sup>7</sup>; or
- (c) holds a permit under the Collective Investment Funds (Jersey) Law 1988<sup>8</sup> by virtue of being a functionary who is an administrator or custodian mentioned in Part 2 of the Schedule to that Law;

“fixed place of business” includes a building site or a construction project;

“general notice” means a notice published in the Jersey Gazette;

“Guernsey” means any Island in the Bailiwick of Guernsey in which is in force the Income Tax (Guernsey) Law 1950, or any Law amending or replacing that Law;

“international activities” means business activities carried on outside Jersey;

“lifetime annuity” means an annuity guaranteed to be payable for the remainder of the life of an individual and guaranteed not to reduce in amount;

“marginal income deduction” means a reduction of total income allowed only for the purposes of and in accordance with Articles 92A and 92C;

“medical practitioner” means a person who is a registered medical practitioner under the Medical Practitioners (Registration) (Jersey) Law 1960<sup>9</sup> or who is the equivalent of such a person under the law of a country or territory outside Jersey;

“minimum retirement income” has the meaning assigned by Article 131F;

“Minister” means the Minister for Treasury and Resources;

“motor vehicle” means any mechanically propelled vehicle intended or adapted for use on roads;

“ordinary share capital”, in relation to a company, means all the issued share capital (by whatever name called) of the company, other than preference shares;

“partnership” includes a partnership established under the Limited Liability Partnerships (Jersey) Law 1997<sup>10</sup>;

“permanent establishment”, in relation to a company, includes a branch of the company, a factory, shop, workshop, quarry or a building site, and a place of management of the company, but the fact that the directors of a company regularly meet in Jersey shall not, of itself, make their meeting place a permanent establishment;

“preference share” means, in relation to a company, a share which confers a right to a dividend at a fixed percentage of the nominal value of the share, but no other right to share in the profits of the company;

“recognized stock exchange” means any market for the buying and selling of securities which is situate in, and recognized as, a stock exchange within the meaning of the law relating to stock exchanges of –

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- (a) any member State of the European Union;
  - (b) Australia, Canada, Hong Kong, Japan, Norway, Singapore, South Africa, Switzerland or the United States of America; and
  - (c) any other exchange approved in writing by the Minister;

“related earnings” means any income assessed to tax being –

- (a) income arising in respect of emoluments from an office or employment held by an individual including a pensionable office or employment, or
- (b) income which is charged under Schedule D and is immediately derived by an individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein;

“shareholder loan” shall be construed in accordance with Article 81O;

“stock dividend” means –

- (a) share capital issued by a company in consequence of the exercise by any person of an option conferred on the person to receive, in respect of shares of the company, either cash or additional share capital;
- (b) bonus share capital issued by a company in respect of shares in the company of a relevant class;

“trade” includes every disposal, on a commercial basis, of land, any building or structure, or any part thereof, and every trade, manufacture, adventure or concern in the nature of trade;

“trading company” shall be construed in accordance with Schedule A1;

“utility company” has the meaning given in Article 123C(3).<sup>11</sup>

- (1A) References in this Law to the disposal of land, any building or structure, or any part thereof, are to its sale, transfer or lease, or to the issue or transfer of shares in a company, the ownership of which shares confers an exclusive right to occupy it.<sup>12</sup>
- (1B) In this Law, unless the context otherwise requires, a reference to the winding up of a company shall include a reference to the company becoming bankrupt and to the making of any compromise, arrangement or composition with its creditors.<sup>13</sup>
- (2) References in this Law to any enactment include references to any other enactment in so far as it amends that enactment.

### **3AA Power to amend financial services definitions<sup>14</sup>**

The Minister may by Order amend the definitions “collective investment fund” and “financial services company”.<sup>15</sup>

**3A Connected persons<sup>16</sup>**

- (1) For the purposes of this Law any question whether a person is connected with another shall be determined in accordance with the following provisions of this Article.
- (2) A person is connected with an individual if that person is the individual's wife or husband, or is a relative, or the wife or husband of a relative, of the individual or of the individual's wife or husband.
- (3) A person is connected with any person with whom the person is in partnership, and with the wife or husband or relative of any individual with whom the person is in partnership.
- (4) A company is connected with another company –
  - (a) if the same person has control of both, or a person has control of one and persons connected with the person, or the person and persons connected with the person, have control of the other; or
  - (b) if a group of 2 or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom the member is connected.
- (5) A company is connected with another person if that person has control of it or if that person and persons connected with that person together have control of it.
- (6) In this Article "relative" means brother, sister, ancestor or lineal descendant.

**3AB Subsidiaries<sup>17</sup>**

- (1) For the purposes of this Law, a body corporate shall be deemed to be a 51% subsidiary of another body corporate if and so long as more than 50% of its ordinary share capital is owned directly or indirectly by that other body corporate.
- (2) For the purposes of this Article, 'owned directly or indirectly' by a body corporate means owned, whether directly or through another body corporate or other bodies corporate or partly directly and partly through another body corporate or other bodies corporate.
- (3) In this Article, references to ownership are references to beneficial ownership.
- (4) For the purposes of this Article the amount of ordinary share capital of one body corporate owned by a second body corporate through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate, shall be determined in accordance with paragraphs (5) to (9).
- (5) Where, in the case of a number of bodies corporate, the first directly owns ordinary share capital of the second, and the second directly owns ordinary share capital of the third, then, for the purposes of this Article, the first shall be deemed to own ordinary share capital of the third

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through the second and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third, and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.

- (6) In this Article –
- (a) any number of bodies corporate of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one, and so on, and, if they are more than 3, any 3 or more of them, are referred to as “a series”;
  - (b) in any series –
    - (i) that body corporate which owns ordinary share capital of another through the remainder is referred to as the “first owner”,
    - (ii) that other body corporate the ordinary share capital of which is so owned is referred to as the “last owned body corporate”,
    - (iii) the remainder, if one only, is referred to as an “intermediary” and, if more than one, are referred to as a “chain of intermediaries”;
  - (c) a body corporate in a series which directly owns ordinary share capital of another body corporate in the series is referred to as an “owner”;
  - (d) any 2 bodies corporate in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other bodies corporate in the series, are referred to as being directly related to one another.
- (7) Where every owner in a series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned body corporate.
- (8) Where one of the owners in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned body corporate through the intermediary or chain of intermediaries.
- (9) Where –
- (a) each of 2 or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the body corporate to which it is directly related; or
  - (b) every owner in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related,

the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned body corporate as results from the multiplication of those fractions.

- (10) Where the first owner in any series owns a fraction of the ordinary share capital of the last owned body corporate in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned body corporate –
- (i) directly,
  - (ii) through an intermediary or intermediaries which is not a member or are not members of that series,
  - (iii) through a chain or chains of intermediaries of which one or some or all are not members of that series, or
  - (iv) in a case where the series consists of more than 3 bodies corporate, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the bodies corporate of which the chain of intermediaries in the series consists,

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned body corporate owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

### **3AC Eligible investment scheme<sup>18</sup>**

- (1) For the purposes of this Law, an eligible investment scheme is any of the following –
- (a) a scheme or arrangement for the investment of money which has as its object, or one of its objects, the collective investment of capital acquired by means of an offer of units for subscription, sale or exchange;
  - (b) a scheme which has been established for the principal purpose of –
    - (i) the securitization or repackaging of assets involving the issue of securities, or
    - (ii) such other capital market transaction or category of capital market transaction as the Comptroller may from time to time approve.
- (2) In this Article “unit” means any material representation of the rights of participants with regard to the assets of an eligible investment scheme whether such rights are represented –
- (a) by securities issued by the eligible investment scheme;
  - (b) by the entry of names of participants in a register kept in relation to the eligible investment scheme; or
  - (c) by any other means.

- (3) The Minister may, by Order, amend this Article.

**3AD Eligible participant<sup>19</sup>**

- (1) In this Article –
- (a) references to ownership are references to beneficial ownership;
  - (b) “limited liability partnership” means a partnership established under the Limited Liability Partnerships (Jersey) Law 1997<sup>20</sup> or an equivalent partnership established under the law of any country or territory outside Jersey;
  - (c) “general partner” and “limited partnership” have the same meanings as in Article 76A(6); and
  - (d) “scheme” means an eligible investment scheme.
- (2) For the purposes of this Law, an eligible participant is any of the following persons resident in Jersey –
- (a) a company issuing units or securities in a scheme;
  - (b) a company, such company being a general partner of a limited partnership issuing units or securities in a scheme;
  - (c) a trustee of a unit trust, such trustee issuing units or securities in a scheme;
  - (d) a limited liability partnership issuing units or securities in a scheme;
  - (e) any person in whom one or more other persons, such other persons being eligible participants pursuant to any of sub-paragraph (a), (b), (c) or (d), have a majority economic interest.
- (3) For the purposes of paragraph (2)(e) one or more persons (“first persons”) have a majority economic interest in another person (“second person”) if the first person is, or the first persons are in aggregate, entitled directly or indirectly, to more than 50% of the annual income, profits or gains howsoever arising or accruing to the second person (including any income, profits or gains following a winding up, dissolution or equivalent of the second person).
- (4) For the purposes of paragraph (3) –
- (a) in the case of a person owning shares in a body corporate who, by virtue of such ownership, is entitled to a percentage of any annual income, profits or gains distributed by the body corporate, that person shall be deemed to be entitled to the same percentage of the annual income, profits or gains arising or accruing to the body corporate;
  - (b) “entitled directly or indirectly” means entitled, whether directly or through another person or persons or partly directly and partly through another person or persons; and
  - (c) the percentage of annual income, profits or gains to which a person is entitled, through another person or partly directly and partly

through another person, shall be determined in accordance with Article 3AB(5) to (10) as if references in those paragraphs to –

- (i) a body corporate were references to a person,
  - (ii) ownership of shares in a body corporate were references to entitlement, including deemed entitlement under paragraph (a), to the annual income, profits or gains arising or accruing to a person.
- (5) The Minister may, by Order, amend this Article.

#### **4 Meaning of, and provisions as to, total income**

- (1) References in this Law to the total income of an individual for any year of assessment shall be construed as references to the total of the sums for which the individual has been or is liable to be assessed for that year and the sums in respect of which the individual is liable to allow the deduction of tax, less so much as are allowed under this Law of the amounts of any interest of money and of any annuity or other annual payment to be made out of the property or profits or gains assessed on the individual.<sup>21</sup>
- (2) In calculating under this Law the total income of any person, any income which is chargeable with income tax by way of deduction at the standard rate in force for any year, shall be deemed to be income of that year, and any deductions which are allowable on account of sums payable under deduction of income tax at the standard rate in force for any year out of the property or profits of that person shall be allowed as deductions in respect of that year, notwithstanding that the income or sums, as the case may be, accrued or will accrue in whole or in part before or after that year.<sup>22</sup>

#### **4A Meaning of, and provision as to, financial period and accounting date<sup>23</sup>**

- (1) The financial period of a company or of a trade, profession or vocation is the period for which its accounts are made up.
- (2) Subject to any power in this Law for the Comptroller to determine an accounting date, the accounting date for a company or a trade, profession or vocation, is the day on which its financial period ends.
- (3) A financial period shall not exceed 18 months.

### **PART 3**

#### **ADMINISTRATION**

#### **5 Interpretation of Part 3**

In this Part, “officer” means a States’ employee within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005.<sup>24</sup>

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**6 Comptroller of Taxes<sup>25</sup>**

(1) The administration of this Law shall be entrusted to an officer to be known as the Comptroller of Taxes (in this Law referred to as the “Comptroller”).<sup>26</sup>

(2) <sup>27</sup>

**7** <sup>28</sup>

**8 Deputy Comptroller, Assistant Comptroller and staff**

There shall be appointed such number of officers, including a Deputy Comptroller and an Assistant Comptroller of Taxes, as may be necessary to assist the Comptroller in the exercise of the Comptroller’s functions under this Law.<sup>29</sup>

**9 Exercise of functions of Comptroller in event of absence or vacancy in office**

In the event of the absence from duty of the Comptroller either by reason of illness or for any other cause, or in the event of a vacancy in the office of Comptroller, the duties imposed and the powers conferred on the Comptroller by this Law shall be exercised by the Deputy Comptroller of Taxes, and in the event of the absence from duty of both the Comptroller and the Deputy Comptroller, the said powers and duties shall be exercised by the Assistant Comptroller of Taxes.<sup>30</sup>

**10 Commissioners of Appeal**

(1) For the purpose of hearing appeals under this Law from decisions of the Comptroller, a Commission of Appeal shall be constituted, consisting of any 3 out of a total of 12 Commissioners of Appeal appointed by the States, on the recommendation of the Minister.<sup>31</sup>

(2) The Commissioners of Appeal shall hold office for such period as the States may determine on their appointment.

(3) The Commissioners of Appeal shall be chosen from residents in Jersey of experience in financial matters, who are not actively interested in any trade, business or profession, assessable to tax under Schedule D, which is of such a nature as would cause their appointment to be objected to by competitors in similar trades, businesses or professions carried on in Jersey.

(4) The Commissioners of Appeal shall, with the consent of the Minister, have power to obtain expert advice in cases in which they consider it to be necessary, and the Minister shall defray any expenses so incurred.

(5) The Minister may appoint a clerk to the Commissioners of Appeal, and shall fix his or her salary and determine the conditions of his or her appointment.

**11 Oath of office**

Every person appointed under this Part and every person employed to carry out the audit of the accounts of the Comptroller shall, before he or she begins to act in execution of this Law, take oath before the Royal Court in the form set out in Schedule 1 appropriate to the office to which he or she has been appointed.<sup>32</sup>

**12 Audit**

For the purposes of audit, the Comptroller is authorized to place at the disposal of the Comptroller and Auditor General all books and information that the Comptroller and Auditor General may require.

**13 Power of Comptroller to disclose statistical information**

- (1) Notwithstanding anything in this Law contained, the Comptroller may disclose to the Minister or the Chief Minister, or to an officer in an administration of the States for which either the Minister or the Chief Minister is assigned responsibility, such statistical information as he or she may require for the purpose of the preparation of the general estimate of the revenue of the States for any year or for any other purpose affecting the revenue of the States.<sup>33</sup>
- (2) In this Article, “officer” shall have the same meaning as in Article 25(7) of the States of Jersey Law 2005<sup>34, 35</sup>

**13A Power of Comptroller to disclose information for approved purposes<sup>36</sup>**

Notwithstanding anything in this Law contained, the Comptroller may disclose information to the administration of the States for which the Minister for Social Security is assigned responsibility for any purpose approved by the Minister.

**14 Power to administer oaths**

The Comptroller shall have power to administer oaths for the purpose of this Law.

**PART 4****RETURNS****A15 Interpretation of Part 4<sup>37</sup>**

- (1) In this Part, unless the context otherwise requires –
  - “building contractor” means, subject to paragraphs (4) and (5), a person carrying on any business in the building or construction industry;
  - “earnings” means all salaries, fees, wages, perquisites or profits or gains arising from an office or employment;

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“effective rate” means the rate applicable in a person’s case in accordance with Article 41B(2);

“employee” includes –

- (a) a director of a company;
- (b) a person engaged in the management of a company; and
- (c) any office holder, whether or not of a company,

and any reference to a person being employed or commencing employment shall be construed accordingly;

“exemption certificate” means a certificate issued under Article 41F.

- (2) For the purposes of this Part, a person is a sub-contractor of a building contractor if, under a contract for building or construction work –
  - (a) the person is under a duty to the building contractor to carry out building or construction work or to furnish his or her own labour (that is to say, in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the work or to arrange for the labour of others to be furnished in the carrying out of the work; or
  - (b) the person is answerable to the building contractor for the carrying out of the work by others, whether under a contract or under other arrangements made or to be made by the person.
- (3) In determining, for the purposes of paragraph (2), whether a person is carrying out building or construction work or furnishing labour for another person, the supply by or on behalf of the first-mentioned person to the other person of any materials which are incidental to the work shall be disregarded.
- (4) Subject to paragraph (5), where a building contractor is not resident in Jersey, any officer (by whatever name called) of the building contractor or other person who is –
  - (a) engaged in the management of the building contractor; and
  - (b) resident in Jersey,shall be deemed to be the building contractor.
- (5) Where a building contractor is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall, if resident in Jersey, be deemed to be the building contractor.
- (6) Subject to paragraph (7), where an employer is not resident in Jersey, any officer (by whatever name called) of the employer or other person who is –
  - (a) engaged in the management of the employer; and
  - (b) resident in the Island,shall be deemed to be the employer.

- (7) Where an employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall, if resident in Jersey, be deemed to be the employer.

### **15 Comptroller to ascertain income liable to tax**

The Comptroller shall annually take such steps as may be necessary for ascertaining the amount of income in respect of which tax is to be levied in accordance with and subject to the provisions of this Law.

### **16 Delivery of statements in pursuance of notices**

- (1) Every person chargeable under this Law, when required so to do by any general notice or by a notice served on him or her by the Comptroller, shall, within the time limited by the notice, prepare and deliver to the Comptroller, a true, complete and correct statement in writing, signed by the person, containing such of the following particulars as may be required by the notice, namely –
- (a) the amount of the profits or gains arising to the person from each and every source (whether or not tax under this Law is deductible therefrom) chargeable according to the respective Schedules, calculated for the period specified in the notice and according to the provisions of this Law, showing separately such amounts as are allowed by way of deduction against the profits or gains;
  - (b) an indication of each kind of source which is owned by the person at any time during the period specified in the notice, whether or not any profits or gains arise from a source in the period specified in the notice which are chargeable as described in sub-paragraph (a);
  - (c) a description of each and every source, or of each source, or each source of a kind, specified in the notice, which is owned by the person at any time during the period specified in the notice, whether or not any profits or gains arise from the source in that period which are chargeable as described in sub-paragraph (a);
  - (d) a description of each and every source, or of each source, or each source of a kind specified in the notice, which is acquired or disposed of by the person during the period specified in the notice, and the date of acquisition or disposal.
  - (e) the amount of any shareholder loan made to the person or to a member of the person's family or household;
  - (f) the amount of any repayment or reimbursement by the person of a shareholder loan.<sup>38</sup>
- (2) The said statement shall include a declaration by the person preparing and delivering it that, to the best of his or her knowledge and belief, the statement contains all of the particulars required by the notice and is true, complete and correct.<sup>39</sup>
- (3) Every such statement shall be made exclusive of any interest of money or other annual payment arising out of the property of any other person charged in respect thereof.

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- (4) Every person on whom a particular notice has been served by the Comptroller requiring the person to deliver a statement of any profits, gains or income in respect of which he or she may be chargeable under Schedule A, by virtue of Article 51(1)(b) or (c), or Schedule D, or the source of such profits, gains or income, shall deliver a statement in the form required by the notice whether or not the person is so chargeable.<sup>40</sup>
- (4A) A person required by a general or particular notice to deliver a statement and who is chargeable, for the period specified in the notice, under Case VIII of Schedule D on deemed dividends of a company shall furnish in support of the statement –
- (a) the person's computation of the relevant profits of the company, as defined in Article 81B, and the person's income chargeable under Case VIII in respect of the company; and
- (b) a copy of the company's accounts for each financial period by reference to which the computation is made.<sup>41</sup>
- (5) For the purposes of this Article, any reference to ownership of a source includes, in the case of an individual, ownership of shares, in accordance with Article 82A.<sup>42</sup>
- (6) For the purposes of this Article, any reference to disposal of a source includes, in relation to shares owned by an individual resident in Jersey which are comprised in the ordinary share capital of a Jersey financial services company or Jersey trading company, any occurrence or date described in Article 81F(1) or 81G(3).<sup>43</sup>
- (7) In paragraph (6) –
- “Jersey financial services company” has the meaning given in Article 81B;
- “Jersey trading company” has the meaning given in Article 81B.<sup>44</sup>

#### **16A Furnishing of documents and other information in pursuance of notices<sup>45</sup>**

- (1) The Comptroller may serve notice on any person chargeable to tax under this Law requiring the person to furnish in support of a statement delivered by him or her under Article 16, within the period specified in the notice and at such place as is specified in the notice, such documents and information as the Comptroller may require.
- (2) The Comptroller may serve notice on any person requiring the person to furnish, within the period specified in the notice and at such place as is specified in the notice, such documents and information as the Comptroller may require for the purpose of facilitating the Comptroller's functions under this Law in respect of another person, that other person being a person chargeable to tax under this Law.

**16B Keeping of records<sup>46</sup>**

- (1) A person who is required to deliver a statement under Article 16 for a year of assessment in respect of a business shall keep records which are sufficient to support the statement and are such as to –
  - (a) show and explain the transactions of the business during the year of assessment; and
  - (b) give a true and fair view of the financial position of the business at any time during the year of assessment.
- (2) A person shall keep the records that he or she is required to keep under paragraph (1) for a period of 6 years from the date at the end of the year of assessment to which the records relate.
- (3) A person who, without reasonable excuse, fails to comply with this Article shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (4) In this Article “business” means business, trade, profession or vocation.

**17 Delivery of statements by persons acting for others**

- (1) Every person acting in any character on behalf of any incapacitated person or persons absent from or not resident in Jersey who, by reason of such incapacity, absence or non-residence, cannot be personally charged under this Law, shall, when required so to do by any general notice, or by a notice served on the first person by the Comptroller, within the time limited by the notice, deliver such a statement as is described in Article 16 of the profits or gains in respect of which the tax is to be charged on the first person on account of that other person, together with the declaration referred to in that Article.
- (2) Where 2 or more such persons are liable to be charged for the same person, one statement only shall be required to be delivered, and such statement may be made by them jointly or by any one or more of them.

**17A Penalty for late delivery of Article 16 statement<sup>47</sup>**

- (1) Where a person required to deliver to the Comptroller a true, complete and correct statement or return does not do so by the specified time, the person shall be liable to pay to the Comptroller a penalty of £250.<sup>48</sup>
- (2) In this Article “specified time” means in relation to a requirement to deliver a statement or return in respect of a year of assessment that is imposed by a notice served in the following year –
  - (a) in the case of a statement delivered on behalf of a person by another person whose business or profession includes the preparation of such statements and in the course of that other person’s business or profession, 6 p.m. on the last Friday in July in the year in which the notice is served;
  - (b) in the case of a statement delivered by a company in respect of its own charge to tax, 6 p.m. on the last Friday in July in the year in which the notice is served;

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- (c) in the case of a return, 6 p.m. on the last Friday in July in the year in which the notice is served;
  - (d) in any other case, 6 p.m. on the last Friday in May in the year in which the notice is served.<sup>49</sup>
- (3) Paragraph (1) shall not apply –
- (a) to an individual who is not liable to pay any tax for the period to which the statement relates; or
  - (b) where the notice is served less than 30 days before the day on which the specified time applicable in the person's case expires.<sup>50</sup>
- (4) Where a statement is delivered after the specified time and the Comptroller is satisfied that, for the period to which the statement relates, an individual is liable to pay tax of less than £250 –
- (a) the individual's liability under paragraph (1) shall be abated to an amount equal to the tax he or she is liable to pay; and
  - (b) the Comptroller shall repay to the individual any amount paid by the individual in discharge of his or her liability under paragraph (1) which exceeds the abated amount.<sup>51</sup>
- (5) The Comptroller shall issue a written notice to a person of his or her liability under paragraph (1).
- (6) A person may, within 40 days of the issue of a notice under paragraph (5), apply to the Comptroller in writing for a discharge or waiver under paragraph (7).
- (7) The Comptroller may –
- (a) discharge a person's liability under paragraph (1) if satisfied that a statement or return delivered by the person to the Comptroller, by the specified time, is true, complete and correct; or
  - (b) waive a person's liability under paragraph (1) if satisfied that death, serious illness or other grave and exceptional circumstance prevented the person delivering the statement or return to the Comptroller by the specified time.<sup>52</sup>
- (8) Where a person applies under paragraph (6), the Comptroller shall give notice to the person of whether or not he or she has discharged or waived the person's liability.
- (9) A person aggrieved by the Comptroller's refusal to discharge or waive liability under paragraph (7) may appeal to the Commissioners, on giving notice to the Comptroller within 40 days of the issue of the notice of refusal.
- (10) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (9) as they apply to an appeal against any assessment –
- (a) the proviso to Article 27(1);
  - (b) Article 27(2);
  - (c) Article 28(1);
  - (d) Article 29, with the omission of paragraphs (4) and (5);

- (e) Articles 29A and 31 to 36.
- (11) Subject to paragraph (12) –
  - (a) this Law shall apply to the collection and recovery of the penalty as if it were an amount of tax charged and payable under this Law; and
  - (b) the penalty shall not be deductible for any purposes of this Law.
- (12) The penalty shall be disregarded when determining the amount of a surcharge under Article 26(2).
- (12A) In this Article –
  - “return” means a return required under Article 20B;
  - “statement” means a statement required under Article 16.<sup>53</sup>
- (13) <sup>54</sup>

### **17B Tax credit for electronic delivery of Article 16 statement<sup>55</sup>**

- (1) Subject to the provisions of this Article, the Comptroller shall deduct £20 from the amount of tax payable by a person in respect of a year of assessment if, in respect of that year of assessment, the person has prepared and delivered to the Comptroller a statement under Article 16 that complies with –
  - (a) such requirements of this Law; and
  - (b) such requirements of Part 3 of the Electronic Communications (Jersey) Law 2000<sup>56</sup>,as are relevant to that statement.
- (2) If the amount of tax payable by a person described in paragraph (1) is less than £20, the Comptroller shall deduct only such amount as is necessary to bring the tax payable by that person to nothing.
- (3) The Comptroller shall not make a deduction under paragraph (1) or (2) if the person who prepared and delivered the statement under Article 16 was a person whose business or profession includes the preparation of such statements and, in the course of that person’s business or profession, was acting on behalf of another person.

### **18 Delivery of lists by persons in receipt of taxable income belonging to others**

- (1) Every person who, in whatever capacity, is in receipt of any money or value, or of any profits or gains arising from any of the sources mentioned in this Law, of or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if that other person were resident in Jersey and not an incapacitated person, shall, whenever required so to do by a notice served on the first person by the Comptroller, prepare and deliver, within the time limited by the notice, a list in the form required by the notice, signed by that first person, containing –
  - (a) a statement of all such money, value, profits or gains;

- 
- (b) a description of each and every source of such money, value, profits or gains;
  - (c) the name and address of every person who owns each source and whether, in each case the person is of full age, a married woman, resident in Jersey, an incapacitated person.<sup>57</sup>
- (2) If any person described in paragraph (1) is acting jointly with any other person, he or she shall, in like manner, deliver a list of the names and addresses of all persons joined with him or her at the time of delivery of the list mentioned in that paragraph.
  - (3) The said list shall include a declaration by the person preparing and delivering it that –
    - (a) the list contains all of the information required by the notice pursuant to paragraph (1)(c) that is within his or her knowledge; and
    - (b) the information contained in the list is, to the best of his or her knowledge and belief, true, complete and correct.<sup>58</sup>
  - (4) For the purposes of this Article, any reference to ownership of a source includes, in the case of an individual, ownership of shares in accordance with Article 82A.<sup>59</sup>

## **19 Lists of lodgers and inmates**

Every person, when required so to do by any general notice or by a notice served on the person by the Comptroller, shall, within the time limited by the notice, prepare and deliver to the Comptroller a list, signed by the person, containing to the best of his or her belief the name of every lodger or inmate resident in his or her dwelling-house who has resided in Jersey for 6 months.

### **19A Duty of employer or building contractor to register<sup>60</sup>**

- (1) A person who becomes an employer shall, no later than one month after so becoming, notify the Comptroller, in writing, of the date the person became an employer.
- (2) A building contractor shall, no later than one month after first entering into a contract with a sub-contractor, notify the Comptroller, in writing, of the date the building contractor first entered into such a contract.
- (3) A person who fails to comply with paragraph (1) or (2) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of Article A15(6) or (7), the body corporate, as well as that person, shall be liable to a penalty for failure to comply with paragraph (1).
- (5) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor, by virtue of Article A15(4) or (5), the body

corporate, as well as that person, shall be liable to a penalty for failure to comply with paragraph (2) of this Article.

## **20 Returns of information regarding employees<sup>61</sup>**

- (1) An employer shall, when required to do so by a general notice or by a notice served on the employer by the Comptroller, and within the time limited by the notice, prepare and deliver to the Comptroller a true, complete and correct return containing, as required by the notice, all or any of the specified information for the period or year of assessment specified in the notice in respect of each person employed by the employer at any time during that period or year.
- (2) The specified information in respect of each person employed by the employer at any time during the period or year specified is –
  - (a) the person's full name and place or places of residence;
  - (b) in the case of a woman, the full name of the woman's spouse (if any);
  - (c) the reference number (if any) assigned to the person by the Comptroller;
  - (d) the reference number (if any) assigned to the employer by the Comptroller;
  - (e) the reference number assigned to the person for the purposes of the Social Security (Jersey) Law 1974;<sup>62</sup>
  - (f) a description of the person's employment;
  - (g) the earnings paid to the person in respect of the employment;
  - (h) the benefits provided to the person, whether by the employer or by a person connected with the employer, other than any benefit left out of account by virtue of Article 65B(2)(b), and the amount attributable to each benefit determined in accordance with Article 65B;
  - (i) the amounts deducted from the earnings paid to the person in respect of superannuation;
  - (j) the amounts required, pursuant to Article 41B, to be deducted from the earnings paid to the person and the effective rate applied to each deduction;
  - (k) where the employment commenced in the period or year of assessment in question, the date of such commencement; and
  - (l) where the employment ceased in the period or year of assessment, the date of such cessation.
- (3) The Comptroller –
  - (a) may require a return to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) may require an employer to sign a declaration that the information given in the return is true, complete and correct to the best of the employer's knowledge.

- (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer, by virtue of Article A15(6) or (7), the body corporate, as well as that person, shall be liable to a penalty for failure to deliver a return when required to do so by or under this Article.

**20A Returns of information regarding building sub-contractors<sup>63</sup>**

- (1) A building contractor shall, when required to do so by a general notice or by a notice served on the building contractor by the Comptroller, and within the time limited by the notice, prepare and deliver to the Comptroller a true, complete and correct return containing, as required by the notice, all or any of the specified information for the period or year of assessment specified in the notice in respect of each person who is a sub-contractor of the building contractor at any time during that period or year.
- (2) The specified information in respect of each person who is a sub-contractor of the building contractor at any time during the period or year specified is –
- (a) the person's full name and place or places of residence;
  - (b) in the case of a woman, the full name of the woman's spouse (if any);
  - (c) the reference number (if any) assigned to the person by the Comptroller;
  - (d) the reference number (if any) assigned to the building contractor by the Comptroller;
  - (e) the reference number assigned to the person for the purposes of the Social Security (Jersey) Law 1974;<sup>64</sup>
  - (f) the payments made to the person, or to a person he or she has nominated for the purpose, under or in relation to the contract and the date such payments are made;
  - (g) the amounts required, pursuant to Article 41E, to be deducted from the payments described in sub-paragraph (f) in respect of tax;
  - (h) the making of any payment without deduction of tax pursuant to Article 41E, by virtue of paragraph (2) of that Article;
  - (i) where the contract commenced in the period or year of assessment in question, the date of such commencement; and
  - (j) where the contract ceased in the period or year of assessment, the date of such cessation.
- (3) The Comptroller –
- (a) may require a return to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) may require a building contractor to sign a declaration that the information given in the return is true, complete and correct to the best of his or her knowledge.

- (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor, by virtue of Article A15(4) or (5), the body corporate, as well as that person, shall be liable to a penalty for failure to deliver a return when required to do so by or under this Article.

#### **20B Returns of information by companies<sup>65</sup>**

- (1) A company regarded as resident in Jersey or which has a permanent establishment in Jersey, shall, when required to do so by a general notice or by a notice served on the company by the Comptroller, and within the time limited by the notice, prepare and deliver to the Comptroller a true, complete and correct return containing, as required by the notice, all or any of the specified information for the period or year of assessment specified in the notice.
- (2) The requirement in paragraph (1) shall not apply to a collective investment fund or, if different, a registered person within the meaning of Article 118C, such person being exempt from income tax under Article 118C(9).<sup>66</sup>
- (3) Subject to paragraph (5), the specified information is, in respect of each person who, at any time during the period or year of assessment specified in the notice is registered as a shareholder in the company –
- (a) the shareholder's name and address;
  - (b) the number and class of shares held by the shareholder and the number of days in the period or year of assessment specified in the notice for which they were held;
  - (c) dividends paid or issued to the shareholder specifying, in respect of each dividend, the information required by Article 89 and the date the dividend is paid or issued;
  - (d) the amount of any shareholder loan made or paid by or derived from the company to a borrower or to a member of the borrower's family or household during the period, determined in accordance with Article 81O;
  - (e) the amount repaid or reimbursed by a borrower in respect of any shareholder loan made or paid by or derived from the company in an earlier period;
  - (f) the amount, per share comprised in the ordinary share capital of the company, of any dividend deemed to be received by an individual resident in Jersey, pursuant to Article 81D or 81G, out of the relevant profits of the company for the period or, where a year of assessment is specified in the notice, out of the relevant profits on which tax is charged for that year.<sup>67</sup>
- (4) The Comptroller –
- (a) may require a return to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) may require the secretary of the company, or other person acting as secretary for the time being, to sign a declaration that the

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information given in the return is true, complete and correct to the best of his or her knowledge.

- (5) A company shall not be required to make a return of the information described in paragraph (3)(d) to (f) if the secretary of the company, or other person acting as secretary for the time being, has certified in writing to the Comptroller that, to the best of his or her knowledge, none of the ordinary share capital of the company is owned by an individual resident in Jersey.<sup>68</sup>
- (6) The secretary of the company or other person acting as secretary for the time being shall, by notice in writing to the Comptroller, withdraw a certificate given under paragraph (5) within 30 days of becoming aware that any part of the ordinary share capital of the company is owned by an individual resident in Jersey, whether he or she becomes so aware by reason of having received a request for a statement under Article 81K or 81L, or otherwise.<sup>69</sup>
- (7) If the secretary of the company or other person acting as secretary for the time being does not comply with paragraph (6) he or she shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (8) In this Article –  
“borrower” has the same meaning as in Article 81O;  
“relevant profits” has the same meaning as in Article 81B(1).

## **PART 5**

### **ASSESSMENT**

#### **22 Assessment of income**

- (1) The Comptroller shall assess the income to be charged to tax under Schedules A and D in accordance with the provisions of this Law.
- (3) In the case of assessment of rentes or, by virtue of Article 51(1)(b) or (c), of profits or gains under Schedule A and assessments under Schedule D, the Comptroller shall prepare lists containing –
  - (a) the full and just assessment of the profits or gains; and
  - (b) the names of the persons to be charged with tax in respect of the same.<sup>70</sup>

#### **23 Provision for making assessments where no returns are received**

If the Comptroller does not receive a statement from a person liable to be charged to income tax, the Comptroller shall to the best of the Comptroller's information and judgment make an assessment on that person of the amount at which the person ought to be charged under this Law, and shall include such assessment in the appropriate list.

**24 Additional assessments**

- (1) If the Comptroller discovers –
- (a) that any properties or profits chargeable to tax have been omitted from the first assessments or have not been assessed;
  - (b) that a person chargeable has not delivered any statement, or has not delivered a full and proper statement, or has not been assessed to tax, or has been undercharged in the first assessments; or
  - (c) that a person chargeable has been allowed, or has obtained from and in the first assessments, any deduction, or reduction of rate not authorized by this Law,

then and in every such case the Comptroller shall amend the assessment or make such additional assessment as will render the person liable to the full amount of tax with which he or she ought to be charged:

Provided that any such amended or additional assessment shall be subject to appeal and other proceedings as in the case of a first assessment.<sup>71</sup>

- (1A) A person chargeable who does not furnish any documents or information required, under Article 16(4A) or 16A, in support of a statement shall be taken, for the purposes of paragraph (1)(b), to have failed to deliver a full and proper statement.<sup>72</sup>
- (2) An assessment may be amended, or an additional assessment may be made, at any time not later than 5 years after the expiration of the year of assessment:

Provided that where any form of fraud, wilful default or neglect has been committed by or on behalf of the person chargeable in relation to income tax for the year of assessment, assessments and additional assessments on that person for that year may be amended or made at any time.

**25 Notices of assessment**

As soon as the assessments under Schedules A and D have been made, the Comptroller shall serve on each person assessed a notice of the amount of the assessment, the latest date on which an appeal against the assessment may be made and the date by which the said amount, failing the making of an appeal, is required to be paid.

**26 Surcharge for late payment of tax<sup>73</sup>****PART 6****APPEALS AND RELIEF FOR MISTAKE****27 Right of appeal<sup>74</sup>**

- (1) A person aggrieved by any assessment on him or her made by the Comptroller in any first or additional assessment, shall be entitled to

appeal to the Commissioners, on giving notice in writing to the Comptroller, within 40 days of the notice of such assessment:

Provided that if it is shown to the satisfaction of the Comptroller that, owing to absence, sickness or other reasonable cause, any person has been prevented from appealing within that time, the Comptroller may admit the appeal if notice of it is given to the Comptroller without unreasonable delay.<sup>75</sup>

- (2) If an appellant fails to attend or to be represented at a hearing of which the appellant has been duly notified, the Commissioners may –
  - (a) unless they are satisfied that there is good and sufficient reason for such absence, hear and determine the proceedings in the absence of the appellant or the appellant's representative; or
  - (b) postpone or adjourn the hearing:

Provided that, if any representations in writing or otherwise have been submitted by or on behalf of the appellant in response to the notice of the hearing, the Commissioners shall consider such representations and shall give the Comptroller an opportunity to be heard in regard to those representations before they decide to hear and determine any proceedings in the absence of the appellant or the appellant's representative.<sup>76</sup>

## **28 Other provisions as to appeals**

- (1) In the case of an appeal against any assessment, the appellant shall, in the notice of appeal, specify the grounds of the appeal:

Provided that, if on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice and the omission of that ground from the notice was, in the opinion of the Commissioners, not wilful or unreasonable, the Commissioners shall not, by reason of anything in this paragraph, be precluded from allowing the appellant to go into that ground or taking it into their consideration.
- (2) In the case of an appeal against any assessment the appellant shall, in the notice of appeal, enter the appellant's estimate of the tax that will become payable on the determination of the appeal, appending an explanation in the event that the appellant's estimate is that no tax will become payable or a greater amount of tax will become payable than the amount demanded in the assessment.<sup>77</sup>
- (3) Notwithstanding that an appeal against an assessment is pending –
  - (a) the tax estimated to be due in accordance with paragraph (2) shall be collected and paid in all respects as if it were tax charged by an assessment of which no appeal was pending; and
  - (b) on determination of the appeal, any balance of tax chargeable in accordance with the determination shall be paid, or any tax overpaid shall be repaid, as the case may require.<sup>78</sup>
- (4) Where the amount of tax paid by virtue of paragraph (3) exceeds the tax payable on determination of the appeal, there shall be added to the tax overpaid for the year of assessment, at the time of repayment, such a sum,

not being income for the purposes of Article 61, representing interest at the rate of 0.03% for each complete month from the date of payment to the date of refund.<sup>79</sup>

- (5) The Minister may by Order amend the rate of interest expressed in paragraph (4).<sup>80</sup>

## **29 Procedure on appeals**

- (1) The Commissioners shall cause not less than 21 days' notice of the day for hearing appeals to be given to every appellant and shall meet together for the hearing of appeals from time to time, with or without adjournment, until all appeals have been determined.<sup>81</sup>
- (2) The Comptroller shall attend every appeal and may be present for all of the hearing and the determination.<sup>82</sup>
- (3) On an appeal the following persons shall have right of audience, either viva voce or in writing, before the Commissioners –
- (a) the Law Officers of the Crown or an advocate or solicitor of the Royal Court;
  - (b) a member of an incorporated society of accountants; and
  - (c) any other person, except that if in a particular case the Commissioners are satisfied that there are good and sufficient reasons for so doing, they may refuse to permit a particular person to represent the appellant.<sup>83</sup>
- (4) If, on any appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath, or by other lawful evidence, that the appellant is overcharged by any assessment, they shall direct the assessment to be abated or reduced accordingly, but otherwise every such assessment shall stand good.
- (5) If, on an appeal, it appears to the Commissioners that the person assessed ought to be charged in an amount exceeding the amount contained in the assessment, they shall direct that the person be charged with the excess.
- (6) At the beginning of the hearing of any proceedings the Commissioners shall –
- (a) explain the order of proceedings which they propose to adopt unless they consider it unnecessary to do so;
  - (b) conduct the hearing in the manner they consider most suitable for the clarification and determination of the issues before them and, so far as it appears appropriate, avoid formality in procedure; and
  - (c) determine in which order the parties to the proceedings shall be heard.<sup>84</sup>
- (7) The appellant and the Comptroller shall be entitled –
- (a) to give evidence;
  - (b) to call witnesses;
  - (c) to question any witnesses including other parties who give evidence; and

- (d) to address the Commissioners both on the evidence and generally on the subject matter of the proceedings.<sup>85</sup>

### **29A Power of the Commissioners to review final determination<sup>86</sup>**

- (1) If, on application by the appellant or the Comptroller, or of their own motion, the Commissioners are satisfied that –
  - (a) their final determination was wrongly made as a result of a clerical or administrative error on their part or on the part of the appellant or the Comptroller;
  - (b) an appellant, who was entitled to be heard at a hearing but failed to appear or to be represented, had good and sufficient reason for the appellant's failure; or
  - (c) accounts or other information relevant to an appellant's case had been sent to the Commissioners or the Comptroller prior to the hearing of the proceedings but had not been received by the Commissioners until after the hearing,the Commissioners may review and set aside or vary the final determination.
- (2) The appellant and the Comptroller shall have an opportunity to be heard on a review, or in relation to any application or proposal for review.
- (3) An application for a review by the appellant or the Comptroller shall be made to the Commissioners, in writing, stating the grounds in full, within 21 days of the date of the final determination or by any later time as the Commissioners may allow.

### **31 Power of Commissioners on appeal to issue precepts**

- (1) If the Commissioners have received notice of appeal against an assessment made by the Comptroller, they may issue a precept to the appellant ordering the appellant to deliver to them, within the time limited by the precept, a schedule containing such particulars, for their information, as they may demand respecting –
  - (a) the property of the appellant;
  - (b) the trade, profession, employment or vocation carried on or exercised by the appellant;
  - (c) the amount of the appellant's profits or gains, distinguishing the particular amounts derived from each separate source; or
  - (d) any deductions made in arriving at the appellant's profits or gains,and the Commissioners are empowered to demand the said particulars at their discretion whenever it appears to them necessary to do so for the purposes of this Law.
- (2) The Commissioners may issue further precepts whenever they consider it necessary for the purposes aforesaid, until complete particulars have been furnished to their satisfaction.

- (3) The Comptroller may, at all reasonable times, inspect and take copies of or extracts from any schedule.

### **32 Objection by Comptroller to schedules**

- (1) The Comptroller may, within a reasonable time to be allowed by the Commissioners, object to any schedule or any part thereof, and in that case shall state, in writing, the cause of the Comptroller's objection, according to the best of the Comptroller's knowledge or information.
- (2) In every such case, the Comptroller shall give notice in writing of the Comptroller's objection to the person to be charged, in order that he or she may, if he or she thinks fit, appeal against the same.
- (3) No assessment shall be confirmed or altered until any appeal against such objection has been heard and determined.

### **33 Power on appeal to confirm or amend assessments**

If –

- (a) the Commissioners see cause to disallow an objection of the Comptroller to a schedule; or
- (b) on the hearing of an appeal, the Commissioners are satisfied with the assessment made by the Comptroller, or if, after the delivery of a schedule, they are satisfied therewith, and have received no information as to its insufficiency,

they shall direct the assessment to be confirmed or to be altered in accordance with any such schedule, as the case may require.

### **34 Power of putting questions as to assessments or schedules**

- (1) Whenever the Commissioners require further information relating to a schedule, they may, at any time and from time to time, by precept, put any questions in writing concerning the schedule, or any matter which is contained or ought to be contained therein, or concerning any deductions made in arriving at the profits or gains, and the particulars thereof, and may require true and particular answers, signed by the person to be charged, to be given within 7 days after the service of the precept.
- (2) The person to be charged shall within the time limited, either answer any such questions in writing or shall tender himself or herself to be examined orally before the Commissioners; and may object to, and refuse to answer, any question, but the substance of any answer given by the person orally shall be taken down in writing in his or her presence, and be read over to him or her, and after the person has had liberty to amend any such answer, he or she may be required to verify the same on oath, and every such oath shall be subscribed by the person by whom it is made.
- (3) Where any clerk, agent or servant of the person to be charged tenders himself or herself, on behalf of such person, to be examined orally before the Commissioners, the same provisions shall apply to the clerk, agent or

servant's examination as in the case of the person to be charged who tenders himself or herself to be examined orally.

### **35 Power to summon and examine witnesses**

- (1) The Commissioners may through the Département du Vicomte summon any person, whom they think able to give evidence respecting an assessment made or to be made on another person, to appear before them to be examined, and may administer an oath to and examine such person on oath, except the clerk, agent, servant or other person confidentially employed in the affairs of a person to be charged, who shall be examined in the manner laid down in Article 34(2).
- (2) The oath shall be that the evidence to be given, touching the matter in question by the person sworn, shall be the truth, the whole truth, and nothing but the truth.
- (3) A person who, after being duly summoned –
  - (a) neglects or refuses to appear before the Commissioners at the time and place appointed for that purpose;
  - (b) appears, but refuses to be sworn or to subscribe the oath; or
  - (c) refuses to answer any lawful question touching the matters under consideration,

shall be liable to a fine not exceeding level 2 on the standard scale:

Provided that the penalty imposed in respect of any offence under subparagraph (b) or (c) shall not apply to any clerk, agent, servant or other person as aforesaid.<sup>87</sup>

### **36 Appeals to the Royal Court**

- (1) Immediately after the determination by the Commissioners of an appeal under this Law, either party, if dissatisfied with the determination, may give notice to the Commissioners of the party's intention to appeal and the Commissioners shall immediately notify the Judicial Greffier that such notice of appeal has been given to them.
- (2) If such appeal be not brought before the Royal Court within 21 days, it shall be void and the determination by the Commissioners shall be final.
- (3) Appeals under this Article shall be heard, either in term or vacation, before the Inferior Number of the Royal Court sitting in camera.
- (4) No appeal shall lie from the decision of the Inferior Number of the Royal Court under this Article except on a point of law.

### **37 Provision against double assessment**

- (1) A person who, either on his or her own account, or on behalf of another person, has been assessed to tax, and is by any error or mistake again assessed for the same year for the same cause and on the same account, may apply to the Comptroller for relief, and the Comptroller, on proof to

the Comptroller's satisfaction of the double assessment, shall cause the said assessment, or so much thereof as constitutes a double assessment, to be vacated.

- (2) If it appears, to the satisfaction of the Comptroller, that a person has been assessed more than once for the same cause and for the same year, the Comptroller shall cause the whole, or such part of any such assessment as appears to be an overcharge, to be vacated.
- (3) If it is proved, to the satisfaction of the Comptroller, that any such double assessment as aforesaid has been made, and that payment has been made on both assessments, the Comptroller shall cause the amount of the overpayment to be repaid to the applicant.

### **38 Relief in respect of error or mistake**

- (1) Where the amount of tax paid or borne by any person was excessive by reason of some error or mistake in a return made by the person or on his or her behalf, he or she shall, on a claim being made for the purpose, be entitled to be given by way of repayment such relief as is reasonable and just.
- (2) A claim under this Article shall not be allowed unless it is made not later than 5 years after the end of the year in which the assessment in pursuance of the return was made.
- (3) No relief shall be granted under this Article in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed, if the return was in fact made on the basis of or in accordance with the practice prevailing at the time when the return was made.
- (4) In determining a claim under this Article, regard shall be had to all the relevant circumstances of the case and in particular it shall be considered whether the granting of the relief would result in the exclusion from charge of any part of the income of the claimant, and for this purpose the liability of the claimant, the assessments of the claimant's income, and the amounts of tax with which the claimant has been charged, or which the claimant has borne, for other years may be taken into consideration.

## **PART 7**

### **COLLECTION AND REPAYMENTS**

#### **A39 Interpretation of Part 7**

Expressions defined in Article A15 shall, unless the context otherwise requires, have the same meaning in this Part.

**39 Tax when due**

Subject to Article 41A, 41B and 41E, income tax contained in an assessment for any year shall be deemed to be due and payable on the day next after the day on which the assessment is made.<sup>88</sup>

**40 Demand for payment**

The notices of assessment given under Article 25 to persons assessed to tax shall be deemed to be a demand for payment for the purposes of this Law.

**41 General notice to persons by whom tax is payable**

The Comptroller shall, as the need may be, cause to be published a general notice to the effect that –

- (a) income tax for the year specified in the notice is due and payable; and
- (b) persons who fail to pay the income tax due by them for the year specified in the notice before such date as may be so specified will be liable to legal proceedings for the recovery of the same:

Provided that the publication of such a notice shall not be necessary before instituting legal proceedings for the recovery of tax.

**41A Duty to pay instalment in April<sup>89</sup>**

- (1) Subject to paragraph (12), a person who is not a body corporate shall, in accordance with this Article, pay an instalment of income tax for a year of assessment.
- (2) The instalment –
  - (a) shall be due and payable no later than 6 p.m. on the last Friday in April of the year next following the year of assessment; and
  - (b) subject to this Article, shall be an amount equal to 50% of the person's liability to income tax for the year preceding the year of assessment, less the amount of any tax already paid in respect of the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E).
- (3) Where –
  - (a) part of a person's income for the year preceding the year of assessment comprises earnings; and
  - (b) those earnings comprise 25% or less of the person's total income for that year,paragraph (2)(b) shall have effect with the substitution for the amount "50%" of the amount "40%".
- (4) A person shall not be required to pay an instalment pursuant to this Article where the instalment would be less than £100.

- (5) A person shall be liable to pay the instalment whether or not an assessment has been raised for the year of assessment for which the instalment is due.
- (6) The Comptroller may, on an application made by a person no later than the end of March preceding the day an instalment is due, reduce the amount of the instalment or waive the instalment where the Comptroller is satisfied –
  - (a) that 50% of the person's liability to income tax for the year of assessment is likely to be substantially less than the instalment determined in accordance with paragraph (2)(b); or
  - (b) that 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 preceding year from such sources.
- (7) Where a person applies for a reduction or waiver under paragraph (6), the Comptroller shall give notice to the person of whether or not the Comptroller has reduced the amount of or waived the instalment.
- (8) A person aggrieved by the Comptroller's refusal to reduce the amount of or waive an instalment under paragraph (6) may appeal to the Commissioners, on giving notice in writing to the Comptroller, within 40 days of the issue of the notice under paragraph (7).
- (9) The instalment determined in accordance with paragraph (2)(b) shall be due and payable notwithstanding that an appeal is pending under paragraph (8).
- (10) On the determination of an appeal under paragraph (8), any balance of the instalment due in accordance with the determination shall be paid, or any amount determined to have been overpaid shall be repaid, as the case may require.
- (11) Save as provided in paragraphs (8) to (10), Part 6 shall apply, with the necessary modifications, to an appeal under paragraph (8) as it applies to an appeal against any assessment.
- (12) This Article shall not apply –
  - (a) where more than 25% of a person's total income for the year preceding the year of assessment comprises earnings; or
  - (b) in the case of a trustee liable to tax for the year of assessment by virtue of Article 6(2) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>90</sup>.

#### **41B Duty of employer to deduct and account for tax<sup>91</sup>**

- (1) An employer shall, in accordance with this Article, deduct tax at the effective rate from earnings payable by the employer to an employee, including any payments made by an employer that fall within Article 62D.<sup>92</sup>
- (2) The effective rate shall be –

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- (a) where the employer has received a copy of a notice issued by the Comptroller under Article 41C specifying a rate applicable on the day the deduction is made, the rate so specified;
    - (b) where the employer has not received a copy of such a notice –
      - (i) for deductions made in the years 2006 and 2007, 15%,
      - (ii) for deductions made in the year 2008 and ensuing years, 20%.
  - (3) When making a deduction under paragraph (1), an employer shall give the employee written notice of the amount of the deduction and the effective rate applied to the deduction.
  - (4) An employer shall maintain a record of the amount of tax deducted and the effective rate applied to the deduction in respect of each of his or her employees.
  - (5) An employer shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her employees.
  - (6) An employer shall, no later than the end of January following a year of assessment, give each of the persons in his or her employment at the end of that year a written summary of the deductions made pursuant to this Article from the employee's earnings for that year.
  - (7) Where an employee ceases employment before the end of a year of assessment, the employer shall, upon the employment ceasing, give the employee a written summary of the deductions made pursuant to this Article from the employee's earnings for that year.
  - (8) An employer shall not be required to deduct tax and remit it to the Comptroller in the case of an employee who, on the 31st December in the year in which the deduction would otherwise be made, will be under the age of 17 years.
  - (9) An employer who fails to comply with paragraph (5) shall be guilty of an offence and liable to a fine of –
    - (a) level 4 on the standard scale; and
    - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
  - (10) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of Article A15(6) or (7), the body corporate, as well as that person, shall be liable to a fine under paragraph (9) of this Article.
  - (11) The imposition of a fine under paragraph (9)(b) shall not discharge the employer's liability to remit the monies required under paragraph (5).
  - (12) Where an employee proves, to the satisfaction of the Comptroller, that a deduction has been made from the employee's earnings, in accordance with paragraph (1), the employee shall be entitled to have the deduction treated as a payment of tax by the employee, notwithstanding that the

employer has failed to remit the amount to the Comptroller in accordance with paragraph (5).

- (13) An employer who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) in respect of an employee may recover that amount from the employee as a civil debt.
- (14) Deductions shall be made, in accordance with this Article, from the earnings of a married woman notwithstanding that, by virtue of Article 121(1), her income is deemed to be that of her husband.
- (15) An agreement shall be void to the extent that it provides for the payment of earnings without deduction of tax in contravention of this Article.

#### 41C Calculation of rate<sup>93</sup>

- (1) In this Article –
  - “payment year” means the year in which the rate applies to deductions made under Article 41B;
  - “the year of assessment” means the year preceding the payment year.
- (2) Subject to this Article and Article 41D, the rate applicable in an employee’s case shall be determined in accordance with the following formula –

$$\frac{L}{I} \times 100 = \text{percentage effective rate}$$

Where –

L is the sum of –

- (a) the employee’s liability to tax for the year of assessment;
- (b) an amount not exceeding the aggregate of any arrears of tax for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears); and
- (c) any costs recoverable in respect of such arrears, less any amount of tax already paid for the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E); and

I is the total of the sums for which the employee has been or is liable to be assessed for the year of assessment and the sums in respect of which the employee is liable to allow the deduction of tax in the year of assessment.

- (3) The percentage rate determined in accordance with paragraph (2) shall be rounded up to the nearest whole number.
- (4) The Comptroller may, before an employee has delivered a statement for the year of assessment pursuant to Article 16, determine, in accordance with paragraph (5) of this Article, a provisional rate and issue a notice, in writing, to the employee and the employee’s employer of the rate and the day from which the rate applies.<sup>94</sup>

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- (5) For the purposes of determining a rate pursuant to paragraph (4), paragraph (2) shall have effect with –
- (a) in sub-paragraph (a) of the definition ‘L’, the insertion after the words “liability to tax for” of the words “the year preceding”;
  - (b) in the definition ‘I’ –
    - (i) the insertion after the words “assessed for” of the words “the year preceding”,
    - (ii) the insertion after the words “deduction of tax in” of the words “the year preceding”.
- (6) The Comptroller may, after an employee has delivered a statement for the year of assessment pursuant to Article 16, determine the rate applicable to the employee and issue a notice, in writing, to the employee and the employee’s employer, of the rate and the day from which the rate applies.
- (7) Where it appears to the Comptroller at any time that, by reason of any change in the information by reference to which the rate is determined, the rate applicable in an employee’s case has altered, the Comptroller may issue a notice, in writing, to the employee and the employee’s employer, of the revised rate and the day from which the rate applies.
- (7A) Where it appears to the Comptroller that the issue of a revised rate in accordance with paragraph (7) would be insufficient to recover, in the remainder of the payment year, the employee’s outstanding liability to tax for the year of assessment or any preceding year, the Comptroller may –
- (a) in accordance with paragraph (7B), determine a revised rate applicable to the employee; and
  - (b) issue a notice, in writing, to the employee and the employee’s employer, of the rate and the day from which the rate applies.<sup>95</sup>
- (7B) Subject to paragraph (9), the rate determined shall be the rate required to recover, in the period commencing on the day the notice has effect to the end of the payment year, the balance of the revised sum of L in paragraph (2) that has not been recovered in the part of the payment year preceding that period.<sup>96</sup>
- (8) Subject to paragraph (9) –
- (a) an employee may, at any time, make an election, in writing, to the Comptroller to have a rate applied in the employee’s case that exceeds the rate determined in accordance with the foregoing paragraphs of this Article; and
  - (b) upon an election being made, the Comptroller shall issue a notice in writing to the employee of the rate and the day from which the rate applies.
- (9) The rate shall not exceed –
- (a) in a case where the employee has no arrears of tax, 20%;
  - (b) in a case where the employee has arrears of tax for one year of assessment, 25%;
  - (c) in a case where the employee has arrears of tax for 2 years of assessment, 30%;

- (d) in a case where the employee has arrears of tax for 3 or more years of assessment, 35%.
- (10) A notice issued by the Comptroller under this Article shall have effect until whichever is the earlier of –
  - (a) the day stated in the notice;
  - (b) the day on which a rate specified in a further notice has effect; or
  - (c) the end of the current year.
- (11) An employee aggrieved by the rate applicable in his or her case, or by a refusal by the Comptroller to issue a notice under this Article, may appeal to the Commissioners, on giving notice in writing to the Comptroller –
  - (a) within 40 days of the issue of a notice under of this Article; or
  - (b) where the Comptroller has not issued a notice to the employee, within 40 days of providing the Comptroller with sufficient information to determine a rate under this Article.
- (12) The rate notified to the employee or, in the case where no rate has been notified to the employee, the rate applicable by virtue of Article 41B(2)(b), shall apply in the employee's case notwithstanding that an appeal is pending under paragraph (11) of this Article.
- (13) Save as provided in paragraphs (11) and (12), Part 6 shall apply, with the necessary modifications, to an appeal under paragraph (11) as it applies to an appeal against any assessment.
- (14) The fact that, in determining the rate applicable in an employee's case, the sum 'L' referred to in paragraph (2) includes an amount described in sub-paragraph (b) or (c) of that paragraph shall not prevent the Comptroller pursuing the recovery of that amount by other means.
- (15) A person who gives another person –
  - (a) a document purporting to be a notice issued by the Comptroller under this Article, knowing it to be false; or
  - (b) a notice issued by the Comptroller under this Article, knowing that the notice has been altered by a person other than the Comptroller,shall be liable to a fine of level 4 on the standard scale.

#### **41D Deductions in respect of husbands and wives<sup>97</sup>**

- (1) In the case of a husband and wife to whom Article 121(1) applies –
  - (a) a rate shall be determined in accordance with Article 41C(2) as if the husband were the employee, whether or not he is in employment; and
  - (b) subject to paragraph (2), where the Comptroller has issued a notice under Article 41C specifying a rate, that rate shall apply to both the husband and the wife.
- (2) Where the husband and wife are each in employment they may jointly elect for the rate applicable to the earnings of one of them to be increased and the rate applicable to the earnings of the other of them to be correspondingly reduced.

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- (3) The increased rate applicable to the earnings of one of them may exceed the limit in Article 41C(9), if the husband and wife so elect and the Comptroller so agrees.
  - (4) The aggregate of the deductions made when applying the rates, adjusted pursuant to this Article, to the earnings of the husband and wife shall not be less than the aggregate of the deductions that would have been made had the adjustment not been made.
  - (5) An election shall cease to have effect upon –
    - (a) either the husband or wife ceasing to be in employment;
    - (b) paragraph (4) not being complied with;
    - (c) a new rate applying pursuant to a further notice issued under Article 41C; or
    - (d) an effective rate described in Article 41B(2)(b) applying.

**41E Duty of building contractor to deduct and account for tax<sup>98</sup>**

- (1) A building contractor shall, in accordance with this Article, deduct tax at the specified rate from payments made to a sub-contractor or to a person nominated by the sub-contractor for the purpose.
- (2) Paragraph (1) shall not apply at any time when –
  - (a) the sub-contractor has produced an exemption certificate to the building contractor; and
  - (b) the building contractor is satisfied that the exemption certificate is in force at the time the payment is made.
- (3) When making a deduction under paragraph (1) a building contractor shall give the sub-contractor or the person nominated by the sub-contractor to receive the payment written notice of the amount of the deduction.
- (4) A building contractor shall maintain a record of the amount of tax deducted in respect of each of his or her sub-contractors.
- (5) A building contractor shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her sub-contractors.
- (6) Where, before the end of a year of assessment, a person ceases to be a sub-contractor of a building contractor, the building contractor shall give the sub-contractor a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (7) A building contractor shall, no later than the end of January following a year of assessment, give each person who is, at the end of the year, his or her sub-contractor, a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.

- (8) A building contractor who fails to comply with paragraph (5) shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
- (9) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor by virtue of Article A15(4) or (5), the body corporate, as well as that person, shall be liable to a fine under paragraph (8) of this Article.
- (10) The imposition of a fine under paragraph (8)(b) shall not discharge the building contractor's liability to remit the monies required by paragraph (5).
- (11) Where a sub-contractor proves, to the satisfaction of the Comptroller, that a deduction has been made in accordance with paragraph (1) from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose, the sub-contractor shall be entitled to have the deduction treated as a payment of tax by the sub-contractor, notwithstanding that the building contractor has failed to remit the amount to the Comptroller in accordance with paragraph (5).
- (12) A building contractor who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) may recover that amount from the sub-contractor as a civil debt.
- (13) A contract shall be void to the extent that it provides for payments to be made without deduction of tax, in contravention of this Article.
- (14) Where a sub-contractor has arrears of tax for any year of assessment, the fact that deductions are made in accordance with this Article from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose shall not prevent the Comptroller pursuing the recovery of those arrears by any means.
- (15) For the purposes of this Article, the 'specified rate' is –
  - (a) for deductions made in the years 2006 and 2007, 15%;
  - (b) for deductions made in the year 2008, and ensuing years, 20%.

#### **41F Exemption certificate<sup>99</sup>**

- (1) A sub-contractor may apply to the Comptroller for an exemption certificate.
- (2) An application for an exemption certificate shall be made in such form and manner, and accompanied by such information, as the Comptroller may require.
- (3) The Comptroller may issue an exemption certificate where the Comptroller is satisfied that the sub-contractor has consistently complied with the requirements of this Law in full and without delay.

- (4) An exemption certificate shall, unless cancelled under paragraph (5), have effect for the year specified in it, and may be issued subject to conditions.
- (5) The Comptroller may cancel an exemption certificate at any time when –
  - (a) the Comptroller is no longer satisfied that the sub-contractor has consistently complied with the requirements of this Law in full and without delay; or
  - (b) the conditions attached to the certificate have not been complied with.
- (6) Upon cancelling an exemption certificate, the Comptroller shall publish a notice of cancellation in such a manner that the notice is likely to be seen by persons affected by it.
- (7) The cancellation of an exemption certificate shall take effect upon publication of the notice required by paragraph (6).
- (8) A person who gives another person –
  - (a) a document purporting to be an exemption certificate issued by the Comptroller under this Article, knowing it to be false; or
  - (b) an exemption certificate, knowing that the certificate has been altered by a person other than the Comptroller,shall be liable to a fine of level 4 on the standard scale.

**41G Treatment of amounts received by Comptroller<sup>100</sup>**

- (1) Subject to paragraphs (2) to (4), the Comptroller shall receive an amount remitted under Article 41B or 41E as a payment of tax for the preceding year of assessment by the employee from whose earnings, or the sub-contractor from whose payments, the amount was deducted.
- (2) Where the Comptroller receives an amount remitted under Article 41B or 41E which has been deducted from the earnings of, or payments made to, a married woman whose income, by virtue of Article 121(1), is deemed to be that of her husband, the Comptroller shall receive the amount as a payment of tax by her husband.
- (3) Where, in determining the rate applicable to an amount remitted under Article 41B, the amount 'L' defined in Article 41C(2) includes an amount, in accordance with sub-paragraph (b) or (c) of that definition, in respect of arrears of tax or costs recoverable with them, the Comptroller shall apportion any amount remitted under that Article between the employee's liability to pay tax for the year of assessment and his or her liability to pay the arrears or costs, in the same proportion that those liabilities bear to each other.
- (4) Where, in the case of a sub-contractor who has arrears of tax, or costs recoverable with arrears, accruing from a previous year of assessment, the deductions received by the Comptroller in a year of assessment exceed the sub-contractor's liability to tax for the preceding year, the Comptroller shall –

- (a) receive the excess as a payment of those arrears or costs; and
  - (b) where the sub-contractor has outstanding arrears or costs from more than one previous year of assessment, apply the excess so as to reduce or discharge the arrears or costs from the earliest year of assessment first.
- (5) This Article shall apply notwithstanding that an assessment has not been served on the employee or sub-contractor under Article 25.

#### **41H Arrangements for new taxpayers<sup>101</sup>**

- (1) This Article applies to a person –
- (a) who was resident in Jersey in any of the years of assessment 2002, 2003 and 2004 but who has not, before 1st September 2005, delivered to the Comptroller a statement, pursuant to Article 16, for any of those years;
  - (b) who is resident in Jersey on 31st December 2005 but who has not, before that date, provided the Comptroller with information that would be sufficient to enable the Comptroller, in accordance with Article 41C, to determine a rate to apply in the person's case for the year 2006; or
  - (c) who first commences employment or becomes a sub-contractor, in Jersey, on or after 1st January 2006 and who was not liable to tax, as a person residing in Jersey, for the year of assessment preceding the year in which the employment or contract commences.
- (1A) A person to whom this Article applies is referred to in this Article as a new taxpayer.<sup>102</sup>
- (2)
- (3)
- (4)
- (5) <sup>103</sup>
- (6) A new taxpayer shall, no later than one month after commencing or resuming the employment or entering into or resuming the contract, notify the Comptroller, in writing, of the information described in paragraphs (7) and (8).<sup>104</sup>
- (7) The information required is –
- (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 1974;<sup>105</sup>
  - (c) the person's date of birth;
  - (d) if the person is married, the date of the marriage;
  - (e) the number of children dependent upon the person;
  - (f) the date (if any) the person arrived in Jersey;
  - (g) the name and address of –
    - (i) if the person is an employee, his or her employer,

- (ii) if the person is a sub-contractor of a building contractor, the building contractor;
  - (h) the date the employment or building contract commenced;
  - (i) an estimate of the person's –
    - (i) earnings from the employment or payments under the building contract, and
    - (ii) income from all other sources,
 in the year in which the employment or contract commences.
- (8) A married person shall also provide the information described in paragraph (7) in respect of his or her spouse.
- (9) The Comptroller may –
  - (a) require a return of information under paragraph (7) to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) require the person making the return to sign a declaration that the information given is true, complete and correct to the best of his or her knowledge.
- (10) This Part shall apply to a new taxpayer with the following modifications –
  - (a) in Article 41C(2) –
    - (i) in the definition “L”, for sub-paragraph (a) there shall be substituted the following sub-paragraph –
      - “(a) the employee's estimated liability to tax for the payment year;”,
      - (ii) in the full out words to the definition “L”, for the words “the year of assessment” there shall be substituted the words “the payment year”,
      - (iii) for the definition “I” there shall be substituted the following definition –
        - “ ‘I’ is the total of the sums for which the employee is estimated to be liable to be assessed for the payment year and the sums in respect of which the employee is estimated to be liable to allow the deduction of tax in the payment year.”;
    - (aa) in Article 41C(7A) for the words “liability to tax for the year of assessment or any preceding year” there shall be substituted the words “estimated liability to tax for the payment year or liability to tax for any preceding year”;
    - (b) in paragraphs (1) and (4) of Article 41G for the words “preceding year” there shall be substituted the words “that year”.<sup>106</sup>
- (11) <sup>107</sup>

#### **41HA Tax deducted under the Social Security (Jersey) Law 1974<sup>108</sup>**

- (1) If the Minister of Social Security is required under the Social Security (Jersey) Law 1974<sup>109</sup> to deduct income tax from a component of a benefit

payable to a person under that Law, tax shall be deducted at the same effective rate which the person's employer would have been required to deduct had such component been paid by the employer to the person as earnings when such earnings were due to be paid.

- (2) The Comptroller may issue a notice, in writing, to the Minister for Social Security, of the effective rate for the purposes of paragraph (1).
- (3) The amount of income tax deducted under paragraph (1) shall be remitted to the Comptroller and received by the Comptroller as a payment of tax by the person to whom the benefit is paid.

#### **41I Late payment surcharge<sup>110</sup>**

- (1) In this Article, 'specified time', in relation to a year of assessment, means 6 p.m. on the Friday following the first Monday in December of the year next following the year of assessment.
- (2) Any person chargeable to tax, whether or not an assessment has been served on that person, shall be liable to pay an amount in addition to that tax (hereafter referred to as the 'surcharge') equal to 10% of that tax which remains unpaid, if the tax chargeable on that person for the year of assessment is not paid in full by the specified time.

Provided that the Comptroller may waive payment of the surcharge –

- (a) if it amounts to £50 or less for any year of assessment;
  - (b) where failure to pay the tax by the specified day is caused by the action of a person, in accordance with Article 3A, not connected with the person liable to the surcharge and the failure is remedied without unnecessary delay; or
  - (c) the Comptroller is satisfied that death, serious illness or other grave and exceptional circumstance prevented payment by the specified time.
- (3) Paragraph (2) shall not apply where the aggregate of the amounts received by the specified time by the Comptroller, pursuant to Article 41G, as payment of a person's tax for the year of assessment, is 70% or more of the person's liability to tax for that year.
  - (4) The Comptroller shall issue a written notice to a person of his or her liability under paragraph (2).
  - (5) A person may, within 40 days of the issue of a notice under paragraph (4), apply to the Comptroller in writing for a waiver under paragraph (2).
  - (6) Where a person applies under paragraph (5), the Comptroller shall give notice to the person of whether or not he or she has waived the person's liability.
  - (7) A person aggrieved by the Comptroller's refusal to waive liability under paragraph (2) may appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the issue of notice of refusal.

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- (8) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (7) as they apply to an appeal against any assessment –
- (a) the proviso to Article 27(1);
  - (b) Article 27(2);
  - (c) Article 28(1);
  - (d) Article 29, with the omission of paragraphs (4) and (5);
  - (e) Articles 29A and 31 to 36.
- (9) <sup>111</sup>

#### **42 Proceedings for recovery of tax**

- (1) Proceedings for the recovery of income tax may be instituted by the Treasurer of the States at any time after the assessment to tax has been finally settled.<sup>112</sup>
- (1A) Notwithstanding paragraph (1), proceedings for the recovery of an instalment of income tax due under Article 41A may be instituted by the Treasurer of the States at any time after the amount of the instalment has been finally determined in accordance with that Article.<sup>113</sup>
- (1B) Proceedings for the recovery of monies due under Article 41B(5) or 41E(5) or under paragraph 3(8) or 4(8) of Schedule 3A may be instituted by the Treasurer of the States at any time after the monies fall due.<sup>114</sup>
- (2) Where under the provisions of this Law income tax has been charged on the husband in respect of the profits or income of the wife, the powers of recovery provided in this Law in the case of non-payment of any such tax shall extend to the property, goods and chattels of the wife:

Provided that no action for recovery shall be instituted against the wife unless a notice demanding payment has been served by the Comptroller on the wife and she has failed to pay the amount of tax payable by her husband within 7 days of such service.

#### **43 Recovery of arrears of tax by deduction from earnings**

- (1) Where judgment has been obtained for the payment of arrears of income tax due by any individual (hereinafter referred to as the “judgment debtor”), then, notwithstanding any enactment or rule of law to the contrary and without prejudice to any other means of recovery, the money payable under the judgment together with the recoverable costs (hereinafter referred to as the “judgment debt”) may be recovered in accordance with the provisions of this Article.
- (2) Where it is desired to recover any judgment debt under this Article –
- (a) the Comptroller may serve notice on the employer for the time being of the judgment debtor requiring the judgment debtor to furnish the Comptroller, within such time (not being less than 7 days) as may be specified in the notice, with a certificate of the

earnings of the judgment debtor during such period as may be so specified; and

- (b) whether or not such a certificate as aforesaid has been required to be furnished, the Comptroller may serve notice on the employer for the time being of the judgment debtor requiring the judgment debtor to make such deductions from the earnings of the judgment debtor as may, having regard to all the circumstances of the case, appear to the Comptroller to be reasonable and to pay the amounts so deducted to the Comptroller at such times as may be specified in the notice, and the amount so paid shall be applied towards the satisfaction of the judgment debt:

Provided that where the judgment debt has been ordered to be paid by instalments, the Comptroller shall not require such deductions to be made as would at any date reduce the judgment debt by a greater amount than that by which it would have been reduced had the instalments been paid.

- (3) Any notice under paragraph (2)(b) may at any time be varied by a subsequent notice under that sub-paragraph.
- (4) A copy of every notice served under paragraph (2)(b) or (3), shall be served also on the judgment debtor.
- (5) Where any employer fails to deduct any amount which the employer is required by virtue of paragraph (2)(b) to deduct, or to pay to the Comptroller any amount so deducted, the amount may be recovered from the employer as a debt due to the States.

**44 Certificate of Comptroller admissible in evidence**

- (1) For the recovery by legal process of income tax, or of any balance of income tax, a certificate under the hand of the Comptroller in the following form or to the same effect, stating that the person named therein is in default as regards payment of income tax, shall be sufficient evidence that the amount of tax mentioned therein has been duly charged and assessed, and is in arrear and unpaid –

I certify that the sum of ..... is due  
to the States of Jersey, in respect of income tax for the  
year ended 31st December, 20....., by  
..... of ..... and that  
the aforesaid sum fell into arrears on the .....

day of ....., 20.....

.....

*Comptroller of Taxes.*<sup>115</sup>

- (2) Any certificate issued by virtue of this Article shall be considered authentic, and no evidence will be required as to the signature or official character of the person who signs as Comptroller.

**45 Arrears of tax**

- (1) A tenant après décret or tenant après dégrèvement shall be liable for the payment of the income tax due in respect of the land foreclosed and having become due and payable within 12 months next before the date of the Act of the Court authorizing the décret or dégrèvement or at any time thereafter.
- (2) Where the Royal Court has granted –
  - (a) an application made by any person to place his or her property under the control of the Court (de remettre ses biens entre les mains de la Justice); or
  - (b) an application for the holding of a bénéfice d'inventaire on the estate of any deceased person,

the autorisés or the Viscount, as the case may be, shall pay, out of the property of such person or the estate of such deceased person, any income tax due by such person or such deceased person at the time of the granting of the application and having become due and payable within 12 months next before that time.

- (3) In the event of any composition with creditors, désastre, dégrèvement, réalisation or other bankruptcy, the following amounts shall rank for payment pari passu with other privileged debts and in priority to all other debts –
  - (a) the income tax due from the debtor for the year in which that event occurs and for the preceding year;
  - (b) any amount deducted by the debtor in accordance with Article 41B(1) and due from the debtor, in the year in which that event occurs or in the preceding year, in accordance with Article 41B(5);
  - (c) any amount deducted by the debtor in accordance with Article 41E(1) and due from the debtor, in the year in which that event occurs or in the preceding year, in accordance with Article 41E(5);
  - (d) any amount deducted by the debtor in accordance with paragraph 3(1) of Schedule 3A, and due from the debtor, in the year in which that event occurs or in the preceding year in accordance with sub-paragraph (8) of that paragraph; and
  - (e) any amount deducted by the debtor in accordance with paragraph 4(2) of Schedule 3A, and due from the debtor, in the year in which that event occurs or in the preceding year in accordance with sub-paragraph (8) of that paragraph.<sup>116</sup>

**46 Payment of receipts to States' Treasurer**

All monies received by the Comptroller in payment of income tax shall forthwith be paid by the Comptroller to the Treasurer of the States.

**47 Repayments to be made by States' Treasurer**

All repayments of tax under this Law shall be made by the Treasurer of the States, on a certificate of the Comptroller.

**48 Proof of payment of tax before repayment**

No repayment of income tax shall be certified by the Comptroller for payment until it is proved to the Comptroller that tax, in respect of which the repayment is claimed, has been paid by deduction at source or otherwise.

**49 Time limit for repayment**

Save as otherwise expressly provided in this Law, no claim for repayment of income tax under this Law shall be allowed unless it is made within 5 years next after the end of the year of assessment to which it relates.

**49A Deductions in respect of corrupt payments<sup>117</sup>**

Notwithstanding anything in this Law to the contrary, in computing any amount chargeable to tax, no deduction shall be allowed in respect of –

- (a) any sum the payment of which is a criminal offence in Jersey;
- (b) any sum paid in a country or territory outside Jersey which, if paid in Jersey, would be a criminal offence in Jersey;
- (c) any sum induced by a demand, such demand constituting the offence of blackmail or a cognate offence.

## **PART 8**

### **SCHEDULE A AND PRINCIPAL PROVISIONS RELATING THERETO**

**50 Interpretation of Part 8<sup>118</sup>**

In this Part –

“land” includes buildings, tenements, heritages and hereditaments;

“lease” includes an agreement for a lease, and any tenancy, but does not include a hypothec or other charge;

“owner” means, in relation to any land, the person for the time being having the enjoyment of that land, either as owner or usufructuary owner or in the exercise of rights of dower, franc veuvage, seignioralty or otherwise;

“premium” includes any like sum, other than rent, paid, and the value of any consideration given, on or in connection with the granting of a tenancy, except insofar as other sufficient consideration for the payment is shown to have been given.

**51 Schedule A<sup>119</sup>**

- (1) The Schedule referred to in this Law as Schedule A is as follows –
- Tax under this Schedule shall be charged on –
- (a) the annual profits or gains arising in respect of any rents or receipts as follows, that is to say –
    - (i) rents under leases of land in Jersey,
    - (ii) rentes, and
    - (iii) other receipts arising to the owner of land in Jersey from, or by virtue of, the owner's ownership of that land including any receipts arising from a licence to occupy land;
  - (b) the annual profits or gains arising or accruing from the trade, carried on in Jersey, of the disposal, on a commercial basis, of land or any building or structure, or any part thereof, which is situated in Jersey;
  - (c) the annual profits or gains arising or accruing from the trade of the exploitation of land in Jersey by the exploration, excavation, excision, extrication, extirpation, exsiccation, expropriation or extraction or recovery of stone, minerals and other inorganic solid materials.<sup>120</sup>
- (2) For the purposes of paragraph (1)(b), the land, building or structure, or part thereof, shall be a fixed place of business through which the trade is exercised, whether or not the disposal is made or concluded in Jersey.<sup>121</sup>
- (3) In any case where a sum (whether rent or otherwise) is payable in respect of the use of any premises and the tenant, leaseholder, licensee or other person is entitled also to use of the furniture, any sum payable in respect of use of the furniture shall also be chargeable under this Schedule.<sup>122</sup>
- (4) <sup>123</sup>
- (5) <sup>124</sup>

**51A Basis of computation under Schedule A<sup>125</sup>**

- (1) Tax shall be charged under Schedule A in respect of the profits or gains described in Article 51(1)(a) by reference to the rent, rentes or receipts to which the person becomes entitled in the year of assessment.
- (2) Tax shall be charged under Schedule A in respect of the profits or gains described in Article 51(1)(b) or (c) in accordance with Articles 64A to 64H, as if they were the profits or gains of a trade charged under Case I of Schedule D.<sup>126</sup>

**52 Deductions under Schedule A in respect of rents, etc.<sup>127</sup>**

- (1) Subject to the provisions of this Article, in computing the amounts of the profits or gains to be charged under this Schedule pursuant to Article 51(1)(a), there shall be deducted the normal outgoings paid by the person chargeable in respect of the profits or gains.<sup>128</sup>

- (2) For the purposes of paragraph (1), the term “normal outgoings” means the following payments, not being payments of a capital nature, made in respect of the land to which the profits or gains relate, that is to say –
- (a) payments for maintenance, repairs, insurance and management;
  - (b) parochial rates, including rates which are by law charged on the occupier which the person chargeable is obliged to defray; and
  - (c) rents, rentes or other periodical payments:

Provided that no deductions shall be made for any interest of money, or any annuity or other annual payment.

- (3) In the case of –
- (a) payments for maintenance and repairs, deductions shall be made for payments incurred by reason of dilapidation to the extent only that the dilapidation is attributable to a period falling within the currency of the lease, or to a period during which the person chargeable was the landlord in relation to a previous lease;
  - (b) other payments, deductions shall be made only for payments incurred in such a period as aforesaid;
  - (c) a receipt other than rent payable under a lease, there shall be deducted so much of any other payment made by the owner as constituted an expense of the transaction.
- (4) The deductions allowable under this Article shall be made from the profits or gains chargeable for the year of assessment in which the payments are made:

Provided that where the profits or gains chargeable are not sufficient to allow the whole of the deductions to be made, the amount not deducted shall be deducted from the profits or gains for the earliest year of assessment from which it can be deducted.

#### **52A Allowable deduction under Schedule A for energy-saving items<sup>129</sup>**

- (1) Notwithstanding anything in this Law to the contrary, in computing the amounts of the profits or gains to be charged under Schedule A pursuant to Article 51(1)(a) there shall be deducted any expenditure incurred for any energy-saving item specified in paragraph (2) provided that the conditions specified in paragraph (3) are met in respect of the expenditure.
- (2) Those items are –
- (a) cavity wall insulation;
  - (b) loft insulation;
  - (c) hot water system insulation;
  - (d) low energy lamps; and
  - (e) draught proofing.
- (3) Those conditions are that –

- 
- (a) the expenditure is incurred for acquiring and installing the energy-saving item wholly and exclusively for the purpose of a property business as defined in paragraph (5);
  - (b) the maximum amount of expenditure deducted is £1,500 per annum; and
  - (c) subject to paragraph (4), the deduction is made from the profits or gains chargeable for the year of assessment in which the expenditure is incurred, such year of assessment being any of 2010, 2011 and 2012.
- (4) If the profits or gains chargeable are not sufficient to allow the whole of the deduction to be made in the year of assessment in which the expenditure is incurred, the amount not deducted may be deducted from the earliest year of assessment from which it can be deducted provided that year is 2011 or 2012.
- (5) In this Article, “property business” means the business of generating income from any rents, rentes, or other receipts, described in Article 51(1)(a).

### **53 Relief for rent not paid<sup>130</sup>**

If a person proves that he or she has not received an amount which he or she was entitled to receive in respect of any rents or receipts chargeable under Schedule A pursuant to Article 51(1)(a), and that –

- (a) the non-receipt was attributable to the default of the person by whom it was payable and the person chargeable has taken all reasonable steps available to him or her to enforce payment; or
- (b) the person chargeable has waived payment of the said amount without consideration and in order to avoid hardship to the person by whom it was payable,

the person chargeable shall be treated as if he or she had not been entitled to the said amount.<sup>131</sup>

### **54 Treatment of premiums and other payments as rents <sup>132</sup>**

- (1) If payment of any premium is required under a lease, or otherwise under the terms subject to which a lease is granted and the duration of the lease does not exceed 50 years, the person entitled to the premium shall be treated for the purposes of this Law as becoming entitled when the lease is granted to an amount by way of rent (in addition to any actual rent and any other amount treated as rent under this Article) equal to the amount of the premium reduced by 1/50 of that amount for each complete period of 12 months (other than the first) comprised in the duration of the lease:

Provided that where the said premium is payable by instalments, the amount of each instalment shall be treated as rent for the year in which it becomes payable.<sup>133</sup>

- (2) If, under any term subject to which a lease is granted, any sum is payable by a tenant as consideration for the surrender of the lease, the person entitled to the consideration shall be treated for the purposes of this Law as becoming entitled, when the consideration is payable, to an amount by way of rent (in addition to any actual rent and any other amount treated as rent under this Article) equal to the amount of the consideration reduced by 1/50 of that amount for each complete period of 12 months (other than the first) comprised in the duration of the lease calculated to the day of surrender:

Provided that where the said consideration is payable by instalments, the amount of each instalment shall be treated as rent for the year in which it becomes payable.<sup>134</sup>

- (2A) If any sum is payable by a tenant as consideration for the variation or waiver of any term of a lease, the person entitled to the consideration shall be treated for the purposes of this Law as becoming entitled, when the agreement for the variation or waiver is entered into, to an amount by way of rent (in addition to any actual rent and any other amount treated as rent under this Article) equal to the amount of the consideration reduced by 1/50 of that amount for each complete period of 12 months (other than the first) comprised in that part of the duration of the lease for which the variation or waiver has effect:

Provided that where the said consideration is payable by instalments, the amount of each instalment shall be treated as rent for the year in which it becomes payable.<sup>135</sup>

- (3) If, in respect of a lease granted for a period which does not exceed 50 years, a premium is paid on the assignment of the lease or as consideration for the grant of a sub-lease, the person entitled to the premium shall be treated for the purposes of this Law as becoming entitled when the premium is payable to an amount by way of rent equal to the amount of the premium reduced by the appropriate fraction of any amount of premium chargeable as rent on the person by whom the lease was granted:

Provided that no reduction as aforesaid shall be made in respect of any premium which has been allowed as a deduction in computing the income of any person for income tax purposes.

- (4) For the purpose of paragraph (3), the “appropriate fraction” means the fraction arrived at by dividing the period for which the assignment or sub-lease is granted by the period for which the lease was granted.

#### **54A Deductions under Schedule A in respect of property development or quarrying, etc.** <sup>136</sup>

Articles 70, 70A and 83 shall apply for the purposes of computing the amount of the profits or gains to be charged under Schedule A pursuant to Article 51(1)(b) or (c) as they apply for the purposes of computing the amount of the profits or gains to be charged under Schedule D Case I in respect of a trade.<sup>137</sup>

**55 Persons chargeable under Schedule A**

- (1) Subject to paragraph (2), tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the profits or gains in respect of which tax under Schedule A is, in this Law, directed to apply.
- (2) Articles 74 to 76C shall apply to taxation under Schedule A pursuant to Article 51(1)(b) or (c) as they apply to the taxation of any trade under Schedule D Case 1.<sup>138</sup>

**55A Miscellaneous provisions applicable to property development and quarrying, etc.<sup>139</sup>**

Articles 84 and 85 shall apply to and for the purposes of the charge to tax under Schedule A pursuant to Article 51(1)(b) or (c) as they apply to and for the purposes of the charge to tax under Schedule D.<sup>140</sup>

**PART 10****SCHEDULE D AND PRINCIPAL PROVISIONS RELATING THERETO****61 Schedule D**

- (1) The Schedule referred to in this Law as Schedule D is as follows –  
Tax under this Schedule shall be charged in respect of –
  - (a) the annual profits or gains arising or accruing –
    - (i) to any person residing in Jersey from any kind of property whatever, whether situate in Jersey or elsewhere,
    - (ii) to any person residing in Jersey from any trade, profession, employment, vocation or office, whether carried on in Jersey or elsewhere, or from any pension, whether arising in Jersey or elsewhere, and
    - (iii) to any person, whether a British subject or not, although not resident in Jersey, from –
      - (A) any property whatever in Jersey;
      - (B) any trade exercised in Jersey, whether or not through a fixed place of business in Jersey;
      - (C) any profession, employment, vocation or office exercised within Jersey; or
      - (D) any pension arising in Jersey;
  - (b) all interest of money, annuities, and other annual profits or gains not charged under Schedule A, and not specially exempted from tax;
  - (c) all sums paid to an individual or an individual's personal representative pursuant to Article 131D or 131E other than a sum applied in the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity

payable to the individual or, on the individual's death, to the individual's spouse or dependent;

- (d) dividends deemed to be received by an individual resident in Jersey, in accordance with the following provisions of this Part; and
- (e) shareholder loans, where the borrower, within the meaning of Article 81O, is an individual resident in Jersey, in accordance with the following provisions of this Part,

in each case for every one pound of the annual amount of the profits or gains.<sup>141</sup>

(1A) <sup>142</sup>

- (2) The provisions of paragraph (1) are without prejudice to any other provision of this Law directing tax to be charged under Schedule D and the tax so directed to be charged shall be charged accordingly.<sup>143</sup>
- (3) In paragraph (1), the references to annual profits or gains arising or accruing from any property include all dividends and other distributions of a company.<sup>144</sup>
- (4) Tax in respect of income arising from dividends and distributions of company shall not be charged on so much of the income as is a distribution of capital profits of the company.<sup>145</sup>

## **62 Mode of charge under Schedule D; the 8 Cases<sup>146</sup>**

- (1) Tax under Schedule D shall be charged under the following cases respectively, that is to say –

Case I. – tax in respect of any trade carried on in Jersey or elsewhere;

Case II. – tax in respect of –

- (a) all profits and earnings of whatever value arising from professions, employments, vocations or offices;
- (b) any office or employment by retainer in any character whatever, whether such retainer is annual or for a longer or shorter period;
- (c) all pensions, except pensions which are paid by or on behalf of a person outside Jersey, whether paid voluntarily or otherwise and whether capable of being discontinued or not; and
- (d) annuity equivalents;

Case III. – tax in respect of profits of an uncertain value and of –

- (a) any interest of money, whether yearly or otherwise, or any annuity, or other annual payment, whether such payment is payable within or out of Jersey, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation out of it or as a personal debt or obligation by virtue of any contract, or whether the same is received and payable half-yearly or at any shorter or more distant periods;

- (b) all discounts;
- (c) interest paid or credited in full without deduction of tax by a savings bank to any depositor;
- (d) any pensions whether paid voluntarily or otherwise and whether capable of being discontinued or not which are paid by or on behalf of a person outside Jersey;
- (e) interest and dividends payable out of the public revenues of Jersey or by coupon;
- (f) dividends and other distributions of a company regarded as resident in Jersey;

Case IV. – tax in respect of income arising from securities out of Jersey, (whether or not payable by coupon);

Case V. – tax in respect of income arising from possessions out of Jersey;

Case VI. – tax in respect of any annual profits or gains not falling under any of the foregoing Cases or Case VII or VIII, and not charged by virtue of Schedule A;

Case VII. – tax in respect of all sums paid to an individual or an individual's personal representative pursuant to Article 131D or 131E of this Law other than a sum applied in the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual or, on the individual's death, to the individual's spouse or dependent,

Case VIII. – tax in respect of –

- (a) deemed dividends, in accordance with the following provisions of this Part;
- (b) shareholder loans, in accordance with the following provisions of this Part,

and subject to and in accordance with the provisions of this Law applicable to the said Cases respectively. <sup>147</sup>

- (2) The provisions of paragraph (1) are without prejudice to any other provision of this Law directing tax to be charged under one or other of the said Cases, and the tax so directed to be charged shall be charged accordingly.

#### **62A Disapplication of Schedule D where trade taxed under Schedule A**

Notwithstanding Article 61(1) and Article 62(1) Case I, tax under Schedule D shall not be charged on any profits or gains of a trade that are charged to tax under Schedule A by virtue of Article 51(1)(b) or (c).<sup>148</sup>

#### **62B Application of Schedule D to stock dividends<sup>149</sup>**

- (1) Tax shall be charged under Schedule D on the issue of a stock dividend as if it were the payment of a cash dividend of equal value.

- (2) Unless the context otherwise requires, a reference in this Law to a dividend includes a stock dividend and a reference to payment of a dividend includes the issue of a stock dividend.

**62C Application of Schedule D to the repayments of a levy made to the Jersey Bank Depositors Compensation Board<sup>150</sup>**

Tax shall be charged under Schedule D in respect of the repayment or the partial repayment to a bank of a levy paid by the bank to the Jersey Bank Depositors Compensation Board established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009<sup>151</sup> as if the repayment or the partial repayment were a trading receipt of the bank in the year in which it is made.

**62D Application of Schedule D to termination and other payments<sup>152</sup>**

- (1) Tax shall be charged under Case II of Schedule D in respect of any payment made by or on behalf of an employer to an employee in consequence of –
- (a) the termination of the employee's employment; or
  - (b) any change in the duties or emoluments of the employment,
- regardless of whether the payment arises from a contractual or statutory entitlement, an order by a court or tribunal or is voluntary on the part of the employer.
- (2) For the purposes of paragraph (1) –
- (a) "employee" refers to any person paid wages or salary by another person regardless of whether the first person is employed or is an office holder and "employer" and "employment" shall be construed accordingly; and
  - (b) the reference to payment made to an employee includes payment to an employee's estate.

**63 Farming and other commercial occupation of land in Jersey to be charged under Schedule D**

- (1) All farming and market gardening in Jersey shall be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the profits or gains thereof shall be charged to tax under Case I of Schedule D accordingly.
- (2) The occupation of land in Jersey for any purpose other than farming or market gardening shall, if the land is managed on a commercial basis and with a view to the realization of profits, be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the profits or gains thereof shall be charged to tax under Case I of Schedule D accordingly.
- (3) In this Article –
- "farming" means the occupation of land in Jersey wholly or mainly for the purposes of husbandry, but excludes market gardening;
- "land" includes tenements, hereditaments and heritages;

“market gardening” means the occupation of land in Jersey as a nursery or garden for the sale of produce.

*Case I and II*

**64 Full tax to be charged**

The tax under Case I or Case II of Schedule D shall be charged without any other deduction than is by this Law allowed.

**64A General provision as to period of computation for trade, profession or vocation<sup>153</sup>**

Subject to Articles 64B to 64E, tax shall be charged in the case of a trade, profession or vocation on the full amount of the balance of the profits or gains of the trade, profession or vocation for the financial period ending in the year of assessment.

**64B Change of financial period and accounting date<sup>154</sup>**

(1) Where, by virtue of a change in the financial period for a trade, profession or vocation, there are 2 or more accounting dates for it in a year of assessment, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates.

(2) Where –

- (a) there is a change in the financial period for a trade, profession or vocation;
- (b) the new accounting date is in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
- (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the business,

the Comptroller may charge the trade, profession or vocation to tax, for the year of assessment in which the new accounting date falls, on the full amount of the balance of the profits or gains for the period of 12 months ending on that date.

(3) Where –

- (a) there is a change in the financial period for a trade, profession or vocation;
- (b) the new accounting date is neither in the same year of assessment as the preceding accounting date nor in the year of assessment immediately following that year; and

- (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the business,
- the Comptroller may –
- (i) determine an accounting date in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
  - (ii) charge the trade, profession or vocation to tax, for the year of assessment in which the determined accounting date falls, on the full amount of the balance of the profits or gains for the period of 12 months ending on that date.
- (4) The accounting date determined under paragraph (3) shall be the same day, in the same month, as the new accounting date.

#### **64C Commencement of trade, profession or vocation<sup>155</sup>**

- (1) Subject to paragraph (2), where a trade, profession or vocation is set up and commenced, tax shall first be charged for the year of assessment in which the first financial period ends, on the full amount of the balance of the profits or gains of the trade, profession or vocation for that period.
- (2) Where the first financial period of the trade, profession or vocation does not end in the first year of assessment or the second year of assessment, the Comptroller shall determine an accounting date in the second year of assessment for it.
- (3) Subject to paragraph (4), the accounting date determined under paragraph (2) shall be the same day, in the same month, as the accounting date which falls in the third year of assessment.
- (4) Where there is more than one accounting date in the third year of assessment, the first of those dates shall be used for the purposes of paragraph (3).
- (5) Where the profits or gains of a trade, profession or vocation are charged to tax in the second year of assessment by virtue of an accounting date being determined under paragraph (2), tax shall be charged for the third year of assessment on the full amount of the balance of the profits or gains of the first financial period, after deduction of an amount equal to the profits or gains charged to tax in the second year of assessment by virtue of paragraph (2).
- (6) For the purposes of this Article and Article 64D –
  - “first financial period”, in relation to a trade, profession or vocation, means the financial period beginning on the day it is set up and commenced;
  - “first year of assessment”, in relation to a trade, profession or vocation, means the year in which it is set up and commenced;
  - “second year of assessment” means the year following the first year of assessment;

“third year of assessment” means the year following the second year of assessment.

**64D Discontinuance of trade, profession or vocation<sup>156</sup>**

- (1) Subject to paragraphs (2) and (3), where a trade, profession or vocation is permanently discontinued, tax shall be charged, in the year of assessment in which the discontinuance occurs, on the full amount of the balance of the profit or gains for the period beginning on the day following the accounting date preceding the date of discontinuance and ending on the date of discontinuance.
- (2) Where, in the year of assessment in which the trade, profession or vocation is permanently discontinued, there are one or more accounting dates preceding the date of discontinuance, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates and for the period described in paragraph (1).
- (3) Where a trade, profession or vocation is permanently discontinued in the first year of assessment or the second year of assessment, tax shall be charged for the period beginning on the date the trade, profession or vocation is set up and commenced and ending on the date of its discontinuance.

**64E Trade, profession or vocation transferred to or from Jersey<sup>157</sup>**

- (1) This Article applies –
  - (a) where a trade, profession or vocation previously carried on in a place outside Jersey transfers to, and continues to be carried on, in Jersey; and
  - (b) where a trade, profession or vocation previously carried on in Jersey transfers to, and continues to be carried on, in a place outside Jersey.
- (2) Tax shall be charged for the year of assessment in which the trade, profession or vocation transfers, on such portion of the full amount of the balance of the profits or gains of the trade, profession or vocation as equates to the portion of that year for which the trade, profession or vocation is carried on in Jersey.

**64F Apportionment of profits or gains of trade, profession or vocation<sup>158</sup>**

- (1) Where the period for which tax is to be charged on the full amount of the balance of the profits or gains of a trade, profession or vocation does not coincide with a financial period, the full amount of the balance of the profits or gains for the financial periods which overlap with the period for which tax is to be charged shall be apportioned so as to arrive at the full amount of the balance of the profits or gains for the period for which tax is to be charged.

- (2) Where the full amount of the balance of the profits or gains for the period for which tax is to be charged, determined in accordance with paragraph (1), does not, in the opinion of the Comptroller, fairly represent the full amount of the balance of the profits or gains of the period for which tax is to be charged, the Comptroller may direct that the apportionment shall be made another way.

**64G Liability of executors or administrators for tax on the profits or gains of a trade, profession or vocation<sup>159</sup>**

In the case of the death of a person who, if he or she had not died, would have been chargeable to income tax for any year under Articles 64A to 64E, the tax which would have been so chargeable –

- (a) shall be assessed and charged on the person's executors or administrators; and
- (b) shall be a debt due from and payable out of the person's estate.

**64H Deduction from profits or gains of trade or profession for premiums payable<sup>160</sup>**

- (1) Where any land in Jersey is occupied for the purposes of any trade or profession, a deduction shall be allowed, in calculating the full amount of the balance of the profits or gains arising from that trade or profession, for any premium paid in consideration of the grant of a lease or sub-lease, or for the assignment of a lease, of that land to the extent that the premium has been charged to tax under Schedule A of this Law.
- (2) In this Article "land" and "premium" have the same meanings as in Part 8.

**65 General provisions as to period of computation for offices, employments and pensions<sup>161</sup>**

- (1) Subject to the provisions of Articles 66, 67 and 68, tax shall be charged under Case II of Schedule D –
- (b) in the case of an office or employment, on the full amount of the emoluments of the office or employment received in the year of assessment;
- (c) in the case of a pension, on the full amount of the emoluments of the pension arising in the year of assessment.<sup>162</sup>
- (1A) Paragraph (1) applies, in the case described in sub-paragraph (b) thereof –
- (a) whether the emoluments are for the year in which they are received or for some other year of assessment;
- (b) whether or not the office or employment is held at the time the emoluments are received.<sup>163</sup>
- (1B) Where paragraph (1) applies in the case described in sub-paragraph (b) thereof, in the case of emoluments received after the death of the person

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who held the office or employment concerned, tax charged on the emoluments –

- (a) shall be assessed and charged on the deceased's heirs, executors or administrators; and
- (b) shall be a debt due from and payable out of the deceased's estate.<sup>164</sup>

**65A Meaning of receipt of emolument<sup>165</sup>**

- (1) For the purposes of Article 65(1), in the case described in sub-paragraph (b) thereof, emoluments which take the form of a benefit not consisting of money shall be treated as received at the time when the benefit is provided.
- (2) For the purposes of Article 65(1), in the case described in sub-paragraph (b) thereof, emoluments to which paragraph (1) of this Article does not apply shall be treated as received at the time found in accordance with the following rules (taking the earlier or earliest time in a case where more than one rule applies) –
  - (a) the time when payment is made of or on account of the emoluments;
  - (b) the time when a person becomes entitled to payment of or on account of the emoluments;
  - (c) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and sums on account of the emoluments are credited in the company's accounts or records, the time when sums on account of the emoluments are so credited;
  - (d) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and the amount of the emoluments for a period is determined before the period ends, the time when the period ends;
  - (e) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and the amount of the emoluments for a period is not known until the amount is determined after the period has ended, the time when the amount is determined.
- (3) Paragraph (2)(c), (d) or (e) applies whether or not the office or employment concerned is that of director.
- (4) Paragraph (2)(c), (d) or (e) applies if the holder of the office or employment is a director of the company at any time in the year of assessment in which the time mentioned in the sub-paragraph concerned falls.
- (5) For the purposes of the rule in paragraph (2)(c), any fetter on the right to draw the sums shall be disregarded.
- (6) In paragraph (2), "director" means –

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
  - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and
  - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company.
- (7) In paragraph (2), “director”, in relation to a company, also includes any person in accordance with whose directions or instructions the company’s directors (as defined in paragraph (6)) are accustomed to act and, for this purpose, a person is not to be deemed to be a person in accordance with whose directions or instructions the company’s directors are accustomed to act by reason only that the directors act on advice given by the person in a professional capacity.
- (8) In this Article, “company” means any body corporate or unincorporated association but does not include a partnership.

**65B Emoluments: benefits in kind<sup>166</sup>**

- (1) In this Article and in Schedules 2 and 3 –
- “benefit” means so much of any emoluments as consists of a benefit (other than salaries, fees, wages, perquisites, profits or gains) –
- (a) derived by the office holder or employee or by a member of that person’s family or household from that office or employment or from its commencement or termination or in consequence of a change in its terms; and
  - (b) provided by the office holder’s or employee’s employer;
- “employer” includes any person connected with the employer.
- (2) In assessing the emoluments of an office or employment for the purposes of Article 65 there shall be left out of account –
- (a) any benefit disclaimed by the office holder or employee, whether for his or her own use or the use of a member of that person’s family or household; and
  - (b) any benefit, or amount attributable to any benefit, specified in Schedule 2.
- (3) An office holder or employee shall be entitled, in any year of assessment, to a deduction in respect of the first £1,000 of the aggregate amount of benefits assessed for the purposes of Article 65.
- (4) Subject to paragraph (5) –
- (a) where the benefit consists of a transfer of ownership of property, the amount attributable to the benefit shall be the open market value of the property at the time of the transfer;
  - (b) where the benefit consists of the payment or discharge of any pecuniary liability of the office holder or employee or of a member of that person’s family or household, the amount attributable to the benefit shall be the amount paid by the employer; and

- (c) where the benefit consists of the provision of property for use, without transfer of ownership, the amount attributable to the benefit shall be determined in accordance with Schedule 3.<sup>167</sup>
- (5) There shall be deducted from the amount attributable to any benefit any sums paid by the office holder or employee in respect of the benefit.
- (7) The Minister may, by Order, amend Schedules 2 and 3.

**66** <sup>168</sup>

**67** <sup>169</sup>

**68** <sup>170</sup>

**69** <sup>171</sup>

**69A Restriction on deduction for emoluments of office or employment<sup>172</sup>**

- (1) Where –
  - (a) any emoluments arising from an office or employment would, apart from this Article, be deducted in computing the amount of the profits or gains of a period ending on or after 1st January 2001 on which tax shall be charged for a year of assessment; and
  - (b) the emoluments are not paid before the end of the period of 12 months beginning with the end of that period,the Comptroller, if he or she is of the opinion that the main purpose of deferral of payment of the emoluments is the avoidance or reduction of the liability of any person to income tax, may refuse to allow their deduction for that period.
- (2) In this Article the time when emoluments are paid shall be determined in accordance with Article 65A as if “paid” were substituted for “received” throughout that Article.<sup>173</sup>

**70 General rules as to deductions not allowable**

Subject to the provisions of this Law, in computing the amount of the profits or gains to be charged, no sum shall be deducted in respect of –

- (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade, profession, employment or vocation;
- (b) any disbursements or expenses of maintenance of the parties, their families or establishments, or any sums expended for any other domestic or private purposes distinct from the purposes of such trade, profession, employment or vocation;

- (c) the rent assessed and charged under Schedule A pursuant to Article 51(1)(a) of any dwelling-house or domestic offices or any part thereof, except such part as is used for the purposes of the trade or profession:

Provided that where any such part is so used, the sum so deducted shall not exceed 2/3 of the said rent bona fide paid for the said dwelling-house or offices, unless in any case the Comptroller is of the opinion that having regard to all the circumstances, some greater sum ought to be deducted;

- (d) any sum expended for repairs of premises occupied, or for the supply, repairs or alterations of any implements, utensils or articles employed for the purposes of the trade, profession, employment or vocation, beyond the sum actually expended for those purposes;
- (e) any loss not connected with or arising out of the trade, profession, employment or vocation;
- (f) any capital withdrawn from, or any sum employed or intended to be employed as capital in such trade, profession, employment or vocation;
- (g) any capital employed in improvements of premises occupied for the purposes of the trade, profession, employment or vocation;
- (h) any interest which might have been made if any such sums as aforesaid had been laid out at interest;
- (i) any debts, except bad debts proved to be such to the satisfaction of the Comptroller or the Commissioners, and doubtful debts to the extent that they are respectively estimated to be bad, and, in the case of the bankruptcy or insolvency of a debtor, the amount which may reasonably be expected to be received on any such debts shall be deemed to be the value thereof;
- (j) any average loss beyond the actual amount of loss after adjustment;
- (k) any sum recoverable under an insurance or contract of indemnity;
- (l) any annual interest, or any annuity or other annual payment payable out of the profits or gains;
- (m) any royalty or other sum paid in respect of the user of a patent.<sup>174</sup>

#### **70A Deduction on account of Social Security contributions<sup>175</sup>**

- (1) Notwithstanding anything in Article 70, in computing the profits or gains to be charged in respect of a trade or profession under Schedule D there shall be allowed to be deducted as expenses in any year an amount equal to the relevant percentage of the Class 2 contributions which the individual or, in the case of a trade or profession carried on in partnership, the individuals carrying on the trade or profession are liable to pay in that year under the Social Security (Jersey) Law 1974,<sup>176</sup> as Class 2 insured persons.<sup>177</sup>

(1A) In paragraph (1), “the relevant percentage” means –

- (a) in relation to the year 1999, 54.5%;
- (b) in relation to the year 2000, 53.5%;

- (c) in relation to the year 2001, 52.5%; and
  - (d) in relation to the year 2002 and ensuing years, 52%.<sup>178</sup>
- (2) In this Article, “Class 2 contributions” and “Class 2 insured persons” have the same meanings as in the Social Security (Jersey) Law 1974.

**70B Deduction on account of a levy paid to the Jersey Bank Depositors Compensation Board<sup>179</sup>**

Notwithstanding Article 70, in computing the profits or gains to be charged in respect of a trade or profession under Schedule D there shall be allowed to be deducted by a bank as expenses in any year an amount equal to any levy paid by the bank in that year to the Jersey Bank Depositors Compensation Board established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009<sup>180</sup>.

**74 Partnership statements and assessments**

- (1) Where a trade or profession is carried on by 2 or more persons jointly, the tax in respect thereof shall be computed and stated jointly and in one sum, and shall be separate and distinct from any other tax chargeable on those persons or any of them, and a joint assessment shall be made in the partnership name.
- (2) The precedent partner, that is to say, the partner who, being resident in Jersey –
- (a) is first named in the agreement of partnership;
  - (b) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm; or
  - (c) is the precedent acting partner, if the person named with precedence is not an acting partner,

shall make and deliver a statement of the profits or gains of such trade or profession, on behalf of himself or herself and the other partners, and declare therein the names and residences of the other partners, under the penalty prescribed by this Law for default in delivering a statement.

- (3) Where no partner is resident in Jersey, the statement shall be made and delivered by the agent, manager or representative of the firm resident in Jersey.
- (4) Any other partner may, if a statement has been delivered as aforesaid, notify the fact that he or she is a partner, together with the partner’s name and place of abode, without returning the amount of tax payable in respect of the partnership, but every partner may be required to make a like statement and supply the like information and evidence, as required from the precedent partner.

**75 Changes of proprietor**

- (1) If a change occurs in a partnership of persons engaged in any trade, profession or vocation, by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who until that time were engaged in the trade, profession or vocation continue to be engaged therein, or a person who until that time was engaged in any trade, profession or vocation on his or her own account continues to be engaged in it, but as a partner in a partnership, the income tax payable by the person or persons who carry on the trade, profession or vocation after that time shall, notwithstanding the change, be computed according to the profits or gains of the trade, profession or vocation during the period prescribed by this Law:

Provided that, where all the persons who were engaged in the trade, profession or vocation both immediately before and immediately after the change require, by notice signed by all of them or, in the case of a deceased person by his or her legal representatives, and sent to the Comptroller within 2 years after the change took place, that the tax payable for all years of assessment shall be computed as if the trade, profession or vocation had been discontinued at the date of the change, and a new trade, profession or vocation had been then set up or commenced, and that the tax so computed for any year shall be charged on and paid by such of them as would have been charged if such discontinuance and setting up or commencement had actually taken place, the tax shall be computed, charged, collected and paid accordingly.<sup>181</sup>

- (2) If at any time any person succeeds to any trade, profession or vocation which until that time was carried on by another person and the case is not one to which paragraph (1) applies, the income tax payable for all years of assessment by the person succeeding as aforesaid shall be computed as if he or she had set up or commenced the trade, profession or vocation at that time, and the tax payable for all years of assessment by the person who until that time carried on the trade, profession or vocation shall be computed as if it had then been discontinued.

In this paragraph, references to a person include references to a partnership.<sup>182</sup>

- (3) In the case of the death of a person who, if he or she had not died, would under the provisions of this Article have become chargeable to income tax for any year, the income tax which would have been so chargeable shall be assessed and charged on his or her executors or administrators and shall be a debt from and payable out of his or her estate.

**76 Partnerships controlled abroad**

- (1) Where any trade or business is carried on by 2 or more persons in partnership, and the control and management of such trade or business is situate abroad, the trade or business shall be deemed to be carried on by persons resident outside Jersey, and the said partnership shall be deemed to reside outside Jersey, notwithstanding the fact that some of the

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members of the said partnership are resident in Jersey and that some of the trading operations of the said partnership are conducted within Jersey.

- (2) Where any part of the trade or business of a partnership firm whose management and control is situate abroad consists of trading operations within Jersey, the said firm shall be chargeable in respect of the profits of such trading operations within Jersey to the same extent as, and no further than, a person resident abroad is chargeable in respect of trading operations by the person within Jersey, notwithstanding the fact that one or more of the members of the said firm are resident in Jersey:

Provided that, for the purpose of charging any such firm in respect of the profits of the said trading operations within Jersey, an assessment may be made on the said firm in respect of the said profits in the name of any partner resident in Jersey.

#### **76A Limited partnerships<sup>183</sup>**

- (1) Subject to the provisions of this Article, the provisions of this Law apply to the profits or gains of a partner in a limited partnership.
- (2) Paragraph (1) shall not apply to the profits or gains derived from international activities of a partner in a limited partnership who is not resident in Jersey.
- (3) Articles 74 and 76 shall not apply to a partner in a limited partnership.
- (4) Articles 86 and 87 shall not apply in a case where the general partner of a limited partnership responsible for making the annual payment referred to in those Articles is not resident in Jersey.<sup>184</sup>
- (5) Where a partner in a limited partnership is resident in Jersey, or is non-resident in Jersey and entitled to profits or gains not excluded from charge by paragraph (2), the general partner or, if there is more than one general partner, the general partner who is first named in the partnership agreement shall, when required to do so by any general notice or by notice served on the general partner by the Comptroller, prepare and deliver a statement of those profits or gains arising to the said partners from the activities of the limited partnership.

- (6) In this Article –

“general partner” means a person who is so named in, or is identifiable through, the partnership agreement and if more than one shall mean each general partner;

“limited partner” means a person who is so named in, or is identifiable through, the partnership agreement and if more than one shall mean each limited partner;

“limited partnership” means a partnership consisting of one or more persons who are general partners and one or more persons who are limited partners;

“partner” means a limited partner or a general partner;

“partnership agreement” means any agreement in writing of the partners as to the affairs of a limited partnership and the rights and obligations of the partners among themselves;

“profits or gains” does not include profits or gains of a capital nature.<sup>185</sup>

### **76B Incorporated limited partnerships<sup>186</sup>**

- (1) For the purposes of this Law, a trade, profession, business or vocation carried on by an incorporated limited partnership with a view to profit or gain shall be treated as carried on in partnership by its partners, and not by the incorporated limited partnership as such.
- (2) Accordingly, the property of the incorporated limited partnership shall be treated for those purposes as partnership property of the partners, and not as property of the incorporated limited partnership.
- (3) Subject to the provisions of this Article, the provisions of this Law apply to the profits or gains of a partner in an incorporated limited partnership.
- (4) Paragraph (3) shall not apply to the profits or gains derived from international activities of a partner in an incorporated limited partnership who is not resident in Jersey.
- (5) Articles 74 and 76 shall not apply to a partner in an incorporated limited partnership.
- (6) Articles 86 and 87 shall not apply in a case where the general partner of an incorporated limited partnership responsible for making the annual payment referred to in those Articles is not resident in Jersey.<sup>187</sup>
- (7) Where a partner in an incorporated limited partnership is resident in Jersey, or is non-resident in Jersey and entitled to profits or gains not excluded from charge by paragraph (4), the general partner or, if there is more than one general partner, the general partner who is first named in the partnership agreement shall, when required to do so by any general notice or by notice served on the general partner by the Comptroller, prepare and deliver a statement of those profits or gains arising to the said partners from the activities of the incorporated limited partnership.
- (8) In this Article –  
“incorporated limited partnership”, “general partner”, “limited partner”, “partner” and “partnership agreement” have the same meanings as they have in the Incorporated Limited Partnerships (Jersey) Law 2011<sup>188</sup>;  
“profits or gains” does not include profits or gains of a capital nature.<sup>189</sup>

### **76C Separate limited partnerships<sup>190</sup>**

- (1) For the purposes of this Law, a trade, profession, business or vocation carried on by a separate limited partnership with a view to profit or gain shall be treated as carried on in partnership by its partners, and not by the separate limited partnership as such.

- (2) Accordingly, the property of the separate limited partnership shall be treated for those purposes as partnership property of the partners, and not as property of the separate limited partnership.
- (3) Subject to the provisions of this Article, the provisions of this Law apply to the profits or gains of a partner in a separate limited partnership.
- (4) Paragraph (3) shall not apply to the profits or gains derived from international activities of a partner in a separate limited partnership who is not resident in Jersey.
- (5) Articles 74 and 76 shall not apply to a partner in a separate limited partnership.
- (6) Articles 86 and 87 shall not apply in a case where the general partner of a separate limited partnership responsible for making the annual payment referred to in those Articles is not resident in Jersey.<sup>191</sup>
- (7) Where a partner in a separate limited partnership is resident in Jersey, or is non-resident in Jersey and entitled to profits or gains not excluded from charge by paragraph (4), the general partner or, if there is more than one general partner, the general partner who is first named in the partnership agreement shall, when required to do so by any general notice or by notice served on the general partner by the Comptroller, prepare and deliver a statement of those profits or gains arising to the said partners from the activities of the separate limited partnership.
- (8) In this Article –  
“separate limited partnership”, “general partner”, “limited partner”, “partner” and “partnership agreement” have the same meanings as they have in the Separate Limited Partnerships (Jersey) Law 2011<sup>192</sup>;  
“profits or gains” does not include profits or gains of a capital nature.<sup>193</sup>

*Case II*

**77 Fees and subscriptions to professional bodies, learned societies, etc.**

- (1) Subject to the following provisions of this Article, any annual fee or subscription paid to a body of persons approved for the purposes of this Article by the Comptroller may be deducted from the emoluments of any office or employment assessed to tax, if defrayed out of those emoluments.
- (2) The Comptroller may, on the application of the body, approve for the purposes of this Article any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects, that is to say –
  - (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions);

- (b) the maintenance or improvement of standards of conduct and competence among the members of any profession;
  - (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.
- (3) If the activities of a body approved for the purposes of this Article are to a significant extent directed to objects other than those mentioned in paragraph (2), the Comptroller may determine that such specified part only of any annual subscription paid to the body may be deducted under this Article as corresponds to the extent to which its activities are directed to objects mentioned in that paragraph; and in doing so the Comptroller shall have regard to all relevant circumstances and, in particular, to the proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.
- (4) A fee or subscription shall not be deducted under this Article from the emoluments of any office or employment unless –
  - (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) or certificate which is a condition or one of alternative conditions of the performance of the duties of the office or employment;
  - (b) the subscription is paid to a body the activities of which, so far as they are directed to the objects mentioned in paragraph (2), are relevant to the office or employment, that is to say, the performance of the duties of the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.
- (5) Any approval given and any determination made under this Article may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this Article, in pursuance of an application made before the end of any year of assessment, a deduction may be made under this Article in respect of a subscription paid to the body in that year, whether the approval is given before or after the end of that year.
- (6) Any body aggrieved by the failure of the Comptroller to approve the body for the purposes of this Article, or by the Comptroller's withdrawal of the approval, or by any determination made by the Comptroller under this Article or the variation of or a refusal to withdraw or vary such a determination, may, by notice in writing given to the Comptroller within 21 days from the date on which the body is notified of the Comptroller's decision, make application to have its claim heard and determined by the Commissioners, who shall hear and determine the claim in like manner as an appeal made to them against an assessment under Schedule D, and the provisions of this Law relating to such an appeal (including the provisions relating to appeals to the Royal Court) shall apply accordingly with the necessary modifications.

*Case III***78 Basis of computation under Case III**

- (1) Subject to the provisions of this Article, tax under Case III of Schedule D shall be computed on the full amount of the profits or income arising in the year of assessment.
- (2) Save as otherwise provided in this Law, all profits or income in respect of which any person is chargeable under Case III of Schedule D may be assessed and charged in one sum.

**79 Pensions chargeable under Case III**

- (2) Tax shall be computed on the full amount of a pension subject to the deduction of any income tax which has been paid in respect of the pension in the place where it has arisen.<sup>194</sup>

*Cases IV and V***80 Basis of computation under Cases IV and V**

- (1) Subject to the provisions of this Article, tax under Case IV or Case V of Schedule D shall be computed on the full amount of the income arising in the year of assessment whether the income has been or will be received in Jersey or not, subject, in the case of income not received in Jersey –
  - (a) to the same deductions and allowances as if it had been so received;
  - (b) to the deduction, where such a deduction cannot be made under, and is not forbidden by, any other provision of this Law, of any sum which has been paid in respect of income tax in the place where the income has arisen;
  - (c) to a deduction on account of any annual interest or any annuity or other annual payment payable out of the income to a person not resident in Jersey; and
  - (d) to a deduction in the case of income arising from a profession, office, employment or vocation of any sums, not being of a capital nature, necessarily expended for the purpose of earning the income, including any sums so expended in maintaining a place of residence in the place where the income arises,

and the provisions of this Law (including those relating to the delivery of statements) shall apply accordingly.<sup>195</sup>

- (1A) In the case of income from an office or employment, tax under Case V of Schedule D shall be computed on the full amount of the income received in the year of assessment.<sup>196</sup>

- (1B) Article 65(1A) and (1B) and Article 65A shall apply for the purposes of paragraph (1A) as if references in them to emoluments were references to income.<sup>197</sup>
- (2) Paragraph (1) shall not apply to any person who satisfies the Comptroller that he or she is not ordinarily resident in Jersey.<sup>198</sup>
- (3) In the case mentioned in paragraph (2), the tax shall be computed –
- (a) in the case of tax chargeable under Case IV, on the full amount, so far as the same can be computed, of the sums received in Jersey in the year of assessment, without any deduction or abatement;
  - (b) in the case of tax chargeable under Case V, on the full amount of the actual sums received in Jersey in the year of assessment from remittances payable in Jersey, or from property imported, or from money or value arising from property not imported, or from money or value so received on credit or on account in respect of any such remittances, property, money or value brought or to be brought into Jersey, without any deduction or abatement other than is allowed, under the provisions of this Law, in respect of profits or gains charged under Case I of Schedule D.<sup>199</sup>
- (4) Any person who is aggrieved by the decision of the Comptroller on any question as to ordinary residence arising under paragraph (2) may, by notice in writing to that effect given to the Comptroller within 3 months from the date on which notice of the decision is given to the person, make an application to have his or her claim heard and determined by the Commissioners.
- (5) Where any application is made under paragraph (4), the Commissioners shall hear and determine the claim in like manner as an appeal made to them against an assessment under Schedule D, and all the provisions of this Law relating to such an appeal (including the provisions relating to appeals to the Royal Court) shall apply accordingly with any necessary modifications.
- (6) All income in respect of which a person is chargeable under Case IV or Case V of Schedule D may respectively be assessed and charged in one sum.

*Cases VI and VII<sup>200</sup>*

**81 Basis of computation under Cases VI and VII**

- (1) Save as provided by Articles 86(2)(e) and 131G(5), tax under Case VI or Case VII of Schedule D shall be computed on the full amount of the profits or gains arising in the year of assessment.<sup>201</sup>
- (2) The nature of the profits or gains, and the basis on which the amount thereof has been computed, shall be stated to the Comptroller.
- (3) Every such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of or entitled to the profits or gains.

**81A Transactions in certificates of deposit<sup>202</sup>**

- (1) Where a person acquires the right to receive the amount (with or without interest) stated in a certificate of deposit issued to the person or any other person, any profits or gains arising to him or her from the disposal of that right or, except so far as it is a right to receive interest, from its exercise shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to tax under Case VI of Schedule D.
- (2) Where a person sustains a loss in a transaction which, if a profit had arisen from it, would be chargeable to tax by virtue of paragraph (1) of this Article, then, if he or she is chargeable to tax under Schedule D in respect of the interest payable on the amount stated in the certificate of deposit concerned, in computing the amount of interest chargeable to tax the amount of the person's loss shall be deducted from the interest and, if tax has been overpaid, he or she shall be entitled to repayment of the amount overpaid.
- (3) In this Article, "certificate of deposit" means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognizes an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable.

*Case VIII<sup>203</sup>***81B Interpretation of Articles 81B to 81N<sup>204</sup>**

- (1) In Articles 81B to 81N –  
"Jersey financial services company" means a company to which Article 123D applies;  
"Jersey trading company" means a company to which Article 123C applies and which is not –
  - (a) a company subject to full attribution; or
  - (b) a collective investment fund;"registered person" means a company which is a registered person within the meaning of Article 118C, such person being exempt from income tax under Article 118C(9), and which is not –
  - (a) a company subject to full attribution; or
  - (b) a collective investment fund;"relevant dividend" means, in relation to the relevant profits of a financial period of a company, so much of any dividend as is paid or issued out of those profits, in respect of a share comprised in the ordinary share capital of the company, on or before –
  - (a) if the last day of the following financial period is 31st December, that day; or

- (b) in any other case, 31st December next after the end of the following financial period,

but, in either case, no later than 31st December 2011;

“relevant financial period” means a financial period –

- (a) for which a company does not pay or issue any relevant dividends out of its relevant profits; or
- (b) for which a company pays or issues relevant dividends out of its relevant profits where the relevant dividends have an aggregate value which is less than those profits;

“relevant profits” means –

- (a) in relation to a financial period of a Jersey trading company, the balance of the income, profits and gains on which the company is charged under Schedule D at the rate of 0% after –
- (i) the making of any deduction or the giving of any allowance or relief to which the company is entitled under this Law,
- (ii) the deduction of any amount paid, before the last day of the following financial period, out of such income, profits and gains as a dividend on preference shares in the company;
- (b) in relation to a financial period of a Jersey financial services company, the balance of the income, profits and gains on which the company is charged under Schedule D at the rate of 10% after –
- (i) the making of any deduction or the giving of any allowance or relief to which the company is entitled under this Law,
- (ii) the deduction of any amount paid, before the last day of the following financial period, out of such income, profits and gains as a dividend on preference shares in the company;
- (c) in relation to the financial period of a registered person, the balance of income, profits and gains on which the registered person would be charged under Schedule D at the rate of 0% if the registered person were not a registered person after –
- (i) the making of any deduction or the giving of any allowance or relief to which the registered person would be entitled under this Law if the person were not a registered person, and
- (ii) the deduction of any amount paid, before the last day of the following financial period, out of such income, profits and gains as a dividend on preference shares in the registered person.<sup>205</sup>
- (2) The Minister may, by Order, amend the definitions “Jersey financial services company” and “Jersey trading company” in paragraph (1).

### **81C Basis of computation under Case VIII<sup>206</sup>**

Tax under Case VIII of Schedule D shall be computed –

- (a) on the full amount of any dividend deemed to have been paid in the year of assessment in accordance with Article 81D or 81G;

- (d) on the full amount attributable, in the year of assessment, to a shareholder loan, in accordance with Article 81O.

**81CA Limitation of liability to taxation of deemed dividends from 2012<sup>207</sup>**

- (1) Notwithstanding Article 81C(a), an individual shall not be liable to taxation under Articles 81D, 81E and 81F or under Article 81G in respect of relevant profits accruing to a company on or after 1st January 2012.
- (2) Notwithstanding Articles 81C(a), 81D(3)(b) and 81F, a final deemed dividend shall not be deemed to have been paid by reason of the occurrence of an event described in any of sub-paragraphs (a) to (e) of Article 81F, if the event occurs on or after 1st January 2012.
- (3) Notwithstanding Articles 81C(a) and 81G, an individual shall not be deemed to have received a dividend out of the relevant profits of a Jersey financial services company by reason of the occurrence of an event described in any of sub-paragraphs (a) to (e) of paragraph (3) of that Article, if the event occurs on or after 1st January 2012.

**81CB Modification of liability to taxation of deemed dividends on profits arising in 2011<sup>208</sup>**

- (1) Paragraph (2) applies in the case of a company –
- (a) in respect of which an individual may be liable to taxation under Articles 81D, 81E and 81F or under Article 81G; and
- (b) which does not have a financial period ending on 31st December 2011.
- (2) Articles 81D, 81E, 81F and 81G shall apply –
- (a) in the case of a company that, on 31st December 2011, has not completed its first financial period, as if the period beginning on the day the company is incorporated and ending on the 31st December 2011 were the first financial period of the company;
- (b) in the case of any other company that does not have a financial period ending on 31st December 2011, as if the period –
- (i) beginning on the day following the end of the last financial period of the company preceding 31st December 2011, and
- (ii) ending on 31st December 2011,
- were a financial period of the company.
- (3) Where –
- (a) an individual is deemed to receive an interim deemed dividend out of the relevant profits of a company for the company's actual or deemed financial period ending on 31st December 2011; and
- (b) apart from this paragraph, the last day of the following financial period of the company would fall after 31st December 2012,

Article 81E shall apply as if the last day of the following financial period of the company were the 31st December 2012.

- (4) In this Article ‘first financial period’, in relation to a company, means the financial period beginning on the day the company is incorporated.

**81D Deemed dividends: Jersey trading companies and registered persons<sup>209</sup>**

- (1) This Article applies to an individual resident in Jersey who, at any time during a relevant financial period of a Jersey trading company or a registered person, owns more than 2% of the ordinary share capital of that company.<sup>210</sup>
- (2) The individual shall be deemed to receive a dividend out of the relevant profits of the relevant financial period.
- (3) The dividend shall be deemed to be received by the individual –
- (a) as an interim dividend and a final dividend, in accordance with Articles 81E and 81F, where the relevant dividends paid or issued out of the company’s relevant profits for the relevant financial period have an aggregate value which is less than the prescribed percentage of those profits;
  - (b) as a final dividend, in accordance with Article 81F, in any other case.
- (4) The States may by Regulations –
- (a) amend the percentage mentioned in paragraph (1);
  - (b) prescribe a percentage for the purposes of paragraph (3)(a).

**81E Deemed interim dividend<sup>211</sup>**

- (1) Subject to paragraphs (4) and (5), an interim dividend in respect of a relevant financial period shall be deemed to be received by an individual to whom Article 81D applies on the last day of the following financial period.
- (2) The amount of the interim dividend which is attributable to a share comprised in the ordinary share capital of a Jersey trading company or a registered person shall be the product of the following formula –

$$\frac{A - B}{C}$$

Where –

A is the amount equal to the percentage, prescribed for the purposes of Article 81D(3)(a), of the relevant profits for the relevant financial period

B is the aggregate amount of the relevant dividends paid or issued out of the relevant profits

C is the number of shares comprising the ordinary share capital of the company during the relevant financial period.<sup>212</sup>

- (3) The amount of the interim dividend that an individual to whom Article 81D applies is deemed to receive shall be the product of the following formula –

$$\frac{E}{F} \times G \times H$$

Where –

E is the number of days in the relevant financial period for which the individual owned more than the percentage mentioned in Article 81D(1) of the ordinary share capital of the company

F is the number of days in the relevant financial period

G is the number of shares comprised in the ordinary share capital of the company which are owned by the individual during the period determined in accordance with E

H is the amount of the interim dividend attributable to a share comprised in the ordinary share capital of the company, determined under paragraph (2).

- (4) Where the winding up of a company commences before the day that the interim dividend would be deemed to be received by an individual by virtue of paragraph (1), the interim dividend shall instead be deemed to be received by the individual on 31st December 2012 or, if earlier, the completion of the winding up of the company.<sup>213</sup>
- (5) Where an individual to whom Article 81D applies shall cease to be resident in Jersey before the day that an interim dividend would be deemed to be received by him or her by virtue of paragraph (1), and Article 126 does not apply in his or her case, the interim dividend shall instead be deemed to be received by the individual on the day before the day he or she ceases to be so resident.

#### **81F Deemed final dividend<sup>214</sup>**

- (1) A final dividend in respect of a relevant financial period shall be deemed to be paid to an individual to whom Article 81D applies on whichever is the earliest of –
- (a) the individual disposing of any shares comprised in the ordinary share capital of the Jersey trading company or a registered person (whether or not the individual continues to own other shares comprised in the ordinary share capital of that company);
  - (b) the completion of the winding up of the Jersey trading company or a registered person;
  - (c) the individual's death;
  - (d) 31st December in a year of assessment where, for the following year of assessment, the Jersey trading company or a registered person in which the shares are or were owned by the individual becomes, for the purposes of this Law, a company subject to full attribution;

- (e) the day before the day the individual ceases to be resident in Jersey, unless Article 126 applies in his or her case.<sup>215</sup>
- (2) For the purposes of paragraph (1)(a), it shall be immaterial whether or not the change of ownership of the shares is effected by a change in the registered shareholder.
- (3) Subject to paragraph (4), the amount of the final dividend which is attributable to a share comprised in the ordinary share capital of the company shall be the product of the following formula –

$$\frac{A - B}{C}$$

Where –

A is the relevant profits for the relevant financial period

B is the aggregate amount of the relevant dividends paid out of the relevant profits

C is the number of shares comprising the ordinary share capital of the company during the relevant financial period.

- (4) Where, pursuant to Articles 81D(3)(a) and 81E an interim dividend has been deemed to have been received by an individual in respect a relevant financial period, the amount of that dividend, determined in accordance with Article 81E(2) shall be deducted from the product of the formula in paragraph (3).
- (5) The amount of the final dividend that an individual to whom Article 81D applies is deemed to receive shall be the product of the following formula –

$$\frac{E}{F} \times G \times H$$

Where –

E is the number of days in the relevant financial period for which the individual owned –

more than the percentage mentioned in Article 81D(1) of the ordinary share capital of the company where the individual disposed of no shares during that period, or

subject to paragraph (6), the shares disposed of where the individual disposed of any shares during that period,

F is the number of days in the relevant financial period

G is the number of shares comprised in the ordinary share capital of the company owned by the individual during the period determined in accordance with E

H is the amount of the final dividend attributable to a share comprised in the ordinary share capital of the company, determined in accordance with paragraphs (3) and (4).<sup>216</sup>

- (6) Where the individual has made more than one disposal during the relevant financial period a final dividend shall be deemed to be paid each time the individual makes a disposal, provided that no account shall be

taken of any period during which the individual owned less than the percentage mentioned in Article 81D(1) of the ordinary share capital of the company.<sup>217</sup>

**81FA Election on disposal of whole of shareholding: Jersey trading companies<sup>218</sup>**

- (1) This Article applies where –
  - (a) the whole of the ordinary share capital of a Jersey trading company is disposed of; and
  - (b) the disposal occurs on a day other than the last day of a financial period of the company.
- (2) The person or persons disposing of the shares and the person or persons acquiring the shares may jointly elect, in writing, for Articles 81E and 81F to apply as if the portion of the financial period ending on the day of the disposal and the remainder of the financial period, were separate financial periods.
- (3) An election under paragraph (2) must be made no later than 90 days after the end of the financial period in which the disposal occurs.

**81FB Disposal of shareholding pursuant to court order: Jersey trading companies<sup>219</sup>**

- (1) This Article applies where –
  - (a) a court or tribunal orders the disposal of shares comprised in the ordinary share capital of a Jersey trading company by or to an individual to whom, whether immediately before or by virtue of the disposal, Article 81D applies; and
  - (b) the disposal occurs on a day other than the last day of a financial period.
- (2) The court or tribunal may order that Articles 81E and 81F shall apply as if an election had been made under Article 81FA(2).

**81G Deemed dividend: Jersey financial service companies<sup>220</sup>**

- (1) This Article applies to an individual resident in Jersey who, at any time during a relevant financial period of a Jersey financial services company, owns more than 2% of the ordinary share capital of the company.
- (2) The individual shall be deemed to receive a dividend out of the relevant profits of the relevant financial period.
- (3) The dividend that an individual is deemed to receive under paragraph (2) shall be deemed to be paid to the individual on whichever is the earliest of –
  - (a) the individual disposing of any shares comprised in the ordinary share capital of the Jersey financial services company (whether or not the individual continues to own other shares comprised in the ordinary share capital of that company);

- (b) the completion of the winding up of the Jersey financial services company;
  - (c) the individual's death;
  - (d) 31st December in a year of assessment where, for the following year of assessment, the Jersey financial services company becomes, for the purposes of this Law, a company subject to full attribution; or
  - (e) the day before the day the individual ceases to be resident in Jersey, unless Article 126 applies in his or her case.<sup>221</sup>
- (4) For the purposes of paragraph (3)(a), it shall be immaterial whether or not the change of ownership of the shares is effected by a change in the registered shareholder.
- (5) The amount of the dividend that is attributable to a share comprised in the ordinary share capital of the company shall be the product of the following formula –

$$\frac{A - B}{C}$$

Where –

A is the relevant profits for the relevant financial period

B is the aggregate amount of the relevant dividends paid or issued out of the relevant profits

C is the number of shares comprising the ordinary share capital of the company during the relevant financial period.

- (6) The amount of the dividend that an individual to whom this Article applies is deemed to receive shall be the product of the following formula –

$$\frac{E}{F} \times G \times D$$

Where –

E is the number of days in the relevant financial period for which the individual owned –

more than the percentage mentioned in paragraph (1) of the ordinary share capital of the company where the individual disposed of no shares during that period, or

subject to paragraph (6), the shares disposed of where the individual disposed of any shares during that period,

F is the number of days in the relevant financial period

G is the number of shares comprised in the ordinary share capital of the company owned by the individual during the period determined in accordance with E

D is the amount of the dividend attributable to a share comprised in the ordinary share capital of the company, determined in accordance with paragraph (5).<sup>222</sup>

- (6A) Where the individual has made more than one disposal during the relevant financial period a final dividend shall be deemed to be paid each time the individual makes a disposal, provided that no account shall be taken of any period during which the individual owned less than the percentage mentioned in paragraph (1) of the ordinary share capital of the company.<sup>223</sup>
- (7) Where an individual is deemed to receive a dividend pursuant to this Article, the amount of income tax chargeable in respect of the dividend shall be reduced by an amount equal to the product of the following formula –
- $$\frac{E}{F} \times \frac{T \times G}{C}$$
- Where –
- E, F and G have the same values as in paragraph (6)
- T is the amount of tax that the company is liable to pay under Schedule D on its relevant profits of the relevant financial period
- C is the number of shares comprising the ordinary share capital of the company during the relevant financial period.
- (8) The States may by Regulations amend the percentage in paragraph (1).

**81GA Election on disposal of whole of shareholding: Jersey financial services companies<sup>224</sup>**

- (1) This Article applies where –
- (a) the whole of the ordinary share capital of a Jersey financial services company is disposed of; and
  - (b) the disposal occurs on a day other than the last day of a financial period of the company.
- (2) The person or persons disposing of the shares and the person or persons acquiring the shares may jointly elect, in writing, for Article 81G to apply as if the portion of the financial period ending on the day of the disposal and the remainder of the financial period, were separate financial periods.
- (3) An election under paragraph (2) must be made no later than 90 days after the end of the financial period in which the disposal occurs.

**81GB Disposal of shareholding pursuant to court order: Jersey financial services companies<sup>225</sup>**

- (1) This Article applies where –
- (a) a court or tribunal orders the disposal of shares comprised in the ordinary share capital of a Jersey financial services company by or to an individual to whom, whether immediately before or by virtue of the disposal, Article 81G applies; and
  - (b) the disposal occurs on a day other than the last day of a financial period.

- (2) The court or tribunal may order that Article 81G shall apply as if an election had been made under Article 81GA(2).

**81H Deemed interim dividend: individual ceases to be share owner before deemed payment date<sup>226</sup>**

An individual shall be liable to be assessed and taxed on a deemed interim dividend notwithstanding that, before the date the interim dividend is deemed to be received by the individual, he or she ceases to be the owner of any of the shares in respect of which the liability arises.

**81I Deemed interim dividend: death of share owner<sup>227</sup>**

Where an individual deemed to receive an interim dividend pursuant to Articles 81D and 81E dies before the date the interim dividend is deemed to be paid, tax on the deemed interim dividend shall be assessed and charged on his or her heirs, executors or administrators and shall be a debt due from and payable out of the deceased's estate.

**81J Dividend deemed to be received on death of share owner<sup>228</sup>**

A dividend deemed to be received by an individual on his or her death pursuant to Article 81F or 81G shall be assessed and charged on his or her heirs, executors or administrators and shall be a debt due from and payable out of the deceased's estate.

**81K Deemed dividend: right to receive a deemed dividend statement from a Jersey trading company or a registered person<sup>229</sup>**

- (1) An individual who is deemed to receive a dividend from a Jersey trading company or a registered person pursuant to Article 81D in respect of a relevant financial period may, at any time after the end of the following financial period, apply in writing to the secretary of the company or other officer performing the duties of secretary, for a statement in writing –
- (a) showing –
    - (i) the relevant financial period,
    - (ii) the date the interim dividend is deemed to be received, pursuant to Article 81E(1),
    - (iii) the amount of the interim dividend deemed to be received, in respect of each share comprised in the ordinary share capital of the company, pursuant to Article 81E(2),
    - (iv) the amount of the final dividend deemed to be received, in respect of each share comprised in the ordinary share capital of the company, pursuant to Article 81F(3), in the event of any occurrence or on any day described in Article 81F(1); and
  - (b) containing such information regarding Articles 81D to 81F and 81H to 81J, Article 82B and this Article as the Comptroller requires.<sup>230</sup>

- (2) Where, at the time a statement is provided, the relevant profits of the company for the financial period have not been finally determined –
  - (a) the amounts to be determined for the purposes of paragraph (1)(a)(iii) and (iv) shall be based upon an estimate of those profits; and
  - (b) the amounts so determined shall be shown in the statement as an estimated amount.
- (3) The secretary of the company or other officer performing the duties of secretary shall provide a statement within 30 days of receiving an application under paragraph (1).
- (4) Where the company's relevant profits of the financial period are finally determined as an amount that differs from an estimate used for the purposes of paragraph (2), the secretary of the company or other officer performing the duties of secretary shall, no later than 90 days after the company's relevant profits of the financial period are finally determined, provide each person to whom a statement containing an estimated amount was provided, with a further statement showing the actual amounts required pursuant to paragraph (1)(a)(iii) and (iv).
- (5) If the secretary of the company or other officer performing the duties of secretary does not comply with paragraph (3) or (4), he or she shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**81L Deemed dividend: right to receive a deemed dividend statement from a Jersey financial services company<sup>231</sup>**

- (1) An individual who is deemed to receive a dividend pursuant to Article 81G in respect of a relevant financial period of a Jersey financial services company may, at any time after the end of the following financial period, apply in writing to the secretary of the company or other officer performing the duties of secretary for a statement in writing –
  - (a) showing –
    - (i) the relevant financial period,
    - (ii) the amount of the dividend deemed to be paid, in respect of each share comprised in the ordinary share capital of the company, pursuant to Article 81G(5), in the event of any occurrence or on any day described in Article 81G(3),
    - (iii) subject to paragraph (2), the amount of tax that the company is liable to pay under Schedule D on its relevant profits of the relevant financial period, that is attributable to each share comprised in the ordinary share capital of the company; and
  - (b) containing such information regarding Articles 81G, 81I and 81J, Article 82B and this Article as the Comptroller requires.
- (2) Where, at the time a statement is provided, the relevant profits of the company for the financial period have not been finally determined or the amount of tax that the company is liable to pay under Schedule D on those relevant profits has not been assessed –

- (a) the amount to be determined for the purposes of paragraph (1)(a)(ii) or (iii), as the case requires, shall be based upon an estimate of those profits or that liability; and
  - (b) the amount so determined shall be shown in the statement as an estimated amount.
- (3) The secretary of the company or other officer performing the duties of secretary shall provide a statement within 30 days of receiving an application under paragraph (1).
- (4) Where the company's relevant profits of the financial period are finally determined as, or its liability to tax under Schedule D on those relevant profits is assessed as, an amount that differs from an estimate used for the purposes of paragraph (2), the secretary of the company or other officer performing the duties of secretary shall, no later than 90 days after the company's relevant profits of the financial period are finally determined, or its liability to tax is assessed, as the case requires, provide each person to whom a statement containing an estimated amount was provided, with a further statement showing the actual amount required pursuant to paragraph (1)(a)(ii) or (iii), as the case requires.
- (5) If the secretary of the company or other officer performing the duties of secretary does not comply with paragraph (3) or (4), he or she shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**81M Effect of change of status of company during financial period<sup>232</sup>**

- (1) This Article applies where –
  - (a) in the case of interim dividends and final dividends deemed to be received by an individual in respect of a financial period pursuant to Article 81D, a company is a Jersey trading company or a registered person for part only of that financial period;
  - (b) in the case of dividends deemed to be received by an individual in respect of a financial period pursuant to Article 81G, a company is a Jersey financial services company for part only of that financial period.<sup>233</sup>
- (2) Where this Article applies, for the purposes of Articles 81D and 81G –
  - (a) there shall be disregarded, in determining any period, any day or days for which the company is not a Jersey trading company or a registered person or, as the case requires, a Jersey financial services company;
  - (b) there shall be taken into consideration only such portion of the relevant profits of the financial period or such portion of the relevant dividends paid or issued out of those profits as equates to the portion of the financial period for which the company is a Jersey trading company or a registered person or, as the case requires, a Jersey financial services company.<sup>234</sup>

**81N Credit for tax on deemed dividend<sup>235</sup>**

- (1) This Article applies where –

- (a) pursuant to Article 81D or 81G, a dividend is deemed to be received by an individual out of the relevant profits of a company for a relevant financial period; and
  - (b) a dividend that is not a relevant dividend is paid or issued out of those profits, in respect of a share comprised in the ordinary share capital of the company.<sup>236</sup>
- (2) Where this Article applies an individual who has paid tax on a deemed dividend described in paragraph (1)(a) shall be entitled to a credit, in an amount equal to the amount of tax paid, against his or her liability to tax on any dividend described in paragraph (1)(b).

**81O Shareholder loans<sup>237</sup>**

- (1) A shareholder loan is a loan –
- (a) to an individual resident in Jersey who owns shares in a company to which Article 123C or 123D applies (referred to in this Article as “the borrower”) or to a member of that individual’s family or household;
  - (b) made, paid by or derived from that company –
    - (i) where the company is a company described in subparagraph (a) from the day of its incorporation, on or after that day,
    - (ii) where the company becomes a company described in subparagraph (a) in a year of assessment, on or after the first day of that year.<sup>238</sup>
- (2) For the purposes of paragraph (1), the cases in which a company is to be regarded as making a loan to an individual shall include a case where –
- (a) that individual incurs a debt from the company; or
  - (b) a debt due from that individual to a third person is assigned to the company.
- (3) For the purposes of paragraph (1), a loan is derived from a company to a borrower or to member of his or her family or household where –
- (a) the company makes a loan or advance which, apart from this paragraph, is not a shareholder loan; and
  - (b) some person other than the company makes a payment or transfers property to, or releases or satisfies, in whole or in part a liability of, the borrower or of a member of the borrower’s family or household.
- (4) However, the following loans and debts shall not be shareholder loans –
- (a) a loan advanced at a commercial rate where –
    - (i) the ordinary business carried on by the company includes money lending, and
    - (ii) the company is authorized, pursuant to an enactment, to carry on a business which includes money lending;

- (b) a debt incurred for the supply by the company of goods or services in the ordinary course of its trade or business, unless the period of credit given exceeds 6 months or is longer than that normally given to the company's customers;
- (c) any loan charged to tax as the emolument of any office or employment, by virtue of Article 65B.
- (5) The amount attributable to a shareholder loan for the year of assessment in which it is made or paid by, or otherwise derived from, the company shall be the aggregate of the amounts paid by the company in that year in respect of the loan, less the aggregate of the sums repaid or reimbursed by the borrower to the company in that year in respect of the loan.
- (6) Where a borrower charged to tax for a year of assessment in respect of a shareholder loan proves, to the satisfaction of the Comptroller, that he or she has made a repayment or reimbursement to the company in respect of that loan in a subsequent year of assessment, the borrower shall be entitled to a credit against his or her liability to tax for the subsequent year in an amount equal to the product of –

$$\frac{S}{O} \times T$$

Where –

S = the amount repaid or reimbursed by the borrower in the subsequent year of assessment

O = the amount attributable to the loan, in accordance with paragraph (5), for the year in which it is made, paid by, or otherwise derived from the company

T = the amount of tax charged on the borrower pursuant to this Article for the year in which the loan is made, paid by, or otherwise derived from the company.

- (7) Subject to paragraph (8), a borrower shall be entitled, in any year of assessment, to a deduction in respect of the first £1,000 of the aggregate of the amounts attributable to shareholder loans for that year, determined in accordance with paragraph (5).
- (8) A deduction allowed under paragraph (7) and any reduction allowed under Article 65B(3) shall not exceed, in the aggregate, £1,000 in any year of assessment.
- (9) A borrower may make an election, for any year of assessment, as to the shareholder loan or loans against which the deduction to which he or she is entitled under paragraph (7) shall be allowed and, where his or her election relates to 2 or more loans, as to so much of the deduction as is to be allowed against each of them.
- (10) An election under paragraph (9) must be made no later than the 31st March following the year of assessment.
- (11) In determining, for the purposes of this Article, the sums repaid or reimbursed by the shareholder, there shall be disregarded any payment of interest.

**81P Shareholder loans: statements to be provided to borrower<sup>239</sup>**

- (1) Where a company makes a shareholder loan, the secretary of the company or other officer performing the duties of secretary shall, no later than 31st March following the year in which the loan is made or paid by or otherwise derived from the company, provide the borrower with a statement, in writing, showing the amount attributable to the loan for that year, in accordance with Article 81O.
- (2) Where, in any year following the year in which a loan described in paragraph (1) is made or paid by or otherwise derived from the company, the borrower makes a repayment or reimbursement in respect of the loan, the secretary of the company or other officer performing the duties of secretary shall, no later than 31st March following the year in which the repayment or reimbursement is made, issue the borrower with a statement, in writing, showing –
  - (a) the amount repaid or reimbursed by the borrower in the year;
  - (b) the amount attributable to the loan, in accordance with Article 81O, for the year in which it was made or paid by or otherwise derived from the company.
- (3) If the secretary of the company or other officer performing the duties of secretary does not comply with paragraph (1) or (2), he or she shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (4) In this Article “the borrower” has the same meaning as in Article 81O.

*Miscellaneous provisions as to Schedule D***82 Persons chargeable**

- (1) Subject to paragraph (2) and to Article 82B, tax under Schedule D shall be charged on and paid by the persons or bodies of persons receiving or entitled to the income in respect of which tax under that Schedule is, in this Law, directed to be charged.<sup>240</sup>
- (2) Tax on a shareholder loan shall be charged on and paid by the borrower described in Article 81O(1).<sup>241</sup>

**82A Ownership of shares<sup>242</sup>**

- (1) For the purposes of Schedule D –
  - (a) an individual shall be deemed to own shares if the individual has any interest in them (whether equitable, legal or contractual) other than an interest as a bare nominee or bare trustee, and whether such interest is direct or through, or partly through one, or a series of, bodies corporate, trusts, partnerships or foundations;
  - (b) an individual shall be deemed to own shares –
    - (i) if the individual has any right to acquire or dispose of the shares,

- (ii) if the individual has any right to vote in respect of the shares,
  - (iii) if the individual has any right to acquire, to receive, or participate in distributions of the company, or
  - (iv) if the individual's consent is necessary for the exercise of any right of other persons interested in them, or if other persons interested in them can be required, or are accustomed, to exercise their rights in accordance with the individual's instructions.<sup>243</sup>
- (2) An individual shall not be deemed to own shares by virtue only of having entered into an agreement pursuant to which title to them shall pass to the individual at a future date.

### **82AA Disposal of shares<sup>244</sup>**

For the purposes of Schedule D an individual shall be deemed to have disposed of shares if the individual ceases to own those shares within the meaning of Article 82A.

### **82B Payment of tax by trustees<sup>245</sup>**

- (1) This Article applies where an individual owns shares comprised in the ordinary share capital of a company by virtue of being a beneficiary of a trust and, by virtue of such ownership –
- (a) would be liable, pursuant to Article 81D or 81G, to be assessed and taxed on a deemed dividend.<sup>246</sup>
- (2) Where this Article applies the trustees of the trust shall be assessed and taxed as the agents of the individual.
- (2A) Notwithstanding paragraph (2) the individual may be assessed and taxed if the trustees do not comply with any requirement imposed by or under this Law.<sup>247</sup>
- (3) Where trustees pay tax pursuant to this Article, the payment shall be deemed, for the purposes of the administration of the trust, to be a distribution to the individual unless the terms of the trust provide otherwise.

### **83 Deduction from profits of interest paid by coupon**

The amount represented by coupons, which have been issued by any firm or undertaking, the whole of whose profits and income from every source are liable to tax under this Law, shall be deducted from the profits of that firm or undertaking assessable to tax under Schedule D.<sup>248</sup>

### **84 Tax computed on profits of previous period to be charged though no profits in year of assessment**

Where it is provided by this Law that income tax under Schedule D in respect of profits or gains or income from any source is to be computed by reference to the amount of the profits or gains or income of some period preceding the year of

assessment, tax as so computed shall be charged for that year of assessment notwithstanding that no profits or gains or income arise from that source for or within that year of assessment.

**85 Statement of profits to include all sources of income chargeable under Schedule D**

Every statement of profits to be charged under Schedule D which is made by any person –

- (a) on his or her own account; or
- (b) on account of some other person for whom he or she is chargeable, or who is chargeable in his or her name,

shall include every source of income so chargeable.

*Alternative basis of computation for Cases III to VI<sup>249</sup>*

**85A Companies to which alternative basis of computation for Cases III to VI applies<sup>250</sup>**

This Article applies to a company –

- (a) which is regarded as resident in Jersey or which has a permanent establishment in Jersey; and
- (b) which is not –
  - (i) a financial services company,
  - (ii) a utility company, or
  - (iii) a trading company.

**85B General provision as to alternative period of computation for company to which Article 85A applies<sup>251</sup>**

- (1) Notwithstanding Articles 78, 80 and 81 but subject to Articles 85C to 85E, tax shall be computed under the relevant Cases, in the case of a company to which Article 85A applies, on the full amount of its income, profits and gains arising in the financial period ending in the year of assessment.
- (2) The relevant Cases are, for the purposes of paragraph (1) and Articles 85C to 85E, Cases III to VI of Schedule D.

**85C Change of financial period and accounting date of company to which Article 85A applies<sup>252</sup>**

- (1) Where, by virtue of a change in the financial period for a company to which Article 85A applies, there are 2 or more accounting dates for it in a year of assessment, tax shall be charged under the relevant Cases on the

aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates.

- (2) Where –
- (a) there is a change in the financial period for a company to which Article 85A applies;
  - (b) the new accounting date is in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
  - (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the company,

the Comptroller may charge tax under the relevant Cases, for the year of assessment in which the new accounting date falls, on the full amount of the balance of the company's income, profits and gains for the period of 12 months ending on that date.

- (3) Where –
- (a) there is a change in the financial period for a company to which Article 85A applies;
  - (b) the new accounting date is neither in the same year of assessment as the preceding accounting date nor in the year of assessment immediately following that year; and
  - (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the company,

the Comptroller may –

- (i) determine an accounting date in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
  - (ii) charge tax under the relevant Cases, for the year of assessment in which the determined accounting date falls, on the full amount of the balance of the company's income, profits and gains for the period of 12 months ending on that date.
- (4) The accounting date determined under paragraph (3) shall be the same day, in the same month, as the new accounting date.

### **85D Incorporation of company to which Article 85A applies<sup>253</sup>**

- (1) Subject to paragraph (2), where a company is a company to which Article 85A applies for its first year of assessment, tax shall first be charged under the relevant Cases, for the year of assessment in which the first financial period ends, on the full amount of the balance of the company's income, profits and gains arising in that period.
- (2) Where the first financial period of the company does not end in the first year of assessment or the second year of assessment, the Comptroller shall determine an accounting date in the second year of assessment for it.

- (3) Subject to paragraph (4), the accounting date determined under paragraph (2) shall be the same day, in the same month, as the accounting date which falls in the third year of assessment.
- (4) Where there is more than one accounting date in the third year of assessment, the first of those dates shall be used for the purposes of paragraph (3).
- (5) Where income, profits and gains are charged to tax under the relevant Cases in the second year of assessment by virtue of an accounting date being determined under paragraph (2), tax shall be charged under the relevant Cases for the third year of assessment on the full amount of the income, profits or gains of the first financial period, after deduction of an amount equal to the income, profits or gains charged to tax in the second year of assessment by virtue of paragraph (2).
- (6) For the purposes of this Article –
  - “first financial period” means the financial period beginning on the day the company is incorporated;
  - “first year of assessment”, in relation to a company, means the year in which it is incorporated;
  - “second year of assessment” means the year following the first year of assessment;
  - “third year of assessment” means the year following the second year of assessment.

**85E Apportionment of income, profits or gains of company to which Article 85A applies<sup>254</sup>**

- (1) Where the period for which tax is to be charged under the relevant Cases on the full amount of the balance of the income, profits and gains of a company to which Article 85A applies does not coincide with a financial period, the full amount of the income, profits and gains for the financial periods which overlap with the period for which tax is to be charged shall be apportioned so as to arrive at the full amount of the income, profits and gains for the period for which tax is to be charged.
- (2) Where the full amount of the balance of the income, profits and gains for the period for which tax is to be charged, determined in accordance with paragraph (1), does not, in the opinion of the Comptroller, fairly represent the full amount of balance of the income, profits and gains of the period for which tax is to be charged, the Comptroller may direct that the apportionment shall be made another way.

**85F** <sup>255</sup>**85FA** <sup>256</sup>**85G** <sup>257</sup>**85H** <sup>258</sup>

## **PART 11**

### **PRINCIPAL PROVISIONS AS TO INTEREST, DIVIDENDS, ANNUAL PAYMENTS, ETC**

#### **86 Payments out of profits or gains already taxed**

- (1) Where any annuity, or any other annual payment (whether payable within or out of Jersey) is payable wholly out of profits or gains brought into charge to tax –
  - (a) no assessment shall be made upon the person entitled to the annuity or annual payment;
  - (b) the whole of the profits or gains shall be assessed and charged with tax on the person liable to the annuity or annual payment, without distinguishing the annuity or annual payment;
  - (c) the person liable to make the payment, whether out of the profits or gains charged with tax or out of any annual payment liable to deduction, or from which a deduction has been made, shall be entitled, on making the payment, to deduct and retain out of it a sum representing the amount of the tax thereon at the standard rate for the year in which the amount payable becomes due; and
  - (d) the person to whom the payment is made shall allow the deduction on receipt of the residue of the payment, and the person making the deduction shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had been actually paid.<sup>259</sup>
- (2) Where any yearly interest of money (whether payable within or outside Jersey) is payable by an individual resident in Jersey under an agreement entered into before 1st January 2004 wholly out of profits or gains brought into charge to tax –
  - (a) no assessment shall be made upon the person entitled to the interest;
  - (b) the whole of the profits or gains shall be assessed and charged with tax on the person liable to the interest;
  - (c) the individual liable to make the payment, whether out of the profits or gains charged with tax or out of any annual payment liable to deduction, or from which a deduction has been made, shall be entitled on making the payment to deduct and retain out of

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- it a sum representing the amount of tax thereon at the standard rate for the year in which the amount payable becomes due;
- (d) the person to whom payment is made shall allow the deduction on receipt of the residue of the payment, and the individual making the deduction shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid;
  - (e) the individual making the payment shall be assessed and charged with tax under Schedule D Case VI on so much of the payment as does not qualify for relief under any of Articles 90AB to 90AD.<sup>260</sup>
- (2A) Paragraph (2) shall not apply where the person liable to make the payment has elected, by written notice delivered to the Comptroller, for its disapplication.<sup>261</sup>
- (2B) An election under paragraph (2A) –
- (a) shall have effect from the first day of January following the election; and
  - (b) is irrevocable.<sup>262</sup>
- (3) Where any royalty or other sum paid in respect of the user of a patent is paid by an individual resident in Jersey wholly out of profits or gains brought into charge to tax, the person paying the royalty or sum shall be entitled, on making the payment, to deduct and retain out of it a sum representing the amount of the tax thereon at the standard rate for the year in which the amount payable becomes due.<sup>263</sup>

## **87 Payments not made out of profits or gains already taxed**

- (1) Subject to paragraphs (3) to (5), where –
  - (a) any interest of money, annuity, annuity equivalent or other annual payment charged with tax under Schedule D;
  - (b) any royalty or other sum paid in respect of the user of a patent; or
  - (c) any sum paid to an individual or an individual's personal representative pursuant to Article 131D or 131E, other than a sum applied in the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual or, on the individual's death, to the individual's spouse or dependent,is not payable or not wholly payable out of profits or gains brought into charge, the person by or through whom any payment thereof is made shall, on making the payment, deduct out of it a sum representing the amount of the tax thereon at the standard rate in force at the time of payment or, in the case of an annuity or annuity equivalent, such lesser sum as the Comptroller may direct to be deducted.<sup>264</sup>
- (2) Where any such payment as aforesaid is made by or through any person, that person shall forthwith deliver to the Comptroller an account of the payment, or of so much thereof as is not made out of profits or gains brought into charge, and of the tax deducted out of the payment or out of

that part thereof, and the Comptroller shall assess and charge the payment for which an account is so delivered on that person.

- (3) Paragraph (1) shall only apply to a payment of any interest of money mentioned in sub-paragraph (a) thereof where the person by or through whom the payment is made is an individual resident in Jersey.<sup>265</sup>
- (4) Paragraph (1) shall only apply to any annuity or other annual payment mentioned in sub-paragraph (a) thereof where the person or persons by or through whom the payment is made is or are –
  - (a) an individual resident in Jersey;
  - (b) an assurance company carrying on life assurance business; or
  - (c) the trustees of a superannuation fund who are resident in Jersey.<sup>266</sup>
- (5) Paragraph (1) shall only apply to a payment mentioned in sub-paragraph (b) thereof where the person by or through whom the payment is made is an individual resident in Jersey.<sup>267</sup>

#### **87A Payments made under covenant<sup>268</sup>**

- (1) For the purposes of Articles 86 and 87, the term “annual payment” includes a payment made under covenant if and only if –
  - (a) it is made otherwise than for consideration in money or money’s worth;
  - (b) the payments (of which the payment in question is one) become payable for a period which may exceed 4 years; and
  - (c) the covenant is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.
- (2) Notwithstanding paragraph (1), a payment made to any person, with the exception of a payment to a charity, shall be treated for all the purposes of this Law as the payer’s income and that income shall be computed without any deduction being made on account of the payment and the payment shall not form part of the income of the person to whom it is made or of any other person.<sup>269</sup>
- (3) For the purposes of this Article, “charity” means a body of persons, or trust, the income from the property of which is exempt from income tax by virtue of Article 115(a), (aa), (ab) or (c).<sup>270</sup>

#### **87B Donations to charity<sup>271</sup>**

- (1) For the purposes of this Article a gift to a charity by a person (the “donor”) is a qualifying donation if –
  - (a) it takes the form of a payment of a sum of money;
  - (b) it is not subject to a condition as to repayment;
  - (c) it is not a payment from which there is a right or obligation to deduct tax under any other Article of this Law;
  - (d) neither the donor nor any person connected with the donor receives a benefit in consequence of making it;

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- (e) it is not conditional on or associated with, nor part of an arrangement involving, the acquisition of property by the charity, otherwise than by way of gift, from the donor or a person connected with the donor;
  - (f) the sum paid is not less than £100;
  - (g) the sum paid does not, when aggregated with any other qualifying donations already made in the year of assessment by the donor and by any other person connected with the donor, exceed £500,000; and
  - (h) the donor is resident in Jersey at the time the gift is made and has been so resident for not less than 3 years preceding the making of the gift.<sup>272</sup>
- (2) Where a gift is a qualifying donation it shall be treated for all the purposes of this Law as if the making of the gift were the making of a payment under covenant of an amount equal to the grossed-up amount of the gift, being a payment falling to be made at the time the gift is made.
  - (3) The receipt by a charity of a gift which is a qualifying donation shall be treated as the receipt, under deduction of income tax at the standard rate in force at the time of payment, of an annual payment.
  - (4) For the purposes of this Article –
    - (a) “charity” means a body of persons, or trust, the income from the property of which is exempt from income tax by virtue of Article 115(a) or (c);
    - (b) the reference, in relation to a gift, to the grossed-up amount is to the amount which after deducting income tax at the standard rate for the year of assessment leaves the amount of the gift.

## **88 Deduction of tax from Jersey dividends<sup>273</sup>**

- (1) The profits or gains to be charged on any body of persons shall be computed in accordance with the provisions of this Law on the full amount of the same before any dividend thereof is declared in respect of any share, right or title thereto.
- (2) Where, pursuant to paragraph (1), a dividend is declared out of profits or gains charged to tax on any body of persons at the standard rate, the body of persons shall be entitled, when paying the dividend, to deduct tax at that rate from it.
- (3) Where, pursuant to paragraph (1) and Article 123D, a dividend is declared out of profits or gains charged to tax on any body of persons at the rate of 10%, the body of persons shall be entitled, when paying the dividend, to deduct tax at that rate from it.
- (4) Where, pursuant to paragraph (1) and Article 123C, a dividend is declared out of profits or gains charged to tax on any body of persons at the rate of 0%, the body of persons shall not be entitled, when paying the dividend, to make any deduction from it in respect of tax.

- (5) Where a deduction is made from a dividend pursuant to this Article, the person chargeable to tax on the dividend shall, unless paragraph (5D) applies to that person, be entitled to a credit and the amount of tax that the person is liable to pay in respect of the dividend shall be reduced by the amount of the credit.<sup>274</sup>
- (5A) Subject to paragraph (5B) and (5C), the credit shall be of an amount equal to the amount of the deduction.<sup>275</sup>
- (5B) If the person chargeable to tax on the dividend is a person entitled to repayment of expenses of management under Article 133 for the year of assessment in which the dividend is paid and the amount of the expenses of management is –
- (a) equal to or greater than the amount of the dividend, the credit shall be of an amount equal to the amount of the deduction; or
  - (b) less than the amount of the dividend, the credit shall be of an amount equal to the product of –
    - (i) the rate of tax deducted in respect of that dividend, and
    - (ii) the amount of the expenses of management.<sup>276</sup>
- (5C) If the person chargeable to tax on the dividend is a company to which Article 123D applies and the amount of tax charged in respect of that company's profits or gains is –
- (a) equal to or greater than the amount of the deduction, the credit shall be of an amount equal to the deduction; or
  - (b) less than the amount of the deduction, the credit shall be of an amount equal to the amount of tax charged in respect of the profits or gains of the company.<sup>277</sup>
- (5D) This paragraph applies to a company to which Article 123C applies and which is not entitled to repayment of expenses of management under Article 133.<sup>278</sup>
- (5E) Expenses of management used for the purpose of the calculation in paragraph (5B) shall not be attributed to profits or gains other than in respect of the dividend.<sup>279</sup>
- (6) This Article shall apply to the issue of a stock dividend as it applies to the payment of a cash dividend.<sup>280</sup>

**89 Explanation of income tax deductions to be annexed to dividend warrants, etc.**

- (1) Every warrant, cheque or other order drawn or made in payment of any dividend declared or interest distributed by any body of persons shall have annexed to it or be accompanied by a statement, in writing, showing in respect of each portion (if any) of the payment as is made out of profits or gains charged on the body of persons at, respectively, the standard rate, the rate of 10% and the rate of 0% –
- (a) the gross amount of that portion;
  - (b) the rate of tax charged on the body of persons in respect of that portion;

- (c) the amounts of tax deducted from the portion pursuant to Article 88(2) or (3), if any;
  - (d) the amount of the portion actually paid.<sup>281</sup>
- (1A) This Article shall apply to the issue of a stock dividend as it applies to the issue of a warrant, cheque or other order drawn in payment of a cash dividend.<sup>282</sup>
- (2) If a company fails to comply with the provisions of this Article, the company shall, in respect of each offence, be liable to a fine not exceeding level 2 on the standard scale:

Provided that the aggregate amount of any fines imposed under this Article on any company in respect of offences connected with any one distribution of dividends or interest shall not exceed level 3 on the standard scale.<sup>283</sup>

#### **89A Relief in respect of interest paid to finance houses<sup>284</sup>**

- (1) Notwithstanding anything in Article 86 or 87, interest payable in Jersey on an advance from a finance house shall be paid without deduction of tax.
- (2) Subject to paragraph (3), the person by whom the interest is payable shall, upon proving to the satisfaction of the Comptroller that the interest has been paid out of profits or gains brought into charge to tax, be entitled to such relief of tax, if any, as is allowed under any of Articles 90AB to 90AD on the amount of the interest.<sup>285</sup>
- (3) No relief shall be given unless the Comptroller is satisfied that the interest has been or will be brought into account in the statement delivered or to be delivered for the purpose of income tax by the finance house making the advance.
- (4) In this Article “finance house” means a person, including a partnership, carrying on the trade of moneylender in Jersey but excludes a bank to which Article 90 refers.

#### **90 Relief in respect of interest paid to banks**

Where interest payable in Jersey on an advance from a bank carrying on a bona fide banking business in Jersey is paid to the bank without deduction of tax out of profits or gains brought into charge to tax, the person by whom the interest is paid shall be entitled, on proof of the facts to the satisfaction of the Comptroller, to such relief of tax, if any, as is allowed under any of Articles 90AB to 90AD of this Law on the amount of the interest:

Provided that no relief shall be given unless the Comptroller is satisfied that the interest has been or will be brought into account in the statement delivered or to be delivered for the purpose of income tax by the bank making the advance.<sup>286</sup>

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**90AA Marginal income deduction in respect of interest payments: only or main residence<sup>287</sup>**

- (1) This Article applies where a person pays yearly interest of money which he or she cannot deduct, in computing his or her income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE, where the interest is payable on a loan incurred for the purpose of –
  - (a) acquiring a dwelling-house in Jersey for the purpose of its occupation by the person by whom the interest is payable as his or her only or main residence;
  - (b) extending a dwelling-house acquired for the purpose described in sub-paragraph (a); or
  - (c) paying off another loan, interest on which would have been eligible for a deduction under this paragraph had the loan not been paid off,the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to a marginal income deduction in respect of the amount of the interest paid out of profits or gains brought into charge to tax.<sup>288</sup>
- (3) Paragraph (2) shall not apply unless –
  - (a) at the time the interest is paid, the dwelling-house is occupied by the person by whom the interest is payable as his or her only or main residence; and
  - (b) the person by whom the interest is payable has made a declaration, in writing, to the Comptroller that the conditions in sub-paragraph (a) are fulfilled.
- (4) Paragraph (2) shall not apply where –
  - (a) the person by whom the interest is payable acquires the dwelling-house from his or her spouse; and
  - (b) both of those persons occupy the dwelling-house as a residence before and after the acquisition.
- (5) Interest payable in relation to a dwelling-house shall be eligible for a marginal income deduction under paragraph (2) only to the extent that the loan on which it is payable does not exceed £300,000, or the aggregate of the loans in relation to the dwelling-house on which it is payable does not exceed that amount.<sup>289</sup>
- (6) Where the interest eligible for a marginal income deduction in relation to a dwelling-house under paragraph (2) is payable by more than one person the deduction shall be apportioned between those persons by reference to the portion that each of them pays of the total interest payable in relation to the dwelling house.<sup>290</sup>
- (7) This Article shall not apply to a loan entered into on or after 1st January 2004 unless the lender is –
  - (a) a person resident in Jersey; or
  - (b) a person –
    - (i) carrying on a business of making loans, and

- (ii) chargeable to tax in Jersey on profits or gains derived from the loan.
- (8) <sup>291</sup>

**90AB Relief in respect of interest payments: commercial letting<sup>292</sup>**

- (1) This Article applies where a person pays yearly interest of money which he or she cannot deduct, in computing his or her income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE, where the interest is payable on a loan incurred for the purpose of –
  - (a) acquiring land for the purpose of letting the whole or substantially the whole of it on open market terms (including terms as to rent) to a person (other than the person by whom the interest is payable or a person connected with him or her);
  - (b) extending a building acquired for the purpose described in subparagraph (a); or
  - (c) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains of the letting of the land brought into charge to tax.

- (3) Paragraph (2) shall not apply to a loan for the purpose described in subparagraph (a) or (b) of that paragraph unless the letting on open market terms commences within what is, in the circumstances, a reasonable time following the advance of the loan or the first instalment of it.
- (4) Where –
  - (a) part of the land is occupied by the person by whom the interest is payable or a person connected with him or her; or
  - (b) the whole or substantially the whole of the land is let as described in paragraph (2) for only part of the year of assessment,

such part only of the interest shall be eligible for relief under the said paragraph (2) as is just and reasonable to attribute to the letting, having regard to all the relevant circumstances.

- (5) In this Article “land” includes a building.

**90AC Relief in respect of interest payments: machinery and plant<sup>293</sup>**

- (1) This Article applies where a person pays yearly interest of money which he or she cannot deduct, in computing his or her income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE, where the interest is payable on a loan incurred by a person for the purpose of –

- (a) enabling the person to buy machinery or plant for use wholly and exclusively in a trade or profession carried on by him or her; or
- (b) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains of the trade or profession brought into charge to tax.

- (3) Subject to Article 90AE, where the interest is payable on a loan incurred by a person for the purpose of –
  - (a) enabling him or her to buy any machinery or plant for use wholly and exclusively for the purposes of his or her office or employment; or
  - (b) paying off another loan interest on which would have been eligible for relief under this paragraph had the loan not been paid off,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of interest paid out of profits or gains of the office or employment brought into charge to tax.

**90AD Relief in respect of interest payments: acquisition of trade, partnership share or trading company<sup>294</sup>**

- (1) This Article applies where a person pays yearly interest of money which he or she cannot deduct, in computing his or her income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE, where –
  - (a) the interest is payable on a loan incurred by a person for the purpose of –
    - (i) acquiring a trade, or
    - (ii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off;
  - (b) throughout the period from the application of the proceeds of the loan until the interest is paid, the person has been the proprietor of the trade; and
  - (c) the person shows that, in the period described in sub-paragraph (b), he or she has not recovered any capital from the trade apart from any amount taken into account under Article 90AF,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains of the trade brought into charge to tax.

- (3) Subject to Article 90AE, where –
  - (a) the interest is payable on a loan incurred by a person for the purpose of –

- (i) acquiring a share in a partnership which carries on a trade or profession, or
- (ii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off;
- (b) throughout the period from the application of the proceeds of the loan until the interest is paid, the person has been a partner in the partnership; and
- (c) the person shows that, in the period described in sub-paragraph (b), he or she has not recovered any capital from the partnership, apart from any amount taken into account under Article 90AF,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of his or her share of the profits or gains of the partnership brought into charge to tax.

- (4) Subject to Article 90AE, where –
  - (a) the interest is payable on a loan incurred by a person who is an individual, a partnership, a holding company or a trading company, for the purpose of –
    - (i) acquiring a controlling interest in a trading company, or
    - (ii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off; and
  - (b) that person shows that, in the period from the application of the proceeds of the loan until the interest is paid, he or she has not recovered any capital from the trading company, apart from any amount taken into account under Article 90AF,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains derived from the trading company in which the controlling interest is acquired and brought into charge to tax.

- (5) In paragraph (4) –
  - “controlling interest” means, in relation to a company, 51% or more of the ordinary share capital of the company;
  - “holding company” means a company which exists wholly and exclusively to own the controlling interest in the trading company;
  - “trading company” means a company, wherever resident, which exists wholly or mainly for the purpose of carrying on a trade or trades.

**90AE Provisions supplementary to Articles 90AA to 90AD: general<sup>295</sup>**

- (1) In this Article and in Articles 90AA to 90AD “loan” includes any borrowing.
- (2) Articles 90AA to 90AD shall not apply to a loan unless it is made –

- (a) in connection with the application of money; and
  - (b) on the occasion of, or within what is in the circumstances a reasonable time from, the application of the money,
- and those Articles shall not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in any of those Articles.
- (3) Where only a portion of a loan fulfils the conditions required under any of Articles 90AB to 90AD for interest on the loan to be eligible for relief of tax under any of those Articles, such portion of the total interest payable on the whole of the loan shall be treated as eligible for relief under the Article as equates to the portion of the loan fulfilling those conditions.<sup>296</sup>
  - (3A) Where only a portion of a loan fulfils the conditions required under Article 90AA for interest on the loan to be eligible for a marginal income deduction, such portion of the total interest payable on the whole of the loan shall be treated as eligible for a marginal income deduction under that Article as equates to the portion of the loan fulfilling those conditions.<sup>297</sup>
  - (4) In paragraph (3A), in its application for the purposes of Article 90AA, where there is more than one loan in relation to the dwelling-house, “loan” means the aggregate of such loans.<sup>298</sup>
  - (5) Where any of Articles 90AA to 90AD applies to a loan (“the replacement loan”) applied to pay off another loan (“the original loan”) –
    - (a) any condition or restriction applicable thereunder to the original loan shall apply to the original loan and the replacement loan as if they were one loan; and
    - (b) any reference to the application of the proceeds of the replacement loan (apart from the reference by virtue of which the replacement loan is eligible for, as the case may be, the marginal income deduction or relief) shall be treated as a reference to the application of the proceeds of the original loan.<sup>299</sup>

**90AF Provisions supplementary to Article 90AD: recovery of capital from trade, partnership or company<sup>300</sup>**

- (1) If, at any time after the application of the proceeds of a loan or other borrowing described in paragraph (2), (3) or (4) of Article 90AD, the person by whom the interest is payable has recovered any amount of capital from the trade, partnership or company without using that amount in repayment of the loan or other borrowing, that person shall be treated, for the purposes of the said paragraph (2), (3) or (4), as if he or she had at that time repaid that amount out of the loan or other borrowing so that, out of the interest otherwise eligible for relief (or, where paragraph (3) of Article 90AE applies, out of the portion so eligible) and payable for any period after that time, there shall be deducted an amount equal to interest on the amount of capital so recovered.

- (2) For the purposes of paragraph (1), a person shall be treated as having recovered an amount of capital from the trade, partnership or company if, whether directly or indirectly –
  - (a) he or she receives consideration of that amount or value for the sale, exchange or assignment of the trade, his or her interest in the partnership or any part of the share capital of the company or of repayment of any part of that share capital;
  - (b) the trade, partnership or company repays that amount of a loan or advance from him or her, or the trade or partnership returns that amount of capital to him or her; or
  - (c) he or she receives consideration of that amount or value for assigning any debt due to him or her from the trade, partnership or company.
- (3) Where a sale, exchange or assignment referred to in paragraph (2) is not a bargain made at arm's length, the sale, exchange or assignment shall be deemed to be for a consideration of an amount equal to the market value of what is disposed of.

#### **90A Maintenance payments<sup>301</sup>**

- (1) This Article applies to any payment due on or after 1st January 1997 which is made under an order of a Court (whether in Jersey or elsewhere) or under a written or oral agreement by an individual –
  - (a) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party; or
  - (b) to any person for the benefit, maintenance or education of himself or herself or of any other person,other than a payment made under an existing obligation.
- (2) Notwithstanding anything in Article 86 or 87, a payment to which this Article applies shall be made without deduction of tax.
- (3) Notwithstanding anything in Article 86 or 87, a payment to which this Article applies shall not be a charge on the income of the individual liable to make it, and accordingly –
  - (a) the individual's income shall be computed without any deduction being made on account of the payment; and
  - (b) the payment shall not form part of the income of the person to whom it is made or of any other person.
- (4) A payment to which this Article applies which arises outside Jersey shall not be within the charge to tax under Case V of Schedule D if, because of this Article, it would not have been within the charge to tax under Case III had it arisen in Jersey.
- (5) No deduction shall be made under Article 80(1)(c) on account of any payment to which this Article applies.

- (6) In this Article and in Articles 90B and 90C, “existing obligation” means a binding obligation –
- (a) under an order made by a Court (whether in Jersey or elsewhere) before 1st January 1997;
  - (b) under a deed executed or written agreement made before 1st January 1997;
  - (c) under an oral agreement made before 1st January 1997, written particulars of which have been received by the Comptroller before the end of June 1997; or
  - (d) under an order made by a Court (whether in Jersey or elsewhere) on or after 1st January 1997, or under a written agreement made on or after that date, where the order or agreement replaces, varies or supplements an order or agreement within this paragraph,
- but subject to paragraph (7).
- (7) An obligation within paragraph (6)(d) is an existing obligation only if the order or agreement replaced, varied or supplemented provided for such payments to be made for the benefit, maintenance or education of the same person.

**90B Marginal income deduction in respect of qualifying maintenance payments<sup>302</sup>**

- (1) In this Article “qualifying maintenance payment” means –
- (a) a periodical payment (not being a lump sum or an instalment of a lump sum) due on or after the first day of January 1997 which –
    - (i) is made under an order of a court in Jersey or in a member State of the European Communities, or under a written agreement the proper law of which is the law of Jersey or of a member State of the European Communities,
    - (ii) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) –
      - (A) to or for the benefit of the other party and for the maintenance of the other party, or
      - (B) for the benefit, maintenance or education of a person in respect of whom either party has or has had an entitlement to a deduction under Article 95,
    - (iii) is due at a time when the 2 parties are not a married couple living together, and
    - (iv) is not a payment in respect of which relief from tax is available to the individual making the payment under any provision of this Law other than this Article,other than a payment made under an existing obligation; or
  - (b) a periodical payment (not being a lump sum or an instalment of a lump sum) due on or after the first day of January 2004 which –
    - (i) is made under an order of a court in Jersey or in a member State of the European Communities, or under a written

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- agreement the proper law of which is the law of Jersey or of a member State of the European Communities,
- (ii) is made by a parent to or for the benefit, maintenance or education of his or her illegitimate child,
  - (iii) is due at a time when the parents of the child are not living together, and
  - (iv) is not a payment in respect of which relief from tax is available to the individual making the payment under any provision of this Law other than this Article,
- other than a payment made under an existing obligation.<sup>303</sup>
- (2) Notwithstanding Article 90A(3)(a) but subject to paragraph (3) of this Article, an individual making a claim for the purpose shall be entitled to a marginal income deduction in an amount equal to the aggregate amount of any qualifying maintenance payments made by the individual which fall due in that year.<sup>304</sup>
  - (3) The amount which may be deducted under paragraph (2) shall not exceed £2,600.
  - (4) For the purposes of paragraph (1)(a)(iii), 2 parties to a marriage are not a married couple living together if –
    - (a) they are separated under an order of a Court of competent jurisdiction or by agreement of separation; or
    - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.<sup>305</sup>
  - (5) <sup>306</sup>

**90C Marginal income deduction in respect of maintenance payments under existing obligations<sup>307</sup>**

- (1) This Article applies to a payment due on or after 1st January 1998 which is made under an existing obligation.
- (2) Notwithstanding anything in Article 86 or 87, a payment to which this Article applies shall be made without deduction of tax.
- (3) An individual making a payment to which this Article applies shall be entitled, for the year of assessment in which the payment falls due, to a marginal income deduction of an amount determined in accordance with paragraph (4).<sup>308</sup>
- (4) The amount to be determined in an individual's case shall be equal to the aggregate amount of the payments made by the individual to which this Article applies which fall due in that year, except that it shall not in any event exceed an amount equal to the aggregate amount of any payments due in the year of assessment 1997 under an existing obligation and in respect of which the individual was entitled to make a deduction in computing the individual's income for that year.<sup>309</sup>

- (5) Where, pursuant to paragraph (3), an individual is entitled to a marginal income deduction in respect of a payment, the payment shall form part of the income of the recipient, but subject to paragraph (6).<sup>310</sup>
- (6) The amount which, by virtue of paragraph (5), is treated as forming part of the recipient's income for a year of assessment by reason of payments made by an individual shall not exceed an amount equal to the aggregate amount of any payments made by that individual under an existing obligation which formed part of the recipient's income for the year of assessment 1997.
- (7) A payment to which this Article applies shall be within the charge to tax under Case III or (if it arises outside Jersey) Case V of Schedule D but the tax chargeable shall be computed on the payments falling due in the year of assessment, so far as paid in that or any other year.
- (8) No deduction shall be made under Article 80(1)(c) on account of any payment to which this Article applies.
- (9) <sup>311</sup>

**90D** <sup>312</sup>

## PART 12

### PERSONAL ALLOWANCES AND RELIEFS

**92** <sup>313</sup>

**92A Threshold for exemption from income tax** <sup>314</sup>

- (1) An individual shall be entitled to exemption from income tax for a year of assessment if the individual's total income for that year does not exceed the threshold applicable in the individual's case by virtue of this Article.
- (2) Subject to paragraphs (4), (5), (8) and (9) and Article 92B, where an individual proves, for the year of assessment –
  - (a) that he has his wife living with him; or
  - (b) that his wife is wholly maintained by him during the year of assessment and that he is not entitled, in computing the amount of his income for that year for the purposes of this Law, to make any deductions in respect of sums paid for the maintenance of his wife,the threshold applicable in his case is –
  - (i) if the individual also proves that, at the commencement of the year of assessment, either he or his wife was of the age of 63 years or more, £24,540;
  - (ii) in any other case, £21,440.<sup>315</sup>
- (3) <sup>316</sup>

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- (4) Where the total income for the year of assessment of an individual to whom paragraph (2) applies includes any earned income of his wife, the threshold applicable in his case shall be increased by an amount equal to the amount of that earned income, but not exceeding in any case £4,500.
  - (5) No exemption shall be allowed by virtue of paragraph (4) in respect of earned income received or receivable by the wife from the individual himself.
  - (6) Subject to paragraphs (8) and (9) and Article 92B, the threshold applicable in the case of an individual to whom, for the year of assessment, paragraph (2) does not apply is –
    - (a) where the individual proves that, at the commencement of the year of assessment, he or she was of the age of 63 years or more, £14,920;
    - (b) in any other case, £13,370.<sup>317</sup>
  - (7) <sup>318</sup>
  - (8) Where any individual is entitled, for the year of assessment, to any deduction under Article 95, the threshold applicable in the individual's case shall be increased by an amount equal to the aggregate of the deductions to which the individual is entitled under that Article.
  - (9) Where any individual is entitled, for the year of assessment, to a deduction under Article 98A, the threshold applicable in the individual's case shall be increased by an amount equal to the deduction to which the individual is entitled under that Article.
  - (10) In calculating an individual's total income for the purposes of paragraph (1), that total shall be reduced by any marginal income deduction to which the individual is entitled under Article 90AA, 90B or 90C.<sup>319</sup>

**92B Increase in exemption threshold for child day care<sup>320</sup>**

- (1) The threshold applicable in the case of an eligible claimant shall be increased by –
  - (a) the amount paid by the claimant –
    - (i) to a registered day carer or nanny accredited by the Jersey Child Care Trust for the care of a qualifying child, or
    - (ii) under Regulations made under Article 9 of the Education (Jersey) Law 1999<sup>321</sup> for the attendance of a qualifying child below compulsory school age in a nursery school or nursery class maintained by the Minister for Education, Sports and Culture under that Law;
  - (b) the claimant's qualifying income;
  - (c) in the case of a qualifying child whose date of birth is between 1st January and 31st August inclusive and who, in a year of assessment has not attained the age of 4 years, £12,000;

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- (d) in the case of a qualifying child whose date of birth is between 1st September and 31st December inclusive and who, in a year of assessment –
- (A) has not attained the age of 4 years, or
  - (B) has his or her 4th birthday, £12,000; or
- (e) in the case of any other qualifying child, £6,150,
- whichever is the lowest, but no amount which qualifies for relief under any other provision of this Law shall be included.<sup>322</sup>
- (2) Where, for any year of assessment, 2 or more individuals are entitled to an increase under paragraph (1) in respect of the qualifying child, the amount of the increase shall be apportioned between them as they agree or, in default of agreement, by the Comptroller to the best of his or her judgment, in accordance with evidence supplied to the Comptroller by each claimant.
- (3) No increase claimed under paragraph (1) shall be allowed unless the eligible claimant provides the Comptroller with a certificate from, as the case requires, the registered day carer, nanny, nursery school or primary school in which the nursery class is held showing, in respect of the year of assessment –
- (a) the name and address of the registered day carer, nanny, nursery school or primary school;
  - (b) in the case of a registered day carer, his or her registration number;
  - (c) in the case of a nanny, his or her reference number from the Jersey Child Care Trust;
  - (d) the full name and date of birth of the qualifying child; and
  - (e) the amount received for the care of the child.<sup>323</sup>
- (4) For the purposes of Article 137, a certificate provided under paragraph (3) shall be treated as a statement made in connection with a claim for relief.
- (5) In this Article –
- “eligible claimant” means –
- (a) an individual in whose case the exemption threshold described in Article 92A(2) applies and –
    - (i) whose spouse has qualifying income, or
    - (ii) who is entitled to an additional allowance under Article 98A;or
  - (b) an individual in whose case the exemption threshold described in Article 92A(6) applies and who has qualifying income, apart from a man, if he and a woman live together as husband and wife for the whole or any part of the year of assessment;
- “qualifying child” means a child in respect of whom an eligible claimant is entitled to a deduction under Article 95 and who has not attained the age of 13 years in the year of assessment;

“qualifying income” means income, other than any earned income received or receivable by a wife from her husband, arising from a trade, profession, office, employment or vocation chargeable to tax under Case I or II of Schedule D, or under Schedule A pursuant to Article 51(1)(b) or (c) other than the first £4,500 of that income for the year of assessment;

“registered day carer” means a day carer registered under the Day Care of Children (Jersey) Law 2002<sup>324</sup> or a person taken to have been so registered by virtue of Article 13 of that Law.<sup>325</sup>

### **92C Marginal rate of tax<sup>326</sup>**

- (1) An individual whose total income exceeds the threshold applicable in the individual’s case by virtue of Article 92A shall be entitled, for any year of assessment, to have the amount of income tax payable in respect of his or her total income reduced so that it does not exceed an amount equal to 27% of the amount by which the individual’s total income exceeds that threshold.
- (2) In calculating an individual’s total income for the purposes of paragraph (1), that total shall be reduced by any marginal income deduction to which the individual is entitled under Article 90AA, 90B or 90C.<sup>327</sup>

### **93 Deductions from assessable income**

The amount of the income of an individual which is chargeable to income tax shall be ascertained by making from the assessable income of the individual deductions in accordance with and subject to the provisions of this Part hereafter following.

### **94** <sup>328</sup>

### **95 Children**

- (1) If an individual proves –
  - (a) that the individual has living at any time within the year of assessment any child who is either under the age of 16 years or who, if over the age of 16 years at the commencement of that year was receiving full-time instruction at any school, the individual shall, subject to the provisions of this Article, be entitled in respect of each child to a deduction of £3,000; or
  - (b) that the individual has living at any time within the year of assessment any child who is over the age of 17 years and was receiving full-time higher education the individual shall, subject to the provisions of this Article, be entitled in respect of each child to a deduction of £6,000.

In this paragraph, “child” includes a step-child and an illegitimate child whose parents have married each other after the child’s birth.<sup>329</sup>

- (2) If an individual proves that for the year of assessment the individual has the custody of and maintains at the individual’s own expense any child who is under the age of 16 years at the commencement of that year or who, if over the age of 16 years at the commencement of that year, is receiving such full-time instruction or full-time higher education as aforesaid and that neither the individual nor any other individual is entitled to a deduction in respect of the same child under the foregoing provisions of this Article or under any of the other provisions of this Part, or, if any other individual is entitled to such a deduction, that that other individual has relinquished the individual’s claim thereto, the individual shall be entitled in respect of the child to the same deduction as if the child were a child of the individual’s.<sup>330</sup>
- (3) In the case of a child who is entitled in the child’s own right to an income exceeding £3,000 a year, the deduction under this Article in respect of the child shall be reduced, in the case of a deduction referred to in paragraph (1)(a), by the amount of the excess and, in the case of a deduction referred to in paragraph (1)(b), by £3 for every £2 of the excess.<sup>331</sup>
- (3A) For the purpose of paragraph (3) there shall be disregarded any income to which a child is entitled in the child’s own right in a year of assessment being income that is earned after completion during that year of assessment of a course of full-time higher education.<sup>332</sup>
- (4) Where, for any year of assessment, 2 or more individuals are entitled to a deduction under this Article in respect of the same child, the deduction shall be apportioned between them in such proportion as they agree, or, in default of agreement, in proportion to the amount or value of the provision made by them respectively (otherwise than by way of payments deductible in computing their respective total incomes) for the child’s maintenance and education for the year of assessment.
- (5) An apportionment may be made under paragraph (4) notwithstanding that a deduction in respect of the child in question has already been allowed to any individual, and, if it appears as a result of the apportionment that the individual has been allowed too great a deduction, the amount of the excess may, if not otherwise made good, be assessed under Case VI of Schedule D and the tax thereon recovered from the individual accordingly.
- (6) In this Article “higher education” has the same meaning as in the Education (Jersey) Law 1999<sup>333, 334</sup>

#### **98A Additional allowance in respect of children<sup>335</sup>**

- (1) If an individual proves in the case of a year of assessment that –
  - (a) the individual is not entitled to a deduction under Article 94(1) or that the individual is so entitled but he or his spouse was throughout the year of assessment totally incapacitated by physical or mental infirmity; and

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- (b) the individual is entitled to a deduction under Article 95 in respect of a child resident with the individual,
- the individual shall, subject to paragraphs (2) to (5), be entitled to a deduction of £4,500.<sup>336</sup>
- (2) Not more than one deduction shall be allowed to an individual under this Article for any year.
- (3) Where –
- (a) a man and a woman who are not married to each other live together as husband and wife for the whole or any part of a year of assessment; and
- (b) apart from this paragraph each of them would be entitled to a deduction under paragraph (1),
- neither of them shall be entitled to such a deduction except in respect of the youngest of the children in respect of whom either would otherwise be entitled to a deduction.
- (4) Where more than one individual is entitled to relief under this Article in respect of the same child, the deduction under paragraph (1) shall be apportioned between them in such proportions as they may agree or, in default of such agreement, in proportion to the length of the periods for which the child was resident with them respectively in the year of assessment.
- (5) Where for any year of assessment an individual is entitled under this Article to apportioned amounts in respect of 2 or more children, the deduction to which the individual is entitled shall be equal to the sum of those amounts, or the amount referred to in paragraph (1), whichever is the less.

### **101 Insurance premiums**

- (1) Any individual –
- (a) who has made an insurance on his life or the life of his wife, or who has contracted for any deferred annuity on his own life or the life of his wife, with a legally established insurance company or with a registered friendly society or, in the case of a deferred annuity, with the National Debt Commissioners; or
- (b) who is, under any enactment or under the terms and conditions of his employment, liable to the payment of any sum or to the deduction from his salary or stipend of any sum for the purpose of securing a deferred annuity to his widow or provision for his children after his death,
- shall, subject as hereinafter provided, be entitled to deduct from the amount of the individual's assessable income the amount of the premiums paid by the individual for any such insurance or contract or the amount of the sum paid by him or deducted from the individual's salary or stipend.

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- (1A) Paragraph (1) shall apply only where the insurance was made, the contract was entered into, or the liability arose, before 1st January 2007.<sup>337</sup>
- (2) No such allowance –
- (a) shall be made in respect of any such amounts beyond 1/6th of the total income of the person from all sources calculated in accordance with the provisions of this Law;
  - (b) shall exceed, in respect of any premium or other payment payable on a policy for securing a capital sum on death (whether in conjunction with any other benefit or not), 7% of the actual capital sum assured and, in calculating any such capital sum, no account shall be taken of any sum payable on the happening of any other contingency, or of the value of any premiums agreed to be returned, or any benefit by way of bonus, or otherwise, which is to be or may be received either before or after death, either by the person paying the premium or by any other person, and which is not the sum actually assured;
  - (c) shall, as regards insurances or contracts for deferred annuities –
    - (i) be given except in respect of premiums or other payments payable on policies for securing a capital sum on death, whether in conjunction with any other benefit or not, or
    - (ii) be given in respect of premiums or payments payable during the period of deferment in respect of a policy of deferred assurance:  
  
Provided that the 2 last-mentioned restrictions shall not affect premiums or payments payable on policies or contracts made in connection with any superannuation or bona fide pension scheme for the benefit of the employees of any employer or of persons engaged in any particular trade, profession, vocation or business or for the benefit of the wife or widow of any such employee or person or of the employee or person's children or other dependants.<sup>338</sup>
- (3) Where premiums in respect of any insurance effected with a registered friendly society are made payable for shorter periods than 3 months, a person who claims relief under this Article shall, in order to obtain relief, produce to the Comptroller a certificate, signed by an officer of the society, certifying the correct amount of premiums paid during the year of assessment.
- (4) Where a premium is paid by a wife out of her separate income in respect of an insurance on her own life or the life of her husband, or a contract for any deferred annuity on her own life or the life of her husband, the same deduction shall be allowed as if the premium were a premium paid by her husband for an insurance on his own life, or for a contract for a deferred annuity on his own life, and this Article shall apply accordingly.
- (5) The amount of any deduction by way of allowance to which an individual is entitled under this Article shall not exceed £1,000.<sup>339</sup>

**101A** <sup>340</sup>**101B** <sup>341</sup>**102** <sup>342</sup>**103 No exemption or relief unless statement delivered**

An individual shall not be entitled to any exemption or the application of the marginal rate, or to any allowances or relief under the preceding provisions of this Part, unless the individual has delivered to the Comptroller a statement of the individual's income from all sources.<sup>343</sup>

**104 No relief in respect of charges on income**

An individual shall not be entitled to any allowance or relief under the preceding provisions of this Part in respect of any income, the tax on which the individual is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the individual is liable to make to any other person.

**105 Partners**

- (1) Partners carrying on a trade, profession or vocation together, who are entitled to the profits thereof in shares, and others holding joint interest in property, may claim allowance or relief under the provisions of this Part according to their respective shares and interests, in the same manner as in the case of several interests.
- (2) For the purposes of this Article, the income of a partner from a partnership carrying on any trade, profession or vocation, shall be deemed to be the share to which he or she is entitled during the year to which the claim relates in the partnership profits, such profits being calculated according to the provisions of this Law.<sup>344</sup>

**106 Non-Residents**

- (2) No allowance or relief under the preceding provisions of this Part shall be given in the case of an individual not resident in Jersey so as to reduce the amount of the income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by the individual by way of tax if the tax were chargeable on the individual's total income from all sources, including income which is not subject to income tax charged in Jersey, as the amount of income subject to income tax so charged bears to the amount of the individual's total income from all sources.<sup>345</sup>
- (3) In calculating the income tax that would be payable under paragraph (2) no account shall be taken of the deduction which an individual would

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otherwise be entitled to make in accordance with the provisions of Articles 101 and 101A.<sup>346</sup>

## **PART 12A**

### **CAPITAL ALLOWANCES<sup>347</sup>**

#### **106A Allowances and balancing adjustments<sup>348</sup>**

- (1) Subject to the provisions of this Part, where a person carrying on a trade has incurred capital expenditure on the provision of machinery or plant wholly and exclusively for the purposes of the trade and, in consequence of his or her incurring the expenditure, the machinery or plant belongs, or has belonged, to the person, allowances and charges shall be made to and on the person in accordance with the following provisions of this Article.
- (2) For any year of assessment for the basis period of which a person within paragraph (1) has qualifying expenditure as defined in paragraph (4), which exceeds any disposal value to be brought into account by the person in accordance with paragraph (5), there shall be made to the person an allowance of an amount equal to 25% of the excess, or a proportionately reduced percentage of the excess if the trade has been carried on for part only of the year of assessment:

Provided that if the year of assessment is the year of assessment in which occurs the permanent discontinuance of the trade, an allowance (in this Part referred to as a “balancing allowance”) shall be made to that person equal to the whole of the excess.

- (3) For any year of assessment for the basis period of which a person’s qualifying expenditure is less than the disposal value which the person is to bring into account, there shall be made on the person a charge (in this Part referred to as a “balancing charge”), and the amount on which the charge is made shall be an amount equal to the difference.
- (4) For the purposes of this Article, a person’s qualifying expenditure is the aggregate of –
  - (a) the amount of capital expenditure incurred by the person on the provision for the purposes of the trade of machinery or plant, being expenditure incurred in the basis period or at any previous time, and not being expenditure which, or any part of which, has formed part of the person’s qualifying expenditure for any previous basis period; and
  - (b) if for the year of assessment immediately preceding the year of assessment in question there was an excess of qualifying expenditure over disposal value, the balance of that excess after deducting any allowances made by reference thereto.
- (5) For the purposes of this Article, the disposal value to be brought into account by a person is the disposal value (calculated in accordance with paragraph (6)) of all machinery or plant on the provision of which for the purposes of the trade the person has incurred capital expenditure and in respect of which one of the following events occurs, namely –

- (a) the machinery or plant ceases to belong to the person;
- (b) the person loses possession of the machinery or plant in circumstances where it is reasonable to assume the loss is permanent;
- (c) the machinery or plant ceases to exist as such (as a result of destruction, dismantling or otherwise);
- (d) the machinery or plant begins to be used wholly or partly for purposes which are other than those of the trade; or
- (e) the trade is permanently discontinued, or is treated by virtue of any provision of this Law as permanently discontinued,

and that is the first such event to occur.

- (6) The disposal value of any machinery or plant depends on the event by reason of which it falls to be taken into account and –
  - (a) unless sub-paragraph (b) applies, if that event is the sale of the machinery or plant, equals the net proceeds to the person in question of the sale, together with any insurance moneys received by the person in respect of the machinery or plant by reason of any event affecting the price obtainable on the sale and, so far as it consists of capital sums, any other compensation of any description so received;
  - (b) if that event is the sale of the machinery or plant at a price lower than that which it would have fetched if sold in the open market, equals the price which the machinery or plant would have fetched if sold in the open market;
  - (c) if that event is the demolition or destruction of the machinery or plant, equals the net amount received by the person in question for the remains of the machinery or plant, together with any insurance moneys received by the person in respect of the demolition or destruction and, so far as it consists of capital sums, any other compensation of any description so received;
  - (d) if that event is the permanent loss of the machinery or plant otherwise than in consequence of its demolition or destruction, equals any insurance moneys received by the person in respect of the loss and, so far as it consists of capital sums, any other compensations of any description so received;
  - (e) in the case of any other event, equals the price which the machinery or plant would have fetched if sold in the open market at the time of the event:

Provided that the disposal value of any machinery or plant shall in no case exceed the capital expenditure incurred by the person in question on the provision of the machinery or plant for the purposes of the trade.

- (7) An allowance may be made to a person in respect of any machinery or plant notwithstanding that it appears that the provision of the machinery or plant was partly for purposes other than those of the trade carried on by the person, but the allowance to be made in respect thereof shall be so much only of the allowance that would fall to be made if the provision of

the machinery or plant were wholly or exclusively for the purposes of the trade as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which the machinery or plant is to be used for the said other purposes.

- (8) For the purposes of paragraph (7), the allowance shall be computed as if each item of machinery or plant was provided for the purposes of some other trade separate from the trade actually carried on, and the discontinuance of that separate trade shall be deemed to have occurred on the date on which the machinery or plant in question ceases to be used for any purposes of the trade actually carried on.

#### **106B Special provisions as to glasshouses<sup>349</sup>**

- (1) Subject to the provisions of this Part, where a person carrying on a trade has incurred capital expenditure on the provision of a glasshouse used for the purposes of the person's trade and, in consequence of the person's incurring the expenditure, the glasshouse belongs, or has belonged, to the person, he or she shall be deemed to have incurred expenditure of that amount on the provision of machinery or plant and the provisions of Article 106A shall apply to the person accordingly, except that for the words "25%" in paragraph (2) of that Article there shall be substituted the words "10%".
- (2) Notwithstanding any other provision of this Part, where any glasshouse which is used by the person to whom it belongs for the purposes of his or her trade ceases, for any reason whatsoever, to belong to that person and commences to belong to some other person, the glasshouse shall be deemed to have been sold by the first mentioned person to the second mentioned person for a sum equal to the amount of capital expenditure on the provision of the glasshouse still unallowed immediately before the glasshouse ceased to belong to the first mentioned person.
- (3) For the purposes of paragraph (2), the amount of capital expenditure still unallowed means, in respect of the provision of a glasshouse for the purposes of the trade, the capital expenditure incurred thereon, as reduced by any allowances for capital expenditure and deductions on account of wear and tear made by reference thereto.

#### **106C Miscellaneous and general<sup>350</sup>**

- (1) References in this Part to capital expenditure incurred by a person do not include any expenditure in respect of which a deduction has been or will be made under Part 10.
- (2) References in this Part to a trade shall be deemed to include references to a profession, vocation, employment or office.
- (3) In considering the allowance or charge which shall be made to or on a person for a year of assessment under this Part, there shall be left out of account the proportion of the expenditure on the provision of the machinery or plant met out of a grant paid or to be paid out of the revenues of the States.<sup>351</sup>

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- (4) Where a person brings into use for the purposes of a trade carried on by the person machinery or plant which –
- (a) belongs to the person in consequence of his or her having incurred capital expenditure on its provision for purposes which were such that the expenditure has not been taken into account in computing any allowance or deduction to be made to the person under this Law; or
  - (b) belongs to the person in consequence of a disposition by way of gift by reason of which the donor was required by virtue of Article 106A(5) to bring into account a disposal value equal to the price which the machinery or plant would have fetched if sold in the open market at the time of the gift,

the said Article 106A shall have effect as if that person had incurred capital expenditure on the provision of the machinery or plant for the purposes of the trade in the basis period related to its bringing into use for those purposes, the amount of that expenditure being taken as the price which the machinery or plant would have fetched if sold in the open market on the date when it was so brought into use.

- (5) In this Part “basis period” means, in the case of a person to or on whom an allowance or charge falls to be made in charging the profits of the person’s trade, the period on the profits of which tax for the year of assessment falls to be finally computed in respect of that trade:

Provided that, in the case of any trade –

- (a) where 2 basis periods overlap, the period common to both shall be deemed for the purposes of this paragraph to fall in the first basis period only;
  - (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to form part of the second basis period; and
  - (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.
- (6) Any allowance or balancing allowance falling to be made to a person in taxing his or her trade shall be made as a deduction in charging the profits or gains of the trade to income tax.
- (7) Any balancing charge falling to be made on a person for any year of assessment in taxing his or her trade shall be made by means of an assessment to income tax on the profits or gains of that trade.
- (8) Where full effect cannot be given to any allowance in any year of assessment, owing to there being no profits or gains of the trade chargeable for that year or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which

effect has not been given, as the case may be, shall, for the purpose of making the assessment for the following year, be added to the amount of such allowance for that year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years.

## **PART 13**

### **RELIEF FOR LOSSES, ETC.**

#### **107 Right to have income for year of assessment adjusted by reference to losses**

- (1) Subject to paragraph (1A), where any person sustains a loss in any trade, profession, employment or vocation carried on by the person either solely or in partnership, he or she may, on giving notice in writing to the Comptroller within 2 years after the year of assessment, apply for an adjustment of his or her liability by reference to the loss and to the aggregate amount of his or her income for that year calculated according to this Law.<sup>352</sup>
- (1A) A company to which Article 123C or 123D applies shall not be entitled to make an application under paragraph (1).<sup>353</sup>
- (2) The Comptroller shall, on proof to the Comptroller's satisfaction of the amount of the loss and of the payment of tax on the aggregate amount of income, authorize repayment of so much of the sum paid for tax as would represent the tax on income equal to the amount of the loss.
- (3) Where repayment has been made to a person for any year under this Article, no further relief shall be granted in respect of the amount of the loss for any previous or subsequent year.<sup>354</sup>

#### **107A Right to carry back losses<sup>355</sup>**

- (1) Subject to paragraph (1A), where a person has in any trade, profession or vocation carried on by him or her, either solely or in partnership, sustained a loss (to be computed in like manner as profits or gains under the provisions of this Law applicable to Cases I and II of Schedule D) in respect of which relief has not been wholly given under Article 107, the person shall be entitled, on giving notice in writing to the Comptroller within 2 years after the end of the year in which the loss has been sustained, to claim that any portion of the loss for which relief has not been so given shall be carried back and, as far as may be, deducted from the amount of profits or gains on which he or she has been assessed in respect of that trade, profession or vocation under Schedule A, pursuant to Article 51(1)(b) or (c) or under Schedule D for the immediately preceding year of assessment.<sup>356</sup>
- (1A) A company to which Article 123C or 123D applies shall not be entitled to give notice under paragraph (1).<sup>357</sup>
- (2) The Comptroller shall, on proof to the Comptroller's satisfaction of the amount of the loss and of the payment of tax for the immediately

preceding year of assessment, authorize repayment of so much of the sum paid for tax as would represent the tax on income equal to the loss carried back; and where repayment has been made to a person for any year under this Article, no further relief shall be granted in respect of the amount of the loss for any subsequent year.

- (3) In the application of this Article to a loss sustained by a partner in partnership, the “amount of profits or gains on which the person has been assessed” shall, in respect of any year, be taken to mean such portion of the amount on which the partnership has been assessed under Schedule A or Schedule D, as the case requires, in respect of the trade, profession or vocation as the partner would be required under this Law to include in a return of the partner’s untaxed income for that year.<sup>358</sup>
- (4) In this Article “immediately preceding year of assessment” means the year immediately preceding the year in which the loss has been sustained.<sup>359</sup>

### **108 Right to carry forward losses to future years**

- (1) Where a person has in any trade, profession or vocation carried on by him or her, either solely or in partnership, sustained a loss (to be computed in like manner as profits or gains under the provisions of this Law applicable to Cases I and II of Schedule D) in respect of which relief has not been given, or has been partially given, under Article 107 or under any other provision of this Law, the person may claim that any portion of the loss for which relief has not been so given shall be carried forward and, as far as may be, deducted from or set off against the amount of profits or gains on which he or she is assessed in respect of that trade, profession or vocation under Schedule A, pursuant to Article 51(1)(b) or (c), or under Schedule D for any subsequent year of assessment:

Provided that in so far as relief in respect of any loss has been given to any person under this Article he or she shall not be entitled to claim relief in respect of that loss under any other provision of this Law.<sup>360</sup>

- (2) In the application of this Article to a loss sustained by a partner in a partnership, the “amount of profits or gains on which the person is assessed” shall, in respect of any year, be taken to mean such portion of the amount on which the partnership is assessed under Schedule A or Schedule D, as the case requires, in respect of the trade, profession or vocation as the partner would be required under this Law to include in a return of the partner’s untaxed income for that year.<sup>361</sup>
- (3) Any relief under this Article shall be given as far as possible from the first subsequent assessment and, so far as it cannot be so given, then from the next assessment and so on.<sup>362</sup>

### **110 Amount of assessment under Article 87 to be allowed as a loss for certain purposes**

Where a person has been assessed to income tax for any year of assessment under Article 87 in respect of a payment made wholly and exclusively for the

purposes of a trade, profession or vocation, the amount on which tax has been paid under that assessment shall, for the purposes of Article 108, be treated as though it were a loss sustained in that trade, profession or vocation, and relief in respect thereof shall be allowed accordingly:

Provided that no relief shall be allowed under this Article in respect of any such payment or any part of any such payment which is not ultimately borne by the person assessed or which is charged to capital.

## **PART 14**

### **RELIEF FROM DOUBLE TAXATION**

#### **111 Double taxation arrangements**

- (1) If the States by Act declare that arrangements specified in the Act have been made with the Government of any territory outside Jersey with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.
- (2) Where any arrangements have effect by virtue of this Article, the obligation as to secrecy imposed by virtue of this Law shall not prevent the disclosure to any authorized officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

#### **112 Tax credits**

- (1) The provisions of this Article shall have effect where, under arrangements having effect under Article 111, tax payable in respect of any income in the territory with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Jersey; and in this Article “foreign tax” means any tax payable in that territory which under the arrangements is to be allowed and “income tax” means tax chargeable under this Law.
- (2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit:  
  
Provided that credit shall not be allowed against income tax for any year of assessment unless the person entitled to the income is resident in Jersey for that year.
- (3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Law and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under Article 111) on the total income of the person entitled to the income by the amount of his or her total income.<sup>363</sup>

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- (5) Without prejudice to the provisions of paragraph (3) of this Article, the total credit for foreign tax to be allowed to a person for any year of assessment under all arrangements having effect under Article 111 shall not exceed the total income tax payable by him or her for the year of assessment, less any tax which he or she is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which he or she is liable to make to any other person.<sup>364</sup>
- (6) In computing the amount of the income –
- (a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);
  - (b) where the income tax chargeable depends on the amount received in Jersey, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income;
  - (c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit,

but notwithstanding anything in the preceding provisions of this paragraph a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

- (7) Paragraph (6)(a) and (b) (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in paragraph (3) of this Article and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under Article 111.
- (8) Where –
- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and
  - (b) a dividend is paid which is not of a class in relation to which the arrangements so provide,
- then, if the dividend is paid to a company which controls, directly or indirectly, not less than 1/2 of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.
- (9) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any year of assessment if he or she elects that credit shall not be allowed in the case of his or her income for that year.

- (10) Any claim for an allowance by way of credit shall be made not later than 5 years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.
- (11) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Jersey or elsewhere, nothing in this Law limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than 5 years from the time when all such assessments, adjustments and other determinations have been made, whether in Jersey or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

### **113 Effect on dividends of double taxation relief**

- (1) The amount of tax which is authorized by Article 88 to be deducted by a company from any dividend shall be determined without taking into account any reduction, by reason of double taxation relief, of the Jersey income tax payable directly or by deduction by the company, but –
  - (a) notwithstanding anything in this Law, no relief or repayment in respect of the tax deducted or authorized to be deducted from any dividend shall be allowed at a rate exceeding the rate (hereinafter referred to as the “net Jersey rate”) of the Jersey income tax payable directly or by deduction by the company after taking double taxation relief into account; and
  - (b) where the Jersey income tax payable directly or by deduction by the company is affected by double taxation relief, the particulars to be given by the company in the statement required by Article 89 shall (in addition to the particulars required to be given apart from this Article) include particulars of the net Jersey rate.
- (2) Where the whole or any part of any annual payment is payable out of a dividend and the rate of relief or repayment allowable in respect of the tax deducted or authorized to be deducted from the dividend is affected by double taxation relief, the annual payment, or that part thereof, as the case may be, shall be deemed to be paid out of profits or gains not brought into charge to tax and Article 87 shall apply accordingly, but the tax chargeable under the said Article on the person making the payment shall be reduced by an amount equal to tax on the payment or part of the payment at the net Jersey rate applicable to the dividend.
- (3) In this Article –

“dividend” means a dividend from which deduction is authorized by Article 88 of this Law;

“double taxation relief” means any credit for tax payable in any territory outside Jersey which is allowable against Jersey income tax by virtue of arrangements having effect under Article 111;

“company” means the body of persons paying a dividend.

- (4) Without prejudice to the general transitional provisions contained in Part 24, the double taxation relief which may be taken into account for the purposes of this Article includes relief for years before the year 1962, and references in paragraph (3) to provisions of this Law shall be construed accordingly as including, in relation to relief for such years, references to the corresponding provisions of the enactments repealed by this Law.

#### **114 Power to make Orders**

The Minister may make Orders for carrying out the provisions of this Part and the provisions of any arrangements having effect under Article 111.

### **PART 15**

#### **EXEMPTIONS**

#### **115 Miscellaneous exemptions**

Exemption from income tax shall be granted in respect of –

- (a) any income derived from any of the following –
- (i) the property of a corporation, association or trust established in Jersey for any of the following –
    - (A) the advancement of education,
    - (B) the relief of poverty,
    - (C) the furtherance of religion,
    - (D) a purpose beneficial to the whole community,
    - (E) the service of any church or chapel or any building used solely for the purpose of divine worship,
  - (ii) the property of a non-profit organization within the meaning of the Non-Profit Organizations (Jersey) Law 2008<sup>365</sup> where that organization –
    - (A) is established solely or primarily for cultural purposes, and
    - (B) receives funds wholly or mainly from the States of Jersey in pursuance of those purposes,

in so far as such income is applied to those purposes;

- (aa) any income derived from the property of a corporation, association or trust established in the United Kingdom for a charitable object, where exemption from United Kingdom income tax is allowed in respect of such income under section 447 of the Income Tax Act 1952 of the United Kingdom;
- (ab) any income derived from the property of a corporation, association or trust established in the Island of Guernsey for a charitable object, where exemption from Guernsey income tax is allowed in respect of such income under the laws relating to income tax of that Island;

- (b) any income derived by Her Majesty or by any Department of Her Majesty's Government from property in Jersey;
- (c) any income derived by the States from their own property;
- (d) the official emoluments of the Lieutenant-Governor;
- (e) the official emoluments of any servant of Her Majesty or of Her Majesty's Government paid by Her Majesty or Her Majesty's Government in respect of any office or employment carried on by the servant in Jersey and in respect of which the servant is liable to pay income tax imposed by the law of the United Kingdom;
- (f) any income derived by an assurance company from investments and deposits of so much of the company's annuity fund as is referable to pension annuity business, where exemption from United Kingdom income tax is allowed in respect of such income under section 24 of the Finance Act 1956 of the United Kingdom;
- (fa) income derived from investments or deposits of the annuity fund of a company resident in Jersey and carrying on in Jersey the business of granting annuities on human life provided that all contracts entered into by the company with or for the benefit of persons connected with the company are approved under this Law;
- (faa) any income derived from investments or deposits of a contract approved under Article 131C(1)(b);
- (fab) any income derived from investments or deposits of a retirement annuity trust scheme as defined in Article 131CA;
- (fb) any income derived from investments or deposits of an approved drawdown contract or approved trust;
- (g) ...
- (ga) ...
- (h) the remuneration, as prescribed under Article 6 of the Court of Appeal (Jersey) Law 1961,<sup>366</sup> of an ordinary Judge of the Court of Appeal, so long as the Judge is not ordinarily resident in Jersey;
- (j) income support or any special payment payable under the Income Support (Jersey) Law 2007;
- (l) any sums payable under any Act or enactment of the States which declares that such sums are to be exempt from income tax;
- (n) all payments of training grants made to employers by the Minister for Education, Sport and Culture on the recommendation of the Jersey Training Agency;
- (o) payments made for the maintenance of a child being looked after by the Minister for Health and Social Services under the Children (Jersey) Law 2002<sup>367</sup>.
- (p) any income derived by the Jersey Bank Depositors Compensation Board established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009<sup>368</sup>;

- (q) any compensation paid under the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 to a depositor with a bank.<sup>369</sup>

#### **115A Exemption in respect of redundancy and other termination payments<sup>370</sup>**

- (1) Subject to the provisions of this Article, exemption from income tax shall be granted in respect of any termination payment made to an employee by or on behalf of an employer.
- (2) In this Article ‘termination payment’ means any payment made to an employee in consequence of the termination of the employee’s office or employment, including any redundancy payment, compensation for unfair dismissal or loss of office, compensation for injury, death or disability (whether or not any such payment is calculated on the basis of earnings), but disregarding any payment that falls within the description in paragraph (3).
- (3) For the purposes of paragraph (2) there shall be disregarded any payment that has the characteristics of remuneration or deferred pay under the terms and conditions governing the employment including bonuses, holiday pay, payment in lieu of notice, payments whilst suspended from duties, pension and other amounts of a like nature.
- (4) Subject to paragraph (5), a termination payment shall be exempt under paragraph (1) in respect of so much of the payment as does not exceed £50,000.
- (5) So much of a termination payment that is made as a consequence of injury, death or disability shall be exempt under paragraph (1) without limit.
- (6) For the purposes of determining whether a payment is a termination payment for the purposes of this Article it is irrelevant whether it is paid as a result of a contractual or statutory entitlement, an order by a court or tribunal or is voluntary on the part of the employer.
- (7) For the purposes of paragraph (1) –
  - (a) “employee” refers to any person paid wages or salary by another person regardless of whether the first person is employed or is an office holder and “employer” and “employment” shall be construed accordingly; and
  - (b) the reference to payment made to an employee includes payment to an employee’s estate.

#### **116 Exemption for certain friendly societies**

Exemption from income tax shall be granted in respect of any income derived from the property of an unregistered British or Northern Irish friendly society whose income does not exceed £160, and any income derived from the property of a registered British or Northern Irish friendly society which is precluded by Act of Parliament or by its rules from assuring to any person a sum exceeding £2,000 by way of gross sum, or £416 a year by way of annuity.<sup>371</sup>

**117 Exemption in respect of wounds and disability pensions**

- (1) Income from wounds and disability pensions to which this paragraph applies shall be exempt from income tax and shall not be reckoned in computing income tax for any of the purposes of this Law.
- (2) Paragraph (1) applies to –
  - (a) wound pensions granted to members of the naval, military or air forces of the Crown;
  - (b) retired pay of disabled officers granted on account of medical unfitness attributable to or aggravated by naval, military or air force service;
  - (c) disablement or disability pensions granted to members, other than commissioned officers, of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air force service;
  - (d) disablement pensions granted to persons who have been employed in the nursing services of any of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air force service;
  - (e) injury and disablement pensions payable under the following Acts of Parliament of the United Kingdom, viz.: The Injuries in War (Compensation) Act 1914 of the United Kingdom, the Injuries in War Compensation Act 1914 of the United Kingdom (Section 2), and the Injuries in War (Compensation) Act 1915 of the United Kingdom, or under any War Risks Compensation Scheme for the Mercantile Marine:

Provided that, where the amount of any retired pay or pension to which paragraph (1) applies is not solely attributable to disablement or disability, the relief conferred by the said paragraph (1) shall extend only to such part as is certified by the Minister of Pensions and National Insurance of the United Kingdom, after consultation with the appropriate Government Department, to be attributable to disablement or disability.

- (3) Allowances granted by the Minister of Pensions and National Insurance of the United Kingdom under a Royal Warrant, Order in Council, or order administered by the Minister towards the subsistence of dependants, being widows, parents or families of deceased members of the naval, military or air forces of the Crown, shall be exempt from income tax and shall not be reckoned in computing the income of such dependants for any of the purposes of this Law.

**118 Exemption for savings banks**

- (2) Exemption from income tax shall be granted under Schedule D in respect of the income of the funds of any savings bank, except savings banks certified under the Trustee Savings Banks Act 1981 of the United Kingdom, so far as such income is applied in the payment or credit of interest to any depositor:

Provided that –

- 
- (a) any such interest shall be chargeable under the appropriate Case of Schedule D;
  - (b) in the year for which exemption is claimed, the bank shall make a return to the Comptroller of–
    - (i) the name and place of residence of every depositor to whom any interest is paid or credited out of the income of its funds, and of the amount thereof,
    - (ii) the name and address of every investor through the Stock and Bonds Department and a statement of the interest received on behalf of such investor,

and unless such returns are duly made on or before 1st March in the year following that in respect of which exemption is claimed, the bank shall not be entitled to any relief in respect of such sums:

Provided further that the Comptroller may at the Comptroller's discretion in any year assign an upper limit to the amounts of interest received by depositors and investors which shall render them liable to be included in the returns referred to in sub-paragraph (b) of the foregoing proviso.<sup>372</sup>

#### **118A Exemption in respect of States of Jersey securities held by non-residents<sup>373</sup>**

Where the Minister issues any securities which he or she has power to issue for the purposes of raising any money or loan with a condition that the interest on the securities shall not be liable to income tax so long as it is shown that the securities are in the beneficial ownership of persons who are not ordinarily resident in Jersey, the interest on securities issued with such a condition shall be exempt from tax.

#### **118B Exemption of certain income, profits or gains of a non-resident<sup>374</sup>**

- (1) Exemption from income tax shall be granted under Schedule D in respect of the following income, profits or gains of a person who is not resident in Jersey –
  - (a) interest paid in respect of or credited to a deposit with a person registered under the Banking Business (Jersey) Law 1991;
  - (b) cash dividends paid and stock dividends issued by a company regarded as resident in Jersey except a company which is charged to tax under Schedule D at the standard rate or at the rate of 10%;
  - (c) income arising from a pension payable under the Social Security (Jersey) Law 1974<sup>375</sup>;
  - (d) income arising or accruing from a purchased life annuity;
  - (e) interest paid by a company regarded as resident in Jersey;
  - (f) the profits and earnings of the office of director of a company;
  - (g) any royalty or other sum paid in respect of the user of a patent.<sup>376</sup>
- (2) In this Article, “purchased life annuity” has the same meaning as in Article 132(9).

**118C Exemption of certain income, profits or gains of an eligible investment scheme<sup>377</sup>**

- (1) In this Article –
- “applicant” means an eligible participant who has made an application under paragraph (2);
- “registered person” means an eligible participant who has been registered by the Comptroller under paragraph (5) and who has not ceased to be so registered under paragraph (7).
- (2) An eligible participant, other than an eligible participant who has, at any time, ceased to be registered under paragraph (7), may apply to the Comptroller to be registered under paragraph (5).
- (3) Such application must be made –
- (a) for the year of assessment 2010, not later than 31st March 2011; and
- (b) for any other year of assessment in respect of which an eligible participant wishes to be a registered person, not later than –
- (i) 30th June in the following year of assessment if the eligible participant has not previously made an application to be a registered person, or
- (ii) if the eligible participant has previously made an application to be a registered person under this Article –
- (A) 31st March in that year of assessment, or
- (B) such later date as the Comptroller may allow in exceptional circumstances, such date being no later than 30th June in the following year of assessment.
- (4) An application shall –
- (a) be in such form and include a statement of such information as the Comptroller may determine; and
- (b) be accompanied by such fee as the Minister may prescribe by Order.
- (5) The Comptroller, shall, on receipt of an application that complies with this Article, register the applicant for the purposes of this Article.
- (6) If a person is registered under paragraph (5), the person shall become a registered person in the year of assessment in respect of which the application was made on –
- (a) 1st January; or
- (b) the date the person became an eligible participant,
- whichever is later.
- (7) A person shall cease to be a registered person –
- (a) on 1st January in a year of assessment, if –
- (i) the person does not make an application under this Article for that year of assessment, and

- 
- (ii) the person was a registered person in the immediately preceding year of assessment; or
  - (b) on the date on which a person ceases to be an eligible participant, whichever is the earlier date.
- (8) A registered person who ceases to be an eligible participant shall, as soon as practicable, give notice of that fact to the Comptroller.
- (9) A registered person shall be exempt from all income tax chargeable under Schedule D on the registered person during the period in which such a person is registered in respect of a year of assessment unless, during such period, any trade is carried on through a permanent establishment in Jersey by the registered person.
- (10) For the purposes of paragraph (9) “permanent establishment” shall have the same meaning as in Article 3 as if that meaning applied to a registered person, whether or not a company.
- (11) A registered person shall, if required by the Comptroller, deliver to the Comptroller a list showing the names and addresses of each person residing in Jersey who –
- (a) owns shares in the registered person, if a company, and the number of shares owned by each such person; or
  - (b) has an economic interest in the registered person within the meaning of Article 3AD(2)(e), if the registered person is a trustee (other than a company) or limited liability partnership, and the amount of such economic interest.
- (12) For the purposes of paragraph (11) a person (“first person”) shall be deemed to have an economic interest in another person if the first person is entitled to any of the annual income, profits or gains howsoever arising or accruing to the other person or would be so entitled in the event of a distribution.

### **119 Exemption in respect of United Kingdom savings certificates**

- (1) The accumulated interest payable in respect of any national or war savings certificate issued by Her Majesty’s Treasury through the Post Office, under which the purchaser, by virtue of an immediate payment, becomes entitled after the expiration of a specified period to receive some greater sum, shall not be liable to income tax so long as the amount of the certificates held by the person who is for the time being the holder of the certificate does not exceed the amount which an individual is for the time being authorized to hold under regulations made by Her Majesty’s Treasury.
- (2) Where the currency of any national or war savings certificate has been extended under any Act of Parliament of the United Kingdom, the provisions of paragraph (1) shall apply with respect to any interest payable in respect of the certificate for the period after the expiration of the period referred to in the said paragraph (1) up to the date on which it is repaid or redeemed as it applies to the said accumulated interest.

**119A Exemption of consuls and other official agents<sup>378</sup>**

- (1) Income arising from any office or employment to which this Article applies shall be exempt from income tax, and no account shall be taken of such income in calculating the amount of income for any income tax purposes.<sup>379</sup>
- (2) The offices or employments to which this Article applies are the following, that is to say –
  - (a) the office of a consul in Jersey in the service of any foreign State; and
  - (b) the employment of an official agent in Jersey for any foreign State, not being an employment exercised by a citizen of the United Kingdom, Islands and Colonies or exercised in connection with any trade, business or other undertaking carried on for the purposes of profit.
- (3) In this Article –

“consul” means a person recognized by the Royal Court as being a consul-general, consul, vice-consul or consular agent; and

“official agent” means a person, not being a consul, who is employed on the staff of any consulate, official department or agency of a foreign State, not being a department or agency which carries on any trade, business or other undertaking for the purposes of profit.

**120 Exemption of consular officers and employees**

- (1) Exemption from income tax shall be granted in respect of income arising from a person’s office or employment in Jersey as a consular officer or employee in the service of any foreign State to which this Article applies:

Provided that no such exemption shall be granted to a consular employee who, not being a national of that State, is a citizen of the United Kingdom, Islands and Colonies.
- (2) Exemption from income tax shall be granted in respect of income arising from securities or possessions outside Jersey, or from a pension paid by or on behalf of a person outside Jersey, to a consular officer or employee in Jersey, in the service of any foreign State to which this Article applies:

Provided that such exemption shall be granted only, to a consular officer or employee who –

  - (i) is not a citizen of the United Kingdom Islands and Colonies;
  - (ii) is not engaged in any trade, profession, vocation or employment in Jersey, otherwise than as such a consular officer or employee; and
  - (iii) either is a permanent employee of that State, or was not ordinarily resident in Jersey immediately before the consular officer or employee became a consular officer or employee in Jersey of that State.
- (3) In this Article, “consular employee” includes any person employed for the purposes of the official business of a consular officer at any consulate

or consular establishment or at any other premises used for those purposes.

- (4) Where an Order in Council has been made by Her Majesty under section 24 of the Finance Act 1954 of the United Kingdom directing that that section shall apply to any foreign State, and the Order in Council has been registered by the Royal Court, this Article shall apply to that foreign State subject to any limitations contained in the Order in Council.

## **PART 16**

### **SPECIAL PROVISIONS AS TO MARRIED PERSONS**

#### **121 General rule as to income tax on husbands and wives**

- (1) Subject to Articles 121A and 121B, a woman's income chargeable to income tax shall, so far as it is income for a year of assessment or part of a year of assessment during which she is a married woman living with her husband, be deemed for the purposes of this Law to be his income and not to be her income:

Provided that the question whether there is any income of hers chargeable to income tax for any year of assessment, and, if so, what is to be taken to be the amount thereof for the purposes of this Law, shall not be affected by the provisions of this paragraph.<sup>380</sup>

- (2) Subject to Articles 121A and 121B, any tax falling to be assessed in respect of any income which, under paragraph (1) of this Article, is to be deemed to be the income of a woman's husband shall, instead of being assessed on her, or on her trustee, guardian or curator, or on her heirs, executors or administrators, be assessable on him, or in the appropriate cases, on his trustee, guardian or curator, or on his heirs, executors or administrators:

Provided that nothing in this paragraph shall affect the operation of Article 74.<sup>381</sup>

#### **121A Election by husband or wife for separate assessment<sup>382</sup>**

- (1) A married woman living with her husband, or her husband, may elect, by written notice delivered to the Comptroller, for separate assessment in accordance with Article 121B.
- (2) Subject to paragraph (3), an election delivered before 31st October in any year of assessment shall have effect for that year and ensuing years, unless revoked.
- (3) In the year of assessment in which a husband and wife marry, an election delivered –
  - (a) before 31st October in that year; or
  - (b) within one month following the day of their marriage,

shall have effect for the part of that year during which they are married and for ensuing years, unless revoked.

- (4) The husband or wife who made the election may revoke it, by written notice delivered to the Comptroller.
- (5) A revocation of an election delivered before 31st January following a year of assessment shall have effect for that year and ensuing years, unless a further election is made.
- (6) The Comptroller shall inform a husband or wife of the delivery by his or her spouse of a notice under paragraph (1) or (4).
- (7) In this Article and in Article 121B, “election” means an election under paragraph (1) of this Article.

### **121B Effect of election for separate assessment<sup>383</sup>**

- (1) Subject to this Article, an election shall have the effect that –
  - (a) the wife’s income is not deemed, for the purposes of this Law, to be her husband’s income; and
  - (b) the husband and wife are separately assessed and charged under this Law.
- (2) The husband and wife’s incomes shall be aggregated for the purpose of determining their entitlement to any allowances, exemptions and reliefs.
- (3) The sum of the allowances, exemptions and reliefs to which the husband and wife are entitled shall not exceed the sum of such amounts to which they would have been entitled if the election had not been made.
- (4) Subject to paragraph (5), any allowances, exemptions or reliefs (notwithstanding Articles 92B(2), 95(4) and 98A(4)) shall be apportioned between the husband and wife in proportion to the amounts or their respective incomes.<sup>384</sup>
- (5) The husband and wife may jointly, in accordance with paragraph (6), notify the Comptroller in writing that any allowances, exemptions and reliefs to which they are entitled, by virtue of the election, are to be apportioned and transferred between them in the manner specified in the notice.
- (6) An apportionment notice delivered to the Comptroller before 31st January following a year of assessment shall have effect for that year and, unless replaced by a further apportionment notice or revoked, for ensuing years.
- (7) The husband and wife may jointly revoke an apportionment notice by written notice delivered to the Comptroller.
- (8) A revocation of an apportionment notice delivered before 31st January following a year of assessment shall have effect for that year and ensuing years unless a further apportionment notice is delivered.
- (9) The husband or the wife may prepare and deliver the statement required by Article 16 on behalf of both of them, unless the Comptroller requires otherwise.

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- (10) An election shall not affect the operation of Article 74.
- (11) In this Article, “apportionment notice” means a notice under paragraph (5).

**122 Construction of references to married women living with their husbands, and special provisions as to certain spouses geographically separated**

- (1) A married woman shall be treated for all the purposes of this Law as living with her husband unless either –
- (a) they are separated under an order of a Court of competent jurisdiction or by agreement of separation; or
  - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.
- (2) Where a married woman is living with her husband and either –
- (a) one of them is, and one of them is not, resident in Jersey for a year of assessment; or
  - (b) both of them are resident in Jersey but one of them is, and one of them is not, absent from Jersey throughout that year,

the same consequences shall follow for all the purposes of this Law as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent:

Provided that, where this paragraph applies and the net aggregate amount of income tax falling to be borne by the husband and the wife for the year is greater than it would have been but for the provisions of this paragraph, the Comptroller shall give such relief as will reduce the said net aggregate amount by the amount of the excess.

## **PART 17**

### **SPECIAL PROVISIONS AS TO BODIES CORPORATE<sup>385</sup>**

**123 Bodies Corporate**

- (1)
- (a) a company incorporated under the Loi (1861) sur les Sociétés à Responsabilité Limitée or the Companies (Jersey) Law 1991<sup>386</sup> shall be regarded as resident in Jersey unless –
    - (i) its business is centrally managed and controlled outside Jersey in a country or territory where the highest rate at which any company may be charged to tax on any part of its income is 20% or higher, and
    - (ii) the company is resident for tax purposes in that country or territory;

- (b) a company incorporated outside Jersey shall be regarded as resident in Jersey if its business is managed and controlled in Jersey.<sup>387</sup>
- (2) The Treasurer, or other officer acting as treasurer for the time being, of any body of persons chargeable to income tax shall be answerable for doing all such acts as are required to be done under this Law, for the purpose of the assessment of such body and for payment of the tax, and for the purpose of the assessment of the officers and persons in the employment of such body:
- Provided that, in the case of a company, the person so answerable shall be the secretary of the company or other officer (by whatever name called) performing the duties of secretary.
- (3) Every such officer as aforesaid may from time to time retain, out of any money coming into the officer's hands on behalf of the body, so much thereof as is sufficient to pay the income tax charged on the body, and shall be indemnified for all such payments made in pursuance of this Law.

**123A** <sup>388</sup>**123B** <sup>389</sup>**123C Non-financial services companies**<sup>390</sup>

- (1) This Article applies to a company –
- (a) which is regarded as resident in Jersey, or which has a permanent establishment in Jersey; and
- (b) which is not any of the following –
- (i) a company to which Article 123D applies,
- (ii) a utility company, or
- (iii) a registered person within the meaning of Article 118C, such person being exempt from income tax under Article 118C(9).<sup>391</sup>
- (2) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, a company to which this Article applies shall be charged to tax under Schedule D at the rate of 0%.
- (3) In this Law, “utility company” means –
- (a) The Jersey New Waterworks Company Limited, registered by Act of the Royal Court dated 11th February 1882 in accordance with the provisions of the Loi (1861) sur les Sociétés à Responsabilité Limitée<sup>392</sup>;
- (b) the Jersey Gas Company Limited continued in existence by Article 2 of the Jersey Gas Company (Jersey) Law 1989<sup>393</sup>;
- (c) the Jersey Electricity Company Limited registered by Act of the Royal Court dated 5th April 1924 in accordance with the

provisions of the Loi (1861) sur les Sociétés à Responsabilité Limitée;

- (d) a person licensed to run part or all of a public telecommunications system under the Telecommunications (Jersey) Law 2002<sup>394</sup>;
  - (e) a person authorized to convey letters by a licence granted under the Postal Services (Jersey) Law 2004<sup>395, 396</sup>
- (4) <sup>397</sup>

#### **123CAA Exception for profits of importation and supply of hydrocarbon oil<sup>398</sup>**

- (1) Notwithstanding Article 123C(2), the annual profits or gains of a company to which Article 123C applies which arise from the trade of importing and supplying hydrocarbon oil shall be taxed at the standard rate.
- (2) Notwithstanding Article 123C(2), where a company to which Article 123C applies and which carries on the trade of importing and supplying hydrocarbon oil (the “importing company”) supplies the oil to another company which is –
  - (a) a company to which Article 123C applies; and
  - (b) a subsidiary of, or connected with, the importing company,the annual profits or gains of that other company which arise from the trade of supplying hydrocarbon oil shall be taxed at the standard rate.
- (3) In this Article “hydrocarbon oil” means any petroleum oil, coal tar or oil produced from coal, shale, peat or any other bituminous substance, or any liquid hydrocarbon, except any hydrocarbon or bituminous or asphaltic substance as is –
  - (a) solid or semi-solid at a temperature of 15 degrees Celsius; or
  - (b) gaseous at a temperature of 15 degrees Celsius and under a pressure of 1013.25 millibars,that is ordinarily used as fuel for the propulsion of any vehicle, vessel or aircraft or as boiler or furnace fuel.

#### **123CA Foundations<sup>399</sup>**

- (1) This Article applies to a foundation which is registered under the Foundations (Jersey) Law 2009<sup>400</sup>.
- (2) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, a foundation to which this Article applies shall be charged to tax under Schedule D at the rate of 0%.

#### **123D Financial services companies<sup>401</sup>**

- (1) This Article applies to a financial services company which has a permanent establishment in Jersey.<sup>402</sup>

- (2) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, a company to which this Article applies shall be charged to tax under Schedule D at the rate of 10%.
- (3) <sup>403</sup>

### **123E Apportionment on change of status during year<sup>404</sup>**

- (1) Where, a company is a company to which Article 123C or 123D applies for only part of a year of assessment, the company shall only be charged to tax in accordance with Article 123C or 123D, as the case requires, on the portion of its income, profits or gains on which it is charged to tax under Schedule D for that year that equates to the portion of year for which it is a company to which the relevant Article applies.
- (2) This Article is subject to Articles 64C to 64E in the case of the commencement, discontinuance or transfer of a trade, profession or vocation.

### **123EA Group relief for non-financial services companies<sup>405</sup>**

- (1) This Article applies where a qualifying company that is a member of a group suffers a loss for a financial period (referred to in this Article as the “surrendering company”).
- (2) Another qualifying company that is a member of the same group (the “claimant company”) may apply for the relief described in paragraph (7).
- (3) An application under paragraph (2) must be –
  - (a) made by the claimant company no later than the expiration of one year following the year of assessment in which the financial period for which the surrendering company suffered the loss ended; and
  - (b) accompanied by a declaration made by the surrendering company in accordance with paragraph (5).
- (4) In its application, the claimant company must state –
  - (a) its financial period to which the application relates;
  - (b) its profits or gains for that period, having regard, where required, to paragraph (9).
- (5) In its declaration, the surrendering company must state –
  - (a) its financial period to which the application relates;
  - (b) its loss for that period, having regard, where required, to paragraph (9);
  - (c) the amounts (if any) of the loss previously surrendered under this Article, and to whom.
- (6) The Comptroller shall grant the relief if he or she is satisfied that, throughout the financial period for which the surrendering company suffered the loss, both companies were –
  - (a) qualifying companies; and
  - (b) members of the same group.

- (7) The relief is that, subject to paragraph (8), the surrendering company's loss, or so much of it as is surrendered to the claimant company, is offset against the claimant company's profits or gains for a financial period which is the same as, or overlaps with, the financial period for which the surrendering company suffered the loss.
- (8) Where the claimant company's financial period only overlaps with the surrendering company's financial period, the maximum amount of the surrendering company's loss that can be surrendered to the claimant company is the portion of that loss that equates to the portion of the claimant company's financial period that overlaps with the financial period of the surrendering company.
- (9) Where a company's financial period exceeds 12 months, there shall be taken into account under this Article only such portion of the company's loss or, as the case requires, the company's profits or gains, of that period as equate to such portion that the period of 12 months is of the financial period.
- (10) For the purposes of this Article –
- “group” means a qualifying company, which has one or more 51% subsidiaries which are all qualifying companies, together with that or those subsidiaries;
- “qualifying company” means a company to which Article 123C applies.

#### **123F Group relief for financial services companies<sup>406</sup>**

- (1) This Article applies where a qualifying company that is a member of a group suffers a loss for a financial period (referred to in this Article as the “surrendering company”).
- (2) Another qualifying company that is a member of the same group (the “claimant company”) may apply for the relief described in paragraph (7).
- (3) An application under paragraph (2) must be –
- (a) made by the claimant company no later than the expiration of one year following the year of assessment in which the financial period for which the surrendering company suffered the loss ended; and
- (b) accompanied by a declaration made by the surrendering company in accordance with paragraph (5).<sup>407</sup>
- (4) In its application, the claimant company must state –
- (a) its financial period to which the application relates;
- (b) its profits or gains for that period, having regard, where required, to paragraph (9).
- (5) In its declaration, the surrendering company must state –
- (a) its financial period to which the application relates;
- (b) its loss for that period, having regard, where required, to paragraph (9);

- (c) the amounts (if any) of the loss previously surrendered under this Article, and to whom.
- (6) The Comptroller shall grant the relief if he or she is satisfied that, throughout the financial period for which the surrendering company suffered the loss, both companies were –
- (a) qualifying companies; and
- (b) members of the same group.
- (7) The relief is that, subject to paragraph (8), the surrendering company's loss, or so much of it as is surrendered to the claimant company, is offset against the claimant company's profits or gains for a financial period which is the same as, or overlaps with, the financial period for which the surrendering company suffered the loss.
- (8) Where the claimant company's financial period only overlaps with the surrendering company's financial period, the maximum amount of the surrendering company's loss that can be surrendered to the claimant company is the portion of that loss that equates to the portion of the claimant company's financial period that overlaps with the financial period of the surrendering company.
- (9) Where a company's financial period exceeds 12 months, there shall be taken into account under this Article only such portion of the company's loss or, as the case requires, the company's profits or gains, of that period as equate to such portion that the period of 12 months is of the financial period.
- (10) For the purposes of this Article –
- “group” means a qualifying company, which has one or more 51% subsidiaries which are all qualifying companies, together with that or those subsidiaries;
- “qualifying company” means a company to which Article 123D applies.<sup>408</sup>

## **PART 17A<sup>409</sup>**

### **SPECIAL PROVISIONS AS TO INDIVIDUALS UNDER DISABILITY AND DECEASED PERSONS**

#### **124 Individuals under disability**

- (1) The curator or guardian or other person having the direction, control or management of the property or concern of an individual under disability, whether such individual resides in Jersey or not, shall be assessable and chargeable to tax in like manner, and to the like amount, as that individual would be assessed and charged as if that individual were not under disability.
- (2) A person who is chargeable in respect of an individual under disability shall be answerable for all matters required to be done under this Law for the purpose of assessment and payment of income tax.

- (3) Any person who has been charged under this Law in respect of any individual under disability may retain, out of the money coming into his or her hands on behalf of any such individual, so much thereof from time to time as is sufficient to pay the income tax charged, and shall be indemnified for all such payments made in pursuance of this Law.

**125 Personal representatives of a deceased person**

- (1) Where any person dies without having delivered a statement of all his or her profits or gains chargeable to income tax with a view to assessment thereon in due course, an assessment in respect of the profits or gains which arose or accrued to the person before the person's death may be made at any time within the year of assessment or within 5 years after the expiration thereof, on the person's heirs, executors or administrators and the amount of the tax thereon shall be a debt from and payable out of the person's estate.
- (2) The time allowed by paragraph (1) shall not extend beyond a year and a day from the date of death of the deceased person.

**PART 18**

**SPECIAL PROVISIONS AS TO INDIVIDUALS TEMPORARILY  
ABROAD, AND NON-RESIDENTS**

**126 Individuals temporarily abroad**

Every individual whose ordinary residence has been in Jersey shall be assessed and charged to income tax, notwithstanding that at the time the assessment or charge is made the individual may have left Jersey, if the individual has so left Jersey for the purpose only of occasional residence abroad, and shall be charged as a person actually residing in Jersey on the whole amount of the individual's profits or gains, whether they arise from property in Jersey or elsewhere, or from any allowance, annuity, or stipend (save as herein is excepted), or from any trade, profession, employment or vocation in Jersey or elsewhere.

**127 Method of charging non-residents and absent residents**

A person not resident in Jersey, or who being ordinarily resident therein is absent from Jersey, shall be assessable and chargeable in the name of any attorney, guardian, curator or other representative having the direction, control or management of the property or concern of such person.

**128 Responsibilities and indemnification of persons in whose name a non-resident or absent resident is chargeable**

- (1) A person in whose name a non-resident person or person who is absent from Jersey is chargeable, shall be answerable for all matters required to

be done under this Law for the purpose of assessment and payment of income tax.

- (2) Any person who has been charged under this Law in respect of any non-resident person or person absent from Jersey as aforesaid may retain, out of money coming into his or her hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the income tax charged, and shall be indemnified for all such payments made in pursuance of this Law.

#### **128A Collection of tax on rental income of non-resident landlords<sup>410</sup>**

Schedule 3A shall have effect to make provision for the collection of tax on the rental income of non-resident landlords.

#### **129 Position under Schedule D of temporary residents**

A person shall not be charged to tax under Schedule D as a person residing in Jersey, in respect of profits or gains received in respect of possessions or securities out of Jersey, who is in Jersey for some temporary purpose only and not with any view or intent of establishing his or her residence therein, and who has not actually resided in Jersey at one time or several times for a period equal in the whole to 6 months in any year of assessment, but if any such person resides in Jersey for the aforesaid period he or she shall be so chargeable for that year.

#### **129A Apportionment for individual in Jersey for part of year<sup>411</sup>**

- (1) Subject to paragraph (2), this Article applies, for any year of assessment, to an individual who is not –
  - (a) in Jersey for the whole of that year; or
  - (b) assessed and charged to income tax for that year in accordance with Article 126.
- (2) This Article shall not apply to an individual whose allowances and reliefs for the year of assessment have been reduced in accordance with Article 106, and –
  - (a) who is not an employee or office holder or a sub-contractor carrying on the duties of the employment, office or contract in Jersey; or
  - (b) who is a director of a company which is incorporated in Jersey or which, in the year of assessment, is resident in, or carries on any part of its activities in, Jersey.
- (3) Where this Article applies to an individual for a year of assessment, the exemption threshold applicable in the individual's case by virtue of Article 92A, and any reliefs, reduction, allowances and deductions to which the individual would otherwise have been entitled under Parts 11 and 12 and Article 65B(3), shall be reduced to an amount equal to, for each period of 7 complete, consecutive days in that year for which the individual proves, to the satisfaction of the Comptroller, that he or she is

in Jersey, 1/52nd of the amounts determined in accordance with the aforementioned provisions.

- (4) In this Article –
- “office holder” does not include a director of a company described in paragraph (2)(b);
- “sub-contractor” has the same meaning as in Article A15.

## **PART 19**

### **SPECIAL PROVISIONS AS TO PENSIONS AND PENSION SCHEMES, ANNUITIES, ETC.**

#### **130 Social Security Allowances<sup>412</sup>**

- (1) Payments of benefit under the Social Security (Jersey) Law 1974,<sup>413</sup> other than maternity benefit, sickness benefit, accident benefit and death grant shall be charged to income tax under Case II of Schedule D, and, subject as hereinafter provided, shall be deemed for all the purposes of this Law to be earned income:

Provided that no such payment, other than old age pension payable to a wife by virtue of her own insurance, shall be treated as earned income of a wife for the purposes of Article 92A(4).<sup>414</sup>

- (2) No deduction shall be allowed under Article 101 in respect of any contributions paid by any individual under the Social Security (Jersey) Law 1974.
- (3) In this Article, “accident benefit”, “contributions”, “death grant”, “maternity benefit”, “old age pension” and “sickness benefit” have the same meanings as in the Social Security (Jersey) Law 1974.

#### **130A Invalid care allowance<sup>415</sup>**

Payments of invalid care allowance under Article 2 of the Invalid Care Allowance (Jersey) Law 1978<sup>416</sup> shall be charged to income tax under Case II of Schedule D and shall be deemed for all purposes of this Law to be earned income.

#### **131 Superannuation funds and pension schemes<sup>417</sup>**

- (1) Subject to the provisions of this Article and to any Order made thereunder, exemption from income tax shall be allowed in respect of income derived from investments or deposits of a superannuation fund, and, subject as aforesaid, any sum paid by an employer or employed person by way of contribution towards a superannuation fund or pension scheme shall, in computing profits or gains for the purpose of assessment to income tax under Schedule A, to the extent that it is charged under Article 51(1)(b) or (c) or under Case I or Case II of Schedule D be

allowed to be deducted as an expense incurred in the year in which the sum is paid:

Provided that –

- (a) no allowance shall be made under this paragraph in respect of any contribution by an employed person which is not an ordinary annual contribution and, where a contribution by an employer is not an ordinary annual contribution, it shall, for the purposes of this paragraph, be treated as the Comptroller may direct, either as an expense incurred in the year in which the sum is paid or as an expense to be spread over such period of years as the Comptroller thinks proper;
- (ab) any ordinary annual contribution by an employed person aggregated with any premiums paid by that person under an annuity contract as defined in Article 131B, or to a retirement annuity trust scheme as defined in Article 131CA, shall not exceed –
  - (i) £50,000 in any year of assessment, or
  - (ii) the employed person's related earnings during the year of assessment,

whichever is the lower amount;

- (ac) no deduction shall be allowed as an expense under this paragraph of a contribution paid in a year of assessment by an employed person whose income exceeds £150,000, unless the total contributions paid by the employed person in the year of assessment exceed the amount of the excess income ("excess income" being the amount of the employed person's income less £150,000);
  - (b) no deduction shall be allowed under Article 101 in respect of any sum paid by an employed person by way of contribution towards a superannuation fund or pension scheme if relief has been allowed for such sum under this Article.<sup>418</sup>
- (1A) The amount that may be deducted in the circumstances described in paragraph (1)(ac) is £1 for every £1 by which the total contributions paid by the employed person in the year of assessment exceed the excess income.<sup>419</sup>
- (1B) If an amount is deducted in the circumstances described in paragraph (1)(ac) no deduction shall be allowed under Article 131B(2B) and Article 131CA(2B).<sup>420</sup>
- (1C) For the purposes of paragraph (1)(ac) and (1A) –
- (a) references to "income" mean the employed person's total income disregarding the aggregate of any of the following paid by the employed person in the year of assessment –
    - (i) interest in respect of which the employed person is entitled to a marginal income deduction under Article 90AA,
    - (ii) an ordinary annual contribution,
    - (iii) a premium paid under an annuity contract as defined in Article 131B,

- 
- (iv) a contribution to a retirement annuity trust scheme as defined in Article 131CA;
  - (b) references to “total contributions” mean the aggregate of any of the payments described in clauses (ii) to (iv) in sub-paragraph (a).<sup>421</sup>
- (2) Income tax chargeable in respect of an annuity paid out of a superannuation fund or purchased under or for the purposes of a pension scheme to a person residing in Jersey shall if the Comptroller so directs, be assessed and charged on the annuitant under Case VI of Schedule D, instead of being deducted and accounted for under Article 87 and tax shall be computed on the full amount of the annuity arising in the year of assessment.
- (3) For the purposes of this Article “superannuation fund” and “pension scheme” mean, unless the context otherwise requires, a fund or scheme respectively which is approved for those purposes by the Comptroller and, subject as hereinafter provided, the Comptroller shall not approve a fund or scheme unless it is shown to the Comptroller’s satisfaction that –
- (a) the fund is a fund bona fide established under irrevocable trusts, or the scheme is a scheme bona fide established, in connection with some trade or undertaking carried on in Jersey by a person residing therein;
  - (b) the fund or scheme has for its sole purpose the provision of annuities for all or any of the following persons in the events respectively specified, that is to say, for persons employed in the trade or undertaking, either on retirement at a specified age or on becoming incapacitated at some earlier age, or for the widows, children or dependants of persons who are or have been so employed, on the death of those persons;
  - (c) the employer in the trade or undertaking is a contributor to the fund or scheme;
  - (d) the fund or scheme is recognized by the employer and employed persons in the trade or undertaking;

Provided that the Comptroller may, if the Comptroller thinks fit, and subject to such conditions, if any, as the Comptroller thinks proper to attach to the approval, approve a fund or scheme as a superannuation fund or pension scheme for the purposes of this Article –

- (i) notwithstanding that the rules of the fund or scheme provide for the return in certain contingencies of contributions paid to the fund or scheme;
- (ii) if the main purpose of the fund or scheme is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose;
- (iii) notwithstanding that the trade or undertaking in connection with which the fund or scheme is established is carried on only partly in Jersey and by a person not residing therein; or
- (iv) notwithstanding that the rules of the fund or scheme provide for the transfer of a sum, representing the accrued rights of an employee, to –

- (A) another fund or scheme approved under this Article,
  - (B) the annuity fund of an annuity contract as defined in Article 131B,
  - (C) a retirement annuity trust scheme as defined in Article 131CA,
  - (D) an approved drawdown contract, or
  - (E) the employee in such circumstances as the Minister may specify by Order.<sup>422</sup>
- (4) For the purposes of paragraph (3), a pension arrangement for the benefit of a particular employed person of an employer shall be deemed to be a pension scheme.
- (5) The Minister may make Orders generally for the purpose of carrying this Article into effect and, in particular, but without prejudice to the provisions of paragraph (3), may by any such Order –
- (a) provide for the charging of and accounting for tax in respect of contributions (including interest) repaid to a contributor to a superannuation fund or pension scheme and on lump sums paid in commutation of or in lieu of annuities payable out of a superannuation fund or purchased under or for the purposes of a pension scheme, as if any sums so repaid or paid were income of the year in which they are repaid or paid;
  - (b) require the trustees or other person having the management of a superannuation fund or pension scheme, to deliver to the Comptroller such information and particulars as the Comptroller may reasonably require for the purposes of this Article;
  - (c) prescribe the manner in which claims for relief under this Article are to be made and approved, and in which applications for the approval of a superannuation fund or pension scheme are to be made;
  - (e) provide for determining what contributions to a superannuation fund or pension scheme are to be treated as ordinary annual contributions for the purposes of this Article.<sup>423</sup>
- (6) Any person or body of persons aggrieved by any decision of the Comptroller under this Article shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller within 21 days of the date of the decision of the Comptroller.

### **131A Exemption of superannuation funds for overseas employees<sup>424</sup>**

- (1) Exemption from income tax shall be allowed in respect of income derived from investments or deposits of a superannuation fund approved by the Comptroller in accordance with the provisions of paragraph (1A).<sup>425</sup>
- (1A) The Comptroller may approve a superannuation fund if it is shown to the Comptroller's satisfaction that the superannuation fund complies with the following conditions –

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- (a) it is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on wholly or partly outside Jersey by a person not resident in Jersey;
  - (b) it has for its sole purpose the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside Jersey; and
  - (c) it is recognised by the employer and employed persons in the trade or undertaking.<sup>426</sup>
- (1B) For the purposes of paragraph (1A) duties performed in Jersey, the performance of which is merely incidental to the performance of other duties outside Jersey, shall be treated as performed outside Jersey.<sup>427</sup>
- (1C) Any person or body of persons aggrieved by a decision of the Comptroller to refuse to approve a superannuation fund under this Article shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the date of the decision of the Comptroller.<sup>428</sup>
- (2) Where an annuity is paid from a superannuation fund approved under this Article to a person not resident in Jersey, income tax shall not be deducted from any payment of the annuity or accounted for under Article 87 by the trustees or other persons having the control of the fund.<sup>429</sup>

### **131B Annuity contracts<sup>430</sup>**

- (1) In this Article, unless the context otherwise requires –
- (a) “annuity contract” means a retirement annuity contract approved by the Comptroller in accordance with the provisions of paragraph (3);
  - (b) “pensionable office or employment” means an office or employment if, and only if, service in it is service which is taken into account for the purposes of providing for an individual, through a superannuation fund or pension scheme approved under the provisions of Article 131, benefits payable on or after the individual's retirement which are the maximum benefits which may be provided under the provisions of that Article;
  - (c) “relevant earnings” in relation to any individual means any income of the individual's assessed to tax, being –
    - (i) income arising in respect of emoluments from an office or employment held by the individual other than a pensionable office or employment, or
    - (ii) income which is charged under Schedule D and is immediately derived by the individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein.<sup>431</sup>

- (2) Subject to paragraph (2A), any premium paid by an individual under an annuity contract shall be deducted from any of the individual's relevant earnings assessed to tax for the year of assessment in which the premium is paid.<sup>432</sup>
- (2A) In the case of a premium paid in a year of assessment under an annuity contract by an individual whose income in that year exceeds £150,000, no deduction shall be made under paragraph (2) unless the total contributions paid by the individual in the year of assessment exceed the amount of the excess income ('excess income' being the amount of the individual's income less £150,000).<sup>433</sup>
- (2B) In the circumstances described in paragraph (2A), the amount that may be deducted under paragraph (2) is £1 for every £1 by which the total contributions paid by the individual in the year of assessment exceed the excess income.<sup>434</sup>
- (2C) If a deduction is made in the circumstances described in paragraph (2A) no deduction shall be allowed under Article 131(1A) or Article 131CA(2B).<sup>435</sup>
- (2D) For the purposes of paragraphs (2A) and (2B) –
- (a) "income" means the individual's total income disregarding any of the following paid by the individual in the year of assessment –
    - (i) any interest in respect of which the individual is entitled to a marginal income deduction under Article 90AA, and
    - (ii) the aggregate of any payment described in sub-paragraphs (a) to (d) of paragraph (9);
  - (b) "total contributions" mean the aggregate of any payment described in sub-paragraphs (a) to (d) of paragraph (9).<sup>436</sup>
- (3) The Comptroller may approve a contract if it is shown to the Comptroller's satisfaction that the following conditions are satisfied –
- (a) the contract is made by an individual who is ordinarily resident in Jersey with a company to which this Article applies;
  - (b) subject to the provisions of paragraph (4), the contract does not provide –
    - (i) for the payment by the company during the life of the individual of any sum except sums payable by way of annuity to the individual,
    - (ii) for the annuity payable to the individual to commence before the individual attains the age of 50 years or after the individual attains the age of 75 years,
    - (iii) for the payment by the company of any other sums except sums payable by way of annuity to the surviving spouse of the individual and any sums which, in the event of no annuity becoming payable either to the individual or the individual's surviving spouse, are payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits,

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- (iv) for the annuity, if any, payable to the surviving spouse of the individual to be of a greater annual amount than that paid or payable to the individual,
  - (v) for the payment of any annuity otherwise than for the life of the individual or the individual's surviving spouse, or
  - (vi) for the payment by the individual of the aggregate of –
    - (A) any premium,
    - (B) any other premium under a contract of a similar nature,
    - (C) any contribution to a retirement annuity trust scheme as defined in Article 131CA, and
    - (D) any ordinary annual contribution to a superannuation fund or pension scheme approved by the Comptroller under Article 131,
      - to exceed £50,000 in any year of assessment or the individual's related earnings during that year, whichever is the lower amount;
  - (c) the contract includes provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment except to the extent that it makes provision for commutation of all or part of an annuity in accordance with any of sub-paragraphs (d), (e), (f) and (g);
  - (d) the individual may elect to receive a lump sum not exceeding 30% of the amount of the remaining part of the fund in respect of which annuities are payable to him or her following up to 3 elections from the date an annuity becomes payable under the contract until the date an annuity is first paid, provided that the sums commuted following 2 or more elections do not, when aggregated, exceed 30% of the remaining part of the fund;
  - (e) the individual may elect to commute the whole of the fund in respect of which, if the election was not made, the payment of the annuity to him or her (such payment not yet having commenced) would be made by reason of the fact that the individual is in serious ill health, such term being construed in accordance with paragraph (3A);
  - (f) the individual may elect to receive a lump sum by way of commutation of the whole of the fund in respect of which, if the election was not made, the payment of the annuity to him or her would otherwise commence if –
    - (i) the individual has attained the age of 60 years, and
    - (ii) the aggregate of –
      - (A) the value of the fund at the time of the election, and
      - (B) all lump sums that the individual has previously elected to receive under this sub-paragraph, under Article 131CA(4)(g) or under Article 5(2D) of the

Income Tax (Superannuation Funds) (Jersey)  
Order 1972<sup>437</sup>,

does not exceed £30,000;

- (g) if, following the death of an individual after the commencement of benefits, a lump sum by way of commutation of the whole of the fund in respect of which annuities were payable to the individual are paid to the individual's surviving spouse or a person dependent on the individual –
  - (i) the individual died on or after attaining the age of 60 years,
  - (ii) the value of the fund does not exceed £30,000, and
  - (iii) not more than two lump sums are payable whether by virtue of this sub-paragraph or by virtue of Article 131CA(4)(h).<sup>438</sup>
- (3A) For the purposes of paragraph (3)(e), an individual is not in serious ill health unless the person having control of the annuity fund has received evidence from a medical practitioner that the individual is expected to live for less than one year.<sup>439</sup>
- (4) The Comptroller may, if the Comptroller thinks fit, and subject to any conditions the Comptroller thinks proper to impose, approve a contract which otherwise satisfies the conditions contained in paragraph (3) notwithstanding that the contract provides for one or more of the following matters –
  - (a) for the payment of a lump sum on the death of an individual;
  - (b) for the payment after the individual's death of an annuity to a dependent, being a person who is dependent upon the individual for the ordinary necessities of life;
  - (c) for the annuity payable to any person to continue for a term certain, not exceeding 10 years, notwithstanding the person's death within that term;
  - (d) for the payment to the individual of an annuity commencing before the age of 50 years, if the annuity is payable on the individual's becoming incapable through infirmity of body or mind of carrying on the individual's own occupation or any occupation of a similar nature for which the individual is trained or fitted;
  - (e) if the individual's occupation is one in which persons customarily retire before attaining the age of 50 years, for the annuity to commence before the individual attains that age;
  - (f) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by the person's personal representatives in the distribution of the estate;
  - (g) for the individual or the individual's surviving spouse or dependent having accrued rights under a contract (in this sub-paragraph referred to as 'the annuitant') to require a sum representing those accrued rights under the contract to be paid by the company with which the contract is made to such other company, being a company to which this Article applies, as the individual may specify, where the sum is to be applied as the premium or other

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consideration for a second annuity contract made between the annuitant and that other company where such second annuity contract is approved by the Comptroller under the provisions of this Article;

- (ga) for the individual's surviving spouse or dependent having accrued rights under a contract to require a sum representing some or all of those rights to be paid to a retirement annuity trust scheme as defined in Article 131CA;
  - (h) for the individual having accrued rights under a contract to require or request a sum representing those accrued rights under the contract to be paid to –
    - (i) the annuity fund of another annuity contract,
    - (ii) a fund or scheme approved by the Comptroller in accordance with the provisions of Article 131(3),
    - (iii) an approved drawdown contract, or
    - (iv) a retirement annuity trust scheme as defined in Article 131CA.
  - (i) for the payment of contributions by any person from whom the individual who is party to the contract receives relevant earnings.<sup>440</sup>
- (5) Any person who is aggrieved by a condition imposed by the Comptroller on, or by the refusal by the Comptroller of the Comptroller's approval of, a contract under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing, stating the grounds of appeal, within 21 days of the date of the Comptroller's decision.
- (6) The provisions of Part 6 shall apply in the case of an appeal under paragraph (5) as they apply in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.
- (7) For the purposes of this Article a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.
- (7A) Any annuity must be payable by an authorized insurance company carrying on in Jersey or in Guernsey the business of granting annuities on human life.<sup>441</sup>
- (8) Any annuity payable under an annuity contract to an individual who has contributed under such contract or to the individual's surviving spouse or dependent shall, for all the purposes of this Law, be treated as earned income arising in Jersey.
- (8A) Income tax shall be charged on a person to whom has been paid a lump sum –
  - (a) commuted by virtue of paragraph (3)(f) or (g); or
  - (b) subject to paragraph (8C), following the death of an individual,at half the standard rate in force for the year in which the payment is made and the amount so charged to tax shall not be treated as income for any other purpose of this Law.<sup>442</sup>

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- (8B) No income tax shall be charged in respect of a lump sum commuted by virtue of paragraph (3)(d) or (e).<sup>443</sup>
- (8C) No tax shall be charged in respect of one or more lump sums not exceeding (in aggregate, if more than one lump sum) the amount specified in paragraph (8D) paid to a beneficiary following the death of an individual before the commencement of benefits.<sup>444</sup>
- (8D) That amount is –
- (a) the aggregate of all lump sums (if any) to which the beneficiary is entitled under the following –
    - (i) an annuity contract, and
    - (ii) a retirement annuity trust scheme as defined in Article 131CA; or
  - (b) £1,800,000,
- whichever is the smaller amount.<sup>445</sup>
- (8E) Paragraph (8B) shall not apply in respect of a lump sum commuted by virtue of paragraph (3)(d) if that sum has become payable following the payment to the annuity fund of a sum representing accrued rights under –
- (a) another annuity contract;
  - (b) a fund or scheme approved by the Comptroller in accordance with Article 131(3); or
  - (c) a retirement annuity trust scheme as defined in Article 131CA, and a lump sum has been paid under the contract, fund or scheme described in sub-paragraph (a), (b) or (c) to the individual in respect of which no income tax was charged or income tax was charged at less than the standard rate in force at the time of payment.<sup>446</sup>
- (8F) Except as otherwise provided in this Article, income tax at the standard rate shall be charged on a person to whom a lump sum has been paid under an annuity contract.<sup>447</sup>
- (9) Notwithstanding paragraph (2), no deduction shall be made in respect of any premiums to the extent that the payment by the individual of the aggregate of –
- (a) any premium;
  - (b) any other premium under a contract of a similar nature;
  - (c) any contribution to a retirement annuity trust scheme as defined in Article 131CA; and
  - (d) any ordinary annual contribution to a superannuation fund or pension scheme approved by the Comptroller under Article 131, exceeds £50,000 in any year of assessment or the individual's related earnings during that year, whichever is the lower amount.<sup>448</sup>
- (9A) This Article applies to a company carrying on in Jersey or in Guernsey the business of granting annuities on human life being –
- (a) a company resident in Jersey;
  - (b) an authorized insurance company; or

- (c) a person or institution specified in subsection (1) of section 632 of the Income and Corporation Taxes Act 1988 of the United Kingdom carrying on business through a branch or agency in Jersey or in Guernsey.<sup>449</sup>
- (10) The Minister may make Orders generally for the purpose of carrying into effect the provisions of this Article.
- (11) For the purposes of paragraphs (3)(g) and (8C) benefits commence upon whichever is the earlier of –
  - (a) an election by the individual who made the contract to receive a lump sum by way of commutation of part of the fund;
  - (b) the commencement of payment of the annuity to the individual who made the contract.<sup>450</sup>

### **131C Annuity contracts for overseas residents<sup>451</sup>**

- (1) The Comptroller may approve a retirement annuity contract made by an individual who is not resident in Jersey and whose employment, trade or profession, if any, is exercised outside Jersey –
  - (a) if the contract is with a company carrying on business through a branch in Jersey, and carrying on in Jersey the business of granting annuities on human life; or
  - (b) if the contract has for its sole purpose the provision of retirement benefits for the individual and is made under an irrevocable trust established under the law of Jersey and administered in Jersey.<sup>452</sup>
- (2) The Comptroller may, if he or she thinks fit, and subject to any conditions the Comptroller thinks proper to impose, approve a contract notwithstanding that the contract provides for the right to receive, by way of commutation, a lump sum representing the accrued rights under the contract.
- (3) For the purposes of paragraph (1), duties performed in Jersey, the performance of which is merely incidental to the performance of other duties outside Jersey, shall be treated as performed outside Jersey.
- (4) Where an annuity is paid under a retirement annuity contract approved under this Article to a person not resident in Jersey, income tax shall not be deducted from any payment of the annuity or accounted for under Article 87 by the persons having control of the annuity fund of the retirement annuity contract.
- (5) Any person who is aggrieved by a condition imposed by the Comptroller on, or by the refusal by the Comptroller of the Comptroller's approval of, a contract under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing, stating the grounds of appeal, within 21 days of the date of the Comptroller's decision.<sup>453</sup>
- (6) The provisions of Part 6 shall apply in the case of an appeal under paragraph (5) as they apply in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.<sup>454</sup>

**131CA Retirement annuity trust schemes<sup>455</sup>**

- (1) In this Article, unless the context otherwise requires –
- (a) “annuity equivalent” means a regular payment made to a primary beneficiary or to a secondary beneficiary under a retirement annuity trust scheme;
  - (b) “pensionable office or employment” means an office or employment if, and only if, service in it is service which is taken into account for the purposes of providing for an individual, through a superannuation fund or pension scheme approved under the provisions of Article 131, benefits payable on or after the individual’s retirement which are the maximum benefits which may be provided under the provisions of that Article;
  - (c) “primary beneficiary” means the individual who pays or has paid contributions into a retirement annuity trust scheme;
  - (d) “relevant earnings” in relation to any individual means any income of the individual’s assessed to tax, being –
    - (i) income arising in respect of emoluments from an office or employment held by the individual other than a pensionable office or employment, or
    - (ii) income which is charged under Schedule D and is immediately derived by the individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein;
  - (e) “retirement annuity trust scheme” means a trust scheme approved by the Comptroller in accordance with paragraph (3);
  - (f) “secondary beneficiary” means the surviving spouse of a primary beneficiary;
  - (g) “trustees” include a single corporate trustee.
- (2) Subject to paragraph (2A) and except in the circumstances described in paragraph (12), any contribution paid by an individual into a retirement annuity trust scheme shall be deducted from the individual’s relevant earnings assessed to tax for the year of assessment in which the contribution is paid.<sup>456</sup>
- (2A) In the case of a contribution paid in a year of assessment into a retirement annuity trust scheme by an individual whose income in that year exceeds £150,000, no deduction shall be made under paragraph (2) unless the total contributions paid by the individual in the year of assessment exceed the amount of the excess income (“excess income” being the amount of the individual’s income less £150,000).<sup>457</sup>
- (2B) In the circumstances described in paragraph (2A), the amount that may be deducted under paragraph (2) is £1 for every £1 by which the total contributions paid by the individual in the year of assessment exceed the excess income.<sup>458</sup>
- (2C) If a deduction is made in the circumstances described in paragraph (2A) no deduction shall be allowed under Article 131(1A) or Article 131B(2B).<sup>459</sup>

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- (2D) For the purposes of paragraphs (2A) and (2B) –
- (a) “income” means the individual’s total income disregarding any of the following paid by the individual in the year of assessment –
    - (i) any interest in respect of which the individual is entitled to a marginal income deduction under Article 90AA,
    - (ii) the aggregate of any payment described in sub-paragraphs (a) to (d) of paragraph (12);
  - (b) “total contributions” mean the aggregate of any payment described in sub-paragraphs (a) to (d) of paragraph (12).<sup>460</sup>
- (3) The Comptroller may approve a trust scheme if it is shown to the Comptroller’s satisfaction that –
- (a) contributions are paid into the scheme by an individual who is ordinarily resident in Jersey;
  - (b) the scheme is established under irrevocable trusts under Jersey law and administered in Jersey;
  - (c) the sole purpose of the scheme is to make provision for benefits in accordance with the provisions of this Article;
  - (d) under the scheme –
    - (i) the primary beneficiary has the right to elect to receive, by way of commutation of part of the annuity equivalent payable to that beneficiary, a lump sum not exceeding 30% of the amount of the remaining part of the fund in respect of which annuity equivalents are payable,
    - (ii) the right described in clause (i) is dependent on the exercise by the primary beneficiary of up to 3 elections from the date an annuity equivalent first becomes payable until the date an annuity equivalent is first paid,
    - (iii) the sums commuted following 2 or more elections described in clause (ii) do not, when aggregated, exceed the limit described in clause (i),
    - (iv) payment of the first annuity equivalent to a primary beneficiary and, where applicable, to a secondary beneficiary, is made according to a calculation approved by the Comptroller and thereafter according to a calculation made every 3 years approved by the Comptroller;
  - (e) the trust has 2 or more trustees or a corporate trustee;
  - (f) those trustees are subject to regulation by the Jersey Financial Services Commission under an enactment in respect of the carrying on of the business of trustee of that trust;
  - (g) subject to the provisions of paragraph (4), the scheme does not provide –
    - (i) for the payment during the life of the primary beneficiary of any benefits except sums payable by way of annuity equivalent to that beneficiary,

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- (ii) for the annuity equivalent payable to the primary beneficiary to commence before that beneficiary attains the age of 50 years or after that beneficiary attains the age of 75 years,
  - (iii) for the payment of any other benefits except –
    - (A) sums payable by way of annuity equivalent or payment of a lump sum to the secondary beneficiary, as the secondary beneficiary may elect,
    - (B) if no sum is payable under sub-clause (A), a lump sum payable to the primary beneficiary's estate,
  - (iv) for payment of the lump sum (if any) described in clause (iii) to take place before tax is paid to the Comptroller in accordance with paragraphs (9) and (10) where such lump sum becomes payable after commencement of an annuity equivalent to the primary beneficiary,
  - (v) for the annuity equivalent, if any, payable to the secondary beneficiary to be of a greater annual amount than that paid or payable to the primary beneficiary,
  - (vi) for the payment by the individual of the aggregate of –
    - (A) any contribution,
    - (B) any other contribution to a retirement annuity trust scheme of a similar nature,
    - (C) any premium under an annuity contract as defined in Article 131B, and
    - (D) any ordinary annual contribution to a superannuation fund or pension scheme approved by the Comptroller under Article 131,to exceed £50,000 in any year of assessment or the individual's related earnings during that year, whichever is the lower amount;<sup>461</sup>
- (4) The Comptroller may, if the Comptroller thinks fit, and subject to any conditions the Comptroller thinks proper to impose, approve a trust scheme which otherwise satisfies the conditions in paragraph (3) notwithstanding that the scheme provides for one or more of the following matters –
- (a) the payment to the primary beneficiary of an annuity equivalent commencing before the primary beneficiary attains the age of 50 years, if the annuity equivalent is payable on that beneficiary's becoming incapable through infirmity of body or mind of carrying on his or her own occupation or any occupation of a similar nature for which he or she is trained or fitted;
  - (b) if the primary beneficiary's occupation is one in which persons customarily retire before attaining the age of 50 years, for the annuity equivalent to commence before he or she attains that age;
  - (c) for the primary beneficiary, having accrued rights under the scheme, to require or request a sum representing those accrued rights to be paid to –
    - (i) another retirement annuity trust scheme,

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- (ii) the annuity fund of an annuity contract as defined in Article 131B,
  - (iii) a fund or scheme approved by the Comptroller in accordance with Article 131, or
  - (iv) an approved drawdown contract;
- (d) for the secondary beneficiary, having accrued rights under the scheme, to require a sum representing some or all of those accrued rights to be paid by the trustees of the scheme to another retirement annuity trust scheme;
- (e) for the payment of contributions by any person from whom the primary beneficiary receives relevant earnings;
- (f) for the primary beneficiary to elect to receive a lump sum by way of commutation of the whole of the fund in respect of which, if the election was not made, the payment of annuity equivalents to him or her (such payment not yet having commenced) would otherwise be made by reason of the fact that the primary beneficiary is in serious ill health, such term being construed in accordance with paragraph (4A);
- (g) for the primary beneficiary to elect to receive a lump sum by way of commutation of the whole of the fund in respect of which, if the election was not made, the payment of annuity equivalents to him or her would otherwise commence if –
- (i) he or she has attained the age of 60 years, and
  - (ii) the aggregate of –
    - (A) the value of the fund at the time of the election, and
    - (B) all lump sums that the individual has previously elected to receive under this sub-paragraph, under Article 131B(3)(f) or under Article 5(2D) of the Income Tax (Superannuation Funds) (Jersey) Order 1972,does not exceed £30,000;
- (h) for a lump sum by way of commutation of the whole of the fund in respect of which annuity equivalents were payable to the primary beneficiary to be paid to the secondary beneficiary if the primary beneficiary dies following the commencement of benefits, provided that –
- (i) the primary beneficiary died on or after attaining the age of 60 years,
  - (ii) the value of the fund does not exceed £30,000, and
  - (iii) not more than two lump sums are payable whether by virtue of this sub-paragraph or by virtue of Article 131B(3)(g).<sup>462</sup>
- (4A) For the purposes of paragraph (4)(f) a primary beneficiary is not in serious ill health unless the trustees of the retirement annuity trust scheme have received evidence from a medical practitioner that the primary beneficiary is expected to live for less than one year.<sup>463</sup>

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- (5) Any person who is aggrieved by a condition imposed by the Comptroller on, or by the refusal by the Comptroller of the Comptroller's approval of, a trust scheme under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing, stating the grounds of appeal, within 21 days of the date of the Comptroller's decision.
- (6) The provisions of Part 6 shall apply in the case of an appeal under paragraph (5) as they apply in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.
- (7) For the purposes of this Article a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.
- (8) An annuity equivalent payable under a retirement annuity trust scheme to a primary beneficiary or secondary beneficiary shall, for the purposes of this Law, be treated as earned income arising in Jersey.
- (8A) Income tax shall be charged on a primary beneficiary or secondary beneficiary in respect of a lump sum commuted by virtue of paragraph (4)(g) or (h) at half the standard rate in force for the year in which the payment is made and the amount so charged to tax shall not be treated as income for any other purpose of this Law.<sup>464</sup>
- (8B) No income tax shall be charged in respect of a lump sum commuted by virtue of paragraph (3)(d)(i) or (4)(f).<sup>465</sup>
- (9) Where a lump sum becomes payable to a secondary beneficiary, or to the primary beneficiary's estate after the commencement of benefits, income tax in respect of that lump sum shall be charged on the trustees of the scheme.<sup>466</sup>
- (9A) No tax shall be charged on the trustees of the scheme in respect of one or more lump sums not exceeding (in aggregate, if more than one lump sum) the amount specified in paragraph (9B) paid to the secondary beneficiary, or to the primary beneficiary's estate, by virtue of paragraph (3)(g)(iii) following the death of the primary beneficiary before the commencement of benefits.<sup>467</sup>
- (9B) That amount is –
- (a) the aggregate of all lump sums (if any) to which the secondary beneficiary is entitled under the following –
    - (i) an annuity contract approved under Article 131B, and
    - (ii) a retirement annuity trust scheme; or
  - (b) £1,800,000,
- whichever is the smaller amount.<sup>468</sup>
- (9C) Paragraph (8B) shall not apply in respect of a lump sum commuted by virtue of paragraph (3)(d)(i) if that sum has become payable following the payment to the retirement annuity trust scheme of a sum representing accrued rights under –
- (a) another retirement annuity trust scheme;

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- (b) a fund or scheme approved by the Comptroller in accordance with Article 131(3); or
- (c) an annuity contract approved under Article 131B, and a lump sum has been paid under the contract, fund or scheme described in sub-paragraph (a), (b) or (c) to the primary beneficiary in respect of which no income tax was charged or income tax was charged at less than the standard rate in force at the time of payment.<sup>469</sup>
- (9D) Except as otherwise provided in this Article, income tax at the standard rate shall be charged on a person to whom a lump sum has been paid under a retirement annuity trust scheme.<sup>470</sup>
- (10) The amount of tax described in paragraph (9) –
- (a) shall be charged on the amount of the lump sum before deduction of tax;
- (b) shall, where paid to the surviving spouse, be at half the standard rate in force for the year in which the payment is made;
- (c) shall, where paid to the primary beneficiary's estate, be at the standard rate in force for the year in which the payment is made;
- (d) shall not be treated as income for any other purpose of this Law.
- (11) The trustees shall notify the Comptroller within one month of the first payment of an annuity equivalent or payment of a lump sum of –
- (a) the name and address of the recipient of the payment (including where payment is received on behalf of the primary beneficiary's estate);
- (b) the amount of such payment.
- (12) The circumstances referred to in paragraph (2) are that no deduction shall be made in respect of any contributions to the extent that payment by the individual of –
- (a) any contribution;
- (b) any other contribution to a retirement annuity trust scheme of a similar nature;
- (c) any premium under an annuity contract as defined in Article 131B; and
- (d) any ordinary annual contribution to a superannuation fund or pension scheme approved by the Comptroller under Article 131, when aggregated, exceeds £50,000 in any year of assessment or the individual's related earnings during that year, whichever is the lower amount.<sup>471</sup>
- (13) The Minister may make Orders generally for the purpose of carrying into effect the provisions of this Article.
- (14) For the purposes of paragraphs (4)(h), (9) and (9A) benefits commence upon whichever is the earlier of –
- (a) an election by the primary beneficiary to receive a lump sum by way of commutation of part of the fund;

- (b) the commencement of payment of annuity equivalents to the primary beneficiary.<sup>472</sup>

### **131D Approved drawdown contracts<sup>473</sup>**

- (1) Subject to paragraph (2), an individual may transfer to an approved drawdown contract –
  - (a) funds held for the individual's benefit in a superannuation fund or pension scheme approved under Article 131; or
  - (b) annuity funds of an annuity contract approved under Article 131B; or
  - (c) funds held for the individual's benefit under a retirement annuity trust scheme as defined in Article 131CA.<sup>474</sup>
- (2) An individual may not transfer funds to an approved drawdown contract –
  - (a) before the first day on which payments to the individual could have commenced out of the fund, scheme or contract from which the funds are transferred; or
  - (b) where the individual has not irrevocably forfeited any right to receive a lump sum by way of commutation from the fund, scheme or contract from which the funds are to be transferred.
- (3) The Comptroller may approve a drawdown contract if the manager of the contract satisfies the requirements of paragraphs (4) to (6).
- (4) The manager must certify to the satisfaction of the Comptroller that, on the day the contract is to be made, the individual will be entitled to minimum retirement income.
- (5) The manager must show, to the satisfaction of the Comptroller that the contract –
  - (a) prohibits the transfer to the contract of funds other than funds described in paragraph (1) and funds to which Article 131E(4)(e) applies;
  - (b) where, on the day the contract is to be made, the individual will not otherwise be entitled to minimum retirement income, requires the manager to –
    - (i) purchase from an authorized insurance company which is unconnected with the individual a lifetime annuity payable to the individual which is sufficient to secure that, on that day, the individual is entitled to minimum retirement income, or
    - (ii) subject to the requirements of Article 131E, transfer sufficient funds to a trustee for the establishment of an approved trust;
  - (c) requires the manager to invest the remaining funds, after any such purchase or transfer, in –
    - (i) cash deposits with any bank, building society or other institution carrying on deposit-taking business in the

- 
- jurisdiction in which it is authorized to carry on such business,
- (ii) securities or financial instruments traded on a recognized stock exchange,
  - (iii) units in collective investment funds within the meaning of the Collective Investment Funds (Jersey) Law 1988,<sup>475</sup> or
  - (iv) investments falling within paragraph 9 of Schedule 1 to the Financial Services (Jersey) Law 1998<sup>476</sup> (long term insurance contracts);
- (d) prohibits any payments to any person other than the individual or the individual's personal representative, apart from –
- (i) sums applied in the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual or, on the individual's death, to the individual's spouse or dependent, or
  - (ii) fees and commission properly incurred in the administration of the contract and tax accounted for to the Comptroller;
- (e) requires the manager to pay to the individual, after deduction of tax in accordance with Article 87, such sums from the funds invested and any income accrued thereon as the individual requires;
- (f) where, on the death of the individual, there remain any funds invested or income accrued thereon, requires the manager, within the period of 3 months following the date of death, to pay to the individual's personal representative, after deduction of tax in accordance with Article 87, those funds and all such income; and
- (g) requires the manager to deliver to the Comptroller, within the period of 3 months following the end of a year of assessment, or within the period of 6 months following the date of death of the individual, a statement showing –
- (i) the funds invested at the beginning of that year or, for the year in which the contract commences, the funds invested at the commencement of the contract,
  - (ii) monies received during that year,
  - (iii) monies paid out during that year, whether to the individual, in fees and commission, as tax accounted for to the Comptroller or in any other manner, and
  - (iv) the funds invested at the end of that year or at the date of death of the individual, as the case may be, and the manner of the investment of those funds.
- (6) The manager must be –
- (a) resident in Jersey;
  - (b) unconnected with the individual; and
  - (c) either –

- (i) the holder of a permit under the Collective Investment Funds (Jersey) Law 1988,<sup>477</sup>
  - (ii) registered under the Banking Business (Jersey) Law 1991<sup>478</sup> or under the Investors (Prevention of Fraud) (Jersey) Law 1967,<sup>479</sup>
  - (iii) the holder of a permit under the Insurance Business (Jersey) Law 1996,<sup>480</sup> or
  - (iv) registered under the Financial Services (Jersey) Law 1998.<sup>481</sup>
- (7) An approved drawdown contract may, subject to the consent of the individual, the approval of the Comptroller and to any conditions the Comptroller thinks proper to impose, be assigned from one manager to another.
- (8) Any person aggrieved by the refusal by the Comptroller of his or her approval of a contract under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing stating the grounds of appeal, within 21 days of the date of the Comptroller's decision.
- (9) Part 6 shall apply in the case of an appeal under paragraph (8) as it applies in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.
- (10) Any sums paid to the individual pursuant to the requirement described in paragraph (5)(e) shall, for all the purposes of this Law, be treated as earned income arising in Jersey.
- (11) The Minister may make Orders generally for the purpose of carrying this Article into effect and, in particular, may –
  - (a) prescribe the manner in which applications for approval of a drawdown contract are to be made;
  - (b) prescribe the information to be provided in any certificate or application for approval of a drawdown contract.<sup>482</sup>

### **131E Approved trusts<sup>483</sup>**

- (1) The Comptroller may approve a trust if the requirements of paragraphs (2) to (5) are satisfied.
- (2) The trust must be established, and the approved drawdown contract to which it relates made, before the individual attains the age of 65 years.
- (3) The manager of the approved drawdown contract and the trustee of the trust must certify, to the satisfaction of the Comptroller –
  - (a) that, disregarding the investments to be made pursuant to paragraph (4)(a), the individual will be entitled to minimum retirement income on the relevant day, being a day selected for the purposes of this Article and which is no later than the day on which the individual attains the age of 65 years; and
  - (b) that, when the contract is made, the manager shall forthwith transfer to the trustee at least sufficient funds for the purpose described in paragraph (4)(a).

- (4) The trustee must show, to the satisfaction of the Comptroller, that the trust –
- (a) requires the trustee to –
    - (i) purchase sufficient securities issued by the Government of the United Kingdom yielding an income having an actuarial equivalent, determined in the manner prescribed by Order of the Minister, as will secure that, on the day the trust is established, the individual is entitled to an income which, taking the actuarial equivalent of the income from those securities into consideration and disregarding the fact that the income from them ceases on or after the relevant day, is minimum retirement income,
    - (ii) hold the securities so purchased upon trust for the individual until the relevant day, and
    - (iii) receive the income from the securities and pay it to the individual after deduction of tax in accordance with Article 87;
  - (b) prohibits any payments out of the trust to any person other than the individual or his or her personal representative, apart from tax accounted for to the Comptroller;
  - (c) prohibits any payment out of the trust to the individual other than income accrued on the funds invested by the trustee;
  - (d) on the relevant day, requires the trustee to certify, to the satisfaction of the Comptroller, whether or not, on that day, the individual is entitled to minimum retirement income;
  - (e) where, on the relevant day, the individual is entitled to minimum retirement income, provides that the funds may be withdrawn for the purpose only of their transfer to an approved drawdown contract or the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual;
  - (f) where, on the relevant day, the individual is not entitled to minimum retirement income, provides that the trust shall continue, upon the same terms, for the life of the individual save that the trustee shall be required –
    - (i) to purchase from an authorized insurance company which is unconnected with the individual a lifetime annuity payable to the individual or purchase securities issued by the Government of the United Kingdom or convert the securities previously purchased, so as to secure that, on the relevant day, the individual is entitled to minimum retirement income,
    - (ii) to hold the securities (if any) for the life of the individual, and
    - (iii) where securities are held, to pay to the individual, after deduction of tax in accordance with Article 87, the income arising from them;

- (g) where, on the death of the individual, there remain any funds invested or income accrued thereon, requires the trustee, within the period of 3 months following the date of death to pay to his or her personal representative, after deduction of tax in accordance with Article 87, those funds and all such income; and
- (h) requires the trustee to deliver to the Comptroller, within the period of 3 months following the end of a year of assessment, or within the period of 6 months following the date of death of the individual, a statement showing –
  - (i) the funds invested at the beginning of that year or, for the year in which the trust is established, the funds invested on the establishment of the trust,
  - (ii) monies received during that year,
  - (iii) monies paid out during that year, whether to the individual or as tax accounted for to the Comptroller, and
  - (iv) the funds invested at the end of that year or at the date of death of the individual, as the case may be, and the manner of the investment of those funds.
- (5) The trustee must be –
  - (a) resident in Jersey;
  - (b) unconnected with the individual; and
  - (c) registered under the Financial Services (Jersey) Law 1998.<sup>484</sup>
- (6) Any person aggrieved by the refusal by the Comptroller of his or her approval of a trust under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing, stating the grounds of the appeal, within 21 days of the Comptroller's decision.
- (7) Part 6 shall apply in the case of an appeal under paragraph (6) as it applies in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.
- (8) Any sums paid to the individual pursuant to the requirements described in paragraph (4)(a)(iii) and (f)(iii) shall, for all the purposes of this Law, be treated as earned income arising in Jersey.
- (9) The Minister may make Orders generally for the purpose of carrying this Article into effect and, in particular, may –
  - (a) prescribe the manner in which applications for approval of a trust are to be made;
  - (b) prescribe the information to be provided in any certificate or application for approval of a trust.<sup>485</sup>
- (10) In this Article, “relevant day” shall be construed in accordance with paragraph (3)(a).

**131F Minimum retirement income<sup>486</sup>**

- (1) An individual's entitlement to minimum retirement income shall be determined in accordance with this Article.

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- (2) An individual is entitled to minimum retirement income if, on the day for which the entitlement is to be determined, the individual is in receipt of relevant income which is not less than the maximum States old age pension payable on that day to any individual who has never been married.
- (3) In this Article –
- “relevant income” means any one or more of the following –
- (a) the States old age pension;
  - (b) an old age pension payable by another government, other than a pension for which the income is fixed for the life of the individual;
  - (c) any income not falling within sub-paragraph (a) or (b) which –
    - (i) shall be paid for the remainder of the life of the individual, and
    - (ii) is guaranteed to increase by not less than 3% per annum; and
  - (d) the actuarial equivalent of any income not falling within sub-paragraphs (a) to (c) which shall be paid for the remainder of the life of the individual;
- “States old age pension” means the pension payable under Article 25 of the Social Security (Jersey) Law 1974.<sup>487</sup>
- (4) The actuarial equivalent of any income shall be determined in the manner prescribed by Order of the Minister.

### **131G Withdrawal of approval under Articles 131 to 131E<sup>488</sup>**

- (1) This Article applies to the following funds –
- (a) a superannuation fund or pension scheme approved under Article 131;
  - (b) a superannuation fund approved under Article 131A;
  - (c) an annuity contract approved under Article 131B or 131C;
  - (ca) a retirement annuity trust scheme approved under Article 131CA;
  - (d) a drawdown contract approved under Article 131D;
  - (e) a trust approved under Article 131E.<sup>489</sup>
- (2) The Comptroller may withdraw approval of a fund to which this Article applies or part of such a fund if it appears to the Comptroller the facts concerning the fund or part of it, or its administration or arrangements made in accordance with it or part of it, do not warrant the continuance of approval.
- (3) The Comptroller shall give written notice of the withdrawal of approval, the grounds for withdrawal and the date on which the withdrawal takes effect to –
- (a) the fund administrator;
  - (b) any person whose acts warranted the discontinuance of approval of the fund or part of it;

- (c) any person who has benefited from the acts warranting discontinuance of approval of the fund or part of it; or
  - (d) any person connected with the person mentioned in subparagraph (c).
- (4) The date on which withdrawal of approval takes effect may be earlier than the date on which notice is given under paragraph (3) but shall not be earlier than the date on which the grounds for withdrawal appear to the Comptroller to have arisen.
- (5) Upon the withdrawal of approval taking effect, a person given notice under paragraph (3) shall be liable to tax under Schedule D Case VI, notwithstanding Article 1, at the rate of 50% on an amount equal to whichever, on the day on which the withdrawal takes effect, is the greater of –
  - (a) the market value of the assets held for the purposes of the fund; or
  - (b) the aggregate of –
    - (i) contributions to the fund, including transfers from other funds, and
    - (ii) income accrued from investments or deposits of the fund.
- (6) The Comptroller may abate the liability to tax under paragraph (5) by an amount which is, having regard to the relevant circumstances, just and reasonable.
- (7) Where all or any of the tax charged under paragraph (5) remains unpaid –
  - (a) the Comptroller may give a further notice under paragraph (3) to any of the persons there mentioned who has not previously been given notice; and
  - (b) the person to whom the further notice is given shall be liable to so much of the tax charged under paragraph (5) as remains unpaid.
- (8) Any person or body of persons aggrieved by any decision of the Comptroller to withdraw approval of a fund or part of it under this Article shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the date of the notice given by the Comptroller under paragraph (3).
- (9) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (8) as they apply to an appeal against any assessment –
  - (a) the proviso to Article 27(1);
  - (b) Article 27(2);
  - (c) Article 28(1);
  - (d) Article 29, with the omission of paragraphs (4) and (5);
  - (e) Articles 29A, 35 and 36.
- (10) Where the Comptroller gives a notice under paragraph (3) to a person other than the fund administrator, the Comptroller shall inform the fund administrator that the notice has been given.
- (11) In this Article “fund administrator” means –

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- (a) in the case of a superannuation fund or pension scheme approved under Article 131, the trustees and any other persons having management of the fund or scheme and any person connected with any of them;
  - (b) in the case of a superannuation fund approved under Article 131A, the trustees and any other persons having management of the fund and any person connected with any of them;
  - (c) in the case of an annuity fund approved under Article 131B or 131C, the person having control of the fund and any person connected with him or her;
  - (ca) in the case of a retirement annuity trust scheme approved under Article 131CA, the trustees and any person connected with any of them;
  - (d) in the case of a drawdown contract approved under Article 131D, the manager and any person connected with him or her;
  - (e) in the case of a trust approved under Article 131E, the trustees and any person connected with any of them.<sup>490</sup>

### **132 Purchased life annuities**

- (1) A purchased life annuity (not being of a description excepted by paragraph (7)) shall, for the purposes of the provisions of this Law relating to tax on annuities and other annual payments, be treated as containing a capital element and, to the extent of that capital element, as not being an annual payment or in the nature of an annual payment; but the capital element in such an annuity shall be taken into account in computing profits or gains or losses for other purposes of this Law in any circumstances in which a lump sum payment would be taken into account.
- (2) In the case of any purchased life annuity to which this Article applies –
  - (a) the capital element shall be determined by reference to the amount or value of the payments made or other consideration given for the grant of the annuity;
  - (b) the proportion which the capital element in any annuity payment bears to the total amount of that payment shall be constant for all payments on account of the annuity;
  - (c) where neither the terms of the annuity nor the amount of any annuity payment depends on any contingency other than the duration of a human life or lives, that proportion shall be the same proportion which the total amount or value of the consideration for the grant of the annuity bears to the actuarial value of the annuity payments as determined in accordance with the next following paragraph; and
  - (d) where sub-paragraph (c) does not apply, the said proportion shall be such as may be just, having regard to that sub-paragraph and to the contingencies affecting the annuity.

(2A) Where, in the case of any purchased life annuity to which this Article applies, the amount of any annuity payment (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives –

- (a) the capital element shall be determined by reference–
- (i) to the amount or value of the payments made or other consideration given for the grant of the annuity (in this paragraph referred to as the ‘purchase price’ of the annuity), and
  - (ii) to the expected term of the annuity, as at the date when the first annuity payment began to accrue, expressed in years (and any odd fraction of a year), and determined by reference to the prescribed tables of mortality,
- and in clause (ii) the word “term” means the period from the date when the first annuity payment begins to accrue to the date when the last payment becomes payable;
- (b) the capital element in any annuity payment made in respect of a period of 12 months shall be an amount equal to a fraction

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of the purchase price, where E is the said expected term;

- (c) the capital element in any annuity payment made in respect of a period of less than, or more than, 12 months shall be the amount referred to in sub-paragraph (b), reduced or, as the case may be, increased, in the same proportion as the length of that period bears to a period of 12 months;
- (d) paragraph (2) shall not apply, but paragraph (3)(a) and (b) thereof shall apply, as they apply to that paragraph,

and in applying paragraph (2)(d), where both the amount and the term of the annuity depend on any contingency other than the duration of a human life or lives, regard shall be had to this paragraph (and not to the said paragraph (2)(c)) as well as to the contingencies affecting the annuity.<sup>491</sup>

- (3) For the purposes of paragraph (2) –
- (a) any entire consideration given for the grant of an annuity and for some other matter shall be apportioned as appears just (but so that a right to a return of premiums or other consideration for an annuity shall not be treated for this purpose as a distinct matter from the annuity);
  - (b) where it appears that the amount or value of the consideration purporting to be given for the grant of an annuity has affected, or has been affected by, the consideration given for some other matter, the aggregate amount or value of those considerations shall be treated as one entire consideration given for both and shall be apportioned under sub-paragraph (a) accordingly; and

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- (c) the actuarial value of any annuity payments shall be taken to be their value as at the date when the first of those payments begins to accrue, that value being determined by reference to the prescribed tables of mortality and without discounting any payment for the time to elapse between that date and the date it is to be made.
- (4) Where a person making a payment on account of any life annuity has been notified in the prescribed manner of any decision as to its being or not being a purchased life annuity to which this Article applies or as to the amount of the capital element (if any), and has not been notified of any alteration of that decision, the notice shall be conclusive as to those matters for the purpose of determining the amount of tax which the person is entitled or required to deduct from the payment, or for which the person is chargeable in respect of it.
- (5) Where a person making a payment on account of a purchased life annuity to which this Article applies has not been notified in the prescribed manner of the amount of the capital element, the amount of tax which the person is entitled or required to deduct from the payment, or for which the person is chargeable in respect of it, shall be the same as if the annuity were not a purchased life annuity to which this Article applies.
- (6) Any person carrying on a business of granting annuities on human life shall be entitled to repayment of tax borne by the person by deduction or otherwise for any year of assessment up to the amount of tax which, if this Article had not been passed, the person would have been entitled to deduct and retain on making payments due in that year of assessment on account of life annuities and which in accordance with this Article the person has not deducted.
- (7) This Article shall not apply –
- (a) to any annuity which would, apart from this Article, be treated for the purposes of the provisions of this Law relating to tax on annuities and other annual payments as consisting to any extent in payment or repayment of a capital sum;
  - (b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief from tax under Article 101;
  - (ba) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief from tax under Article 131B or 131CA;
  - (c) to any annuity purchased in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement (whether with or without resort to capital);
  - (ca) to any annuity purchased in satisfaction of a droit de douaire or a droit de viduité;
  - (d) to any annuity purchased under or for the purposes of any sponsored superannuation scheme or to any other annuity purchased by any person in recognition of another's services (or past services) in any office or employment; or

- (e) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums withdrawn from an approved drawdown contract or an approved trust.<sup>492</sup>
- (8) The Minister may by Order prescribe anything which is to be prescribed under this Article and any such Order may apply, for the purposes of this Article and of the Order, any provision of this Law (with or without modifications) and may, in particular, make provision as to all or any of the following matters, that is to say –
- (a) as to the information to be furnished in connection with the determination of any question whether an annuity is a purchased life annuity to which this Article applies, or what is the capital element in an annuity, and as to the persons who may be required to furnish any such information;
  - (b) as to the manner of giving effect to a decision on any such question and (notwithstanding anything in Article 86) as to the making of assessments for the purpose on the person entitled to the annuity;
  - (c) as to the extent to which the decision on any such question is to be binding, and the circumstances in which it may be reviewed.
- (9) In this Article –
- “life annuity” means an annuity payable for a term ending with (or at a time ascertainable only by reference to) the end of a human life, whether or not there is provision for the annuity to end during the life on the expiration of a fixed term or on the happening of any event or otherwise, or to continue after the end of the life in particular circumstances;
- “purchased life annuity” means a life annuity granted for consideration in money or money’s worth in the ordinary course of a business of granting annuities on human life;
- “sponsored superannuation scheme” means any scheme or arrangement relating to service in particular offices or employments and having for its objects or one of its objects to make provision in respect of persons serving therein against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters, being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service; but for this purpose a person shall be treated as bearing by reason of his or her service the cost of any payment in respect of his or her service, if that payment is treated for the purposes of this Law as increasing his or her income, or would be so treated if the person were chargeable to tax under Case II of Schedule D in respect of his or her emoluments from that service.
- (10) This Article shall extend to life annuities whenever purchased or commenced.

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**PART 20****SPECIAL PROVISIONS AS TO LIFE ASSURANCE COMPANIES,  
INVESTMENT BUSINESSES AND SAVINGS BANKS****133 Relief to life assurance companies and others in respect of expenses of management**

- (1) Where an assurance company carrying on life assurance business, or any company whose business consists mainly in the making of investments, and the principal part of whose income is derived therefrom, or any savings bank or other bank for savings, claims and proves to the satisfaction of the Comptroller that, for any year of assessment, it has been charged to tax by deduction or otherwise, and has not been charged in respect of its profits in accordance with the provisions of this Law applicable to Case I of Schedule D, the company or bank shall be entitled to repayment of so much of the tax paid by it as is equal to the amount of the tax on any sums disbursed as expenses of management (including commissions) for that year:

Provided that –

- (a) relief shall not be given under this Article so as to make the tax paid by the company or bank less than the tax which would have been paid if the profits had been charged in accordance with the said provisions;
- (aa) in the case of a company whose business consists mainly in the making of investments, relief shall only be given under this Article for interest of money as an expense of management in accordance with Article 90AB, 90AC or 90AD;<sup>493</sup>
- (b) the amount of any fines, fees or profits arising from reversions in the case of an assurance company and, in the case of any other company or any such bank, the amount of any income or profits derived from sources not charged to tax, shall be deducted from the amount treated as expenses of management for the year;
- (ba) where a company whose business consists mainly in the making of investments would, apart from this proviso, be entitled to repayment of tax for any year of assessment in respect of emoluments of an office or employment arising in that year which are not paid before the end of the following year of assessment the Comptroller, if he or she is of the opinion that the main purpose of deferral of payment of the emoluments is the avoidance or reduction of the liability of any person to income tax, may refuse to allow them as expenses of management; and
- (c) in calculating profits arising from reversions, the company may set off against those profits any loss arising from reversions for any previous year during which any enactment granting this relief was in operation.<sup>494</sup>

- (1A) In paragraph (1)(ba) of this Article the time when emoluments are paid shall be determined in accordance with Article 65A as if “paid” were substituted for “received” throughout that Article.<sup>495</sup>
- (2) Where, on a claim for relief under this Article made by a company or bank for any year of assessment in respect of the sums disbursed by it as expenses of management (including commissions) for that year, relief is disallowed in respect of the whole or part of those sums by reason only of the provisions of paragraph (1)(a), the amount in respect of which relief has been so disallowed may be carried forward and treated for the purposes of this Article as if it had been disbursed as aforesaid for any subsequent year of assessment:

Provided that relief in respect of an amount so carried forward shall be given for the first year of assessment next following, in so far as relief can be so given in accordance with the provisions of this Article in respect of that amount as well as in respect of the sums actually disbursed as aforesaid for that year, and so far as it cannot be so given, then for the next year of assessment, and so on.<sup>496</sup>

- (3) If effect cannot be given, or cannot be fully given, to paragraph (1) because the company or bank has not been charged to tax for that year by deduction or otherwise, or because the sums disbursed for that year exceed the amount on which the company or bank has been charged to tax for that year, an amount equal to the sums disbursed, less any amount on which the company or bank has been so charged, may be carried forward and treated for the purposes of this Article as if it had been disbursed for any subsequent year of assessment:

Provided that relief in respect of an amount so carried forward shall be given for the first year of assessment next following, in so far as relief can be given in accordance with the provisions of this Article in respect of that amount as well as in respect of other sums disbursed or treated as disbursed for that year, and so far as it cannot be so given, then for the next year of assessment, and so on.<sup>497</sup>

- (4) Notice of any claim under this Article, together with the particulars thereof, shall be given in writing to the Comptroller within 12 months after the expiration of the year of assessment in respect of which the claim is made, and, where the Comptroller objects to such claim, the Commissioners shall hear and determine the same in the like manner as in the case of an appeal to them against an assessment under Schedule D, and the provisions of this Law relating to appeals to the Royal Court shall apply.<sup>498</sup>

(4A) <sup>499</sup>

- (6) Where income arising from the investments of the foreign life assurance fund of an assurance company has been relieved from tax in pursuance of the provisions of this Law, a corresponding reduction shall be made in the relief granted under this Article in respect of the expenses of management.

**134 Taxation of profits of life assurance companies with head office outside Jersey<sup>500</sup>**

- (1) Where an assurance company, not having its head office in Jersey, carries on life assurance business, industrial life assurance business, general annuity business, pension business or capital redemption business through any branch or agency in Jersey, each class of business shall, for the purposes of this Law, be treated as a separate business from any other class of business carried on by the branch or agency.
- (2) The assurance company may, for any year of assessment, be charged in respect of its profits from the branch or agency arising from any class of business carried on by it, in accordance with the provisions of this Law applicable to Case I of Schedule D, or, in accordance with the provisions of this Law, applicable to Cases III, IV and V of Schedule D:

Provided that –

- (a) the amount of profits chargeable for the purposes of this Law shall be limited to the amount of profits attributable to the business carried on in Jersey; and
  - (b) where the amounts of such profits cannot readily be determined, the company shall be liable upon the same proportion of its total profits computed in accordance with the provisions of this Law as the amount of premiums received in that year from policy holders resident in Jersey and from policy holders resident abroad whose proposals were made to the company at or through its branch or agency in Jersey bears to the total amount of the premiums received by the company, or on such other proportion or part of such total profits as the Comptroller may agree with the company.
- (3) Where an assurance company, not having its head office in Jersey, is charged under the provisions of this Law applicable to Cases III, IV and V on a proportion of its total profits, the relief in respect of expenses of management due under Article 133 shall be calculated by reference to a like proportion of its total expenses of management for the year, calculated according to the provisions of this Law.<sup>501</sup>

**PART 20A****GENERAL PROVISION AGAINST LEGAL AVOIDANCE<sup>502</sup>****134A Power of Comptroller to make assessment to prevent avoidance of income tax<sup>503</sup>**

- (1) If the Comptroller is of the opinion that the main purpose, or one of the main purposes, of a transaction, or a combination or series of transactions, is the avoidance, or reduction, of the liability of any person to income tax, the Comptroller may, subject as hereinafter provided, make such assessment or additional assessment on that person as the Comptroller considers appropriate to counteract such avoidance or reduction of liability:

Provided that no assessment or additional assessment shall be made under this Article if the person shows to the satisfaction of the Comptroller either –

- (a) that the purpose of avoiding or reducing liability to income tax was not the main purpose or one of the main purposes for which the transaction, or the combination or series of transactions was effected; or
  - (b) that the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions and was not designed for the purpose of avoiding or reducing liability to income tax.<sup>504</sup>
- (2) The provisions of this Law shall apply to any assessment or additional assessment made under this Article as if it had been made in pursuance of Part 5.
- (3) Without prejudice to the generality of paragraph (2), any person who is aggrieved by any assessment or additional assessment made on the person under this Article shall be entitled to appeal to the Commissioners on the ground that –
- (a) the avoidance, or reduction, of the liability of that person to income tax was not the main purpose, or one of the main purposes, of the transaction, or the combination or series of transactions;
  - (b) the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions and was not designed for the purpose of avoiding or reducing liability to income tax; or
  - (c) that the person has been overcharged by the assessment or additional assessment,

and all the provisions of this Law relating to appeals against any assessment shall apply to any appeal made under this Article.<sup>505</sup>

## **PART 21**

### **SPECIAL PROVISIONS AS TO MINISTERS OF RELIGION**

#### **135 Deduction in respect of expenditure and houses of ministers of religion**

- (1) In assessing the tax chargeable under any Schedule on a clergyman or minister of any religious denomination, the following deductions may be made from any profits, fees or emoluments of the clergyman or minister's profession or vocation –
  - (a) any sums of money paid or expenses incurred by the clergyman or minister wholly, exclusively and necessarily in the performance of his or her duty as a clergyman or minister;
  - (b) a part of the rent (not exceeding 1/8) paid by the clergyman or minister in respect of a dwelling-house any part of which is used mainly and substantially for the purposes of his or her duty as such clergyman or minister,

and where any such clergyman or minister is in the occupation of a dwelling-house, but pays no rent therefor, the clergyman or minister shall for the purposes of the foregoing provision be deemed to pay a rent equal to the annual value of the dwelling-house as assessed to tax under Schedule A.

- (2) If no such deduction has been made, a proportionate part of the tax paid by the clergyman or minister shall be repaid to the clergyman or minister on proof that any sum has been expended as aforesaid.

## **PART 21A<sup>506</sup>**

### **SPECIAL PROVISION FOR PERSON GRANTED 1(1)(K) HOUSING CONSENT**

#### **135A Persons granted 1(1)(k) housing consent<sup>507</sup>**

- (1) This Article applies to any person who, pursuant to a 1(1)(k) housing consent granted on or after 1st January 2005, acquires land or property conferring a right to occupy land (whether or not that person has previously been granted such a consent).
- (2) This Article shall cease to apply to the person upon –
  - (a) the revocation of the 1(1)(k) housing consent; or
  - (b) the person ceasing to own the land or property conferring the right to occupy land, unless, within the period of 6 months following such cessation, the person acquires other land or such property pursuant to a further 1(1)(k) housing consent.
- (3) Subject to paragraph (3A), notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for that year of assessment, so much of the person's total income as is not Jersey income exceeds the prescribed limit, the amount of the excess shall be chargeable to tax at the prescribed rate.<sup>508</sup>
- (3A) Paragraphs (3B) and (3C) apply in a person's case instead of paragraph (3) if –
  - (a) the person acquires land or property conferring a right to occupy land pursuant to a 1(1)(k) housing consent granted pursuant to an application made on or after the day that the Income Tax (Amendment No. 39) (Jersey) Law 2011<sup>509</sup> comes into force; and
  - (b) the person has not previously been granted a 1(1)(k) housing consent.<sup>510</sup>
- (3B) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for a year of assessment, so much of the income of a person to whom this paragraph applies by virtue of paragraph (3A) as is chargeable to tax under Schedule D exceeds the limit prescribed for the purposes of this paragraph for that year, the amount of the excess of that income chargeable to tax under Schedule D

shall be charged to tax at the rate prescribed for the purposes of this paragraph.<sup>511</sup>

- (3C) In calculating, for the purposes of paragraph (3B), the amount of a person's income chargeable to tax under Schedule D there shall be disregarded any dividend declared out of profits or gains charged to tax at the standard rate on any body of persons.<sup>512</sup>
- (4) The States may by Regulations, for the purposes of each of paragraphs (3) and (3B), specify a prescribed limit and either a single prescribed rate or different prescribed rates to apply to different portions of so much of a person's income as is chargeable to tax in accordance with the paragraph.<sup>513</sup>
- (5) In this Article –

“application” means an application for 1(1)(k) housing consent made under Article 13 of the Housing (Jersey) Law 1949<sup>514</sup>;

“1(1)(k) housing consent” means consent under the Housing (Jersey) Law 1949<sup>515</sup> for the sale, transfer or lease of any land in the case described in Regulation 1(1)(k) of the Housing (General Provisions) (Jersey) Regulations 1970;<sup>516</sup>

“Jersey income” means –

- (a) all annual profits or gains arising or accruing from –
- (i) any rents or receipts described in Article 51,
  - (ii) any kind of property whatever, situated in Jersey,
  - (iii) any trade exercised in Jersey, whether or not through a fixed place of business in Jersey,
  - (iv) any profession, employment, vocation or office exercised within Jersey, or
  - (v) any pension arising in Jersey;
- (b) all interest of money and annuities arising in Jersey; and
- (c) all sums paid to an individual or an individual's personal representative pursuant to Article 131D or 131E,

and includes any payment to be charged to tax by virtue of Article 86(2)(e).<sup>517</sup>

### **135B Exchange of information for the purposes of Article 135A<sup>518</sup>**

- (1) Notwithstanding anything in this Law or any other enactment –
- (a) the Comptroller may disclose information to the Minister for Housing, or an officer in an administration of the States for which that Minister is assigned responsibility, for the purposes of the grant and revocation of 1(1)(k) housing consents;
  - (b) an officer in an administration of the States for which that Minister is assigned responsibility may disclose information to the Comptroller for the purposes of the administration of this Article.
- (2) A person to whom information is disclosed pursuant to paragraph (1) shall use it only for the purposes for which it is disclosed.

- (3) In this Article –
- “1(1)(k) housing consent” has the same meaning as in Article 135A;
- “officer” has the same meaning as in Article 25 of the States of Jersey Law 2005.<sup>519</sup>

## PART 22

### GENERAL PROVISIONS AS TO PROSECUTIONS AND PENALTIES

#### 136 Penalties for failure to deliver statements, etc.

- (1) Subject to the provisions of this Article, if any person who has been required by a notice or precept given, issued or served under this Law to deliver or furnish any statement, list, return, schedule, certificate, document or information, fails to comply with the notice or precept, the person shall be liable to a fine not exceeding level 4 on the standard scale, and if the failure continues after it has been declared by the Court before which proceedings for the recovery of the fine have been commenced, to a further fine not exceeding level 2 on the standard scale for each day on which the failure so continues.<sup>520</sup>
- (2) A person shall not be liable to any fine for a failure incurred under this Article to comply with any notice (other than a general notice given under Article 16) or a precept if the failure is remedied before proceedings for recovery of the fine are commenced.
- (3) Where a person liable to a fine incurred under this Article for a failure to comply with a notice served under Article 16(4) proves to the satisfaction of the Court that he or she is not chargeable to tax, the maximum fine which may be imposed under this Article in respect of the offence shall be level 2 on the standard scale.<sup>521</sup>
- (4) <sup>522</sup>
- (5) For the purposes of this Article, a person shall be deemed not to have failed to deliver or furnish any statement, list, return, schedule, certificate, document or information required to be delivered or furnished within a limited time if he or she delivered or furnished it within such further time, if any, as the Comptroller or the Commissioners may have allowed; and where a person had a reasonable excuse for not delivering or furnishing any statement, list, return, schedule, certificate, document or information, he or she shall be deemed not to have failed to do so if he or she did it without unreasonable delay after the excuse had ceased.<sup>523</sup>

#### 137 Penalties for fraudulently or negligently making incorrect statements, etc.

- (1) If any person fraudulently or negligently –
- (a) delivers any incorrect statement for the purposes of Article 16;
- (b) makes any incorrect statement, return or declaration in connection with any claims for any allowance, deduction or relief;

- (c) submits to the Comptroller any incorrect accounts in connection with the ascertainment of his or her liability to income tax, the person shall be guilty of an offence.<sup>524</sup>
- (2) If any person fraudulently or negligently delivers or furnishes any incorrect statement, list, return, schedule or certificate under any provision of this Law other than Article 16, the person shall be guilty of an offence.<sup>525</sup>
- (2A) Where an offence under paragraph (1) –
- (a) is committed negligently, the person shall be liable to a fine in accordance with paragraph (2B);
  - (b) is committed fraudulently, the person shall be liable to imprisonment for a term of 15 years and to a fine.<sup>526</sup>
- (2B) The fine for the purposes of paragraph (2A) is a fine of the aggregate of –
- (a) level 4 on the standard scale, and
  - (b) twice the amount of the difference between the amount of income tax payable on the assumption that the statement, return, declaration, or accounts as delivered, made or submitted by the person were correct and the amount of income tax which would have been payable if the statement, return, declaration or accounts had been correct.<sup>527</sup>
- (2C) Where an offence under paragraph (2) –
- (a) is committed negligently, the person shall be liable to a fine of level 4 on the standard scale;
  - (b) is committed fraudulently, the person shall be liable to imprisonment for a term of 15 years and to a fine.<sup>528</sup>
- (3) Where any such statement, return, declaration or accounts as are mentioned in paragraph (1) or (2) were delivered, made or submitted by any person neither fraudulently nor negligently and it comes to his or her notice that they were incorrect, then, unless the error is remedied without unreasonable delay, the statement, return, declaration or accounts shall be treated for the purposes of this Article as having been negligently delivered, made or submitted by the person.<sup>529</sup>
- (4) Where the Comptroller is of the opinion that any person has committed an offence against paragraph (1) negligently, the Comptroller may accept a pecuniary settlement instead of proceedings being instituted in respect of the offence; and where any criminal proceedings are instituted against such person in connection with or in relation to income tax or any proceedings are instituted against the person for the recovery of any sum due from the person, whether by way of tax or penalty, in relation to income tax, any statements made or documents produced by the person or on the person's behalf shall not be inadmissible in the proceedings by reason only that it has been drawn to his or her attention that –
- (a) the Comptroller may accept a pecuniary settlement instead of proceedings being instituted; and
  - (b) though no undertaking can be given as to whether or not the Comptroller will accept such a settlement in the case of any

particular person, it is the practice of the Comptroller to be influenced by the fact that a person has made a full confession of any default to which he or she has been a party and has given full facilities for investigation,

and that the person was or may have been induced thereby to make the statements or produce the documents.<sup>530</sup>

- (4A) Any person who aids, abets, counsels or procures the commission of an offence that is committed fraudulently under this Article shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for in paragraph (2A)(b) or (2C)(b), as the case requires.<sup>531</sup>
- (5) For the avoidance of doubt, it is provided that for the purposes of this Article any accounts submitted on behalf of any person, shall be deemed to have been submitted by the person unless he or she proves that they were submitted without his or her consent or connivance.<sup>532</sup>

**138** <sup>533</sup>

**139 Penalty for refusing to allow deduction of tax, and avoidance of agreements for payment without deduction**

- (1) A person who refuses to allow a deduction of tax authorized by this Law to be made out of any payments shall be liable to a fine not exceeding level 2 on the standard scale.<sup>534</sup>
- (2) Subject to paragraph (3) every agreement for payment of interest or other annual payment in full without allowing any such deduction shall be void.<sup>535</sup>
- (3) Paragraph (2) shall not apply to an agreement for payment of interest entered into on or after the first day of January 2004.<sup>536</sup>

**141 Penalties to belong to States' revenues**

All penalties recovered under this Law shall be paid into the consolidated fund.

**PART 22A**<sup>537</sup>

**POWERS TO ENTER PREMISES**

**141A Interpretation of this Part**<sup>538</sup>

In this Part –

“authorized person” means the Comptroller or any person authorized by the Comptroller to perform functions under this Part;

“business document” means any document –

- (a) that relates to the carrying on of a business, trade, profession or vocation by any person; and
  - (b) that forms part of any record under any enactment;
- “business premises” means premises used in connection with the carrying on of a business, trade, profession or vocation.

**141B Power to enter business premises and examine business documents<sup>539</sup>**

- (1) An authorized person may examine and take copies of any business document that is located on business premises.
- (2) The power under paragraph (1) may be exercised only for the purpose of facilitating the exercise of the Comptroller’s functions under this Law.
- (3) An authorized person may at any reasonable hour enter business premises for the purpose of exercising the power under paragraph (1).
- (4) An authorized person may by notice require any person to produce any specified business document at the business premises where the business document is located for the purpose of enabling the authorized person to exercise the power under paragraph (1) in relation to that document.
- (5) An authorized person shall not exercise the powers under this Article in respect of any document which a person would, in an action in Court, be entitled to refuse to disclose or produce on the grounds of legal professional privilege.

**141C Obstructing an authorized person<sup>540</sup>**

- (1) A person shall be guilty of an offence if, without reasonable excuse, the person –
  - (a) obstructs an authorized person in the exercise of the authorized person’s powers under Article 141B; or
  - (b) fails to provide such reasonable assistance as an authorized person may require when the authorized person is exercising his or her powers under Article 141B.
- (2) A person who intentionally alters, suppresses or destroys any business document that has been specified in a notice under Article 141B(4) shall be guilty of an offence.
- (3) A person who is guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 6 months and to a fine.
- (4) A person who is guilty of an offence under paragraph (2) shall be liable to imprisonment for a term of 5 years and to fine.

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**PART 23****MISCELLANEOUS PROVISIONS****142 Provisions for giving effect to any increase, during any year of assessment, in the standard rate of income tax**

- (1) The amount of tax payable by virtue of any assessment made before the increase, during the year of assessment, in the standard rate of income tax, shall be treated as varied to such extent as is necessary to give effect to such increase in the standard rate:

Provided that this paragraph shall not apply in the case of income chargeable or under Article 87.<sup>541</sup>

- (2) In the case of such income as is mentioned in the proviso to paragraph (1), any deficiencies in the amount of tax deducted from any payment (being a deficiency arising by reason of the increase in the standard rate) shall, so far as possible, be made good by increasing the deduction required or authorized by law to be made from the next payment, by an amount equal to the amount of the deficiency and the deficiency so made good shall be accounted for and assessed in the same manner as the tax deducted from the original payment.
- (3) Where, in any year of assessment, any payments have been made on account of any such income as is mentioned in the proviso to paragraph (1) previously to the passing of the Act imposing the tax for that year, and tax has not been charged thereon or deducted therefrom or has not been charged thereon or deducted therefrom at the rate ultimately imposed for that year, and it is not possible to make good the deficiency under paragraph (2), the amount not so charged or deducted shall be charged under Schedule D in respect of those payments as profits or gains not charged by virtue of any other Schedule under Case VI of Schedule D, and the agents entrusted with the payment of such income or the person by or through whom the payments were made, as the case may be, shall, on requisition made by the Comptroller, furnish to the Comptroller a list containing the names and addresses of the persons to whom payments have been made, the amounts of those payments and the amounts of tax deducted.
- (4) Where, during any year of assessment, the standard rate of income tax is increased, any person liable to pay any interest, annuity, or any royalty or other sum in respect of the user of a patent, or to make any other annual payment, shall be authorized to make, on the occasion of the next payment, any deduction on account of tax which the person has failed to make or to make up any deficiency in any such deduction which has been so made, in addition to any other deduction which he or she may be by law authorized to make, and shall also be entitled, if there is no future payment from which the deduction may be made, to recover the sum which might have been deducted as if it were a debt due from the person against whom the deduction could originally have been made if the standard rate of income tax had then been so increased.

This paragraph shall also apply to any preference dividend from which a deduction of tax may be made under Article 88.

- (5) Where on payment of a dividend (not being a preference dividend) income tax has, under Article 88, been deducted therefrom by reference to a standard rate of tax lesser than the standard rate for the year in which the dividend became due, the net amount received shall, for all the purposes of this Law, be deemed to represent income of such an amount as would, after deduction of tax by reference to the standard rate last mentioned, be equal to the net amount received, and for the said purposes there shall, in respect of that income, be deemed to have been paid by deduction of tax of such an amount as is equal to the amount of tax on that income computed by reference to the standard rate last mentioned.
- (6) In paragraphs (4) and (5), the expression “preference dividend” means –
  - (a) a dividend payable on a preferred share at a fixed gross rate %; or
  - (b) where a dividend is payable on a preferred share partly at a fixed gross rate % and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate %, andthe expression “share” includes stock.

#### **144 Power to make Orders**

- (1) The Minister may make Orders for any purpose for which Orders may be made under this Law and generally for the purpose of carrying this Law into effect.
- (2) The Subordinate Legislation (Jersey) Law 1960,<sup>542</sup> shall apply to Orders made under this Law.

#### **145 Delivery and service of notices and forms**

A notice or form which is to be served under this Law on a person may be either delivered to the person personally or sent to him or her by post at his or her usual or last-known place of abode or place of business, or, in the case of a company, at its registered office or place of business.

Provided that a person may request in writing that a notice or form be delivered, or sent by post, to his or her appointed agent and the Comptroller shall not unreasonably refuse such a request.<sup>543</sup>

#### **149A Savings and transitional provisions: general**

- (1) Schedules 5 and 6 shall have effect to make transitional provisions and savings consequential upon amendments to this Law.<sup>544</sup>
- (2) The Minister may by Order amend Schedules 5 and 6.<sup>545</sup>

**PART 24**  
CITATION

**150 Citation**

This Law may be cited as the Income Tax (Jersey) Law 1961.

**SCHEDULE A1<sup>546</sup>**

(Article 3(1))

**“TRADING COMPANY” DEFINED****1 Interpretation of Schedule A1**

- (1) In this Schedule –
- “group of companies” means a company which has one or more 51% subsidiaries, together with those subsidiaries;
- “holding company” means a company which has one or more 51% subsidiaries;
- “joint venture company” has the meaning given in paragraph 4(2);
- “qualifying shareholding”, in relation to a joint venture company, has the meaning given in paragraph 4(4);
- “trading group” has the meaning given in paragraph 3.
- (2) References in this Schedule to the acquisition of an asset that was provided rather than acquired, by the person disposing of it, are references to its provision.

**2 “Trading company” defined**

- (1) In this Law, “trading company” means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1), “trading activities” means activities carried on by the company –
- (a) in the course of, or for the purposes of, a trade being carried on by it;
  - (b) for the purposes of a trade that it is preparing to carry on;
  - (c) with a view to its acquiring or starting to carry on a trade; or
  - (d) with a view to its acquiring a significant interest in the share capital of another company that –
    - (i) is a trading company or the holding company of a trading group, and
    - (ii) if the acquiring company is a member of a group of companies, is not a member of that group.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the company starts to carry on the trade, as soon as is reasonably practicable in the circumstances; however merely holding a significant interest in the share

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capital of another company does not qualify as a trading activity under sub-paragraph (2).

- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company –
- (a) such as would make that company a 51% subsidiary of the acquiring company; or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the 2 companies members of the same group of companies.

### **3 Trading group**

- (1) For the purposes of this Schedule “trading group” means a group of companies –
- (a) one or more of whose members carry on trading activities; and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading activities.
- (2) For the purposes of sub-paragraph (1) “trading activities” means activities carried on by a member of the group –
- (a) in the course of or for the purposes of a trade being carried on by any member of the group;
  - (b) for the purposes of a trade that any member of the group is preparing to carry on;
  - (c) with a view to any member of the group acquiring or starting to carry on a trade; or
  - (d) with a view to any member of the group acquiring a significant interest in the share capital of another company that –
    - (i) is a trading company or the holding company of a trading group, and
    - (ii) is not a member of the same group of companies as the acquiring company.
- (3) Activities do not qualify as trading activities under sub-paragraph (2)(c) or (d) unless the acquisition is made, or (as the case may be) the group member in question starts to carry on the trade, as soon as is reasonably practicable in the circumstances.
- (4) The reference in sub-paragraph (2)(d) to the acquisition of a significant interest in the share capital of another company is to an acquisition of ordinary share capital in the other company –
- (a) such as would make that company a member of the same group of companies as the acquiring company; or
  - (b) such as would give the acquiring company a qualifying shareholding in a joint venture company without making the joint venture company a member of the same group of companies as the acquiring company.

- (5) For the purposes of this paragraph the activities of the members of the group shall be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities).

#### **4 Qualifying shareholdings in joint venture companies**

- (1) This Schedule has effect subject to the following provisions where a company (the 'investing company') has a qualifying shareholding in a joint venture company.
- (2) For the purposes of this Schedule a company is a 'joint venture company' if, and only if –
- (a) it is a trading company or the holding company of a trading group; and
  - (b) 75% or more of its ordinary share capital (in aggregate) is held by not more than 5 persons.
- (3) For the purposes of sub-paragraph (2)(b) the shareholdings of members of a group of companies shall be treated as held by a single company.
- (4) For the purposes of this Schedule a company has a 'qualifying shareholding' in a joint venture company if –
- (a) it holds 10% or more of the ordinary share capital of the joint venture company; or
  - (b) it is a member of a group of companies, it holds ordinary share capital of the joint venture company and the members of the group between them own 10% or more of that share capital.
- (5) For the purpose of determining whether the investing company is a trading company –
- (a) any holding by it of shares in the joint venture company shall be disregarded; and
  - (b) it shall be treated as carrying on an appropriate proportion –
    - (i) of the activities of the joint venture company, or
    - (ii) where the joint venture company is the holding company of a trading group, of the activities of that group.
- (6) For the purpose of determining whether a group of companies is a trading group –
- (a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in that company shall be disregarded; and
  - (b) each member of the group having such a qualifying shareholding shall be treated as carrying on an appropriate proportion of the activities –
    - (i) of the joint venture company, or
    - (ii) where the joint venture company is the holding company of a trading group, of that group.
- (7) Sub-paragraph (6) does not apply if the joint venture company is a member of the group.

- (8) In sub-paragraphs (5)(b) and (6)(b) ‘an appropriate proportion’ means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the investing company or, as the case may be, by the group venture concerned.
- (9) For the purposes of this paragraph, the activities of a joint venture company that is a holding company and its 51% subsidiaries shall be treated as a single business (so that activities are disregarded to the extent that they are intra-group activities).

**SCHEDULE 1<sup>547</sup>**

(Article 11)

**OATHS OF OFFICE**

**Form of Oath to be taken by the Commissioners of Appeal**

You swear and promise before God that you will well and faithfully discharge the duties of a Commissioner of Appeal, without favour, hatred or partiality, in accordance with the laws relating to taxes; and that you will not disclose any information which may come to your knowledge in the performance of such duties to anyone whomsoever.

**Form of Oath to be taken by the Comptroller, Deputy Comptroller and Assistant Comptroller of Taxes**

You swear and promise before God that you will well and faithfully discharge the duties of [Comptroller] [Deputy Comptroller] [Assistant Comptroller] of Taxes in accordance with the laws relating to taxes; that you will conduct yourself without hatred, favour or partiality; that you will exercise the powers entrusted to you by the said laws in such manner only as shall appear to you to be necessary for the due execution of the same; and that you will not disclose any information which may come to your knowledge in the performance of your duties except to such persons only as shall act in execution of the said laws and where it shall be necessary to disclose the same to them for the purposes of the said laws, or in so far as you may be required to disclose the same for the purposes or in the course of a prosecution for an offence against the said laws, or in such cases as you are expressly authorized by the said laws to disclose the same.

**Form of Oath to be taken by other officers and by persons employed as auditors.**

You swear and promise before God that you will well and faithfully discharge the duties of ..... in accordance with the laws relating to taxes; and that you will not disclose any information which may come to your knowledge in the performance of your duties, except to such persons only as shall act in execution of the said laws and where it shall be necessary to disclose the same to them for the purposes of the said laws, or in so far as you may be required to disclose the same for the purposes or in the course of a prosecution for an offence against the said laws.

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**SCHEDULE 2<sup>548</sup>**

(Article 65B(2)(b))

**BENEFITS: EXEMPTIONS****1 Pensions, insurance, etc.**

There shall be left out of account –

- (a) contributions to a superannuation fund or pension scheme, within the meaning of Article 131;
- (aa) premiums under an annuity contract as defined in Article 131B or contributions to a retirement annuity trust scheme as defined in Article 131CA;
- (b) contributions in respect of the employer's liability under the Social Security (Jersey) Law 1974<sup>549</sup>;
- (c) premiums for life insurance (other than term assurance) for the office holder or employee or for any member of that person's family or household, apart from any premiums in respect of which the office holder or employee is entitled to make a deduction pursuant to Article 101;
- (d) premiums for private medical insurance for the office holder or employee or for any member of that person's family or household, apart from any premiums in respect of which the office holder or employee is entitled to make a deduction pursuant to Article 101A; and
- (e) insurance provided by the employer for the employer's office holders and employees against the loss of all or part of an office holder's or employee's emoluments of the office or employment by reason of the office holder or employee being unable, through ill-health, to discharge the duties of the office or employment.

**2 Third party insurance**

There shall be left out of account insurance covering the office holder's or employee's liability in respect of alleged negligence in the performance of the duties of the office or employment.

**3 Medical screening**

There shall be left out of account medical screening, where screening is available to all office holders and employees of the employer for whom such screening may be appropriate.

**4 Motor vehicles**

- (1) There shall be left out of account the provision of a motor vehicle for use –
  - (a) where the vehicle is constructed or adapted for use for the carriage or haulage of –
    - (i) equipment required for the performance of the duties of the office or employment, or
    - (ii) goods or any other burden to be transported in the performance of the duties of the office or employment;
  - (b) where more than one office holder or employee is entitled to use the vehicle in the performance of the duties of their office or employment (disregarding any office holder or employee who is a member of the family or household of the office holder or employee seeking the exemption) and the vehicle is habitually used by more than one such person; or
  - (c) where the vehicle is used solely by the office holder or employee in the performance of the duties of the office or employment and is essential to the performance of those duties.
- (2) For the purposes of sub-paragraph (1)(c), in determining whether or not a vehicle is used solely by an office holder or employee in the performance of the duties of that person's office or employment, there shall be disregarded –
  - (a) any travel by the office holder or employee between that person's place of residence and place of work; and
  - (b) any other minor, personal use by the office holder or employee that the Comptroller may allow.

**5 Boats, aircraft and helicopters**

- (1) There shall be left out of account the provision of a boat, aircraft or helicopter for use where the boat, aircraft or helicopter is used solely by the office holder or employee in the performance of the duties of the office or employment and is essential to the performance of those duties.
- (2) For the purposes of sub-paragraph (1), in determining whether or not a boat, aircraft or helicopter is used solely by an office holder or employee in the performance of the duties of the person's office or employment, there shall be disregarded any minor, personal use by the office holder or employee that the Comptroller may allow.

**6 Transport**

There shall be left out of account transport provided within Jersey for use between an office holder's or employee's place of residence and normal place of work –

- (a) where the office holder or employee is required, for the performance of the duties of the office or employment, to commence the journey between 10 pm and 6 am; or

- (b) where the office holder or employee is severely disabled.

## **7 Accommodation**

There shall be left out of account –

- (a) accommodation provided for the use of a clergyman or minister of any religious denomination by any charity or ecclesiastical body mainly and substantially for the purposes of that person's duty as a clergyman or minister; or
- (b) accommodation –
- (i) that forms part of the employer's premises, and
  - (ii) the occupation of which is essential to the performance of the office holder's or employee's duties as a person responsible for the care and security of those premises or for the care of persons occupying those premises or animals kept on those premises.

## **8 Entertainment**

There shall be left out of account –

- (a) the provision of entertainment facilities for the sole or main purpose of conducting business to which the duties of the office holder or employee are relevant; and
- (b) the provision of entertainment for the employer's office holders and employees generally.

## **9 Catering or crèche facilities**

There shall be left out of account –

- (a) the provision for use of any catering services or catering facilities which are available to the employer's office holders and employees generally; and
- (b) the provision for use of any crèche facilities which are available to the employer's office holders and employees generally.

## **10 Meal vouchers**

There shall be left out of account the first £5 per working day of the value of non-transferable meal vouchers provided to the office holder or employee where –

- (a) the employer does not also provide any services or facilities described in paragraph 9(a); and
- (b) such vouchers are provided to the employer's office holders and employees generally.

**11 Equipment, periodicals and clothing**

- (1) There shall be left out of account –
- (a) the provision for use of any telephone;
  - (b) the provision for use of a computer;
  - (c) the provision of newspapers;
  - (d) the provision of periodicals and journals for use by the office holder or employee for the performance of the duties of the office or employment; and
  - (e) the provision for use of any plant, machinery, specialized uniform or protective clothing for use by the office holder or employee only in the performance of the duties of the office or employment.
- (2) For the purposes of sub-paragraph (1)(e), the wearing of a uniform or protective clothing between the office holder's or employee's place of residence and normal place of work shall be deemed to be use in the performance of the duties of the office or employment.

**12 Staff discounts and loans**

There shall be left out of account –

- (a) the amount of any discount on a purchase by an office holder or employee, or a member of that person's family or household, of any goods or services ordinarily supplied by the employer in the course of the employer's business; and
- (b) the waiver of or reduction in interest payable on a loan entered into by an office holder or employee or a member of that person's family or household or any other preferential condition of such a loan.

**13 Car parking**

There shall be left out of account the provision of any car parking space.

**14 Relocation expenses**

There shall be left out of account the payment of –

- (a) the actual, reasonable expenditure incurred, in relation to an office holder or employee newly recruited or transferred to Jersey from a place outside Jersey, in the office holder's or employee's removal to and establishment in Jersey, in respect of –
  - (i) the removal to Jersey of the household furniture and effects, including motor vehicles, of the office holder or employee and members of that person's family and household,
  - (ii) storage, for a period not exceeding 12 months, of the household furniture and effects, including motor vehicles, of the office holder or employee and members of that person's family and household, and

- (iii) travel to Jersey, upon the office holder's or employee's recruitment or transfer, by the office holder or employee and by members of that person's family and household; and
- (b) the first £7,500 of any disturbance allowance in respect of the removal.

## **15 Training**

- (1) There shall be left out of account the provision of training, where the subject matter of the training is related to the duties or anticipated future duties of the office holder or employee.
- (2) For the purposes of this paragraph, the provision of training includes –
  - (a) the provision of relevant books, study materials, accommodation, travel and other direct expenditure; and
  - (b) the meeting of the cost of training provided by a third party, including the cost of training and examinations leading to a professional qualification.

## **16 Long service awards**

- (1) Subject to sub-paragraph (2), there shall be left out of account the amount attributable to the provision of an award (other than cash) in respect of an office holder or employee who has provided service to the employer for a period of, or periods totalling, 10 years or more.
- (2) The amount left out of account shall not exceed £50 for each year of service or part thereof so provided.

## **17 Property held by company**

There shall be left out of account any benefit derived by an office holder or employee having control of the company providing it or by a member of that person's family or household if, and to the extent that, the company is not entitled to make any deduction in computing the profits of its business under Article 70, or to claim any allowances or relief under Article 106A or 133, in connection with the provision of that benefit or in relation to any asset of whose ownership or use that benefit consists.

## **18 Incidental benefits**

There shall be left out of account any benefit which arises in respect of expenditure incurred by the employer wholly and exclusively for the purposes of the employer's business, where the benefit to the office holder or employee is wholly incidental in nature.

## **19 Interpretation**

In this Schedule "business" includes a profession and the activities of any Minister or administration of the States, or any parish.

**SCHEDULE 3<sup>550</sup>**

(Article 65B(4)(c))

**VALUATION OF BENEFIT****1 Motor vehicles**

- (1) The amount attributable, in any year of assessment, to the use of a motor vehicle owned by the employer shall be –
  - (a) 5% of the value of the vehicle for that year, where the business use is 75% or more in that year; or
  - (b) 20% of the value of the vehicle for that year, where the business use is less than 75% in that year.<sup>551</sup>
- (1A) The amount attributable, in any year of assessment, to the use of a motor vehicle leased or hired by the employer shall be –
  - (a) 25% of the value of the vehicle for that year, where the business use is 75% or more in that year; or
  - (b) 100% of the value of the vehicle for that year, where the business use is less than 75% in that year.<sup>552</sup>
- (2) For the purposes of this paragraph, the value, for a year of assessment, of a motor vehicle owned by the employer shall be –
  - (a) where the vehicle is acquired by the employer in the year of assessment, the cost of acquisition; or
  - (b) where the vehicle was acquired by the employer before the year of assessment, the amount determined by reducing by 20% –
    - (i) for the year following the year of acquisition, the cost of acquisition of the vehicle, and
    - (ii) for each ensuing year, the balance of that cost reduced in accordance with this sub-paragraph.
- (3) For the purposes of sub-paragraph (2), the cost of acquisition of a vehicle is –
  - (a) where the vehicle is acquired by purchase on the open market, the cost of purchase by the employer; or
  - (b) where the vehicle is acquired wholly or partly in exchange for other property or by assignment, transfer or any other means, the amount that it would have cost the employer to purchase the vehicle, at the time of acquisition, on the open market.
- (4) Sub-paragraph (2) applies notwithstanding that the motor vehicle was acquired before 2004.
- (5) For the purposes of this paragraph, the value, for a year of assessment, of a motor vehicle leased or hired by the employer shall be the aggregate of

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the costs incurred by the employer, in that year, in connection with the provision of the vehicle.

- (6) Subject to sub-paragraph (8) of this paragraph, where the lease or hire of a motor vehicle by the employer commences before the year of assessment in which it is first provided as a benefit which is not left out of account pursuant to Article 65B(2), the costs incurred by the employer before that year, in connection with the lease or hire of the vehicle, shall be deemed to have been incurred in the year of assessment in which it is first provided as such a benefit.
- (7) Subject to sub-paragraph (8) of this paragraph, where the lease or hire of a motor vehicle by the employer continues after the year of assessment in which it is last provided as a benefit which is not left out of account pursuant to Article 65B(2), the costs incurred by the employer after that year, in connection with the lease or hire of the vehicle, shall be deemed to have been incurred in the year of assessment in which it is last provided as such a benefit.
- (8) Where it is shown, to the satisfaction of the Comptroller –
- (a) that the period for which a motor vehicle is provided for use as a benefit which is not left out of account pursuant to Article 65B(2) of this Law is a nominal proportion only of the period for which the vehicle is leased or hired; or
- (b) that, during the period for which the vehicle is leased or hired, it has been provided to more than one office holder or employee as a benefit which is not left out of account pursuant to Article 65B(2) of this Law,

the Comptroller, having regard to those matters, may allow a proportionate reduction in, or a waiver of, the amount of the costs deemed, pursuant to sub-paragraph (6) or (7) of this paragraph, to be incurred in a year of assessment in which the vehicle is provided for use.

- (9) For the purposes of this paragraph, the percentage business use of a motor vehicle shall be, for any year of assessment, the portion of the total use of the vehicle, determined by reference to the mileage undertaken by the office holder or employee which is attributable to travel which that person is required to undertake in the performance of the duties of the office or employment, disregarding any travel by the office holder or employee between his or her place of residence and place of work.

## **2 Boats, aircraft and helicopters**

- (A1) The amount attributable, in any year of assessment, to the use of a boat, aircraft or helicopter shall be determined –
- (a) where the boat, aircraft or helicopter is owned by the employer and has an open market value for that year of £200,000 or less, in accordance with sub-paragraph (1);
- (b) where the boat, aircraft or helicopter is leased or hired by the employer and has an open market value for that year of £200,000 or less, in accordance with sub-paragraph (1A);

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- (c) where the boat, aircraft or helicopter is owned by the employer and has an open market value for that year of more than £200,000, in accordance with sub-paragraph (2);
  - (d) where the boat, aircraft or helicopter is leased or hired by the employer and has an open market value for that year of more than £200,000, in accordance with sub-paragraph (2A).<sup>553</sup>
- (1) In the case described in sub-paragraph (A1)(a), the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be –
- (a) 5% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
  - (b) 20% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.<sup>554</sup>
- (1A) In the case described in sub-paragraph (A1)(b), the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be –
- (a) 25% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
  - (b) 100% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.<sup>555</sup>
- (2) In the case described in sub-paragraph (A1)(c), the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be –
- (a) 1% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
  - (b) 4% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.<sup>556</sup>
- (2A) In the case described in sub-paragraph (A1)(d), the amount attributable, in any year of assessment, to the use of the boat, aircraft or helicopter shall be –
- (a) 5% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
  - (b) 20% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.<sup>557</sup>
- (3) For the purposes of sub-paragraphs (1) and (2), the value, for a year of assessment, of a boat, aircraft or helicopter owned by the employer shall be –
- (a) where the boat, aircraft or helicopter is acquired by the employer in the year of assessment, the cost of acquisition; or
  - (b) where the boat, aircraft or helicopter was acquired by the employer before the year of assessment, the amount determined by reducing by 20% –
    - (i) for the year following the year of acquisition, the cost of acquisition of the boat, aircraft or helicopter, and
    - (ii) for each ensuing year, the balance of that cost reduced in accordance with this sub-paragraph.<sup>558</sup>

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- (4) For the purposes of sub-paragraph (3), the cost of acquisition of a boat, aircraft or helicopter is –
- (a) where the boat, aircraft or helicopter is acquired by purchase on the open market, the cost of purchase by the employer; or
  - (b) where the boat, aircraft or helicopter is acquired wholly or partly in exchange for other property or by assignment, transfer or any other means, the amount that it would have cost the employer to purchase the boat, aircraft or helicopter, at the time of acquisition, on the open market.
- (5) Sub-paragraph (3) applies notwithstanding that the boat, aircraft or helicopter was acquired before 2004.
- (6) For the purposes of sub-paragraphs (1A) and (2A), the value, for a year of assessment, of a boat, aircraft or helicopter leased or hired by the employer shall be the aggregate of the costs incurred by the employer, in that year, in connection with the provision of the boat, aircraft or helicopter.<sup>559</sup>
- (7) Subject to sub-paragraph (9) of this paragraph, where the lease or hire of a boat, aircraft or helicopter by the employer commences before the year of assessment in which it is first provided as a benefit which is not left out of account pursuant to Article 65B(2), the costs incurred by the employer before that year, in connection with the lease or hire of the boat, aircraft or helicopter, shall be deemed to have been incurred in the year of assessment in which it is first provided as such a benefit.
- (8) Subject to sub-paragraph (9) of this paragraph, where the lease or hire of a boat, aircraft or helicopter by the employer continues after the year of assessment in which it is last provided as a benefit which is not left out of account pursuant to Article 65B(2), the costs incurred by the employer after that year, in connection with the lease or hire of the boat, aircraft or helicopter, shall be deemed to have been incurred in the year of assessment in which it is last provided as such a benefit.
- (9) Where it is shown, to the satisfaction of the Comptroller –
- (a) that the period for which a boat, aircraft or helicopter is provided for use as a benefit which is not left out of account pursuant to Article 65B(2) is a nominal proportion only of the period for which the boat, aircraft or helicopter is leased or hired; or
  - (b) that, during the period for which the boat, aircraft or helicopter is leased or hired, it has been provided to more than one office holder or employee as a benefit which is not left out of account pursuant to Article 65B(2),
- the Comptroller, having regard to those matters, may allow a proportionate reduction in, or a waiver of, the amount of the costs deemed, pursuant to sub-paragraph (7) or (8) of this paragraph, to be incurred in a year of assessment in which the boat, aircraft or helicopter is provided for use.
- (10) For the purposes of this paragraph, the percentage business use of a boat, aircraft or helicopter shall be, for any year of assessment, the portion of

the total use of the boat, aircraft or helicopter determined by reference to the distances travelled by the office holder or employee which is attributable to travel which that person is required to undertake in the performance of the duties of the office or employment.

### **3 Accommodation**

- (1) Subject to sub-paragraph (2), the amount attributable in any year of assessment to the use of any accommodation shall be –
  - (a) where the accommodation is furnished, 20% of the office holder's or employee's assessable emoluments of the office or employment (disregarding any other benefits) for the period for which the accommodation is used;
  - (b) where the accommodation is unfurnished, 15% of the office holder's or employee's assessable emoluments of the office or employment (disregarding any other benefits) for the period for which the accommodation is used.<sup>560</sup>
- (2) The office holder or employee may, on producing evidence, to the satisfaction of the Comptroller, of the open market rental value of the accommodation for the period for which it is used by the office holder or employee, elect, for any year of assessment, for the amount attributable to the use of the accommodation to be the amount of the open market rental value.<sup>561</sup>
- (3) For the purposes of sub-paragraph (1), where the employer is a company of which the office holder or employee has control, the assessable emoluments of the office holder or employee shall be deemed to include any dividend paid to that person by the company.

### **4 General rules for valuation**

The amount attributable to any benefit provided for use for which express provision is not made in this Schedule shall be the total costs incurred, whether directly or indirectly, by the employer in connection with the provision of the benefit.

#### **4A Rule for apportionment**

Where, in accordance with this Schedule, the amount attributable to the use of a benefit is determined by reference to a period (the "calculation period") which exceeds the period for which the benefit is used by the office holder or employee or a member of that person's family or household, the amount attributable to the use of the benefit shall be reduced by a proportion equal to the proportion which the part of the calculation period for which the benefit is not used by that person bears to the whole of that period.<sup>562</sup>

### **5 General rule for deduction for business use**

The amount attributable to any benefit provided for use, apart from a benefit valued in accordance with paragraph 1 or 2 of this Schedule, shall be reduced

by an amount equal to the proportion, if any, of the total use of the benefit which is attributable to use by the office holder or employee in the performance of the duties of the office or employment.

**6 Interpretation**

In this Schedule “business” includes a profession and the activities of any Minister or administration of the States, or any parish.

**SCHEDULE 3A<sup>563</sup>**

(Article 128A)

**COLLECTION OF TAX ON RENTAL INCOME OF NON-RESIDENT LANDLORDS****1 Interpretation of Schedule 3A**

In this Schedule –

“agent” means a person resident in Jersey who has the direction, control or management of land in Jersey –

- (a) that is owned by a non-resident; and
- (b) in respect of which rent is payable;

“certificate” means a certificate issued under paragraph 7;

“non-resident” means a person who is not resident in Jersey;

“property” means land, buildings, tenements, heritages and hereditaments;

“quarter” means a period of 3 months ending on 31st March, 30th June, 30th September or 31st December;

“rent” means any amount described in Article 51(1)(a);

“tenancy” includes a lease;

“tenant” means a person who pays rent under a tenancy.

**2 Requirement for agents to register**

- (1) A person who, on 1st January 2009, is an agent shall, within 30 days of that date, register in accordance with this paragraph.
- (2) A person who, after 1st January 2009, becomes an agent shall, within 30 days of becoming an agent, register in accordance with this paragraph.
- (3) The person shall provide the Comptroller with the following information –
  - (a) his or her name and address and the reference number (if any) assigned to him or her by the Comptroller;
  - (b) in respect of each non-resident for whom he or she is the agent –
    - (i) the non-resident’s name and address and the reference number (if any) assigned to the non-resident by the Comptroller,
    - (ii) in respect of each property of which the agent has direction, control or management on behalf of the non-resident –
      - (A) the address of the property;

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- (B) the name and, if different, the address of the tenant in respect of the property;
  - (C) the amount of rent, rentes and other receipts payable in respect of the property;
  - (D) whether or not the non-resident has produced a certificate in respect of the property.
- (4) An agent shall, within the period of 30 days after the end of a quarter, inform the Comptroller of any change in the information described in sub-paragraph (3).
  - (5) The Comptroller may require any information to be provided under this paragraph to be so provided in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
  - (6) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

### **3 Duty of agent to account for tax on rent**

- (1) An agent who receives rent in respect of property in Jersey on behalf of a non-resident shall deduct from the net rent received, and retain, tax at the standard rate or, if a notice has been issued under sub-paragraph (3A), at the rate specified in the notice.
- (2) Sub-paragraph (1) shall not apply if –
  - (a) the non-resident has produced a certificate in respect of the property; and
  - (b) the agent is satisfied that the certificate is in force at the time the rent is received.
- (3) For the purposes of sub-paragraph (1), the net rent received is the rent received after deduction of –
  - (a) any fee charged by the agent in respect of his or her services as agent of the property; and
  - (b) any expenses legitimately incurred by the agent, on behalf of the non-resident, in the management of the property;
- (3A) If the non-resident has been assessed to, but has not paid tax on, income in Jersey for any preceding year, the Comptroller may, for the purpose of collection of that tax, issue a written notice to the agent, specifying a rate of tax exceeding the standard rate but not exceeding –
  - (a) in a case where the non-resident has arrears for one year of assessment, 25%;
  - (b) in a case where the non-resident has arrears of tax for 2 years of assessment, 30%;
  - (c) in a case where the non-resident has arrears of tax for 3 or more years of assessment, 35%.
- (3B) The Comptroller shall send a copy of a notice issued under sub-paragraph (3A) to the non-resident at the address provided by the agent in

- accordance with paragraph 2(3)(b) or, if none has been provided, at the address of the property in Jersey.
- (4) An agent shall maintain a record of deductions made pursuant to sub-paragraph (1).
  - (5) An agent shall, within the period of 30 days after the end of a quarter, make a return to the Comptroller of the following information in respect of each property for which he or she is the agent of a non-resident –
    - (a) the address of the property;
    - (b) the name of the non-resident;
    - (c) the amount of rent due in respect of the property in the quarter;
    - (d) the amount of rent paid in respect of the property in the quarter;
    - (e) the amount and a description of each expense deducted from the rent so paid;
    - (f) the amount of tax deducted from the rent so paid or that no tax has been deducted, pursuant to a certificate.
  - (6) The Comptroller may require the return required by sub-paragraph (5) to be made in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
  - (7) An agent who does not comply with sub-paragraph (5) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
  - (8) The agent shall, within the period of 30 days after the end of a quarter, remit to the Comptroller an amount equal to the aggregate of all monies deducted and retained by the agent in the quarter pursuant to sub-paragraph (1).
  - (9) An agent who does not comply with sub-paragraph (8) shall be guilty of an offence and liable to a fine of –
    - (a) level 4 on the standard scale; and
    - (b) an amount not exceeding the monies not remitted, in contravention of that sub-paragraph.
  - (10) The imposition of a fine under sub-paragraph (9)(b) shall not discharge the agent's liability to remit the monies required under sub-paragraph (8).
  - (11) Where a non-resident proves, to the satisfaction of the Comptroller, that a deduction has been made from rent, in accordance with sub-paragraph (1), the non-resident shall be entitled to have the deduction treated as a payment of tax by him or her, notwithstanding that the agent has failed to remit the monies to the Comptroller in accordance with sub-paragraph (8).
  - (12) An agent who does not make a deduction in accordance with sub-paragraph (1) when accounting to a non-resident but who remits to the Comptroller the monies required by sub-paragraph (8) as if a deduction had been made, may recover that amount from the non-resident as a civil debt.

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**4 Duty of tenant to account for tax on rent**

- (1) This paragraph applies where –
  - (a) rent in respect of property in Jersey is not received by an agent on behalf of a non-resident; and
  - (b) the tenant is liable to pay the non-resident or another person on behalf of the non-resident (other than an agent) rent of more than £25,000 per annum or, where the tenancy is for less than a year, the proportionate amount of that sum which is determined by the duration of the tenancy in that year.
- (2) The tenant shall, before paying rent to the non-resident or another person on behalf of the non-resident, deduct from the rent, and retain, tax at the standard rate or, if a notice has been issued under sub-paragraph (3A), at the rate specified in the notice.
- (3) Sub-paragraph (2) shall not apply if –
  - (a) the non-resident has produced a certificate in respect of the property; and
  - (b) the tenant is satisfied that the certificate is in force at the time the rent is paid.
- (3A) If the non-resident has been assessed to, but has not paid tax on, income in Jersey for any preceding year, the Comptroller may, for the purpose of collection of that tax, issue a written notice to the tenant, specifying a rate of tax exceeding the standard rate but not exceeding the maximum rate that would apply in the non-resident's case by virtue of paragraph 3(3A).
- (3B) The Comptroller shall send a copy of a notice issued under sub-paragraph (3A) to the non-resident at the address provided by the tenant in accordance with sub-paragraph (5) or, if none has been provided, at the address of the property in Jersey.
- (4) A tenant shall maintain a record of monies deducted and retained pursuant to sub-paragraph (2).
- (5) A tenant shall, within the period of 30 days after the end of a quarter, make a return to the Comptroller of the following information in respect of each property for which he or she has paid rent after deduction of tax in accordance with sub-paragraph (2) –
  - (a) the address of the property;
  - (b) the name and address of the non-resident;
  - (c) the amount of rent due in respect of the property in the quarter;
  - (d) the amount of rent paid in respect of the property in the quarter;
  - (e) the amount of tax deducted from the rent so paid.
- (6) The Comptroller may require the return required by sub-paragraph (5) to be made in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
- (7) A tenant who does not comply with sub-paragraph (5) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

- (8) The tenant shall, within the period of 30 days after the end of a quarter, remit to the Comptroller an amount equal to the aggregate of all monies deducted and retained by the tenant in the quarter pursuant to sub-paragraph (2).
- (9) A tenant who does not comply with sub-paragraph (8) shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that sub-paragraph.
- (10) The imposition of a fine under sub-paragraph (9)(b) shall not discharge the tenant's liability to remit the monies required under sub-paragraph (8).
- (11) Where a non-resident proves, to the satisfaction of the Comptroller, that a deduction has been made from rent, in accordance with sub-paragraph (2), the non-resident shall be entitled to have the deduction treated as a payment of tax by him or her, notwithstanding that the tenant has failed to remit the amount to the Comptroller in accordance with sub-paragraph (8).
- (12) A tenant who fails to make a deduction on accordance with sub-paragraph (2) when paying rent to a non-resident but who remits to the Comptroller the amount required by sub-paragraph (8) as if a deduction had been made, may recover that amount from the non-resident as a civil debt.
- (13) Where a tenant deducts tax and remits it to the Comptroller in accordance with this paragraph, the non-resident shall give the tenant a discharge as if the rent had been paid without deduction.

#### **4A Power of Comptroller to direct tenant to account for tax**

- (1) This paragraph applies where –
  - (a) rent in respect of property in Jersey is not received by an agent on behalf of a non-resident; and
  - (b) the tenant is liable to pay the non-resident or another person on behalf of the non-resident (other than an agent) rent of £25,000 per annum or less or, where the tenancy is for less than a year, the proportionate amount of that sum, which is determined by the duration of the tenancy in that year.
- (2) The tenant, when directed to do so by a written notice issued by the Comptroller, shall, before paying rent to the non-resident or another person on behalf of the non-resident, deduct from the rent, and retain, tax at the standard rate or such higher rate as is specified in the notice in accordance with sub-paragraph (3).
- (3) If the non-resident has been assessed to, but has not paid, tax on income in Jersey for any year preceding the year in which the notice is issued, the Comptroller may, for the purpose of collecting that tax, specify in the notice a rate exceeding the standard rate but not exceeding the maximum

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rate that would apply in the non-resident's case by virtue of paragraph 3(3A).

- (4) The Comptroller shall send a copy of a notice issued under sub-paragraph (2) to the non-resident at the address provided by the tenant in accordance with paragraph 4(5) as applied by sub-paragraph (5) of this paragraph or, if none has been provided, at the address of the property in Jersey.
- (5) Sub-paragraphs (4) to (13) of paragraph 4 shall apply for the purposes of this paragraph as if any reference in them to the deduction and retention of monies pursuant to sub-paragraph (2) of that paragraph was a reference to the deduction and retention of monies pursuant to sub-paragraph (2) of this paragraph.

## **5 Duty of agent to make annual return**

- (1) A person who, at any time during a year, has been an agent shall, no later than 31st March following that year, make a return to the Comptroller for that year in respect of each non-resident for whom he or she was an agent during that year.
- (2) The return required by sub-paragraph (1) shall –
  - (a) contain the information specified in sub-paragraph (3); and
  - (b) be in the form, delivered in the manner and accompanied by the declaration required by the Comptroller.
- (3) The information specified, in respect of each non-resident is –
  - (a) the non-resident's name and address and the reference number (if any) assigned to the non-resident by the Comptroller,
  - (b) in respect of each property of which, during the year, the agent has had direction, control or management on behalf of the non-resident –
    - (i) the address of the property,
    - (ii) the name and, if different, the address of the tenant of the property,
    - (iii) the aggregate amount of rent paid in respect of the property during the year,
    - (iv) the aggregate amount of tax deducted from that rent, or that no tax has been deducted, pursuant to a certificate,
    - (v) where the tenancy of the property commenced during the year, the date it commenced,
    - (vi) where the tenancy of the property ended during the year, the date it ended.
- (4) The person making the return shall provide the non-resident to whom the information required by sub-paragraph (3) relates with a copy of that information.
- (5) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**6 Duty of tenant to make annual return**

- (1) A person who, at any time during a year, has been a tenant required to deduct and retain tax under paragraph 4 or 4A shall, no later than 31st March following that year, make a return to the Comptroller in respect of each non-resident to whom he or she paid rent after deduction of tax pursuant to that paragraph.
- (2) The return required by sub-paragraph (1) shall –
  - (a) contain the information specified in sub-paragraph (3); and
  - (b) be in the form, delivered in the manner and accompanied by the declaration required by the Comptroller.
- (3) The information specified, in respect of each non-resident is –
  - (a) the non-resident's name and address and the reference number (if any and if known to the tenant) assigned to the non-resident by the Comptroller,
  - (b) in respect of each property for which the tenant paid rent to the landlord during the year –
    - (i) the address of the property,
    - (ii) the aggregate amount of rent paid in respect of the property during the year,
    - (iii) the aggregate amount of tax deducted from that rent,
    - (iv) where the tenancy of the property commenced during the year, the date it commenced,
    - (v) where the tenancy of the property ended during the year, the date it ended.
- (4) The person making the return shall provide the non-resident to whom the information required by sub-paragraph (3) relates with a copy of that information.
- (5) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**7 Certificate for payment without deduction**

- (1) A non-resident may apply to the Comptroller for rent in respect of a property, or all properties in Jersey, of which he or she is the landlord to be paid without deduction of tax, whether by an agent or a tenant.
- (2) An application under sub-paragraph (1) shall be made in such form and manner, and accompanied by such information, as the Comptroller may require.
- (3) The Comptroller may grant an application under sub-paragraph (1) if he or she is satisfied –
  - (a) that the rent in respect of the property or properties is exempt from tax under Article 115; or
  - (b) that the non-resident has consistently complied with the requirements of this Law in full and without delay.

- (4) On granting an application, the Comptroller shall issue a certificate to the non-resident.
- (5) The certificate shall have effect until it is cancelled and may be issued subject to conditions.
- (6) The Comptroller may cancel a certificate at any time when –
  - (a) he or she is no longer satisfied as to the matters described in sub-paragraph (3)(a) or (b); or
  - (b) the conditions attached to the certificate have not been complied with.
- (7) Upon cancelling a certificate, the Comptroller shall notify the non-resident, in writing, and shall take such steps as he or she considers appropriate to notify any agent or the tenant of the property to which the certificate related of its cancellation.
- (8) A person who, with the intention of procuring the payment of rent without deduction of tax, contrary to this Schedule, produces to another person –
  - (a) a document purporting to be a certificate issued under this paragraph, knowing it to be false; or
  - (b) a certificate issued under this paragraph knowing that it has been altered by a person other than the Comptroller,shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (9) A person who, with the intention of procuring the payment of rent without deduction of tax, contrary to this Schedule, produces a certificate to another person, knowing that the certificate has been cancelled, shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (10) An application under this paragraph may be made on or after 1st July 2008.

## **8 Treatment of amounts remitted to Comptroller and recovery of arrears**

- (1) Subject to sub-paragraph (2), the Comptroller shall receive an amount remitted under paragraph 3(8) or 4(8) or an amount proved to have been deducted, by virtue of paragraph 3(11) or 4(11), as a payment of tax by the non-resident for the year of assessment for which the non-resident is charged under Schedule A in respect of the rent pursuant to Article 51A(1).
- (2) Where an amount remitted under paragraph 3(8) or 4(8), or proved to have been deducted by virtue of paragraph 3(11) or 4(11), is greater than the tax payable by the non-resident as described in sub-paragraph (1), the excess shall be applied towards the payment of the non-resident's liability to tax, whether under Schedule A or Schedule D, for any earlier year of assessment.

- (3) References in sub-paragraphs (1) and (2) to sub-paragraphs (8) and (11) of paragraph 4 include those sub-paragraphs as applied by paragraph 4A(5).
- (4) The fact that the Comptroller has issued a notice under paragraph 3(3A) or 4(3A) or a notice under paragraph 4A(2) specifying a rate higher than the standard rate shall not prevent the Comptroller pursuing, by any other means, the recovery of tax on income in Jersey that is due from the non-resident for any year preceding the year in which the notice is issued.

#### **8A Right of appeal**

- (1) A non-resident aggrieved by a notice issued under paragraph 3(3A) or 4(3A) or a notice under paragraph 4A(2) specifying a rate higher than the standard rate may appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the issue of the notice.
- (2) The rate specified in the notice issued under paragraph 3(3A), 4(3A) or 4A(2) shall apply notwithstanding that an appeal is pending under sub-paragraph (1).
- (3) Save as provided in sub-paragraphs (1) and (2), Part 6 shall apply, with the necessary modifications, as it applies to an appeal against any assessment.

#### **9 Terms of tenancy or other agreement to be void**

A tenancy or an agreement for the services of an agent shall be void to the extent that it provides for a tenant to pay rent without deduction of tax, in contravention of this Schedule or for an agent to account, without deduction of tax, for rent received in contravention of this Schedule.

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**SCHEDULE 5<sup>564</sup>**

(Article 149A)

**SAVINGS, TRANSITIONAL AND SIMILAR PROVISIONS: GENERAL****1 Income Tax (Amendment No. 23) (Jersey) Law 2004**

- (1) In this paragraph “amending Law” means the Income Tax (Amendment No. 23) (Jersey) Law 2004<sup>565</sup>.
- (2) Notwithstanding its repeal by Article 35 of the amending Law, Article 79(1) of this Law shall continue to have effect in the case of a pension to which it applies in the year of assessment 2003.
- (3) - (5A) ...
- (6) The amendments made by Article 42 of the amending Law to Article 112 of this Law shall not have effect in the case of a pension to which Article 79(1) of this Law applies in the year of assessment 2003.
- (7) Where, before the amendments made by Article 18 of the amending Law to Article 131A of this Law come into force, exemption from income tax is allowed pursuant to the said Article 131A in respect of income derived from investments or deposits of a superannuation fund, the superannuation fund shall be deemed to have been approved by the Comptroller under the said Article 131A as so amended.

**2 Income Tax (Amendment No. 24) (Jersey) Law 2005: transitional provisions for Article 19A**

- (1) Article 19A shall apply to a person who, on 31st December 2004, is an employer but who has not, at any time in 2004, delivered a return pursuant to Article 20, as if the person became an employer on 1st January 2005.
- (2) Article 19A shall apply to a building contractor who, on 31st December 2004, has a contract with a sub-contractor but who has not, at any time in 2004, delivered a return pursuant to Article 20A, as if the building contractor first contracted with a sub-contractor on 1st January 2005.

**2A Income Tax (Amendment No. 24) (Jersey) Law 2005: partial release of liability under Article 26**

Notwithstanding Article 17(2) of the Interpretation (Jersey) Law 1954<sup>566</sup>, any liability incurred by a person under Article 26 in respect of the years of assessment 1998 and 1999 and remaining outstanding when this paragraph comes into force shall be determined as if, in paragraph (1) of that Article, as it

had effect in relation to those years, the words “and the anniversary of that day in all ensuing years” were omitted.

**3 Income Tax (Amendment No. 24) (Jersey) Law 2005: transitional provision for Article 95**

- (1) In this paragraph “amending Law” means the Income Tax (Amendment No. 24) (Jersey) Law 2005<sup>567</sup>.
- (2) In the case of an individual entitled, for the year of assessment 2004, to a deduction under Article 95(1)(b) or (2) in respect of a child receiving instruction at any university, college or other establishment for further instruction, but who is not receiving full-time higher education, Article 95 shall, for so long as the child continues to receive such instruction at that university, college, or other establishment for further instruction, continue to have effect without the amendment made by Article 18 of the amending Law.
- (3) In sub-paragraph (2) of this paragraph “higher education” has the same meaning as in the Education (Jersey) Law 1999<sup>568</sup>.

**4 Income Tax (Amendment No. 25) (Jersey) Law 2006: saving provision for Article 131C**

A retirement annuity contract that was, immediately before the amendment of Article 131C by the Income Tax (Amendment No. 25) (Jersey) Law 2006<sup>569</sup>, the subject of an approval under paragraph (1) of that Article shall be taken to have been approved by the Comptroller under Article 131C(1)(a) as in force immediately after that amendment, but nothing in this paragraph shall prevent the withdrawal of that approval in accordance with this Law nor affect any condition to which that approval was subject immediately before that amendment.

**5 Income Tax (Amendment No. 28) (Jersey) Law 2007: transitional provision for Article 67**

- (1) A notice cannot be given under Article 67 in the case of a trade, profession or vocation which was set up or commenced in 2006.
- (2) However, a person charged or liable to be charged to income tax in respect of the profits or gains of a trade, profession or vocation which was set up or commenced in 2006 shall be entitled, on giving notice, in writing, to the Comptroller on or after 1st January 2008 but no later than 31st December 2008, to require that tax shall be charged for the year of assessment 2007 on the amount of the profits or gains for that year.
- (3) A person may, by giving notice, in writing, to the Comptroller on or before 31st December 2008, revoke a notice given under sub-paragraph (2).
- (4) If, at any time during 2007, any such change as is mentioned in Article 75 occurs in the persons engaged in the trade, profession or vocation, a notice given under sub-paragraph (2) or (3) must be signed by each of the persons who were engaged in the trade, profession or vocation at any

time between 1st January 2007 and the giving of the notice or, in the case of a deceased person, by his or her legal representatives.

- (5) In the case of the death of a person who, if he or she had not died would, under sub-paragraph (2), have become chargeable to income tax for 2007, the tax that would have been so chargeable shall be assessed and charged on his or her executors or administrators and shall be a debt due from and payable out of his or her estate.
- (6) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to sub-paragraph (2).

**5A Income Tax (Amendment No. 29) (Jersey) Law 2008: transitional provision for financial period beginning before but ending on or after 1st January 2009**

Where a company first becomes a company to which Article 123C or 123D applies in or for the year of assessment 2009, and the first financial period of the company to end on or after 1st January 2009 began before that date –

- (a) the profits and gains arising in the financial period;
- (b) any losses accruing during, or reliefs and allowances to which the company is entitled under this Law for, the financial period; and
- (b) any individual's ownership of shares in the company during the financial period,

shall be taken into consideration in determining any individual's liability to tax under this Law for the year of assessment 2009 or any ensuing year, notwithstanding that the profits and gains arise, the losses accrue, the entitlement to the reliefs or allowances arises or the shares are owned, before 1st January 2009.

**6 Income Tax (Amendment No. 28) (Jersey) Law 2007 and Income Tax (Amendment No. 29) (Jersey) Law 200-: application to company incorporated on or after 3rd June 2008**

- (1) By virtue of Articles 48, 49(1) and 50<sup>570</sup> of the Income Tax (Amendment No. 29) (Jersey) Law 200-, this Law has effect, for the year of assessment 2008, in the case of a company to which Part 8 of that Law applies and in the case of any owner of shares comprised in the ordinary share capital of the company, as it is amended by –
  - (a) Part 5 of the Income Tax (Amendment No. 28) (Jersey) Law 2007; and
  - (b) Parts 6 and 7 of the Income Tax (Amendment No. 29) (Jersey) Law 200-.
- (2) By virtue of Article 49(2) of the Income Tax (Amendment No. 29) (Jersey) Law 200-, this Law has effect, for the year of assessment 2008, in its application to a payment by a company to which Part 8 of that Law

applies, as it is amended by Part 7 of the Income Tax (Amendment No. 28) (Jersey) Law 2007.

- (3) Part 8 of the Income Tax (Amendment No. 29) (Jersey) Law 200- applies –
  - (a) to a company to which Article 123C applies for the year of assessment 2008, being a company –
    - (i) which is first regarded as resident in Jersey, or which first has a permanent establishment in Jersey, on or after 3rd June 2008, and
    - (ii) which is not a company to which Article 123D applies or a utility company; and
  - (b) to a company to which Article 123D applies for the year of assessment 2008, being a financial services company which first has a permanent establishment in Jersey on or after 3rd June 2008.

**7 Income Tax (Amendment No. 38) (Jersey) Law 2011: saving for liability to taxation by full attribution**

- (1) Notwithstanding their repeal by Article 2 of the Income Tax (Amendment No. 38) (Jersey) Law 2011<sup>571</sup>, Articles 85F to 85G shall continue to have effect for the years of assessment 2008 (in accordance with paragraph 6 of this Schedule), 2009, 2010 and, subject to sub-paragraphs (3) to (5), 2011.
- (2) The provisions of this Law amended by Article 3 of the Income Tax (Amendment No. 38) (Jersey) Law 2011 shall continue to have effect, as they were in force immediately before the commencement of Part 2 of that Law, for the purposes of the continuing operation of Articles 85F to 85G.
- (3) Sub-paragraphs (4) and (5) apply in the case of a company subject to full attribution which does not have a financial period ending on 31st December 2011.
- (4) Article 85F shall apply –
  - (a) in the case of a company that, on 31st December 2011, has not completed its first financial period, as if the period beginning on the day the company is incorporated and ending on 31st December 2011 were the first financial period of the company;
  - (b) in the case of any other company that does not have a financial period ending on 31st December 2011, as if the period –
    - (i) beginning on the day following the end of the last financial period of the company preceding 31st December 2011, and
    - (ii) ending on 31st December 2011,were a financial period of the company.
- (5) Article 85C(1) (as applied by Article 85F(6)) shall apply as if the operation of the rule in sub-paragraph (4)(b) were a change in the financial period for the company.

- (6) In this paragraph ‘first financial period’, in relation to a company, means the financial period beginning on the day the company is incorporated.

**8 Income Tax (Amendment No. 38) (Jersey) Law 2011: entitlement to credit for tax paid on full attribution**

- (1) An individual who has paid tax on his or her portion of a company’s relevant profits for a financial period, pursuant to Article 85F, shall be entitled to a credit, not exceeding the amount of tax paid, against his or her liability to pay tax on any dividend that –
- (a) is paid or issued out of the relevant profits in respect of a share comprised in the ordinary share capital of the company; and
  - (b) is not deducted by virtue of Article 85F(12A), in determining that portion.
- (2) Expressions used in sub-paragraph (1) have the same meaning as in Article 85F, as it continues to have effect by virtue of paragraph 7(1).

**9 Income Tax (Amendment No. 38) (Jersey) Law 2011 and Income Tax (Amendment No. 40) (Jersey) Law 2011: deemed shareowners**

- (1) This paragraph applies where –
- (a) pursuant to Article 82A, an individual is deemed to own shares in a Jersey trading company or Jersey financial services company (referred to in this paragraph as “Company A”); and
  - (b) by virtue of Article 81D or 81G the individual is deemed to receive a dividend out of the relevant profits of Company A.
- (2) Tax in respect of –
- (a) income arising from dividends and distributions (other than relevant dividends) paid out of the relevant profits –
    - (i) by Company A,
    - (ii) to a company or other entity through which the individual is deemed to own the shares in Company A; and
  - (b) income arising from dividends and distributions paid out of income described in sub-paragraph (a) –
    - (i) by a company or other entity through which the individual is deemed to own the shares in Company A,
    - (ii) to the individual or to another company or entity through which the individual is deemed to own the shares in Company A,

shall not be charged on so much of the income as comprises or is derived from the amount of the dividend that the individual is deemed to receive from Company A.

- (3) Where, by virtue of sub-paragraph (2), the liability of a body of persons to tax on income arising from dividends or distributions is reduced, the amount of tax that the body of persons is entitled by virtue of

Article 88(2) or (3) to deduct when paying a dividend out of that income, as described in sub-paragraph (2)(b), is correspondingly reduced.

**SCHEDULE 6<sup>572</sup>**

(Article 149A)

**TRANSITIONAL ARRANGEMENTS IN AND RELATED TO 2008 FOR BASIS OF COMPUTATION FOR TRADE, PROFESSION OR VOCATION****1 Basis of computation in 2008 for existing trade, profession or vocation**

- (1) This paragraph applies in the case of a trade, profession or vocation which, for the year of assessment 2007, was charged to tax in accordance with Article 65(1) in the case described in sub-paragraph (a) of that provision.
- (2) Notwithstanding Article 64A but subject to sub-paragraph (3), tax shall be charged in the case of the trade, profession or vocation for the year of assessment 2008 on one half of the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008.
- (3) Where, by virtue of a change in an accounting date, the aggregate of the financial periods ending in 2007 and 2008 for a trade, profession or vocation is less than 24 months, tax shall be charged on the product of the following formula –

$$\frac{A \times 365}{D}$$

D

Where –

A is the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008

D is the aggregate of the number of days in those financial periods.

- (4) Notwithstanding Article 106C(5), the basis period for the purposes of Articles 106A and 106B shall be the same as the aggregate of the financial periods ending in 2007 and 2008.
- (5) Where the aggregate amount of profits or gains determined in accordance with sub-paragraph (2) or (3) has been adjusted, pursuant to Article 107 or 108, by reference to a loss sustained for the year of assessment 2007, an amount equal to the amount of relief already given shall be credited to the amount on which tax is to be charged by virtue of sub-paragraph (2) or (3).
- (6) Where, apart from this sub-paragraph, relief would be allowed in respect of losses sustained in a trade, profession or vocation in a financial period ending in 2008 instead of in respect of losses sustained in that year –
  - (a) for the purposes of Articles 107 to 108, the amount of losses taken to have been sustained in the trade, profession or vocation shall be

one half of the aggregate of the losses sustained in the financial periods ending in 2007 and 2008; and

- (b) without prejudice to any relief already given and to which sub-paragraph (5) applies, no relief shall be granted under those Articles in respect of the remainder of the aggregate of those losses.

## **2 Basis of computation in 2008 for trade, profession or vocation commenced in 2006 or 2007**

- (1) This paragraph applies in the case of a trade, profession or vocation commenced and set up in 2006 or 2007.
- (2) Notwithstanding Articles 64A and 64C, tax shall be charged for the year of assessment 2008 on the full amount of the profits or gains of the trade, profession or vocation for the financial period ending in 2008 save that –
  - (a) there shall be included in that amount any profits or gains which have not been charged to tax in 2006 or 2007;
  - (b) there shall be excluded from that amount any profits or gains which have been charged to tax in 2006 or 2007.

## **3 Basis of computation for trade, profession or vocation discontinued in 2008**

Notwithstanding its repeal, Article 68 shall continue to apply, for the year of assessment 2008, in the case of a trade, profession or vocation that is permanently discontinued in 2008, apart from a trade, profession or vocation that is set up and commenced in that year.

## **4 Power of Comptroller to make adjustments and apportionments**

- (1) Where, in relation to the taxation of the profits or gains of a trade, profession or vocation, the effect of a transaction or of a series of transactions is the avoidance, reduction or deferral of liability of any person to the charge to tax for the year of assessment 2008, the Comptroller may, in his or her discretion, make such adjustments and apportionments as respects the liability of that person to tax as may in the opinion of the Comptroller be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.
- (2) Without prejudice to the generality of sub-paragraph (1), where –
  - (a) the amount of the profits or gains of a trade, profession or vocation is calculated in accordance with paragraph 1; and
  - (b) the income so calculated is either at least 10% more, or at least 10% less, than the amount of the profits or gains of the trade, profession or vocation charged to tax in the year of assessment 2007,

it shall be presumed that there has been a transaction which has resulted in the avoidance, reduction or deferral of the liability of a person to the charge for tax for the year of assessment 2008 and, subject to sub-

paragraph (3), the Comptroller may exercise his or her powers under sub-paragraph (1) accordingly.

- (3) The presumption in sub-paragraph (2) shall be rebutted if the person shows, to the satisfaction of the Comptroller –
- (a) that no such transaction has occurred; or
  - (b) that the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008 were computed in accordance with the ordinary commercial principles applicable to the computation of such profits or gains.
- (4) This paragraph is without prejudice to the generality of Article 134A.

## **5 Application of Article 64G**

Article 64G shall apply to the charge to income tax under paragraphs 1 and 2 as it applies to the charge to income tax under Articles 64A to 64E.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Income Tax Law (Jersey) 1961	L.29/1961	1 January 1962
Income Tax (Amendment) (Jersey) Law 1962	L.3/1962	24 April 1962
Income Tax (Amendment No. 2) (Jersey) Law 1963	L.11/1963	Article 1 in force 1 January 1962; Article 2 in force 31 May 1962; Article 3 in force 19 July 1963
Solemn Affirmations (Jersey) Law 1963	L.15/1963	23 August 1963
Income Tax (Amendment No. 3) (Jersey) Law 1963	L.21/1963	22 November 1963
Finance (Jersey) Law 1964	L.5/1964	27 November 1963 (R&O.4508)
Income Tax (Amendment No. 4) (Jersey) Law 1964	L.8/1964	Article 1 in force 1 January 1962; Articles 2 and 3 in force 3 July 1964
Income Tax (Amendment No. 5) (Jersey) Law 1965	L.8/1965	25 June 1965
Finance (Jersey) Law 1965	L.12/1965	27 November 1964 (R&O.4596); Parts 5 and 6 in force 1 January 1965
Finance (Jersey) Law 1967	L.4/1967	30 November 1966 (R&O.4868)
Income Tax (Amendment No. 6) (Jersey) Law 1967	L.10/1967	30 June 1967
Finance (Jersey) Law 1968	L.5/1968	29 November 1967 (R&O.5006)
Finance (Jersey) Law 1969	L.8/1969	3 December 1968 (R&O.5173)
Income Tax (Amendment No. 7) (Jersey) Law 1969	L.11/1969	20 June 1969
Finance (Jersey) Law 1971	L.10/1971	1 December 1970 (R&O.5601); Part 4 and 5 in force 1 January 1971
Income Tax (Amendment No. 8) (Jersey) Law 1971	L.11/1971	2 July 1971
Income Tax (Amendment No. 9) (Jersey) Law 1972	L.14/1972	26 May 1972
Finance (Jersey) Law 1972	L.20/1972	7 December 1971 (R&O.5601)
Finance (Jersey) Law 1973	L.9/1973	6 December 1972 (R&O.5758); Part 4 in force 1 January 1973
Finance (Jersey) Law 1974	L.8/1974	4 December 1973 (R&O.5899)
Income Tax (Amendment No.	L.20/1974	23 August 1974

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
10) (Jersey) Law 1974		
Finance (Jersey) Law 1975	L.8/1975	4 December 1974 (R&O.6092)
Income Tax (Amendment No. 11) (Jersey) Law 1975	L.13/1975	17 October 1975
Finance (Jersey) Law 1976	L.15/1976	2 December 1975 (R&O.6240)
Income Tax (Amendment No. 12) (Jersey) Law 1977	L.5/1977	19 August 1977
Finance (Jersey) Law 1978	L.4/1979	7 December 1976 (R&O.6358); Part 4 in force 1 January 1977
Finance (No. 2) (Jersey) Law 1978	L.5/1979	6 December 1977 (R&O.6485)
Income Tax (Amendment No. 13) (Jersey) Law 1979	L.16/1979	29 June 1979
Finance (Jersey) Law 1979	L.17/1979	5 December 1978 (R&O.6596)
Finance (Jersey) Law 1980	L.12/1980	11 December 1979 (R&O.6741)
Income Tax (Amendment No. 14) (Jersey) Law	L.15/1980	8 August 1980
Income Tax (Amendment No. 15) (Jersey) Law 1981	L.8/1981	14 August 1981
Finance (Jersey) Law 1981	L.9/1981	2 December 1980 (R&O.6879)
Finance (Jersey) Law 1982	L.12/1982	1 December 1981 (R&O.7001)
Finance (Jersey) Law 1983	L.22/1983	30 November 1982 (R&O.7122)
Finance (Jersey) Law 1984	L.13/1984	30 November 1983 (R&O.7238)
Finance (Jersey) Law 1986	L.30/1986	5 December 1984 (R&O.7345)
Finance (No. 2) (Jersey) Law 1986	L.31/1986	3 December 1985 (R&O.7447)
Finance (Jersey) Law 1987	L.10/1987	25 November 1986 (R&O.7577)
Finance (Jersey) Law 1988	L.12/1988	1 December 1987 (R&O.7696)
Finance (Jersey) Law 1989	L.10/1989	6 December 1988 (R&O.7842)
Finance (Jersey) Law 1990	L.10/1990	28 November 1989 (R&O.8001)
Finance (Jersey) Law 1991	L.11/1991	4 December 1990 (R&O.8142)
Companies (Jersey) Law 1991	L.30/1991	30 March 1992
Finance (Jersey) Law 1992	L.7/1992	3 December 1991 (R&O.8305)
Income Tax (Amendment No. 16) (Jersey) Law 1993	L.12/1993	14 May 1993
Finance (Jersey) Law 1995	L.1/1995	24 November 1992 (R&O.8490)
Finance (No. 2) (Jersey) Law 1995	L.2/1995	30 November 1993 (R&O.8613); Part 9 in force 1 January 1994
Finance (No. 4) (Jersey) Law 1995	L.21/1995	6 December 1994 (R&O.8763)
Finance (Jersey) Law 1996	L.24/1996	5 December 1995

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
		(R&O.8891); Part 9 in force 31 December 1995
Income Tax (Amendment No. 17) (Jersey) Law 1997	L.20/1997	3 December 1996 (R&O.9026)
Finance (Jersey) Law 1997	L.21/1997	3 December 1996 (R&O.9025)
Finance 1998 (Jersey) Law 2001	L.10/2001	3 December 1997 (R&O.9179)
Income Tax (Amendment No. 18) (Jersey) Law 1998	L.2/1998	16 January 1998
Financial Services Commission (Jersey) Law 1998	L.11/1998	Articles 1-4, 8, 10-21, 24, Schedule 1 in force 4 June 1998; Articles 5-7, 9, 22- 23, remainder Schedule 2 and Schedule 3 in force 1 July 1998 (R&O.9238); the amendments to the Limited Liability Partnerships (Jersey) Law 1997 in Schedule 2 in force 9 September 1998 (R&O.9278)
Income Tax (Amendment No. 20) (Jersey) Law 1999	L.11/1999	30 April 1999
Finance (Jersey) Law 1999	L.19/1999	2 December 1998 (R&O.9324)
Income Tax (Amendment No. 19) (Jersey) Law 1999	L.21/1999	2 December 1998 (R&O.9325)
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	L.23/1999	23 July 1999
Finance (Jersey) Law 2000	L.16/2000	30 November 1999 (R&O.9475)
Income Tax (Amendment No. 21) (Jersey) Law 2001	L.14/2001	Article 1 in force 27 April 2001; Articles 2-5 in force 7 December 2001 (R&O.133/2000)
Finance (Jersey) Law 2001	L.19/2001	7 December 2000 (R&O.132/2000)
Finance (Jersey) Law 2002	L.23/2002	6 December 2001 (R&O.175/2001); Article 5 in force 1 January 2002
Finance (Jersey) Law 2003	L.21/2003	5 December 2002 (R&O.155/2002)
Income Tax (Amendment No. 22) (Jersey) Law 2003	L.22/2003	5 December 2002 (R&O.156/2002)
Finance (Jersey) Law 2004	L.13/2004	5 December 2003 (R&O.160/2003)
Income Tax (Amendment No. 23) (Jersey) Law 2004	L.20/2004	5 December 2003 (R&O.161/2003) Part 2 had effect on 1 January 2004, Part 3 had effect in relation to tax payable for the year of assessment 2003

Legislation	Year and No	Commencement
		and ensuing years, Part 4 had effect in relation to statements required to be delivered under Article 16 in respect of the year of assessment 2003 and ensuing years, Part 5 had effect in any case in which withdrawal of approval of a fund under Article 131G took effect after Part 5 came into force, Part 6 took effect for the year of assessment 2004 and ensuing years, Part 7 took effect in relation to losses incurred after Part 7 came into force, Part 8 had effect in relation to expenditure incurred after Part 8 came into force, Part 10 had effect for the year of assessment 2004 and ensuing years with the exception of Articles 38 and 39 which shall have effect for the year of assessment 2003 and ensuing years, provisions in the Schedule have effect on the dates respectively stated
Income Tax (Amendment No. 24) (Jersey) Law 2005	L.12/2005	Part 3 in force for year of assessment 2004 and ensuing years; Articles 2, 3 and 5, Article 7 (to the extent that it inserts Articles 41C, 41D and 41F) and Part 4 in force 1.1.05; Part 6 in force for year of assessment 2005 and ensuing years; Articles 4, 6, 7 (to the extent that it is not already in force), 8 and 9 in force 1.1.06; Part 5 in force for year of assessment 2006 and ensuing years; remainder in force 14.12.04 (R&O.157/2004)
Children (Jersey) Law 2002	L.50/2002	1 August 2005 (R&O.74/2005)
Finance (Jersey) Law 2006	L.14/2006	1 December 2005 (R&O.184/2005)

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Income Tax (Amendment No. 25) (Jersey) Law 2006	L.15/2006	1 December 2005 as to Parts 1, 4 and 7; Parts 2 and 3 have effect for the year of assessment 2005 and ensuing years; 1 January 2006 as to Part 5; Part 6 in force 30 June 2006; (R&O.185/2005)
States of Jersey (Amendments and Construction Provisions No. 2) (Jersey) Regulations 2005	R&O.43/2005	9 December 2005
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	R&O.126/2005	9 December 2005
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	R&O.155/2005	9 December 2005
Finance (Jersey) Law 2007	L.38/2007	5 December 2006 (R&O.134/2006*)
Income Tax (Amendment No. 26) (Jersey) Law 2007	L.19/2007	5 December 2006 as to Parts 1 and 3 Part 2 Chapter 1 has effect for the year of assessment 2007 and ensuing years Part 2 Chapter 2 will have effect for the year of assessment 2011 and ensuing years (R&O.135/2006*)
Income Tax (Amendment No. 27) (Jersey) Law 2007	L.20/2007	16 January 2007 The Law has effect for the year of assessment 2007 and ensuing years (R&O.9/2007*)
Income Tax (Amendment No. 28) (Jersey) Law 2007	L.21/2007	Article 2 has effect for the year of assessment 2007; Parts 2 and 3 have effect for the year of assessment 2008; Parts 4, 5**, 6, 7** and 8 have effect for the year of assessment 2009; Articles 1 and 54 in force 22 June 2007

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Income Tax (Amendment No. 29) (Jersey) Law 2008	L.18/2008	20 November 2007 as to Articles 1 and 53 to 55; 1 January 2008 as to Part 2; Parts 3, 4 and 8 have effect for the year of assessment 2008 and ensuing years; Parts 5, 6** and 7** will have effect for the year of assessment 2009 and ensuing years (R&O.159/2007*)
Income Tax (Amendment No. 30) (Jersey) Law 2010	L.13/2010	5 December 2007 as to Article 1 and Parts 3 and 5; Parts 2 and 4 have effect for the year of assessment 2008 and ensuing years (R&O.174/2007*)
Income Support (Consequential Amendments) (Jersey) Regulations 2007	R&O.127/2007	28 January 2008
Income Tax (Amendment of Law) (Jersey) Order 2008	R&O.66/2008	26 May 2008
Finance (2009 Budget) (Jersey) Law 2009	L.20/2009	3 December 2008 (R&O.153/2008*)
Income Tax (Amendment No. 31) (Jersey) Law 2009	L.22/2009	3 December 2008 as to Parts 1 and 7: Part 5 has effect for the year of assessment 2008 and ensuing years; Parts 2, 3 and 6 have effect for the year of assessment 2009 and ensuing years; 1 January 2009 as to Part 4 (R&O.154/2008*)
Income Tax (Amendment No. 32) (Jersey) Law 2009	L.27/2009	4 December 2009
Income Tax (Amendment No. 33) (Jersey) Law 2011	L.3/2011	Year of assessment 2009 and ensuing years (R&O.113/2009*)
Finance (2010 Budget) (Jersey) Law 2010	L.10/2010	1 January 2010 (R&O.127/2009*)
Income Tax (Amendment No. 34) (Jersey) Law 2010	L.19/2010	Parts 1 and 7 - 10 December 2009; Parts 2, 3 and 5 - year of assessment 2010 and ensuing years; Part 4 - 1 January 2010; Part 6 and Schedule – in force 5 November 2010

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
		(R&O.128/2009*)
Income Tax (Amendment No. 36) (Jersey) Law 2011	L.20/2011	10 December 2010 (has effect for the year of assessment 2010 and ensuing years) (R&O.126/2010*)
Finance (2011 Budget) (Jersey) Law 2011	L.16/2011	1 January 2011 (R&O.122/2010*)
Income Tax (Amendment No. 37) (Jersey) Law 2011	L.21/2011	1 January 2011, except – (a) Articles 6, 7, 8, 9, 10, 11, 12, 19, 20, 21 have effect for the year of assessment 2011 and ensuing years (b) Article 23 has effect for the year of assessment 2012 and ensuing years (R&O.123/2010*)
Income Tax (Amendment No. 35) (Jersey) Law 2011	L.4/2011	25 February 2011 – Articles 1 and 4; 20 April 2011 – Article 3; 26 May 2011 – Article 2
Income Tax (Amendment No. 39) (Jersey) Law 2011	L.28/2011	22 July 2011 (R&O.99/2011*)
Income Tax (Amendment No. 38) (Jersey) Law 2011	L.27/2011	1 January 2012 – except Part 4, not in force on the revision date
Finance (2012 Budget) (Jersey) Law 201-	P.160/2011	1 January 2012 (R&O.145/2011*)
Income Tax (Amendment No. 40) (Jersey) Law 201-	P.161/2011	8 November 2011 – Parts 1 and 8 and Article 23; Part 3 and Article 24 – year of assessment 2011 and ensuing years; remainder – year of assessment 2012 and ensuing years (R&O.146/2011*)
<p><b>* Draft Laws given effect by acte opératoire</b>  A Law must be adopted by the States and then sanctioned by Her Majesty in Council in order to be enacted. However, an acte opératoire made under Article 15 of the Public Finances (Jersey) Law 2005 (chapter 24.900) provides for taxation legislation to be given immediate effect as if it were enacted, even though it may not have been adopted, and has not been sanctioned, as described. If a Law that has been given immediate effect by acte opératoire is not subsequently enacted at all, or is amended before enactment, Article 19 requires the repayment or making good of any money paid or deducted in accordance with any provision of it which is not enacted or is amended.</p>		

Legislation	Year and No	Commencement
<b>** Certain provisions of Income Tax (Amendment No. 28) (Jersey) Law 2007 and of Income Tax (Amendment No. 29) (Jersey) Law 200- to have effect for the year of assessment 2008</b> in the case of certain companies in accordance with Articles 48 to 50 of the Income Tax (Amendment No. 29) (Jersey) Law 200-. See the endnote to paragraph 6 of Schedule 5		

### Table of Renumbered Provisions

Original	Current
PART I	PART 1
PART II	PART 2
PART III	PART 3
PART IV	PART 4
16(1)(a)	repealed by L.30/1986
21	repealed by L.30/1986
PART V	PART 5
22(2)	repealed by L.30/1986
PART VI	PART 6
30	repealed by L.30/1986
PART VII	PART 7
PART VIII	PART 8
56	repealed by L.30/1986
Part IX 57	repealed by L.23/2002
58	repealed by L.23/2002
59	repealed by L.23/2002
60	repealed by L.23/2002
60A	repealed by L.23/2002; inserted by L.20/1972
PART X	PART 10
65(2)	repealed by L.22/2003; amended by L.14/2001
65B(6)	repealed by L.20/2004
71	repealed by L.20/2004
72	repealed by L.31/1986
73	repealed by L.31/1986
73A	repealed by L.31/1986; inserted by L.11/1969
79(1)	repealed by L.20/2004
PART XI	PART 11
87(3)	repealed by L.20/2004
88(2)	repealed by L.20/2004
91	repealed by L.20/1997
PART XII	PART 12
92(2)	repealed by L.12/1988
96	repealed by L.20/2004

<b>Original</b>	<b>Current</b>
97	repealed by L.10/1990
98	repealed by L.10/1990
99	repealed by L.20/2004
100	repealed by L.20/2004
PART XIII	PART 13
106(1)	repealed by L.20/2004
109	repealed by L.16/1979
PART XIV	PART 14
112(4)	repealed by L.20/2004
PART XV	PART 15
118(1)	repealed by L.13/1984
PART XVI	PART 16
PART XVII	PART 17
PART XVIII	PART 18
PART XIX	PART 19
131(5)(d)	repealed by L.20/2004
131D(11)(c)	repealed by L.20/2004
131E(9)(c)	repealed by L.20/2004
PART XX	PART 20
133(5)	repealed by L.21/1999
PART XXI	PART 21
PART XXII	PART 22
140	repealed by L.23/1999
PART XXIII	PART 2
143	repealed by L.15/1963
PART XXIV	PART 24
146	spent, omitted from this revised edition
147	spent, omitted from this revised edition
148	spent, omitted from this revised edition
149	spent, omitted from this revised edition
SECOND SCHEDULE, (renumbered as SCHEDULE 4 by L.22/2003)	spent, omitted from this revised edition

## Table of Endnote References

<sup>1</sup> *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 2) (Jersey) Regulations 2005 and the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.*

*This Law has been amended by the Public Finances (Consequential Amendments) (Jersey) Regulations 2005. The amendments are consequential upon the repeal of the Public Finances (Administration) (Jersey) Law 1967 and its replacement by the Public Finances (Jersey) Law 2005.*

*This Law has been amended by the Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005. The amendments are consequential upon the repeal of the Civil Service (Administration) (Jersey) 1948 and its replacement by the Employment of States of Jersey Employees (Jersey) Law 2005.*

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*The Finance (2012 Budget) (Jersey) Law 201- (P.160/2011, given immediate effect by R&O.145/2011) provides, in Article 1, that “There shall be levied and charged in Jersey for the year 2012, in accordance with and subject to the provisions of the Income Tax (Jersey) Law 1961, income tax at the standard rate of 20 pence in the pound”; for previous years the rate of income tax was set by the following laws:*

2011	L.16/2011
2010	L.10/2010
2009	L.20/2009
2008	L.40/2008
2007	L.38/2007
2006	L.14/2006
2005	L.13/2005
2004	L.13/2004
2003	L.21/2003
2002	L.23/2002
2001	L.19/2001
2000	L.16/2000
1999	L.19/1999
1998	L.10/2001
1997	L.21.1997
1996	L.24/1996
1995	L.21/1995
1994	L.2/1995
1993	L.1/1995
1992	L.7/1992
1991	L.11/1991
1990	L.10/1990
1989	L.10/1989
1988	L.12/1988
1987	L.10/1987
1986	L.30/1986
1985	L.31/1986
1984	L.13/1984
1983	L.22/1983
1982	L.12/1982
1981	L.9/1981
1980	L.12/1980
1979	L.17/1979
1978	L.5/1979
1977	L.4/1979
1976	L.15/1976
1975	L.8/1975
1974	L.8/1974

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	1973	L.9/1973
	1972	L.20/1972
	1971	L.10/1971
	1970	L.2/1970
	1969	L.8/1969
	1968	L.5/1968
	1967	L.4/1967
	1966	L.11/1966
	1965	L.12/1965
	1964	L.5/1964
	1963	L.10/1963
	1962	L.4/1962
	1961	L.25/1961
<sup>3</sup> Article 1	amended by L.23/2002, L.12/2005	
<sup>4</sup>	chapter 13.425	
<sup>5</sup>	chapter 13.100	
<sup>6</sup>	chapter 13.075	
<sup>7</sup>	chapter 13.075.50	
<sup>8</sup>	chapter 13.100	
<sup>9</sup>	chapter 20.600	
<sup>10</sup>	chapter 13.475	
<sup>11</sup> Article 3(1)	amended by L.21/1963, L.13/1975, L.24/1996, L.21/1999, L.22/2003, L.20/2004, L.19/2007, L.21/2007, L.18/2008, L.22/2009, L.20/2011, L.21/2011, L.27/2011, P.161/2011	
<sup>12</sup> Article 3(1A)	inserted by L.21/2007	
<sup>13</sup> Article 3(1B)	inserted by L.18/2008	
<sup>14</sup> Article 3AA	inserted by L.21/2007; heading amended by L.18/2008	
<sup>15</sup> Article 3AA	amended by L.18/2008	
<sup>16</sup> Article 3A	inserted by L.7/1992	
<sup>17</sup> Article 3AB	inserted by L.18/2008	
<sup>18</sup> Article 3AC	inserted by L.20/2011	
<sup>19</sup> Article 3AD	inserted by L.20/2011	
<sup>20</sup>	chapter 13.475	
<sup>21</sup> Article 4(1)	amended by L.20/2004, L.19/2007	
<sup>22</sup> Article 4(2)	amended by L.20/2004	
<sup>23</sup> Article 4A	inserted by L.21/2007	
<sup>24</sup>	chapter 16.325	
<sup>25</sup> Article 6	heading amended by L.19/2010	
<sup>26</sup> Article 6(1)	amended by L.19/2010	
<sup>27</sup> Article 6(2)	repealed by L.15/2006	
<sup>28</sup> Article 7	repealed by L.15/2006	
<sup>29</sup> Article 8	amended by L.19/2010	
<sup>30</sup> Article 9	amended by L.19/2010	
<sup>31</sup> Article 10(1)	amended by L.20/2004, L.13/2010	
<sup>32</sup> Article 11	amended by L.22/2003	
<sup>33</sup> Article 13(1)	amended by L.14/2001	
<sup>34</sup>	L.8/2005	
<sup>35</sup> Article 13(2)	inserted by L.14/2001	
<sup>36</sup> Article 13A	inserted by L.2/1998	
<sup>37</sup> Article A15	inserted by L.12/2005	
<sup>38</sup> Article 16(1)	amended by L.22/1983, L.30/1986, L.20/2004, L.18/2008	
<sup>39</sup> Article 16(2)	substituted by L.18/2008	
<sup>40</sup> Article 16(4)	amended by L.21/2007, L.21/2011	
<sup>41</sup> Article 16(4A)	inserted by L.21/2011, substituted by L.27/2011	
<sup>42</sup> Article 16(5)	inserted by L.18/2008	
<sup>43</sup> Article 16(6)	added by L.18/2008	

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- <sup>44</sup> Article 16(7) added by L.18/2008
- <sup>45</sup> Article 16A substituted by L.19/2010
- <sup>46</sup> Article 16B inserted by L.19/2010
- <sup>47</sup> Article 17A inserted by L.20/2004
- <sup>48</sup> Article 17A(1) amended by L.19/2010, L.21/2011
- <sup>49</sup> Article 17A(2) substituted by L.21/2011
- <sup>50</sup> Article 17A(3) substituted by L.21/2011
- <sup>51</sup> Article 17A(4) amended by L.19/2010, L.21/2011
- <sup>52</sup> Article 17A(7) amended by L.21/2011
- <sup>53</sup> Article 17A(12A) added by L.21/2011
- <sup>54</sup> Article 17A(13) repealed by L.15/2006
- <sup>55</sup> Article 17B inserted by L.22/2009
- <sup>56</sup> chapter 04.280
- <sup>57</sup> Article 18(1) amended by L.18/2008
- <sup>58</sup> Article 18(3) added by L.18/2008
- <sup>59</sup> Article 18(4) added by L.18/2008
- <sup>60</sup> Article 19A inserted by L.12/2005
- <sup>61</sup> Article 20 substituted by L.12/2005
- <sup>62</sup> chapter 26.900
- <sup>63</sup> Article 20A substituted by L.12/2005
- <sup>64</sup> chapter 26.900
- <sup>65</sup> Article 20B inserted by L.18/2008
- <sup>66</sup> Article 20B(2) amended by L.20/2011
- <sup>67</sup> Article 20B(3) amended by L.27/2011
- <sup>68</sup> Article 20B(5) amended by L.27/2011
- <sup>69</sup> Article 20B(6) amended by L.27/2011
- <sup>70</sup> Article 22(3) amended by L.21/2007, L.21/2011
- <sup>71</sup> Article 24(1) amended by L.10/1967
- <sup>72</sup> Article 24(1A) inserted by L.21/2011
- <sup>73</sup> Article 26 repealed by L.12/2005; formerly inserted by L.21/1999; former Article repealed by L.12/1993
- <sup>74</sup> Article 27 substituted by L.16/1979
- <sup>75</sup> Article 27(1) amended by L.21/1999
- <sup>76</sup> Article 27(2) substituted by L.11/1999
- <sup>77</sup> Article 28(2) substituted by L.21/1999
- <sup>78</sup> Article 28(3) inserted by L.21/1999
- <sup>79</sup> Article 28(4) inserted by L.21/1999, amended by L.27/2009
- <sup>80</sup> Article 28(5) added by L.27/2009
- <sup>81</sup> Article 29(1) amended by L.11/1999
- <sup>82</sup> Article 29(2) substituted by L.11/1999
- <sup>83</sup> Article 29(3) substituted by L.11/1999
- <sup>84</sup> Article 29(6) inserted by L.11/1999
- <sup>85</sup> Article 29(7) inserted by L.11/1999
- <sup>86</sup> Article 29A inserted by L.11/1999
- <sup>87</sup> Article 35(3) amended by L.5/1977, L.11/1999
- <sup>88</sup> Article 39 amended by L.12/2005
- <sup>89</sup> Article 41A inserted by L.12/2005
- <sup>90</sup> chapter 24.750.60
- <sup>91</sup> Article 41B inserted by L.12/2005
- <sup>92</sup> Article 41B(1) amended by P.161/2011
- <sup>93</sup> Article 41C inserted by L.12/2005
- <sup>94</sup> Article 41C(4) amended by L.15/2006
- <sup>95</sup> Article 41C(7A) inserted by L.21/2011
- <sup>96</sup> Article 41C(7B) inserted by L.21/2011
- <sup>97</sup> Article 41D inserted by L.12/2005

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- <sup>98</sup> Article 41E inserted by L.12/2005
- <sup>99</sup> Article 41F inserted by L.12/2005
- <sup>100</sup> Article 41G inserted by L.12/2005
- <sup>101</sup> Article 41H inserted by L.12/2005
- <sup>102</sup> Article 41H(1A) inserted by L.22/2009
- <sup>103</sup> Article 41H(2) to (5) repealed by L.22/2009
- <sup>104</sup> Article 41H(6) amended by L.22/2009
- <sup>105</sup> chapter 26.900
- <sup>106</sup> Article 41H(10) amended by L.22/2009, L.21/2011
- <sup>107</sup> Article 41H(11) repealed by L.22/2009
- <sup>108</sup> Article 41HA inserted by P.161.2011
- <sup>109</sup> chapter 26.900
- <sup>110</sup> Article 41I inserted by L.12/2005
- <sup>111</sup> Article 41I(9) repealed by L.15/2006
- <sup>112</sup> Article 42(1) amended by L.15/2006
- <sup>113</sup> Article 42(1A) inserted by L.15/2006
- <sup>114</sup> Article 42(1B) inserted by L.15/2006, amended by L.21/2007
- <sup>115</sup> Article 44(1) amended by L.19/2010
- <sup>116</sup> Article 45(3) substituted by L.27/2009
- <sup>117</sup> Article 49A inserted by L.22/2009
- <sup>118</sup> Article 50 substituted by L.30/1986
- <sup>119</sup> Article 51 substituted by L.22/1983, L.30/1986, L.21/2007
- <sup>120</sup> Article 51(1) amended by L.18/2008, L.22/2009, L.21/2011
- <sup>121</sup> Article 51(2) amended by L.18/2008
- <sup>122</sup> Article 51(3) substituted by L.22/2009
- <sup>123</sup> Article 51(4) repealed by L.22/2009
- <sup>124</sup> Article 51(5) repealed by L.22/2009
- <sup>125</sup> Article 51A inserted by L.21/2007
- <sup>126</sup> Article 51A(2) amended by L.21/2011
- <sup>127</sup> Article 52 substituted by L.30/1986, heading amended by L.21/2007
- <sup>128</sup> Article 52(1) amended by L.21/2007
- <sup>129</sup> Article 52A inserted by L.19/2010
- <sup>130</sup> Article 53 substituted by L.30/1986
- <sup>131</sup> Article 53 amended by L.21/2007
- <sup>132</sup> Article 54 substituted by L.30/1986
- <sup>133</sup> Article 54(1) amended by L.2/1998
- <sup>134</sup> Article 54(2) substituted by L.2/1998
- <sup>135</sup> Article 54(2A) inserted by L.2/1998
- <sup>136</sup> Article 54A inserted by L.21/2007
- heading amended by L.21/2011
- <sup>137</sup> Article 54A amended by L.21/2011
- <sup>138</sup> Article 55(2) substituted by L.21/2011, amended by P.161/2011
- <sup>139</sup> Article 55A inserted by L.21/2007
- heading amended by L.21/2011
- <sup>140</sup> Article 55A amended by L.21/2011
- <sup>141</sup> Article 61(1) amended by L.23/2002, L.22/2003, L.12/2005, L.18/2008
- <sup>142</sup> Article 61(1A) inserted by L.12/2005 and repealed by L.21/2007
- <sup>143</sup> Article 61(2) inserted by L.20/2004
- <sup>144</sup> Article 61(3) added by L.18/2008
- <sup>145</sup> Article 61(4) added by L.18/2008
- <sup>146</sup> Article 62 heading amended by L.18/2008
- <sup>147</sup> Article 62(1) amended by L.23/2002, L.22/2003, L.18/2008, L.21/2011
- <sup>148</sup> Article 62A substituted by L.21/2011; formerly inserted by L.21/2007
- <sup>149</sup> Article 62B inserted by L.18/2008
- <sup>150</sup> Article 62C inserted by L.3/2011
- <sup>151</sup> chapter 13.075.30
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- <sup>152</sup> Article 62D inserted by P.161/2011  
<sup>153</sup> Article 64A inserted by L.21/2007  
<sup>154</sup> Article 64B inserted by L.21/2007  
<sup>155</sup> Article 64C inserted by L.21/2007  
<sup>156</sup> Article 64D inserted by L.21/2007  
<sup>157</sup> Article 64E inserted by L.21/2007  
<sup>158</sup> Article 64F inserted by L.21/2007  
<sup>159</sup> Article 64G inserted by L.21/2007  
<sup>160</sup> Article 64H inserted by L.21/2007  
<sup>161</sup> Article 65 heading amended by L.21/2007  
<sup>162</sup> Article 65(1) amended by L.14/2001, L.21/2007  
<sup>163</sup> Article 65(1A) inserted by L.14/2001  
<sup>164</sup> Article 65(1B) inserted by L.14/2001  
<sup>165</sup> Article 65A inserted by L.14/2001  
<sup>166</sup> Article 65B inserted by L.22/2003  
<sup>167</sup> Article 65B(4) amended by L.20/2004  
<sup>168</sup> Article 66 repealed by L.21/2007  
<sup>169</sup> Article 67 repealed by L.21/2007  
<sup>170</sup> Article 68 repealed by L.21/2007  
<sup>171</sup> Article 69 repealed by L.21/2007  
<sup>172</sup> Article 69A inserted by L.14/2001  
<sup>173</sup> Article 69A(2) amended by L.22/2003  
<sup>174</sup> Article 70 amended by L.22/1983, L.30/1986, L.23/2002, L.21/2007  
<sup>175</sup> Article 70A inserted by L.15/1980, amended by L.16/2000  
<sup>176</sup> chapter 26.900  
<sup>177</sup> Article 70A(1) amended by L.21/1995, L.19/1999  
<sup>178</sup> Article 70A(1A) inserted by L.16/2000  
<sup>179</sup> Article 70B inserted by L.3/2011  
<sup>180</sup> chapter 13.075.30  
<sup>181</sup> Article 75(1) amended by L.16/1979  
<sup>182</sup> Article 75(2) amended by L.11/1963  
<sup>183</sup> Article 76A inserted by L.21/1995  
<sup>184</sup> Article 76A(4) amended by P.161/2011  
<sup>185</sup> Article 76A(6) amended by P.161/2011  
<sup>186</sup> Article 76B inserted by L.4/2011  
<sup>187</sup> Article 76B(6) amended by P.161/2011  
<sup>188</sup> chapter 13.370  
<sup>189</sup> Article 76B(8) amended by P.161/2011  
<sup>190</sup> Article 76C inserted by L.4/2011  
<sup>191</sup> Article 76C(6) amended by P.161/2011  
<sup>192</sup> chapter 13.780  
<sup>193</sup> Article 76C(8) amended by P.161/2011  
<sup>194</sup> Article 79(2) amended by L.20/2004  
<sup>195</sup> Article 80(1) amended by L.20/1974, L.14/2001  
<sup>196</sup> Article 80(1A) inserted by L.14/2001  
<sup>197</sup> Article 80(1B) inserted by L.14/2001  
<sup>198</sup> Article 80(2) substituted by L.20/1974  
<sup>199</sup> Article 80(3) amended by L.20/1974  
<sup>200</sup> Heading amended by L.22/2003  
<sup>201</sup> Article 81(1) amended by L.22/2003, L.20/2004  
<sup>202</sup> Article 81A inserted by L.20/1974  
<sup>203</sup> Cross heading inserted by L.18/2008  
<sup>204</sup> Article 81B inserted by L.18/2008  
<sup>205</sup> Article 81B(1) amended by L.20/2011, L.21/2011, P.161/2011  
<sup>206</sup> Article 81C inserted by L.18/2008
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- <sup>207</sup> Article 81CA inserted by L.27/2011  
<sup>208</sup> Article 81CB inserted by L.27/2011  
<sup>209</sup> Article 81D inserted by L.18/2008  
heading amended by L.20/2011  
<sup>210</sup> Article 81D(1) amended by L.20/2011  
<sup>211</sup> Article 81E inserted by L.18/2008  
<sup>212</sup> Article 81E(2) amended by L.20/2011  
<sup>213</sup> Article 81E(4) substituted by L.27/2011  
<sup>214</sup> Article 81F inserted by L.18/2008  
<sup>215</sup> Article 81F(1) amended by L.19/2010, L.20/2011  
<sup>216</sup> Article 81F(5) amended by L.19/2010  
<sup>217</sup> Article 81F(6) added by L.19/2010  
<sup>218</sup> Article 81FA inserted by L.21/2011  
<sup>219</sup> Article 81FB inserted by L.21/2011  
<sup>220</sup> Article 81G inserted by L.18/2008  
<sup>221</sup> Article 81G(3) amended by L.19/2010  
<sup>222</sup> Article 81G(6) amended by L.19/2010  
<sup>223</sup> Article 81G(6A) inserted by L.19/2010  
<sup>224</sup> Article 81GA inserted by L.21/2011  
<sup>225</sup> Article 81GB inserted by L.21/2011  
<sup>226</sup> Article 81H inserted by L.18/2008  
<sup>227</sup> Article 81I inserted by L.18/2008  
<sup>228</sup> Article 81J inserted by L.18/2008  
<sup>229</sup> Article 81K inserted by L.18/2008  
heading amended by L.20/2011  
<sup>230</sup> Article 81K(1) amended by L.20/2011  
<sup>231</sup> Article 81L inserted by L.18/2008  
<sup>232</sup> Article 81M inserted by L.18/2008  
<sup>233</sup> Article 81M(1) amended by L.20/2011  
<sup>234</sup> Article 81M(2) amended by L.20/2011  
<sup>235</sup> Article 81N inserted by L.18/2008  
<sup>236</sup> Article 81N(1) amended by L.21/2011  
<sup>237</sup> Article 81O inserted by L.18/2008  
<sup>238</sup> Article 81O(1) amended by L.27/2011  
<sup>239</sup> Article 81P inserted by L.18/2008  
<sup>240</sup> Article 82(1) amended by L.18/2008, L.27/2011  
<sup>241</sup> Article 82(2) added by L.18/2008  
<sup>242</sup> Article 82A inserted by L.18/2008  
<sup>243</sup> Article 82A(1) amended by L.19/2010  
<sup>244</sup> Article 82AA inserted by L.19/2010  
<sup>245</sup> Article 82B inserted by L.18/2008  
<sup>246</sup> Article 82B(1) amended by L.27/2011  
<sup>247</sup> Article 82B(2A) inserted by L.21/2011  
<sup>248</sup> Article 83 amended by L.23/2002  
<sup>249</sup> cross-heading inserted by L.18/2008  
<sup>250</sup> Article 85A inserted by L.18/2008  
<sup>251</sup> Article 85B inserted by L.18/2008  
<sup>252</sup> Article 85C inserted by L.18/2008  
<sup>253</sup> Article 85D inserted by L.18/2008  
<sup>254</sup> Article 85E inserted by L.18/2008  
<sup>255</sup> Article 85F repealed by L.27/2011  
<sup>256</sup> Article 85FA repealed by L.27/2011  
<sup>257</sup> Article 85G repealed by L.27/2011  
<sup>258</sup> Article 85H repealed by L.27/2011  
<sup>259</sup> Article 86(1) amended by L.8/1965, L.20/2004  
<sup>260</sup> Article 86(2) substituted by L.20/2004, amended L.19/2007, by L.21/2007
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- <sup>261</sup> Article 86(2A) inserted by L.20/2004  
<sup>262</sup> Article 86(2B) inserted by L.20/2004  
<sup>263</sup> Article 86(3) amended by L.11/1971, amended by L.21/2007  
<sup>264</sup> Article 87(1) amended by L.24/1996, L.22/2003, L.21/2007, L.21/2011  
<sup>265</sup> Article 87(3) inserted by L.21/2007  
<sup>266</sup> Article 87(4) inserted by L.21/2007  
<sup>267</sup> Article 87(5) inserted by L.21/2007  
<sup>268</sup> Article 87A inserted by L.7/1992  
<sup>269</sup> Article 87A(2) substituted by L.21/1995  
<sup>270</sup> Article 87A(3) substituted by L.21/1995  
<sup>271</sup> Article 87B inserted by L.7/1992  
<sup>272</sup> Article 87B(1) amended by L.21/1995, L.19/2001  
<sup>273</sup> Article 88 substituted by L.18/2008  
<sup>274</sup> Article 88(5) substituted by L.19/2010  
<sup>275</sup> Article 88(5A) inserted by L.19/2010  
<sup>276</sup> Article 88(5B) inserted by L.19/2010  
<sup>277</sup> Article 88(5C) inserted by L.19/2010  
<sup>278</sup> Article 88(5D) inserted by L.19/2010  
<sup>279</sup> Article 88(5E) inserted by L.19/2010  
<sup>280</sup> Article 88(6) added by L.18/2008  
<sup>281</sup> Article 89(1) substituted by L.18/2008  
<sup>282</sup> Article 89(1A) inserted by L.18/2008  
<sup>283</sup> Article 89(2) amended by L.5/1977, L.11/1999  
<sup>284</sup> Article 89A inserted by L.21/1997  
<sup>285</sup> Article 89A(2) amended by L.20/2004,, L.19/2007  
<sup>286</sup> Article 90 amended by L.20/2004, L.19/2007  
<sup>287</sup> Article 90AA inserted by L.20/2004  
heading amended by L.19/2007  
<sup>288</sup> Article 90AA(2) amended by L.19/2007  
<sup>289</sup> Article 90AA(5) amended by L.19/2007  
<sup>290</sup> Article 90AA(6) amended by L.19/2007  
<sup>291</sup> Article 90AA(8) inserted then deleted by L.19/2007  
<sup>292</sup> Article 90AB inserted by L.20/2004  
<sup>293</sup> Article 90AC inserted by L.20/2004  
<sup>294</sup> Article 90AD inserted by L.20/2004  
<sup>295</sup> Article 90AE inserted by L.20/2004  
<sup>296</sup> Article 90AE(3) amended by L.19/2007  
<sup>297</sup> Article 90AE(3A) inserted by L.19/2007  
<sup>298</sup> Article 90AE(4) amended by L.19/2007  
<sup>299</sup> Article 90AE(5) amended by L.19/2007  
<sup>300</sup> Article 90AF inserted by L.20/2004  
<sup>301</sup> Article 90A inserted by L.20/1997  
<sup>302</sup> Article 90B inserted by L.20/1997  
heading amended by L.19/2007  
<sup>303</sup> Article 90B(1) substituted by L.20/2004  
<sup>304</sup> Article 90B(2) amended by L.19/2007  
<sup>305</sup> Article 90B(4) amended by L.20/2004  
<sup>306</sup> Article 90B(5) added then deleted by L.19/2007  
<sup>307</sup> Article 90C inserted by L.20/1997  
heading amended by L.19/2007  
<sup>308</sup> Article 90C(3) substituted by L.19/2007  
<sup>309</sup> Article 90C(4) amended by L.19/2007  
<sup>310</sup> Article 90C(5) amended by L.19/2007  
<sup>311</sup> Article 90C(9) added then deleted by L.19/2007  
<sup>312</sup> Article 90D inserted then repealed by L.19/2007
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- <sup>313</sup> Article 92 repealed by L.19/2007
- <sup>314</sup> Article 92A substituted by L.19/2007
- <sup>315</sup> Article 92A(2) substituted by L.16/2011, amended by P.160/2011
- <sup>316</sup> Article 92A(3) deleted by L.16/2011
- <sup>317</sup> Article 92A(6) substituted by L.16/2011, amended by P.160/2011
- <sup>318</sup> Article 92A(7) deleted by P.1/2010
- <sup>319</sup> Article 90A(10) substituted by L.19/2007
- <sup>320</sup> Article 92B substituted by L.19/2007
- <sup>321</sup> chapter 10.800
- <sup>322</sup> Article 92B(1) substituted by P.161/2011
- <sup>323</sup> Article 92B(3) substituted by P.161/2011
- <sup>324</sup> chapter 10.700
- <sup>325</sup> Article 92B(5) amended by L.21/2007, L.21/2011
- <sup>326</sup> Article 92C inserted by L.19/2007
- <sup>327</sup> Article 92C(2) substituted by L.19/2007
- <sup>328</sup> Article 94 repealed by L.19/2007
- <sup>329</sup> Article 95(1) substituted by L.16/2000, amended by L.10/2001, L.12/2005, L.13/2010
- <sup>330</sup> Article 95(2) amended by L.12/2005
- <sup>331</sup> Article 95(3) substituted by L.16/2000, amended by L.10/2001, L.13/2010
- <sup>332</sup> Article 95(3A) inserted by L.22/2009
- <sup>333</sup> chapter 10.800
- <sup>334</sup> Article 95(6) added by L.12/2005
- <sup>335</sup> Article 98A substituted by L.10/1990, former Article inserted by L.4/1967, amended by L.8/1974, L.8/1975, L.4/1979, L.17/1979, L.12/1980, L.9/1981, L.12/1982, L.22/1983, L.13/1984, L.30/1986, L.31/1986, L.10/1987, L.12/1988, L.10/1989
- <sup>336</sup> Article 98A(1) amended by L.11/1991, L.7/1992, L.21/1995, L.24/1996, L.21/1997, L.16/2000, L.20/2004, L.19/2007
- <sup>337</sup> Article 101(1A) inserted by L.19/2007
- <sup>338</sup> Article 101(2)(a) amended by L.20/2004
- <sup>339</sup> Article 101(5) substituted by L.19/2007
- <sup>340</sup> Article 101A repealed by L.19/2007
- <sup>341</sup> Article 101B repealed by L.19/2007
- <sup>342</sup> Article 102 repealed by L.12/2005; formerly inserted by L.21/1999; former Article repealed by L.30/1986
- <sup>343</sup> Article 103 substituted by L.19/2007
- <sup>344</sup> Article 105(2) amended by L.20/2004
- <sup>345</sup> Article 106(2) amended by L.7/1992, L.20/2004
- <sup>346</sup> Article 106(3) inserted by L.10/1990, amended by L.7/1992, L.20/2004
- <sup>347</sup> Part 12A heading inserted by L.31/1986
- <sup>348</sup> Article 106A inserted by L.31/1986
- <sup>349</sup> Article 106B inserted by L.31/1986
- <sup>350</sup> Article 106C inserted by L.31/1986
- <sup>351</sup> Article 106C(3) amended by L.20/2004
- <sup>352</sup> Article 107(1) amended by L.1/1995, L.20/2004, L.18/2008
- <sup>353</sup> Article 107(1A) inserted by L.18/2008
- <sup>354</sup> Article 107(3) amended by L.1/1995
- <sup>355</sup> Article 107A inserted by L.1/1995
- <sup>356</sup> Article 107A(1) amended by L.21/2007, L.18/2008, L.21/2011
- <sup>357</sup> Article 107A(1A) inserted by L.18/2008
- <sup>358</sup> Article 107A(3) amended L.21/2007
- <sup>359</sup> Article 107A(4) substituted by L.21/2007, amended by L.18/2008
- <sup>360</sup> Article 108(1) amended by L.16/1979, L.21/2007, L.18/2008, L.21/2011
- <sup>361</sup> Article 108(2) amended by L.21/2007
- <sup>362</sup> Article 108(3) substituted by L.16/1979
- <sup>363</sup> Article 112(3) amended by L.20/2004
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- <sup>364</sup> Article 112(5) amended by L.21/1995  
<sup>365</sup> chapter 15.430  
<sup>366</sup> chapter 07.245  
<sup>367</sup> chapter 12.200  
<sup>368</sup> chapter 13.075.30  
<sup>369</sup> Article 115 amended by L.11/1963, L.21/1963, L.8/1964, L.20/1974, L.13/1975, L.17/1979, L.15/1980, L.10/1990, L.2/1995, L.24/1996, L.16/2000, L.10/2001, L.22/2003, L.50/2002, L.20/2004, L.15/2006, R&O.127/2007, L.13/2010, L.22/2009, L.3/2011, L.19/2010
- <sup>370</sup> Article 115A inserted by P.161/2011  
<sup>371</sup> Article 116 amended by L.10/1967, L.24/1996  
<sup>372</sup> Article 118(2) amended by L.13/1984, L.23/2002  
<sup>373</sup> Article 118A inserted by L.23/2002  
<sup>374</sup> Article 118B inserted by L.21/2007  
<sup>375</sup> chapter 26.900  
<sup>376</sup> Article 118B(1) amended by L.18/2008, L.22/2009  
<sup>377</sup> Article 118C inserted by L.20/2011  
<sup>378</sup> Article 119A inserted by L.11/1971  
<sup>379</sup> Article 119A(1) amended by L.20/2004  
<sup>380</sup> Article 121(1) amended by L.22/2003  
<sup>381</sup> Article 121(2) amended by L.22/2003  
<sup>382</sup> Article 121A inserted by L.22/2003  
<sup>383</sup> Article 121B inserted by L.22/2003  
<sup>384</sup> Article 121B(4) substituted by L.19/2007  
<sup>385</sup> Part 17 heading amended by L.21/2007  
<sup>386</sup> chapter 13.125  
<sup>387</sup> Article 123(1) substituted by L.20/2007, amended by L.21/2007; formerly substituted by L.10/1989, amended by L.30/1991
- <sup>388</sup> Article 123A repealed by L.21/2007; formerly inserted by L.10/1989  
<sup>389</sup> Article 123B repealed by P.161/2011  
<sup>390</sup> Article 123C inserted by L.21/2007  
<sup>391</sup> Article 123C(1) substituted by L.21/2007, L.18/2008, amended by L.20/2011  
<sup>392</sup> L.1/1861 (repealed)  
<sup>393</sup> chapter 27.300  
<sup>394</sup> chapter 06.288  
<sup>395</sup> chapter 06.145  
<sup>396</sup> Article 123C(3) amended by L.18/2008  
<sup>397</sup> Article 123C(4) deleted by L.18/2008  
<sup>398</sup> Article 123CAA inserted by L.21/2011  
<sup>399</sup> Article 123CA inserted by L.19/2010  
<sup>400</sup> chapter 13.265  
<sup>401</sup> Article 123D inserted by L.21/2007  
<sup>402</sup> Article 123D(1) substituted by L.21/2007, L.18/2008  
<sup>403</sup> Article 123D(3) deleted by L.18/2008  
<sup>404</sup> Article 123E inserted by L.21/2007  
<sup>405</sup> Article 123EA inserted by L.18/2008  
<sup>406</sup> Article 123F inserted by L.21/2007  
<sup>407</sup> Article 123F(3) amended by L.18/2008  
<sup>408</sup> Article 123F(10) amended by L.18/2008, P.161/2011  
<sup>409</sup> Part 17A heading inserted by L.21/2007  
<sup>410</sup> Article 128A inserted by L.21/2007  
<sup>411</sup> Article 129A inserted by L.12/2005  
<sup>412</sup> Article 130 substituted by L.5/1968, amended by R&O.127/2007  
<sup>413</sup> chapter 26.900  
<sup>414</sup> Article 130(1) amended by L.13/1975, L.15/1980, L.19/2007
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- <sup>415</sup> Article 130A inserted by L.15/1980, amended by R&O.127/2007  
<sup>416</sup> chapter 26.600
- <sup>417</sup> Article 131 substituted by L.13/1975
- <sup>418</sup> Article 131(1) amended by L.21/2007, L.22/2009, L.21/2011, P.161/2011
- <sup>419</sup> Article 131(1A) inserted by P.161/2011
- <sup>420</sup> Article 131(1B) inserted by P.161/2011
- <sup>421</sup> Article 131(1C) inserted by P.161/2011
- <sup>422</sup> Article 131(3) amended by L.10/1990, L.22/2003, L.13/2010, P.161/2011
- <sup>423</sup> Article 131(5) amended by L.20/2004
- <sup>424</sup> Article 131A inserted by L.3/1962
- <sup>425</sup> Article 131A(1) substituted by L.20/2004; former paragraph amended by L.22/2003
- <sup>426</sup> Article 131A(1A) inserted by L.20/2004
- <sup>427</sup> Article 131A(1B) inserted by L.20/2004
- <sup>428</sup> Article 131A(1C) inserted by L.20/2004
- <sup>429</sup> Article 131A(2) amended by L.20/2004
- <sup>430</sup> Article 131B inserted by L.10/1987
- <sup>431</sup> Article 131B(1) amended by L.21/1995, L.22/2003
- <sup>432</sup> Article 131B(2) amended by L.22/2009, P.161/2011
- <sup>433</sup> Article 131B(2A) inserted by P.161/2011
- <sup>434</sup> Article 131B(2B) inserted by P.161/2011
- <sup>435</sup> Article 131B(2C) inserted by P.161/2011
- <sup>436</sup> Article 131B(2D) inserted by P.161/2011  
<sup>437</sup> chapter 24.750.60
- <sup>438</sup> Article 131B(3) amended by L.10/1989, L.11/1991, L.21/1995, L.24/1996, L.21/1997,  
L.19/1999, L.22/2009, L.19/2010, L.21/2011, P.161/2011
- <sup>439</sup> Article 131B(3A) inserted by P.161/2011
- <sup>440</sup> Article 131B(4) amended by L.10/1990, L.21/1995, L.24/1996, L.22/2003, L.13/2010,  
L.22/2009
- <sup>441</sup> Article 131B(7A) inserted by L.21/1995
- <sup>442</sup> Article 131B(8A) inserted by L.22/2009, amended by L.19/2010
- <sup>443</sup> Article 131B(8B) inserted by L.22/2009
- <sup>444</sup> Article 131B(8C) inserted by L.22/2009, substituted by L.19/2010, amended by L.21/2011
- <sup>445</sup> Article 131B(8D) inserted by L.19/2010
- <sup>446</sup> Article 131B(8E) inserted by L.19/2010
- <sup>447</sup> Article 131B(8F) inserted by L.19/2010
- <sup>448</sup> Article 131B(9) substituted by L.22/2009; former paragraph amended by L.21/1997,  
substituted by L.19/1999
- <sup>449</sup> Article 131B(9A) inserted by L.21/1995
- <sup>450</sup> Article 131B(11) added by L.21/2011
- <sup>451</sup> Article 131C inserted by L.10/1990
- <sup>452</sup> Article 131C(1) substituted by L.15/2006
- <sup>453</sup> Article 131C(5) inserted by L.15/2006
- <sup>454</sup> Article 131C(6) inserted by L.15/2006
- <sup>455</sup> Article 131CA inserted by L.13/2010
- <sup>456</sup> Article 131CA(2) amended by P.161/2011
- <sup>457</sup> Article 131CA(2A) inserted by P.161/2011
- <sup>458</sup> Article 131CA(2B) inserted by P.161/2011
- <sup>459</sup> Article 131CA(2C) inserted by P.161/2011
- <sup>460</sup> Article 131CA(2D) inserted by P.161/2011
- <sup>461</sup> Article 131CA(3) amended by L.22/2009, L.21/2011
- <sup>462</sup> Article 131CA(4) amended by L.22/2009, L.19/2010, L.21/2011, P.161/2011
- <sup>463</sup> Article 131CA(4A) inserted by P.161/2011
- <sup>464</sup> Article 131CA(8A) inserted by L.22/2009
- <sup>465</sup> Article 131CA(8B) inserted by L.22/2009
- <sup>466</sup> Article 131CA(9) substituted by L.22/2009, amended by L.21/2011
- <sup>467</sup> Article 131CA(9A) inserted by L.22/2009, substituted by L.19/2010, amended by L.21/2011
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- <sup>468</sup> Article 131CA(9B) inserted by L.19/2010  
<sup>469</sup> Article 131CA(9C) inserted by L.19/2010  
<sup>470</sup> Article 131CA(9D) inserted by L.19/2010  
<sup>471</sup> Article 131CA(12) substituted by L.22/2009  
<sup>472</sup> Article 131CA(14) added by L.21/2011  
<sup>473</sup> Article 131D inserted by L.22/2003  
<sup>474</sup> Article 131D(1) amended by L.19/2010  
<sup>475</sup> chapter 13.100  
<sup>476</sup> chapter 13.225  
<sup>477</sup> chapter 13.100  
<sup>478</sup> chapter 13.075  
<sup>479</sup> chapter 13.450  
<sup>480</sup> chapter 13.425  
<sup>481</sup> chapter 13.225  
<sup>482</sup> Article 131D(11) amended by L.20/2004  
<sup>483</sup> Article 131E inserted by L.22/2003  
<sup>484</sup> chapter 13.225  
<sup>485</sup> Article 131E(9) amended by L.20/2004  
<sup>486</sup> Article 131F inserted by L.22/2003  
<sup>487</sup> chapter 26.900  
<sup>488</sup> Article 131G inserted by L.20/2004  
<sup>489</sup> Article 131G(1) amended by L.13/2010  
<sup>490</sup> Article 131G(11) amended by L.13/2010  
<sup>491</sup> Article 132(2A) inserted by L.11/1971  
<sup>492</sup> Article 132(7) amended by L.8/1965, L.21/1995, L.22/2003, L.19/2010  
<sup>493</sup> Article 133(1) paragraph (aa) inserted by L.20/2004  
<sup>494</sup> Article 133(1) amended by L.14/2001  
<sup>495</sup> Article 133(1A) inserted by L.14/2001, amended by L.22/2003  
<sup>496</sup> Article 133(2) amended by L.16/1979  
<sup>497</sup> Article 133(3) amended by L.16/1979  
<sup>498</sup> Article 133(4) amended by L.18/2008, L.27/2011  
<sup>499</sup> Article 133(4A) deleted by L.27/2011  
<sup>500</sup> Article 134 substituted by L.21/1999  
<sup>501</sup> Article 134(3) amended by L.20/2004  
<sup>502</sup> Part 20A heading inserted by L.10/1967  
<sup>503</sup> Article 134A inserted by L.10/1967  
<sup>504</sup> Article 134A(1) amended by L.21/2007  
<sup>505</sup> Article 134A(3) amended by L.21/2007  
<sup>506</sup> Part 21A inserted by L.12/2005  
<sup>507</sup> Article 135A inserted by L.12/2005  
<sup>508</sup> Article 135A(3) amended by L.28/2011  
<sup>509</sup> L.28/2011  
<sup>510</sup> Article 135A(3A) inserted by L.28/2011  
<sup>511</sup> Article 135A(3B) inserted by L.28/2011  
<sup>512</sup> Article 135A(3C) inserted by L.28/2011  
<sup>513</sup> Article 135A(4) amended by L.28/2011  
<sup>514</sup> chapter 18.315  
<sup>515</sup> chapter 18.315  
<sup>516</sup> chapter 18.315.50  
<sup>517</sup> Article 135A(5) amended by L.28/2011  
<sup>518</sup> Article 135B inserted by L.12/2005  
<sup>519</sup> chapter 16.800  
<sup>520</sup> Article 136(1) substituted by L.8/1981, amended by L.24/1996, L.11/1999, L.22/2009, L.19/2010; former paragraph amended by L.5/1977  
<sup>521</sup> Article 136(3) amended by L.5/1977, L.8/1981, L.11/1999
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- <sup>522</sup> Article 136(4) repealed by L.12/2005
- <sup>523</sup> Article 136(5) amended by L.24/1996, L.19/2010
- <sup>524</sup> Article 137(1) substituted by L.22/2009; former paragraph amended by L.5/1977, L.8/1981, L.11/1999
- <sup>525</sup> Article 137(2) substituted by L.22/2009; former paragraph amended by L.5/1977, L.11/1999
- <sup>526</sup> Article 137(2A) inserted by L.22/2009
- <sup>527</sup> Article 137(2B) inserted by L.22/2009
- <sup>528</sup> Article 137(2C) inserted by L.22/2009
- <sup>529</sup> Article 137(3) amended by L.18/2008
- <sup>530</sup> Article 137(4) amended by L.22/2009
- <sup>531</sup> Article 137(4A) inserted by L.22/2009
- <sup>532</sup> Article 137(5) inserted by L.8/1965
- <sup>533</sup> Article 138 repealed by L.22/2009; former Article amended by L.5/1977, L.11/1999
- <sup>534</sup> Article 139(1) amended by L.5/1977, L.11/1999
- <sup>535</sup> Article 139(2) amended by L.20/2004
- <sup>536</sup> Article 139(3) inserted by L.20/2004
- <sup>537</sup> Part 22A inserted by L.19/2010
- <sup>538</sup> Article 141A inserted by L.19/2010
- <sup>539</sup> Article 141B inserted by L.19/2010
- <sup>540</sup> Article 141C inserted by L.19/2010
- <sup>541</sup> Article 142(1) amended by L.23/2002
- <sup>542</sup> chapter 15.720
- <sup>543</sup> Article 145 amended by L.12/1993
- <sup>544</sup> Article 149A inserted by L.20/2004; renumbered as paragraph (1) by L.18/2008; amended by L.21/2007
- <sup>545</sup> Article 149A(2) added by L.18/2008
- <sup>546</sup> Schedule A1 inserted by L.18/2008, amended by L.19/2010
- <sup>547</sup> Schedule 1 amended by L.19/2010
- <sup>548</sup> Schedule 2 inserted by L.22/2003, amended by L.20/2004, L.22/2009
- <sup>549</sup> chapter 26.900
- <sup>550</sup> Schedule 3 inserted by L.22/2003
- <sup>551</sup> Schedule 3 paragraph 1(1) amended by L.20/2004
- <sup>552</sup> Schedule 3 paragraph 1(1A) inserted by L.20/2004
- <sup>553</sup> Schedule 3 paragraph 2(A1) inserted by L.20/2004
- <sup>554</sup> Schedule 3 paragraph 2(1) amended by L.20/2004
- <sup>555</sup> Schedule 3 paragraph 2(1A) inserted by L.20/2004
- <sup>556</sup> Schedule 3 paragraph 2(2) amended by L.20/2004
- <sup>557</sup> Schedule 3 paragraph 2(2A) inserted by L.20/2004
- <sup>558</sup> Schedule 3 paragraph 2(3) amended by L.20/2004
- <sup>559</sup> Schedule 3 paragraph 2(6) amended by L.20/2004
- <sup>560</sup> Schedule 3 paragraph 3(1) substituted by L.20/2004
- <sup>561</sup> Schedule 3 paragraph 3(2) substituted by L.20/2004
- <sup>562</sup> Schedule 3 paragraph 3(4A) inserted by L.20/2004
- <sup>563</sup> Schedule 3A inserted by L.21/2007, amended by L.21/2011
- <sup>564</sup> Schedule 5 inserted by L.20/2004, amended by L.12/2005, L.15/2006, L.19/2007, L.21/2007, L.18/2008, L.27/2011, P.161/2011
- <sup>565</sup> L.20/2004
- <sup>566</sup> chapter 15.360.
- <sup>567</sup> L.12/2005
- <sup>568</sup> chapter 10.800
- <sup>569</sup> L.15/2006
- <sup>570</sup> Articles 48 to 50 of the Income Tax (Amendment No. 29) (Jersey) Law 2008 L.18/2008 state –  
**“48 Application of Part 8**  
 (1) This Part applies –
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- (a) to a company to which Article 123C applies for the year of assessment 2008, being a company –
- (i) which is first regarded as resident in Jersey, or which first has a permanent establishment in Jersey, on or after 3rd June 2008, and
- (ii) which is not a company to which Article 123D applies or a utility company; and
- (b) to a company to which Article 123D applies for the year of assessment 2008, being a financial services company which first has a permanent establishment in Jersey on or after 3rd June 2008.
- (2) In paragraph (1) –  
 “financial services company” has the same meaning as it has in the principal Law for the year of assessment 2008;  
 “utility company” has the same meaning as it has in the principal Law as amended by Article 6 of this Law.

**49 Parts 5 and 7 of the Income Tax (Amendment No. 28) (Jersey) Law 2007 applied for 2008**

(1) Notwithstanding Article 42 of the Income Tax (Amendment No. 28) (Jersey) Law 2007, the principal Law shall have effect for the year of assessment 2008, in the case of any company to which this Part applies and in the case of any owner of any shares comprised in the ordinary share capital of the company, as it is amended by Part 5 of the Income Tax (Amendment No. 28) (Jersey) Law 2007.

(2) Notwithstanding Article 51 of the Income Tax (Amendment No. 28) (Jersey) Law 2007, the principal Law shall have effect for the year of assessment 2008, in its application to a payment by a company to which this Part applies, as it is amended by Part 7 of the Income Tax (Amendment No. 28) (Jersey) Law 2007.

**50 Parts 6 and 7 of this Law applied for 2008**

Notwithstanding Articles 30 and 47 of this Law, the principal Law shall have effect for the year of assessment 2008, in the case of any company to which this Part applies and in the case of any owner of any shares comprised in the ordinary share capital of the company, as it is amended by Parts 6 and 7.”

<sup>571</sup>

<sup>572</sup> Schedule 6

L.27/2011

added by L.21/2007