

# STATES OF JERSEY



## **DRAFT INCOME TAX (AMENDMENT No. 33) (JERSEY) LAW 200-**

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**Lodged au Greffe on 2nd June 2009  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 33) (JERSEY) LAW 200-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources the provisions of the Draft Income Tax (Amendment No. 33) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

## REPORT

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### **Interest rate on income tax repayment**

The Income Tax Law provides that the Comptroller shall add a repayment supplement on tax which has been overpaid. The repayment supplement represents interest at the rate of 0.3% for each month in which the tax has been overpaid. This monthly rate converts to an annual non-compounded equivalent percentage rate of 3.6%. The uncertain economic climate has led to a significant drop in interest rates which now currently stand at a base rate of 0.5%. As a consequence of this the interest rate used in the calculation of the income tax repayment supplement has been amended to 0.03% which converts to an annual non-compounded equivalent percentage rate of 0.36%.

A provision has also been made to give the Minister for Treasury and Resources the power to change the interest rate by Order.

### **Recovery of tax in bankruptcy**

Income tax debts for the year in which a bankruptcy or en désastre occurs and the preceding year rank as preferential debts. ITIS and GST debts do not rank as preferential debts. The purpose of the amendment to the Income Tax Law is to align ITIS and GST debts with income tax debts so that all three shall rank as preferential debts for a period of 2 years.

There are no manpower implications.

There will be a saving in the interest paid on tax refunds of approximately £222,000.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 1st June 2009 the Minister for Treasury and Resources made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Treasury and Resources the provisions of the Draft Income Tax (Amendment No. 33) (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

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### *Part 1 – Interest rate on income tax repayment*

*Article 1* amends the Income Tax (Jersey) Law 1961 so as to reduce the monthly rate of interest that the Comptroller is liable to pay when refunding an overpayment of tax following the determination of an appeal against assessment. A power is added for the Minister for Treasury and Resources to amend the interest rate by Order in the future.

### *Part 2 – Recovery of tax during bankruptcy*

*Article 2* amends the Bankruptcy (Désastre) (Jersey) Law 1990 with the effect that, in a désastre, arrears of goods and services tax for a period not exceeding 2 years are treated as a preferential debt. Income tax arrears and sums due to the Health Insurance Fund and the Social Security Fund are already so treated.

*Article 3* amends Article 45 of the Income Tax (Jersey) Law 1961. Article 45 currently provides for arrears of income tax for a period not exceeding 2 years to be treated as a preferential debt in all procedures for bankruptcy. The amendment provides that the following payments which have fallen due under the Law are also preferential debts –

- (a) deductions of income tax made under the ITIS scheme by an employer from an employee's earnings and which the employer is required to remit to the Comptroller monthly;
- (b) deductions of income tax made by a building contractor from payments made to a sub-contractor and which the building contractor is required to remit to the Comptroller monthly;
- (c) deductions of income tax made by a letting agent from a non-resident landlord's rental income and which the letting agent is required to remit to the Comptroller quarterly;
- (d) deductions of income tax made by a tenant from rent due to a non-resident landlord and which the tenant is required to remit to the Comptroller quarterly.

*Article 4* amends the Goods and Services Tax (Jersey) Law 2007 so as to provide for –

- (a) amounts due under the Law to be paid by the autorisés, in the event of a remise de biens or by the Viscount, in the event of a bénéfice d'inventaire; and
- (b) in any procedure for bankruptcy, for amounts due from the debtor under the Law, for the year in which the bankruptcy occurs and for the preceding year, to be a preferential debt.

### *Part 3 – Closing provision*

*Article 5* provides for the citation of the Law.





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## **DRAFT INCOME TAX (AMENDMENT No. 33) (JERSEY) LAW 200-**

### **Arrangement**

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Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 33) (JERSEY) LAW 200-**

**A LAW** to amend further the Income Tax (Jersey) Law 1961, the Goods and Services Tax (Jersey) Law 2007 and the Bankruptcy (Désastre) (Jersey) Law 1990.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

### **PART 1**

#### **INTEREST RATE ON INCOME TAX REPAYMENT**

##### **1 Income Tax (Jersey) Law 1961 amended**

In Article 28 of the Income Tax (Jersey) Law 1961<sup>1</sup> –

- (a) in paragraph (4), for the amount “0.3%” there shall be substituted the amount “0.03%”;
- (b) after paragraph (4) there shall be added the following paragraph –
  - “(5) The Minister may by Order amend the rate of interest expressed in paragraph (4).”.

**PART 2****RECOVERY OF TAX DURING BANKRUPTCY****2 Bankruptcy (Désastre) (Jersey) Law 1990 amended**

In Article 32(1)(c) of the Bankruptcy (Désastre) (Jersey) Law 1990<sup>2</sup> for clause (i) there shall be substituted the following clauses –

- “(i) all sums payable to the Health Insurance Fund under Article 25 of the Health Insurance (Jersey) Law 1967<sup>3</sup> and to the Social Security Fund under Article 41 of the Social Security (Jersey) Law 1974<sup>4</sup>,
- (ia) all amounts due as described in Article 45(3) of the Income Tax (Jersey) Law 1961<sup>5</sup> and all amounts due as described in Article 47(8) of the Goods and Services Tax (Jersey) Law 2007<sup>6</sup>.”.

**3 Income Tax (Jersey) Law 1961 amended**

For paragraph (3) of Article 45 of the Income Tax (Jersey) Law 1961 there shall be substituted the following paragraph –

- “(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.”.

**4 Goods and Services Tax (Jersey) Law 2007 amended**

At the end of Article 47 of the Goods and Services Tax (Jersey) Law 2007<sup>7</sup> there shall be added the following paragraphs –

“(7) 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 GST or other amount due under this Law or the Regulations by such person, or such deceased person or his or her estate, at the time of the granting of the application and having become due and payable within 12 months next before that time.

- (8) In the event of any composition with creditors, désastre, dégrèvement, réalisation or other bankruptcy, any GST or other amount due from the debtor under this Law or the Regulations in the year in which that event occurs or in the preceding year shall rank for payment pari passu with other privileged debts and in priority to all other debts.”.

### **PART 3**

#### **CLOSING PROVISION**

##### **5 Citation**

This Law may be cited as the Income Tax (Amendment No. 33) (Jersey) Law 200-.

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- <sup>1</sup> *chapter 24.750*
  - <sup>2</sup> *chapter 04.160*
  - <sup>3</sup> *chapter 26.500*
  - <sup>4</sup> *chapter 26.900*
  - <sup>5</sup> *chapter 24.750*
  - <sup>6</sup> *chapter 24.700*
  - <sup>7</sup> *chapter 24.700*