

STATES OF JERSEY



DRAFT INCOME TAX (AMENDMENT No. 41) (JERSEY) LAW 201-

Lodged au Greffe on 17th October 2012
by the Minister for Treasury and Resources

STATES GREFFE



Jersey

DRAFT INCOME TAX (AMENDMENT No. 41) (JERSEY) LAW 201-

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.41) (Jersey) Law 201- are compatible with the Convention Rights.

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

REPORT

This Draft Law gives effect to proposals described in the Draft Budget Statement 2013.

Financial and manpower implications

The financial and manpower implications are clearly identified in Part 8 of the Draft Budget Statement 2013.

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 16th October 2012 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. 41) (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

This Law amends the Income Tax (Jersey) Law 1961.

Part 1 – General

Article 1 contains a general interpretation provision. The Income Tax (Jersey) Law 1961 is referred to throughout as the “principal Law”.

Part 2 – Distributions

This Part sets out provisions for taxing distributions made by Jersey resident companies and non-resident companies with a permanent establishment in Jersey from 1st January 2013.

Article 2 inserts in Article 3 of the principal Law (interpretation) definitions that are relevant to the new provisions on distributions.

Article 3 inserts Article 3AE in the principal Law. The new definition of “distribution” largely (with some exceptions) replaces references in the principal Law to dividends, distributions and stock dividends. The new definition includes things that are not currently treated as distributions for the purposes of the principal Law. Under the new definition, distributions comprise –

- (a) cash dividends, including dividends paid out of capital. (However not all cash dividends paid out of capital are taxable – distributions charged under Case III of Schedule D are not chargeable on so much of a distribution as is made out of the capital profits of a company. The circumstances in which a distribution is charged under Case III or under the new Case IX are described in more detail below);
- (b) all other distributions “*out of the assets of the company*” that are “*in respect of shares in the company*” to the extent that the value of the distribution exceeds the amount or value of any “*new consideration*” received by the company. (The terms in italics are explained in more detail below);
- (c) any distribution “*out of the assets of the company*” in respect of a loan made by a member to the company;
- (d) any transfer of assets or liabilities by a company to the extent not already described in paragraph (a), (b) or (c), that is (1) by a company to a member or person connected with a member or (2) by a member, or person connected with a member, to a company. However this applies only to the extent that the amount or value of any benefit received by a member exceeds the amount or value of any “*new consideration*” given by the member.

References to members include persons connected with members, as defined in Article 3A of the principal Law.

A distribution is made “out of the assets of the company” when the cost of it falls on the company.

A distribution is “in respect of shares in the company” if it is made to a current shareholder or if it is made to someone by virtue of having been a shareholder or if it is made in pursuance of a grant or right in respect of a share.

“New consideration” means consideration not provided out of the assets of a company.

Interest which is chargeable under paragraph Case III(a) of Schedule D or Case I is not included in the definition of “distribution”. Hence, interest paid by a company on a loan made by a member of a company to that company would be chargeable under paragraph (a) of Case III of Schedule D (as it is currently), but repayment of the principal itself (and any excess other than interest) would fall within the definition of distribution and be chargeable under Case III(f) or the new Case IX of Schedule D.

Article 4 amends Article 20B of the principal Law in respect of the information that companies must give to the Comptroller to take account of the new definition of distribution.

Article 5 amends Article 61 of the principal Law (general provisions concerning taxation under Schedule D) so that the references to “profits and gains” in that Article include distributions.

Article 6 amends Article 62 of the principal Law by amending the current Case III(f) and inserting a new Case IX. Case III(f), which currently refers to dividends and other distributions of a company regarded as resident in Jersey, is amended to refer to distributions of a company regarded as resident in Jersey, other than those distributions charged to tax under Case IX. The new Case IX taxes “relevant distributions” of a company regarded as resident in Jersey or non-resident companies with a permanent establishment in Jersey. “Relevant distribution” is defined in the new provisions on Case IX inserted by Article 9 and described in more detail below.

Article 7 repeals Article 62B of the principal Law. Article 62B made specific provision with regard to stock dividends to ensure that they were included within the term “dividend”. This provision is no longer necessary as stock dividends are included within the new definition of “distribution” where a cost falls on a company. Stock dividends are defined in Article 3 of the principal Law to mean additional share capital, including bonus share capital, issued in respect of shares in the company. Such distributions would fall within Article 3AE(1)(b).

Article 8 amends Article 78 of the principal Law. Article 78 makes provision in respect of tax chargeable under Case III. The effect of the amendments is that tax on a distribution of a company charged under Case III is not charged to the extent that the distribution is made out of the capital profits of a company; that the distribution represents repayment of share capital that was issued for new consideration or the distribution represents repayment of the principal of loan to the company by a member of the company or person connected with a member. (“New consideration” for the purposes of this Article is defined in similar terms to that in the new Article 3AE.)

Article 9 inserts the provisions setting out new Case IX into the principal Law, that is Articles 81Q to 81Z.

Article 81Q sets out definitions for the purposes of Case IX.

Article 81R sets out the meaning of “relevant distribution”. Tax under Case IX is only charged on “relevant distributions”. Distributions which, in aggregate, are equal to or less than the amount of an individual’s allocated share of specified profits of the company at the time such distributions are made are “relevant distributions” provided that the distributions are made at a time when the individual owns more than 2% of the ordinary shares in the company. Under Article 82A of the principal Law, for the purposes of Schedule D, a person is deemed to own shares where the interest in shares is direct or indirect as set out in various circumstances in that Article such as through a series of companies.

The method of calculating an individual's allocated share of specified profits is explained below. So if the individual's allocated share of specified profits at the time a distribution is made is £100 and the distribution (or aggregate value of distributions if more than one is made at the same time) is worth £125, the distribution will be a "relevant distribution" only to the extent that it equals £100. The £25 remaining would be chargeable to tax under Case III(f) of Schedule D.

"Specified profits" are defined in Article 81Q to mean, essentially, the income, profits and gains on which the company is charged to tax under Schedule D after deducting (a) any amounts that are deductible under the principal Law; (b) any amounts paid out of income, profits and gains by way of dividends on preference shares paid before the last day of the following financial period; and (c) distributions chargeable to tax under Case III(f) of Schedule D.

The specified profits are calculated in respect of a company's financial period that ends in the year of assessment that is immediately before a current year of assessment ("relevant financial period").

Article 81S sets out the basis of computation under Case IX – tax is computed on the full amount of relevant distributions made by a relevant company to an individual resident in Jersey in a year of assessment.

"Relevant company" is defined in Article 81Q to mean a company to which Article 123C applies (that is a Jersey non-financial services company charged to tax at 0% on its Schedule D profits); a company to which Article 123D applies (that is a Jersey financial services company charged to tax at 10% on its Schedule D profits) or a company which is a registered person (as defined in Article 118C, that is an eligible participant who is registered with the Comptroller and, accordingly, is exempt from income tax chargeable under Schedule D).

Article 81T sets out how the initial calculation is done of an individual's allocated share of profits where a distribution is first made to an individual in or after the year of assessment 2013 following a relevant financial period and occurs at a time where, during the individual's current period of share ownership, the individual owned more than 2% of the ordinary shares in the company during the whole or part of that relevant financial period.

The individual's allocated share of specified profits is determined in 3 steps.

Under Step 1, the amount of the company's specified profits for each financial period of the company during the individual's current period of share ownership up to and including the relevant financial period is multiplied by the proportion of the individual's shareholding at the relevant time.

Under Step 2, there is deducted from the amount calculated under Step 1 the value of any distributions chargeable to tax under Case III(f) made to the individual prior to the relevant time during the individual's current period of share ownership.

Under Step 3, the value of the amount calculated under Step 2 is compared to the value of the distribution made at the relevant time. If the amount calculated under Step 2 is greater than or equal to the value of the distribution made at the relevant time, the individual's allocated share of specified profits is the amount calculated under Step 1.

If the amount calculated under Step 2 is less than the distribution made at the relevant time, the individual's allocated share of specified profits is whichever is the higher of the amount calculated under Step 2 or £0. So, if the amount calculated under Step 2 is £100 and the distribution made to the individual at the relevant time is £125, the individual's allocated share of specified profits at the relevant time is £100. On the other hand, if the amount calculated under Step 2 was -£100 (which would occur if the distributions made prior to the relevant time were greater than the individual's proportion of the company's specified profits as calculated under Step 1) the individual's allocated share of specified profits at the relevant time will be nil. This would mean that the whole of the distribution made at the relevant time would be chargeable to tax under Case III(f), subject to any exemptions under Article 78.

Article 81U sets out how an individual's allocated share of specified profits is calculated in the same year of assessment as the initial calculation done under Article 81T.

Again, the calculation is done as a 3 step process. The process is similar to the 3 step process described under Article 81T – the main differences are outlined below.

Under Step 1 the amount of the relevant distribution made to the individual at the immediately previous relevant time is deducted from the individual's allocated share of specified profits at the immediately previous relevant time. If the proportion of the individual's shareholding has changed since the immediately previous relevant time, the amount calculated is then multiplied by the figure that represents the change in the individual's proportion of shareholding. That figure is calculated by taking the individual's proportion of shareholding at the current relevant time and dividing it by the individual's proportion of shareholding at the immediately previous relevant time.

Under Step 2, an amount is deducted from the amount calculated under Step 1 depending on whether the calculation done at the immediately previous relevant time was under Article 81T or under Article 81U and whether, at the immediately previous relevant time, the amount calculated under Step 2 was greater than, equal to or less than the distribution made at the immediately previous relevant time.

Finally, under Step 3 a calculation is made which is similar to the calculation made under Step 3 set out in Article 81T, depending on whether the amount calculated under Step 2 is greater than, equal to or less than the distribution made to the individual at the current relevant time. If greater than or equal to the distribution made at the current relevant time, the individual's allocated share of specified profits is the amount calculated under Step 1. Otherwise, it is whichever is the higher amount of the amount calculated under Step 2 or £0.

Article 81V sets out how an individual's allocated share of specified profits is calculated for the first time in any year of assessment subsequent to a year of assessment for which a calculation has been done under Article 81T.

Article 81W sets out how an individual's allocated share of specified profits is calculated at any subsequent relevant time in a year of assessment following a calculation under Article 81V in that same year of assessment. The calculations follow the same principles as those described above in relation to Article 81U.

Article 81X sets out how an individual's allocated share of specified profits is affected by a distribution received by one company (receiving company) from another company (distributing company) where the individual owns more than 2% of the ordinary shares in the distributing company and owns at least one share of the ordinary share capital in the distributing company through the receiving company by virtue of Article 82A of the principal Law. As explained above, under Article 82A of the principal Law, for the purposes of Schedule D, a person is deemed to own shares where the interest in shares is direct or indirect as set out in various circumstances in that Article such as through a series of companies.

Essentially when the distribution is made to the receiving company by the distributing company, the distributing company must calculate the proportion of the distribution that reflects the individual's deemed shareholding in the distributing company through the receiving company by virtue of Article 82A. That amount is deemed to be a distribution that belongs to the individual. The distributing company must then calculate the individual's allocated share of specified profits in the distributing company under the relevant provisions of Article 81T, 81U, 81V or 81W as if the company distribution were at a "relevant time". Provision is made so that provisions relating to deduction of distributions chargeable to tax under Case III(f) of Schedule D do not apply and account is also taken of previous distributions made to the distributing company (as receiving company) a proportion of which is deemed to belong to the individual.

When a receiving company makes a distribution to the individual, the amount that was calculated by the distributing company, as described above, is, in effect, added to the individual's allocation of specified profits under the appropriate provision in Article 81T, 81U, 81V or 81W and after making adjustments, if necessary, for any change in the individual's shareholding in the receiving company since the time of the distribution to the receiving company.

Article 81Y makes provision for the situation where an individual who owns more than 2% of the ordinary share capital in a company transfers shares to a connected person who did not, prior to that time, own more than 2% of the ordinary share capital in the company such that, following the transfer, the connected persons owns more than 2% of the ordinary share capital in the company. A "connected person" is defined in Article 3A of the principal Law to include spouses, civil partners and other relatives. The individual must calculate his or her allocated share of specified profits in the company at the time of the transfer as if that time were a relevant time for the purposes of Article 81T, 81U, 81V or 81W and, if appropriate Article 81X, and a distribution were being made at that time. At the time a distribution is subsequently made following the share transfer, the amount calculated as described above is deemed to be the amount of the connected person's allocated share of specified profits at the immediately previous relevant time.

Article 81Z makes provision for companies limited by guarantee. The presumption is that tax is charged under Case IX or Case III(f) in respect of distributions made by a company limited by guarantee as if the company had a share capital and each member of the company owned one share. Instead of applying this presumption the members may agree the deemed ownership to be split differently and the Comptroller has a discretion to deem such amount of share ownership as seems reasonable. The Comptroller may also determine that

tax is not chargeable under this Article if the tax that would be charged falls below such de minimis threshold as the Comptroller may determine.

Article 10 amends the heading to Part 11 of the principal Law (“Principal Provisions as to Interest, Dividends, Annual Payments etc.”) to include distributions.

Articles 11, 12, 13, 14, 15, 16, 17 and 18 make consequential amendments to the principal Law so that current references to dividends include distributions. These provisions relate to deduction of tax from Jersey dividends (Article 88); explanation of income tax deductions annexed to dividend warrants etc (Article 89); tax credits in respect of dividends under foreign tax arrangements (Article 112); the effect on dividends of double taxation relief (Article 113); exemption of cash dividends and stock dividends of a non-residents (Article 118B); calculation of income of persons granted 1(1)(k) housing consent to exclude certain dividends (Article 135A); payment of dividends referred to in Article 88 from which the standard rate of tax has been deducted (Article 142); dividends deemed to be included in assessable emoluments in respect of accommodation (Schedule 3, paragraph 3(3)).

In addition, Article 11 makes provision so that where a distribution is made by a company out of profits or gains chargeable to tax at the standard rate, a company is not entitled to deduct tax where the distribution is chargeable to tax under Case IX of Schedule D.

Article 12 makes provision for the information which a company is required to provide when making a distribution that is chargeable to tax under Case III(f) or Case IX of Schedule D.

Article 19 amends Schedule 5 by inserting transitional and saving provisions in respect of the new provisions on distributions.

Paragraphs 11 and 12 of Schedule 5 set out the initial calculation of an individual’s allocated share of specified profits in respect of Jersey trading companies (paragraph 11) and Jersey financial services companies (paragraph 12). A calculation is made in respect of each financial period ending between 1st January 2009 and 31st December 2011 (and, if the company was incorporated on or after 3rd June 2008 with a financial period ending on or before 31st December 2008, that financial period too). However the profits of the company which have already been taken into account by virtue of the provisions in the Law relating to full attribution and deemed dividends are excluded from the calculations. Those provisions are repealed by Income Tax (Amendment No. 38) (Jersey) Law 2011 with effect from 1st January 2013.

Paragraph 13 of Schedule 5 makes a savings provision so that nothing in the definition of “distribution” affects what can be taxed under Case V of Schedule D (securities and possessions out of Jersey).

Paragraph 14 of Schedule 5 makes provision so that where tax has been charged under Article 62B of the principal Law (application of Schedule D to stock dividends) prior to its repeal by this amending Law, repayment of the capital of the stock dividend is not treated as a distribution for the purposes of Case IX of Schedule D.

Paragraph 15 of Schedule 5 contains another savings provision to the effect that the exemption granted by virtue of the amendment by Article 15 of this amending Law to Article 118B(1)(b) of the principal Law (exemption to persons not resident in Jersey in respect of distributions of certain Jersey companies) is granted only in respect of cash dividends and stock dividends in respect of distributions made before the amendment by Article 15 comes into

force. This is because Article 118B(1)(b) currently applies only to cash dividends and stock dividends, not to other things included in the wider meaning of “distribution”.

Paragraph 16 of Schedule 5 makes a transitional provision in respect of individuals entitled to tax credits under paragraph 8 or 10 of Schedule 5. Paragraph 8 gives a tax credit to an individual who has paid tax on a company’s relevant profits under the full attribution provisions repealed by Income Tax (Amendment No. 38) (Jersey) Law 2011 where a dividend is subsequently paid or issued out of such relevant profits. Paragraph 10 makes a similar provision for a tax credit where a dividend is subsequently paid or issued out of relevant profits on which tax has been paid under the deemed dividend provisions repealed by Income Tax (Amendment No. 38) (Jersey) Law 2011. Paragraph 16 removes this tax credit where a distribution is chargeable under Case IX of Schedule D. The credit will, however, still be available if the distribution is chargeable to tax under Case III of Schedule D.

Article 20 provides that Part 2 has effect for year of assessment 2013 and ensuing years.

Part 3 – Intermediary services vehicles

Article 21 amends Article 62 of the principal Law to insert a new Case IIA in respect of “attributable earnings”.

Article 22 inserts provisions in the principal Law relating to intermediary services vehicles (“ISVs”).

Article 77A sets out definitions relevant to Case IIA. In particular, an ISV is defined to mean a company which receives payments from a client for personal services rendered by an individual who is a member of the company (or another individual who is connected with an individual who is a member of the company) to the client under arrangements such that, were it not for the interposition of the company, the relationship between the client and the individual supplying the services would be that of employer and employee.

Article 77B sets out the basis of computation under Case IIA. Tax is computed on the full amount of payments made by a client to an ISV for the supply of the services of an individual to the client under the “relevant arrangements” (that is, the arrangements referred to in the definition “ISV” described above) as if those payments were earnings of the individual chargeable to tax under Case II. Such payments are referred to as “attributable earnings”. Case IIA only applies to payments made to an ISV in respect of services where, at the time of supplying the services, the individual was resident in Jersey.

Article 77C allows the deduction from attributable earnings of (a) payments made by the ISV to the individual by way of remuneration for services rendered to the client by the individual pursuant to the relevant arrangements; (b) any associated employer social security contributions paid by the ISV in respect of such services; (c) deductions that the individual would have been able to make in respect of any payments made by the ISV if, had the individual made those payments, the individual would have been entitled to deduct them in computing profits or gains chargeable to tax under Case II of Schedule D.

Article 77D provides that an individual is not liable to tax under Case IIA in a year of assessment if the aggregate of payments made to one or more ISVs in a

year of assessment by one or more clients under relevant arrangements is less than £45,000.

Article 77E provides that any amount charged to tax as attributable earnings is not chargeable to tax under Case II or Case V of Schedule D or treated as a distribution for the purposes of Case III(f) or Case IX of Schedule D. It also provides that such an amount is disregarded in calculating the amount of an ISV's specified profits for the purposes of Case IX of Schedule D.

Article 23 provides that Part 3 shall have effect for year of assessment 2013 and ensuing years.

Part 4 – Employer returns

Article 24 amends Article 41B of the principal Law relating to the duties of employers to deduct and account for tax. Under Article 20 of the principal Law, employers are required to send to the Comptroller information concerning each of the employer's employees, including earnings. In practice, this information is required to be sent to the Comptroller within 15 days after the end of each month. Under Article 41B(5), the employer is, within the same deadline, required to remit to the Comptroller the amount that the employer is required to deduct by way of tax in respect of those earnings. The amendments made by Article 24 provide that if the information under Article 20 is not sent, or it is not complete, or if the Comptroller does not receive the correct amount of tax, the Comptroller can estimate the amount required to be remitted and serve notice of that amount on the employer requiring it to be paid by such date as is specified in the notice (which must be at least 15 days from the date of the notice).

Article 25 makes similar provisions to Article 23 in respect of building contractors by amending Article 41E of the principal Law.

Article 26 amends Article 42 of the principal Law to allow the Treasurer to institute proceedings for recovery of tax in respect of the estimated amounts as described above specified in notices under Articles 41B and 41E.

Article 27 provides that Part 4 comes into force on 1st January 2013.

Part 5 – Insurance premiums

Article 28 repeals Article 101 of the principal Law. Article 101 provides for premiums in connection with life insurance to be deducted from an individual's assessable income.

Articles 29, 30 and 31 make amendments consequential on the repeal by Article 28.

Article 32 substitutes Article 132(7)(b) of the principal Law. Article 132(1) of the principal Law makes provision for purchased life annuities to be treated as containing a capital element. However under Article 132(7)(b), this provision does not apply to annuities that arise from the payment of insurance premiums as described in Article 101. The substituted Article 132(7)(b) continues this provision but only where the consideration for the grant of the annuity consisted of sums relating to a contract for a deferred annuity securing a capital sum on death. This reflects Article 101(2)(c) of the principal Law which made provision for no allowance to be given under Article 101 in respect of such contracts.

Article 33 amends Schedule 2 to the principal Law in respect of exemptions for life insurance premiums and medical insurance premiums. The amendments allow such premiums to be exempt from tax as emoluments of employment only in respect of contracts made for an office holder or employer or member of such a person's family or household where such contracts are not entered into by the person concerned in his

or her individual capacity. In other words, only contracts entered into by the employer for the benefit of such persons will fall within the amended provisions.

Article 34 contains a saving provision in respect of the substitution of Article 132(7)(b) of the principal Law by Article 32 to the effect that any annuities to which Article 132 did not apply by virtue of Article 132(7)(b) will continue to be annuities to which Article 132 does not apply if they are in payment before 1st January 2013 or will come into payment on or after that date as a result of contributions paid before that date.

Article 35 provides that the amendment made by Article 33 to Schedule 2 relating to medical insurance premiums has effect for year of assessment 2011 and ensuing years. This is because Article 101A, which made provision for a tax exemption in respect of medical insurance premiums and to which the amended provision in Schedule 2 referred, was repealed with effect from year of assessment 2011 by Income Tax (Amendment No. 26) (Jersey) Law 2007.

Article 35 also provides that the remaining provisions of this Part have effect for year of assessment 2013 and ensuing years.

Part 6 – Additional children’s allowance

Article 36 amends Article 98A of the principal Law by making an amendment consequential on the repeal of Article 94 (provision for the married person’s allowance) of the principal Law, that repeal taking effect from year of assessment 2011 onwards. Article 98A allowed a person to claim, in addition to the child allowance under Article 95, an additional allowance if either (a) the person was not in receipt of a married person’s allowance under Article 94 or (b) the person was in receipt of a married person’s allowance under Article 94 but one of the spouses was totally incapacitated by physical or mental infirmity throughout the year of assessment. Article 98A was further amended by the Civil Partnership (Jersey) Law 2012 to apply to civil partners in the same way as to married couples.

The effect of the amendment by Article 36 is that a person can claim the additional allowance under Article 98A as well as the child allowance under Article 95 if (a) the person is not married or does not have a civil partner; or (b) the individual has a spouse or civil partner whom the individual does not wholly maintain and who is not living with the individual; or (c) the individual has a spouse or civil partner either living with the individual or, if not living with the individual, is wholly maintained by the individual and, in either case, one of the spouses or civil partners to the relationship is totally incapacitated by physical or mental infirmity throughout the year of assessment.

Article 37 provides that Part 6 has effect for 2011 and ensuing years in respect of married persons and 2012 and ensuing years in respect of civil partners.

Part 7 – Non-resident income

Article 38 amends Article 118B(1)(b) of the principal Law to make it explicit that the exemption in respect of distributions made by a company to a person who is not resident in Jersey applies only to distributions made out of profits or gains charged on the company at the rate of 0%. Currently Article 118B(1)(b) grants exemption to non-residents in respect of cash dividends and stock dividends by a company regarded as resident in Jersey except a company charged to tax under Schedule D at the standard rate or at the rate of 10%.

Article 39 amends Schedule 5 to the principal Law to include a savings provision so that nothing in Articles 38 and 40 of this amending Law shall affect any claim made

before 17th October 2012 for exemption from income tax by virtue of Article 118B(1)(b).

Article 40 provides that Part 7 has effect from 17th October 2012.

Part 8 – Miscellaneous and closing

Article 41 inserts a new Article 110A in the principal Law to make provision for losses in respect possessions out of Jersey charged to tax under Case V of Schedule D. A person may, on giving notice to the Comptroller, deduct from income assessed to tax under Case V of Schedule D any losses arising from such possessions. The loss can only be deducted from income arising in the same year as the loss unless it arises from possession of land out of Jersey – in which case it can be carried forward to any subsequent year of assessment.

Article 42 amends Article 115 of the principal Law to exempt from tax dividends paid by the Channel Islands Co-operative Society.

Article 43 amends Article 117 of the principal Law (exemptions relating to wounds and disability pensions) in two ways. First, the amendments update the references to various provisions in UK legislation referring to such pensions, pay and allowances. Second, the amendments exempt equivalent pensions, pay and allowances paid by the government of a country or territory outside Jersey.

Article 44 amends Article 123EA of the principal Law (group relief for non-financial services companies) by inserting definitions of “profits” and “loss or gains” so that group relief does not apply to any profits or gains that would be chargeable under Schedule A pursuant to Article 51(1)(a), that is, annual profits or gains from rents and other charges in respect of land. It also provides that losses arising from activities the profits of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(b), can only be offset against gains chargeable to tax under Schedule A pursuant to Article 51(1)(b). A similar provision is made in respect of losses from activities that would be chargeable to tax under Schedule A pursuant to Article 51(1)(c).

Article 45 makes a similar provision to Article 44 by amending Article 123F of the principal Law in respect of group relief for financial services companies.

Article 46 substitutes paragraph 17 of Schedule 2 to the principal Law. Paragraph 17 currently allows benefits to office holders and employees having control of companies, including benefits to family or household members, to be left out of account in assessing the emoluments of an office or employment unless deductions or allowances in respect of such benefits can be claimed under Articles 70 (general rules on deductions); 106A (capital allowances) and 133 (management expenses). The substituted paragraph 17 restricts the provision so that it applies only in respect of property that is owned by a company and used by an office holder or employee who has control of the company or a family or household member of such a person. In the case of property other than accommodation, there is a further restriction to the effect that the provision applies only if the activities of the company mainly consist of ownership of that property.

Article 47 amends paragraphs 3 and 4 of Schedule 3A to the principal Law in respect of the provisions that require an agent or tenant to account for tax on rent. The effect of the amendments is that duties of the agent and tenant apply to deductions that are required to be made under those provisions, regardless of whether or not such deductions are actually made.

Article 48 provides that this Part has effect for year of assessment 2013 and ensuing years.

Article 49 sets out the title of this amending Law.



Jersey

DRAFT INCOME TAX (AMENDMENT No. 41) (JERSEY) LAW 201-

Arrangement

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Jersey

DRAFT INCOME TAX (AMENDMENT No. 41) (JERSEY) LAW 201-

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 GENERAL

1 Interpretation

In this Law “principal Law” means the Income Tax (Jersey) Law 1961¹.

PART 2 DISTRIBUTIONS

2 Article 3 amended

In Article 3 of the principal Law the following definitions shall be inserted in the appropriate alphabetical order –

“‘distribution’ shall be construed in accordance with Article 3AE;”;

“‘income, profits or gains distributed’ in Article 3AD shall be construed in accordance with Article 3AE;”;

“‘registered person’ shall be construed in accordance with Article 118C;”;

“‘relevant distribution’ shall be construed in accordance with Article 81R;”.

3 Article 3AE inserted

After Article 3AD of the principal Law, there shall be inserted the following Article –

“3AE Distributions

- (1) In this Law, in relation to a company, ‘distribution’ means any of the following –
 - (a) a cash dividend paid by a company (including a dividend paid out of capital);
 - (b) any other distribution (whether or not in cash), out of the assets of a company (whether or not in the winding-up of a company or otherwise following its dissolution) in respect of shares in the company to the extent that the amount or value of such distribution exceeds the amount or value of any new consideration received by the company;
 - (c) any distribution out of the assets of the company for the repayment of, or otherwise in respect of, an advance of money to the company by a member of the company or by a person connected with a member (whether or not the advance is secured);
 - (d) any transfer of assets or liabilities to the extent not described in sub-paragraph (a), (b) or (c) –
 - (i) by a company to a member, or to a person connected with a member, or
 - (ii) by a member, or by a person connected with a member, to a company,to the extent that the amount or value of the benefit received by the member, or person connected with a member, exceeds the amount or value of any new consideration given by the member or person connected with a member.
- (2) Paragraph (1)(b) and (c) do not include any interest of money which is chargeable to tax under Case I of Schedule D or Case III(a) of Schedule D (whether or not such interest is charged or not).
- (3) For the purposes of paragraph (1)(b) and (c), a distribution is treated as made out of the assets of a company if the cost falls on the company.
- (4) For the purposes of paragraph (1)(b) and (d), the amount or value of any consideration or benefit, other than where such consideration or benefit takes the form of cash, is determined in accordance with its market value at the time the distribution is made.
- (5) For the purposes of paragraph (1) a distribution is in respect of a share if –
 - (a) it is made to a person as being the holder of the share;

- (b) it is made to a person as having at a particular time been the holder of the share; or
- (c) it is made in pursuance of a right granted or offer made in respect of a share,

however nothing in sub-paragraphs (a) to (c) is to be read as limiting the circumstances in which a distribution may be treated as being made in respect of a share.

(6) In this Article –

‘new consideration’ means consideration not provided (directly or indirectly) out of the assets of a company and excludes, in particular, amounts retained by a company by way of capitalising a distribution;

‘share’ includes stock and any other interest of a member in a company (whether or not the company has a shareholding).”.

4 Article 20B amended

In Article 20B of the principal Law –

(a) in paragraph (1) for the words “all or any of the specified information” there shall be substituted the words “all or any of the specified information described in paragraphs (3) and (3A)”.

(b) for paragraph (3)(c) there shall be substituted the following sub-paragraph –

“(c) distributions made to the shareholder specifying, in respect of each distribution –

- (i) the value of the distribution,
- (ii) the date the distribution is made, and
- (iii) where the distribution is subject to Article 89, the further information required by that Article;”;

(c) after paragraph (3) there shall be inserted the following paragraph –

“(3A) The specified information is, in respect of any person to whom paragraph (3) does not apply and who receives a distribution in the period or year of assessment specified in the notice –

- (a) the value of the distribution;
- (b) the date the distribution is made; and
- (c) where the distribution is subject to Article 89, the further information required by that Article.”.

5 Article 61 amended

In Article 61 of the principal Law, for paragraphs (3) and (4) there shall be substituted the following paragraph –

“(3) In paragraph (1), the reference to annual profits or gains arising or accruing from any property includes distributions of a company.”.

6 Article 62 amended

In Article 62 of the principal Law –

- (a) in the heading the number “8” shall be deleted;
- (b) for sub-paragraph (f) of Case III there shall be substituted the following sub-paragraph –
 - “(f) distributions of a company regarded as resident in Jersey other than those distributions which are charged to tax under Case IX;”;
- (c) after Case VIII, the following Case is added –
 - “Case IX. – tax in respect of relevant distributions of a company regarded as resident in Jersey, or which has a permanent establishment in Jersey, in accordance with following provisions of this Part.”.

7 Article 62B repealed

Article 62B of the principal Law shall be repealed.

8 Article 78 amended

In Article 78 of the principal Law, after paragraph (1) there shall be inserted the following paragraphs –

- “(1A) Tax in respect of distributions of a company shall not be charged on any of the following –
 - (a) so much of a distribution as is made out of capital profits of the company;
 - (b) so much of a distribution as represents repayment of share capital where the share capital has been issued for new consideration;
 - (c) so much of a distribution as represents repayment of the principal amount advanced to the company by a member or a person connected with a member.
- (1B) For the purposes of paragraph (1A)(b) ‘new consideration’ has the meaning set out in Article 3AE(6).”.

9 Articles 81Q to 81Z inserted

After Article 81P there shall be inserted the following heading and Articles –

“Case IX

81Q Interpretation of Articles 81Q to 81Z

- (1) In Articles 81Q to 81Z –
 - ‘relevant company’ means –
 - (a) a company to which Article 123C applies;

- (b) a company to which Article 123D applies; or
- (c) a company which is a registered person;

‘relevant distribution’ shall be construed in accordance with Article 81R;

‘relevant financial period’ means a financial period of a relevant company ending after 31st December 2011 where the year of assessment in which the financial period ends is the year of assessment immediately preceding a current year of assessment;

‘relevant time’ means a time during a current year of assessment at which a distribution is made to an individual if, at that time, the individual owns more than 2% of the ordinary share capital of the company;

‘share ownership’ refers to the period during which a person owns more than 2% of the ordinary share capital of a company;

‘specified profits’ means –

- (a) in relation to a financial period of a company to which Article 123C applies, 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 of the company, and
 - (iii) the deduction of any distribution received in the financial period which is chargeable to tax under Case III(f) of Schedule D (but not including any dividend which is included in the value of D in paragraph 11(5) or 12(4) of Schedule 5);
- (b) in relation to a financial period of a company to which Article 123D applies, 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 of the company, and
 - (iii) the deduction of any distribution received in the financial period which is chargeable to tax under Case III(f) of Schedule D (but not including any

- dividend which is included in the value of D in paragraph 11(5) or 12(4) of Schedule 5);
- (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,
 - (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 of the registered person, and
 - (iii) the deduction of any distribution received in the financial period which is chargeable to tax under Case III(f) of Schedule D (but not including any dividend which is included in the value of D in paragraph 11(5) or 12(4) of Schedule 5).
- (2) The States may, by Regulations, amend the percentage specified in the definitions ‘relevant time’ and ‘share ownership’ in paragraph (1).
- (3) References to the amount of a distribution shall, where the distribution is other than for a cash amount, refer to the market value of the distribution at the time it is made.

81R Meaning of ‘relevant distribution’

- (1) If the amount of a distribution made to an individual in a current year of assessment at a relevant time is equal to or less than the individual’s allocated share of specified profits at that relevant time, that distribution is a relevant distribution.
- (2) If the amount of a distribution made to an individual in a current year of assessment at a relevant time is greater than the individual’s allocated share of specified profits at that relevant time, such a distribution is a relevant distribution only to the extent that the value of the distribution is equal to the individual’s allocated share of specified profits at the relevant time.
- (3) If more than one distribution is made to an individual at a relevant time, paragraphs (1) and (2) shall be read as referring to the aggregate value of those distributions.

81S Basis of computation under Case IX

Tax under Case IX of Schedule D shall be computed on the full amount of relevant distributions made by a relevant company to an individual resident in Jersey in the year of assessment.

81T Initial calculation of individual's allocated share of specified profits

- (1) This Article applies for the purpose of calculating an individual's allocated share of specified profits in a relevant company at a relevant time in a year of assessment ('current year of assessment') where –
- (a) the distribution is made to the individual in or after year of assessment 2013 following a relevant financial period of the company;
 - (b) the whole or part of that relevant financial period fell within the individual's current period of share ownership; and
 - (c) the distribution is the first distribution made to the individual in the circumstances described in sub-paragraphs (a) and (b).
- (2) The individual's allocated share of specified profits for the purposes of paragraph (1) shall be calculated as follows –
- (a) Step 1
 - calculate the amount as follows –
$$SP \times (A/B)$$

Where –

SP is the aggregate of the company's specified profits for each financial period of the company during the individual's current period of share ownership, up to and including the relevant financial period, but excluding any profits for a financial period ending on or before 31st December 2011;

A is the number of shares comprised in the ordinary share capital of the company which are owned by the individual at the relevant time;

B is the number of shares comprised in the ordinary share capital of the company at the relevant time;
 - (b) Step 2
 - calculate the amount as follows –
$$P - Q$$

Where –

P is the amount calculated under Step 1;

Q is the amount of any distribution chargeable to tax under Case III(f) of Schedule D (or, if more than one, the aggregate value of the distributions) made by the company to the individual prior to the relevant time during the individual's current period of share ownership (disregarding so much of any distribution made out of the profits of a financial period ending on or before 31st December 2011), less the amount of so much of the distribution, if any, that is exempt from tax under Article 78;
 - (c) Step 3

determine the amount in accordance with paragraph (3) or (4), as the case may be.

- (3) If the amount calculated under Step 2 is greater than, or equal to, the amount of the distribution (or aggregate value of distributions if more than one) made to the individual at the relevant time, the individual's allocated share of specified profits is the amount calculated under Step 1.
- (4) If the amount calculated under Step 2 is less than the amount of the distribution (or aggregate value of distributions if more than one) made to the individual at the relevant time, the individual's allocated share of specified profits is whichever is the higher amount of the following –
 - (a) the amount calculated under Step 2; or
 - (b) £0.
- (5) Where the individual is an individual to whom paragraph 11 or 12 of Schedule 5 applies, for the purposes of the calculation under Step 1 there shall be added to the amount that is SP the amount that is calculated in accordance with paragraph 11 or 12 of that Schedule, as the case may be.

81U Calculation of individual's allocated share of specified profits following the initial calculation under Article 81T in the same year of assessment

- (1) This Article applies for the purpose of calculating an individual's allocated share of specified profits in a relevant company at a relevant time ('current relevant time'), such current relevant time occurring in the same year of assessment as a previous relevant time for which a calculation has been made under Article 81T.
- (2) The amount to be calculated is determined by applying the following steps –
 - (a) Step 1

Calculate the amount under clause (i) or (ii) as follows –

 - (i) where the proportion of shares owned by the individual in the company remained constant since the immediately previous relevant time –

$$X - Y$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the amount of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time,

- (ii) where the proportion of shares owned by the individual in the company has not remained constant since the immediately previous relevant time –

Calculate the amount as follows –

$$(X - Y) \times ((E/F)/(A/B))$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the amount of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time;

A is the number of shares comprised in the ordinary share capital of the company which were owned by the individual at the immediately previous relevant time;

B is the number of shares comprised in the ordinary share capital of the company at the immediately previous relevant time;

E is the number of shares comprised in the ordinary share capital of the company which are owned by the individual at the current relevant time;

F is the number of shares comprised in the ordinary share capital of the company at the current relevant time;

- (b) Step 2

calculate the amount as follows –

$$P - Q$$

Where –

P is the amount calculated under Step 1;

Q is the amount determined in accordance with paragraph (3);

- (c) Step 3

Determine the amount in accordance with paragraph (4) or (5), as the case may be.

- (3) If, at the immediately previous relevant time –

- (a) Article 81T(3) or paragraph (4) below applied, Q is the same value as Q calculated under Article 81T(2)(b) or under Step 2 above at the immediately previous relevant time, as the case may be;

- (b) Article 81T(4) or paragraph (5) below applied, Q is calculated as follows –

$$G + H$$

Where –

G is the amount of the distribution (or, if more than one, the aggregate value of the distributions) made to the individual at the immediately previous relevant time chargeable to tax under Case III(f) of Schedule D (disregarding so much of the distribution, if any, made out of the profits of a financial period of the company, such financial period ending on or before 31st December 2011), less the value of so much of the amount of the distribution, if any, that is exempt from tax under Article 78;

H is the amount (if any) by which the value of Q exceeded the value of P for the purposes of Article 81T(2)(b) or Step 2 above at the immediately previous relevant time, as the case may be.

- (4) If the amount calculated under Step 2 is greater than, or equal to, the amount of the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated share of specified profits is the amount calculated under Step 1.
- (5) If the amount calculated under Step 2 is less than the amount of the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated share of specified profits is whichever is the higher amount of the following –
 - (a) the amount calculated under Step 2; or
 - (b) £0.

81V Calculation of individual's allocated share of specified profits for the first time in each subsequent year of assessment

- (1) This Article applies for the purposes of calculating an individual's allocated share of specified profits at a relevant time ('current relevant time') in a year of assessment ('current year of assessment'), such current relevant time occurring for the first time in a year of assessment in any year following a year of assessment in which Article 81T applied during an individual's current period of share ownership.
- (2) The amount to be calculated is determined by applying the following steps –
 - (a) Step 1
 - calculate the amount as follows –

$$SP \times (A/B)$$

Where –

SP is the aggregate of the company's specified profits for each financial period of the company beginning with the financial period ending in the year of assessment in which a distribution was last made to

that individual and including the relevant financial period (which may be the same period);

A is the number of shares comprised in the ordinary share capital of the company which are owned by the individual at the current relevant time;

B is the number of shares comprised in the ordinary share capital of the company at the current relevant time;

(b) Step 2

calculate the amount in clause (i) or (ii) as follows –

(i) where the proportion of shares owned by the individual in the company remained constant since the immediately previous relevant time –

$$X - Y$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the amount of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time,

(ii) where the proportion of shares owned by the individual in the company has not remained constant since the immediately previous relevant time –

$$(X - Y) \times ((E/F)/(A/B))$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the amount of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time;

A is the number of shares comprised in the ordinary share capital of the company which were owned by the individual at the immediately previous relevant time;

B is the number of shares comprised in the ordinary share capital of the company at the immediately previous relevant time;

E is the number of shares comprised in the ordinary share capital of the company which are owned by the individual at the current relevant time;

F is the number of shares comprised in the ordinary share capital of the company at the current relevant time;

- (c) Step 3
add together the amounts obtained after applying Step 1 and Step 2;
- (d) Step 4
calculate the amount as follows –
$$P - Q$$

Where –
P is the amount calculated under Step 3;
Q is the amount determined in accordance with paragraph (3);
- (e) Step 5
Determine the amount in accordance with paragraph (4) or (5), as the case may be.

- (3) If, at the immediately previous relevant time –
 - (a) Article 81T(3) or 81U(4) applied, Q is the same value as Q calculated under Article 81T(2)(b) or 81U(2)(b) at the immediately previous relevant time, as the case may be;
 - (b) Article 81T(4) or 81U(5) applied, Q is calculated as follows –
$$G + H$$

Where –
G is the amount of the distribution (or, if more than one, the aggregate value of the distributions) made to the individual at the immediately previous relevant time chargeable to tax under Case III(f) of Schedule D (disregarding so much of the distribution, if any, made out of the profits of a financial period of the company, such financial period ending on or before 31st December 2011), less the value of so much of the amount of the distribution, if any, that is exempt from tax under Article 78;
H is the amount (if any) by which the value of Q exceeded the value of P for the purposes of Article 81T(2)(b) or 81U(2)(b) at the immediately previous relevant time, as the case may be.
- (4) If the amount calculated under Step 4 is greater than, or equal to, the amount of the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated share of specified profits is the amount calculated under Step 3.
- (5) If the amount calculated under Step 4 is less than the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated

share of specified profits is whichever is the higher amount of the following –

- (a) the amount calculated under Step 4; or
 - (b) £0.
- (6) For the purposes of calculating the amount of SP in Step 1, if there is more than one financial period ending in the year of assessment in which a distribution was last made to the individual, the company shall calculate the specified profits of the company starting with the first financial period ending in that year of assessment.

81W Calculation of individual's allocated share of specified profits following the initial calculation under Article 81V in the same year of assessment

- (1) This Article applies for the purposes of calculating an individual's allocated share of specified profits at a relevant time ('current relevant time') in a year of assessment ('current year of assessment'), such current relevant time occurring at any time in a year of assessment following an initial calculation under Article 81V for that year of assessment during an individual's current period of share ownership.

- (2) The amount to be calculated is determined by applying the following steps –

(a) Step 1

Calculate the amount under clause (i) or (ii) as follows –

- (i) where the proportion of shares owned by the individual in the company remained constant since the immediately previous relevant time –

$$X - Y$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the amount of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time,

- (ii) where the proportion of shares owned by the individual in the company has not remained constant since the immediately previous relevant time –

Calculate the amount as follows –

$$(X - Y) \times ((E/F)/(A/B))$$

Where –

X is the individual's allocated share of specified profits at the immediately previous relevant time;

Y is the value of the relevant distribution (or aggregate value of relevant distributions if more than one) made to the individual at the immediately previous relevant time;

A is the number of shares comprised in the ordinary share capital of the company which were owned by the individual at the immediately previous relevant time;

B is the number of shares comprised in the ordinary share capital of the company at the immediately previous relevant time;

E is the number of shares comprised in the ordinary share capital of the company which are owned by the individual at the current relevant time;

F is the number of shares comprised in the ordinary share capital of the company at the current relevant time;

(b) Step 2

calculate the amount as follows –

$$P - Q$$

Where –

P is the amount calculated under Step 1;

Q is the amount determined in accordance with paragraph (3);

(c) Step 3

Determine the amount in accordance with paragraph (4) or (5), as the case may be.

(3) If, at the immediately previous relevant time –

(a) Article 81V(4) or paragraph (4) below applied, Q is the same value as Q calculated under Article 81V(2)(d) or under Step 2 above at the immediately previous relevant time;

(b) Article 81V(5) applied or paragraph (5) below applied, Q is calculated as follows –

$$G + H$$

Where –

G is the amount of the distribution (or, if more than one, the aggregate value of the distributions) made to the individual at the immediately previous relevant time chargeable to tax under Case III(f) of Schedule D (disregarding so much of the distribution, if any, made out of the profits of a financial period of the company, such financial period ending on or before 31st December 2011), less the amount of so much of

the distribution, if any, that is exempt from tax under Article 78;

H is the amount (if any) by which the value of Q exceeded the value of P for the purposes of Article 81V(2)(d) or under Step 2 above at the immediately previous relevant time, as the case may be.

- (4) If the amount calculated under Step 2 is greater than, or equal to, the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated share of specified profits is the amount calculated under Step 1.
- (5) If the amount calculated under Step 2 is less than the distribution (or aggregate value of distributions if more than one) made to the individual at the current relevant time, the individual's allocated share of specified profits is whichever is the higher amount of the following –
 - (a) the amount calculated under Step 2; or
 - (b) £0.

81X Calculation of individual's allocated share of specified profits where distribution made to a company

- (1) This Article applies where –
 - (a) a relevant company ('receiving company') receives a distribution ('company distribution') from another relevant company ('distributing company');
 - (b) at the time of the company distribution, an individual owns more than 2% of the ordinary share capital of the distributing company; and
 - (c) the individual owns at least one share of the ordinary share capital in the distributing company by virtue of Article 82A through his or her shareholding in the receiving company.
- (2) When the distributing company makes a company distribution, the distributing company shall –
 - (a) calculate the individual's deemed proportion of the company distribution as follows –

$$D \times (A/B)$$

Where –

D is the amount of the company distribution (or aggregate value of distributions if more than one);

A is the number of shares comprised in the ordinary share capital of the distributing company which are deemed to be owned by the individual by virtue of Article 82A through his or her shareholding in the receiving company at the time the company distribution is made;

B is the number of shares comprised in the ordinary share capital of the distributing company which are owned by the receiving company at the time the company distribution is made;

(b) calculate the individual's allocated share of specified profits in the distributing company as follows –

(i) Step 1

calculate the individual's allocated share of specified profits in the distributing company in accordance with the relevant provisions in Article 81T, 81U, 81V or 81W, as if –

- (A) the time a company distribution is made were a relevant time,
- (B) at the time of the company distribution, the distribution were made to the individual,
- (C) the value of Q in any provision requiring the deduction of Q were deemed to be nil,
- (D) provisions requiring the deduction of Y were to require, instead, the deduction of the amount calculated in accordance with paragraph (3) or (4) at the immediately previous relevant time where, both at the immediately previous relevant time and the current relevant time, the ownership of all the shares by the individual in the distributing company were by virtue of the individual's shareholding in the receiving company,

(ii) Step 2

If, in respect of a previous distribution to the distributing company ('company A') from another company, an amount has been attributed to the individual's allocation of specified profits in company A under paragraph (3) or (4) ('previous attribution') –

- (A) if no distribution has been made directly to the individual from company A since the previous distribution, add the amount of the previous attribution to the amount calculated under Step 1 (unless this amount has been previously added to an amount calculated under Step 1), or
- (B) if there has been such a distribution ('direct distribution') and the amount of the direct distribution is less than the amount of the previous attribution, add the amount of the previous attribution less the amount of the direct distribution to the amount calculated under Step 1 (unless this amount has been

previously been added to an amount calculated under Step 1).

- (3) If the amount of the individual's deemed proportion of the company distribution calculated under paragraph (2)(a) ('first amount') is equal to or less than the amount of the individual's allocation of specified profits in the distributing company calculated under paragraph (2)(b), the first amount is attributed to the individual's allocation of specified profits in the receiving company for the purposes of paragraph (5) or (6), as the case may be.
- (4) If the amount of the individual's deemed proportion of the company distribution calculated under paragraph (2)(a) is more than the amount of the individual's allocation of specified profits in the distributing company calculated under paragraph (2)(b), the amount of that individual's allocated share of specified profits in the distributing company is attributed to the individual's allocation of specified profits in the receiving company for the purposes of paragraph (5) or (6), as the case may be.
- (5) When the receiving company makes a distribution to the individual at a relevant time and the proportion of shares owned by the individual in the receiving company has remained constant since the company distribution, the receiving company shall, at that relevant time, add the amount calculated under paragraph (3) or (4), as the case may be, to the amount calculated under whichever of the following provisions is applicable –
 - (a) Article 81T(2)(a);
 - (b) Article 81U(2)(a);
 - (c) Article 81V(2)(a);
 - (d) Article 81W(2)(a).
- (6) When the receiving company makes a distribution to the individual at a relevant time and the proportion of shares owned by the individual in the receiving company has not remained constant since the company distribution, the receiving company shall, at that relevant time –
 - (a) calculate an amount as follows –

$$X \times (E/F)(A/B)$$
 Where –
 - X is the amount calculated under paragraph (3) or (4), as the case may be;
 - A is the number of shares comprised in the ordinary share capital of the receiving company which were owned by the individual at the time of the company distribution;
 - B is the number of shares comprised in the ordinary share capital of the receiving company at the time of the company distribution;

E is the number of shares comprised in the ordinary share capital of the receiving company which are owned by the individual at the current relevant time;

F is the number of shares comprised in the ordinary share capital of the receiving company at the current relevant time;

- (b) add the amount calculated under sub-paragraph (a) to the amount calculated under whichever of the following provisions is applicable –
- (i) Article 81T(2)(a),
 - (ii) Article 81U(2)(a),
 - (iii) Article 81V(2)(a),
 - (iv) Article 81W(2)(a).
- (7) Where an individual can prove to the satisfaction of the Comptroller that, by virtue of this Article, the individual is chargeable to tax on a distribution under Case IX of Schedule D in respect of which the same specified profits have been used to determine whether or not an earlier distribution is a relevant distribution, the amount of tax that the individual is liable to pay in respect of the later distribution shall be reduced by a credit equal to the amount of any tax paid in respect of the earlier distribution.

81Y Connected persons

- (1) This Article applies where an individual ('A'), being an individual who does not own more than 2% of the ordinary share capital of a relevant company, becomes an owner of more than 2% of the ordinary share capital of the relevant company following a transfer of shares ('transfer') by another individual ('B') who is a connected person with A and who, at the time of the transfer, owns more than 2% of the ordinary share capital in that company.
- (2) At the time of the transfer, an amount shall be calculated as follows (without itself conferring any tax liability on B) –
- (a) Step 1
- calculate the amount of B's allocated share of specified profits in the company, in accordance with the relevant provisions of Article 81T, 81U, 81V or 81W, and, if applicable, Article 81X, as if –
- (i) the time of the transfer were a relevant time,
 - (ii) at the time of the transfer a distribution of nil value were made to B, where B owns shares in the company directly,
 - (iii) the value of Q in those provisions were deemed to be nil, and
 - (iv) where B's owns at least one share of the ordinary share capital in the company under Article 82A by virtue of his or her shareholding in another company,

the company were deemed to have made a company distribution, within the meaning of Article 81X, of nil value at the time of the transfer to that other company;

(b) Step 2

calculate an amount as follows –

$$Z \times (E/F)$$

Where –

Z is the amount calculated under Step 1;

E is the number of shares comprised in the ordinary share capital in the company owned by B at the time of the transfer that are transferred to A;

F is the number of shares comprised in the ordinary share capital in the company owned by B at the time of the transfer.

(3) For the purpose of calculating A's allocated share of specified profits –

- (a) the first time a distribution is made to A by the company; or
- (b) the first time a company distribution, within the meaning of Article 81X, is made by the company,

following the receipt of shares by A, the transfer shall be treated as having occurred at a relevant time under Article 81T and, for the purpose of the provisions in Article 81U or 81V and, if applicable, Article 81X, (whichever provisions are applicable at the time of the distribution described in sub-paragraph (a) or (b)), the amount calculated under paragraph (2) shall be deemed to be X for the purposes of those provisions and the value of Y shall be nil.

81Z Companies limited by guarantee

(1) Tax shall be charged under Case III(f) or Case IX of Schedule D in respect of distributions made to the members of a company limited by guarantee as if –

- (a) that company had an ordinary share capital wholly owned by the members comprising such number of shares at or during any time for the purposes of any of the provisions relating to Case III(f) and Case IX as the Comptroller deems reasonable in all the circumstances; and
- (b) without prejudice to the Comptroller's discretion under sub-paragraph (a), each member owned one share or such other number of shares as the members may agree (which need not necessarily be the same for each member) and certified to the Comptroller.

(2) Tax shall not be charged by virtue of paragraph (1) if the tax that would be so chargeable falls below such amount as may be determined by the Comptroller.”.

10 Part 11 heading amended

In the heading of Part 11 of the principal Law after the word “Dividends,” there shall be added the word “Distributions,”.

11 Article 88 amended

In Article 88 of the principal Law –

- (a) in the heading, after the words “Jersey dividends” there shall be added the words “and other distributions”;
- (b) for paragraph (2) there shall be substituted the following paragraphs –
 - “(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, except where paragraph (2A) applies, be entitled when paying the dividend to deduct tax at the standard rate from it.
 - (2A) A company is not entitled to deduct tax under paragraph (2) from a distribution which is chargeable to tax under Case IX of Schedule D.”;
- (c) for paragraph (6) there shall be substituted the following paragraph –
 - “(6) In this Article –
 - (a) a reference to a dividend shall include a distribution made by a company;
 - (b) a reference to deduction of tax from a dividend, shall, in the case of a distribution, refer to deduction from the value of the distribution.”.

12 Article 89 amended

In Article 89 of the principal Law –

- (a) in the heading, after the word “warrants,” there shall be inserted the words “other distributions,”;
- (b) in paragraph (1) after the words “distributed by any body of persons” there shall be inserted the words “, but not including a warrant, cheque or other order drawn or made in payment of a distribution chargeable to tax under Case IX of Schedule D made out of profits or gains that are not charged on a company at the rate of 10%,”;
- (c) for paragraph (1A) there shall be substituted the following paragraphs –
 - “(1A) In respect of distributions made by a company which are chargeable to tax under Case IX or Case III(f) of Schedule D, the company shall, within one month after the end of the year of assessment in which such distributions are made, provide to each individual to whom such distributions have been made a statement of the following in relation to that year of assessment –

- (a) the amount or value of the distributions made to the individual which are chargeable to tax under Case III(f) of Schedule D;
 - (b) the amount of so much of any distribution made to the individual as is exempt from tax under Article 78; and
 - (c) the amount or value of the distributions made to the individual which are chargeable to tax under Case IX of Schedule D.
- (1B) In respect of distributions made by a company to another company which are chargeable to tax under Case III(f) of Schedule D, the company shall, at the time the distribution is made or as soon as reasonably practicable afterwards, provide to the company receiving the distribution a statement of the following –
- (a) the amount or value of the distribution;
 - (b) the amount or value of the distribution which is chargeable to tax under Case III(f) of Schedule D;
 - (c) the amount or value of so much of the distribution (if any) which is exempt from tax under Article 78; and
 - (d) the amount, if any, to be attributed to an individual's allocated share of specified profits under Article 81X(3) or (4).”;
- (d) after paragraph (2) there shall be inserted the following paragraphs –
- “(3) In this Article –
- (a) a reference to a dividend shall include a distribution made by a company;
 - (b) a reference to a portion of the payment of a dividend shall, in the case of a distribution, refer to a portion of the value of the distribution.
- (4) The States may, by Regulations, amend the period referred to in paragraph (1A) in relation to the time by which a statement must be provided.”.

13 Article 112 amended

In Article 112 of the principal Law, after paragraph (11) there shall be added the following paragraph –

- “(12) In this Article, a reference to a dividend shall, in relation to a company, refer to a distribution made by a company.”.

14 Article 113 amended

In Article 113(3) of the principal Law –

- (a) for the definition “dividend” there shall be substituted the following definition –

“‘dividend’ means a dividend, including a distribution, from which deduction is authorized by Article 88;”;

- (b) for the definition “company” there shall be substituted the following definition –

“‘company’ means the body of persons paying a dividend or, in the case of a company, making a distribution.”.

15 Article 118B amended

In Article 118B(1)(b) of the principal Law for the words “cash dividends paid and stock dividends issued” there shall be substituted the words “distributions made”.

16 Article 135A amended

In Article 135A(5) of the principal Law after the definition “application” there shall be inserted the following definition –

“‘dividend’ includes a distribution made by company;”.

17 Article 142 amended

In Article 142 of the principal Law, after paragraph (6) there shall be added the following paragraph –

“(7) In paragraph (5), ‘dividend’ includes a distribution made by a company.”.

18 Schedule 3 amended

In Schedule 3 to the principal Law, in paragraph 3(3) for the words “dividend paid” there shall be substituted the words “distribution made”.

19 Schedule 5 amended

After paragraph 10 of Schedule 5 to the principal Law the following paragraphs are added –

“11 Income Tax (Amendment No. 41) (Jersey) Law 201-: distributions, Jersey trading companies

- (1) This paragraph applies to an individual whose current period of ownership of shares in a company commenced prior to 1st January 2012, such company being, immediately prior to 1st January 2012 a Jersey trading company in which the individual owned more than 2% of the ordinary share capital.
- (2) Words and expressions used in this paragraph shall be construed in accordance with Articles 81B to 85H notwithstanding the repeal of those Articles by Income Tax (Amendment No. 38) (Jersey) Law 2011².

(3) For the purposes of Article 81T(5), the amount added to SP is determined by applying the following steps –

(a) Step 1

calculate the amount, in accordance with either paragraph (4) or (5) for each financial period during which the individual owned more than 2% of the ordinary share capital in the company, such financial period being –

- (i) in the case of a company whenever incorporated before 1st January 2009, a financial period ending on or after 1st January 2009 and before 1st January 2012, and
- (ii) (if applicable) in the case of a company incorporated on or after 3rd June 2008, a financial period ending before 1st January 2009;

(b) Step 2

add together the amounts calculated under Step 1.

(4) If, for a financial period described in Step 1 the amount of the company's relevant profits for that period multiplied by 60% is greater than the aggregate value of dividends paid or issued out of relevant profits for that financial period (whether or not such dividends were relevant dividends and regardless of whether such dividends were paid or issued during that financial period but provided such dividends were paid or issued before 1st January 2013), the amount for the financial period for the purposes of Step 1 is –

$$(RP - (RP \times 60\%) - FD)$$

Where –

RP means relevant profits;

FD means a deemed final dividend under Article 81F paid or issued out of relevant profits for that financial period.

(5) If, for a financial period described in Step 1 the amount of the company's relevant profits for that period multiplied by 60% is less than the aggregate value of the dividends paid or issued out of relevant profits for that financial period (whether or not such dividends were relevant dividends and regardless of whether such dividends were paid or issued during that financial period but provided such dividends were paid or issued before 1st January 2013), the amount for the financial period for the purposes of Step 1 is –

$$RP - D - FD$$

Where –

RP means relevant profits;

D means a dividend (whether or not a relevant dividend) paid or issued out of relevant profits for that financial period (regardless of whether or not such dividends were paid or

issued during that financial period but provided such dividends were paid or issued before 1st January 2013);

FD means a deemed final dividend under Article 81F paid or issued out of relevant profits for that financial period.

12 Income Tax (Amendment No. 41) (Jersey) Law 201-: distributions by Jersey financial services companies

(1) This paragraph applies to an individual whose current period of ownership of shares in a company commenced prior to 1st January 2012, such company being, immediately prior to 1st January 2012 a Jersey financial services company in which the individual owned more than 2% of the ordinary share capital.

(2) Words and expressions used in this paragraph shall be construed in accordance with Articles 81B to 85H notwithstanding the repeal of those Articles by Income Tax (Amendment No. 38) (Jersey) Law 2011³.

(3) For the purposes of Article 81T(5), the amount added to SP is determined by applying the following steps –

(a) Step 1

calculate the amount, in accordance with paragraph (4), for each financial period during which the individual owned more than 2% of the ordinary share capital in the company, such financial period being –

(i) in the case of a company whenever incorporated before 1st January 2009, a financial period ending on or after 1st January 2009 and before 1st January 2012, and

(ii) (if applicable) in the case of a company incorporated on or after 3rd June 2008, a financial period ending before 1st January 2009;

(b) Step 2

add together the amounts calculated under Step 1.

(4) The amount to be calculated for each financial period for the purposes of Step 1 is –

$$RP - D - DD$$

Where –

RP means relevant profits;

D means a dividend (whether or not a relevant dividend) paid or issued out of relevant profits for the financial period (regardless of whether or not such dividends were paid or issued during that financial period but provided such dividends were paid or issued before 1st January 2013);

DD means a deemed dividend under Article 81G paid or issued out of relevant profits for that financial period.

13 Income Tax (Amendment No. 41) (Jersey) Law 201-: securities and possessions out of Jersey

Notwithstanding the definition ‘distribution’ in Article 3AE, tax under Case V of Schedule D shall not be charged, by virtue of that definition, in respect of anything that was not so chargeable immediately before the commencement of that Article.

14 Income Tax (Amendment No. 41) (Jersey) Law 201-: stock dividends

Where tax has been charged on the issue of a stock dividend under Article 62B prior to the repeal of that Article by the Income Tax (Amendment No. 41) (Jersey) Law 201-⁴, repayment of capital of the stock dividend shall not be treated as a distribution for the purposes of Case IX of Schedule D.

15 Income Tax (Amendment No. 41) (Jersey) Law 201-: income, profits and gains of non-residents

Notwithstanding the amendment to Article 118B(1)(b) made by Article 15 of the Income Tax (Amendment No. 41) (Jersey) Law 201-⁵, exemptions in respect of distributions made before the commencement of Article 15 shall be granted only in respect of cash dividends and stock dividends.

16 Income Tax (Amendment No. 41) (Jersey) Law 201- : entitlement to credit for tax paid on full attribution or deemed dividends

Notwithstanding paragraphs 8 and 10 of this Schedule, an individual shall not be entitled to a tax credit under either of those paragraphs in respect of a distribution which is chargeable to tax under Case IX of Schedule D.”.

20 Years of assessment for which this Part has effect

This Part has effect for year of assessment 2013 and ensuing years.

PART 3**INTERMEDIARY SERVICES VEHICLES****21 Article 62 amended**

In Article 62(1) of the principal Law after Case II there shall be inserted the following Case –

“Case IIA. – tax in respect of attributable earnings in accordance with the following provisions of this Part;”.

22 Articles 77A to 77E inserted

After Article 77 of the principal Law there shall be inserted the following heading and Articles –

“Case IIA

77A Interpretation of Articles 77A to 77E

(1) In Articles 77A to 77E –

‘attributable earnings’ shall be construed in accordance with Article 77B;

‘client’ means the person referred to in the definition ‘intermediary services vehicle’ providing payment (whether or not in cash) to an ISV for the supply of the services referred to in that definition;

‘individual’ means the individual referred to in the definition ‘intermediary services vehicle’ who supplies services to the client;

‘intermediary services vehicle’ means a company who receives payment from a person pursuant to arrangements with that person for the supply to that person of the services of an individual who owns more than 2% of the ordinary share capital in the company, or of another individual connected with an individual who owns more than 2% of the ordinary share capital in the company, in circumstances where, disregarding the interposition of the company, had the arrangements taken the form of a contract between the individual supplying the services and the other person, the other person would be an employer of the individual within the meaning of Article 1A of the Employment (Jersey) Law 2003⁶;

‘ISV’ means an intermediary services vehicle;

‘payment’ means payment in any form, whether or not in cash;

‘relevant arrangements’ mean the arrangements referred to in the definition ‘intermediary services vehicle’ between the ISV, the individual and the client.

(2) The States may, by Regulations –

(a) amend the definition ‘intermediary services vehicle’ in paragraph (1) so that it includes such type of body corporate or partnership as the States may specify generally or by description; and

(b) amend the percentages of shareholding specified in the definition ‘intermediary services vehicle’.

77B Basis of computation under Case IIA

(1) Subject to Articles 77C and 77D, tax under Case IIA of Schedule D is computed on the full amount of payments made by a client to an ISV in a year of assessment for the supply of services by an individual to the client pursuant to the relevant arrangements as if those payments were earnings of the individual chargeable to

tax under Case II (such payments being referred to as ‘attributable earnings’).

- (2) This Article applies only to payments made to an ISV in respect of services supplied by an individual who, at the time of supplying the services, is resident in Jersey.

77C Deductions under Case IIA

There shall be deducted from the attributable earnings –

- (a) any payments made by the ISV to the individual in the year of assessment by way of remuneration for services provided by the individual to the client pursuant to the relevant arrangements;
- (b) any contributions paid by the ISV under the Social Security (Jersey) Law 1974⁷ in the year of assessment as the employer of the individual in respect of services provided by the individual to the client pursuant to the relevant arrangements; and
- (c) any payments made by the ISV, pursuant to the relevant arrangements, which, if paid by the individual, the individual would have been entitled to deduct under this Law in computing profits or gains chargeable to tax under Case II of Schedule D (regardless of whether the individual is chargeable to tax under Case II of Schedule D).

77D Circumstances where Case IIA does not apply

- (1) An individual is not liable to taxation under Case IIA in a year of assessment where the aggregate value of the payments made to one or more ISVs by one or more clients for the supply of services by the individual under relevant arrangements in the year of assessment was less than £45,000.
- (2) The States may, by Regulations, amend the amount referred to in paragraph (1).

77E Treatment of attributable earnings for other purposes

- (1) Any amount charged to tax as attributable earnings (after taking into account any deduction allowed under Article 77C) shall not be chargeable to tax under Case II or Case V of Schedule D or treated as a distribution for the purposes of Case III(f) or Case IX of Schedule D.
- (2) In calculating an individual’s allocated share of specified profits for the purposes of Case IX of Schedule D, the ISV shall, when calculating the amount of the ISV’s specified profits for any particular period, disregard any amounts chargeable to tax under Case IIA in respect of payments received by the ISV during that period.”.

23 Years of assessment for which this Part has effect

This Part shall have effect for year of assessment 2013 and ensuing years.

PART 4**EMPLOYER RETURNS****24 Article 41B amended**

In Article 41B of the principal Law after paragraph (5) there shall be inserted the following paragraphs –

“(5A) If, in respect of an amount required to be remitted under paragraph (5) –

- (a) the Comptroller has not received a return from the employer under Article 20 or the information included in the return is not complete; and
- (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),

the Comptroller may, to the best of the Comptroller’s information and judgement, make an estimate of the amount required to be remitted under paragraph (5) and shall serve on the employer a notice requiring the amount of the estimate to be paid and containing the information described in paragraph (5B).

(5B) That information is –

- (a) the amount required to be paid;
- (b) the latest date on which an appeal against the amount required to be paid may be made; and
- (c) the date by which the said amount, failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.

(5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the employer under Article 20 or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the employer a further notice under paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).

(5D) An employer shall comply with any notice served on the employer contractor under paragraph (5A).

(5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number ‘40’ in Article 27(1) there were substituted the number ‘15’.”.

25 Article 41E amended

In Article 41E of the principal Law after paragraph (5) there shall be inserted the following paragraphs –

“(5A) If, in respect of an amount required to be remitted under paragraph (5) –

- (a) the Comptroller has not received a return from the building contractor under Article 20A or the information included in the return is not complete; and
- (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),

the Comptroller may, to the best of the Comptroller’s information and judgement, make an estimate of the amount required to be remitted under paragraph (5) and shall serve on the building contractor a notice requiring the amount of the estimate to be paid and containing the information described in paragraph (5B).

(5B) That information is –

- (a) the amount required to be paid;
- (b) the latest date on which an appeal against the amount required to be paid may be made; and
- (c) the date by which the said amount, failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.

(5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the building contractor under Article 20A or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the building contractor a further notice under paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).

(5D) A building contractor shall comply with any notice served on the building contractor under paragraph (5A).

(5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number ‘40’ in Article 27(1) there were substituted the number ‘15’.”.

26 Article 42 amended

In Article 42(1B) of the principal Law for the words “Article 41B(5) or 41E(5)” there shall be substituted the words “Article 41B(5), 41B(5D), 41E(5) or 41E(5D)”.

27 Commencement of this Part

This Part comes into force on 1st January 2013.

PART 5
INSURANCE PREMIUMS

28 Article 101 repealed

Article 101 of the principal Law shall be repealed.

29 Article 106 amended

Article 106(3) of the principal Law shall be deleted.

30 Article 130 amended

In Article 130 of the principal Law –

- (a) paragraph (2) shall be deleted;
- (b) in paragraph (3) the word “ ‘contributions’,” shall be deleted.

31 Article 131 amended

In Article 131(1) of the principal Law, sub-paragraph (b) shall be deleted.

32 Article 132 amended

For Article 132(7)(b) of the principal Law, there shall be substituted the following sub-paragraph –

“(b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums for a contract for a deferred annuity securing a capital sum on death, whether in conjunction with any other benefit or not;”.

33 Schedule 2 amended

In Schedule 2 to the principal Law –

- (a) for paragraph 1(c) there shall be substituted the following sub-paragraph –

“(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 other than amounts to meet, wholly or in part, the cost of premiums for any life insurance or deferred annuity contract or arrangement to which the person is a party in his or her individual capacity;”;

- (b) for paragraph 1(d) there shall be substituted the following sub-paragraph –

“(d) premiums for private medical insurance for the office holder or employee or for any member of the person’s family or household other than amounts to meet, wholly or in part, the cost of premiums

for a contract of private medical insurance to which the person is a party in his or her individual capacity; and”.

34 Schedule 5 amended

After paragraph 16 of Schedule 5 to the principal Law there shall be added the following paragraph –

“17 Income Tax (Amendment No. 41) (Jersey) Law 201-: insurance premiums

Any annuity to which Article 132 did not apply by virtue of Article 132(7)(b), shall, where the annuity is in payment before 1st January 2013 or will come into payment after that date by virtue of contributions made before that date, continue to be an annuity to which Article 132 does not apply notwithstanding the substitution of Article 132(7)(b) by the Income Tax (Amendment No. 41) (Jersey) Law 201-⁸.”.

35 Years of assessment for which this Part has effect

- (1) Article 33(b) has effect for year of assessment 2011 and ensuing years.
- (2) The remainder of this Part has effect for year of assessment 2013 and ensuing years.

PART 6

ADDITIONAL CHILDREN’S ALLOWANCE

36 Article 98A amended

For Article 98A(1) there shall be substituted the following paragraph –

- “(1) If, in the case of a year of assessment the individual is entitled to a deduction under Article 95 in respect of a child resident with the individual and either –
- (a) the individual –
 - (i) does not have a spouse or civil partner, or
 - (ii) has a spouse or civil partner who is not living with him or her and whom the individual does not wholly maintain during the year of assessment; or
 - (b) the individual is a person who –
 - (i) has a spouse or civil partner living with him or her, or
 - (ii) has a spouse or civil partner who is not living with him or her and whom the individual wholly maintains during the year of assessment, and

in either case, the spouse or civil partner was, throughout the year of assessment, totally incapacitated by physical or mental infirmity,

the individual shall, subject to paragraphs (2) to (5), be entitled to a deduction of £4,500.”.

37 Years of assessment for which this Part has effect

Article 36 has effect for year of assessment –

- (a) 2011 and ensuing years for married persons; and
- (b) 2012 and ensuing years for civil partners.

PART 7

EXEMPTION FOR NON-RESIDENT INCOME

38 Article 118B amended

For Article 118B(1)(b) of the principal Law for the words “regarded as resident in Jersey except a company which is charged to tax under Schedule D at the standard rate or the rate of 10%” there shall be substituted the words “to the extent that such distributions were made out of profits or gains charged on the company at the rate of 0%”.

39 Schedule 5 amended

At the end of Schedule 5 to the principal Law there shall be added the following paragraph –

“18 Income Tax (Amendment No. 41) (Jersey) Law 201-: exemption for non resident income

Nothing in Articles 38 and 40 of the Income Tax (Amendment No. 41) (Jersey) Law 201-⁹ shall affect any claim made before 17th October 2012 for exemption from income tax by virtue of Article 118B(1)(b).”.

40 Commencement of this Part

This Part shall effect from 17th October 2012.

PART 8**MISCELLANEOUS AND CLOSING****41 Article 110A inserted**

After Article 110 of the principal Law there shall be inserted the following Article –

“110A Losses arising from possessions out of Jersey

- (1) Where a person sustains a loss of income arising from possessions out of Jersey (such a loss to be computed in like manner as income under the provisions of this Law applicable to Case V of Schedule D), the person may, on giving notice in writing to the Comptroller within 2 years after the year of assessment, claim for the amount of such loss to be deducted from any other income on which he or she is assessed under Case V of Schedule D.
- (2) Except where paragraph (3) applies, a deduction following a claim under paragraph (1) may be made only from income arising in the same year of assessment as the loss.
- (3) Where the loss arises from possession of land out of Jersey, the loss (or such portion of the loss in respect of which no relief has been given) may be carried forward to be deducted from income arising from the same possession of land out of Jersey on which the person is assessed under Case V of Schedule D in any subsequent year of assessment.
- (4) For the purposes of this Article ‘land’ includes buildings and other structures on land.”.

42 Article 115 amended

In Article 115 of the principal Law after paragraph (q) there shall be added the following paragraph –

- “(r) dividends paid by The Channel Islands Co-operative Society Limited.”.

43 Article 117 amended

In Article 117 of the principal Law –

- (a) for paragraph (2)(e) there shall be substituted the following subparagraphs –
 - “(e) injury or disablement pensions payable under any War Risks Compensation Scheme for the Mercantile Marine;
 - (f) pensions –
 - (i) granted to persons on account of disablement, and

- (ii) payable under any scheme made under section 3, 4 or 5 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 of the United Kingdom;
 - (g) benefits under a scheme established by an order under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 of the United Kingdom payable to persons by reason of illness or injury –
 - (i) by way of a lump sum, or
 - (ii) following the termination of service in the naval, military or air forces of the Crown or in the reserve forces.”;
- (b) for the proviso at the end of paragraph (2) there shall be substituted the following paragraph –
 - “(2A) If the Secretary of State certifies that a pension or retired pay of a kind referred to in paragraph (2) is only partly attributable to disablement or disability, that paragraph shall apply only to the part attributable to the disablement or disability.”;
- (c) in paragraph (3) –
 - (i) for the words “Minister of Pensions and National Insurance of the United Kingdom” there shall be substituted the words “Secretary of State”,
 - (ii) for the word “Minister” in the second place it occurs there shall be substituted the words “Secretary of State”;
- (d) after paragraph (3) there shall be added the following paragraph –
 - “(4) Any pay, pension or allowance paid by the government of a country or territory outside Jersey to a person who is resident in Jersey, such pay, pension or allowance being equivalent to any pay, pension or allowance described in paragraph (1), (2) or (3) shall not be reckoned in computing income tax for the purposes of this Law.”.

44 Article 123EA amended

In Article 123EA of the principal Law –

- (a) after paragraph (7) there shall be inserted the following paragraphs –
 - “(7A) There may be offset against those profits or gains of the claimant company which are chargeable to tax under Schedule A pursuant to Article 51(1)(b) only those losses of the surrendering company that arise from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(b).
 - (7B) There may be offset against those profits or gains of the claimant company which are chargeable to tax under Schedule A pursuant to Article 51(1)(c) only those losses of the surrendering company that arise from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(c).

- (7C) Losses of the surrendering company that arise from any activity, the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(b) or (c), may only be offset against the profits or gains of the claimant company as described in paragraph (7A) or (7B).”;
- (b) in paragraph (10) after the definition “group” there shall be inserted the following definitions –
- “ ‘loss’ of a company does not include any loss arising from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(a);
- ‘profits or gains’ of a company do not include profits or gains chargeable to tax under Schedule A pursuant to Article 51(1)(a);”.

45 Article 123F amended

In Article 123F of the principal Law –

- (a) after paragraph (7) there shall be inserted the following paragraphs –
- “(7A) There may be offset against those profits or gains of the claimant company which are chargeable to tax under Schedule A pursuant to Article 51(1)(b) only those losses of the surrendering company that arise from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(b).
- (7B) There may be offset against those profits or gains of the claimant company which are chargeable to tax under Schedule A pursuant to Article 51(1)(c) only those losses of the surrendering company that arise from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(c).
- (7C) Losses of the surrendering company that arise from any activity, the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(b) or (c), may only be offset against the profits or gains of the claimant company as described in paragraph (7A) or (7B).”;
- (b) in paragraph (10) after the definition “group” there shall be inserted the following definitions –
- “ ‘loss’ of a company does not include any loss arising from any activity the profits or gains of which would be chargeable to tax under Schedule A pursuant to Article 51(1)(a);
- ‘profits or gains’ of a company do not include profits or gains chargeable to tax under Schedule A pursuant to Article 51(1)(a);”.

46 Schedule 2 amended

For paragraph 17 of Schedule 2 to the principal Law there shall be substituted the following paragraph –

“17 Property held by company

- (1) There shall be left out of account such benefit as is described in sub-paragraph (2) derived by –
 - (a) an office holder or employee who has control of the company providing the benefit; or
 - (b) a member of the family or household of an office holder or employee where the office holder or employee has control of the company providing the benefit.
- (2) The benefit that is described for the purposes of sub-paragraph (1) is the provision of property, including accommodation, owned by the company and used by an office holder or employee as described in sub-paragraph (1)(a), or a member of the family or household of an office holder or employee as described in sub-paragraph (1)(b), if and to the extent that –
 - (a) the company is not entitled to make any deduction under this Law in computing the profits of its business or to claim any allowance or relief under this Law in respect of that property, and
 - (b) in respect of property other than accommodation, the activities of the company do not include, to a substantial extent, activities other than ownership of the property.”.

47 Schedule 3A amended

In Schedule 3A to the principal Law –

- (a) in paragraph 3(4) after the words “record of deductions” there shall be inserted the words “required to be”;
- (b) in paragraph 3(5)(f) after the words “amount of tax” there shall be inserted the words “required to be”;
- (c) in paragraph 3(8) after the words “all monies” there shall be inserted the words “required to be”;
- (d) in paragraph 4(4) after the words “record of monies” there shall be inserted the words “required to be”;
- (e) in paragraph 4(5)(e) after the words “amount of tax” there shall be inserted the words “required to be”;
- (f) in paragraph 4(8) after the words “all monies” there shall be inserted the words “required to be”.

48 Years of assessment for which this Part has effect

This Part shall have effect for year of assessment 2013 and ensuing years.

49 Citation

This Law may be cited as the Income Tax (Amendment No. 41) (Jersey) Law 201-.

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- ¹ *chapter 24.750*
 - ² *L.27/2011*
 - ³ *L.27/2011*
 - ⁴ *P.104/2012*
 - ⁵ *P.104/2012*
 - ⁶ *chapter 05.255*
 - ⁷ *chapter 26.900*
 - ⁸ *P.104/2012*
 - ⁹ *P.104/2012*