

STATES OF JERSEY



DRAFT INCOME TAX (AMENDMENT No. 43) (JERSEY) LAW 201-

Lodged au Greffe on 8th October 2013
by the Minister for Treasury and Resources

STATES GREFFE



Jersey

DRAFT INCOME TAX (AMENDMENT No. 43) (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. 43) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator P.F.C. Ozouf**

Minister for Treasury and Resources

Dated: 7th October 2013

REPORT

This Draft Law gives effect to proposals described in the Draft Budget Statement 2014.

Financial and manpower implications

The financial and manpower implications are clearly identified in Part 7 of the Draft Budget Statement 2014.

Human Rights

The Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This Law amends the Income Tax (Jersey) Law 1961 “principal Law”.

Article 1 is an interpretation provision.

Part 2 – Returns

Articles 2 to 9 in Part 2 amend the provisions in the principal Law concerning the format of tax returns and their means of delivery to the Comptroller of Taxes (“Comptroller”). “Return” is defined to include individual tax statements, returns concerning employees, sub-contractors and companies and lists concerning taxable income belonging to others and lists of lodgers and inmates.

Articles 2, 5, 6, 7 and 8 delete current requirements concerning a return to be in writing and for the format and means of the return to be as determined by the Comptroller.

Article 3 repeals Article 17B of the principal Law. Article 17B requires the Comptroller to deduct £20 from the amount of tax a person is liable to pay if the person provides a tax return in electronic form.

Article 9 inserts a new provision into the principal Law requiring all returns to be in such form, and delivered by such means, as the Comptroller may specify, including, if required, electronic format. The Comptroller may allow a person to choose between different formats and means of delivery.

Article 10 provides that Article 3 comes into force on 1st January 2014. The remaining provisions in this Part have effect for year of assessment 2013 and ensuing years.

Part 3 – Distributions

Articles 11 and 23 amend Articles 3 and Schedule A1 respectively of the principal Law to make it clear that “trading group” is defined in Schedule A1 for the purposes of the Law, not just for the purposes of Schedule A1. (“Trading group” is used in the definition of “distributions” in Article 3AE).

Articles 12, 13 and 22 amend Articles 3AE, 62 and 118B respectively of the principal Law in respect of how dividends on preference shares are taxed. Article 12 amends Article 3AE so as to exclude dividends on preference shares from the definition of “distributions”. Article 13 amends Article 62 so that dividends on preference shares of a company regarded as resident in Jersey are chargeable to tax under a new Case III(g) of Schedule D. Article 22 amends Article 118B so that non-residents of Jersey are exempt from income tax on dividends on preference shares of a company regarded as resident in Jersey.

Article 12 also amends Article 3AE with respect to the meaning of “member” in the definition of “distribution” in Article 3AE. Paragraph (1)(c) and (d) of the definition of distribution includes (a) the repayment of loans by a company where the loan has been made by a company member and (b) any other transfer of assets or liabilities by a company to a company member or by a company member to a company where the benefit received by the member exceeds the value of new consideration given by the member. (“Member” includes a person connected with a member.) The amendment makes provision so that “member” clearly includes any person who is deemed to own shares in the company under Article 82A(1)(a). A person is deemed to own shares under Article 82A(1)(a) if the person has any interest in shares, whether equitable, legal or contractual and whether the interest is direct or through a series of institutions.

Article 14 amends Article 78 of the principal Law in respect of distributions which are not chargeable to tax under Case III. Currently Article 78 excludes from distributions chargeable to tax under Case III a distribution which has been made out of the same profits that have been used to determine that an earlier distribution is chargeable under Case IX of Schedule D. This amendment makes it clear that the earlier distribution must have been made to the same individual who is claiming that the later distribution is not chargeable to tax under Case III.

Article 14 also amends Article 78 of the principal Law in respect of the exclusion from income tax of distributions by a company that represent the repayment of a principal amount advanced to the company by a company member or a person connected with a member. The amendment provides that “member” includes any person who is deemed to own shares in the company under Article 82A(1)(a).

Article 15 amends Article 81Q by inserting a definition of an “individual’s allocated share of specified profits” by cross referring to the relevant Articles in which that term is used and also removes some otiose wording from the definition of “relevant time”.

Article 16 amends Article 81R in respect of the election that an individual may make as to whether to have the amount of relevant distributions made to him or her calculated on the basis of the formulae set out in Articles 81T to 81Z (“calculated basis”) or simply on the full amount of each relevant distribution (“simplified basis”). Currently an individual who wants the amount of his or her relevant distributions determined on the simplified basis can make an election to that effect in respect of year of assessment 2013 only by giving notice to the Comptroller. These amendments allow an individual to make an election for the simplified basis to apply in respect of distributions made by one or more specified companies for any year of assessment. Notice of an election must be given to the Comptroller no later than 2 years after the end of the first year of assessment in respect of which the election is to apply. An election may be revoked no later than 2 years after the end of the year of assessment in respect of which the revocation is to apply.

Article 16 also makes some clarifying drafting changes to the meaning of a relevant distribution without changing the meaning. Where the calculated basis applies, a relevant distribution made to an individual at a time when the individual owns more than 2% of the share capital of the company can be either of 2 amounts. If the amount of the distribution is equal to or less than the individual’s allocated share of specified profits in the company at that time, the relevant distribution is the full amount of the distribution. If the amount of the distribution is greater than the individual’s allocated share of specified profits in the company at that time, the relevant distribution is only such amount as is equal to the individual’s allocated share of specified profits at that time. Where the simplified basis applies, any distribution by a company is a “relevant distribution” when made to an individual at a time when the individual owns more than 2% of the ordinary share capital of the company. Relevant distributions (whether determined on the simplified or calculated basis) are taxed under Case IX of Schedule D. Where the amount of a distribution, calculated on the calculated basis, exceeds an individual’s allocated share of specified profits, the excess amount is chargeable to tax under Case III(f) of Schedule D.

Article 17 amends Article 81T of the principal Law by clarifying wording with respect to an individual’s period of share ownership for the purpose of calculating the individual’s allocated share of specified profits.

Article 18 amends Article 81V of the principal Law by clarifying wording with respect to the period which is taken into account for the purpose of calculating an individual’s allocated share of specified profits.

Article 19 amends Article 81X of the principal Law so as to make provision where a company has made a distribution to another company (“receiving company”) and none of the provisions in Articles 81T, 81U, 81V and 81W apply when the receiving company subsequently makes a distribution to an individual. The most likely reason for this will be that the receiving company has been created during the same year of assessment in which the distribution to the individual is made and hence the receiving company does not have a “relevant financial period”. (A “relevant financial period” is a financial period which ends in a year of assessment immediately preceding a current year of assessment.) The effect of the amendments is that the amount that has been calculated under Article 81X at the time of the distribution to the receiving company by the other company is taken as the amount of the individual’s allocated share of specified profits for the purpose of determining the extent to which the distribution made to the individual is a relevant distribution under Article 81R and is also treated as having occurred at a relevant time under Article 81T.

Article 19 also amends Article 81X of the principal Law concerning distributions made by one company to another so that references to a person’s “shareholding” are replaced with references to a person’s “ownership of shares”. The substituted wording is more closely aligned with Article 82A of the principal Law which sets out the circumstances in which a person is deemed to own shares for the purposes of Schedule D. Article 19 also corrects an incorrect formula.

Article 20 amends Article 81Y of the principal Law by clarifying the wording of a provision in the calculations.

Article 21 inserts a new Article 81YA in the principal Law setting out how Articles 81T to 81Y apply when an election under Article 81R to apply the simplified basis of calculation has been revoked. Article 81YA provides that the calculations under Articles 81T to 81Y apply for the purposes of calculating an individual’s allocated share of specified profits the first time a distribution is made following revocation of an election as if distributions made during years in which the simplified basis applied were made during years during which the calculated basis applied. The amendment also sets out a modification to those calculations where a distribution made at a time when the simplified basis applied exceeded the calculation of the individual’s allocated share of specified profits calculated for that time in accordance with Articles 81T to 81Y.

Article 24 provides that the correction of the formula in Article 19 (e) shall have effect for year of assessment 2013 and ensuing years. The remainder of this Part shall have effect for year of assessment 2014 and ensuing years.

Part 4 – Miscellaneous

Article 25 amends Article 41B of the principal Law with respect to deduction of tax at the effective rate by an employer from an employee’s earnings. Under Article 41B, an employer is required to remit to the Comptroller each month the amount of tax payable by an employee that has been deducted by the employer. If the employer does not remit such an amount to the Comptroller, the employee is entitled to have the amount treated as payment of tax by the employee if the employee can prove to the Comptroller that the amount has, in fact, been deducted from the employee’s earnings. The amendment made by Article 25 removes this entitlement where the employer is a company limited by shares and the employee owns, directly or indirectly, 20% or more of the shares in the company at the time the deduction is made and, at that time, is entitled to 20% or more of the income, profits or gains of the company chargeable to tax under this Law in the year of assessment in which the deduction is made.

Article 26 amends Article 70A of the principal Law with respect to Class 2 contributions payable under the Social Security (Jersey) Law 1974. Currently 52% of Class 2 contributions payable in a year of assessment may be deducted from the profits or gains of a trade or profession. This is roughly equivalent to the percentage of Class 1 contributions payable by an employer, the remainder being payable by an employee. From 1st January 2012, a further tier of Class 2 contributions are payable in respect of a trade or profession based on the difference between the standard monthly earnings limit (currently £3,686) and the upper monthly earnings limit (currently £12,500). Article 70A is amended so that 100% of such further tier of Class 2 contributions is deductible from profits or gains. The percentage remains at 52% for all other Class 2 contributions.

Article 27 amends Article 87B of the principal Law so as to remove the requirement that a person who makes a charitable donation of £100 or more must be resident in Jersey for the preceding 3 years before the charity can claim the tax that is deemed to have been paid under Article 87B on the amount of the donation. The effect of the amendment is that the person must be resident in Jersey at the time the donation is made.

Article 28 amends Article 90AE of the principal Law concerning the amount of interest payable on a loan that is eligible for relief under any of Articles 90AB to 90AD. Articles 90AB to 90AD make provision concerning loans for commercial lettings; machinery and plant, and the acquisition of a trade, a partnership share or a trading company. The Comptroller must, having regard to all relevant circumstances, determine the amount of interest that is eligible for relief such as is just and reasonable. Those specified circumstances apply where, having regard to all relevant circumstances including any guarantee or security given, the amount of a loan to which Article 90AB applies (interest relief on loans for commercial lettings) exceeds what a lender could reasonably be expected to lend on a commercial basis, or, where, in respect of a loan to which any of Articles 90AB to 90AD apply, the interest charged on the loan exceeds what a lender could reasonably be expected to charge on a commercial basis.

Article 29 amends Article 92A of the principal Law concerning the age at which a single person, married couple or civil partnership qualifies for a higher threshold for exemption from income tax. Currently the age is 63. Article 29 increases this to age 65 for the year of assessment 2014 and ensuing years. For those aged 63 at the commencement of year of assessment 2013, the age is increased to age 64 for year of assessment 2014 only.

Article 29 also amends Article 92A of the principal Law in respect of the threshold for exemption from income tax for those who are entitled to a tax deduction under Article 95 of the principal Law in respect of child allowances. The effect of the amendment is that individuals who are entitled to a tax deduction by reason of having a child over the age of 17 who is in full-time higher education are entitled to have an additional amount in respect of each such child taken into account for the purposes of the threshold for exemption from income tax under Article 92A in certain circumstances. Those circumstances are that the threshold applicable in the individual's case, including the additional amount (a) entitles the individual to exemption from income tax under Article 92A; or (b) entitles the individual to a reduction of the amount of tax payable under Article 92C. Article 92C applies to reduce the amount of income tax payable by an individual where, broadly, a specified percentage of the amount that is the difference between the threshold applicable in the individual's case and the individual's total income is less than the whole of the individual's taxable income taxed at the standard rate of 20%. The additional amount

that may be taken into account is £3,000 for each child over the age of 17 in full-time higher education subject to apportionment where 2 or more persons are responsible for the care of a child.

Article 30 amends Article 95 of the principal Law with respect to the tax deduction allowed in respect of a child. Currently the tax deduction is £3,000 in respect of a child aged 16 or under or £6,000 in respect of a child over the age of 17 who is in full-time higher education. However this amount is reduced to take account of income to which the child is entitled in his or her own right in the year of assessment. In respect of the lower tax deduction of £3,000, the reduction is the amount by which the child's income exceeds £3,000. So, if a child earns £3,500, the tax deduction of £3,000 is reduced to £2,500. In respect of the higher tax deduction of £6,000, the reduction is the amount that equals £3 for every £2 of the excess over £3,000. So the reduction for a child earning £3,500 is £750 (that is $(500/2) \times 3$) and the amount of the tax deduction allowed is £5,250. However, in applying the reduction, no account is taken of income earned by a child during a year of assessment but only if the income is earned after completion of a course of full-time higher education during that year of assessment. Article 15 amends Article 95 so that no account is taken of any income earned by a child of any age during a year of assessment regardless of whether it is earned following completion of a course of full-time higher education.

Article 31 amends Article 123CAA of the principal Law with respect to the taxation of profits for the importation and supply of hydrocarbon oil. Currently, profits from the trade of importing and supplying hydrocarbon oil are taxed at the standard rate instead of at 0%. Where the trade is that of supplying hydrocarbon oil only, the company's profits are taxed at the standard rate instead of at 0% only where the company is a subsidiary of, or connected with, the company importing the hydrocarbon oil and supplying it to the company. The effect of the amendment is that a company is taxed at the standard rate instead of at 0% whether it engages in the trade of importing hydrocarbon oil to Jersey or of supplying it in Jersey regardless of its connection with the company from which the hydrocarbon oil is obtained. However this provision does not apply if the company does not import hydrocarbon oil to Jersey and it supplies hydrocarbon oil in Jersey only to end-users.

Article 32 amends Articles 135A and 135B of the principal Law with respect to taxation of those who have been granted consent under the Housing (Jersey) Law 1949 for the sale, transfer or lease of any land in the case described in Regulation 1(1)(k) of the Housing (General Provisions) (Jersey) Regulations 1970 (such consent being referred to as a "1(1)(k) housing consent") or who have been granted Entitled status under Regulation 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 (such status being referred to as "2(1)(e) status"). The ground for the consent or grant of status is that it is justified (a) on social or economic grounds or both and (b) as being in the best interests of the community. (Articles 135A and 135B were substituted with effect from 1st July 2013 by the Control of Housing and Work (Transitional and Consequential Provisions) 2013 to take account of the Control of Housing and Work (Jersey) Law 2012).

Currently, under Article 135A a person who acquired land or property pursuant to a 1(1)(k) housing consent granted on or after 1st January 2005 and following an application made before 22nd July 2011 is taxed on all his or her non-Jersey income that exceeds £1 million at the rate of 10% on the first £500,000 and thereafter at 1%. Where a person acquired land or property pursuant to a 1(1)(k) housing consent following an application made on or after 22nd July 2011 or is granted 2(1)(e) status,

the person is taxed on so much of the person's income as is taxable under Schedule D that exceeds £625,000 at the rate of 1%. (These latter arrangements are referred to as "post July 2011 tax arrangements"). (The taxable income that does not fall within any of these descriptions is taxed at the standard rate of 20%.)

The effect of the amendments made by Article 32 is that any person who acquired land or property pursuant to a 1(1)(k) consent (such consent not having been revoked) pursuant to an application made at any time before 22nd July 2011 may apply to the Minister for Treasury and Resources ("Minister") for the post July 2011 tax arrangements to apply to him or her. The Minister may grant such an application (with or without conditions) after consultation with the Chief Minister (who is responsible for granting Regulation 2(1)(e) status) if the Minister is satisfied that the application of the post July 2011 tax arrangements to the applicant is justified on social or economic grounds, or both and as being in the best interests of the community. The application must be made no later than 31st October in the year of assessment to which the application relates. The Minister may only grant an application in respect of a particular applicant once and it is not open to a person to revoke the application of the post July 2011 tax arrangements to him or her. If a person breaches any condition subject to which an application was granted, the post July 2011 tax arrangements no longer apply subject to any transitional arrangements that the Minister may determine.

Article 32 also makes some changes to Article 135B of the principal Law with respect to disclosure of information to reflect the role of the Chief Minister in determining Regulation 2(1)(e) status.

Article 33 provides that Article 26 has effect for year of assessment 2012 and ensuing years and that the remainder of this Part has effect for year of assessment 2014 and ensuing years.

Part 5 – Closing

Article 34 sets out the title of the Law.



Jersey

DRAFT INCOME TAX (AMENDMENT No. 43) (JERSEY) LAW 201-

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Jersey

DRAFT INCOME TAX (AMENDMENT No. 43) (JERSEY) LAW 201-

A LAW to amend further the Income Tax (Jersey) Law 1961.

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 RETURNS

2 Article 16 amended

In Article 16(1) of the principal Law the words “in writing, signed by the person,” shall be deleted.

3 Article 17B repealed

Article 17B of the principal Law is repealed.

4 Article 18 amended

In Article 18(1) of the principal Law, the words “in the form required by the notice, signed by that first person,” shall be deleted.

5 Article 19 amended

In Article 19 of the principal Law the words “, signed by the person,” shall be deleted.

6 Article 20 amended

Article 20(3) of the principal Law shall be deleted.

7 Article 20A amended

Article 20A(3) of the principal Law shall be deleted.

8 Article 20B amended

Article 20B(4) shall be deleted.

9 Article 21 inserted

After Article 20B of the principal Law there shall be inserted the following Article in Part 4 –

“21 Form and manner of returns

(1) In this Article –

‘recipient’ means a person required to deliver a return to the Comptroller;

‘return’ means any of the following –

- (a) a statement under Article 16;
- (b) a statement under Article 17;
- (c) a list under Article 18;
- (d) a list under Article 19;
- (e) a return under Article 20;
- (f) a return under Article 20A;
- (g) a return under Article 20B.

(2) A recipient shall deliver a return to the Comptroller in such form and by such means as may be required by the Comptroller in a notice served on the recipient or by general notice.

(3) The Comptroller may, by general notice or by a notice served on a recipient, require the recipient or such class or description of recipients as may be specified in a general notice, to deliver such

description of return as is specified in the notice to the Comptroller in such electronic form and by such electronic means as the Comptroller may specify in the notice.

- (4) A notice given under this Article may allow the recipient to choose between such alternative forms of a return and means of delivering a return as are specified in the notice.
- (5) In this Article, references to the form of a return may include requirements relating to a signature for or on behalf of the recipient, including an electronic signature.”.

10 Years of assessment for which this Part has effect

- (1) Article 3 comes into force on 1st January 2014.
- (2) The remaining provisions in this Part have effect for year of assessment 2013 and ensuing years.

PART 3

DISTRIBUTIONS

11 Article 3 amended

In Article 3 of the principal Law after the definition “trading company” there shall be inserted the following definition –

“‘trading group’ shall be construed in accordance with Schedule A1;”.

12 Article 3AE amended

In Article 3AE of the principal Law –

- (a) for paragraph (2)(a) there shall be substituted the following sub-paragraphs –
 - “(a) sub-paragraphs (a) and (b) do not include any dividends on preferences shares chargeable to tax under Case III(g) of Schedule D (whether such dividends are charged or not);
 - (aa) sub-paragraphs (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 such interest is charged or not);”;
- (b) after paragraph (4) there shall be inserted the following paragraph –

“(4A) For the purposes of paragraph (1)(c) and (d), in the case of a company with a share capital, ‘member’ includes any person who is deemed to own shares in the company under Article 82A(1)(a).”.

13 Article 62 amended

In Article 62(1) of the principal Law –

- (a) in Case III after sub-paragraph (f) there shall be inserted the following sub-paragraph –
 - “(g) dividends on preference shares of a company regarded as resident in Jersey;”;
- (b) in Case IX after the words “in accordance with” there shall be inserted the word “the”.

14 Article 78 amended

In Article 78 of the principal Law –

- (a) in paragraph (1A)(d) of the principal Law after the words “an earlier distribution” there shall be inserted the words “to that individual”;
- (b) after paragraph (1B) there shall be inserted the following paragraph –
 - “(1C) For the purposes of paragraph (1A)(c), in the case of a company with a share capital, ‘member’ includes any person who is deemed to own shares in the company under Article 82A(1)(a).”.

15 Article 81Q amended

In Article 81Q(1) of the principal Law –

- (a) before the definition “relevant company” there shall be inserted the following definition –
 - “‘individual’s allocated share of specified profits’ shall be construed in accordance with the relevant provisions of Article 81T, 81U, 81V, 81W, 81X, 81Y and 81YA, as the case requires;”;
- (b) in the definition “relevant time” the words “during a current year of assessment” shall be deleted.

16 Article 81R substituted

For Article 81R of the principal Law there shall be substituted the following Article –

“81R Meaning of ‘relevant distribution’

- (1) Except where paragraph (4) applies, a relevant distribution is –
 - (a) a distribution made to an individual at a relevant time; or
 - (b) such amount of a distribution made to an individual at a relevant time that is equal to the individual’s allocated share of specified profits at the relevant time.
- (2) For the purposes of paragraph (1) –

- (a) sub-paragraph (a) applies if the amount of the distribution is equal to or less than the individual's allocated share of specified profits at the relevant time;
 - (b) sub-paragraph (b) applies if the amount of the distribution is greater than the individual's allocated share of specified profits at the relevant time.
- (3) If more than one distribution is made to an individual by the same company at a relevant time, the amount of a distribution in paragraphs (1) and (2) shall be read as referring to the aggregate value of those distributions.
 - (4) An individual may, by notice in writing to the Comptroller in such form as the Comptroller may determine, elect that paragraph (1) shall not apply to distributions made to the individual by one or more companies specified by the individual.
 - (5) An election under paragraph (4) must be made no later than 2 years after the end of the first year of assessment in respect of which the election is to take effect.
 - (6) Following an election under paragraph (4), paragraph (1) shall not apply to distributions made by a specified company during the year of assessment in respect of which the election takes effect and ensuing years until a revocation of that election takes effect in accordance with paragraph (7).
 - (7) An individual may revoke an election under paragraph (4) with respect to one or more specified companies no later than 2 years after the end of the year of assessment in respect of which the revocation is to take effect.
 - (8) Any distribution made to an individual at a relevant time in a year of assessment by a company in respect of which paragraph (1) does not apply is a relevant distribution.”.

17 Article 81T amended

In Article 81T(2)(a) of the principal Law for the word “during” there shall be substituted the words “the whole or part of which falls within”.

18 Article 81V amended

In Article 81V of the principal Law in paragraph (2)(a) after the words “year of assessment in which a distribution was last made to that individual” there shall be inserted the words “up to”.

19 Article 81X amended

In Article 81X of the principal Law –

- (a) in paragraph (1)(c) for the word “shareholding” there shall be substituted the words “ownership of shares”;

- (b) in paragraph (2)(a) in the definition “A” for the word “shareholding” there shall be substituted the words “ownership of shares”;
- (c) in paragraph (2)(b)(i)((D) for the word “shareholding” there shall be substituted the words “ownership of shares”;
- (d) in paragraphs (3) and (4) for the words “paragraph (5) or (6),” there shall be substituted the words “paragraph (5), (6), (6A) or (6B),”;
- (e) in paragraph (6)(a) for the formula “ $X \times (E/F)(A/B)$ ” there shall be substituted the formula “ $X \times ((E/F) / (A/B))$ ”;
- (f) after paragraph (6) there shall be inserted the following paragraphs –

“(6A) When the receiving company makes a distribution to the individual at a relevant time and, at that time, no provision in Article 81T, 81U, 81V or 81W applies and the proportion of shares owned by the individual in the receiving company has remained constant since the company distribution –

- (a) the amount calculated under paragraph (3) or (4), as the case may be, being attributed to the individual’s allocation of specified profits, is the amount that is taken into account in determining how much of the distribution is a relevant distribution for the purposes of Article 81R; and
- (b) the time of the distribution by the receiving company is treated as having occurred at a relevant time under Article 81T.

(6B) When the receiving company makes a distribution to the individual at a relevant time and, at that time, no provision in Article 81T, 81U, 81V or 81W applies and the proportion of shares owned by the individual in the receiving company has not remained constant since the company distribution –

- (a) the following amount, being the amount that is attributed to the individual’s allocation of specified profits, is the amount that is taken into account in determining how much of the distribution is a relevant distribution for the purposes of Article 81R –

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

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 relevant time;

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

- (b) the time of the distribution by the receiving company is treated as having occurred at a relevant time under Article 81T.”.

20 Article 81Y amended

In Article 81Y of the principal Law for paragraph (2)(a)(iv) there shall be substituted the following clause –

- “(iv) where B owns at least one share of the ordinary share capital in the company (‘transferring company’) under Article 82A by virtue of his or her ownership of shares in another company (‘receiving company’), the transferring company were deemed to have made a company distribution to the receiving company, within the meaning of Article 81X as if the transferring company were the ‘distributing company’ within the meaning of that Article and such deemed company distribution were of nil value at the time of the transfer to A (whether or not the receiving company is a relevant company);”.

21 Article 81YA inserted

After Article 81Y there shall be inserted the following Article –

“81YA Application of Articles 81T to 81Y following revocation of an election under Article 81R

- (1) In this Article, ‘election distribution’ means a relevant distribution made to an individual by a company during a year of assessment in respect of which an individual has made an election under Article 81R(4) specifying that company.
- (2) This Article applies where, with respect to a specified company –
- (a) an individual has revoked an election under Article 81R(4); and
- (b) the company makes the first distribution to the individual at a relevant time in or after the first year of assessment in respect of which the revocation takes effect.
- (3) For the purposes of calculating the individual’s allocated share of specified profits at the time the first distribution described in subparagraph (b) is made, Articles 81T to 81Y apply as if –
- (a) a year of assessment in which an election distribution was made to the individual by the company was a year of assessment in respect of which an election did not apply; and

- (b) for the purpose of the calculation $X - Y$ in any of those Articles, if the amount of an election distribution (or aggregate value of election distributions if more than one) made to the individual at the immediately previous relevant time was greater than the individual's allocated share of specified profits at the immediately previous relevant time, the value of $X - Y$ were nil."

22 Article 118B amended

In Article 118B(1) of the principal Law after sub-paragraph (b) there shall be inserted the following sub-paragraph –

- “(ba) dividends on preference shares of a company regarded as resident in Jersey;”.

23 Schedule A1 amended

In paragraph 3(1) of Schedule A1 to the principal Law for the words “For the purposes of this Schedule” there are substituted the words “In this Law”.

24 Years of assessment for which this Part has effect

- (1) Article 19(e) has effect for year of assessment 2013 and ensuing years.
- (2) The remainder of this Part has effect for year of assessment 2014 and ensuing years.

PART 4

MISCELLANEOUS

25 Article 41B amended

In Article 41B of the principal Law –

- (a) in paragraph (12) before the words “Where an employee proves,” there shall be inserted the words “Subject to paragraph (12A),”;
- (b) after paragraph (12) there shall be inserted the following paragraph –
 - “(12A) Paragraph (12) does not apply where the employer is a company limited by shares and the employee directly or indirectly, at the time the deduction is made from the employee's earnings –
 - (a) owns 20% or more of the shares in the company; and
 - (b) is entitled to 20% or more of the income, profits or gains of the company chargeable to tax under this Law in the year of assessment in which the deduction is made.”.

26 Article 70A amended

In Article 70A of the principal Law, for paragraphs (1A) and (2) there shall be substituted the following paragraphs –

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

- (a) in relation to the year 2002 and ensuing years up to and including 2011, 52%;
- (b) in relation to the year 2012 and ensuing years –
 - (i) for Class 2 contributions calculated with reference to the difference between the standard monthly earnings limit and the upper monthly earnings limit, 100%;
 - (ii) for Class 2 contributions not falling within clause (i), 52%.

(2) In this Article –

- (a) ‘Class 2 contributions’;
- (b) ‘Class 2 insured person’;
- (c) ‘standard monthly earnings limit’; and
- (d) ‘upper monthly earnings limit’,

have the same meaning as in the Social Security (Jersey) Law 1974².”.

27 Article 87B amended

In Article 87B(1)(h) of the principal Law the words “and has been so resident for not less than 3 years preceding the making of the gift” shall be deleted.

28 Article 90AE amended

In Article 90AE of the principal Law after paragraph (2) there shall be inserted the following paragraph –

“(2A) Where the Comptroller determines that, having regard to all relevant circumstances, including any guarantee or security given, either or both of the following circumstances exist –

- (a) the amount of a loan to which Article 90AB applies exceeds the amount which a lender could reasonably be expected to lend to the person by whom the interest is payable on a commercial basis;
- (b) the amount of interest which is payable by a person on a loan to which any of Articles 90AB to 90AD applies exceeds the amount which a lender could reasonably be expected to charge such a person on a commercial basis,

the Comptroller shall determine the amount of interest to be eligible for relief, the amount being such as is just and reasonable having regard to all the relevant circumstances.”.

29 Article 92A amended

In Article 92A of the principal Law –

- (a) before paragraph (1) there shall be inserted the following paragraph –
- “(A1) In this Article, ‘relevant age’ means –
- (a) except where sub-paragraph (b) applies, for the purposes of year of assessment 2014 and ensuing years, the age of 65 years;
 - (b) in the case of a person aged 63 at the commencement of year of assessment 2013, for the purposes of year of assessment 2014 only, the age of 64 years.”;
- (b) in paragraphs (2)(i), (2A)(i) and (6)(a) for the words “of the age of 63 years or more” there shall be substituted the words “the relevant age or older”;
- (c) for paragraph (8) there shall be substituted the following paragraphs –
- “(8) Where any individual is entitled, for the year of assessment, to any deduction of any amount under Article 95, the threshold applicable in the individual’s case shall be increased by –
- (a) an amount equal to the aggregate of the deductions to which the individual is entitled under that Article; and
 - (b) an additional amount, if the individual is entitled to a deduction of any amount under Article 95(1)(b) (having regard to Article 95(3)), including if the individual is entitled to a deduction under Article 95(1)(b) by virtue of Article 95(2).
- (8A) Paragraph (8)(b) applies only if the threshold applicable in the individual’s case, including the additional amount –
- (a) entitles the individual to exemption from income tax under paragraph (1); or
 - (b) entitles the individual to a reduction of the amount of income tax payable under Article 92C.
- (8B) The additional amount referred to in paragraphs (8)(b) and (8A) is –
- (a) £3,000 for a year of assessment for each child in respect of whom 1 individual only is entitled to an additional amount;
 - (b) such apportionment of £3,000 for each child in respect of whom 2 or more individuals who are entitled to an additional amount for a year of assessment in respect of the same child may agree, or in default of agreement, in proportion to the amount of value of the provision made by them respectively (otherwise than by way of payments deductible in computing their respective total incomes) for the child’s maintenance and education for the year of assessment.
- (8C) An apportionment may be made under paragraph (8B)(b) notwithstanding that an additional amount in respect of the child in

question has already been determined for the individual and, if it appears as a result of the apportionment that the individual has been allowed too great an additional amount, the amount of the excess may, if not otherwise made good, be assessed under Case VI of Schedule D and the tax payable under that Case recovered from the individual accordingly.”.

30 Article 95 amended

In Article 95(3A) of the principal Law for the words “after completion during that year of assessment of a course of full-time higher education” there shall be substituted the words “income of the child”.

31 Article 123CAA amended

For Article 123CAA (1) and (2) of the principal Law there shall be substituted the following paragraphs –

- “(1) Notwithstanding Article 123C(2), except in relation to a company that falls within the description in paragraph (2), the annual profits or gains of a company to which Article 123C applies which arise from either or both of the following shall be taxed at the standard rate –
 - (a) the trade of importing hydrocarbon oil to Jersey;
 - (b) the trade of supplying hydrocarbon oil in Jersey.
- (2) The description of a company referred to in paragraph (1) is one which –
 - (a) does not import hydrocarbon oil to Jersey; and
 - (b) supplies hydrocarbon oil in Jersey only to end-users.”.

32 Articles 135A and 135B substituted

For Articles 135A and 135B of the principal Law there shall be substituted the following Articles –

“135A Persons granted 1(1)(k) housing consent or Entitled status under Regulation 2(1)(e)

- (1) This Article applies to any person who has, pursuant to a 1(1)(k) housing consent, acquired land or property conferring a right to occupy land (such consent not having been revoked) or has been granted Regulation 2(1)(e) status.
- (2) This Article shall cease to apply to the person upon the loss of Regulation 2(1)(e) status.
- (3) If –
 - (a) a person –

- (i) pursuant to a 1(1)(k) housing consent granted following an application for such consent made on or after 22nd July 2011, has acquired land or property conferring a right to occupy land or has been granted Regulation 2(1)(e) status (other than being deemed to be granted such status under the Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013³), and
 - (ii) the person has not previously been granted a 1(1)(k) housing consent; or
- (b) a person who acquired land or property conferring a right to occupy land pursuant to a 1(1)(k) housing consent granted following an application for such consent made before 22nd July 2011, has applied to the Minister for this paragraph to apply to him or her and the Minister has granted the application in accordance with paragraph (6),

notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for a year of assessment, so much of the income of the person as is chargeable to tax under Schedule D exceeds the limit prescribed for the purposes of this paragraph for that year, the amount of the excess of that income chargeable to tax under Schedule D shall be charged to tax at the rate prescribed for the purposes of this paragraph.
- (4) In calculating, for the purposes of paragraph (3), the amount of a person's income chargeable to tax under Schedule D there shall be disregarded any dividend declared out of profits or gains charged to tax at the standard rate on any body of persons.
- (5) Except in the case of a person to whom paragraph (3) applies following an application granted under paragraph (6), in the case of a person who was granted housing consent on or after 1st January 2005 pursuant to an application for 1(1)(k) housing consent made before 22nd July 2011, notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, where, for that year of assessment, so much of the person's total income as is not Jersey income exceeds the limit prescribed for the purposes of this paragraph for that year, the amount of the excess shall be chargeable to tax at the rate prescribed for the purposes of this paragraph.
- (6) On receiving an application referred to in paragraph (3)(b), in such form as the Minister may determine, the Minister may grant the application if the Minister, after consultation with the Chief Minister, considers that the application of paragraph (3) to the person is justified –
 - (a) on social or economic grounds or both; and
 - (b) as being in the best interests of the community.
- (7) In granting an application under paragraph (6) the Minister may determine that the application of paragraph (3) to the person is subject to the person complying with such conditions as the Minister may determine.

- (8) Any conditions determined by the Minister under paragraph (7) may be amended subsequently by the Minister with the agreement of the person.
- (9) The Minister shall not grant an application under paragraph (6) if –
- (a) the application is made after 31st October in the first year of assessment in respect of which paragraph (3) is requested by the applicant to apply to him or her; or
 - (b) the Minister has previously granted an application by the applicant.
- (10) Subject to paragraph (11), if the Minister grants a person an application under paragraph (6), paragraph (3) shall apply to that person for the year of assessment requested by the applicant and ensuing years.
- (11) If a person breaches any conditions determined by the Minister under paragraph (7), paragraph (3) shall no longer apply to the person subject to any transitional arrangements that the Minister may determine.
- (12) The States may, by Regulations, for the purposes of each of paragraphs (3) and (5), specify a prescribed limit and either a single prescribed rate or different prescribed rates to apply to different portions of so much of a person's income as is chargeable to tax in accordance with the paragraph.
- (13) In this Article –
- 'dividend' includes a distribution made by a company;
 - '1(1)(k) housing consent' means consent under the Housing (Jersey) Law 1949⁴ for the sale, transfer or lease of any land in the case described in Regulation 1(1)(k) of the Housing (General Provisions) (Jersey) Regulations 1970⁵;
 - 'Jersey income' means –
 - (a) all annual profits or gains arising or accruing from –
 - (i) any rents or receipts described in Article 51,
 - (ii) any kind of property whatever, situated in Jersey,
 - (iii) any trade exercised in Jersey, whether or not through a fixed place of business in Jersey,
 - (iv) any profession, employment, vocation or office exercised within Jersey, or
 - (v) any pension arising in Jersey;
 - (b) all interest of money and annuities arising in Jersey; and
 - (c) all sums paid to an individual or an individual's personal representative pursuant to Article 131D or 131E,and includes any payment to be charged to tax by virtue of Article 86(2)(e);

‘Regulation 2(1)(e) status’ means the grant of Entitled status under Regulation 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013⁶.

135B Exchange of information for the purposes of Article 135A

- (1) Notwithstanding anything in this Law or any other enactment –
 - (a) the Comptroller or Minister of Treasury and Resources may disclose information to the Chief Minister, including an officer of the States for which the Chief Minister is responsible, for any purpose connected with the grant and loss of Regulation 2(1)(e) status;
 - (b) an officer in an administration of the States for which the Chief Minister is assigned responsibility may disclose information to the Comptroller or Minister of Treasury and Resources for the purposes of the exercise of any functions under Article 135A.
- (2) A person to whom information is disclosed pursuant to paragraph (1) shall use it only for the purposes for which it is disclosed.
- (3) In this Article –

‘officer’ has the same meaning as in Article 26 of the States of Jersey Law 2005;

‘Regulation 2(1)(e) status’ has the same meaning as in Article 135A.”.

33 Years of assessment for which this Part has effect

- (1) Article 26 has effect for year of assessment 2012 and ensuing years.
- (2) The rest of this Part has effect for year of assessment 2014 and ensuing years.

PART 5

CLOSING

34 Citation

This Law may be cited as the Income Tax (Amendment No. 43) (Jersey) Law 201-.

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- ¹ *chapter 24.750*
 - ² *chapter 26.900*
 - ³ *R&O.30/2013*
 - ⁴ *chapter 18.315*
 - ⁵ *chapter 18.315.50*
 - ⁶ *R&O.29/2013*