

# STATES OF JERSEY

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## **DRAFT INCOME TAX (AMENDMENT No. 30) (JERSEY) LAW 200-**

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**Lodged au Greffe on 23rd October 2007  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 30) (JERSEY) LAW 200-**

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

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

In the view of the Minister for Treasury and Resources the provisions of the Draft Income Tax (Amendment No. 30) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## **REPORT**

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This draft Law gives effect to proposals described in the Budget Statement 2007.

### **Financial and manpower implications**

The financial and manpower implications are described in Section 10 of the Budget Statement 2008.

### **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 18th October 2007 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. 30) (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

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### **Part 1 – Interpretation**

*Article 1* defines the Income Tax (Jersey) Law 1961 as the principal Law.

### **Part 2 – Retirement annuity trust schemes**

*Article 2* amends Article 115 of the principal Law so as to exempt from income tax income derived from investments or deposits of a retirement annuity trust scheme as defined in Article 131CA.

*Article 3* amends Article 131 of the principal Law so as to enable the Comptroller to approve a superannuation fund or pension scheme notwithstanding that the rules of that fund or scheme provide for a transfer sum to be paid to a retirement annuity trust scheme as defined in Article 131CA.

*Article 4* amends Article 131B of the principal Law so as to enable an individual with accrued rights under an annuity contract to request a transfer sum representing those rights to be paid to a retirement annuity trust fund scheme as defined in Article 131CA.

*Article 5* inserts a new Article 131CA into the principal Law.

#### **Article 131CA Retirement annuity trust schemes**

This Article enables the Comptroller to approve trust schemes as “retirement annuity trust schemes”. Such schemes are for those in receipt of Schedule D income from carrying on a trade, profession or vocation or income from an office or employment apart from employment subject to an approved employer’s pension scheme. Such trust schemes provide an alternative pension vehicle to annuity contracts. For approval, trust schemes must offer broadly similar, though not identical, benefits to those provided under annuity contracts and are subject to similar restrictions. Differences between benefits under annuity contracts and trust schemes include the size of lump sum which may be commuted and the range of dependents who may benefit.

*Article 6* amends Article 131G of the principal Law so as to enable the Comptroller to withdraw approval of a retirement annuity trust scheme.

*Article 7* provides for Part 2 to have effect for the year of assessment 2008 and ensuing years.

### **Part 3 – Income Tax Exemption Increases**

*Article 8* amends Article 92A of the principal Law so as to increase the exemption thresholds for income tax by approximately 3%.

### **Part 4 – Child Allowance Increases**

*Article 9* amends Article 95 of the principal Law so as to increase child allowances by approximately 20%.

*Article 10* provides for Part 4 to have effect for the year of assessment 2008 and ensuing years.

### **Part 5 – Miscellaneous and Closing**

*Article 11* amends Article 10 of the principal Law so as to increase the number of Commissioners of Appeal from 8 to 12.

*Article 12* provides for the citation of the Law.





Jersey

# DRAFT INCOME TAX (AMENDMENT No. 30) (JERSEY) LAW 200-

## Arrangement

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### Article

#### **PART 1**

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##### INTERPRETATION

1        Interpretation

#### **PART 2**

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##### RETIREMENT ANNUITY TRUST SCHEMES

2        Article 115 amended

3        Article 131 amended

4        Article 131B amended

5        Article 131CA inserted

6        Article 131G amended

7        Years of assessment for which Part 2 has effect

#### **PART 3**

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##### INCOME TAX EXEMPTION INCREASES

8        Article 92A amended

#### **PART 4**

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##### CHLD ALLOWANCE INCREASES

9        Article 95 amended

10       Years of assessment for which Part 4 has effect

#### **PART 5**

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##### MISCELLANEOUS AND CLOSING

11       Amendment of Article 10

12       Citation







Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 30) (JERSEY) LAW 200-**

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

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*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 –

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### **PART 1**

#### INTERPRETATION

##### **1 Interpretation**

In this Law, “principal Law” means the Income Tax (Jersey) Law 1961<sup>[1]</sup>.

### **PART 2**

#### RETIREMENT ANNUITY TRUST SCHEMES

##### **2 Article 115 amended**

In Article 115 of the principal Law there shall be inserted after sub-paragraph (faa) the following sub-paragraph –

“(fab) any income derived from investments or deposits of a retirement annuity trust scheme as defined in Article 131CA;”.

##### **3 Article 131 amended**

In Article 131(3)(iv) of the principal Law there shall be inserted after the words “as defined in Article 131B” the words “, or to a retirement annuity trust scheme as defined in Article 131CA”.

##### **4 Article 131B amended**

In Article 131B(4)(h) of the principal Law –

(a) in clause (ii) the word “or” shall be deleted;

- (b) in clause (iii) there shall be substituted for the full-stop the words “, or”;
- (c) after clause (iii) there shall be added the following clause –
  - “(iv) a retirement annuity trust scheme as defined in Article 131CA”.

## 5 Article 131CA inserted

After Article 131C of the principal Law there shall be inserted the following Article –

### “131CA Retirement annuity trust schemes

- (1) In this Article, unless the context otherwise requires –
  - (a) ‘annuity equivalent’ means a regular payment made to a primary beneficiary or to a secondary beneficiary under a retirement annuity trust scheme;
  - (b) ‘pensionable office or employment’ means an office or employment if, and only if, service in it is service which is taken into account for the purposes of providing for an individual, through a superannuation fund or pension scheme approved under the provisions of Article 131, benefits payable on or after the individual’s retirement which are the maximum benefits which may be provided under the provisions of that Article;
  - (c) ‘primary beneficiary’ means the individual who pays or has paid contributions into a retirement annuity trust scheme;
  - (d) ‘relevant earnings’ in relation to any individual means any income of the individual’s assessed to tax, being –
    - (i) income arising in respect of emoluments from an office or employment held by the individual other than a pensionable office or employment, or
    - (ii) income which is charged under Schedule D and is immediately derived by the individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein;
  - (e) ‘retirement annuity trust scheme’ means a trust scheme approved by the Comptroller in accordance with paragraph (3);
  - (f) ‘secondary beneficiary’ means the surviving spouse of a primary beneficiary;
  - (g) ‘trustees’ include a single corporate trustee.
- (2) Except in the circumstances described in paragraph (12), any contribution paid by an individual into a retirement annuity trust scheme shall be deducted from the individual’s relevant earnings assessed to tax for the year of assessment in which the contribution is paid.
- (3) The Comptroller may approve a trust scheme if it is shown to the Comptroller’s satisfaction that –
  - (a) contributions are paid into the scheme by an individual who is in receipt of relevant earnings subject to income tax under the provisions of this Law;
  - (b) the scheme is established under irrevocable trusts under Jersey law and administered in Jersey;
  - (c) the sole purpose of the scheme is to make provision for benefits in accordance with the provisions of this Article;
  - (d) under the scheme –
    - (i) the primary beneficiary has the right to receive, by way of commutation of part of the annuity equivalent payable to that beneficiary, a lump sum not

- exceeding 25% of the amount of the remaining part of the fund in respect of which annuity equivalents are payable,
- (ii) the right described in clause (i) is dependent on the exercise by the primary beneficiary of an election at or about the time when an annuity equivalent first becomes payable to that beneficiary,
  - (iii) except where clause (i) applies, no annuity equivalent payable is capable in whole or in part of surrender, commutation or assignment,
  - (iv) payment of the first annuity equivalent to a primary beneficiary and, where applicable, to a secondary beneficiary, is made according to a calculation approved by the Comptroller and thereafter according to a calculation made every 3 years approved by the Comptroller;
- (e) the trust has 2 or more trustees or a corporate trustee;
  - (f) those trustees are subject to regulation by the Jersey Financial Services Commission under an enactment in respect of the carrying on of the business of trustee of that trust;
  - (g) subject to the provisions of paragraph (4), the scheme does not provide—
    - (i) for the payment during the life of the primary beneficiary of any benefits except sums payable by way of annuity equivalent to that beneficiary,
    - (ii) for the annuity equivalent payable to the primary beneficiary to commence before that beneficiary attains the age of 50 years or after that beneficiary attains the age of 75 years,
    - (iii) for the payment of any other benefits except —
      - (A) sums payable by way of annuity equivalent or payment of a lump sum to the secondary beneficiary, as the secondary beneficiary may elect,
      - (B) if no sum is payable under sub-clause (A), a lump sum payable to the primary beneficiary's estate,
    - (iv) for payment of the lump sum (if any) described in clause (iii) to take place before tax is paid to the Comptroller in accordance with paragraphs (9) and (10) where such lump sum becomes payable after commencement of an annuity equivalent to the primary beneficiary,
    - (v) for the annuity equivalent, if any, payable to the secondary beneficiary to be of a greater annual amount than that paid or payable to the primary beneficiary,
    - (vi) for the payment of any contribution, together with any other contribution payable by the primary beneficiary under another scheme approved under this Article to exceed —
      - (A) in a case where at the beginning of the year of assessment the individual has not attained the age of 40 years, the annual sum of £15,000;
      - (B) in a case where at the beginning of the year of assessment the individual has attained the age of 40 years but has not attained the age of 50 years, the annual sum of £25,000, and
      - (C) in any other case, the annual sum of £35,000.
- (4) The Comptroller may, if the Comptroller thinks fit, and subject to any conditions the Comptroller thinks proper to impose, approve a trust scheme which otherwise satisfies the conditions in paragraph (3) notwithstanding that the scheme provides for one or more of the following matters —
- (a) the payment to the primary beneficiary of an annuity equivalent commencing before the primary beneficiary attains the age of 50 years, if the annuity

- equivalent is payable on that beneficiary's becoming incapable through infirmity of body or mind of carrying on his or her own occupation or any occupation of a similar nature for which he or she is trained or fitted;
- (b) if the primary beneficiary's occupation is one in which persons customarily retire before attaining the age of 50 years, for the annuity equivalent to commence before he or she attains that age;
  - (c) for the primary beneficiary or secondary beneficiary having accrued rights under the scheme to require a sum representing those accrued rights to be paid by the trustees of the scheme to another retirement annuity trust scheme, as the primary or secondary beneficiary (as the case requires) may specify;
  - (d) the primary beneficiary having accrued rights under the scheme to require or request a sum representing those accrued rights to be paid to –
    - (i) the annuity fund of an annuity contract as defined in Article 131B, or
    - (ii) a fund or scheme approved by the Comptroller in accordance with the provisions of Article 131(3).
- (5) Any person who is aggrieved by a condition imposed by the Comptroller on, or by the refusal by the Comptroller of the Comptroller's approval of, a trust scheme under this Article shall be entitled to appeal to the Commissioners on giving the Comptroller notice in writing, stating the grounds of appeal, within 21 days of the date of the Comptroller's decision.
- (6) The provisions of Part 6 shall apply in the case of an appeal under paragraph (5) as they apply in the case of an appeal from an assessment made by the Comptroller, with such adaptations as may be necessary.
- (7) For the purposes of this Article a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.
- (8) An annuity equivalent payable under a retirement annuity trust scheme to a primary beneficiary or secondary beneficiary shall, for the purposes of this Law, be treated as earned income arising in Jersey.
- (9) Where a lump sum become payable to a secondary beneficiary, or to the primary beneficiary's estate after commencement of an annuity equivalent to the primary beneficiary, income tax in respect of that lump sum shall be charged on the trustees of the scheme.
- (10) The amount of tax described in paragraph (9) –
  - (a) shall be charged on the amount of the lump sum before deduction of tax;
  - (b) shall, where paid to the surviving spouse, be at half the standard rate in force for the year in which the payment is made;
  - (c) shall, where paid to the primary beneficiary's estate, be at the standard rate in force for the year in which the payment is made;
  - (d) shall not be treated as income for any other purpose of this Law.
- (11) The trustees shall notify the Comptroller within one month of the first payment of an annuity equivalent or payment of a lump sum of –
  - (a) the name and address of the recipient of the payment (including where payment is received on behalf of the primary beneficiary's estate);
  - (b) the amount of such payment.
- (12) The circumstances referred to in paragraph (2) are as follows –
  - (a) no deduction shall be made in respect of any contributions to the extent that in the aggregate they exceed –

- (i) in a case where at the beginning of the year of assessment the individual has not attained the age of 40 years, an amount equal to 15% of the individual's relevant earnings, as reduced by losses or capital allowances applicable to them;
    - (ii) in a case where at the beginning of the year of assessment the individual has attained the age of 40 years but has not attained the age of 50 years, an amount equal to 25% of the individual's relevant earnings, as reduced by losses or capital allowances applicable to them; or
    - (iii) in any other case, an amount equal to 35% of the individual's relevant earnings, as reduced by losses or capital allowances applicable to them;
  - (b) if an individual has contributed to a superannuation fund or pension scheme approved under Article 131 during the year of assessment and the aggregate of the individual's contributions to that fund or scheme and any contributions to which this Article applies exceed the amount specified in sub-paragraph (a) (i) (ii) or (iii) (as the case may be), the deduction shall be reduced by the amount of that excess.
- (13) The Minister may make Orders generally for the purpose of carrying into effect the provisions of this Article.”.

## **6 Article 131G amended**

- (1) In Article 131G(1) of the principal Law after sub-paragraph (c) there shall be inserted the following sub-paragraph –
  - “(ca) a retirement annuity trust scheme approved under Article 131CA;”.
- (2) In Article 131G(11) of the principal Law after sub-paragraph (c) there shall be inserted the following sub-paragraph –
  - “(ca) in the case of a retirement annuity trust scheme approved under Article 131CA, the trustees and any person connected with any of them;”.

## **7 Years of assessment for which Part 2 has effect**

This Part has effect for the year of assessment 2008 and ensuing years.

# **PART 3**

## **INCOME TAX EXEMPTION INCREASES**

## **8 Article 92A amended**

- (1) For Article 92A(2)(ii) of the principal Law there shall be substituted the following clause –
  - “(ii) for the year of assessment 2008, £18, 670;”.
- (2) For Article 92A(2)(iii) of the principal Law there shall be substituted the following clause –
  - “(iii) for the year of assessment 2009 and ensuing years, £19,230.”.
- (3) For Article 92A(3)(b) of the principal Law there shall be substituted the following sub-paragraph –
  - “(b) for the year of assessment 2008, by £2,710;”.
- (4) For Article 92A(3)(c) of the principal Law there shall be substituted the following sub-paragraph –
  - “(c) for the year of assessment 2009 and ensuing years, by £2,790.”.

- (5) For Article 92A(6)(b) of the principal Law there shall be substituted the following sub-paragraph –  
“(b) for the year of assessment 2008, £11,640;”.
- (6) For Article 92A(6)(c) of the principal Law there shall be substituted the following sub-paragraph –  
“(c) for the year of assessment 2009 and ensuing years, £11,990.”.
- (7) For Article 92A(7)(b) of the principal Law there shall be substituted the following sub-paragraph –  
“(b) for the year of assessment 2008, by £1,360;”.
- (8) For Article 92A(7)(c) of the principal Law there shall be substituted the following sub-paragraph –  
“(c) for the year of assessment 2009 and ensuing years, by £1,400.”.

## **PART 4**

### CHLD ALLOWANCE INCREASES

#### **9 Article 95 amended**

- (1) In Article 95(1)(a) of the principal Law for the amount “£2,500” there shall be substituted the amount “£3,000”.
- (2) In Article 95(1)(b) of the principal Law for the amount “£5,000” there shall be substituted the amount “£6,000”.

#### **10 Years of assessment for which Part 4 has effect**

This Part has effect for the year of assessment 2008 and ensuing years.

## **PART 5**

### MISCELLANEOUS AND CLOSING

#### **11 Amendment of Article 10**

In Article 10(1) of the principal Law for the number “8” there shall be substituted the number “12”.

#### **12 Citation**

This Law may be cited as the Income Tax (Amendment No. 30) (Jersey) Law 200.

