

STATES OF JERSEY



Jersey

DRAFT FINANCE (2021 BUDGET) (JERSEY) LAW 202- (P.147/2020): AMENDMENT

Lodged au Greffe on 7th December 2020
by the Minister for Treasury and Resources

STATES GREFFE

DRAFT FINANCE (2021 BUDGET) (JERSEY) LAW 202- (P.147/2020):
AMENDMENT

PAGE 21, INSERT NEW ARTICLE 18 –

After Article 17 insert –

“18 Schedule 5 amended

- (1) In Schedule 5, paragraph 22, for the definition “new taxpayer” there is substituted –
“ “new taxpayer” –
 - (a) means a person –
 - (i) to whom Article 41H (as in force before amended by Income Tax (Amendment No. 46) (Jersey) Law 202-) applied for the year beginning 1st January 2019, or
 - (ii) who chose to be treated as if Article 41H applied to the person for the year beginning 1st January 2019; but
 - (b) does not include a person if 25% or less of the person’s total income for the 2019 year of assessment consists of earnings.”.
- (2) In Schedule 5, paragraph 23(1)(a), for “Articles 39, 41A and 41AA” there is substituted “Articles 39 and 41A”.
- (3) In Schedule 5, after paragraph 23(1) there is inserted –
“(1A) This paragraph does not apply to –
 - (a) a company; or
 - (b) a scheme manager of an approved Jersey scheme, an approved drawdown contract or an approved trust (as defined in Article 130) in respect of tax charged under Part 19.”.
- (4) In Schedule 5, paragraph 24, for sub-paragraph (1)(b) there is substituted –
“(b) the payment was not received as a payment by –
 - (i) a new taxpayer,
 - (ii) a company, or
 - (iii) a scheme manager of an approved Jersey scheme, an approved drawdown contract or an approved trust (as defined in Article 130) for tax charged under Part 19; and”.
- (5) In Schedule 5, paragraph 25(3), for the definition “D” there is substituted –
“D is the amount of income tax already paid for 2020 (not including an amount deducted during the year under Article 41B or 41E or an amount paid during the year as an instalment under Article 41A).”.

- (6) After Schedule 5, paragraph 25 there is inserted –

“26 Income Tax (Amendment No. 46) (Jersey) Law 202-: credits for repayment of shareholder loans

- (1) This paragraph applies if –
- (a) there is an amount attributable to a person, other than a new taxpayer, as a shareholder loan under Article 81O for the 2019 year of assessment; and
 - (b) the person is entitled to a credit under Article 81O(6) in respect of that shareholder loan for a later year of assessment; and
 - (c) the person’s 2019 liability has not been paid in full.
- (2) The Comptroller must apply the credit that the person is entitled to under Article 81O(6) towards the unpaid amount of the person’s 2019 liability.” .”,

and renumber the subsequent Articles accordingly.

MINISTER FOR TREASURY AND RESOURCES

REPORT

Introduction

The States Assembly adopted [P.118/2020](#) on 4th November 2020, following which all taxpayers will be moved from a prior year basis (PYB) of payment to a current year basis (CYB) from the year of assessment 2020. The Minister for Treasury and Resources flagged, in her opening speech, her intention to bring an Amendment to the Draft Finance Law to clarify an issue of scope identified by the tax-agent community relating to “new taxpayers” who “pay on account” (that is to say mostly self-employed people who registered from 2006). The tax-agent community has, since then, identified and sought further clarification on three other issues which are addressed in this Amendment.

The purpose of this amendment is to address those 4 issues.

1. Current year basis (CYB) taxpayers who ‘pay on account’

There are around 500 taxpayers who, under the law, are “new taxpayers” which effectively classifies them as CYB taxpayers even though they do indeed pay in arrears and so are, for all practical purposes, PYB taxpayers.

As the Minister acknowledged in her opening speech on P.118/2020, it has been identified that this group of taxpayers would not – as the law is currently worded – benefit from the suspension of their 2019 liability: they would have their future payments accelerated and so would not benefit from the fiscal stimulus aspects of the proposal, as Ministers and the States Assembly intended.

The Comptroller of Revenue has provided a temporary administrative easement to allow these 500 taxpayers not to make their November 2020 payment. This amendment ratifies that easement and confirms in law the suspension of the 2019 PYB liability.

2. Clarifying the scope of the measure – natural persons

The legislation as currently worded could be interpreted to apply to taxpayers who are not “natural persons” – principally companies. The amendment clarifies that the scope of the measure is limited to natural persons and certain entities such as trusts and estates of deceased persons.

3. Payments on account due by 31 May 2021

P.118/2020 created a transitional arrangement for payment-on-account taxpayers to make a payment by 31 May 2021. The amendment modifies the calculation of that payment to take into account any earlier payment that taxpayers may have made before 31 May 2020. (The amount due can be appealed in the normal way.)

4. Shareholder loans

When a shareholder loan is taken out, the taxpayer must pay tax on the amount borrowed. This is then credited when the loan is repaid.

Special provisions are therefore created for shareholder loans taken out in the year of assessment 2019, so that the credit for repaying the loan is allocated to the 2019 income tax liability (rather than being repaid to the taxpayer). If this amendment was not made, it would result in a small number of taxpayers being given a tax credit for repaying loans on which the associated liability would not be paid for up to 25 years.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of this Amendment.