

# STATES OF JERSEY

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## **DRAFT INCOME TAX (AMENDMENT No. 28) (JERSEY) LAW 200-**

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**Lodged au Greffe on 19th December 2006  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 28) (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. 28) (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 broadly outlined in R.80 presented to the States on 10th October 2006 (Annex A). This draft law gives effect to the States Assembly decision to introduce a 0 / 10 corporate system of taxation, as well as subsidiary and related matters to do with a current year basis of assessment for trades, professions and vocations, the taxation of the trade of property development being relocated to Schedule A, the taxation of non – residents in relation to Jersey property income and the exemption of certain sources of income arising to non – residents.

A draft law giving effect to the Jersey resident shareholder taxation provisions connected to 0 / 10 will be brought before the States Assembly in mid-2007 for approval, as these particular provisions are complex and more time is needed to get them completely correct.

### **Financial and Manpower Implications**

In the view of the Treasury and Resources Minister there are no financial and manpower implications of the Draft Income Tax (Amendment No. 28) (Jersey) Law 200.

### **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 December 2006 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. 28) (Jersey) Law 200- are compatible with the Convention Rights.

# STATES OF JERSEY



## ZERO/TEN TAX DESIGN PROPOSALS

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Presented to the States on 10th October 2006  
by the Minister for Treasury and Resources

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STATES GREFFE

# REPORT

## The Zero/Ten Tax Design Proposals

### 1. Introduction

- 1.1 On 7th July 2004 (P.106/2004) the States agreed to move to a new corporate system of taxation, the so called '0/10' system. Since then, substantial and comprehensive research has been undertaken, culminating in the publication of a set of 0/10 tax proposals on 5th May 2006. Following extensive consultation with the business community and stakeholder groups, these proposals have been revised accordingly to take account of, as broadly as possible, the views expressed in the consultation period.<sup>[1]</sup> The proposals also acknowledge the contributions from the Corporate Affairs Scrutiny Panel contained in their report S.R.4/2006.
- 1.2 The purpose of this Report is to outline the details of the proposed revised 0/10 tax system, with the necessary legislation being presented to the States shortly, for debate early next year.

### 2. Background

- 2.1 The States debated and approved the reform of the Island's tax structure in 2004 (Fiscal Strategy: P.106/2004) and emphatically agreed by 38 votes to 4 to move to a 0/10% tax structure. The Report accompanying that Proposition gave full and detailed information on the importance of the financial services industry, and the necessity of changing the Island's tax system to meet growing international competition and EU rules on harmful tax practices. It is not, therefore, considered necessary to repeat that information in this Report.
- 2.2 It is extremely important to stress, in meeting the challenges facing us, that business in the Island will not welcome any drawn out period of uncertainty regarding the Island's recognition of these challenges and the willingness to address them without undue delay. Customer business can be lost unless certainty of applicable tax treatment can be provided on any given structure for the whole of its intended lifespan – sometimes up to 20 years. Apart from this, large multinational financial services providers, who are represented in Jersey and in many of the Island's competitor jurisdictions, have many options for switching business, capital and jobs at a rapid rate away from Jersey to such competitor jurisdictions with relative ease. It should also be borne in mind that once such economic activity is lost by Jersey to competitor jurisdictions then it is unlikely to return in the future without a very compelling reason to do so.
- 2.3 That is why extensive and detailed consultation has been undertaken with all interested parties and the public for the last few months and why these revised proposals, outlined below, are being brought forward at this time.

### 3. Revised proposals

#### 3.1 Standard rate of corporate tax of 0%

- 3.1.1 A standard rate of corporate tax of 0% is being proposed, together with a special rate of corporate tax of 10% for specified financial services companies.
- 3.1.2 The 0% rate vehicle will ensure that the providers of international financial services have the legal vehicle to deliver the type of financial services their customers require. Such vehicles are commonplace internationally and are currently available in Jersey through the Exempt Company structure.
- 3.1.3 The 0% rate will be the general and standard rate of tax applied to all companies, whether the company is owned by Jersey residents or by individuals resident abroad. This is to remove the discrimination that currently exists in the tax treatment of resident and non-resident owned (Exempt) companies.

3.1.4 A consequential amendment of introducing a 0% rate of corporate tax is the abolition of the current Article 123A., i.e., the provisions relating to the Exempt Company structure. However, it is proposed that one particular provision within that Article is retained, that being the definition of an established place of business, renamed as 'permanent establishment', so as to ensure that such a definition remains within the Income Tax Law. The permanent establishment of a non-resident corporate will be charged, as appropriate, at either the standard 0% rate or the 10% rate if that corporate is a specified financial services company.

### **3.2 Special rate of corporate tax of 10%**

3.2.1 A certain and very restricted sector of the Jersey resident corporate sector will be charged at a special corporate tax rate of 10%. They will be specified financial services companies such as banks and trust companies which will be defined as any company licensed, registered or authorised under specified sections of the Financial Services (Jersey) Law 1998, the Collective Investments Fund (Jersey) Law 1988 or the Banking Business (Jersey) Law 1991. The 10% rate will ensure that the financial services industry continues to pay substantial amounts of tax revenues. This is considered acceptable in meeting the criteria of the EU Code of Conduct on Business Taxation, as it is a feature of the way that the EU interprets its approach on harmful tax practices that assessing one – limited – sector at a higher rate of corporate tax (10%) than the general rate (0%) is acceptable.

3.2.2 It will also be possible to elect for group relief under new statutory rules, so that any trading loss of a specified financial services company can be offset, with certain restrictions, against the profits of another specified financial services company within the same group.

### **3.3 Treatment of Utilities**

3.3.1 It is proposed that utility companies will continue to be charged at the 20% standard rate of income tax. These companies are excluded from the Code criteria because their activities are non-mobile in nature. Accordingly, they are not within the policy approach of the EU Code Group as to what constitutes 'harmful business tax practices' and are not deemed to be influenced by international competitiveness on tax rates in terms of where they locate themselves. It is thereby considered possible for these companies to be charged at a rate of tax other than the 0% standard rate. They will continue to be charged to income tax at the present standard rate of 20%.

### **3.4 Schedule A**

3.4.1 The position is similar for companies in receipt of income taxed under the provisions of Schedule A (rents, lease premiums and property development profits). This income will continue to be taxed on the companies at the present standard rate of 20%.

3.4.2 Schedule A currently charges all rental income arising from land and property in Jersey. It is proposed that the provisions of that Schedule will be extended to include all property development profits and gains which are currently assessed as trading profits under Schedule D Case 1. This is to ensure that all property development companies making profits and gains out of land and property in the Island continue to pay tax at the 20% standard rate of income tax, rather than being taxed under the general 0% rate of corporate tax. If the Income Tax Law remained unaltered all such profits and gains would escape taxation if the 0% rate corporate is owned by non-residents.

3.4.3 A form of simplified non-resident landlord scheme is being proposed to ensure that non-resident landlords will have a withholding tax of 20% applied to them should they fail to meet their compliance and tax payment obligations. This will ensure that any non-compliant, non-resident landlords will suffer an appropriate tax deduction from their rental income before the rental income is remitted to them by their Jersey letting agent. There will be a *de minimis* level so as to ensure that no undue compliance burden is placed on letting agents or landlords.

### **3.5 New provisions to change the basis of assessment of profits and gains arising from trades, professions and vocations**

3.5.1 Currently an assessment on business profits is based on the accounts ending in the previous year. Thus, if a business prepares accounts to 30th June, the assessment for the Year of Assessment 2006 will be based on the accounts for the year ended 30th June 2005. There are complex special provisions when a business first commences and when it ceases which mean that on commencement some profits are assessed twice, whilst on cessation some profits fall out of charge.

3.5.2 It is proposed that the taxable profits shown in the accounts ending during a year should be used in the tax assessment for the same year. For example, accounts for the year ended 30th June 2009 would form the basis of the assessment for the Year of assessment 2009 (rather than Year of Assessment 2010, as at present). The change in the basis of assessment of business profits will apply to companies, sole traders and partnerships.

3.5.3 There are two key advantages to this proposal –

- (a) All profits will be assessed. There will be no double counting on commencement and no profits will fall out of charge on cessation;
- (b) The basis of the assessment will be simpler to understand and to explain to taxpayers.

The revenue yield is expected to be similar.

### **3.6 Actual distribution and deemed distribution for trading companies and ‘look-through’ provisions for investment companies**

3.6.1 An enhanced anti-avoidance, information powers and distribution policy regime is proposed to ensure that the Comptroller has sufficient powers to tackle any potential tax evasion as well as to ensure the maximum level of taxation revenue arising at the shareholder/dividend level.

In terms of distribution policy, it is proposed that Jersey resident shareholders of 0% rate companies have special provisions applied to them to ensure that some of the undistributed profits arising in the trading company which they beneficially own are assessed on them as personal shareholder income in their own personal notice of assessment. Accounts will need to be drawn up under International Financial Reporting Standards or under Generally Accepted Accounting Principles, and the basis of assessment will be as follows –

- In a case of a trading company which distributes at least 60% of its profits in a particular year of assessment, the shareholder or shareholders will be assessed on these actual distributions.
- Where the actual distributions by the corporate are less than 60% of the said profits in a particular year of assessment, then a deemed distribution assessment on the profits arising in the trading company will be raised on the shareholder, or shareholders, in their own name, in proportion to their ownership of the trading company, to bring the total distributions up to 60%. Any shareholder who, in extremis, cannot pay the deemed distribution charge because distributions have not been received from the trading company in which he has a beneficial share, may claim not to be assessed on the deemed distribution, the notice of assessment being raised instead on the trading company itself as agent for that particular individual shareholder.
- Only when a trading company is liquidated, or when the shares are sold, wholly or partly, will the as yet untaxed 40% of the profits generated by the trading company be brought into charge to tax on the individual shareholder(s).

3.6.2 Shareholders could avoid paying personal tax on dividends arising in a 0% rate corporate which they own



by simply taking a loan from the company rather than be taxed on a distribution or deemed distribution. To prevent this, it is proposed that all loans from a corporate to a shareholder be treated as a benefit in kind with the full capital value of the loan being assessed on the shareholder in his own personal name at the time the loan is granted. Subsequent repayments of the loan will be credited against the original assessment and the appropriate credit or repayment made.

3.6.3 In the case of an investment holding company, the Jersey resident shareholder(s) will be personally assessed to tax on 100% of the net investment income (after management expenses) which arises in the company under new 'look-through' provisions.

### **3.7 Anti-avoidance powers**

3.7.1 An enhanced anti-avoidance and information powers regime is proposed to ensure that the Comptroller has sufficient powers to tackle any tax evasion and abusive tax avoidance.

3.7.2 Article 134A will be extended to catch a series of transactions, rather than it applying to just one particular transaction as currently, and further work will be undertaken to determine the best way of tackling evasion or abuse by Jersey residents through the use of non-Jersey trusts and corporates. A new 'tick the box' regime is also being considered so that personal taxpayers have to provide, on their personal Income Tax Returns, a degree of disclosure relating to any assets which have passed out of their direct ownership, but this will be kept as simple as possible, and designed not to include minor transfers or gifts.

### **3.8 Minor proposed provisions**

3.8.1 Various minor provisions are also proposed, namely –

- a new category of exempt income for non-residents in relation to bank interest (currently not chargeable on non-residents by concession) and a number of other sources of Jersey income;
- revision to Articles 86 and 87 in respect of abolishing withholding tax on interest;
- revision to Article 88 in respect of dividends paid by companies;
- a new Schedule D Case VIII to incorporate the charge for actual and deemed distributions.

## **4. Proposals considered but not implemented**

4.1 Having listened to the feedback received during the consultation period, it has been decided not to proceed with –

- the proposals for a Regulation of Undertakings and Development Levy (RUDL);
- a limited trading partnership vehicle;
- the full deemed distribution charge provisions;
- the deferred distribution surcharge; and
- the withdrawal of Article 115(a) exemption for foreign superannuation funds and charities.

– The RUDL charge has been removed from the proposals given the sustained opposition voiced during the consultation. In summary, this articulated the complexity inherent in the proposed mechanism, the danger that it would distort or deter economic investment in the Island, the vulnerability of low-profit but high-labour component businesses to its introduction, particularly in weak sectors of the economy such as tourism and

agriculture, the detrimental cash flow impact it would have on business prior to recovery against personal tax liabilities of shareholders and a number of other perceived drawbacks. When weighed against the relatively modest revenue yield of RUDL in the forecasts of £5-7 million, it has been viewed as sensible to remove RUDL from the present proposition.

However, other mechanisms will continue to be investigated for possible longer term solutions to the underlying problem RUDL was designed to address, viz. an economically acceptable method to raise some revenue contribution from non-finance, non-Jersey owned businesses operating in the Island which under 0/10 would otherwise no longer make any such direct contribution in Jersey.

- The Limited Trading Partnership (LTP) is similarly removed from the current proposals as it was designed to operate in tandem with RUDL as part of the RUDL mechanism and its immediate need for this fiscal purpose is no longer evident. However, the desirability or otherwise of such a vehicle being available in Jersey for a wider range of purposes is still to be considered, as a separate matter, by the Minister for Economic Development.

- The Deemed Distribution methodology contained in the original Design Proposal has been modified after consultation – which expressed a range of views on its desirability and complexity, mostly adverse. The deemed distribution “in full”, i.e. forcing a total distribution of retained profits accruing to Jersey based shareholders after a 3 year deferral and annually thereafter has accordingly been modified to the partial deemed distribution model at 60% of annual qualifying profits. This is considered to meet the various objections to the original proposal whilst simultaneously allowing for internal investment in companies and ensuring a stream of dividend taxation income is still realised by the States commensurate with its spending commitments. It is worth noting that at least one competitor jurisdiction has proposed to go down a similar route.

- The Deferred Distribution Charge has been shelved on the basis of its complexity and other drawbacks outweighing the relatively small revenue yield it would generate.

- The withdrawal of Article 115(a) exemption for foreign superannuation funds and charities is again set in the context of requiring further investigation and quantification with which the States Economic Adviser has been charged. For this reason it has been taken out of the current proposal for subsequent evaluation.

- Management expenses will continue to be allowed under Article 133.

## **5. Conclusion**

5.1 There has been exhaustive and extensive consultation on these 0/10 proposals. Concerns were raised about some of the proposals originally published. The Minister has listened to these concerns and that has been reflected in these revised proposals.

5.2 These revised proposals will now form the basis of the law drafting brief which will result in a draft Law being lodged shortly with a view to a States debate in January 2007.

**States  
of Jersey**

## **JERSEY'S ZERO TEN DESIGN PROPOSALS**

A summary of the responses to the public consultation

## **Introduction**

This paper summarises the views expressed in the public consultations held between 5th May and 31st July this year concerning the implementation and operation of Jersey's zero/ten tax system. Since it is intended to provide only an overview of the comments and suggestions that have been made, and for reasons of space, it does not list in detail all of the replies received.

## **Background**

In 2004 the States agreed two major changes to Jersey's tax structure – a reduction in the general rate of tax on corporate profits, from the current 20 per cent to a rate of zero per cent for most companies but with a higher (and yet internationally competitive) rate of ten per cent for financial services providers.

These changes, known as “zero/ten” were considered to be vital to secure a sustainable economic future for Jersey since they would enable European Union demands for non-discriminatory taxes to be met, whilst combating competition from other business centres seeking to attract the highly mobile and economically important financial services industry away from the Island.

Written responses to the consultation were received from individuals, groups, representative bodies and/or companies by the closing date which was extended from the end of June to the end of July 2006.

Among the submissions received, some simply requested information. Others, however, contained very detailed and thoughtful consideration of the zero/ten proposals.

For the sake of simplicity the comments and suggestions received are summarised below.

## **The Principle of zero/ten**

It is important to note that virtually all of the submissions were fundamentally supportive of a zero/ten regime to protect the vital financial services business base so that international products can continue to benefit from a benign tax environment. It was appreciated that adopting the regime will enable the finance sector to maintain its customer base. At the same time Jersey will keep a substantial proportion of its existing taxation from the finance sector. It was generally agreed that the proposed framework is vital to the continuity of Jersey as a successful and vibrant business centre. Where there was concern this was centred on the detail of the proposals outside of the basic corporate tax structure and how the complexity of the proposals may impact on businesses ability to operate efficiently.

## **Areas of Concern**

A number of submissions articulated the complexity inherent in the proposed Regulation of Undertakings and Development Charge (RUDL) mechanism, the danger that it would distort or deter economic investment in the Island, the vulnerability of low-profit but high labour component businesses to its introduction, particularly in weak sectors of the economy such as tourism and agriculture, the detrimental cash flow impact it would have on business prior to recovery against personal tax liabilities of shareholders and a number of other perceived drawbacks.

A range of views were expressed on the desirability and complexity of the **Deemed Distribution** methodology, with most being adverse. Many contributors considered these proposals as unwieldy and unduly complex and would add to compliance costs.

## **Specific Comments**

The following specific comments, which have not been attributed to named individuals or organisations, are provided below to reflect the main responses on the many individual and complex features of the proposals:

1. Imposing a £150 charge on foreign incorporated investment companies may be inflationary and may be

discriminatory and non-Code compliant

2. Protracted discussions are likely between Comptroller and taxpayers on the split of capital/income on dividend vouchers
3. The proposed tick the box regime leaves the taxpayer with uncertainty and is unsatisfactory/disproportionate to perceived abuse
4. Statutory group relief is welcomed
5. Stock dividends being taxed is fair and reasonable
6. 'Look through' provisions are wanted for trading companies if at all possible/ if trading companies are allowed to retain 33.3% of their trading profits 'look through' could apply to the remainder
7. Companies other than trading companies, i.e., Schedule A and 'other than Schedule D Case 1 companies, should be dealt with as a separate class by giving 'distributor status' to them if non-family companies. Family companies would be like 'close companies' in the U.K. and income would be apportioned pro rata according to family shareholding – that distributed 95% of their income - with the shareholder paying tax on these distributions rather than on 'look through'
8. Unilateral relief should be placed on a statutory basis and not at Comptroller's discretion so as to give Jersey taxpayers relief in respect of all foreign taxes suffered not otherwise covered by existing Double Taxation Arrangement
9. Termination of management expenses is an excessive move and is not welcomed
10. Minority shareholder interest issues were raised, particularly the Human Rights impact
11. Limited trading partnership difficulties were envisaged with switching from corporate form and continuity of contract/majority of taxpayers to rest with entity they currently operate/new type of vehicle which will require detailed legal analysis to ensure it provides same protection to its owners as a company in all jurisdictions in which it operates/but attractive as a means to an end of achieving look through to trading profits/how is FSC registrar to recover from the States the costs involved in conversions
12. RUDL most unwelcome and unsatisfactory/needs to be amended as cash flow disadvantages/£500 per capita charge for seasonal workers would be catastrophic for business/RUDL charge based on licensed headcount will have a most disproportionate effect on those industries least able to afford increased outgoings/penalises labour intensive companies/disincentive to inward investment/also has practical difficulties such as treatment of seasonals/part-time workers/holiday for foreign owned businesses grossly inequitable/places an unfair burden and lacks equity as small shareholders liable on deemed distribution basis will not get credit
13. Current year basis of assessment for trading profits proposals awaited from Comptroller
14. Deemed distribution basis unwieldy and complex and will add to compliance costs/3 year period is arbitrary and will not suit circumstances of businesses in periods of rapid growth/cannot understand the logic of LIFO basis and FIFO basis preferred/shareholders of public companies to be exempted from the deemed/deferred distribution charge, but this overlooks fact that under the Companies Law any company can be a public company where its memorandum of association says that it is a public company/lack of social justice and lack equity particularly in the deferred charge and the deemed distribution charge by penalising small shareholders/most companies retain profits to finance capital expenditure and to finance additional working capital
15. Blanket anti-avoidance legislation in the modern age unsatisfactory so law should set out in detail what can be taxed/unfair for Comptroller to tax a capital gain several years later after investment

made/taxpayers will find it intrusive and onerous to detail their capital transactions/any new legislation should not upset the delicate balance that currently prevails/introduce targeted legislation for abuse High value residents 'drive' may be affected by management expenses termination/general anti-avoidance provisions

- 16.** Utility companies/unclear whether to be taxed on ancillary services, e.g., retail/reduce the tax rate on utilities from 20% to 10%
- 17.** Removal of exemption for U.K. superannuation companies and charities will have unintended economic consequences/reduction in capital values/ considerable effect on underlying site/land values/stagnation/seems to fly in the face of everything the States is trying to achieve to promote commercial and business activity. Specified financial services companies – not clear what the position is for general insurance mediation business/bureaux de change/ money transmitters/unclear what the tax status is of shops, medical practices, motor dealers and removal/freight companies who are registered under the Financial Services Law and who conduct general insurance mediation
- 18.** Collective investment funds – the tax position of permit holders under the Collective Investment Funds Law is unclear/uncertainty increased by Commission's proposals for the regulation of fund functionaries to be transferred to the Financial Services (Jersey) Law as per Paper No. 1/2006 issued in February, 2006
- 19.** 10% rate – neither the FSJL or the BBJL were introduced with the intention of deciding the tax treatment of the entity concerned and this will add to complexity when businesses are at the 'edge' of the laws in question
- 20.** The views of the Corporate Affairs Scrutiny Panel and various contributors to that panel, as set out in the Report S.R.4/2006.

## **Explanatory Note**

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### **Part 1 - Preliminary and transitional provision for 2007**

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

*Article 2* amends Schedule 5 to the principal Law so as to add a transitional provision, effective for the year of assessment 2007, ahead of the repeal, for the following year, of Article 67 of the principal Law (see Article 7 of this draft Law). Article 67 enables an election to be made for a new trade, profession or vocation to be taxed, in its second and third years of assessment, on an actual year basis. The transitional rule applies to a trade, profession or vocation commenced in 2006, which would, accordingly have 2007 as its second year of assessment and 2008 as its third year of assessment. 2008 is the year for which the new rules in Part 2 have effect. It won't be possible to make an election under Article 67 in respect of a trade, profession or vocation commenced in 2006. Instead, the transitional arrangement allows for an election to be made for taxation on an actual year basis, but only for the second year of assessment (2007), not the third. From 2008, the trade, profession or vocation would be taxed in accordance with Article 64A, inserted in the principal Law by Article 5 of this draft Law.

### **Part 2 - Change to basis of assessment for trades, professions and vocations from 2008**

Currently, a trade, profession or vocation is assessed to tax, for a year of assessment, on the basis of its profits or gains for the financial period ending in the year before the year of assessment (the preceding year end basis). The amendments in this Part have the effect that, from 2008, the assessment is on the basis of the profits or gains for the financial period ending in the year of assessment (the current year end basis). Different rules apply on the start-up or discontinuance of a trade, profession or vocation. Transitional arrangements are included, applicable in 2008, for a trade, profession or vocation already in existence in 2007.

*Article 3* amends Article 3 of the principal Law (general interpretation) so as to add definitions for the purposes of the rules for computation.

*Article 4* inserts Article 4A in the principal Law.

#### **Article 4A Meaning of, and provision as to, financial period and accounting date**

This Article defines "accounting date" and "financial period" for the purposes of the Law. It also provides that a financial period cannot be longer than 18 months (this rule already applies to a company incorporated in Jersey, by virtue of the Companies (Jersey) Law 1991).

*Article 5* inserts Articles 64A to 64H in the principal Law. These Articles contain the new rules for the basis of assessment of a trade, profession or vocation.

#### **Article 64A – General provision as to period of computation for trade, profession or vocation**

This Article states the general rule that a trade, profession or vocation will be assessed to tax, for a year of assessment, on its profits or gains for the financial period ending in the year of assessment.

#### **Article 64B – Change of financial period and accounting date**

This Article provides alternative bases for assessment where the accounting date for a trade, profession or vocation is altered. If the consequence is that there are 2 or more accounting dates in one year, tax is charged for that year on the aggregate of the profits or gains of every financial period ending in the year. If the accounting date is altered, but not with the effect that there is no accounting date in a year, and the Comptroller is of the opinion that the change of date was not in good faith or for the purposes of good management, the Comptroller can assess the trade, profession or vocation for the year in which the accounting date is altered, on the basis of the profits or gains for the period of 12 months preceding that date. If the accounting date is altered with the consequence that there is no accounting date in a year, the Comptroller may determine an accounting date for that year. The date determined will be the same day in the same month as the new accounting date that will fall in the following year. The trade, profession or vocation is then charged to tax on the profits or gains of the period of 12 months ending on the determined accounting date.

#### **Article 64C – Commencement of trade, profession or vocation**

This Article states the rule applicable when a trade, profession or vocation is commenced. If the first financial period for the trade, profession or vocation ends within the year of assessment in which it is started up (the first year), the trade, profession or vocation will be assessed for that year on the profits or gains of that first financial period. The more likely scenario is that the trade, profession or vocation will have a first financial period of 12 months, although it may have a financial period of up to 18 months. In that event, if the first financial period ends in the year following the year of assessment (the second year) the trade, profession or vocation is assessed to tax for the first time in the second year, on the profits or gains of the first financial period. However, if the end of the first financial period falls in the following year (the third year) the trade, profession or vocation will be taxed in the second year on the basis of an accounting date determined by the Comptroller. As in Article 64B, the date determined will be the same day in the same month as the accounting date that falls in the following year. In that case, when the trade, profession or vocation is taxed in the third year, any profits or gains already taxed in the second year are deducted before the assessment is made.

#### **Article 64D – Discontinuance of trade, profession or vocation**

This Article states the rule applicable when a trade, profession or vocation is discontinued. The assessment is made, for the year of assessment in which the discontinuance occurs, on the profits or gains for the period from the end of the last financial period to the date of discontinuance. In most cases this will be a period of less than 12 months. If a trade, profession or vocation is discontinued in the year it is started up, or in the year after that, it will be assessed to tax on the profits or gains of the single period from start up to discontinuance.

#### **Article 64E - Trade, profession or vocation transferred to or from Jersey**

This Article provides that a trade, profession or vocation that transfers to or from Jersey is taxed, for the year in which the transfer occurs, on such portion of its profits or gains for the financial period ending in that year as equates to the portion of the year for which it is carried on in Jersey.

#### **Article 64F – Apportionment of profits or gains of trade, profession or vocation**

This Article provides a method for apportioning profits or gains where a trade profession or vocation is to be assessed on a period other than its financial period. For example, where a new trade, profession or vocation is to be taxed in the second year of assessment on the basis of an accounting date determined by the Comptroller (see Article 64C) or where a trade, profession or vocation which has changed its accounting date is to be taxed on a 12 month period (see Article 64B(2)). If the method provided does not appear to the Comptroller to produce an amount of profits or gains that fairly represents the profits or gains of the trade, profession or vocation for the period in question, the Comptroller may direct that a different method of apportionment be used.

#### **Article 64G - Liability of executors or administrators for tax on the profits or gains of a trade, profession or vocation**

This Article provides that, where a person dies before the charge to tax arises on the profits or gains of a trade, profession or vocation, the tax is instead charged on, and paid out of, the person's estate.

#### **Article 64H – Deduction from profits or gains of trade or profession for premiums payable**

This Article re-enacts what is now Article 69 of the principal Law, so that provisions about the assessment of the profits or gains of a trade, profession or vocation are grouped together in the principal Law. The Article allows a premium paid for the grant or assignment of a lease of land that is occupied for the purposes of a trade or profession to be deducted from its profits or gains, if the premium has been brought into the charge to tax under Schedule A.

*Article 6* amends Article 65 of the principal Law consequentially upon the insertion of new Articles creating a separate regime for the assessment of trades, professions or vocations. As amended, Article 65 is concerned only with the basis of assessment for the emoluments of an office or employment or a pension.

*Article 7* repeals Articles 66 to 69 of the principal Law as these are replaced by the new Articles inserted by Article 5.

*Article 8* amends Article 149A of the principal Law so as to give effect to the new Schedule 6 added by Article 9.



*Article 9* adds a new Schedule 6 to the principal Law. Schedule 6 contains transitional provisions for the assessment of existing trades, professions and vocations in 2008.

### **Schedule 6 - Transitional arrangements in and related to 2008 for basis of computation for trade, profession or vocation**

Paragraph 1 states the general rule that, in 2008, a trade, profession or vocation which was assessed on a preceding year end basis in 2007 will be assessed on one half of the aggregate of its profits or gains for the financial periods ending in 2007 and 2008. Its capital allowances will be determined for the same aggregate period. In the event that the aggregate period includes a period of loss for which relief has already been given, the aggregate amount of profits or gains will be adjusted to take account of the relief. Paragraph 1 also contains an alternative means of calculating the profits or gains of the trade, profession or vocation where a change in accounting date results in an aggregate period of less than 24 months. In this case, instead of taxing the trade, profession or vocation on one half of its profits or gains for the aggregate period, the profits or gains are pro-rated so as to find an amount of profits applicable to a 12 month period.

Paragraph 2 applies to a trade, profession or vocation started up in 2006 or 2007. In 2008, the trade profession or vocation shall be assessed according to the rule in paragraph 1, except that the aggregate of its profits or gains shall be adjusted to incorporate amounts which were not brought into charge in 2006 or 2007 and to exclude amount which were brought into charge in those years.

Paragraph 3 applies to a trade, profession or vocation started up before 2008 and discontinued in that year. It provides for the trade, profession or vocation to be assessed in 2008 as if the existing rule for assessment on discontinuance had not been repealed by this draft Law.

Paragraph 4 empowers the Comptroller to make adjustments and apportionments where a transaction or series of transactions is entered into for the avoidance, reduction or deferral of liability of tax in 2008 relating to the profits or gains of a trade, profession or vocation. In addition, there is a presumption that, if the profits or gains brought into charge in 2008 by virtue of paragraph 1 are more than 10% greater or less than the profits or gains brought into charge in 2007, there is a presumption that there has been a transaction to which the Comptroller's powers of adjustment apply. However the presumption can be rebutted by showing that there has been no such transaction or that the profits or gains for the financial periods ending in 2007 and 2008 have been computed in accordance with ordinary commercial principles.

Paragraph 5 applies Article 64G (inserted by Article 5 of this draft Law) to the transitional arrangements for taxation of a trade, profession or vocation in 2008.

*Article 10* provides for Part 2 to have effect for the year of assessment 2008 and ensuing years.

### **Part 3 - Corporate taxation from 2008**

This Part introduces the new provisions for certain companies to be taxed, under Schedule D, at a rate of either 0% or 10%. But, for the year of assessment 2008, the new provisions apply only to companies which are first regarded as resident in Jersey or first have a permanent establishment in Jersey, on or after 3rd June 2008.

*Article 11* adds 2 definitions to the principal Law. The first defined term, "financial services company", is relevant to the new rule regarding taxation at 10%. The second defined term, "permanent establishment", is relevant to the new rules regarding taxation at either 0% or 10% and based upon the definition "established place of business" that currently appears in Article 123A of the principal Law.

*Article 12* inserts Article 3AA in the principal Law.

#### **Article 3AA – Power to amend definition**

This Article creates a power for the Minister for Treasury and Resources to amend the definition "financial services company" by Order. This power is desirable to ensure that amendments to financial services legislation on which the definition is based do not have an unlooked for effect upon the principal Law which cannot be remedied quickly.

*Article 13* amends Article 88 of the principal Law. Article 88 entitles a company to deduct tax when paying dividends. The amendments make it clear that a company taxed at 0% cannot make any deduction and a company taxed at 10% can only deduct 10%.

*Article 14* substitutes the heading to Part 17 of the principal Law. Currently, Part 17 contains special provisions

relating to companies and to certain individuals. The opportunity is taken to create 2 new Parts in its place, dealing respectively with companies and those individuals. See also Article 17.

*Article 15* amends Article 123B of the principal Law (international business companies) consequentially upon the insertion of Articles 123C and 123D by Article 15. The amendment makes it clear that the introduction of the rates of tax at 0% and 10% does not affect the rates of tax paid by an international business company.

*Article 16* inserts Articles 123C, 123D, 123E and 123F into the principal Law. These are the Articles providing for taxation under Schedule D at the rate of either 0% or 10% and introducing group relief for companies taxed at 10%.

#### **Article 123C – Non-financial services companies**

This Article provides for a company to be taxed under Schedule D at the rate of 0%. The company must not be either a financial services company or a utilities company. For the year of assessment 2008, the Article applies only to companies which are first regarded as resident in Jersey, or which first have a permanent establishment in Jersey, on or after 3rd June 2008.

Article 123(1) of the principal Law describes when a company is to be regarded as resident in Jersey. The definitions “permanent establishment” and “financial services company” are added by Article 11.

Paragraph (3) of the new Article 123C defines a utility company.

#### **Article 123D – Financial services companies**

This Article provides for a financial services company to be taxed under Schedule D at the rate of 10%. As with Article 123C, for the year of assessment 2008, the Article applies only to companies which are first regarded as resident in Jersey, or which first have a permanent establishment in Jersey, on or after 3rd June 2008.

#### **Article 123E – Apportionment on change of status during year**

This Article provides that, if a company becomes, or ceases to be a company taxed at 0% or 10% during a year of assessment, the charge to tax at that rate applies to a portion of its profits or gains, according to the period for which it is such a company. For example, if a company’s status changes, so that it becomes a company taxed at 10% on 1st July, one half of its profits or gains charged to tax for the year will be taxed at 10%.

#### **Article 123F – Group relief for financial services companies**

This Article introduces relief for groups of financial services companies that are either taxed at 10% under Article 123D or taxed at 10% or more as an international business company. A company in the group that suffers a loss can surrender the loss to be offset against the profits or gains of another company in the group. The loss can only be offset against profits or gains determined for a financial period that is the same as, or overlaps with, the financial period for which the loss arises. If a company’s financial period is more than a year, the profits or gains, or losses, for that period must be apportioned and only so much of the profits or gains, or losses, as are attributable to a 12 month period may be taken into account under this Article. The claim for relief must be made within 2 years following the year of assessment in which the loss is assessed to tax.

*Article 17* introduces a new Part heading for special provisions applicable to certain individuals. See also Article 14.

*Article 18* provides that Part 3 has effect for the year of assessment 2008 and ensuing years.

### **Part 4 - Corporate taxation from 2009**

This Part extends the rules for taxation of companies at 0% or 10% with the effect that, for the year of assessment 2009 onwards, they apply to all companies regarded as resident in Jersey or having a permanent establishment in Jersey. It also repeals the exempt company regime.

*Article 19* amends Article 123 (bodies corporate) of the principal Law consequentially upon the repeal of Article 123A.

*Article 20* repeals Article 123A (exempt companies).

*Article 21* amends Article 123B (international business companies) consequentially upon the repeal of Article

123A. The amendment restates the definition “beneficial interest”. That definition currently applies for the purposes of both Articles 123A and 123B but is only set out in full in Article 123A (repealed by Article 20).

*Article 22* amends Article 123C, being the provision for taxation of a company at 0% which is inserted, for the year of assessment 2008, by Article 16, so as to extend its application, from the year of assessment 2009 onwards, to all companies, whenever first regarded as resident in Jersey or first having a permanent establishment in Jersey.

*Article 23* amends Article 123D, being the provision for taxation of a company at 10% which is inserted, for the year of assessment 2008, by Article 16, so as to extend its application, from the year of assessment 2009 onwards, to all companies, whenever first regarded as resident in Jersey or first having a permanent establishment in Jersey.

*Article 24* makes provision for the Part have effect for 2009 onwards.

### **Part 5 - Taxation of trade of property development from 2009**

This Part provides for the profits and gains arising from the trade of property development to be taxed under Schedule A instead of under Case I of Schedule D. Apart from this move to Schedule A, however, the same rules shall apply to the taxation of the trade of property development as would apply if it continued to be a trade charged to tax under Case I Schedule D. Tax under Schedule A continues to apply to all persons, including companies, at the rate of 20%.

*Article 25* amends Article 3 of the principal Law (general provisions as to interpretation) so as to give effect to, and make changes consequentially upon, the move of the trade of property development from Schedule D to Schedule A.

*Article 26* makes a change in the information to be provided in a tax return made in response to a particular notice (as opposed to a general notice) consequent upon the changes made by the following Articles.

*Article 27* amends Article 22 of the principal Law so as to ensure that, notwithstanding the move of the trade of property development from Schedule D to Schedule A, the Comptroller will continue to prepare lists showing the assessment made on the profits and gains of that trade.

*Article 28* substitutes Article 51 of the principal Law. Article 51 describes the profits or gains brought into the charge to tax under Schedule A. The substituted version adds the profits or gains arising from the trade of property development. The application of the Schedule to profits or gains arising from rents and other receipts in respect of land in Jersey is unchanged.

*Article 29* inserts a new Article 51A in the principal Law.

#### **Article 51A – Basis of computation under Schedule A**

Paragraph (1) of this Article re-enacts the existing rule for computation of profits or gains arising from rent, rentes and other receipts in respect of land. Paragraph (2) provides for the profits or gains arising from the trade of property development to be taxed on an accounting year end basis exactly as if they were being taxed as a trade under Case I of Schedule D.

*Article 30* amends Article 52 of the principal Law so as to make it clear that the rule in it regarding the deductions that may be made in computing profits or gains taxed under Schedule A apply only to rents, rentes and other receipts arising from land in Jersey, and not to the trade of property development.

*Article 31* amends Article 53 of the principal Law so as to make it clear that the rule in it allowing relief under Schedule A for rent not paid applies only to rents and other receipts arising from land in Jersey.

*Article 32* inserts a new Article 54A in the principal Law.

#### **Article 54A – Deductions under Schedule A in respect of property development**

This Article provides that the deductions that may be made in computing, for the purposes of taxation under Schedule A, the profits or gains of a trade of property development, are the same as those that could have been made if that trade was taxed as a trade under Schedule D Case I .

*Article 33* substitutes Article 55 of the principal Law with the effect that the rules applicable to the taxation of partnerships carrying on a trade chargeable under Schedule D Case 1 apply also to partnerships carrying on the trade of property development chargeable under Schedule A.

*Article 34* inserts a new Article 55A in the principal Law.

#### **Article 55A - Miscellaneous provisions applicable to property development**

This Article ensures that Articles 84 and 85 continue to apply to the taxation of the trade of property development after it is moved from Schedule D to Schedule A. Article 84 contains a rule relevant to the computation of tax on an accounting year end basis: the trade of property development will continue to be taxed on such a basis, notwithstanding its move to Schedule A. Article 85 requires a statement of profits to include every source of income chargeable to tax.

*Article 35* amends Article 61 of the principal Law (Schedule D) consequentially upon the removal of the taxation of the trade of property development from Schedule D.

*Article 36* inserts a new Article 62A in the principal Law.

#### **Article 62A – Disapplication of Schedule D to property development**

This Article makes it clear that, although trades exercised in Jersey are generally taxed under Case I Schedule D, the trade of property development is taxed under Schedule A instead.

*Article 37* amends Article 70 of the principal Law (general rules as to deductions not allowable) consequentially upon the restructuring of the charge to tax on rents under Schedule A.

*Article 38* amends Article 92B of the principal Law (child care tax relief) so as to provide that, notwithstanding the move of the profits or gains of the trade of property development from Schedule D to Schedule A, such profits shall continue to be taken into account when determining a person’s qualifying income for the purposes of Article 92B.

*Articles 39, 40 and 41* amend provisions of Part 13 of the principal Law (Relief for losses, etc.) so as to ensure that, notwithstanding the taxation of the trade of property development under Schedule A instead of Schedule D, the rules for relief and losses shall continue to apply to the trade of property development without substantive change.

*Article 42* provides for Part 5 to have effect for the year of assessment 2009 and ensuing years.

#### **Part 6 - Taxation of non-residents from 2009**

This Part gives effect to two policies relating to non-residents. Firstly, it exempts certain income of non-residents from taxation under Schedule D. Secondly, it introduces a new scheme for the recovery of tax due on rental income of non-resident landlords.

*Article 43* amends Article 3 of the principal Law, to add a definition “stock dividend” for the purposes of Article 118B, inserted by Article 45.

*Article 44* amends Article 42 of the principal Law (proceedings for recovery of tax) consequentially upon the insertion of Schedule 3A by Article 47 of this draft Law. The amendment enables proceedings to be taken to recover money deducted from rent by an agent or tenant but which has not been remitted to the Comptroller as required by that Schedule.

*Article 45* inserts Article 118B in the principal Law.

#### **Article 118B - Exemption of certain income, profits or gains of a non-resident**

This Article exempts from taxation under Schedule D certain profits or gains of a person who is not resident in Jersey. By virtue of Article 61(1)(a)(iii) of the principal Law, a non-resident is only taxed on income arising from property and pensions in Jersey and on the profits or gains of a trade, profession, employment, vocation or office if and to the extent that it is exercised in Jersey. The income exempted by this Article is bank interest, dividends, pensions payable under the Social Security (Jersey) Law 1974 and income arising from a purchased life annuity.

*Article 46* inserts a new Article 128A in the principal Law.

#### **Article 128A – Collection of tax on rental income of non-resident landlords**

This Article gives effect to a new Schedule 3A to the principal Law.

*Article 47* inserts the new Schedule 3A in the principal Law.

#### **Schedule 3A - Collection of tax on rental income of non-resident landlords**

Paragraph 1 provides for the interpretation of Schedule 3A. For the purposes of the Schedule, “rent” means any rents, rentes or other receipts arising from land that would be chargeable to tax under Schedule A by

virtue of Article 51(1)(a) as substituted by Article 28.

Paragraph 2 requires an agent, being a person resident in Jersey who has direction, control or management of land on behalf of a non-resident, to register with the Comptroller within 30 days of becoming an agent or if the person is already an agent on 1st January 2009, within 30 days of that date. The agent, when registering, must provide the Comptroller with a break-down of each non-resident for whom he or she acts and, in relation to each non-resident, each property for which he or she is the agent. If there is any change in the information provided, the agent must inform the Comptroller within 30 days following the end of the quarter in which the change occurs. This means that changes in information can be notified at the same time as the quarterly return required by paragraph 3.

Paragraph 3 requires an agent to deduct tax at the standard rate from net rent received on behalf of a non-resident. Net rent is the balance of the rent after deduction of expenses incurred in respect of the property by the agent on behalf of the landlord, and the agent's own management fees. Within the 30 days following a quarter, the agent must make a return to the Comptroller detailing all of the deductions made in the quarter in respect of each non-resident for whom the agent acts and also remit to the Comptroller the aggregate of the deductions made. In addition, the agent must include in the return details of rent transmitted to a non-resident without deduction of tax pursuant to a certificate issued under paragraph 7. If the agent fails to remit the amounts required, he or she is guilty of an offence and liable to a fine up to level 4 on the standard scale (£5,000) plus an amount up to the amount that he or she has failed to remit. The fact that the penalty imposed by a court includes an amount in respect of the amount that has not been remitted does not discharge the person's liability to remit that amount to the Comptroller. If an agent makes a deduction but then does not remit it to the Comptroller, and the non-resident proves that this has happened, the Comptroller will treat the deduction as a payment on account of tax by the non-resident, even though the deduction has not been remitted to the Comptroller. If an agent, in error, accounts to a non-resident without deduction of tax, but then remits to the Comptroller the amount that should have been deducted, the agent is entitled to recover the amount from the non-resident as a civil debt.

Paragraph 4 applies where there is no agent receiving rent on behalf of the non-resident, there is no certificate issued under paragraph 7 for rent to be paid without deduction and the annual rent for a property is more than £25,000. The tenant must deduct tax from the rent before paying the non-resident and account to the Comptroller. The tenant must make a quarterly return, and remit the amounts deducted quarterly, much in the same way as an agent would do, and is liable in the event of his or her failure to remit the amounts deducted in the same way that an agent would be liable.

Paragraph 5 requires an agent to make an annual return, for each non-resident for which he or she has acted during the year detailing, for each property, payments due and paid, and deductions made.

Paragraph 6 requires that a tenant who has made deductions under paragraph 4 must make an annual return, much in the same way that an agent must make a return under paragraph 5.

Paragraph 7 enables the Comptroller to issue a certificate for payment of rent without deduction of tax, on an application by a non-resident. The Comptroller must be satisfied that either the rent is exempt from tax (exemptions are set out in Article 115 of the principal Law) or that the non-resident has a record of compliance with the requirements of the principal Law. The certificate can be issued subject to conditions. The Comptroller can cancel it at any time that the criteria for its issue are no longer satisfied or if the conditions attached to it are not complied with. The non-resident must produce the certificate to an agent or tenant in order for that person to transmit or pay rent without deduction of tax. Accordingly, if the Comptroller cancels the certificate, he or she will not only notify the non-resident but also take steps to notify the agent or tenant.

Paragraph 8 requires the Comptroller to treat an amount remitted by an agent or tenant under this Schedule as a payment on account of tax by the non-resident. The normal procedures for repayment would apply if, on assessment, it was found that the amounts paid on account exceeded the non-resident's liability to tax.

Paragraph 9 renders void any term of a tenancy or other agreement which would prevent the deduction of tax from rent, either by a tenant or by an agent.

*Article 48* provides for Part 6 to have effect for the year of assessment 2009 and ensuing years.

## **Part 7 - Method of collection of annual and other payments from 2009**

*Article 49* amends Article 86 of the principal Law. Article 86 provides that, where certain payments are made out of profits or gains that are already charged to tax, the payer may deduct tax at the standard rate from the payment. The payee is treated as having received the payment without deduction, but is not further taxed upon it. Article 86 is amended so as to restrict its application to payments of yearly interest of money or of royalties to payments made by individuals resident in Jersey, with the consequence that companies must make such payments without deduction.

*Article 50* amends Article 87 of the principal Law. Article 87 provides that, where certain payments are made out of profits or gains that are not charged to tax, the payer may deduct tax at the standard rate from the payment but then must account to the Comptroller for it. Article 87 is amended so as to restrict its application to payments by individuals and, in the case of annuities and other annual payments, by life assurance business companies and by trustees of a superannuation fund, with the consequence that, again, all other companies must make such payments without deduction.

*Article 51* provides for Part 7 to have effect from 2009 onwards.

#### **Part 8 - Assessments to prevent avoidance from 2009**

*Article 52* amends Article 134A of the principal Law. Article 134A enables the Comptroller to raise an assessment on any person in order to counteract the effect of a transaction made to avoid or reduce liability to tax. The amendment has the effect that the Comptroller can assess the purpose of, not only a single transaction, but also a series of transactions, or a combination of transactions.

*Article 53* provides for Part 8 to have effect on and from 1st January 2009.

#### **Part 9 - Closing**

*Article 54* cites the short title of the Law.





Jersey

# DRAFT INCOME TAX (AMENDMENT No. 28) (JERSEY) LAW 200-

## Arrangement

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### Article

#### **PART 1**

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##### PRELIMINARY AND TRANSITIONAL PROVISION FOR 2007

- 1        Interpretation
- 2        Schedule 5 amended

#### **PART 2**

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##### CHANGE TO BASIS OF ASSESSMENT FOR TRADES, PROFESSIONS AND VOCATIONS FROM 2008

- 3        Article 3 amended
- 4        Article 4A inserted
- 5        Articles 64A to 64H inserted
- 6        Article 65 amended
- 7        Article 66 to 69 repealed
- 8        Article 149A amended
- 9        Schedule 6 added
- 10       Years of assessment for which Part 2 has effect

#### **PART 3**

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##### CORPORATE TAXATION FROM 2008

- 11       Article 3 amended
- 12       Article 3AA inserted
- 13       Article 88 amended
- 14       Heading to Part 17 substituted
- 15       Article 123B amended
- 16       Articles 123C to 123F inserted
- 17       New Part heading inserted
- 18       Years of assessment for which Part 3 has effect

#### **PART 4**

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##### CORPORATE TAXATION FROM 2009

- 19       Article 123 amended
- 20       Article 123A repealed
- 21       Article 123B amended
- 22       Article 123C amended



- 23      Article 123D amended  
24      Years of assessment for which Part 4 has effect

## **PART 5**

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### TAXATION OF TRADE OF PROPERTY DEVELOPMENT FROM 2009

- 25      Article 3 amended  
26      Article 16 amended  
27      Article 22 amended  
28      Article 51 substituted  
29      Article 51A inserted  
30      Article 52 amended  
31      Article 53 amended  
32      Article 54A inserted  
33      Article 55 substituted  
34      Article 55A inserted  
35      Article 61 amended  
36      Article 62A inserted  
37      Article 70 amended  
38      Article 92B amended  
39      Article 107A amended  
40      Article 108 amended  
41      Article 131 amended  
42      Years of assessment for which Part 5 has effect

## **PART 6**

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### TAXATION OF NON-RESIDENTS FROM 2009

- 43      Article 3 amended  
44      Article 42 amended  
45      Article 118B inserted  
46      Article 128A inserted  
47      Schedule 3A inserted  
48      Years of assessment for which Part 6 has effect

## **PART 7**

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### METHOD OF COLLECTION OF ANNUAL AND OTHER PAYMENTS FROM 2009

- 49      Article 86 amended  
50      Article 87 amended  
51      Years of assessment for which Part 7 has effect

## **PART 8**

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### ASSESSMENTS TO PREVENT AVOIDANCE FROM 2009

- 52      Article 134A amended  
53      Commencement of Part 8

## **PART 9**

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### CLOSING







Jersey

## DRAFT INCOME TAX (AMENDMENT No. 28) (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

#### PRELIMINARY AND TRANSITIONAL PROVISION FOR 2007

##### 1 Interpretation

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

##### 2 Schedule 5 amended

(1) After paragraph 4 of Schedule 5 to the principal Law there shall be added the following paragraph –

**“5 Income Tax (Amendment No. 28) (Jersey) Law 200-: transitional provision for Article 67**

- (1) A notice cannot be given under Article 67 in the case of a trade, profession or vocation which was set up or commenced in 2006.
- (2) However, a person charged or liable to be charged to income tax in respect of the profits or gains of a trade, profession or vocation which was set up or commenced in 2006 shall be entitled, on giving notice, in writing, to the Comptroller on or after 1st January 2008 but no later than 31st December 2008, to require that tax shall be charged for the year of assessment 2007 on the amount of the profits or gains for that year.
- (3) A person may, by giving notice, in writing, to the Comptroller on or before 31st December 2008, revoke a notice given under sub-paragraph (2).
- (4) If, at any time during 2007, any such change as is mentioned in Article 75 occurs in the persons engaged in the trade, profession or vocation, a notice given under sub-paragraph (2) or (3) must be signed by each of the persons who were engaged in the trade, profession or vocation at any time between 1st January 2007 and the giving of the notice or, in the case of a deceased person, by his or her legal representatives.

- (5) In the case of the death of a person who, if he or she had not died would, under subparagraph (2), have become chargeable to income tax for 2007, the tax that would have been so chargeable shall be assessed and charged on his or her executors or administrators and shall be a debt due from and payable out of his or her estate.
  - (6) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to subparagraph (2).”.
- (2) This Article shall have effect for the year of assessment 2007 and ensuing years.

## **PART 2**

### **CHANGE TO BASIS OF ASSESSMENT FOR TRADES, PROFESSIONS AND VOCATIONS FROM 2008**

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

In Article 3(1) of the principal Law the following definitions shall be inserted in their appropriate places in the alphabetical order of definitions –

“ ‘accounting date’ shall be construed in accordance with Article 4A;”;

“ ‘financial period’ shall be construed in accordance with Article 4A;”.

#### **4 Article 4A inserted**

After Article 4 of the principal Law there shall be inserted the following Article –

##### **“4A Meaning of, and provision as to, financial period and accounting date**

- (1) The financial period of a company or of a trade, profession or vocation is the period for which its accounts are made up.
- (2) Subject to any power in this Law for the Comptroller to determine an accounting date, the accounting date for a company or a trade, profession or vocation, is the day on which its financial period ends.
- (3) A financial period shall not exceed 18 months.”.

#### **5 Articles 64A to 64H inserted**

After Article 64 of the principal Law there shall be inserted the following Articles –

##### **“64A General provision as to period of computation for trade, profession or vocation**

Subject to Articles 64B to 64E, tax shall be charged in the case of a trade, profession or vocation on the full amount of the balance of the profits or gains of the trade, profession or vocation for the financial period ending in the year of assessment.

##### **64B Change of financial period and accounting date**

- (1) Where, by virtue of a change in the financial period for a trade, profession or vocation, there are 2 or more accounting dates for it in a year of assessment, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial

period ending on those dates.

- (2) Where –
  - (a) there is a change in the financial period for a trade, profession or vocation;
  - (b) the new accounting date is in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
  - (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the business,

the Comptroller may charge the trade, profession or vocation to tax, for the year of assessment in which the new accounting date falls, on the full amount of the balance of the profits or gains for the period of 12 months ending on that date.
- (3) Where –
  - (a) there is a change in the financial period for a trade, profession or vocation;
  - (b) the new accounting date is neither in the same year of assessment as the preceding accounting date nor in the year of assessment immediately following that year; and
  - (c) the Comptroller is of the opinion that the change is not made in good faith and for the purpose of facilitating the good management of the business,

the Comptroller may –

  - (i) determine an accounting date in the year of assessment immediately following the year of assessment in which the preceding accounting date fell; and
  - (ii) charge the trade, profession or vocation to tax, for the year of assessment in which the determined accounting date falls, on the full amount of the balance of the profits or gains for the period of 12 months ending on that date.
- (4) The accounting date determined under paragraph (3) shall be the same day, in the same month, as the new accounting date.

#### **64C Commencement of trade, profession or vocation**

- (1) Subject to paragraph (2), where a trade, profession or vocation is set up and commenced, tax shall first be charged for the year of assessment in which the first financial period ends, on the full amount of the balance of the profits or gains of the trade, profession or vocation for that period.
- (2) Where the first financial period of the trade, profession or vocation does not end in the first year of assessment or the second year of assessment, the Comptroller shall determine an accounting date in the second year of assessment for it.
- (3) Subject to paragraph (4), the accounting date determined under paragraph (2) shall be the same day, in the same month, as the accounting date which falls in the third year of assessment.
- (4) Where there is more than one accounting date in the third year of assessment, the first of those dates shall be used for the purposes of paragraph (3).
- (5) Where the profits or gains of a trade, profession or vocation are charged to tax in the second year of assessment by virtue of an accounting date being determined under paragraph (2), tax shall be charged for the third year of assessment on the full amount of the balance of the profits or gains of the first financial period, after deduction of an amount equal to the profits or gains charged to tax in the second year of assessment by virtue of paragraph (2).
- (6) For the purposes of this Article and Article 64D –

'first financial period', in relation to a trade, profession or vocation, means the financial period beginning on the day it is set up and commenced;

'first year of assessment', in relation to a trade, profession or vocation, means the year in which it is set up and commenced;

'second year of assessment' means the year following the first year of assessment;

'third year of assessment' means the year following the second year of assessment.

#### **64D Discontinuance of trade, profession or vocation**

- (1) Subject to paragraphs (2) and (3), where a trade, profession or vocation is permanently discontinued, tax shall be charged, in the year of assessment in which the discontinuance occurs, on the full amount of the balance of the profit or gains for the period beginning on the day following the accounting date preceding the date of discontinuance and ending on the date of discontinuance.
- (2) Where, in the year of assessment in which the trade, profession or vocation is permanently discontinued, there are one or more accounting dates preceding the date of discontinuance, tax shall be charged on the aggregate of the full amounts of the balance of profits or gains for each financial period ending on those dates and for the period described in paragraph (1).
- (3) Where a trade, profession or vocation is permanently discontinued in the first year of assessment or the second year of assessment, tax shall be charged for the period beginning on the date the trade, profession or vocation is set up and commenced and ending on the date of its discontinuance.

#### **64E Trade, profession or vocation transferred to or from Jersey**

- (1) This Article applies –
  - (a) where a trade, profession or vocation previously carried on in a place outside Jersey transfers to, and continues to be carried on, in Jersey; and
  - (b) where a trade, profession or vocation previously carried on in Jersey transfers to, and continues to be carried on, in a place outside Jersey.
- (2) Tax shall be charged for the year of assessment in which the trade, profession or vocation transfers, on such portion of the full amount of the balance of the profits or gains of the trade, profession or vocation as equates to the portion of that year for which the trade, profession or vocation is carried on in Jersey.

#### **64F Apportionment of profits or gains of trade, profession or vocation**

- (1) Where the period for which tax is to be charged on the full amount of the balance of the profits or gains of a trade, profession or vocation does not coincide with a financial period, the full amount of the balance of the profits or gains for the financial periods which overlap with the period for which tax is to be charged shall be apportioned so as to arrive at the full amount of the balance of the profits or gains for the period for which tax is to be charged.
- (2) Where the full amount of the balance of the profits or gains for the period for which tax is to be charged, determined in accordance with paragraph (1), does not, in the opinion of the Comptroller, fairly represent the full amount of the balance of the profits or gains of the period for which tax is to be charged, the Comptroller may direct that the apportionment shall be made another way.

**64G Liability of executors or administrators for tax on the profits or gains of a trade, profession or vocation**

In the case of the death of a person who, if he or she had not died, would have been chargeable to income tax for any year under Articles 64A to 64E, the tax which would have been so chargeable –

- (a) shall be assessed and charged on the person’s executors or administrators; and
- (b) shall be a debt due from and payable out of the person’s estate.

**64H Deduction from profits or gains of trade or profession for premiums payable**

- (1) Where any land in Jersey is occupied for the purposes of any trade or profession, a deduction shall be allowed, in calculating the full amount of the balance of the profits or gains arising from that trade or profession, for any premium paid in consideration of the grant of a lease or sub-lease, or for the assignment of a lease, of that land to the extent that the premium has been charged to tax under Schedule A of this Law.
- (2) In this Article ‘land’ and ‘premium’ have the same meanings as in Part 8’.

**6 Article 65 amended**

- (1) In the heading to Article 65 of the principal Law, for the words “**under Cases I and II**” there shall be substituted the words “**for offices, employments and pensions**”.
- (2) In paragraph (1) of Article 65 of the principal Law –
  - (a) for the words “Cases I and II” there shall be substituted the words “Case II”;
  - (b) sub-paragraph (a) shall be deleted.

**7 Article 66 to 69 repealed**

Articles 66 to 69 shall be repealed.

**8 Article 149A amended**

In Article 149A of the principal Law, for the words “Schedule 5” there shall be substituted the words “Schedules 5 and 6”.

**9 Schedule 6 added**

After Schedule 5 to the principal Law, there shall be added the following Schedule –

**“SCHEDULE 6**

(Article 149A)

**TRANSITIONAL ARRANGEMENTS IN AND RELATED TO 2008 FOR BASIS OF COMPUTATION FOR TRADE, PROFESSION OR VOCATION**

**1 Basis of computation in 2008 for existing trade, profession or vocation**

- (1) This paragraph applies in the case of a trade, profession or vocation which, for the year



of assessment 2007, was charged to tax in accordance with Article 65(1) in the case described in sub-paragraph (a) of that provision.

- (2) Notwithstanding Article 64A but subject to sub-paragraph (3), tax shall be charged in the case of the trade, profession or vocation for the year of assessment 2008 on one half of the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008.
- (3) Where, by virtue of a change in an accounting date, the aggregate of the financial periods ending in 2007 and 2008 for a trade, profession or vocation is less than 24 months, tax shall be charged on the product of the following formula –

$$\frac{A \times 365}{D}$$

Where –

A is the aggregate of the full amount of the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008

D is the aggregate of the number of days in those financial periods.

- (4) Notwithstanding Article 106C(5), the basis period for the purposes of Articles 106A and 106B shall be the same as the aggregate of the financial periods ending in 2007 and 2008.
- (5) Where the aggregate amount of profits or gains determined in accordance with sub-paragraph (2) or (3) has been adjusted, pursuant to Article 107 or 108, by reference to a loss sustained for the year of assessment 2007, an amount equal to the amount of relief already given shall be credited to the amount on which tax is to be charged by virtue of sub-paragraph (2) or (3).
- (6) Where, apart from this sub-paragraph, relief would be allowed in respect of losses sustained in a trade, profession or vocation in a financial period ending in 2008 instead of in respect of losses sustained in that year –
  - (a) for the purposes of Articles 107 to 108, the amount of losses taken to have been sustained in the trade, profession or vocation shall be one half of the aggregate of the losses sustained in the financial periods ending in 2007 and 2008; and
  - (b) without prejudice to any relief already given and to which sub-paragraph (5) applies, no relief shall be granted under those Articles in respect of the remainder of the aggregate of those losses.

## **2 Basis of computation in 2008 for trade, profession or vocation commenced in 2006 or 2007**

- (1) This paragraph applies in the case of a trade, profession or vocation commenced and set up in 2006 or 2007.
- (2) Notwithstanding Articles 64A and 64C, tax shall be charged for the year of assessment 2008 on the full amount of the profits or gains of the trade, profession or vocation for the financial period ending in 2008 save that –
  - (a) there shall be included in that amount any profits or gains which have not been charged to tax in 2006 or 2007;
  - (b) there shall be excluded from that amount any profits or gains which have been charged to tax in 2006 or 2007.

## **3 Basis of computation for trade, profession or vocation discontinued in 2008**

Notwithstanding its repeal, Article 68 shall continue to apply, for the year of assessment 2008,

in the case of a trade, profession or vocation that is permanently discontinued in 2008, apart from a trade, profession or vocation that is set up and commenced in that year.

#### **4 Power of Comptroller to make adjustments and apportionments**

- (1) Where, in relation to the taxation of the profits or gains of a trade, profession or vocation, the effect of a transaction or of a series of transactions is the avoidance, reduction or deferral of liability of any person to the charge to tax for the year of assessment 2008, the Comptroller may, in his or her discretion, make such adjustments and apportionments as respects the liability of that person to tax as may in the opinion of the Comptroller be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.
- (2) Without prejudice to the generality of sub-paragraph (1), where –
  - (a) the amount of the profits or gains of a trade, profession or vocation is calculated in accordance with paragraph 1; and
  - (b) the income so calculated is either at least 10% more, or at least 10% less, than the amount of the profits or gains of the trade, profession or vocation charged to tax in the year of assessment 2007,it shall be presumed that there has been a transaction which has resulted in the avoidance, reduction or deferral of the liability of a person to the charge for tax for the year of assessment 2008 and, subject to sub-paragraph (3), the Comptroller may exercise his or her powers under sub-paragraph (1) accordingly.
- (3) The presumption in sub-paragraph (2) shall be rebutted if the person shows, to the satisfaction of the Comptroller –
  - (a) that no such transaction has occurred; or
  - (b) that the profits or gains of the trade, profession or vocation for the financial periods ending in 2007 and 2008 were computed in accordance with the ordinary commercial principles applicable to the computation of such profits or gains.
- (4) This paragraph is without prejudice to the generality of Article 134A.

#### **5 Application of Article 64G**

Article 64G shall apply to the charge to income tax under paragraphs 1 and 2 as it applies to the charge to income tax under Articles 64A to 64E.”.

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

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

### **PART 3**

#### **CORPORATE TAXATION FROM 2008**

#### **11 Article 3 amended**

In Article 3(1) of the principal Law, the following definitions shall be inserted in their appropriate place in the alphabetical order of definitions –

“ ‘financial services company’ means any company that –

- (a) is registered under the Financial Services (Jersey) Law 1998<sup>[2]</sup> to carry out investment business or trust company business;
- (b) is registered under the Banking Business (Jersey) Law 1991<sup>[3]</sup>, other than a company registered for business continuity under that Law, pursuant to Article 9A of the Banking Business (General Provisions) (Jersey) Order 2002<sup>[4]</sup>; or
- (c) holds a permit under the Collective Investment Funds (Jersey) Law 1988<sup>[5]</sup> by virtue of being a functionary who is an administrator or custodian mentioned in Part 2 of the Schedule to that Law;”;

“ ‘permanent establishment’, in relation to a company, includes a branch of the company, a factory, shop, workshop, quarry or a building site, and a place of management of the company, but the fact that the directors of a company regularly meet in Jersey shall not, of itself, make their meeting place a permanent establishment;”.

## 12 Article 3AA inserted

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

### **“3AA Power to amend definition**

The Minister may by Order amend the definition ‘financial services company’ in Article 3 (1).”.

## 13 Article 88 amended

In Article 88 of the principal Law –

- (a) at the beginning of paragraph (1) there shall be inserted the words “Subject to paragraphs (2) and (3),”;
- (b) after paragraph (1) there shall be inserted the following paragraphs –
  - “(2) A company to which Article 123C applies shall not be entitled, when paying a dividend, to make any deduction from it.
  - (3) A company to which Article 123D applies shall only be entitled, when paying a dividend, to deduct tax at the rate of 10%.”.

## 14 Heading to Part 17 substituted

For the heading to Part 17 of the principal Law there shall be substituted the following heading –

### **“PART 17**

**“SPECIAL PROVISIONS AS TO BODIES CORPORATE”.**

## 15 Article 123B amended

In Article 123B(3) of the principal Law, for the words “Notwithstanding Article 1” there shall be substituted the words “Notwithstanding Articles 1, 123C and 123D,”.

## 16 Articles 123C to 123F inserted

After Article 123B of the principal Law there shall be inserted the following Articles –

### **“123C Non-financial services companies**

- (1) This Article applies to a company –
  - (a) which is first regarded as resident in Jersey, or which first has a permanent establishment in Jersey, on or after 3rd June 2008; and
  - (b) which is not a financial services company or a utility company.
- (2) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, a company to which this Article applies shall be charged to tax under Schedule D at the rate of 0%.
- (3) In paragraph (1), ‘utility company’ means –
  - (a) The Jersey New Waterworks Company Limited, registered by Act of the Royal Court dated 11th February 1882 in accordance with the provisions of the Loi (1861) sur les Sociétés à Responsabilité Limitée<sup>[6]</sup>;
  - (b) the Jersey Gas Company Limited continued in existence by Article 2 of the Jersey Gas Company (Jersey) Law 1989<sup>[7]</sup>;
  - (c) the Jersey Electricity Company Limited registered by Act of the Royal Court dated 5th April 1924 in accordance with the provisions of the Loi (1861) sur les Sociétés à Responsabilité Limitée;
  - (d) a person licensed to run part or all of a public telecommunications system under the Telecommunications (Jersey) Law 2002<sup>[8]</sup>;
  - (e) a person authorized to convey letters by a licence granted under the Postal Services (Jersey) Law 2004<sup>[9]</sup>.
- (4) For the purposes of this Law, the income, profits and gains of a company to which this Article applies shall be determined in accordance with United Kingdom generally accepted accounting principles.

### **123D Financial services companies**

- (1) This Article applies to a financial services company which is first regarded as resident in Jersey or which first has a permanent establishment in Jersey, on or after 3rd June 2008.
- (2) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, a company to which this Article applies shall be charged to tax under Schedule D at the rate of 10%.
- (3) For the purposes of this Law, the income, profits and gains of a company to which this Article applies shall be determined in accordance with United Kingdom generally accepted accounting principles.

### **123E Apportionment on change of status during year**

- (1) Where, a company is a company to which Article 123C or 123D applies for only part of a year of assessment, the company shall only be charged to tax in accordance with Article 123C or 123D, as the case requires, on the portion of its income, profits or gains

on which it is charged to tax under Schedule D for that year that equates to the portion of year for which it is a company to which the relevant Article applies.

- (2) This Article is subject to Articles 64C to 64E in the case of the commencement, discontinuance or transfer of a trade, profession or vocation.

### **123F Group relief for financial services companies**

- (1) This Article applies where a qualifying company that is a member of a group suffers a loss for a financial period (referred to in this Article as the ‘surrendering company’).
- (2) Another qualifying company that is a member of the same group (the ‘claimant company’) may apply for the relief described in paragraph (7).
- (3) An application under paragraph (2) must be –
  - (a) made by the claimant company no later than the expiration of 2 years following the year of assessment in which the financial period for which the surrendering company suffered the loss ended; and
  - (b) accompanied by a declaration made by the surrendering company in accordance with paragraph (5).
- (4) In its application, the claimant company must state –
  - (a) its financial period to which the application relates;
  - (b) its profits or gains for that period, having regard, where required, to paragraph (9).
- (5) In its declaration, the surrendering company must state –
  - (a) its financial period to which the application relates;
  - (b) its loss for that period, having regard, where required, to paragraph (9);
  - (c) the amounts (if any) of the loss previously surrendered under this Article, and to whom.
- (6) The Comptroller shall grant the relief if he or she is satisfied that, throughout the financial period for which the surrendering company suffered the loss, both companies were –
  - (a) qualifying companies; and
  - (b) members of the same group.
- (7) The relief is that, subject to paragraph (8), the surrendering company’s loss, or so much of it as is surrendered to the claimant company, is offset against the claimant company’s profits or gains for a financial period which is the same as, or overlaps with, the financial period for which the surrendering company suffered the loss.
- (8) Where the claimant company’s financial period only overlaps with the surrendering company’s financial period, the maximum amount of the surrendering company’s loss that can be surrendered to the claimant company is the portion of that loss that equates to the portion of the claimant company’s financial period that overlaps with the financial period of the surrendering company.
- (9) Where a company’s financial period exceeds 12 months, there shall be taken into account under this Article only such portion of the company’s loss or, as the case requires, the company’s profits or gains, of that period as equate to such portion that the period of 12 months is of the financial period.
- (10) For the purposes of this Article –

‘financial period’ means the period for which the accounts of a company are made up;

‘group’ means a qualifying company, which has one or more 51% subsidiaries which are all qualifying companies, together with that or those subsidiaries;

‘qualifying company’ means –

- (a) a company to which Article 123D applies; or
- (b) a company which, under Article 123B(3A), is taxed at a rate of 10% or more on the profits or gains of its international activities.”.

**17 New Part heading inserted**

Before Article 124 of the principal Law there shall be inserted the following heading –

**“PART 17A**

**SPECIAL PROVISIONS AS TO INDIVIDUALS UNDER DISABILITY AND  
DECEASED PERSONS”.**

**18 Years of assessment for which Part 3 has effect**

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

**PART 4**

**CORPORATE TAXATION FROM 2009**

**19 Article 123 amended**

In Article 123(1) of the principal Law the words “Except as provided in Article 123A,” shall be deleted.

**20 Article 123A repealed**

Article 123A of the principal Law shall be repealed.

**21 Article 123B amended**

In Article 123B(13) of the principal Law, for the definition “beneficial interest” there shall be substituted the following definition –

“ ‘beneficial interest’ means any interest (whether equitable, legal or contractual) other than an interest as a bare nominee or trustee, and whether such interest is a contingent interest or direct, or through or partly through, a body corporate or a trust, and a person shall be deemed to have a beneficial interest in a company if he or she has any right to acquire or dispose of any share or debenture in that company or any interest therein or to vote in respect thereof, or if the person’s consent is necessary for the exercise of any of the rights of other persons interested therein, or if other persons interested therein can be required or are accustomed to exercise their rights in accordance with his or her instructions; but a loan to a company shall not be regarded as an interest in the company if the loan is made by a bank carrying on a bona fide banking business in Jersey;”.

**22 Article 123C amended**

For paragraph (1) of Article 123C of the principal Law there shall be substituted the following paragraph –

- “(1) This Article applies to a company –
- (a) which is regarded as resident in Jersey or which has a permanent establishment in Jersey; and
  - (b) which is not a financial services company or a utility company.”.

**23 Article 123D amended**

For paragraph (1) of Article 123D of the principal Law there shall be substituted the following paragraph –

- “(1) This Article applies to a financial services company which is regarded as resident in Jersey or which has a permanent establishment in Jersey.”.

**24 Years of assessment for which Part 4 has effect**

This Part shall have effect for the year of assessment 2009 and ensuing years.

## **PART 5**

### **TAXATION OF TRADE OF PROPERTY DEVELOPMENT FROM 2009**

**25 Article 3 amended**

In Article 3(1) of the principal Law –

- (a) in sub-paragraph (c) of the definition “earned income”, after the word “charged” there shall be inserted the words “under Schedule A, by virtue of Article 51(1)(b), or”;
- (b) for the definition “trade” there shall be substituted the following definition –

“ ‘trade’ includes every disposal, on a commercial basis, of land, any building or structure, or any part thereof, and every trade, manufacture, adventure or concern in the nature of trade;”;

- (c) after paragraph (1) there shall be inserted the following paragraph –

“(1A) References in this Law to the disposal of land, any building or structure, or any part thereof, are to its sale, transfer or lease, or to the issue or transfer of shares in a company, the ownership of which shares confers an exclusive right to occupy it.”.

**26 Article 16 amended**

In Article 16(4) of the principal Law, after the words “chargeable under” there shall be inserted the words “Schedule A, by virtue of Article 51(1)(b), or”.

**27 Article 22 amended**

In Article 22(3) of the principal Law after the word “rentes” there shall be inserted the words “or, by virtue of Article 51(1)(b), of profits or gains”.

**28 Article 51 substituted**

For Article 51 of the principal Law there shall be substituted the following Article –

## **“51 Schedule A**

- (1) The Schedule referred to in this Law as Schedule A is as follows –  
Tax under this Schedule shall be charged on –
  - (a) the annual profits or gains arising in respect of any rents or receipts as follows, that is to say –
    - (i) rents under leases of land in Jersey,
    - (ii) rentes, and
    - (iii) other receipts arising to the owner of land in Jersey from, or by virtue of, the owner’s ownership of that land;
  - (b) the annual profits or gains arising or accruing from the trade, carried on in Jersey, of the disposal, on a commercial basis, of land or any building or structure, or any part thereof, which is situated in Jersey or elsewhere.
- (2) For the purposes of paragraph (1)(b), where the disposal is of land or any building or structure, or any part thereof, which is situated in Jersey, the land, building or structure shall be a fixed place of business through which the trade is exercised, whether or not the disposal is made or concluded in Jersey.
- (3) Subject to paragraph (4), if rent is payable under a lease under which the tenant is entitled to the use of furniture, and tax in respect of the payment for its use is chargeable under Schedule D, tax in respect of the rent shall be charged under Schedule D instead of under this Schedule.
- (4) The person charged or liable to be charged in accordance with paragraph (3) shall be entitled, on giving notice in writing to the Comptroller within 2 years after the end of the year of assessment, to elect that paragraph (3) shall not apply.
- (5) Where notice is given under paragraph (4), there shall be made such additional assessments, reductions of assessments or repayments of tax as the case may require.”.

## **29 Article 51A inserted**

After Article 51 of the principal Law there shall be inserted the following Article –

### **“51A Basis of computation under Schedule A**

- (1) Tax shall be charged under Schedule A in respect of the profits or gains described in Article 51(1)(a) by reference to the rent, rentes or receipts to which the person becomes entitled in the year of assessment.
- (2) Tax shall be charged under Schedule A in respect of the profits or gains described in Article 51(1)(b) in accordance with Articles 64A to 64H, as if they were the profits or gains of a trade charged under Case I of Schedule D.”.

## **30 Article 52 amended**

- (1) At the end of the heading to Article 51 of the principal Law there shall be added the words “**in respect of rents, etc.**”.
- (2) In Article 52(1) of the principal Law, after the words “under this Schedule” there shall be inserted the words “pursuant to Article 51(1)(a)”.



**31 Article 53 amended**

In Article 53 after the words “Schedule A” there shall be inserted the words “pursuant to Article 51(1)(a)”.

**32 Article 54A inserted**

After Article 54 of the principal Law there shall be inserted the following Article –

**“54A Deductions under Schedule A in respect of property development**

Articles 70, 70A and 83 shall apply for the purposes of computing the amount of the profits or gains to be charged under Schedule A pursuant to Article 51(1)(b) as they apply for the purposes of computing the amount of the profits or gains to be charged under Schedule D Case I in respect of a trade.”.

**33 Article 55 substituted**

For Article 55 of the principal Law there shall be substituted the following Article –

**“55 Persons chargeable under Schedule A**

- (1) Subject to paragraph (2), tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the profits or gains in respect of which tax under Schedule A is, in this Law, directed to apply.
- (2) Articles 74 to 76A shall apply to the taxation under Schedule A of the trade of property development, pursuant to Article 51(1)(b), as they apply to the taxation of any other trade under Schedule D Case 1.”.

**34 Article 55A inserted**

After Article 55 of the principal Law there shall be inserted the following Article –

**“55A Miscellaneous provisions applicable to property development**

Articles 84 and 85 shall apply to and for the purposes of the charge to tax under Schedule A pursuant to Article 51(1)(b) as they apply to and for the purposes of the charge to tax under Schedule D.”.

**35 Article 61 amended**

Paragraph (1A) of Article 61 of the principal Law shall be repealed.

**36 Article 62A inserted**

After Article 62 of the principal Law there shall be inserted the following Article –

**“62A Disapplication of Schedule D to property development**

Notwithstanding Article 61(1) and Article 62(1) Case I, tax under Schedule D shall not be charged on the profits or gains of the trade of property development, which are charged to tax

under Schedule A by virtue of Article 51(1)(b).”.

**37 Article 70 amended**

In Article 70(c) of the principal Law, after the words “Schedule A” there shall be inserted the words “pursuant to Article 51(1)(a)”.

**38 Article 92B amended**

In Article 92B(5) of the principal Law, in the definition “qualifying income”, after the words “Schedule D,” there shall be inserted the words “or under Schedule A pursuant to Article 51(1)(b).”.

**39 Article 107A amended**

In Article 107A of the principal Law –

- (a) in paragraph (1), for the words “under Schedule D in respect of that trade, profession or vocation” there shall be substituted the words “in respect of that trade, profession or vocation under Schedule A, in the case of the trade of property development, or under Schedule D, in any other case”;
- (b) in paragraph (3), for the words “Schedule D” there shall be substituted the words “Schedule A or Schedule D, as the case requires,”;
- (c) for paragraph (4) there shall be substituted the following paragraph –

“(4) In this Article –

‘immediately preceding year of assessment’ means the year immediately preceding the year in which the loss has been sustained;

‘the trade of property development’ means the trade charged to tax under Schedule A pursuant to Article 51(1)(b).”.

**40 Article 108 amended**

In Article 108 of the principal Law –

- (a) in paragraph (1), for the words “under Schedule D in respect of that trade, profession or vocation” there shall be substituted the words “in respect of that trade, profession or vocation under Schedule A, in the case of the trade of property development, or under Schedule D, in any other case”;
- (b) in paragraph (2), for the words “Schedule D” there shall be substituted the words “Schedule A or Schedule D, as the case requires,”;
- (c) after paragraph (3) there shall be added the following paragraph –

“(4) In this Article, ‘the trade of property development’ has the meaning given in Article 107A(4).”.

**41 Article 131 amended**

In Article 131(1) of the principal Law after the words “assessment to income tax” there shall be inserted the words “under Schedule A, to the extent that it is charged on the trade of property development pursuant to Article 51(1)(b) or”.

**42 Years of assessment for which Part 5 has effect**

This Part shall have effect for the years of assessment 2009 and ensuing years.

## PART 6

### TAXATION OF NON-RESIDENTS FROM 2009

#### 43 Article 3 amended

In Article 3(1) of the principal Law after the definition “partnership” there shall be inserted the following definition –

“‘stock dividend’ means –

- (a) share capital issued by a company in consequence of the exercise by any person of an option conferred on the person to receive, in respect of shares of the company, either cash or additional share capital;
- (b) bonus share capital issued by a company in respect of shares in the company of a relevant class;”.

#### 44 Article 42 amended

In Article 42(1B) of the principal Law after the words “Article 41B(5) or 41E(5)” there shall be inserted the words “or under paragraph 3(8) or 4(8) of Schedule 3A”.

#### 45 Article 118B inserted

After Article 118A of the principal Law there shall be inserted the following Article –

##### **“118B Exemption of certain income, profits or gains of a non-resident**

- (1) Exemption from income tax shall be granted under Schedule D in respect of the following income, profits or gains of a person who is not resident in Jersey –
  - (a) interest paid in respect of or credited to a deposit with a person registered under the Banking Business (Jersey) Law 1991;
  - (b) cash dividends paid and stock dividends issued by a company regarded as resident in Jersey;
  - (c) income arising from a pension payable under the Social Security (Jersey) Law 1974<sup>[10]</sup>;
  - (d) income arising or accruing from a purchased life annuity.
- (2) In this Article, “purchased life annuity” has the same meaning as in Article 132(9).”.

#### 46 Article 128A inserted

After Article 128 of the principal Law there shall be inserted the following Article –

##### **“128A Collection of tax on rental income of non-resident landlords**

Schedule 3A shall have effect to make provision for the collection of tax on the rental income of non-resident landlords.”.

#### 47 Schedule 3A inserted

After Schedule 3 there shall be inserted the following Schedule –

**“SCHEDULE 3A**

(Article 128A)

**COLLECTION OF TAX ON RENTAL INCOME OF NON-RESIDENT LANDLORDS**

**1 Interpretation of Schedule 3A**

In this Schedule –

‘agent’ means a person resident in Jersey who has the direction, control or management of land in Jersey –

- (a) that is owned by a non-resident; and
- (b) in respect of which rent is payable;

‘certificate’ means a certificate issued under paragraph 7;

‘non-resident’ means a person who is not resident in Jersey;

‘property’ means land, buildings, tenements, heritages and hereditaments;

‘quarter’ means a period of 3 months ending on 31st March, 30th June, 30th September or 31st December;

‘rent’ means any amount described in Article 51(1)(a);

‘tenancy’ includes a lease;

‘tenant’ means a person who pays rent under a tenancy.

**2 Requirement for agents to register**

- (1) A person who, on 1st January 2009, is an agent shall, within 30 days of that date, register in accordance with this paragraph.
- (2) A person who, after 1st January 2009, becomes an agent shall, within 30 days of becoming an agent, register in accordance with this paragraph.
- (3) The person shall provide the Comptroller with the following information –
  - (a) his or her name and address and the reference number (if any) assigned to him or her by the Comptroller;
  - (b) in respect of each non-resident for whom he or she is the agent –
    - (i) the non-resident’s name and address and the reference number (if any) assigned to the non-resident by the Comptroller,
    - (ii) in respect of each property of which the agent has direction, control or management on behalf of the non-resident –
      - (A) the address of the property;
      - (B) the name and, if different, the address of the tenant in respect of the property;
      - (C) the amount of rent, rentes and other receipts payable in respect of the property;
      - (D) whether or not the non-resident has produced a certificate in respect of the property.
- (4) An agent shall, within the period of 30 days after the end of a quarter, inform the

Comptroller of any change in the information described in sub-paragraph (3).

- (5) The Comptroller may require any information to be provided under this paragraph to be so provided in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
- (6) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

### **3 Duty of agent to account for tax on rent**

- (1) An agent who receives rent in respect of property in Jersey on behalf of a non-resident shall deduct from the net rent received, and retain, tax at the standard rate.
- (2) Sub-paragraph (1) shall not apply if –
  - (a) the non-resident has produced a certificate in respect of the property; and
  - (b) the agent is satisfied that the certificate is in force at the time the rent is received.
- (3) For the purposes of sub-paragraph (1), the net rent received is the rent received after deduction of –
  - (a) any fee charged by the agent in respect of his or her services as agent of the property; and
  - (b) any expenses legitimately incurred by the agent, on behalf of the non-resident, in the management of the property;
- (4) An agent shall maintain a record of deductions made pursuant to sub-paragraph (1).
- (5) An agent shall, within the period of 30 days after the end of a quarter, make a return to the Comptroller of the following information in respect of each property for which he or she is the agent of a non-resident –
  - (a) the address of the property;
  - (b) the name of the non-resident;
  - (c) the amount of rent due in respect of the property in the quarter;
  - (d) the amount of rent paid in respect of the property in the quarter;
  - (e) the amount and a description of each expense deducted from the rent so paid;
  - (f) the amount of tax deducted from the rent so paid or that no tax has been deducted, pursuant to a certificate.
- (6) The Comptroller may require the return required by sub-paragraph (5) to be made in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
- (7) An agent who does not comply with sub-paragraph (5) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (8) The agent shall, within the period of 30 days after the end of a quarter, remit to the Comptroller an amount equal to the aggregate of all monies deducted and retained by the agent in the quarter pursuant to sub-paragraph (1).
- (9) An agent who does not comply with sub-paragraph (8) shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that sub-paragraph.
- (10) The imposition of a fine under sub-paragraph (9)(b) shall not discharge the agent's liability to remit the monies required under sub-paragraph (8).

- (11) Where a non-resident proves, to the satisfaction of the Comptroller, that a deduction has been made from rent, in accordance with sub-paragraph (1), the non-resident shall be entitled to have the deduction treated as a payment of tax by him or her, notwithstanding that the agent has failed to remit the monies to the Comptroller in accordance with sub-paragraph (8).
- (12) An agent who does not make a deduction in accordance with sub-paragraph (1) when accounting to a non-resident but who remits to the Comptroller the monies required by sub-paragraph (8) as if a deduction had been made, may recover that amount from the non-resident as a civil debt.

#### **4 Duty of tenant to account for tax on rent**

- (1) This paragraph applies where –
  - (a) rent in respect of property in Jersey is not received by an agent on behalf of a non-resident; and
  - (b) the tenant is liable to pay the non-resident or another person on behalf of the non-resident (other than an agent) rent of more than £25,000 per annum or, where the tenancy is for less than a year, the proportionate amount of that sum which is determined by the duration of the tenancy in that year.
- (2) The tenant shall, before paying rent to the non-resident or another person on behalf of the non-resident, deduct from the rent, and retain, tax at the standard rate.
- (3) Sub-paragraph (2) shall not apply if –
  - (a) the non-resident has produced a certificate in respect of the property; and
  - (b) the tenant is satisfied that the certificate is in force at the time the rent is paid.
- (4) A tenant shall maintain a record of monies deducted and retained pursuant to sub-paragraph (2).
- (5) A tenant shall, within the period of 30 days after the end of a quarter, make a return to the Comptroller of the following information in respect of each property for which he or she has paid rent after deduction of tax in accordance with sub-paragraph (2)–
  - (a) the address of the property;
  - (b) the name and address of the non-resident;
  - (c) the amount of rent due in respect of the property in the quarter;
  - (d) the amount of rent paid in respect of the property in the quarter;
  - (e) the amount of tax deducted from the rent so paid.
- (6) The Comptroller may require the return required by sub-paragraph (5) to be made in such form and delivered in such manner and accompanied by such declaration as he or she specifies.
- (7) A tenant who does not comply with sub-paragraph (5) shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (8) The tenant shall, within the period of 30 days after the end of a quarter, remit to the Comptroller an amount equal to the aggregate of all monies deducted and retained by the tenant in the quarter pursuant to sub-paragraph (2).
- (9) A tenant who does not comply with sub-paragraph (8) shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that sub-paragraph.

- (10) The imposition of a fine under sub-paragraph (9)(b) shall not discharge the tenant's liability to remit the monies required under sub-paragraph (8).
- (11) Where a non-resident proves, to the satisfaction of the Comptroller, that a deduction has been made from rent, in accordance with sub-paragraph (2), the non-resident shall be entitled to have the deduction treated as a payment of tax by him or her, notwithstanding that the tenant has failed to remit the amount to the Comptroller in accordance with sub-paragraph (8).
- (12) A tenant who fails to make a deduction on accordance with sub-paragraph (2) when paying rent to a non-resident but who remits to the Comptroller the amount required by sub-paragraph (8) as if a deduction had been made, may recover that amount from the non-resident as a civil debt.
- (13) Where a tenant deducts tax and remits it to the Comptroller in accordance with this paragraph, the non-resident shall give the tenant a discharge as if the rent had been paid without deduction.

## **5 Duty of agent to make annual return**

- (1) A person who, at any time during a year, has been an agent shall, no later than 31st March following that year, make a return to the Comptroller for that year in respect of each non-resident for whom he or she was an agent during that year.
- (2) The return required by sub-paragraph (1) shall –
  - (a) contain the information specified in sub-paragraph (3); and
  - (b) be in the form, delivered in the manner and accompanied by the declaration required by the Comptroller.
- (3) The information specified, in respect of each non-resident is –
  - (a) the non-resident's name and address and the reference number (if any) assigned to the non-resident by the Comptroller,
  - (b) in respect of each property of which, during the year, the agent has had direction, control or management on behalf of the non-resident –
    - (i) the address of the property,
    - (ii) the name and, if different, the address of the tenant of the property,
    - (iii) the aggregate amount of rent paid in respect of the property during the year,
    - (iv) the aggregate amount of tax deducted from that rent, or that no tax has been deducted, pursuant to a certificate,
    - (v) where the tenancy of the property commenced during the year, the date it commenced,
    - (vi) where the tenancy of the property ended during the year, the date it ended.
- (4) The person making the return shall provide the non-resident to whom the information required by sub-paragraph (3) relates with a copy of that information.
- (5) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

## **6 Duty of tenant to make annual return**

- (1) A person who, at any time during a year, has been a tenant required to deduct and retain tax under paragraph 4 shall, no later than 31st March following that year, make a return to the Comptroller in respect of each non-resident to whom he or she paid rent after

deduction of tax pursuant to that paragraph.

- (2) The return required by sub-paragraph (1) shall –
  - (a) contain the information specified in sub-paragraph (3); and
  - (b) be in the form, delivered in the manner and accompanied by the declaration required by the Comptroller.
- (3) The information specified, in respect of each non-resident is –
  - (a) the non-resident's name and address and the reference number (if any and if known to the tenant) assigned to the non-resident by the Comptroller,
  - (b) in respect of each property for which the tenant paid rent to the landlord during the year –
    - (i) the address of the property,
    - (ii) the aggregate amount of rent paid in respect of the property during the year,
    - (iii) the aggregate amount of tax deducted from that rent,
    - (iv) where the tenancy of the property commenced during the year, the date it commenced,
    - (v) where the tenancy of the property ended during the year, the date it ended.
- (4) The person making the return shall provide the non-resident to whom the information required by sub-paragraph (3) relates with a copy of that information.
- (5) A person who does not comply with this paragraph shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

## **7 Certificate for payment without deduction**

- (1) A non-resident may apply to the Comptroller for rent in respect of a property, or all properties in Jersey, of which he or she is the landlord to be paid without deduction of tax, whether by an agent or a tenant.
- (2) An application under sub-paragraph (1) shall be made in such form and manner, and accompanied by such information, as the Comptroller may require.
- (3) The Comptroller may grant an application under sub-paragraph (1) if he or she is satisfied –
  - (a) that the rent in respect of the property or properties is exempt from tax under Article 115; or
  - (b) that the non-resident has consistently complied with the requirements of this Law in full and without delay.
- (4) On granting an application, the Comptroller shall issue a certificate to the non-resident.
- (5) The certificate shall have effect until it is cancelled and may be issued subject to conditions.
- (6) The Comptroller may cancel a certificate at any time when –
  - (a) he or she is no longer satisfied as to the matters described in sub-paragraph (3)(a) or (b); or
  - (b) the conditions attached to the certificate have not been complied with.
- (7) Upon cancelling a certificate, the Comptroller shall notify the non-resident, in writing, and shall take such steps as he or she considers appropriate to notify any agent or the tenant of the property to which the certificate related of its cancellation.
- (8) A person who, with the intention of procuring the payment of rent without deduction of



tax, contrary to this Schedule, produces to another person –

- (a) a document purporting to be a certificate issued under this paragraph, knowing it to be false; or
- (b) a certificate issued under this paragraph knowing that it has been altered by a person other than the Comptroller,

shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

(9) A person who, with the intention of procuring the payment of rent without deduction of tax, contrary to this Schedule, produces a certificate to another person, knowing that the certificate has been cancelled, shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

(10) An application under this paragraph may be made on or after 1st July 2008.

## **8 Treatment of amounts remitted to Comptroller**

The Comptroller shall receive an amount remitted under paragraph 3(8) or 4(8) or an amount proved to have been deducted, by virtue of paragraph 3(11) or 4(11), as a payment of tax by the non-resident for the year of assessment for which the non-resident is charged under Schedule A in respect of the rent pursuant to Article 51A(1).

## **9 Terms of tenancy or other agreement to be void**

A tenancy or an agreement for the services of an agent shall be void to the extent that it provides for a tenant to pay rent without deduction of tax, in contravention of this Schedule or for an agent to account, without deduction of tax, for rent received in contravention of this Schedule.”.

## **48 Years of assessment for which Part 6 has effect**

This Part shall have effect for the year of assessment 2009 and ensuing years.

# **PART 7**

## **METHOD OF COLLECTION OF ANNUAL AND OTHER PAYMENTS FROM 2009**

### **49 Article 86 amended**

In Article 86 of the principal Law –

- (a) in paragraph (2) –
  - (i) after the words “is payable” there shall be inserted the words “by an individual resident in Jersey”,
  - (ii) in sub-paragraphs (c) and (e) and in sub-paragraph (d), in the second place that it appears, for the word “person” there shall be substituted the word “individual”;
- (b) in paragraph (3), after the word “paid”, in the second place that it appears, there shall be inserted the words “by an individual resident in Jersey,”.

### **50 Article 87 amended**

In Article 87 of the principal Law –

- (a) at the beginning of paragraph (1) there shall be inserted the words “Subject to paragraphs (3) to (5),”;
- (b) after paragraph (2) there shall be inserted the following paragraphs –
  - “(3) Paragraph (1) shall only apply to a payment of any interest of money mentioned in sub-paragraph (a) thereof where the person by or through whom the payment is made is an individual resident in Jersey.
  - (4) Paragraph (1) shall only apply to any annuity or other annual payment mentioned in sub-paragraph (a) thereof where the person or persons by or through whom the payment is made is or are –
    - (a) an individual resident in Jersey;
    - (b) an assurance company carrying on life assurance business; or
    - (c) the trustees of a superannuation fund who are resident in Jersey.
  - (5) Paragraph (1) shall only apply to a payment mentioned in sub-paragraph (b) thereof where the person by or through whom the payment is made is an individual resident in Jersey.”.

**51 Years of assessment for which Part 7 has effect**

This Part shall have effect for the year of assessment 2009 and ensuing years.

## **PART 8**

### **ASSESSMENTS TO PREVENT AVOIDANCE FROM 2009**

**52 Article 134A amended**

In Article 134A of the principal Law –

- (a) in paragraph (1), for the words “a transaction” there shall be substituted the words “a transaction, or a combination or series of transactions,”;
- (b) in the proviso to paragraph (1) –
  - (i) in sub-paragraph (a), for the words “the transaction” there shall be substituted the words “the transaction, or the combination or series of transactions”,
  - (ii) in sub-paragraph (b), after the words “bona fide commercial transaction” there shall be inserted the words “, or that the combination or series of transactions was a bona fide combination or series of transactions”;
- (c) in paragraph (3) –
  - (i) in sub-paragraph (a), for the words “the transaction” there shall be substituted the words “the transaction, or the combination or series of transactions”,
  - (ii) in sub-paragraph (b), after the words “bona fide commercial transaction” there shall be inserted the words “, or that the combination or series of transactions was a bona fide combination or series of transactions”.

**53 Commencement of Part 8**

This Part shall come into force on 1st January 2009.

## **PART 9**

## CLOSING

### **54 Citation**

This Law may be cited as the Income Tax (Amendment No. 28) (Jersey) Law 200.

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[1] *A summary of responses from the consultation period is included as an Annex to this Report.*

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|-------------|----------------------------|
| <u>[1]</u>  | <i>chapter 24.750</i>      |
| <u>[2]</u>  | <i>chapter 13.225</i>      |
| <u>[3]</u>  | <i>chapter 13.075</i>      |
| <u>[4]</u>  | <i>chapter 13.075.50</i>   |
| <u>[5]</u>  | <i>chapter 13.100</i>      |
| <u>[6]</u>  | <i>L.1/1861 (repealed)</i> |
| <u>[7]</u>  | <i>chapter 27.300</i>      |
| <u>[8]</u>  | <i>chapter 06.288</i>      |
| <u>[9]</u>  | <i>chapter 06.145</i>      |
| <u>[10]</u> | <i>chapter 26.900</i>      |