

**DRAFT INCOME TAX (AMENDMENT No. 19)
(JERSEY) LAW 199**

**Lodged au Greffe on 17th November 1998
by the Finance and Economics Committee**



STATES OF JERSEY

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REPORT

Introductory

The tax amendments proposed by this draft Law, while part of the 1999 Budget package, do not properly come within the scope of the annual Finance Law, and are, therefore, being lodged “au Greffe” as a separate amending Law, intended, however, to be debated by the States at the same time as the Finance Law.

This procedure has the added advantage of giving States members adequate time to consider, and comment upon, legislative provisions which are, of necessity, somewhat complex.

If the draft Law is adopted, the States will be invited, at the same time, to make an Act under Article 25 of the Public Finances (Administration) (Jersey) Law 1967, as amended, (an “acte opératoire”), to enable this Law, like the Finance Law, to take immediate effect.

Limited liability partnerships

The provisions clarify that the tax treatment of limited liability partnerships is the same as that for ordinary partnerships.

Surcharge for late payment of tax

Most people pay their tax in good time but there are still too many who pay late. Each year the Income Tax Department received many requests that tax bills be deferred and/or paid by instalments. The numbers are such that it is difficult to distinguish the genuine hardship cases from those who are intent on holding out as long as possible. This work ties up several Income Tax staff on a full-time basis.

The intention of the surcharge is to make it much less attractive to owe tax money to the States. An automatic 10% surcharge will be imposed if payment is not made by mid December. This will have the beneficial effect of speeding up the provision of information to the Income Tax Department and enhancing the cash-flow to the Treasury. The surcharge will, it is expected, cover the collection costs incurred by the Income Tax Department. Although the surcharge is not levied until mid-December, this does not mean that a taxpayer should delay payment of a

tax bill until then. A tax bill is due and payable on the day after the date of issue of the assessment and legal action for recovery may follow if payment of the tax is delayed.

The Comptroller will have the power to waive the surcharge for small amounts of tax and in certain exceptional circumstances such as death or serious illness.

Instalment payment incentive

For many years the Income Tax Department has offered the facility of payment by monthly direct debit, with the aim of ensuring that the tax bill is fully paid by the end of the year.

This involves a degree of payment-in-advance and that has been a disadvantage in some people's eyes.

With the introduction of the 10% surcharge the Finance and Economics Committee has decided that it is appropriate to offer an incentive to those who agree to pay at least seven instalments by monthly direct debit. They will get a rebate of £25 against their tax bill.

Longer appeal period/repayment supplement

Some taxpayers will be unable to finalise their tax bills by mid December. They will be obliged to make a payment closely akin to their eventual tax bill, if they are to avoid the surcharge. In order to assist this process -

- the period in which an appeal can be lodged is to be increased from 30 to 40 days; this will allow more time to calculate the payment on account of the eventual tax bill;
- if the payment-on-account is overestimated, a (non-taxable) supplement equivalent to interest at 0.3% a month will be added to the repayment made at the time the tax bill is eventually finalised.

Child care tax relief

The provisions give effect to the decision of the States on 20th October 1998 that tax relief shall be granted for payments made to registered child care providers by marginal rate taxpayers in the middle income bracket to encourage them to go out to work.

Payments of up to £5,000 a year for a child under 6 years of age will attract tax relief.

Taxation of life assurance companies with head offices outside Jersey

There exists some uncertainty about the assessment to tax of the Jersey branches of overseas life assurance companies. The provisions clarify the tax treatment and broaden the income basis in order to bring the branches into line with the taxation of locally-registered insurance companies.

Explanatory Note

The purpose of this draft Law is to amend further the Income Tax (Jersey) Law 1961 (“the principal Law”) with regard to surcharge for late payment of tax, appeals against an assessment of tax, child care tax relief, instalment payment relief and taxation of profits of life assurance companies with a head office outside Jersey.

Article 1 defines a new term in the principal Law.

Article 2 provides for the imposition of a surcharge where tax is not paid by the specified date and also describes the circumstances under which the Comptroller may waive the surcharge.

Articles 3 and 4 amend the provisions relating to the procedure to be followed where an appeal against an assessment is lodged.

Articles 5 and 6 provide for tax relief in respect of payments made for caring for a child. The relief is granted by adding a supplement equivalent to the expenditure, up to a maximum of £5000, to the small income provisions in Article 92A of the principal Law.

Article 7 provides for instalment payment relief where tax is paid by direct debit over not less than seven instalments.

Article 8 applies Articles 1, 2, 4, 5, 6, and 7 to 1998 and ensuing years.

Articles 9 and 10 provide for the taxation of profits of life assurance companies with a head office outside Jersey.

Article 11 applies Articles 9 and 10 to 1999 and ensuing years.

Article 12 is the short title.

INCOME TAX (AMENDMENT No. 19) (JERSEY) LAW 199

A LAW to amend further the provisions of the Income Tax (Jersey) Law 1961 with regard to surcharge for late payment of tax, appeals against an assessment of tax, child care tax relief, instalment payment relief and taxation of profits of life assurance companies with a head office outside Jersey; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

In Article 3 of the Income Tax (Jersey) Law 1961,¹ as amended,² (hereinafter referred to as “the principal Law”) after the definition of “Guernsey” there shall be inserted the following definition -

“ ‘partnership’ includes a partnership established under the Limited Liability Partnerships (Jersey) Law 1997;”.

¹ Volume 1961-1962, page 198.

² Volume 1963-1965, page 143, Volume 1975-1978, page 47, and Volume 1996-1997, page 266.

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ARTICLE 2

After Article 25 of the principal Law³ there shall be inserted the following Article -

“ARTICLE 26

Surcharge for late payment of tax

(1) In this Article “specified day” means the Friday following the second Monday in December of the year next following the year of assessment and the anniversary of that day in all ensuing years.

(2) Any person chargeable to tax, whether or not an assessment has been served on him, shall be liable to pay an amount in addition to that tax (hereafter referred to as the “surcharge”) equal to 10 per cent of that tax which remains unpaid, if the tax chargeable on that person for the year of assessment is not paid in full by the specified day:

Provided that the Comptroller may waive payment of the surcharge -

- (a) if it amounts to £50 or less for any year of assessment; or
- (b) where failure to pay the tax by the specified day is caused by the action of a person, in accordance with Article 3A of this Law, not connected with the person liable to the surcharge and the failure is remedied without unnecessary delay; or
- (c) the Comptroller is satisfied that serious illness, death or other exceptional circumstance prevented payment by the specified day.

³ Volume 1961-1962, page 208.

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(3) A person aggrieved by a refusal of the Comptroller to waive payment of the surcharge may, within ten days of the refusal, appeal to the Commissioners and the provisions of Part VI of this Law shall apply to that appeal.

(4) The provisions of this Law shall relate to the collection and recovery of the surcharge as if it were an amount of tax charged and payable under this Law and the surcharge shall not be deductible for any purposes of this Law.

(5) All monies received by the Comptroller in payment of the surcharge shall, to the extent that they exceed the instalment payment relief granted under Article 102 of this Law, be applied to meet the costs of collection of the Income Tax Department and any remainder paid to the Treasurer of the States.”.

ARTICLE 3

(1) In paragraph (1) of Article 27 of the principal Law⁴ for the words “thirty days” there shall be substituted the words “forty days”.

(2) This Article shall apply to assessments made after 31st December 1998.

ARTICLE 4

For paragraph (2) of Article 28 of the principal Law⁵ there shall be substituted the following paragraphs -

“(2) In the case of an appeal against any assessment the appellant shall, in the notice of appeal, enter his estimate of the tax that will become payable on the determination of the appeal, appending an explanation in the event that his estimate is that no tax will become payable or a greater amount of tax

⁴ Volume 1961-1962, page 209, and Volume 1979-1981, page 157.

⁵ Volume 1961-1962, page 210.

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will become payable than the amount demanded in the assessment.

(3) Notwithstanding that an appeal against an assessment is pending -

- (a) the tax estimated to be due in accordance with paragraph (2) of this Article shall be collected and paid in all respects as if it were tax charged by an assessment of which no appeal was pending; and
- (b) on determination of the appeal, any balance of tax chargeable in accordance with the determination shall be paid, or any tax overpaid shall be repaid, as the case may require.

(4) Where the amount of tax paid by virtue of paragraph (3) of this Article exceeds the tax payable on determination of the appeal, there shall be added to the tax overpaid for the year of assessment, at the time of repayment, such a sum, not being income for the purposes of Article 61 of this Law, representing interest at the rate of 0.3% for each complete month from the date of payment to the date of refund.”.

ARTICLE 5

After the fourth proviso to paragraph (1) of Article 92A of the principal Law⁶ there shall be inserted the following proviso -

“Provided further that, if the individual is entitled for the year of assessment to the supplement for child care in accordance with the provisions of Article 92B of this Law, the amount of ten thousand four hundred and twenty five pounds or sixteen thousand seven hundred and fifty pounds, as the case may be, shall be increased by the amount of that supplement.”.

⁶ Volume 1961-1962, page 254, Volume 1970-1972, page 204, Volume 1982-1983, page 47, Volume 1988-1989, pages 223 and 224, Volume 1994-1995, pages 366 and 367, and Volume 1996-1997, pages 264 and 652.

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ARTICLE 6

After Article 92A of the principal Law⁷ there shall be inserted the following Article -

“ARTICLE 92B

Child care tax relief

(1) In this Article -

“eligible claimant” means -

(a) an individual who is entitled to the higher allowance under paragraph (1) of Article 94 of this Law and -

(i) whose spouse has qualifying income; or

(ii) who is entitled to the additional allowance under Article 98A of this Law; or

(b) an individual who is entitled to the lower allowance under paragraph (1) of Article 94 of this Law and has qualifying income, but does not include a man if he and a woman live together as husband and wife for the whole or any part of a year of assessment;

“qualifying child” means a child in respect of whom an eligible claimant is entitled to a deduction under Article 95 of this Law and who has not attained the age of 6 years in the year of assessment;

⁷ Volume 1961-1962, page 254, Volume 1970-1972, page 204, Volume 1982-1983, page 47, Volume 1988-1989, pages 223 and 224, Volume 1994-1995, pages 366 and 367, and Volume 1996-1997, pages 264 and 652.

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“qualifying income” means income, other than earned income referred to in the proviso to paragraph (2) of Article 94 of this Law, arising from a trade, profession, employment or vocation chargeable to tax under Case I or Case II of Schedule D other than the first £4100 of that income for the year of assessment;

“registered provider” means a nursery or child minder registered under Article 68 of the Children (Jersey) Law 1969.

(2) An eligible claimant shall for the purposes of the fifth proviso to Article 92A of this Law be entitled to a supplement of -

- (a) the amount paid to a registered provider for the care of a qualifying child;
- (b) his qualifying income; or
- (c) £5000,

whichever is the lesser but no amount which qualifies for relief under any other provision of this Law shall be included.

(3) Where, for any year of assessment, two or more individuals are entitled to a supplement in respect of the same qualifying child the supplement shall be apportioned between them as they agree or in default of agreement by the Comptroller to the best of his judgment in accordance with evidence supplied to him by each claimant.

(4) No supplement claimed under paragraph (1) of this Article shall be granted unless the eligible claimant provides the Comptroller with a certificate from the registered provider showing, in respect of the year of assessment -

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- (a) the name, address and registration number of the registered provider;
- (b) the full name and date of birth of the qualifying child; and
- (c) the amount received for the care of that child.

(5) For the purposes of Article 137 of this Law a certificate provided under paragraph (4) of this Article shall be treated as a statement made in connection with a claim for relief.”.

ARTICLE 7

After Article 101 of the principal Law⁸ there shall be inserted the following Article -

“ARTICLE 102

Instalment payment relief

Any individual who pays current tax (meaning the tax of the year of assessment immediately preceding the year in which the payments are made) by means of electronic transfers in not fewer than seven instalments of broadly equal amounts at monthly intervals shall be entitled to set off the sum of twenty-five pounds against the tax payable by him for the said year of assessment.”.

ARTICLE 8

Articles 1, 2, 4, 5, 6 and 7 of this Law shall have effect for the year nineteen hundred and ninety-eight and ensuing years.

⁸ Volume 1961-1962, page 262, and Volume 1990-1991, pages 102 and 435.

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ARTICLE 9

In Article 133 of the principal Law,⁹ paragraph (5) shall be repealed.

ARTICLE 10

For Article 134 of the principal Law¹⁰ there shall be substituted the following Article -

“ARTICLE 134.

TAXATION OF PROFITS OF LIFE ASSURANCE
COMPANIES WITH HEAD OFFICE OUTSIDE JERSEY.

(1) Where an assurance company, not having its head office in the Island, carries on life assurance business, industrial life assurance business, general annuity business, pension business or capital redemption business through any branch or agency in the Island, each class of business shall, for the purposes of this Law, be treated as a separate business from any other class of business carried on by the branch or agency.

(2) The assurance company may, for any year of assessment, be charged in respect of its profits from the branch or agency arising from any class of business carried on by it, in accordance with the provisions of this Law applicable to Case I of Schedule D, or, in accordance with the provisions of this Law, applicable to Cases III, IV and V of Schedule D:

Provided that -

- (a) the amount of profits chargeable for the purposes of this Law shall be limited to the amount of profits attributable to the business carried on in the Island; and

⁹ Volume 1961-1962, page 291, and Volume 1979-1981, page 159.

¹⁰ Volume 1961-1962, page 293.

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- (b) where the amounts of such profits cannot readily be determined, the company shall be liable upon the same proportion of its total profits computed in accordance with the provisions of this Law as the amount of premiums received in that year from policy holders resident in the Island and from policy holders resident abroad whose proposals were made to the company at or through its branch or agency in the Island bears to the total amount of the premiums received by the company, or on such other proportion or part of such total profits as the Comptroller may agree with the company.

(3) Where an assurance company, not having its head office in the Island, is charged under the provisions of this Law applicable to Cases III, IV and V on a proportion of its total profits, the relief in respect of expenses of management due under Article 133 of this Law shall be calculated by reference to a like proportion of its total expenses of management for the year, estimated according to the provisions of this Law.”.

ARTICLE 11

Articles 9 and 10 of this Law shall have effect for the year nineteen hundred and ninety-nine and ensuing years.

ARTICLE 12

This Law may be cited as the Income Tax (Amendment No. 19) (Jersey) Law 199 .

CORRIGENDUM

**P.232/98 Draft Income Tax (Amendment No. 19) (Jersey) Law
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Report, Page 4 -

In the second paragraph (commencing with the word
"Payments"), after the words "a child under 6 years of age"
insert the words "at the end of the tax year".