

# STATES OF JERSEY



## **DRAFT INCOME TAX (AMENDMENT No. 35) (JERSEY) LAW 201-**

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**Lodged au Greffe on 28th May 2010  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 35) (JERSEY) LAW 201-**

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

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

In the view of the Minister for Treasury and Resources the provisions of the Draft Income Tax (Amendment No. 35) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

## REPORT

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As a result of the introduction of the Incorporated Limited Partnerships (Jersey) Law 201- and the Separate Limited Partnerships (Jersey) Law 201- it is necessary to make a consequential amendment to the Income Tax (Jersey) Law 1961 to provide that the tax treatment of an Incorporated Limited Partnership and a Separate Limited Partnership is the same as that for a Limited Partnership.

### **Financial and manpower implications**

There are no manpower implications.

The introduction of the Incorporated Limited Partnerships (Jersey) Law 201-, the Separate Limited Partnerships (Jersey) Law 201- and the consequential amendment to the Income Tax (Jersey) Law 1961 may create additional revenue through the levying of fees and taxes.

### **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 25th May 2010 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. 35) (Jersey) Law 201- are compatible with the Convention Rights.

## Explanatory Note

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

*Article 1* is an interpretation clause.

*Article 2* provides that a business or vocation carried on for profit or gain by an incorporated limited partnership (an “ILP”, which is a body corporate with legal personality that is separate from those of its partners) is to be treated for income tax purposes as being carried on in partnership by the partners and not by the ILP itself. In this respect, it treats ILPs and their partners in the same way as limited partnerships formed under the Limited Partnerships (Jersey) Law 1994 and their partners.

It also puts them in the same position in respect of Articles 74 (partnership statements and assessments), 76 (partnerships controlled abroad), 86 (payments out of profits or gains already taxed) and 87 (payments not made out of profits or gains already taxed) of the principal Law – and in respect of the furnishing of statements of profits and gains when required by the Comptroller of Income Tax.

*Article 3* contains like provision in respect of separate limited partnerships (which, though not bodies corporate, nevertheless have legal personality that is separate from that of their partners), and of their partners.

*Article 4* relates to the citation and commencement of the draft Law.





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 35) (JERSEY) LAW 201-**

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

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

### **1 Interpretation**

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

### **2 New Article 76B inserted**

After Article 76A of the principal Law, there shall be inserted the following Article –

#### **“76B Incorporated limited partnerships**

- (1) For the purposes of this Law, a trade, profession, business or vocation carried on by an incorporated limited partnership with a view to profit or gain shall be treated as carried on in partnership by its partners, and not by the incorporated limited partnership as such.
- (2) Accordingly, the property of the incorporated limited partnership shall be treated for those purposes as partnership property of the partners, and not as property of the incorporated limited partnership.

- (3) Subject to the provisions of this Article, the provisions of this Law apply to the profits or gains of a partner in an incorporated limited partnership.
- (4) Paragraph (3) shall not apply to the profits or gains derived from international activities of a partner in an incorporated limited partnership who is not resident in Jersey.
- (5) Articles 74 and 76 shall not apply to a partner in an incorporated limited partnership.
- (6) Articles 86 and 87 shall not apply in a case where the general partner of an incorporated limited partnership responsible for making the annual payment referred to in those Articles is not resident in Jersey or is a company which, pursuant to Article 123B of this Law, has made application and been charged to tax as an international business company.
- (7) Where a partner in an incorporated limited partnership is resident in Jersey, or is non-resident in Jersey and entitled to profits or gains not excluded from charge by paragraph (4), the general partner or, if there is more than one general partner, the general partner who is first named in the partnership agreement shall, when required to do so by any general notice or by notice served on the general partner by the Comptroller, prepare and deliver a statement of those profits or gains arising to the said partners from the activities of the incorporated limited partnership.
- (8) In this Article –
  - ‘incorporated limited partnership’, ‘general partner’, ‘limited partner’, ‘partner’ and ‘partnership agreement’ have the same meanings as they have in the Incorporated Limited Partnerships (Jersey) Law 201<sup>-2</sup>;
  - ‘international activities’ has the same meaning as in Article 123B of this Law;
  - ‘profits or gains’ does not include profits or gains of a capital nature.”.

### 3 New Article 76C inserted

In the principal Law, before the cross-heading “*Case II*” that immediately precedes Article 77, there shall be inserted the following Article –

#### “76C Separate limited partnerships

- (1) For the purposes of this Law, a trade, profession, business or vocation carried on by a separate limited partnership with a view to profit or gain shall be treated as carried on in partnership by its partners, and not by the separate limited partnership as such.
- (2) Accordingly, the property of the separate limited partnership shall be treated for those purposes as partnership property of the partners, and not as property of the separate limited partnership.



- (3) Subject to the provisions of this Article, the provisions of this Law apply to the profits or gains of a partner in a separate limited partnership.
- (4) Paragraph (3) shall not apply to the profits or gains derived from international activities of a partner in a separate limited partnership who is not resident in Jersey.
- (5) Articles 74 and 76 shall not apply to a partner in a separate limited partnership.
- (6) Articles 86 and 87 shall not apply in a case where the general partner of a separate limited partnership responsible for making the annual payment referred to in those Articles is not resident in Jersey or is a company which, pursuant to Article 123B of this Law, has made application and been charged to tax as an international business company.
- (7) Where a partner in a separate limited partnership is resident in Jersey, or is non-resident in Jersey and entitled to profits or gains not excluded from charge by paragraph (4), the general partner or, if there is more than one general partner, the general partner who is first named in the partnership agreement shall, when required to do so by any general notice or by notice served on the general partner by the Comptroller, prepare and deliver a statement of those profits or gains arising to the said partners from the activities of the separate limited partnership.
- (8) In this Article –
  - ‘separate limited partnership’, ‘general partner’, ‘limited partner’, ‘partner’ and ‘partnership agreement’ have the same meanings as they have in the Separate Limited Partnerships (Jersey) Law 201-<sup>3</sup>;
  - ‘international activities’ has the same meaning as in Article 123B of this Law;
  - ‘profits or gains’ does not include profits or gains of a capital nature.”.

#### 4 Citation and commencement

- (1) This Law may be cited as the Income Tax (Amendment No. 35) (Jersey) Law (Jersey) Law 201-.
- (2) Article 2 shall come into force on the same day as Article 40 of the Incorporated Limited Partnerships (Jersey) Law 201-.
- (3) Article 3 shall come into force on the same day as Article 47 of the Separate Limited Partnerships (Jersey) Law 201-.

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<sup>1</sup>

*chapter 24.750*

<sup>2</sup>

*Law currently awaiting Privy Council sanction*

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*Law currently awaiting Privy Council sanction*