

# STATES OF JERSEY



## **DRAFT TAXATION (AGREEMENTS WITH EUROPEAN UNION MEMBER STATES) (AMENDMENT No. 2) (JERSEY) REGULATIONS 201-**

---

**Lodged au Greffe on 12th November 2013  
by the Minister for External Relations**

---

**STATES GREFFE**





Jersey

**DRAFT TAXATION (AGREEMENTS WITH  
EUROPEAN UNION MEMBER STATES)  
(AMENDMENT No. 2) (JERSEY)  
REGULATIONS 201-**

**REPORT**

---

P.147/2013 and P.150/2013 together provide an explanation of the purpose behind these Draft Regulations.

P.147/2013 is the report and proposition requesting the States to ratify the Agreement with Croatia on the Taxation of Savings Income.

P.150/2013 is the report and proposition requesting the States to agree to the move from the retention tax to automatic exchange of information in respect of the EU Taxation of Savings Income Agreements.

**Financial and manpower implications**

There are no manpower implications arising from the adoption of these Draft Regulations but there will be financial implications arising from the loss of the retention tax, from their share of which the States currently receive some £2 million per annum.

## Explanatory Note

---

These Regulations amend the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005 (the “principal Regulations”) for 2 purposes.

Firstly, they provide for the implementation of the bilateral agreement with Croatia, explained in P.147/2013. This is done by *Regulations 2 and 9*.

Secondly, they –

- (a) replace, from 1st January 2015, the requirement to deduct retention tax from interest payments made to persons resident in a Member State of the European Union with a requirement to report such interest payments; and
- (b) allow Jersey paying agents to make an election, before 1st January 2015, to comply with the reporting requirement from the date of the election, instead of the requirement to deduct retention tax.

This second change is explained in P.147/2013 and is made by *Regulations 3 to 8*.

*Regulation 1* defines the principal Regulations.

*Regulation 2* amends Regulation 2 of the principal Regulations. The amendment adds a reference to the States’ approval of P.147/2013. The effect of doing so is to provide that the agreement between Jersey and Croatia is implemented by the principal Regulations.

*Regulation 3* amends Regulation 9 of the principal Regulations. Regulation 9 imposes the requirement for a Jersey paying agent to deduct and remit retention tax when making an interest payment to a beneficial owner resident in a Member State of the European Union. The amendment provides that Regulation 9 will not apply to interest payments made on or after 1st January 2015. A new paragraph (2A) is inserted which re-enacts a provision formerly located in Regulation 10(1)(b) whereby the retention tax may, in specified cases, be deducted from proceeds of sale of the capital asset, rather than from the interest payment on which the tax is levied.

*Regulation 4* amends Regulation 10 of the principal Regulations. Currently, Regulation 10 describes the amounts of the interest payments for the purposes only of the levy of the retention tax. As amended, Regulation 10 also describes the amounts of the interest payments for the purposes of the reporting requirement.

*Regulation 5* amends Regulation 11 of the principal Regulations consequentially upon the amendments of Regulations 9 and 10.

*Regulation 6* amends the heading to Regulation 12 of the principal Regulations consequentially upon the amendment of Regulation 9.

*Regulation 7* inserts new Regulations 12A and 12B in the principal Regulations.

New Regulation 12A imposes the obligation for a Jersey paying agent to report interest payments made, on or after 1st January 2015, to beneficial owners resident in a Member State of the European Union. The report must be made before the end of March in the year following the year in which the interest payment is made. The report must provide the following information –

- the name and address of the Jersey paying agent,
- the identity and residence of the beneficial owner of the interest payment,
- the account number of the beneficial owner or, if that is not known, identify the debt claim which gave rise to the interest payment, and

- describe the interest payment and how much it is.

New Regulation 12B allows a Jersey paying agent to elect to comply with Regulation 12A, instead of Regulation 9, before 1st January 2015. The election applies to all interest payments made by the Jersey paying agent from the date the election is notified to the Comptroller of Taxes. An election, once made, cannot be withdrawn.

*Regulation 8* amends Regulation 13 of the principal Regulations to require the Comptroller of Taxes to pass reported information about interest payments to the competent authority of the Member State of the European Union in which the beneficial owner resides.

*Regulation 9* amends Schedule 1 to the principal Regulations, adding Croatia and its Minister of Finance to the list of contracting parties and their competent authorities.

*Regulation 10* provides for the citation and commencement of these Regulations.





Jersey

**DRAFT TAXATION (AGREEMENTS WITH  
EUROPEAN UNION MEMBER STATES)  
(AMENDMENT No. 2) (JERSEY)  
REGULATIONS 201-**

**Arrangement**

**Regulation**

1	Interpretation .....	9
2	Regulation 2 amended.....	9
3	Regulation 9 amended.....	9
4	Regulation 10 amended.....	10
5	Regulation 11 amended.....	10
6	Regulation 12 amended.....	11
7	Regulations 12A and 12B inserted.....	11
8	Regulation 13 amended.....	12
9	Schedule 1 amended.....	12
10	Citation and commencement.....	12







Jersey

**DRAFT TAXATION (AGREEMENTS WITH  
EUROPEAN UNION MEMBER STATES)  
(AMENDMENT No. 2) (JERSEY)  
REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004<sup>1</sup> and following the decisions of the States of [ ] to adopt Projet 147 of 2013 and Projet 150 of 2013, have made the following Regulations –

**1 Interpretation**

In these Regulations “principal Regulations” means the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005<sup>2</sup>.

**2 Regulation 2 amended**

In Regulation 2(1) of the principal Regulations, after sub-paragraph (b) there shall be added the following sub-paragraph –

“(c) the decision of the States, taken on the day the Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations 201-<sup>3</sup> are made, to adopt Projet 147 of 2013.”.

**3 Regulation 9 amended**

- (1) In the heading to Regulation 9 of the principal Regulations after the words “to deduct” there shall be inserted the words “from interest payments made before 1st January 2015”.
- (2) In Regulation 9(1) of the principal Regulations –
  - (a) after the words “A Jersey paying agent who” there shall be inserted the words “, before 1st January 2015,”;

- (b) for the words “in accordance with Regulation 10.” there shall be substituted the words “from the amount of the interest payment, determined in accordance with Regulation 10.”.
- (3) After Regulation 9(2) of the principal Regulations there shall be inserted the following paragraph –
  - “(2A) In the case of an interest payment within the meaning of Regulation 5(1)(b) or (d), the deduction of tax under paragraph (1) may be from the proceeds of sale, redemption or refund of the debt claims or the shares or units, as the case requires.”.

#### 4 Regulation 10 amended

- (1) In Regulation 10(1) of the principal Regulations –
  - (a) for the words “For the purposes of Regulation 9, a Jersey paying agent shall levy retention tax –” there shall be substituted the words “For the purposes of Regulations 9(1), 11(2)(d) and 12A(3)(d) the amount of an interest payment is –”;
  - (b) in sub-paragraph (a) the word “on” shall be deleted;
  - (c) in sub-paragraph (b) –
    - (i) for the words “on the amount” there shall be substituted the words “the amount”,
    - (ii) for the words beginning “or by a levy” to the end of the sub-paragraph shall be deleted;
  - (d) in sub-paragraph (c), the word “on” shall be deleted;
  - (e) in sub-paragraph (d), the word “on” shall be deleted.
- (2) For Regulation 10(2) of the principal Regulations there shall be substituted the following paragraph –
  - “(2) For the purposes of paragraph (1)(a) and (b), a payment of interest that has accrued over a period that exceeds the period for which the beneficial owner held the debt claim shall be apportioned according to the proportion that the period for which the beneficial owner held the debt claim bears to the period for which the interest accrued.”.

#### 5 Regulation 11 amended

- (1) In the heading to Regulation 11 of the principal Regulations, after the word “Exception” there shall be inserted the words “to Regulation 9”.
- (2) For Regulation 11(2)(d) of the principal Regulations there shall be substituted the following sub-paragraph –
  - “(d) the description and amount of the interest payment, determined in accordance with Regulations 5 and 10.”.

**6 Regulation 12 amended**

In the heading to Regulation 12 of the principal Regulations, after the word “Exception” there shall be inserted the words “to Regulation 9”.

**7 Regulations 12A and 12B inserted**

After Regulation 12 of the principal Regulations there shall be inserted the following Regulations –

**“12A Duty of Jersey paying agent to report interest payments made on or after 1st January 2015**

- (1) A Jersey paying agent who, on or after 1st January 2015, makes an interest payment to a beneficial owner resident in a contracting party shall report the payment to the Comptroller of Taxes, in accordance with this Regulation.
- (2) The Jersey paying agent must report the payment no later than the end of March in the year following the year in which the payment is made.
- (3) The report must state –
  - (a) the name and address of the Jersey paying agent;
  - (b) the identity and residence of the beneficial owner, established in accordance with Regulations 7 and 8;
  - (c) the account number of the beneficial owner or, where there is none, the identification of the debt claim giving rise to the interest payment; and
  - (d) the description and amount of the interest payment, determined in accordance with Regulations 5 and 10.

**12B Election to comply with Regulation 12A before 1st January 2015**

- (1) A Jersey paying agent may, by notice in writing given to the Comptroller, elect to comply with Regulation 12A before 1st January 2015.
- (2) Where a Jersey paying agent has given written notice of the agent’s election to the Comptroller, Regulations 9 and 12A shall apply to interest payments made by the Jersey paying agent as if any reference in them to 1st January 2015 was a reference to the effective date.
- (3) The ‘effective date’ is the day the Jersey paying agent gives written notice of the agent’s election to the Comptroller.
- (4) An election notified in writing to the Comptroller cannot be withdrawn.
- (5) An election under this Regulation has effect whether or not the beneficial owner has provided the authority described in Regulation 11(1).”.

**8 Regulation 13 amended**

In Regulation 13(3) of the principal Regulations after the words “Regulation 11(2)” there shall be inserted the words “or Regulation 12A (including that provision as it applies by virtue of Regulation 12B)”.

**9 Schedule 1 amended**

In Schedule 1 to the principal Regulations, after the contracting party “Bulgaria” and its competent authority there shall be inserted the following contracting party and competent authority –

“Croatia	The Minister of Finance or his or her authorized representative.”.
----------	--

**10 Citation and commencement**

These Regulations may be cited as the Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

- 
- <sup>1</sup> *chapter 17.850*  
<sup>2</sup> *chapter 17.850.10*  
<sup>3</sup> *P.151/2013*