

**DRAFT INCOME TAX (AMENDMENT No. 20)
(JERSEY) LAW 199**

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



STATES OF JERSEY

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REPORT

Commissioners of Appeal

The Commissioners of Appeal were created when income tax was first introduced in Jersey. They are completely independent and are the first point of appeal for a taxpayer who is in dispute with the Comptroller of Income Tax. They hear appeals in private and their decisions are not published. Appeals against their decisions, whether on findings of fact or on points of law, are heard by the Royal Court.

The procedures for hearing appeals have developed over a number of years and the opportunity is now taken to put those procedures into statutory form. The period of notice required to be given to an appellant to attend an appeal meeting is being lengthened substantially from the current (and rather impractical) four days to twenty-one days.

The Finance and Economics Committee believes that some taxpayers may not be fully aware of the reasons for the Commissioners' existence or how they function. In order to make the appeals process more transparent to appellants and prospective appellants, thereby enhancing equity in the tax system, the Committee is to publish a leaflet giving details of the function and duties of the Commissioners.

Increased penalties

The penalties laid down by the Income Tax Law have not been reviewed for many years. The Amendment Law substantially increases those penalties.

The current maximum fine for neglecting to declare all one's taxable income is £500 for each year the offence is committed plus the amount of the tax lost due to the offence. The new maximum fine for neglect will be up to £2,000 for each year the offence is committed plus twice the amount of tax lost due to the offence. The current maximum fine for the more serious offence of fraud is £500 for each year the offence is committed plus twice the amount of tax lost due to the offence. The new maximum fine for fraud will be up to £2,000 for each year the offence is committed plus three times the amount of tax lost due to the offence.

Amnesty

Prior to increased penalties such as these being given legal effect, an amnesty from penalties and prosecution for offences against the Income Tax Law will operate for three months from 1st December 1998 to 28th February 1999. Offenders who come forward in that period will only have to pay the back-taxes.

The amnesty, which is offered with the permission of the Attorney General and the co-operation of the Comptroller of Income Tax, represents a unique opportunity for offenders to put their tax affairs in order.

Explanatory Note

The purpose of the draft Law is to amend further the Income Tax (Jersey) Law 1961 (“the principal Law”).

Articles 1, 2 and 3 update the provisions of the principal Law for procedure relating to hearings before the Commissioners of Appeal. These provisions increase the period of notice of a hearing date to be given to an appellant from four to twenty-one days, enshrine the rights to be heard of both the appellant and the Comptroller in law and give the appellant the right, subject to the Commissioners’ permission, to be represented by any person he wishes. The Commissioners are also given power to explain the order of proceedings at the beginning of the hearing, to hear and determine an appeal if the appellant fails to attend when notified and to review their final determination in certain circumstances.

Articles 4 to 9 amend the existing provisions in the principal Law to increase various fines and penalties.

Fines for infractions of the income tax law are now set at levels stated in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. Those levels are -

Level 1	£50
Level 2	£500
Level 3	£2000
Level 4	£5000

Penalties for neglect (*Article 7*) have been increased to twice the tax payable and for fraud to three times the tax payable.

Article 10 is the short title.

INCOME TAX (AMENDMENT No. 20) (JERSEY) LAW 199

A LAW to amend further the provisions of the Income Tax (Jersey) Law 1961; 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 27 of the Income Tax (Jersey) Law 1961,¹ as amended,² (hereinafter referred to as "the principal Law"), for paragraph (2) there shall be substituted the following paragraph -

"(2) If an appellant fails to attend or to be represented at a hearing of which he has been duly notified, the Commissioners may -

- (a) unless they are satisfied that there is good and sufficient reason for such absence, hear and determine the proceedings in the absence of the appellant or his representative, or
- (b) postpone or adjourn the hearing:

¹ Volume 1961-1962, page 209.

² Volume 1979-1981, page 157.

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Provided that, if any representations in writing or otherwise have been submitted by or on behalf of the appellant in response to the notice of the hearing, the Commissioners shall consider such representations and shall give the Comptroller an opportunity to be heard in regard to those representations before they decide to hear and determine any proceedings in the absence of the appellant or his representative.”.

ARTICLE 2

In Article 29 of the principal Law³ -

- (a) in paragraph (1) for the word “four” there shall be substituted the words “twenty-one”;
- (b) for paragraph (2) there shall be substituted the following paragraph -

“(2) The Comptroller shall attend every appeal and may be present for all of the hearing and the determination.”;

- (c) for paragraph (3) there shall be substituted the following paragraph -

“(3) On an appeal the following persons shall have right of audience, either *viva voce* or in writing, before the Commissioners -

- (a) the Law Officers of the Crown or an advocate or solicitor of the Royal Court;
- (b) a member of an incorporated society of accountants; and

³ Volume 1961-1962, page 210.

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- (c) any other person, except that if in a particular case the Commissioners are satisfied that there are good and sufficient reasons for so doing, they may refuse to permit a particular person to represent the appellant.”;
- (d) after paragraph (5) there shall be added the following paragraphs -

“(6) At the beginning of the hearing of any proceedings the Commissioners shall -

- (a) explain the order of proceedings which they propose to adopt unless they consider it unnecessary to do so;
 - (b) conduct the hearing in the manner they consider most suitable for the clarification and determination of the issues before them and, so far as it appears appropriate, avoid formality in procedure; and
 - (c) determine in which order the parties to the proceedings shall be heard.
- (7) The appellant and the Comptroller shall be entitled -
- (a) to give evidence;
 - (b) to call witnesses;
 - (c) to question any witnesses including other parties who give evidence; and
 - (d) to address the Commissioners both on the evidence and generally on the subject matter of the proceedings.”.

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ARTICLE 3

After Article 29 of the principal Law⁴ there shall be inserted the following Article -

“ARTICLE 29A

Power of the Commissioners to review final determination

(1) If, on application by the appellant or the Comptroller, or of their own motion, the Commissioners are satisfied that -

- (a) their final determination was wrongly made as a result of a clerical or administrative error on their part or on the part of the appellant or the Comptroller;
- (b) an appellant, who was entitled to be heard at a hearing but failed to appear or to be represented, had good and sufficient reason for his failure; or
- (c) accounts or other information relevant to an appellant’s case had been sent to the Commissioners or the Comptroller prior to the hearing of the proceedings but had not been received by the Commissioners until after the hearing,

the Commissioners may review and set aside or vary the final determination.

(2) The appellant and the Comptroller shall have an opportunity to be heard on a review, or in relation to any application or proposal for review.

(3) An application for a review by the appellant or the Comptroller shall be made to the Commissioners, in writing,

⁴ Volume 1961-1962, page 211.

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stating the grounds in full, within twenty-one days of the date of the final determination or by any later time as the Commissioners may allow.”.

ARTICLE 4

In paragraph (3) of Article 35 of the principal Law⁵ for the words “forty pounds” there shall be substituted the words “level 2 on the standard scale”.

ARTICLE 5

In Article 89 of the principal Law⁶ -

- (a) in paragraph (2) for the words “twenty pounds” there shall be substituted the words “level 2 on the standard scale”;
- (b) in the proviso for the words “two hundred pounds” there shall be substituted the words “level 3 on the standard scale”.

ARTICLE 6

In Article 136 of the principal Law⁷ -

- (a) in paragraph (1) -
 - (i) for the words “five hundred pounds” there shall be substituted the words “level 3 on the standard scale”;
 - (ii) for the words “one hundred pounds” there shall be substituted the words “level 2 on the standard scale”;

⁵ Volume 1961-1962, page 214, and Volume 1975-1978, page 257.

⁶ Volume 1961-1962, page 250, and Volume 1975-1978, page 257.

⁷ Volume 1961-1962, page 295, Volume 1979-1981, page 384, and Volume 1996-1997, page 269.

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- (b) in paragraph (3) for the words “one hundred pounds” there shall be substituted the words “level 2 on the standard scale”.

ARTICLE 7

In Article 137 of the principal Law⁸ -

- (a) in paragraph (1) -
 - (i) in clause (i) for the words “five hundred pounds” there shall be substituted the words “level 3 on the standard scale”;
 - (ii) in clause (ii) for the words “the amount” and “twice” in the first line there shall be substituted the words “twice the amount” and “three times” respectively;
- (b) in paragraph (2) -
 - (i) for the words “five hundred pounds” there shall be substituted the words “level 3 on the standard scale”;
 - (ii) for the words “one thousand pounds” there shall be substituted the words “level 4 on the standard scale”.

ARTICLE 8

In Article 138 of the principal Law⁹ for the words “one thousand pounds” there shall be substituted the words “level 4 on the standard scale”.

⁸ Volume 1961-1962, page 296, Volume 1963-1965, page 424, Volume 1975-1978, page 258, and Volume 1979-1981, page 384.

⁹ Volume 1961-1962, page 298, and Volume 1975-1978, page 258.

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ARTICLE 9

In paragraph (1) of Article 139 of the principal Law¹⁰ for the words “one hundred pounds” there shall be substituted the words “level 2 on the standard scale”.

ARTICLE 10

This Law may be cited as the Income Tax (Amendment No. 20) (Jersey) Law 199 .

¹⁰ Volume 1961-1962, page 298, and Volume 1975-1978, page 258.