

DRAFT INCOME TAX (AMENDMENT No. 21) (JERSEY) LAW 200-

**Lodged au Greffe on 14th November 2000
by the Finance and Economics Committee**



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REPORT

Introductory

The tax amendments proposed by this draft Law, while part of the Budget package, are being lodged “au Greffe” as a separate amending Law for debate by the States at the same time as the Finance Law.

This procedure has the advantage of giving States members adequate time to consider, and comment upon, legislative provisions which are, for the most part, 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 Operatoire”), to enable Parts 2 and 3 of this Law, like the Finance Law, to take immediate effect.

Disclosure of tax information

A good deal of statistical data (being information that cannot be related to individuals or small groups) is produced by the Income Tax Department for budgetary purposes. The amendment permits the Comptroller of Income Tax to provide that information not only to the President of the Finance and Economics Committee, as hitherto, but also to the President of the Policy and Resources Committee and to members and officers of those two committees.

Employment income to be taxed on a receipts basis

Currently, employment income is taxed on a receivable basis. The result is that income may not be fully determined until well after the end of the year of assessment if, for example, the emoluments include items such as back-pay or profit-related bonuses.

It is proposed that employment income is taxed on a receipts basis, i.e. the amount actually paid to the employee or director in the year. The change is to take effect from the year 2001. Transitional provisions and detailed rules as to when income is ‘paid’ for tax purposes are necessary to ensure that the revised Law operates effectively and fairly.

Tax relief for interest to be restricted

As a first step towards the long-term abolition of tax relief for non trade-related interest payments, relief will be restricted for the year 2001 to 90 per cent of interest paid. The arguments for abolishing this relief have been accepted by the Finance and Economics Committee (“the Committee”). Tax relief is inequitable between the mortgage payer and the payer of rent but the foremost reason is that abolition of tax relief for interest is clearly and unambiguously counter-inflationary. With Jersey’s rate of inflation the Committee would, if it had the power, raise interest rates in order to curb demand and encourage saving. Reducing interest tax relief has the same effect as raising interest rates.

The Committee recognises that there are constraints in implementing this policy.

The first is that the impact will be felt most by those in the low to middle income groups. In order to mitigate that effect, the Committee has proposed that the marginal rate of tax (the rate effectively paid by two-thirds of taxpaying individuals) be reduced from 27 per cent to 26 per cent. By this means the great majority of those in the marginal rate band will be better off, even after the restriction of tax relief for interest payments.

The second is that bank borrowings have an important role to play in the Island’s commercial life and in the provision of private sector rental accommodation. As a result, interest incurred for business purposes, that term to include letting property on a commercial basis, continues to be eligible for tax relief. The amending provisions contain detailed rules for identifying the types of interest for which relief will continue to be given in full.

Finally, abolition of this tax relief is something that cannot be achieved other than over a lengthy period (the Committee has in mind a time-span of ten years).

Interest paid after deduction of tax

In the case of certain loans, the payer of interest currently has the right, under the Income Tax Law, to deduct tax before paying the interest to the lender. It is proposed to repeal that provision in the case of any such loan agreements entered into after the end of 2000. Where tax continues to be deductible under existing agreements, the excess tax relief gained on ten per cent of the loan interest will be recouped in the 2001 notice of assessment (sent to the payer in 2002) unless the interest was

incurred for business purposes.

Explanatory Note

This draft Law further amends the Income Tax (Jersey) Law 1961 (“the principal Law”).

Part 1 - Disclosure of information

Article 1 amends Article 13 of the principal Law. The Comptroller may already disclose statistical information to the President of the Finance and Economics Committee for budgetary purposes. The amendment enables him to disclose information for those purposes to the President of the Policy and Resources Committee and to a member or officer of either the Finance and Economics Committee or the Policy and Resources Committee.

Part 2 - Assessment of income from employment on receipts basis

Article 2 is the interpretation provision for *Part 2*.

Article 3 amends Part X and Article 133 of the principal Law. Taken together, the amendments have the effect that emoluments of an office or employment are brought into tax in the year in which the emoluments are paid, instead of the year in which they arise. The detailed effect of the amendments is described below.

Paragraph (1) amends Article 65 of the principal Law. The new Article 65(1)(b) is the rule that emoluments of an office or employment are charged to tax in the year the employee receives them. The new Article 65(1)(c) has the effect that a pension continues to be charged to tax in the year in which payments arise. Paragraphs (1A) and (1B), inserted in Article 65, make it clear that the new rule applies where the emolument arises in one year but is paid in another, and makes provision for how the rule is to operate where the employee ceases the employment or dies after the emolument arises but before it is paid.

Paragraph (2) adds a new Article 65A to the principal Law. It imposes rules for establishing the time when emoluments are received and, accordingly, the year in which they are charged to tax. In most cases, this will be when the employee receives the cash or actual benefit.

Paragraph (3) adds a new Article 69A to the principal Law. It gives the Comptroller a discretion to refuse to allow an employer a deduction for emoluments shown for an accounting year as payable but which, twelve months after the end of that year, remain unpaid. The discretion may only be exercised to prevent the avoidance or reduction in liability of any person to income tax.

Paragraph (4) amends Article 80 of the principal Law. It provides for income arising from an office or employment outside the Island to be brought into tax in the year in which the employee receives it.

Paragraph (5) amends Article 133 of the principal Law. It is concerned with the entitlement of an investment holding company to repayment of tax on emoluments of an office or employment as expenses of management. It gives the Comptroller a discretion to refuse to allow a repayment for emoluments shown, for a year, as payable but which, twelve months after the end of that year, remain unpaid. The discretion may only be exercised to prevent the avoidance or reduction in liability of any person to income tax.

Article 4 provides for the coming into force of the new rule given effect by *Article 3*. The rule will apply from 1st January 2001. However, emoluments (including income arising outside the Island) will continue to be charged to tax in the year in which they arise where the employee dies before that day and where the emoluments arose before that day and, therefore, have been charged to tax already. Emoluments paid before that day but arising on or after it will be charged to tax in 2001.

Part 3 - Withdrawal of relief for interest payments

Article 5 is the interpretation provision for *Part 3*.

Article 6 amends Part XI and other provisions of the principal Law. Taken together, the amendments have the effect that, from 1st January 2001, 100% tax relief for interest payments will be given only in specified cases. In all other cases, tax relief will be given on 90% of the interest paid. The detailed effect of the amendments is described below.

Paragraphs (1) and (2) make consequential amendments.

Paragraph (3) amends Article 80 of the principal Law. The effect is that relief is allowed on interest paid to a person outside the Island, out of income arising outside the Island, in accordance with the new Article 90AA

described below.

Paragraph (4) amends Article 86 of the principal Law. The effect is that there will be no right to deduct tax from interest payments made under an agreement entered into on or after 1st January 2001. Interest under existing agreements will continue to be paid net of tax but, where only 90% of the interest is eligible for relief, the payer will be charged to tax on the remaining 10%.

Paragraph (5) amends Articles 89A and 90 of the principal Law with the effect that tax relief on interest payments to a finance house or bank is allowed in accordance with the new Article 90AA described below.

Paragraph (6) adds new Articles 90AA, 90AB and 90AC to the principal Law.

Article 90AA sets out the cases where tax relief is to be given on the full amount of the interest. In all other cases, only 90% of the interest qualifies for tax relief. The cases eligible for 100% relief are in paragraphs (2), (5), (7) and (8) of Article 90AA. They are -

loans to acquire, develop or improve land, including property, which is let commercially;

loans incurred by a partner to buy machinery or plant for use by the partnership;

loans to acquire a partnership share or contribute capital to a partnership which is to be used for the purposes of the trade or profession carried on by it;

loans to acquire ordinary share capital of a company which is resident in the Island and whose shares are not listed on a stock exchange or to lend money to such a company which is to be used for the purposes of the trade carried on by it.

Article 90AB is supplemental to Article 90AA. It applies to loans relating to partnerships or companies which are eligible for 100% relief under Article 90AA(7) or (8) and has the effect that any capital recovered from the partnership or company by the person who took out the loan is treated as reducing the loan.

Article 90AC is also supplemental to Article 90AA. In order to be eligible for 100% relief, it must be clear that a loan is made for and in connection with one of the qualifying purposes described in Article 90AA. If only part of a loan is eligible for relief at the 100% rate, the interest brought into tax is duly apportioned. Where a loan eligible for 100% relief is replaced, the replacement loan and original loan are treated as one.

Paragraph (7) amends Article 92A of the principal Law to reduce the marginal rate of tax on small incomes from 27% to 26%.

Paragraph (8) amends Article 133 of the principal Law. Unless eligible for 100% relief under Article 90AA, interest payments made by an investment holding company shall only be eligible for repayment of tax, as an expense of management, at a rate not exceeding 90%.

Paragraph (9) amends Article 139 of the principal Law to permit agreements entered into on or after 1st January 2001 to provide for interest payments to be made on a gross basis.

Article 7 provides for *Part 3* to have effect for the year 2001 and onwards.

Part 4 - Closing provision

Article 8 is the citation provision.

ARRANGEMENT OF ARTICLES

PART 1

DISCLOSURE OF INFORMATION

1. Extension of disclosure of statistical information

PART 2

ASSESSMENT OF INCOME FROM EMPLOYMENT ON RECEIPTS BASIS

2. Interpretation of Part 2
3. Move to assessment of emoluments of office or employment on receipts basis
4. Operation of and transitional provisions for Part 2

PART 3

WITHDRAWAL OF RELIEF FOR INTEREST PAYMENTS

5. Interpretation of Part 3
6. Withdrawal of relief for interest payments
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PART 4

CLOSING PROVISION

8. Citation

INCOME TAX (AMENDMENT No. 21) (JERSEY) LAW 200-

A LAW to amend further the Income Tax (Jersey) Law 1961; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

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

PART 1

DISCLOSURE OF INFORMATION

ARTICLE 1

Extension of disclosure of statistical information

In Article 13 of the Income Tax (Jersey) Law 1961,^[1] as amended -

- (a) at the beginning, there shall be inserted the paragraph number “(1)”:
- (b) in paragraph (1), for the words “to the President of the Finance Committee such statistical information as he may require” there shall be substituted the words “to the President of the Finance and Economics Committee or the President of the Policy and Resources Committee, or to a member or officer of either of those Committees, such statistical information as that person may require”;
- (c) after paragraph (1) there shall be added the following paragraph -

“(2) In this Article, ‘officer’ shall have the same meaning as in Article 36A(6) of the States of Jersey Law 1966.^[2]”.

PART 2

ASSESSMENT OF INCOME FROM EMPLOYMENT ON RECEIPTS BASIS

ARTICLE 2

Interpretation of Part 2

In this Part, “principal Law” means the Income Tax (Jersey) Law 1961,^[3] as amended.^[4]

ARTICLE 3

Move to assessment of emoluments of office or employment on receipts basis

- (1) In Article 65 of the principal Law^[5] -
- (a) for paragraph (1)(b) there shall be substituted the following sub-paragraphs -
- “(b) in the case of an office or employment, on the full amount of the emoluments of the office or employment received in the year of assessment;
- (c) in the case of a pension, on the full amount of the emoluments of the pension arising in the year of assessment.”;
- (b) after paragraph (1) there shall be inserted the following paragraphs -
- “(1A) Paragraph (1) of this Article applies, in the case described in sub-paragraph (b) thereof -
- (a) whether the emoluments are for the year in which they are received or for some other year of assessment;
- (b) whether or not the office or employment is held at the time the emoluments are received.
- (1B) Where paragraph (1) of this Article applies in the case described in sub-paragraph (b) thereof, in the case of emoluments received after the death of the person who held the office or employment concerned, tax charged on the emoluments -
- (a) shall be assessed and charged on the deceased’s heirs, executors or administrators; and
- (b) shall be a debt due from and payable out of the deceased’s estate.”;
- (c) in paragraph (2), after the words “In this Article” there shall be inserted the words “and in Article 65A”.
- (2) After Article 65 of the principal Law^[6] there shall be inserted the following Article -

“ARTICLE 65A

Meaning of receipt of emolument

- (1) For the purposes of Article 65(1) of this Law, in the case described in sub-paragraph (b) thereof, emoluments which take the form of a benefit not consisting of money shall be treated as received at the time when the benefit is provided.
- (2) For the purposes of Article 65(1) of this Law, in the case described in sub-paragraph (b) thereof, emoluments to which paragraph (1) of this Article does not apply shall be treated as received at the time found in accordance with the following rules (taking the earlier or earliest time in a case where more than one rule applies) -
- (a) the time when payment is made of or on account of the emoluments;
- (b) the time when a person becomes entitled to payment of or on account of the emoluments;
- (c) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and sums on account of the emoluments are credited in the company’s accounts or records, the time when sums on account of the emoluments are so credited;
- (d) in a case where the emoluments are from an office or employment with a company, the holder of the office or employment is a director of the company and the amount of the emoluments for a period is determined before the period ends, the time when the period ends;
- (e) in a case where the emoluments are from an office or employment with a company, the holder of the

office or employment is a director of the company and the amount of the emoluments for a period is not known until the amount is determined after the period has ended, the time when the amount is determined.

(3) Paragraph (2)(c), (d) or (e) of this Article applies whether or not the office or employment concerned is that of director.

(4) Paragraph (2)(c), (d) or (e) of this Article applies if the holder of the office or employment is a director of the company at any time in the year of assessment in which the time mentioned in the sub-paragraph concerned falls.

(5) For the purposes of the rule in paragraph (2)(c) of this Article, any fetter on the right to draw the sums shall be disregarded.

(6) In paragraph (2) of this Article, “director” means -

(a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;

(b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and

(c) in relation to a company whose affairs are managed by the members themselves, a member of the company.

(7) In paragraph (2) of this Article, ‘director’, in relation to a company, also includes any person in accordance with whose directions or instructions the company’s directors (as defined in paragraph (6) of this Article) are accustomed to act and, for this purpose, a person is not to be deemed to be a person in accordance with whose directions or instructions the company’s directors are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.

(8) In this Article, ‘company’ means any body corporate or unincorporated association but does not include a partnership.”.

(3) After Article 69 of the principal Law^[7] there shall be inserted the following Article -

“ARTICLE 69A

Restriction on deduction for emoluments of office or employment

(1) Where -

(a) any emoluments arising from an office or employment would, apart from this Article, be deducted in computing the amount of the profits or gains of a period ending on or after the first day of January 2001 on which tax shall be charged for a year of assessment; and

(b) the emoluments are not paid before the end of the period of twelve months beginning with the end of that period,

the Comptroller, if he is of the opinion that the main purpose of deferral of payment of the emoluments is the avoidance or reduction of the liability of any person to income tax, may refuse to allow their deduction for that period.

(2) In this Article, ‘emoluments’ shall have the same meaning as in paragraph (2) of Article 65 of this Law and the time when emoluments are paid shall be determined in accordance with Article 65A of this Law as if ‘paid’ were substituted for ‘received’ throughout that Article.”.

(4) In Article 80 of the principal Law^[8] -

(a) in paragraph (1)(d), after the word “profession,” there shall be inserted the word “office,”;

- (b) after paragraph (1) there shall be inserted the following paragraphs -

“(1A) In the case of income from an office or employment, tax under Case V of Schedule D shall be computed on the full amount of the income received in the year of assessment.

(1B) Paragraphs (1A) and (1B) of Article 65 and Article 65A of this Law shall apply for the purposes of paragraph (1A) of this Article as if references in them to emoluments were references to income.”.

- (5) In Article 133 of the principal Law^[9] -

- (a) in paragraph (1), after proviso (b) there shall be inserted the following proviso -

“(ba) where a company whose business consists mainly in the making of investments would, apart from this proviso, be entitled to repayment of tax for any year of assessment in respect of emoluments of an office or employment arising in that year which are not paid before the end of the following year of assessment the Comptroller, if he is of the opinion that the main purpose of deferral of payment of the emoluments is the avoidance or reduction of the liability of any person to income tax, may refuse to allow them as expenses of management; and”;

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

“(1A) In proviso (ba) to paragraph (1) of this Article, “emoluments” shall have the same meaning as in paragraph (2) of Article 65 of this Law and the time when emoluments are paid shall be determined in accordance with Article 65A of this Law as if ‘paid’ were substituted for ‘received’ throughout that Article.”.

ARTICLE 4

Operation of and transitional provisions for Part 2

- (1) Subject to this Article, this Part shall have effect for the year 2001 and ensuing years.

- (2) The amendments in Article 3(1) and (2) of this Law shall not have effect -

- (a) in relation to emoluments of an office or employment held by a person who died before the first day of January 2001; or

- (b) in relation to emoluments arising before the first day of January 2001 but received on or after that day.

(3) For the purposes of the amendments in Article 3(1) and (2) of this Law, emoluments of an office or employment which are received before the first day of January 2001 but which arise on or after that day shall be deemed to have been received on that day.

- (4) The amendments in Article 3(4) of this Law shall not have effect -

- (a) in relation to income from an office or employment held by a person who died before the first day of January 2001; or

- (b) in relation to income arising before the first day of January 2001 but received on or after that day.

(5) For the purposes of the amendments in Article 3(4) of this Law, income from an office or employment received before the first day of January 2001 but which arises on or after that day shall be deemed to have been received on that day.

- (6) For the purposes of this Article -

- (a) “emoluments” shall have the same meaning as in Article 65(2) of the principal Law,^[10]

- (b) the time when emoluments are received shall be determined in accordance with Article 65A of the principal Law;^[11]

- (c) the time when income is received shall be determined in accordance with Article 80(1B) of the principal Law.^[12]

PART 3

WITHDRAWAL OF RELIEF FOR INTEREST PAYMENTS

ARTICLE 5

Interpretation of Part 3

In this Part, “principal Law” means the Income Tax (Jersey) Law 1961,^[13] as amended.^[14]

ARTICLE 6

Withdrawal of relief for interest payments

(1) In Article 4(1) of the principal Law,^[15] for the words “any interest, annuity or other annual payments” there shall be substituted the words “so much of any interest of money allowed under this Law and of any annuity or any other annual payment”.

(2) In Article 70 of the principal Law,^[16] at the end of paragraph (f) there shall be added the words “but so that this paragraph shall not be treated as disallowing the deduction of any interest”.

(3) In Article 80(1)(c) of the principal Law,^[17] after the words “to a deduction” there shall be inserted the words “, in accordance with Article 90AA of this Law,”.

(4) In Article 86 of the principal Law,^[18] after paragraph (3), there shall be added the following paragraphs -

“(4) This Article shall not apply to any yearly interest of money payable under an agreement entered into on or after the first day of January 2001.

(5) In the case of any yearly interest of money to which paragraph (1) of this Article applies, one-tenth of so much of the payment as is eligible for relief of tax under paragraph (10) of Article 90AA of this Law shall be deemed to be a payment to which paragraph (1) of Article 87 of this Law refers, and that Article shall apply to it accordingly.”.

(5) In Articles 89A(2) and 90 of the principal Law,^[19] for the words “on the amount of the interest” there shall be substituted the words “in accordance with Article 90AA of this Law”.

(6) After Article 90 of the principal Law^[20] there shall be inserted the following Articles -

“ARTICLE 90AA

Amount of relief in respect of interest payments

(1) A deduction may be made in accordance with this Article -

(a) where a person is entitled to a deduction on account of any annual interest under sub-paragraph (c) of paragraph (1) of Article 80 of this Law or to relief of tax in accordance with paragraph (2) of Article 89A or Article 90 of this Law; or

(b) where yearly interest of money is payable which cannot be deducted, in computing income liable to tax, under any other provision of this Law.

(2) Subject to paragraphs (3) and (4) of this Article, where the interest is payable on a loan or other borrowing incurred for the purpose of -

- (a) acquiring, developing or improving land, for the purpose of letting the whole or substantially the whole of it on open market terms (including terms as to rent) to a person (other than the person by whom the interest is payable or a person connected with him); or
- (b) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains brought into charge to tax.

(3) Paragraph (2) of this Article shall not apply to a loan or other borrowing described in sub-paragraph (a) of that paragraph unless the letting referred to commences within what is, in the circumstances, a reasonable time from the acquisition, development or improvement.

(4) Where part of the land is occupied by the person by whom the interest is payable or a person connected with him, or where the whole or substantially the whole of the land is let as described in paragraph (2) of this Article for only part of the year of assessment, such part only of the interest shall be eligible for relief under the said paragraph (2) as is just and reasonable to attribute to the letting, having regard to all the relevant circumstances.

(5) Subject to paragraph (6) of this Article, where the interest is payable on a loan or other borrowing incurred by a person who is a partner in a partnership for the purpose of enabling him to buy machinery or plant for use wholly or mainly in a trade or profession carried on by that partnership, the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profit or gains brought into charge to tax.

(6) Where the machinery or plant described in paragraph (5) of this Article is not used wholly for the purposes of the trade or profession carried on by the partnership, such part only of the interest shall be eligible for relief under the said paragraph (5) as is just and reasonable to attribute to the use in the trade or profession, having regard to all the relevant circumstances and, in particular, to the extent of its use for other purposes.

(7) Where -

(a) the interest is payable on a loan or other borrowing incurred by a person for the purpose of -

- (i) acquiring a share in a partnership which carries on a trade or profession,
- (ii) contributing money to a partnership by way of capital or premium, or advancing money to a partnership, where the money is used wholly for the purposes of the trade or profession carried on by the partnership, or
- (iii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off; and

(b) throughout the period from the application of the proceeds of the loan or other borrowing until the interest was paid, the person has been a partner in the partnership; and

(c) the person shows that, in the period described in sub-paragraph (b) of this paragraph, he has not recovered any capital from the partnership, apart from any amount taken into account under Article 90AB of this Law,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profits or gains brought into charge to tax.

(8) Where -

(a) the interest is payable on a loan or other borrowing incurred by a person for the purpose of -

- (i) acquiring any part of the ordinary share capital of a company which exists wholly or mainly for the purpose of carrying on a trade or trades,
- (ii) lending money to such a company, where the money is used wholly and exclusively for the

purposes of the trade or trades carried on by the company, or

- (iii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off; and
- (b) the person shows that, in the period from the application of the proceeds of the loan to the payment of the interest, he has not recovered any capital from the company, apart from any amount taken into account under Article 90AB of this Law,

the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on the amount of the interest paid out of profit or gains brought into charge to tax.

(9) In paragraph (8) of this Article, 'company' means a company resident in the Island whose shares (or any class of whose shares) are not listed in the official list of a stock exchange or dealt with on the Alternative Investment Market.

(10) In the case of interest to which paragraph (2), (5), (7) or (8) of this Article does not apply, the person by whom the interest is payable, on proof of the facts to the satisfaction of the Comptroller, shall be entitled to relief of tax on nine-tenths of the amount of the interest paid out of profit or gains brought into charge to tax.

(11) In this Article
'land' and 'lease' have the same meaning as in Article 50 of this Law

ARTICLE 90AB

Provisions supplementary to Article 90AA: recovery of capital from partnership or company

(1) If, at any time after the application of the proceeds of a loan or other borrowing described in paragraph (7) or (8) of Article 90AA of this Law, the person by whom the interest is payable has recovered any amount of capital from the partnership or company without using that amount in repayment of the loan, that person shall be treated, for the purposes of the said paragraph (7) or (8), as if he had at that time repaid that amount out of the loan or other borrowing so that, out of the interest otherwise eligible for relief (or, where paragraph (2) of Article 90AC of this Law applies, out of the proportion so eligible) and payable for any period after that time, there shall be deducted an amount equal to interest on the amount of capital so recovered.

(2) For the purposes of paragraph (1), a person shall be treated as having recovered an amount of capital from the partnership or company if, whether directly or indirectly -

- (a) he receives consideration of that amount or value for the sale, exchange or assignment of his interest in the partnership or any part of the ordinary share capital of the company or of repayment of any part of that ordinary share capital;
- (b) the partnership or company repays that amount of a loan or advance from him, or the partnership returns that amount of capital to him; or
- (c) he receives consideration of that amount or value for assigning any debt due to him from the partnership or company.

(3) Where a sale or assignment referred to in paragraph (2) of this Article is not a bargain made at arm's length, the sale or assignment shall be deemed to be for a consideration of an amount equal to the market value of what is disposed of.

ARTICLE 90AC

Provisions supplementary to Article 90AA: general

- (1) Paragraphs (2), (5), (7) and (8) of Article 90AA of this Law shall not apply to a loan unless it is made -
 - (a) in connection with the application of money; and

- (b) on the occasion of, or within what is in the circumstances a reasonable time from, the application of the money,

and those paragraphs shall not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in those paragraphs.

(2) Where part only of a debt fulfills the conditions required under paragraph (2), (5), (7) or (8) of Article 90AA of this Law for interest on the debt to be eligible for relief under any of those paragraphs, such proportion of the interest shall be treated as eligible for relief under that paragraph as is equal to the portion of the debt fulfilling those conditions at the time of the application of the money in question.

(3) Where paragraph (2), (5), (7) or (8) of Article 90AA of this Law applies to a loan or other borrowing ('the replacement loan') applied to pay off another loan or other borrowing ('the original loan') -

- (a) any condition or restriction applicable under that paragraph to the original loan shall apply to the original loan and the replacement loan as if they were one loan; and
- (b) any reference to the application of the proceeds of the replacement loan (apart from the reference by virtue of which any paragraph of Article 90AA of this Law applies to it) shall be treated as a reference to the application of the proceeds of the original loan.”.

(7) In Article 92A(2) of the principal Law,^[21] for the words “twenty-seven per cent” there shall be substituted the words “twenty-six per cent”.

(8) In Article 133(1) of the principal Law,^[22] after the words “Provided that -” there shall be inserted the following proviso -

“(aa) in the case of a company whose business consists mainly in the making of investments, relief for interest of money as an expense of management shall not, save as provided by Article 90AA of this Law, exceed nine-tenths of the interest paid in the year of assessment; and”.

(9) In Article 139 of the principal Law^[23] -

- (a) in paragraph (2), for the words “Every agreement” there shall be substituted the words “Subject to paragraph (3), every agreement”;
- (b) after paragraph (2) there shall be added the following paragraph -

“(3) Paragraph (2) shall not apply to an agreement for payment of interest entered into on or after the first day of January 2001.”.

ARTICLE 7

Operation of Part 3

This Part shall have effect for the year 2001 and ensuing years.

PART 4

CLOSING PROVISION

ARTICLE 8

Citation

This Law may be cited as the Income Tax (Amendment No. 21) (Jersey) Law 200.

- [1] Volume 1961-1962, page 202.
- [2] Volume 1966-1967, page 18, Volume 1996-1997, pages 11 and 803 and R & O 9176.
- [3] Volume 1966-1967, page 197.
- [4] Volume 1961-1962, page 443, Volume 1963-1965, pages 97, 143, 178, 189, 423 and 454, Volume 1966-1967, page 523, Volume 1968-1969, pages 38 and 219, Volume 1970-1972, pages 209, 305 and 382, Volume 1973-1974, page 275, Volume 1975-1978, pages 47, 148 and 257, Volume 1979-1981, pages 16, 157, 297 and 383, Volume 1982-1983, page 46, Volume 1984-1985, page 76, Volume 1986-1987, pages 192 and 208, Volume 1988-1989, pages 222 and 380, Volume 1990-1991, pages 96, 432 and 1088, Volume 1992-1993, pages 36 and 121, Volume 1994-1995, pages 220 and 366, Volume 1996-1997, pages 264, 643 and 652, Volume 1998, pages 3 and 259, Volume 1999, pages 209, 390, 403 and 418 and Volume 2000, page 290.
- [5] Volume 1961-1962, page 230.
- [6] Volume 1961-1962, page 230.
- [7] Volume 1961-1962, page 234.
- [8] Volume 1961-1962, page 244 and Volume 1973-1974, page 275.
- [9] Volume 1961-1962, page 291.
- [10] Volume 1961-1962, page 230.
- [11] See page 13 of this projet.
- [12] See page 16 of this projet.
- [13] Volume 1966-1967, page 197.
- [14] Volume 1961-1962, page 443, Volume 1963-1965, pages 97, 143, 178, 189, 423 and 454, Volume 1966-1967, page 523, Volume 1968-1969, pages 38 and 219, Volume 1970-1972, pages 209, 305 and 382, Volume 1973-1974, page 275, Volume 1975-1978, pages 47, 148 and 257, Volume 1979-1981, pages 16, 157, 297 and 383, Volume 1982-1983, page 46, Volume 1984-1985, page 76, Volume 1986-1987, pages 192 and 208, Volume 1988-1989, pages 222 and 380, Volume 1990-1991, pages 96, 432 and 1088, Volume 1992-1993, pages 36 and 121, Volume 1994-1995, pages 220 and 366, Volume 1996-1997, pages 264, 643 and 652, Volume 1998, pages 3 and 259, Volume 1999, pages 209, 390, 403 and 418 and Volume 2000, page 290.
- [15] Volume 1961-1962, page 199.
- [16] Volume 1961-1962, page 235.
- [17] Volume 1961-1962, page 244.
- [18] Volume 1961-1962, page 249 and Volume 1970-1972, page 209.
- [19] Volume 1961-1962, page 250 and Volume 1996-1997, page 654.
- [20] Volume 1961-1962, page 251.
- [21] Volume 1961-1962, page 254, Volume 1970-1972, page 204, Volume 1982-1983, page 47, Volume 1988-1989, page 223, Volume 1994-1995, page 366, Volume 1996-1997, pages 264 and 652, Volume 1999, pages 391 and 406 and Volume 2000, page 290.
- [22] Volume 1961-1962, page 291.
- [23] Volume 1961-1962, page 298 and Volume 1999, page 215.