

STATES OF JERSEY

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DRAFT INCOME TAX (AMENDMENT No. 23) (JERSEY) LAW 200-

**Lodged au Greffe in Second Reading on 5th December 2003
by the Finance and Economics Committee**

STATES GREFFE



Jersey

DRAFT INCOME TAX (AMENDMENT No. 23)(JERSEY) LAW 200-

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Jersey

DRAFT INCOME TAX (AMENDMENT No. 23)(JERSEY) LAW 200-

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 –

PART 1

PRELIMINARY

1 Interpretation

In this Law “Law” means the Income Tax (Jersey) Law 1961^[1]

PART 2

RESTRICTION OF RELIEF FOR INTEREST PAYMENTS

2 Article 4 amended

In Article 4(1) of the Law^[2] 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 other annual payment”.

3 Article 61 amended

In Article 61 of the Law^[3] –

- (a) at the beginning there shall be inserted the paragraph number “(1)”;
- (b) after paragraph (1) there shall be inserted the following paragraph–

“(2) The provisions of paragraph (1) of this Article are without prejudice to any other provision of this Law directing tax to be charged under Schedule D and the tax so directed to be charged shall be charged accordingly.”.

4 Article 81 amended

In Article 81(1) of the Law^[4] for the words “Tax under Case VI” there shall be substituted the words “Save as provided by Article 86(2)(e) of this Law, tax under Case VI”.

5 Article 86 amended

In Article 86 of the Law^[5] –

- (a) in paragraph (1)–
 - (i) the words “yearly interest of money,” shall be deleted,
 - (ii) in sub-paragraphs (a) and (b) the word “interest,” in each place where it appears shall be deleted;
- (b) for paragraph (2) there shall be substituted the following paragraphs–

“(2) Where any yearly interest of money (whether payable within or outside the Island) is payable under an agreement entered into before the first day of January 2004 wholly out of profits or gains brought into charge to tax –

- (a) no assessment shall be made upon the person entitled to the interest;
- (b) the whole of the profits or gains shall be assessed and charged with tax on the person liable to the interest;
- (c) the person liable to make the payment, whether out of the profits or gains charged with tax or out of any annual payment liable to deduction, or from which a deduction has been made, shall be entitled on making the payment to deduct and retain out of it a sum representing the amount of tax thereon at the standard rate for the year in which the amount payable becomes due;
- (d) the person to whom payment is made shall allow the deduction on receipt of the residue of the payment, and the person making the deduction shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid;
- (e) the person making the payment shall be assessed and charged with tax under Schedule D Case VI on so much of the payment as does not qualify for relief under any of Articles 90AA to 90AD of this Law.

(2A) Paragraph (2) of this Article shall not apply where the person liable to make the payment has elected, by written notice delivered to the Comptroller, for its disapplication.

(2B) An election under paragraph (2A) of this Article–

- (a) shall have effect from the first day of January following the election; and
- (b) is irrevocable.”.

6 Articles 89A and 90 amended

In Articles 89A(2) and 90 of the Law^[6] for the words “relief of tax on the amount of the interest” there shall be substituted the words “such relief of tax, if any, as is allowed under any of Articles 90AA to 90AC of this Law on the amount of the interest”.

7 Articles 90AA to 90AF inserted

After Article 90 of the Law^[7] there shall be inserted the following Articles –

“90AA Relief in respect of interest payments: only or main residence

- (1) This Article applies where a person pays yearly interest of money which he cannot deduct, in computing his income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE of this Law, where the interest is payable on a loan incurred for the purpose of –
 - (a) acquiring a dwelling-house in the Island for the purpose of its occupation by the person by whom the interest is payable as his only or main residence;
 - (b) extending a dwelling-house acquired for the purpose described in sub-paragraph (a) of this paragraph; or
 - (c) 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 unless –
 - (a) at the time the interest is paid, the dwelling-house is occupied by the person by whom the interest is payable as his only or main residence; and
 - (b) the person by whom the interest is payable has made a declaration, in writing, to the Comptroller that the conditions in sub-paragraph (a) of this paragraph are fulfilled.
- (4) Paragraph (2) of this Article shall not apply where –
 - (a) the person by whom the interest is payable acquires the dwelling-house from the person’s spouse; and
 - (b) both of those persons occupy the dwelling-house as a residence before and after the acquisition.
- (5) Interest payable in relation to a dwelling-house shall be eligible for relief under paragraph (2) of this Article only to the extent that the loan on which it is payable does not exceed £300,000, or the aggregate of the loans in relation to the dwelling-house on which it is payable does not exceed that amount.
- (6) Where the interest eligible for relief in relation to a dwelling-house under paragraph (2) of this Article is payable by more than one person the relief shall be apportioned between those persons by reference to the portion that each of them pays of the total interest payable in relation to the dwelling house.
- (7) This Article shall not apply to a loan entered into on or after the first day of January 2004 unless the lender is–
 - (a) a person resident in the Island; or
 - (b) a person –
 - (i) carrying on a business of making loans, and
 - (ii) chargeable to tax in the Island on profits or gains derived from the loan.

90AB Relief in respect of interest payments: commercial letting

- (1) This Article applies where a person pays yearly interest of money which he cannot deduct, in computing his income chargeable to tax, under any other provision of this Law.

- (2) Subject to Article 90AE of this Law, where the interest is payable on a loan incurred for the purpose of –
- (a) acquiring 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);
 - (b) extending a building acquired for the purpose described in sub-paragraph (a) of this paragraph; or
 - (c) 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 of the letting of the land brought into charge to tax.
- (3) Paragraph (2) of this Article shall not apply to a loan for the purpose described in sub-paragraph (a) or (b) of that paragraph unless the letting on open market terms commences within what is, in the circumstances, a reasonable time following the advance of the loan or the first instalment of it.
- (4) Where –
- (a) part of the land is occupied by the person by whom the interest is payable or a person connected with him; or
 - (b) 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) In this Article 'land' includes a building.

90AC Relief in respect of interest payments: machinery and plant

- (1) This Article applies where a person pays yearly interest of money which he cannot deduct, in computing his income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE of this Law, where the interest is payable on a loan incurred by a person for the purpose of –
- (a) enabling the person to buy machinery or plant for use wholly and exclusively in a trade or profession carried on by the person; 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 of the trade or profession brought into charge to tax.
- (3) Subject to Article 90AE of this Law, where the interest is payable on a loan incurred by a person for the purpose of –
- (a) enabling him to buy any machinery or plant for use wholly and exclusively for the purposes of his office or employment; 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 interest paid out of profits

or gains of the office or employment brought into charge to tax.

90AD Relief in respect of interest payments: acquisition of trade, partnership share or trading company

- (1) This Article applies where a person pays yearly interest of money which he cannot deduct, in computing his income chargeable to tax, under any other provision of this Law.
- (2) Subject to Article 90AE of this Law, where—
 - (a) the interest is payable on a loan incurred by a person for the purpose of –
 - (i) acquiring a trade, or
 - (ii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off;
 - (b) throughout the period from the application of the proceeds of the loan until the interest is paid, the person has been the proprietor of the trade; 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 trade apart from any amount taken into account under Article 90AF 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 of the trade brought into charge to tax.

- (3) Subject to Article 90AE of this Law, where—
 - (a) the interest is payable on a loan incurred by a person for the purpose of –
 - (i) acquiring a share in a partnership which carries on a trade or profession, or
 - (ii) paying off another loan, interest on which would have been eligible for relief under this paragraph had the loan not been paid off;
 - (b) throughout the period from the application of the proceeds of the loan until the interest is 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 90AF 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 the person's share of the profits or gains of the partnership brought into charge to tax.

- (4) Subject to Article 90AE of this Law, where—
 - (a) the interest is payable on a loan incurred by a person who is an individual, a partnership, a holding company or a trading company, for the purpose of –
 - (i) acquiring a controlling interest in a trading company, or
 - (ii) 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) that person shows that, in the period from the application of the proceeds of the loan until the interest is paid, the person has not recovered any capital from the trading company, apart from any amount taken into account under Article 90AF 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 derived from the trading company in which the controlling interest is acquired and brought into charge to tax.

- (5) In paragraph (4) of this Article—
- ‘controlling interest’ means, in relation to a company, 51% or more of the ordinary share capital of the company;
- ‘holding company’ means a company which exists wholly and exclusively to own the controlling interest in the trading company;
- ‘trading company’ means a company, wherever resident, which exists wholly or mainly for the purpose of carrying on a trade or trades.

90AE Provisions supplementary to Articles 90AA to 90AD: general

- (1) In this Article and in Articles 90AA to 90AD ‘loan’ includes any borrowing.
- (2) Articles 90AA to 90AD 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 Articles shall not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in any of those Articles.
- (3) Where only a portion of a loan fulfils the conditions required under any of Articles 90AA to 90AD of this Law for interest on the loan to be eligible for relief of tax under any of those Articles, such portion of the total interest payable on the whole of the loan shall be treated as eligible for relief under the Article as equates to the portion of the loan fulfilling those conditions.
- (4) In paragraph (3) of this Article, in its application for the purposes of Article 90AA of this Law, where there is more than one loan in relation to the dwelling-house, ‘loan’ means the aggregate of such loans.
- (5) Where any of Articles 90AA to 90AD of this Law applies to a loan (the replacement loan) applied to pay off another loan (‘the original loan’) –
- (a) any condition or restriction applicable thereunder 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 the replacement loan is eligible for relief) shall be treated as a reference to the application of the proceeds of the original loan.

90AF Provisions supplementary to Article 90AD: recovery of capital from trade, partnership or company

- (1) If, at any time after the application of the proceeds of a loan or other borrowing described in paragraph (2), (3) or (4) of Article 90AD of this Law, the person by whom the interest is payable has recovered any amount of capital from the trade, partnership or company without using that amount in repayment of the loan or other borrowing, that person shall be treated, for the purposes of the said paragraph (2), (3) or (4), 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 (3) of Article 90AE of this Law applies, out of the portion 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) of this Article, a person shall be treated as having recovered an amount of capital from the trade, partnership or company if, whether

directly or indirectly –

- (a) he receives consideration of that amount or value for the sale, exchange or assignment of the trade, his interest in the partnership or any part of the share capital of the company or of repayment of any part of that share capital;
 - (b) the trade, partnership or company repays that amount of a loan or advance from him, or the trade or 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 trade, partnership or company.
- (3) Where a sale, exchange or assignment referred to in paragraph (2) of this Article is not a bargain made at arm's length, the sale, exchange or assignment shall be deemed to be for a consideration of an amount equal to the market value of what is disposed of.”.

8 Article 133 amended

In Article 133(1) of the Law^[8] after paragraph (a) of the proviso there shall be inserted the following paragraph –

“(aa) in the case of a company whose business consists mainly in the making of investments, relief shall only be given under this Article for interest of money as an expense of management in accordance with Article 90AB, 90AC or 90AD of this Law; and’.

9 Article 139 amended

In Article 139 of the Law^[9] –

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

“(3) Paragraph (2) of this Article shall not apply to an agreement for payment of interest entered into on or after the first day of January 2004”.

10 Application of Part 2

This Part shall have effect on 1st January 2004.

PART 3

SURCHARGE FOR LATE PAYMENT OF TAX

11 Article 26 amended

In Article 26 of the Law^[10] –

- (a) in paragraph (2) in subparagraph (c) of the proviso, for the words “serious illness, death or other exceptional circumstance” there shall be substituted the words “death, serious illness or other grave and exceptional circumstance”;
- (b) for paragraphs (3) and (4) there shall be substituted the following paragraphs–

“(3) The Comptroller shall issue a written notice to a person of his liability under paragraph (2) of this Article.

- (4) A person may, within 40 days of the issue of a notice under paragraph (3) of this Article apply to the Comptroller in writing for a waiver under paragraph (2) of this Article.
- (4A) Where a person applies under paragraph (4) of this Article, the Comptroller shall give notice to the person of whether or not he has waived the person's liability.
- (4B) A person aggrieved by the Comptroller's refusal to waive liability under paragraph (2) of this Article may appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the issue of notice of refusal.
- (4C) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (4B) of this Article as they apply to an appeal against any assessment –
 - (a) the proviso to Article 27(1);
 - (b) Article 27(2);
 - (c) Article 28(1);
 - (d) Article 29, with the omission of paragraphs (4) and (5);
 - (e) Articles 29A and 31 to 36.”.

12 Application of Part 3

This Part shall have effect in relation to tax payable for the year of assessment 2003 and ensuing years.

PART 4

SUBMISSION OF TAX RETURNS

13 Article 16 amended

In Article 16 of the Law^[11] –

- (a) in paragraph (1)–
 - (i) for the words “true and correct” there shall be substituted the words “true, complete and correct”,
 - (ii) in sub-paragraph (b) for the word “estimated” there shall be substituted the word “calculated”;
- (b) for paragraph (2) there shall be substituted the following paragraph–
 - “(2) The said statement shall include a declaration by the person preparing and delivering it –
 - (a) that the statement contains all the amounts required under paragraph (1)(b) of this Article, after deducting only such sums as are allowed; and
 - (b) that the statement is, to the best of the person's knowledge and belief, true, complete and correct.”.

14 Article 17A inserted

After Article 17^[12] there shall be inserted the following Article –

“17A Penalty for late delivery of Article 16 statement

- (1) Where a person required to deliver to the Comptroller a true, complete and correct statement described in Article 16 of this Law does not do so by the specified time, the

person shall be liable to pay to the Comptroller a penalty of £200.

- (2) In this Article 'specified time' means –
 - (a) in the case of a statement delivered on behalf of the person by another person whose business or profession includes the preparation of such statements and in the course of that other person's business or profession, 6 p.m. on the last Friday in July in the year next following the year of assessment to which the statement relates;
 - (b) in any other case, 6 p.m. on the last Friday in May in the year next following the year of assessment to which the statement relates.
- (3) Paragraph (1) of this Article shall not apply to –
 - (a) a company required to deliver a statement in respect of its own charge to tax; or
 - (b) a person not liable to pay any tax for the period to which the statement relates.
- (4) Where a statement is delivered after the specified time and the Comptroller is satisfied that, for the period to which the statement relates, a person is liable to pay tax of less than £200 –
 - (a) the person's liability under paragraph (1) of this Article shall be abated to an amount equal to the tax he is liable to pay; and
 - (b) the Comptroller shall repay to the person any amount paid by the person in discharge of his liability under paragraph (1) of this Article which exceeds the abated amount.
- (5) The Comptroller shall issue a written notice to a person of his liability under paragraph (1) of this Article.
- (6) A person may, within 40 days of the issue of a notice under paragraph (5) of this Article apply to the Comptroller in writing for a discharge or waiver under paragraph (7) of this Article.
- (7) The Comptroller may –
 - (a) discharge a person's liability under paragraph (1) of this Article if satisfied that a statement delivered by the person to the Comptroller, by the specified time, is true, complete and correct; or
 - (b) waive a person's liability under paragraph (1) of this Article if satisfied that death serious illness or other grave and exceptional circumstance prevented the person delivering the statement to the Comptroller by the specified time.
- (8) Where a person applies under paragraph (6) of this Article, the Comptroller shall give notice to the person of whether or not he has discharged or waived the person's liability.
- (9) A person aggrieved by the Comptroller's refusal to discharge or waive liability under paragraph (7) of this Article may appeal to the Commissioners, on giving notice to the Comptroller within 40 days of the issue of the notice of refusal.
- (10) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (9) of this Article as they apply to an appeal against any assessment –
 - (a) the proviso to Article 27(1);
 - (b) Article 27(2);
 - (c) Article 28(1);
 - (d) Article 29, with the omission of paragraphs (4) and (5);
 - (e) Articles 29A and 31 to 36.
- (11) Subject to paragraph (12) of this Article–

- (a) this Law shall apply to the collection and recovery of the penalty as if it were an amount of tax charged and payable under this Law; and
 - (b) the penalty shall not be deductible for any purposes of this Law.
- (12) The penalty shall be disregarded when determining the amount of a surcharge under Article 26(2) of this Law.
- (13) All monies received by the Comptroller under this Article shall be retained by him and applied to defray the costs of administering this Law.”.

15 Application of Part 4

This Part shall have effect in relation to statements required to be delivered under Article 16 of the Law in respect of the year of assessment 2003 and ensuing years.

PART 5

WITHDRAWAL OF APPROVAL FOR PENSION SCHEMES ETC.

16 Article 81 further amended

In Article 81(1) of the Law^[13] for the words “Article 86(2)(e)” there shall be substituted the words “Articles 86(2)(e) and 131G(5)”.

17 Article 115 amended

In Article 115 of the Law,^[14] at the end of paragraph (fa) there shall be added the words “provided that all contracts entered into by the company with or for the benefit of persons connected with the company are approved under this Law”.

18 Article 131 amended

In Article 131 of the Law^[15] paragraph (5)(d) shall be deleted.

19 Article 131A amended

In Article 131A of the Law^[16] –

(a) for paragraph (1) there shall be substituted the following paragraphs–

- “(1) Exemption from income tax shall be allowed in respect of income derived from investments or deposits of a superannuation fund approved by the Comptroller in accordance with the provisions of paragraph (1A) of this Article.
- (1A) The Comptroller may approve a superannuation fund if it is shown to his satisfaction that the superannuation fund complies with the following conditions –
 - (a) it is *bona fide* established under irrevocable trusts in connexion with some trade or undertaking carried on wholly or partly outside the Island by a person not resident in the Island;
 - (b) it has for its sole purpose the provision of superannuation benefits in respect of persons’ employment in the trade or undertaking wholly outside the Island; and
 - (c) it is recognised by the employer and employed persons in the trade or

undertaking.

(1B) For the purposes of paragraph (1A) of this Article duties performed in the Island, the performance of which is merely incidental to the performance of other duties outside the Island, shall be treated as performed outside the Island.

(1C) Any person or body of persons aggrieved by a decision of the Comptroller to refuse to approve a superannuation fund under this Article shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the date of the decision of the Comptroller.”;

(b) in paragraph (2) for the words “such as is mentioned in paragraph (1) of this Article” there shall be substituted the words “approved under this Article”.

20 Article 131D amended

In Article 131D(11)(c) of the Law^[17] there shall be deleted –

- (a) the word “and” at the end of sub-paragraph (b);
- (b) sub-paragraph (c).

21 Article 131E amended

In Article 131E(9) of the Law^[18] there shall be deleted –

- (a) the word “and” at the end of sub-paragraph (b);
- (b) sub-paragraph (c).

22 Article 131G inserted

After Article 131F of the Law^[19] there shall be inserted the following Article –

“131G Withdrawal of approval under Articles 131 to 131E

- (1) This Article applies to the following funds–
 - (a) a superannuation fund or pension scheme approved under Article 131 of this Law;
 - (b) a superannuation fund approved under Article 131A of this Law;
 - (c) an annuity contract approved under Article 131B or 131C of this Law;
 - (d) a drawdown contract approved under Article 131D of this Law;
 - (e) a trust approved under Article 131E of this Law.
- (2) The Comptroller may withdraw approval of a fund to which this Article applies or part of such a fund if it appears to him the facts concerning the fund or part of it, or its administration or arrangements made in accordance with it or part of it, do not warrant the continuance of approval.
- (3) The Comptroller shall give written notice of the withdrawal of approval, the grounds for withdrawal and the date on which the withdrawal takes effect to –
 - (a) the fund administrator;
 - (b) any person whose acts warranted the discontinuance of approval of the fund or part of it;
 - (c) any person who has benefited from the acts warranting discontinuance of approval

of the fund or part of it; or

(d) any person connected with the person mentioned in sub-paragraph (c) of this paragraph.

- (4) The date on which withdrawal of approval takes effect may be earlier than the date on which notice is given under paragraph (3) of this Article but shall not be earlier than the date on which the grounds for withdrawal appear to the Comptroller to have arisen.
- (5) Upon the withdrawal of approval taking effect, a person given notice under paragraph (3) of this Article shall be liable to tax under Schedule D Case VI notwithstanding Article 1 of this Law, at the rate of 50% on an amount equal to whichever, on the day on which the withdrawal takes effect, is the greater of –
 - (a) the market value of the assets held for the purposes of the fund; or
 - (b) the aggregate of –
 - (i) contributions to the fund, including transfers from other funds, and
 - (ii) income accrued from investments or deposits of the fund.
- (6) The Comptroller may abate the liability to tax under paragraph (5) of this Article by an amount which is, having regard to the relevant circumstances, just and reasonable.
- (7) Where all or any of the tax charged under paragraph (5) of this Article remains unpaid–
 - (a) the Comptroller may give a further notice under paragraph (3) of this Article to any of the persons there mentioned who has not previously been given notice; and
 - (b) the person to whom the further notice is given shall be liable to so much of the tax charged under paragraph (5) of this Article as remains unpaid.
- (8) Any person or body of persons aggrieved by any decision of the Comptroller to withdraw approval of a fund or part of it under this Article shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the date of the notice given by the Commissioner under paragraph (3) of this Article.
- (9) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (8) of this Article as they apply to an appeal against any assessment –
 - (a) the proviso to Article 27(1);
 - (b) Article 27(2);
 - (c) Article 28(1);
 - (d) Article 29, with the omission of paragraphs (4) and (5);
 - (e) Articles 29A, 35 and 36.
- (10) Where the Comptroller gives a notice under paragraph (3) of this Article to a person other than the fund administrator, the Comptroller shall inform the fund administrator that the notice has been given.
- (11) In this Article ‘fund administrator’ means –
 - (a) in the case of a superannuation fund or pension scheme approved under Article 131 of this Law, the trustees and any other persons having management of the fund or scheme and any person connected with any of them;
 - (b) in the case of a superannuation fund approved under Article 131A of this Law, the trustees and any other persons having management of the fund and any person connected with any of them;
 - (c) in the case of an annuity fund approved under Article 131B or 131C of this Law the person having control of the fund and any person connected with him;
 - (d) in the case of a drawdown contract approved under Article 131D of this Law, the manager and any person connected with him;

- (e) in the case of a trust approved under Article 131E of this Law, the trustees and any person connected with any of them.”.

23 Application of Part 5

This Part shall have effect in any case in which withdrawal of approval of a fund under Article 131G of the Law takes effect after this Part comes into force.

PART 6

BENEFITS IN KIND

24 Article 65B amended

In Article 65B of the Law^[20] –

- (a) in paragraph (4), for the words “Subject to paragraphs (5) and (6)” there shall be substituted the words “Subject to paragraph (5)”;
- (b) paragraph (6) shall be deleted.

25 Schedule 2 paragraph 1 amended

In paragraph 1 of Schedule 2 to the Law^[21] –

- (a) the word “and” at the end of sub-paragraph (c) shall be deleted;
- (b) after sub-paragraph (d) there shall be added the word “and” and the following sub-paragraph –
 - “(e) insurance provided by the employer for his office holders and employees against the loss of all or part of an office holder’s or employee’s emoluments of the office or employment by reason of the office holder or employee being unable, through ill-health, to discharge the duties of the office or employment.”.

26 Schedule 3 paragraph 1 amended

In paragraph 1 of Schedule 3 to the Law^[22] –

- (a) in sub-paragraph (1) after the words “to the use of a motor vehicle” there shall be inserted the words “owned by the employer”;
- (b) after sub-paragraph (1) there shall be inserted the following paragraph –
 - “(1A) The amount attributable, in any year of assessment, to the use of a motor vehicle leased or hired by the employer shall be –
 - (a) 25% of the value of the vehicle for that year, where the business use is 75% or more in that year; or
 - (b) 100% of the value of the vehicle for that year, where the business use is less than 75% in that year.”.

27 Schedule 3 paragraph 2 amended

In paragraph 2 of Schedule 3 to the Law^[23] –

- (a) before sub-paragraph (1) there shall be inserted the following sub-paragraph –
- “(A1) The amount attributable, in any year of assessment, to the use of a boat, aircraft or helicopter shall be determined –
- (a) where the boat, aircraft or helicopter is owned by the employer and has an open market value for that year of £200,000 or less, in accordance with sub-paragraph (1) of this paragraph;
 - (b) where the boat, aircraft or helicopter is leased or hired by the employer and has an open market value for that year of £200,000 or less, in accordance with sub-paragraph (1A) of this paragraph;
 - (c) where the boat, aircraft or helicopter is owned by the employer and has an open market value for that year of more than £200,000, in accordance with sub-paragraph (2) of this paragraph;
 - (d) where the boat, aircraft or helicopter is leased or hired by the employer and has an open market value for that year of more than £200,000, in accordance with sub-paragraph (2A) of this paragraph”;
- (b) in sub-paragraph (1) for the words “The amount attributable, in any year of assessment, to the use of a boat, aircraft or helicopter having a value for that year of £200,000 or less shall be” there shall be substituted the words “In the case described in sub-paragraph (A1)(a) of this paragraph, the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be”;
- (c) after sub-paragraph (1) there shall be inserted the following sub-paragraph –
- “(1A) In the case described in sub-paragraph (A1)(b) of this paragraph, the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be –
- (a) 25% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
 - (b) 100% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.”.

(d) in sub-paragraph (2) for the words “The amount attributable, in any year of assessment, to the use of a boat, aircraft or helicopter having a value for that year of more than £200,000 shall be” there shall be substituted the words “In the case described in sub-paragraph (A1)(c) of this paragraph, the amount attributable, in the year of assessment, to the use of the boat, aircraft or helicopter shall be”;

(e) after sub-paragraph (2) there shall be inserted the following sub-paragraph –

“(2A) In the case described in sub-paragraph (A1)(d) of this paragraph, the amount attributable, in any year of assessment, to the use of the boat, aircraft or helicopter shall be –

 - (a) 5% of the value of the boat, aircraft or helicopter for that year, where the business use is 75% or more in that year; or
 - (b) 20% of the value of the boat, aircraft or helicopter for that year, where the business use is less than 75% in that year.”;

(f) in sub-paragraph (3) for the words “this paragraph” there shall be substituted the words “sub-paragraphs (1) and (2) of this paragraph”;

(g) in sub-paragraph (6) for the words “this paragraph” there shall be substituted the words “sub-paragraphs (1A) and (2A) of this paragraph”.

28 Schedule 3 paragraph 3 amended

For sub-paragraphs (1) and (2) of paragraph 3 of Schedule 3 to the Law^[24] there shall be substituted the

following sub-paragraphs –

- “(1) Subject to sub-paragraph (2) of this paragraph, the amount attributable in any year of assessment to the use of any accommodation shall be –
 - (a) where the accommodation is furnished, 20% of the office holder’s or employee’s assessable emoluments of the office or employment (disregarding any other benefits) for the period for which the accommodation is used;
 - (b) where the accommodation is unfurnished, 15% of the office holder’s or employee’s assessable emoluments of the office or employment (disregarding any other benefits) for the period for which the accommodation is used.
- (2) The office holder or employee may, on producing evidence, to the satisfaction of the Comptroller, of the open market rental value of the accommodation for the period for which it is used by the office holder or employee, elect, for any year of assessment, for the amount attributable to the use of the accommodation to be the amount of the open market rental value.”.

29 Schedule 3 paragraph 4A inserted

After paragraph 4 of Schedule 3 to the Law^[25] there shall be inserted the following paragraph –

“4A Rule for apportionment

Where, in accordance with this Schedule, the amount attributable to the use of a benefit is determined by reference to a period (the ‘calculation period’) which exceeds the period for which the benefit is used by the office holder or employee or a member of that person’s family or household, the amount attributable to the use of the benefit shall be reduced by a proportion equal to the proportion which the part of the calculation period for which the benefit is not used by that person bears to the whole of that period.”.

30 Application of Part 6

This Part shall have effect for the year of assessment 2004 and ensuing years.

PART 7

REPEAL OF RIGHT TO SET OFF LOSSES AGAINST PROFITS

31 Article 71 repealed

Article 71 of the Law^[26] shall be repealed.

32 Application of Part 7

This Part shall have effect in relation to losses incurred after this Part comes into force.

PART 8

CALCULATION OF CAPITAL ALLOWANCE OR CHARGE

33 Article 106C amended

In Article 106C(3) of the Law^[27] for the words “under a scheme made under the provisions of Part III of the Agriculture (Guaranteed Prices and Financial Assistance) (Jersey) Law 1965^[28]” there shall be substituted the words “out of the revenues of the States”.

34 Application of Part 8

This Part shall have effect in relation to expenditure incurred after this Part comes into force.

PART 9

INCREASE IN NUMBER OF COMMISSIONERS OF APPEAL

35 Article 10 amended

In Article 10(1) of the Law^[29] for the word “five” there shall be substituted the word “eight”.

PART 10

RIGHTS AND ENTITLEMENTS OF INDIVIDUALS

36 Article 79 amended

- (1) Article 79(1) of the Law^[30] shall be repealed.
- (2) In Article 79(2) of the Law, for the words beginning “In the case of a” and ending “the full amount of the” there shall be substituted the words “Tax shall be computed on the full amount of a”.

37 Article 90B amended

In Article 90B of the Law^[31] –

- (a) for paragraph (1) there shall be substituted the following paragraph–

“(1) In this Article ‘qualifying maintenance payment’ means –

- (a) a periodical payment (not being a lump sum or an instalment of a lump sum) due on or after the first day of January 1997 which–
 - (i) is made under an order of a court in the Island or in a member State of the European Communities, or under a written agreement the proper law of which is the law of the Island or of a member State of the European Communities,
 - (ii) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) –
 - (A) to or for the benefit of the other party and for the maintenance of the other party, or
 - (B) for the benefit, maintenance or education of a person in respect of whom either party has or has had an entitlement to a deduction under

Article 95 of this Law,

- (iii) is due at a time when the two parties are not a married couple living together, and
- (iv) is not a payment in respect of which relief from tax is available to the individual making the payment under any provision of this Law other than this Article,

other than a payment made under an existing obligation; or

- (b) a periodical payment (not being a lump sum or an instalment of a lump sum) due on or after the first day of January 2004 which—
 - (i) is made under an order of a court in the Island or in a member State of the European Communities, or under a written agreement the proper law of which is the law of the Island or of a member State of the European Communities,
 - (ii) is made by a parent to or for the benefit, maintenance or education of his or her illegitimate child,
 - (iii) is due at a time when the parents of the child are not living together, and
 - (iv) is not a payment in respect of which relief from tax is available to the individual making the payment under any provision of this Law other than this Article,

other than a payment made under an existing obligation.”;

- (b) in paragraph (4), for the words “sub-paragraph (c) of paragraph (1) of this Article” there shall be substituted the words “paragraph (1)(a)(iii) of this Article”.

38 Article 92A amended

In Article 92A of the Law -

- (a) in paragraph (1) and in each of the provisos thereto, for the words “ten thousand seven hundred and fifty pounds” substitute the words “eleven thousand and twenty pounds”;
- (b) in paragraph (1) and in each of the provisos thereto, for the words “seventeen thousand two hundred and fifty pounds” substitute the words “seventeen thousand six hundred and eighty pounds”;
- (c) in the fourth proviso to paragraph (1) –
 - (i) for the words “one thousand two hundred and fifty pounds” substitute the words “one thousand two hundred and eighty pounds”,
 - (ii) for the words “two thousand five hundred pounds” substitute the words “two thousand five hundred and seventy pounds”.

39 Article 92B amended

In Article 92B(2)(c) of the Law for the amount “£6000” substitute the amount “£6150”.

40 Article 96 repealed

Article 96 of the Law^[32] shall be repealed.

41 Article 98A amended

In Article 98A(1)(a) of the Law,^[33] for the words “his wife” there shall be substituted the words “he or his

spouse”.

42 Article 99 repealed

Article 99 of the Law^[34] shall be repealed.

43 Article 100 repealed

Article 100 of the Law^[35] shall be repealed.

44 Article 106 amended

In Article 106 of the Law^[36] –

- (a) paragraph (1) shall be deleted;
- (b) in paragraph (2), for the words “In the case of a Commonwealth citizen or a citizen of a member State of the European Communities not resident in the Island, no such deduction or reduction of rate as aforesaid shall be given” there shall be substituted the words “No allowance or relief under the preceding provisions of this Part of this Law shall be given in the case of an individual not resident in the Island”.

45 Article 112 amended

In Article 112 of the Law^[37] –

- (a) in paragraph (3) the words “Save in respect of a pension to which paragraph (1) of Article 79 of this Law applies,” shall be deleted;
- (b) paragraph (4) shall be deleted.

46 Application of Part 10

This Part shall have effect for the year of assessment 2004 and ensuing years with the exception of Articles 38 and 39 which shall have effect for the year of assessment 2003 and ensuing years.

PART 11

MISCELLANEOUS AND CLOSING

47 Articles 87 and 88 amended

- (1) In Article 87 of the Law^[38] paragraph (3) shall be deleted.
- (2) In Article 88 of the Law^[39] paragraph (2) shall be deleted.

48 Articles 148 and 149 amended

In Articles 148(1) and 149(1) of the Law^[40] for the words “the Second Schedule” there shall be substituted the words “Schedule 4”.

49 Article 149A inserted

After Article 149 of the Law^[41] there shall be inserted the following Article –

“149A Savings and transitional provisions: general

Schedule 5 to this Law shall have effect to make transitional provisions and savings consequential upon amendments to this Law.”

50 Schedule 5 added

After Schedule 4 to the Law^[42] there shall be added the following Schedule –

“SCHEDULE 5

(Article 149A)

SAVINGS AND TRANSITIONAL PROVISIONS: GENERAL

1 Income Tax (Amendment No. 23) (Jersey) Law 200

- (1) In this paragraph ‘amending Law’ means the Income Tax (Amendment No. 23) (Jersey) Law 200.^[43]
- (2) Notwithstanding its repeal by Article 35 of the amending Law, Article 79(1) of this Law shall continue to have effect in the case of a pension to which it applies in the year of assessment 2003.
- (3) Notwithstanding its repeal by Article 37 of the amending Law, Article 96 of this Law shall continue to have effect in the case of a widow or widower who, for the year of assessment 2003, is entitled to a deduction under it, until that person’s entitlement ceases.
- (4) Notwithstanding its repeal by Article 39 of the amending Law, Article 99 of this Law shall continue to have effect in the case of an individual who, for the year of assessment 2003, is entitled to a deduction under it until the entitlement in respect of the person whom he maintains in that year ceases.
- (5) Notwithstanding its repeal by Article 40 of the amending Law, Article 100 of this Law shall continue to have effect in the case of an individual who, for the year of assessment 2003, is entitled to a deduction under it, until the individual’s entitlement ceases.
- (6) The amendments made by Article 42 of the amending Law to Article 112 of this Law shall not have effect in the case of a pension to which Article 79(1) of this Law applies in the year of assessment 2003.
- (7) Where, before the amendments made by Article 18 of the amending Law to Article 131A of this Law come into force, exemption from income tax is allowed pursuant to the said Article 131A in respect of income derived from investments or deposits of a superannuation fund, the superannuation fund shall be deemed to have been approved by the Comptroller under the said Article 131A as so amended.”.

51 Minor consequential amendments

The Schedule shall have effect to make amendments consequential upon the foregoing provisions of this Law.

52 Citation

This Law may be cited as the Income Tax (Amendment No. 23) (Jersey) Law 200.

SCHEDULE

(Article 51)

CONSEQUENTIAL AMENDMENTS

1 Articles 3, 101, 105, 107 and 134 amended

In the following Articles and other sub-divisions of the Law for the word “estimated” there shall be substituted the word “calculated” –

- (a) Article 3(1) in the definition “assessable income”;^[44]
- (b) Article 101(2)(a),^[45]
- (c) Article 105(2),^[46]
- (d) Article 107(1),^[47]
- (e) Article 134(3).^[48]

2 Articles 4, 69 and 119A amended

In the following Articles and other sub-divisions of the Law for the word “estimating” there shall be substituted the word “calculating” –

- (a) Article 4(2),^[49]
- (b) Article 69(1),^[50]
- (c) Article 119A(1).^[51]

3 Article 68 amended

- (1) In Article 68(1) of the Law^[52] the words “Article 71 or” shall be deleted.
- (2) Paragraph (1) shall have effect on 1st January 2004.

4 Article 106 amended

- (1) In Article 106(3) of the Law,^[53] the words “96, 99, 100,” shall be deleted.
- (2) Paragraph (1) shall have effect for the year of assessment 2004 and ensuing years.

5 Article 121B amended

- (1) In Article 121B(4)(c) of the Law^[54] for the words “, 98A(4) and 99(3)” there shall be substituted the words “and 98A(4)”.
- (2) Paragraph (1) shall have effect for the year of assessment 2004 and ensuing years.

6 Article 123A amended

- (1) In Article 123A(9) of the Law^[55] after the words “sub-paragraph (a) of” there shall be inserted the words “paragraph (1) of”.
- (2) Paragraph (1) shall have effect on 1st January 2004.

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- [1] *Volume 1961-1962, pages 197 and 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, Volume 2000, page 290, Volume 2001, pages 123 and 145 and Volume 2003, page 239.*
- [2] *Volume 1961-1962, page 199.*
- [3] *Volume 1961-1962, page 226, Volume 2002, page 427 and Volume 2003, page 242.*
- [4] *Volume 1961-1962, page 246 and Volume 2003, page 243.*
- [5] *Volume 1961-1962, page 248, Volume 1963-1965, page 423 and Volume 1970-1972, page 209.*
- [6] *Volume 1961-1962, pages 250 and 251 and Volume 1996-1997, page 654.*
- [7] *Volume 1961-1962, page 251.*
- [8] *Volume 1961-1962, page 291, Volume 2001, page 131 and Volume 2003, page 253.*
- [9] *Volume 1961-1962, page 298 and Volume 1999, page 215.*
- [10] *Volume 1961-1962, page 209, Volume 1992-1993, page 121 and Volume 1999, page 404.*
- [11] *Volume 1961-1962, page 203 and Volume 1986-1987, page 192.*
- [12] *Volume 1961-1962, page 204.*
- [13] *Volume 1961-1962, page 246 and Volume 2003, page 243.*
- [14] *Volume 1961-1962, page 272, Volume 1963-1965, pages 97, 144 and 190, Volume 1973-1974, page 27, Volume 1975-1978, page 47, Volume 1979-1981, pages 163 and 298, Volume 1990-1991, page 103, Volume 1994-1995, page 233, Volume 1996-1997, page 270, Volume 2000, page 294, Volume 2001, page 80, Volume 2002, page 1481 and Volume 2003, page 243.*
- [15] *Volume 1961-1962, page 283, Volume 1975-1978, page 48, Volume 1990-1991, page 103 and Volume 2003, page 243.*
- [16] *Volume 1961-1962, page 286, Volume 1961-1962, page 445 and Volume 2003, page 250.*
- [17] *Volume 1961-1962, page 286 and Volume 2003, page 244.*
- [18] *Volume 1961-1962, page 286 and Volume 2003, page 244.*
- [19] *Volume 1961-1962, page 286 and Volume 2003, page 244.*
- [20] *Volume 1961-1962, page 230 and Volume 2003, page 252.*
- [21] *Volume 1961-1962, page 307 and Volume 2003, page 253.*
- [22] *Volume 1961-1962, page 307 and Volume 2003, page 253.*
- [23] *Volume 1961-1962, page 307 and Volume 2003, page 253.*
- [24] *Volume 1961-1962, page 307 and Volume 2003, page 253.*
- [25] *Volume 1961-1962, page 307 and Volume 2003, page 253.*
- [26] *Volume 1961-1962, page 236.*
- [27] *Volume 1961-1962, page 264, Volume 1990-1991, page 103 and Volume 1992-1993, page 43.*
- [28] *Volume 1963-1965, page 487 and Volume 1970-1972, pages 17 and 18.*
- [29] *Volume 1961-1962, page 201.*
- [30] *Volume 1961-1962, page 243 and Volume 1966-1967, page 523.*
- [31] *Volume 1961-1962, page 251 and Volume 1996-1997, page 645.*
- [32] *Volume 1961-1962, page 256 and Volume 1990-1991, page 98.*

- [33] *Volume 1961-1962, page 259, Volume 1990-1991, page 99 and Volume 2000, page 293.*
- [34] *Volume 1961-1962, page 259, Volume 1979-1981, page 17 and Volume 1988-1989, page 383.*
- [35] *Volume 1961-1962, page 260 and Volume 1988-1989, page 383.*
- [36] *Volume 1961-1962, page 263, Volume 1990-1991, page 103 and Volume 1992-1993, page 43.*
- [37] *Volume 1961-1962, page 267 and Volume 1992-1993, page 373.*
- [38] *Volume 1961-1962, page 249, Volume 1992-1993, page 40, Volume 1996-1997, page 269 and Volume 2003, page 243.*
- [39] *Volume 1961-1962, page 249.*
- [40] *Volume 1961-1962, pages 304 and 305.*
- [41] *Volume 1961-1962, page 306.*
- [42] *Volume 1961-1962, page 308 and Volume 2003, page 263.*
- [43] *P.159/2003.*
- [44] *Volume 1961-1962, page 198.*
- [45] *Volume 1961-1962, page 261.*
- [46] *Volume 1961-1962, page 263.*
- [47] *Volume 1961-1962, page 264 and Volume 1994-1995, page 222.*
- [48] *Volume 1961-1962, page 294 and Volume 1999, page 410.*
- [49] *Volume 1961-1962, page 199.*
- [50] *Volume 1961-1962, page 233 and Volume 1986-1987, page 198.*
- [51] *Volume 1961-1962, page 276 and Volume 1970-1972, page 210.*
- [52] *Volume 1961-1962, page 233.*
- [53] *Volume 1961-1962, page 264, Volume 1990-1991, page 103 and Volume 1992-1993, page 43.*
- [54] *Volume 1961-1962, page 278 and Volume 2003, page 240.*
- [55] *Volume 1961-1962, page 279, Volume 1988-1989, page 384, Volume 1994-1995, page 224, Volume 1998, page 259 and Volume 2001, page 80.*