

STATES OF JERSEY



Jersey

DRAFT TAXATION (INCOME TAX, GOODS AND SERVICES TAX AND REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202-

**Lodged au Greffe on 18th May 2021
by the Minister for Treasury and Resources
Earliest date for debate: 29th June 2021**

STATES GREFFE



Jersey

**DRAFT TAXATION (INCOME TAX, GOODS AND
SERVICES TAX AND REVENUE
ADMINISTRATION) (AMENDMENT) (JERSEY)
LAW 202-**

European Convention on Human Rights

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

In the view of the Minister for Treasury and Resources, the provisions of the Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy S.J. Pinel of St. Clement**
Minister for Treasury and Resources

Dated: 4th May 2021

REPORT

Introduction

This draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- (the “Taxation Amendment Law”) contains a number of measures which were deferred from the [Finance \(2020 Budget\) \(Jersey\) Law 2020](#). It also includes measures arising from an internal review of various (long-standing) legal provisions originally intended to drive compliance through criminal procedures where other measures (including any available civil penalties) had proved ineffective or were inappropriate. Other, minor, changes are detailed below.

Measures carried over from the Finance Law 2020

Some measures were not proposed by the Minister for Treasury and Resources (the “Minister”) during the 2020 Budget debate, at the request of the Corporate Services Scrutiny Panel (the “CSSP”). Revenue Jersey has consulted on these measures with representative bodies and members of the tax agent community. CSSP has previously received evidence from the tax-agent community which has been fully incorporated into these measures.

Briefly, these measures are:

- *Time limits for amending assessments*
To provide greater certainty for taxpayers, the general period for the Comptroller to amend a tax assessment is reduced from 5 years to 2 years. The 2-year limit is extended if a tax return has been made carelessly, and there would be no time limit on amending assessments where a person has made a deliberately inaccurate declaration.
- *Revised provisions for appeals*
To reduce the number of spurious appeals, the Comptroller is provided with a power to refuse a taxpayer’s appeal if it appears there are no legal grounds of appeal. Any person whose appeal is refused by the Comptroller can appeal that decision to the Commissioners of Appeal.
- *Publishing appeal decisions*
To make the appeals process more transparent, the Revenue Administration Law (“RAL”) is amended to permit the publication of decisions made by the independent Commissioners of Appeal in an anonymised format. The Commissioners and the clerk to the Commissioners would determine which appeal decisions are to be published.
- *Charging interest on late payments made by employers*
To address a shortcoming in the RAL, the interest charging provisions are extended to incorporate the late payment of ITIS deductions by employers. Moreover, employed individuals, who pay most or all of their tax through ITIS, are removed from the scope of the interest regime. (N.B. the interest regime has not yet come into force; the States will by Regulations set the rates of interest to be charged and paid before the regime is enacted.)

- *Civil information gathering powers*

The purpose of these new ‘civil’ powers is to allow Revenue Jersey to obtain information from individuals and businesses where a person has failed or refused to respond to an informal request for information. Unlike the existing ‘criminal’ powers, notices issued under the new civil information provisions can be appealed to the Commissioners of Appeal.

Improving compliance

The criminal sanction provisions in the [Income Tax Law](#) (the “ITL”) and the [GST Law](#) are outdated and have been identified as largely ineffective in prosecuting those taxpayers who commit income tax and GST offences.

The purpose of the changes made to the prosecution provisions is to correct all of the shortcomings identified in the internal review undertaken, with the aim of ensuring Revenue Jersey and Law Officers can take cases to court in the way it always considered it could.

Other measures

A provision is made to ensure the [Regulations](#) that govern the payment of the deferred 2019 liability can be amended by the States in accordance with Recommendation 8 of the CSSP report on the PYB Regulations ([S.R.8/2021](#)).

Detail of the Taxation Amendment Law

Part 1

Article 1 provides that Part 1 of this draft Taxation Amendment Law amends the [Income Tax \(Jersey\) Law 1961](#).

Articles 2 to 9 arise from the internal review of how, in practice, Revenue Jersey can enforce compliance, including through the courts when necessary. The Law Officers’ Department and Revenue Jersey has faced great difficulty bringing into court various matters which it has been unable to tackle by other available means. The new provisions seek to set out:

1. A clearly defined requirement to do something, for example, file a tax return;
2. An unambiguous statement that failure to meet that requirement constitutes “an offence”; and
3. A remedy provided by law.

The internal review revealed that there were instances where this 3-step process was ambiguous and where the intended scope of the legislation was not clear. In particular, Article 136 of the ITL was considered fatally flawed and is being deleted by Article 7 of this draft Taxation Amendment Law. It is being replaced by a more fully developed set of provisions to underpin the court process where there has been a failure to meet a particular requirement. In totality, these changes seek to correct all the shortcomings identified in the review undertaken by tax officials and lawyers, with the aim of ensuring Revenue Jersey can actually take cases to court in the way it always considered it could.

Specifically, Article 2 extends the right to apply civil penalties to cases where a return is to be delivered by one person acting on behalf of another.

Article 3 removes the incorrect reference to a penalty being levied “under this Article”.

Article 4 introduces a new Article 21B to create a clear statement of when an offence is committed in relation to the different requirements under Part 4 of the ITL to deliver tax returns, and/or to provide information and documentation. It also introduces a new Article 21C to clarify which individual, or individuals, may be held accountable for a failure perpetrated by a body corporate, partnership, foundation.

Article 5 clarifies that misuse of subcontractor exemption certificates is “an offence”.

Article 6 similarly makes clear that an offence is committed where there are failures to provide the appropriate documentation when dividend payments are made.

Article 7 deletes Article 136 as this is replaced by the new Articles 21B and 21C. Article 136 is at the heart of the shortcomings of the existing legislation, providing for the imposition of fines where there has been a failure to meet a requirement to do something.

Article 8 clarifies that penalties for fraudulently making a tax return apply in relation not only to that person’s liability but also to another person’s.

Article 9 makes explicit that refusing to allow deduction of tax is “an offence”.

Article 10 amends the reference to an appeal against a financial penalty for late delivery of a tax return to ensure that it is not inadvertently impacted by future amendments to the appeal provisions under Part 6 of the ITL.

Articles 11 and 12 relate to the time limits in which the Comptroller can amend an assessment or make an additional assessment. *Article 11* provides an unlimited time in which an assessment can be amended in a minority of cases where a person has not submitted a tax return – the passage of time makes it more likely such returns might justify additional detailed scrutiny. *Article 12* revises the time in which Revenue Jersey is able to amend an assessment. The existing rules mean an assessment can be amended for a period of 5 years following the end of the year of assessment. In order to provide greater certainty for taxpayers, this period is reduced to 2 years following the delivery of a tax return. However, in cases where an amendment is required because of carelessness on the part of the taxpayer, a 5-year period will still apply. There would be no time limit where an amendment is required where a person has made a deliberately inaccurate declaration. The time limits are made with reference to the date on which the relevant return is delivered.

Articles 13 to 15 make amendments to the appeals provisions under Part 6 of the ITL.

Article 13 allows the Comptroller to refuse a taxpayer’s appeal where there are no legal grounds for the appeal. A taxpayer can appeal the refusal of their appeal to the Commissioners of Appeal. This provision is designed to reduce the number of spurious appeals that have no grounds in law, to ensure that the Commissioners of Appeal are used for their intended purpose. It is supported by the Commissioners.

Article 14 extends the existing requirement for taxpayers to specify the grounds of their appeal to appeals against the Comptroller’s decision to refuse an appeal.

Article 15 sets out the procedure to be followed where the Comptroller refuses an appeal, provided by the changes made by Article 13 of this Amendment Law.

Articles 16, 17, 18 and 19 amend references to the Part 6 appeal provisions so that they are not impacted by future amendments to the same (similarly to Article 10 above).

Article 20 clarifies that the States are able to amend Regulations made under Schedule 5 of the ITL, which deal with the payment of 2019 deferred liability. This puts beyond doubt the ability of the Minister to bring forward amendments in future in line with Recommendation 8 of the CSSP report on the PYB Regulations (S.R.8/2021). It also

inserts a transitional provision into the ITL to clarify that the changes made by Articles 11 and 12 of this Amendment Law only apply to the year of assessment 2022 and future years.

Part 2

Article 21 provides that Part 2 of the draft Taxation Amendment Law amends the [Goods and Services Tax \(Jersey\) Law 2007](#).

Article 22 amends Article 19 of the GST Law to recreate the effect of the modification made by Regulation 4 of the [Goods and Services Tax \(Jersey\) Regulations 2007](#) (the “GST Regulations”), which provided that the GST Law does not apply to certain supplies of goods or services by the States. Regulation 4 of the GST Regulations is deleted by Article 25 of this law.

Article 23 clarifies that a person will not be liable for penalty tax when they have already been subject to criminal prosecution in respect of the same conduct.

Article 24 allows the Comptroller to register a person for GST without requiring the person to agree or notify their liability to register.

Article 25 deletes Regulation 4 of the GST Regulations, which is a consequence of the changes made by Article 22 of this Amendment Law.

Part 3

Article 26 provides that Part 3 (except for Article 38) of the draft Taxation Amendment Law amends the [Revenue Administration \(Jersey\) Law 2019](#) (the “RAL”).

Article 27 provides a minor correction to the definition of “Revenue Laws”, other minor typographical amendments are also made under *Article 28*.

The Commissioners of Appeal are Jersey’s independent tax tribunal. Taxpayers can appeal assessments and decisions made by the Comptroller, and if these appeals cannot be resolved informally, the Commissioners will hear the case and make a decision (or “determination”).

Article 28 is a new provision allowing the publication of decisions of the Commissioners of Appeal. This is intended to help ensure equal treatment of taxpayers. The measure is supported by the Commissioners of Appeal; and by the tax agent community. Decisions would be anonymised to preserve taxpayer confidentiality.

Article 29 corrects a cross-referencing error.

Article 30 amends the reference to the appeal provisions under Part 6 of the ITL, similarly to Articles 10, 16, 17, 18 and 19 above.

Articles 31 to 34 make changes to the Articles in the RAL that manage the charging of interest to taxpayers by the Comptroller, and the payment of interest by the Comptroller on overpayments (although it should be noted the interest regime has not yet started and it is not intended to commence before 1st January 2022).

The interest charging provisions are extended to incorporate the late payment of ITIS deductions by employers. It was consulted on in 2017 and clarifies the existing provisions. Moreover, employed individuals, who pay most or all of their tax through ITIS, are removed from the scope of the interest regime (which is not yet in force).

Article 31 defines “remittance”. *Articles 32 to 34* include ITIS remittances within the scope of the interest regime and excludes taxpayers who are liable to pay through ITIS from it when this regime comes into force. *Article 33* also introduces a new route of

appeal for taxpayers, so that the imposition of penalty interest can be appealed to the Commissioners of Appeal.

Article 35 allows for Regulations to be made to specify different periods for the preservation of records.

Article 36 amends the reference to the appeal provisions under Part 6 of the ITL, similarly to Articles 10, 16, 17, 18, 19 and 30 above.

Article 37 provides a new civil power for Revenue Jersey to obtain information from taxpayers and third parties. Routinely, the Comptroller will allow taxpayers at least 60 days to provide information voluntarily – on request – before using this power. This new civil power will then be the option of first resort in most cases where a taxpayer has refused to provide information on request. Criminal powers (such as “Article 16A notices”) will generally be used when civil powers have been exhausted, or if tax evasion is suspected.

The new power has been discussed in detail with key stakeholders and a number of changes have been made at their request. The Comptroller has provided further guidance on how the power will be used in a new “Code of Practice on Compliance Interventions”, published online in April 2021.

Article 38 re-inserts a 6-year period for retaining documentation into the Goods and Services Tax (Jersey) Regulations 2007. This had been removed in error during the initial drafting of the RAL.

Part 4

Article 39 provides that the changes will come into force 7 days after this Law is registered.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Amendment Law. The following statement of financial and manpower implications was included in the *Projet* of the Draft Revenue Administration (Jersey) Law 201- ([P.122/2018](#)), lodged *au Greffe* on 23rd October 2018 –

“There are no significant financial or manpower implications for the States arising from the adoption of the draft Law. However, these changes are part of a wider transformation programme that affects fundamentally the way the Revenue Jersey operates. The resource implications of the wider transformation project are being met from capital allocation and restructuring provisions.”

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT**Human Rights Notes on the Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202-**

These Notes have been prepared in respect of the Draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- (the “draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“ECHR”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law would amend the Income Tax (Jersey) Law 1961 (the “ITL”), the Goods and Services Tax (Jersey) Law 2007 (the “GSTL”) and the Revenue Administration (Jersey) Law 2019 (the “RAL”).

The draft Law provides for various penalties to be applied in the event of non-compliance and for interest to be applied for both late payment of tax by a person and also to be applied for repayments made to a taxpayer. The draft Law, in making these changes, has the potential to engage Article 1 of the First Protocol to the ECHR, which provides certain protections for the property of the individual, however the second paragraph to that Protocol provides that the right to property does not in any way impair the right of the State to secure payment of taxes.

Appropriate provision for the purposes of Article 6 ECHR (the right to a fair trial) are made for appeals in relation to the following:

- (i) amendments by the Comptroller to an assessment;
- (ii) the issue of any additional assessments by the Comptroller;
- (iii) the refusal of an appeal by the Comptroller;
- (iv) the issue of a general or third party information notice;
- (v) the issue of a penalty notice; and
- (vi) the application of penalty interest.

In each case, the draft Law and Part 6 of the ITL operate to provide an appeal to the Commissioners and then to the Royal Court, which is sufficient for Article ECHR purposes.

It is recognised that the provision made in the draft Law for the publication of the Commissioners of Appeals’ determinations may engage Article 8 of the ECHR (right to privacy). The scope for engagement is however limited by the restriction on publications requiring them to be anonymised and is justified in any event by the overriding objective of open justice.

The draft Law also provides the Comptroller with enhanced powers to obtain taxpayer information. Any interference with Article 8 in this respect is justified as being required for the economic well-being of Jersey.

Where the draft Law has created or clarified criminal sanctions for non-compliance, these require criminal prosecution and no express provisions relating to appeals is therefore necessary to safeguard Article 6 rights.

EXPLANATORY NOTE

The draft Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- (the “Law”) if passed would amend the Income Tax (Jersey) Law 1961 (the “Income Tax Law”), the Goods and Services Tax (Jersey) Law 2007 (the “GST Law”) and the Revenue Administration (Jersey) Law 2019 (“the Revenue Administration Law”). The amendments to the Income Tax Law provide that failure to comply with a requirement to file a return, or to provide certain other information under Part 4 of that Law, is a criminal offence, and make other minor changes to the civil and criminal penalty provisions under that Law. The amendments to the Income Tax Law also extend the Comptroller’s power to amend assessments and amend provisions relating to appeals. The amendments to the GST Law allow the Comptroller to register a person who has not (but should have) notified the Comptroller that the person is liable to be registered, and also make a minor change to a civil penalty provision. The amendments to the Revenue Administration Law give the Comptroller new powers to obtain information and amend provisions relating to the imposition and payment of interest.

Article 1 provides that Part 1 (Articles 1 to 20) of the Law amends the Income Tax Law.

Article 2 amends Article 17A of the Income Tax Law so that liability for a civil penalty under that provision arises in respect of a failure to comply with a requirement under Article 17 of the Income Tax Law (delivery of returns by persons acting for others). For the purposes of Article 17A, a failure to comply with Article 17 is treated in the same way as a failure to comply with a requirement in respect of a return under Article 16 of that Law.

Article 3 corrects an error in Article 20(4) of the Income Tax Law, so that the reference to “a penalty” is not limited to a reference to a penalty “under this Article” (there is no penalty provided for under Article 20).

Article 4 inserts new Articles 21B and 21C in the Income Tax Law.

New Article 21B provides that it is an offence to fail to comply with a requirement imposed by, or by a notice under, a provision of Part 4 of the Income Tax Law (apart from the requirement to register imposed by Article 19A, which is subject to a separate offence). A person who commits an offence under Article 21B is liable to an unlimited fine.

New Article 21C provides that, where an offence under Article 21B is committed by a limited liability partnership, a separate limited partnership or a body corporate, an officer of the partnership or body corporate may also be liable for the offence in certain circumstances.

Article 5 amends Article 41F of the Income Tax Law so as to expressly provide that provision of a false or altered exemption certificate is a criminal offence.

Article 6 amends Article 89 of the Income Tax Law so as to expressly provide that each failure to comply with a requirement of that provision is a criminal offence.

Article 7 repeals Article 136 of the Income Tax Law which made provision for penalties for failure to deliver returns and other documents. This has been largely superseded by the inserted Article 21B, together with other civil and criminal penalties provisions in the Income Tax Law and Revenue Administration Law.

Article 8 amends Article 137 of the Income Tax Law. Article 137 makes provision for an offence of fraudulently providing a return that is incorrect in a material particular. The offence currently applies where the return (or other information) is provided by a

person for the purpose of the Comptroller's ascertainment of that person's liability to income tax. The amendment extends the offence so that it also applies in a case where the purpose of providing the return is the ascertainment of another person's liability to income tax.

Article 9 makes a minor amendment to Article 139 of the Income Tax Law so as to expressly provide that refusal to allow an authorised deduction of tax is an offence.

Article 10 amends Article 17A of the Income Tax Law to ensure that all of Part 6 of the Income Tax Law applies to an appeal under Article 17A, rather than selected provisions within that Part.

Article 11 allows the Comptroller, at any time, to amend assessments made under Article 23(1) of the Income Tax Law or make additional assessments under that provision. (The Comptroller makes assessments under that provision when a taxpayer fails to file a return.)

Article 12 replaces Article 24 of the Income Tax Law. The new Article 24 allows the Comptroller to amend an assessment or make an additional assessment to ensure that the correct amount of tax is charged on a person. (This is a change from being able to amend an assessment or make an additional assessment only on the discovery of specified facts.) The time limit for the Comptroller to amend an assessment or make an additional assessment is 2 years after the filing due date or 2 years after the date the return was delivered (whichever is later). However, that time limit is extended to 5 years if the person acted carelessly and is extended indefinitely if the amendment or additional assessment is required due to a deliberate act by the person.

Article 13 amends Article 27 of the Income Tax Law to allow the Comptroller to refuse an appeal if the notice of appeal discloses no admissible ground of appeal. The Comptroller must notify the appellant of the refusal and the appellant may appeal against the refusal. Under Article 28 of the Income Tax Law, as amended by *Article 14* of this Law, the notice of appeal must specify the grounds of the appeal.

Article 15 inserts new Article 28A into the Income Tax Law. New Article 28A provides the procedure for determining an appeal against a refusal of an appeal by the Comptroller.

Articles 16 to 19 amend Articles 41I, 77, 80 and 131Q of the Income Tax Law to ensure that all of Part 6 of the Income Tax Law applies to an appeal under those Articles, rather than selected provisions within that Part. The amendments to Articles 77 and 80 also simplify how the appeals process is expressed to apply to appeals made under those provisions.

Article 20 amends Schedule 5 to the Income Tax Law. Paragraph 23 of that Schedule defers the income tax liability of some taxpayers and requires the States, by 31st March 2021, to make Regulations providing for the payment of the deferred liability. Article 20(1) inserts a new sub-paragraph (6) to paragraph 23, to clarify that the States are able to amend Regulations made under that paragraph. Article 20(2) adds a new paragraph 27 to Schedule 5 to ensure that the amendments made in Articles 11 and 12 of this Law do not apply in respect of assessments for years of assessment that begin before 1st January 2022.

Article 21 provides that Articles 22 to 24 of Part 2 of the Law amend the GST Law.

Article 22 amends Article 19 of the GST Law, which provides that the GST Law does not apply to certain supplies of goods or services by the States. The amendment recreates the effect of the modification made by Regulation 4 of the Goods and Services Tax (Jersey) Regulations 2007. Regulation 4 is repealed by Article 25 of the Law.

Article 23 substitutes Article 71(3) of the GST Law, which prevents a person from being liable for a penalty tax under Article 71 in respect of conduct for which the person has been convicted of an offence.

Article 24 amends paragraph 4 of Schedule 1 to the GST Law to allow the Comptroller to register a person who has not (but should have) notified the Comptroller that the person is liable to be registered. The current paragraph 4(1) requires the Comptroller to register a person after receiving notification from the person. The amendment replaces this with a requirement to register a person if the Comptroller is satisfied that the person is liable to be registered (whether or not the person has given notification).

Article 25 repeals regulation 4 of the Goods and Services Tax (Jersey) Regulations 2007, in consequence of the amendment made by Article 22 of the Law.

Article 26 provides that Part 3 of the Law, with the exception of Article 38, amends the Revenue Administration Law.

Article 27 corrects the definition of “Revenue Laws” in Article 1(1) of the Revenue Administration Law so that it refers to “the Land Transactions Tax Law” (a defined term) rather than “the Land Transactions Law” (which is not defined).

Article 28 amends Article 8 of the Revenue Administration Law to add an exception to the general prohibition on disclosure. This allows publication of determinations (or summaries of determinations) by the Commissioners of Appeal as long as the determinations (or summaries) do not contain identifying personal information.

Article 29 corrects a cross-referencing error in Article 13(2) of the Revenue Administration Law.

Article 30 amends Article 14 of the Revenue Administration Law to ensure that all of Part 6 of the Income Tax Law applies to an appeal under the Revenue Administration Law, rather than selected provisions within that Part.

Article 31 inserts a definition of “remittance” into Article 16 of the Revenue Administration Law.

Articles 32 to 34 amend Articles 17 to 19 of the Revenue Administration Law to extend the imposition and payment of interest to late payments of remittances. The amendments also prevent interest from being charged or paid to individual taxpayers who are not liable to pay an instalment under Article 41A of the Income Tax Law. (Note that Articles 17 to 19 of the Revenue Administration Law have not yet been brought into force. These amendments mean that those Articles, when brought into force, will come into force as amended, rather than in their original form.)

Article 35 amends Article 25 of the Revenue Administration Law to allow Regulations to specify a different period for records to be kept than that set by the Article.

Article 36 amends Article 26 of the Revenue Administration Law to ensure that all of Part 6 of the Income Tax Law applies to an appeal under that Article, rather than selected provisions within that Part.

Article 37 inserts a *new Part 6A* into the Revenue Administration Law. *New Part 6A* consists of *new Articles 27A to 27H*, which give the Comptroller powers to obtain information. These powers would sit alongside the existing powers to obtain information in the Income Tax Law and the Goods and Services Tax (Jersey) Law 2007.

New Article 27A defines terms used in *new Part 6A*. One such term is “information”, which includes all information that the Comptroller requires for the purposes of ascertaining a person’s tax position but does not include information that is subject to legal privilege or medical confidentiality.

New Article 27B allows the Comptroller to serve an information notice on a person in order to obtain required information if the person has failed to deliver the information after being given a reasonable opportunity to do so or if the Comptroller reasonably suspects that the person would conceal or destroy the information if an informal request for the information was made. The information notice must be in writing and must specify the information required and the period within which the information must be provided.

New Article 27C allows the Comptroller to serve an information notice on a third party if the Comptroller has issued a notice on the person under *new Article 27B* or if the Comptroller considers that it would not be expedient in the circumstances to issue a notice under that Article. The information notice must be in writing and must identify the person to whom it relates, the information required and the period within which the information must be provided. It is an offence to disclose to any person other than the Comptroller matters relating to the information notice. A person who commits this offence is liable to a fine of level 2 on the standard scale (up to £1,000 under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993).

New Article 27D provides for rights of appeal against information notices.

New Article 27E allows the Comptroller to retain, copy and require explanation of any document provided in response to an information notice.

New Article 27F imposes an initial penalty of up to £300 on a person who refuses or fails to comply with an information notice, and a further penalty of up to £60 per day for continued refusal or failure. The Comptroller must serve a penalty notice on a person who is liable to a penalty.

New Article 27G provides for rights of appeal against penalty notices.

New Article 27H creates an offence of concealing information as to a person's tax position. A person who commits this offence is liable to imprisonment for a term of 2 years and to a fine.

Article 38 amends Regulation 18 of the Goods and Services Tax (Jersey) Regulations 2007. The amendment requires records relating to the charge of GST on the supply or importation of goods to be retained for 6 years after the date of supply or importation. This amendment is related to the amendment made by Article 33 of this Law.

Article 39 gives the title of this Law and provides that it comes into force 7 days after it is registered.



Jersey

DRAFT TAXATION (INCOME TAX, GOODS AND SERVICES TAX AND REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202-

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Jersey

DRAFT TAXATION (INCOME TAX, GOODS AND SERVICES TAX AND REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202-

A LAW to amend the Income Tax (Jersey) Law 1961, the Goods and Services Tax (Jersey) Law 2007 and the Revenue Administration (Jersey) Law 2019.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

PART 1

AMENDMENTS TO INCOME TAX (JERSEY) LAW 1961

Introductory

1 Income Tax (Jersey) Law 1961 amended

This Part amends the Income Tax (Jersey) Law 1961¹.

Amendments to civil and criminal penalties

2 Article 17A (penalty for late delivery of return) amended

- (1) Article 17A is amended as follows.
- (2) In each of the following provisions, after “Article 16” there is inserted “or 17” –
 - (a) paragraph (2B)(a);
 - (b) paragraph (3);
 - (c) paragraph (4);

- (d) paragraph (4A)(a).
- (3) In paragraph (12A), after “Article 16,” there is inserted “17,”.

3 Article 20 (returns of information regarding employees) amended

In Article 20(4), “under this Article” is deleted.

4 Article 21B (offences) and Article 21C (offences by bodies corporate and others) inserted

After Article 21A there is inserted –

“21B Offences

- (1) It is an offence for a person to fail, without reasonable excuse, to comply with a requirement imposed by, or by a notice under, any of the following provisions of this Part –
 - (a) Article 16 (returns);
 - (b) Article 16A (documents and other information in support of a return);
 - (c) Article 17 (returns by persons acting for others);
 - (d) Article 18 (lists by persons in receipt of taxable income belonging to others);
 - (e) Article 19 (lists of lodgers etc);
 - (f) Article 20 (returns: employees);
 - (g) Article 20A (returns: building sub-contractors);
 - (h) Article 20B (returns: companies);
 - (i) Article 20C (returns: employees’ benefits in kind);
 - (j) Article 20D (returns: foundations).
- (2) A person who commits an offence under paragraph (1) is liable to a fine.

21C Offences by bodies corporate and others

- (1) Paragraph (2) applies if –
 - (a) an offence under Article 21B is committed by –
 - (i) a limited liability partnership,
 - (ii) a separate limited partnership, or
 - (iii) a body corporate; and
 - (b) the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a relevant officer of the body corporate or partnership.
- (2) The relevant officer also commits an offence and is liable in the same manner as the body corporate or partnership to the penalty provided for the offence.

- (3) In this Article, “relevant officer” means –
- (a) in relation to a limited liability partnership, a partner;
 - (b) in relation to a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of a partnership;
 - (c) in relation to a foundation, the qualified member of the council of the foundation (within the meaning of the Foundations (Jersey) Law 2009²);
 - (d) in relation to a body corporate, other than an incorporated limited partnership or a foundation –
 - (i) a director, manager, secretary or other similar officer of the body corporate, or
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
 - (e) a person purporting to act in any capacity mentioned in subparagraphs (a) to (d) in relation to the body corporate or partnership.”

5 Article 41F (exemption certificate) amended

In Article 41F(8), for “shall be” there is substituted “commits an offence and is”.

6 Article 89 (explanation of income tax deductions) amended

In Article 89(2), for “the provisions of this Article, the company shall, in respect of each offence, be liable” there is substituted “a requirement of this Article, the company commits an offence and is liable”.

7 Article 136 (penalties for failure to deliver returns, etc.) deleted

Article 136 is deleted.

8 Article 137 (penalties for fraudulently making incorrect statements etc) amended

In Article 137(1)(c), for “the person’s” there is substituted “any person’s”.

9 Article 139 (penalty for refusing to allow deduction of tax etc)

In Article 139(1) for “shall be liable” there is substituted “commits an offence and is liable”.

*Amendments relating to assessments and appeals***10 Article 17A (penalty for late delivery of return) amended**

For Article 17A(10) there is substituted –

“(10) Part 6 applies, with the necessary modifications, to an appeal under paragraph (9) as if it were an appeal against an assessment.”.

11 Article 23 (provision for making assessments where no returns are received) amended

(1) After Article 23(1) there is inserted –

“(1A) The Comptroller may, at any time, amend an assessment made under paragraph (1) or make an additional assessment under that paragraph.”.

(2) In Article 23(2) for “paragraph (1)” there is substituted “this Article” in both places.

12 Article 24 (additional assessments) substituted

For Article 24 there is substituted –

“24 Comptroller may amend assessments

(1) The Comptroller may, within the time limits specified in this Article, amend an assessment or make an additional assessment to ensure that the correct amount of tax is charged on a person.

(2) The Comptroller must not amend an assessment or make an additional assessment later than 2 years after the later of the filing due date and the date the return was delivered unless –

(a) the amendment or additional assessment is required due to a careless action by the person, in which case the Comptroller must not amend the assessment later than 5 years after the later of the filing due date and the date the return was delivered; or

(b) the amendment or additional assessment is required due to a deliberate action or inaction by the person, in which case the Comptroller may amend the assessment at any time.

(3) An amended or additional assessment may be appealed in the same way as a first assessment.

(4) In this Article, “filing due date” has the meaning given to “specified time” by Article 17A(2).”.

13 Article 27 (right of appeal) amended

After Article 27(1) there is inserted –

“(1A) If, in the opinion of the Comptroller, the notice of appeal discloses no admissible ground of appeal, the Comptroller may refuse the appeal.

(1B) If the Comptroller refuses an appeal, –

- (a) the Comptroller must, within 40 days of receiving the notice of appeal, give written notice to the appellant and to the clerk to the Commissioners stating the reasons for the refusal; and
- (b) the appellant may appeal against the refusal by giving written notice to the Comptroller within 40 days of receiving the reasons for the refusal.

(1C) In this Article and Article 28A, reference to refusal of an appeal by the Comptroller includes the Comptroller declining to admit a late appeal.”.

14 Article 28 (other provisions as to appeals) amended

For Article 28(1) there is substituted –

“(1) The appellant’s notice of appeal under Article 27(1) or (1B)(b) must specify the grounds of the appeal.

(1A) The Commissioners may allow the appellant to go into a ground of appeal that is not specified in the notice and may consider that ground of appeal if, in the opinion of the Commissioners, the omission of that ground of appeal from the notice was not wilful or unreasonable.”.

15 Article 28A (preliminary procedure on appeal against refusal) inserted

After Article 28 there is inserted –

“28A Preliminary procedure on appeal against refusal

(1) The Commissioners may make a determination of an appeal against a refusal by the Comptroller on consideration of the notices and such other relevant documents as are provided to them, and upon making a determination may –

- (a) refuse the appellant’s appeal against the Comptroller’s refusal;
- (b) allow the appeal; or
- (c) give notice of a date for hearing of the appeal in accordance with Article 29(1).

(2) In each case mentioned in paragraph (1)(a) to (c) the Commissioners must give notice in writing of their determination to the appellant and to the Comptroller, and in the case mentioned in paragraph (1)(a) the notice must also specify the grounds for the refusal.”.

16 Article 41I (late payment surcharge) amended

For Article 41I(8) there is substituted –

- “(8) Part 6 applies, with the necessary modifications, to an appeal under paragraph (7) as if it were an appeal against an assessment.”.

17 Article 77 (fees and subscriptions to professional bodies, learned societies, etc.) amended

For Article 77(6) there is substituted –

- “(6) A body may appeal to the Commissioners against a decision made by the Comptroller under this Article by giving notice in writing to the Comptroller within 21 days of receiving notification of the decision.
- (7) Part 6 applies, with the necessary modifications, to an appeal under paragraph (6) as if it were an appeal against an assessment.”.

18 Article 80 (basis of computation under Cases IV and V) amended

For Article 80(4) and (5) there is substituted –

- “(4) A person may appeal to the Commissioners against a decision made by the Comptroller under paragraph (2) about the person’s ordinary residence by giving notice in writing to the Comptroller within 3 months of receiving notification of the decision.
- (5) Part 6 applies, with the necessary modifications, to an appeal under paragraph (4) as if it were an appeal against an assessment.”.

19 Article 131Q (appeals against decisions of the Comptroller under this Part) amended

For Article 131Q(2) there is substituted –

- “(2) Part 6 applies, with the necessary modifications, to an appeal under paragraph (1) as if it were an appeal against an assessment.”.

Amendment of empowering provision

20 Schedule 5 (savings, transitional and similar provisions: general) amended

(1) After paragraph 23(5) of Schedule 5 there is inserted –

- “(6) Sub-paragraph (3) does not prevent the States from, after 31st March 2021, amending Regulations made under this paragraph.”.

(2) After paragraph 26 of Schedule 5 there is inserted –

“27 Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202-: savings and transitional arrangements for amending assessments

- (1) Article 23(1A) does not apply in respect of an assessment for a year of assessment that began before 1 January 2022.
- (2) If the Comptroller wishes to amend an assessment or make an additional assessment for a year of assessment that began before 1 January 2022, Article 24, as in force immediately before the commencement of the Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202-³, applies.”.

PART 2

GOODS AND SERVICES TAX

21 Goods and Services Tax (Jersey) Law 2007 amended

Articles 22 to 24 amend the Goods and Services Tax (Jersey) Law 2007⁴.

22 Article 19 (application to the States of Jersey) amended

In Article 19(1), for “for which no charge or fee is payable by the person to whom the goods or services are supplied” there is substituted “that is not in the course of or furtherance of a business”.

23 Article 71 (penalty tax where conduct involving dishonesty) amended

For Article 71(3) there is substituted –

- “(3) But a person is not liable to a penalty tax under paragraph (1) or (2) in respect of conduct for which the person has been convicted of an offence.”.

24 Schedule 1 (registration) amended

For paragraph 4(1) of Schedule 1 there is substituted –

- “(1) Where the Comptroller is satisfied that a person is liable to be registered, the Comptroller must register the person (whether or not the person has notified liability in accordance with paragraph 3).”.

25 Regulation 4 (Article 19(1) of Law modified) of Goods and Services Tax (Jersey) Regulations 2007 deleted

Regulation 4 of the Goods and Services Tax (Jersey) Regulations 2007⁵ is deleted.

PART 3**AMENDMENTS TO, AND RELATED TO, REVENUE ADMINISTRATION (JERSEY)
LAW 2019****26 Revenue Administration (Jersey) Law 2019 amended**

This Part, except for Article 38, amends the Revenue Administration (Jersey) Law 2019⁶.

27 Article 1 (interpretation) amended

In Article 1(1), in the definition of “Revenue Laws”, for sub-paragraph (d) there is substituted –

“(d) the Land Transactions Tax Law;”.

28 Article 8 (general prohibition and exceptions) amended

(1) In Article 8(3)(a)(i) for “Land Transaction Tax Law” there is substituted “Land Transactions Tax Law”.

(2) In Article 8(9) for “Land Transactions Law” there is substituted “Land Transactions Tax Law”.

(3) After Article 8(9) there is inserted –

“(9A) Notwithstanding any enactment to the contrary, paragraph (1) does not apply to the publication by or on behalf of the Commissioners of Appeal of any determination or summary of a determination, under a Revenue Law, of the Commissioners of Appeal.

(9B) A matter published under paragraph (9A) –

(a) must not include personal information, that is information relating to and identifying a particular person, whether the identity is specified in or can be deduced from the matter published; and

(b) may be, or relate to, a determination of the Commissioners of Appeal made prior to the commencement of this provision.”.

(4) In Article 8(10) for “paragraph (2) to (9)” there is substituted “paragraphs (2) to (9A),”.

29 Article 13 (administration of penalty) amended

In Article 13(2) for “paragraph (3)” there is substituted “Article 14”.

30 Article 14 (appeals) amended

For Article 14(2) there is substituted –

“(2) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

31 Article 16 (interpretation of this Part) amended

For Article 16(1)(b) there is substituted –

- “(b) “remittance” means an amount to be remitted to the Comptroller under Article 41B(5) or (5AA) or Article 41E(5) of the Income Tax Law;
- (c) “Law” refers to the Income Tax Law or the GST Law, as the case may be.”.

32 Article 17 (interest for late payment of a tax) amended

(1) For the heading to Article 17 there is substituted –

“17 Interest for late payment of tax or remittance”.

(2) For Article 17(1) there is substituted –

“(1) A person who fails, on or before the time required under a Law, to pay all or part of a tax or remittance is liable to pay simple interest on the amount outstanding for the period beginning on the day following the date on which the tax or remittance is due and ending on the date on which the tax or remittance is fully paid.”.

(3) After Article 17(4)(b) there is inserted –

“(c) the person concerned is an individual who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

(4) In Article 17(5) for “and reference to “the date tax is fully paid” refers to” there is substituted “and reference to a date on which the tax is fully paid is reference to”.

33 Article 18 (further penalty interest for late payment of tax) amended

(1) For the heading to Article 18 there is substituted –

“18 Further penalty interest for late payment of tax or remittance”.

(2) For Article 18(1) there is substituted –

“(1) The Comptroller may decide to impose further interest under this Article if a person fails, on or before the date that is 3 months after the date on which a tax or remittance is required to be paid under a Law (the “specified date”), to pay all or part of the tax or remittance.

(1A) Interest imposed under paragraph (1) is simple interest on the amount outstanding for the period beginning on the day following the specified date and ending on the date on which the tax or remittance is fully paid.”.

(3) After Article 18(5)(b) there is inserted –

“(c) the person concerned is an individual who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

(4) After Article 18(7) there is inserted –

“(8) A person may appeal to the Commissioners against the Comptroller’s decision to impose interest under this Article by notifying the Comptroller in writing within 40 days after becoming aware of the decision.

(9) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

34 Article 19 (interest arising from over-payments) amended

(1) For Article 19(1) there is substituted –

“(1) If the Comptroller refunds an over-payment to a person, the Comptroller must pay simple interest on the refund for the period –

(a) beginning on the later of –

(i) the day following the date the tax was due, or

(ii) the date the payment of tax was made; and

(b) ending on the date the Comptroller refunds the over-payment.”.

(2) For Article 19(3) there is substituted –

“(3) No interest is payable under paragraph (1) if –

(a) the amount refunded is less than £300; or

(b) the person to whom the over-payment is refunded is a person who is not liable to pay an instalment, in respect of the relevant year of assessment, under Article 41A of the Income Tax Law.”.

35 Article 25 (preservation of records) amended

After Article 25(2) there is inserted –

“(3) Regulations (under this or any other Revenue Law) may require an individual to keep records for a different period than that required by this Article.”.

36 Article 26 (civil penalties) amended

For Article 26(7) there is substituted –

“(7) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.”.

37 New Part 6A (Comptroller’s powers to obtain information) inserted

After Part 6 there is inserted –

“PART 6A

COMPTROLLER’S POWERS TO OBTAIN INFORMATION

27A Interpretation and application of this Part

- (1) In this Part –
 - “information” –
 - (a) includes all information, not limited to documents or records, that the Comptroller reasonably requires for the purposes of ascertaining a person’s tax position; but
 - (b) does not include –
 - (i) information with respect to which a claim to legal privilege is or could be maintained for the purpose of or in any proceedings, or
 - (ii) confidential medical information;
 - “information notice” means a notice under Article 27B or 27C;
 - “record” has the same meaning as given by Article 22(b);
 - “tax” means tax under the Income Tax Law, GST Law, or Land Transactions Tax Law, and includes LTC contributions;
 - “tax position”, in relation to a person or group of persons, means the person’s or group’s position as regards any tax, including –
 - (a) past, present or future liability to pay any tax;
 - (b) penalties and other amounts paid or payable by or to the person or group in connection with any tax;
 - (c) allowances, applications, claims, deductions, elections, and notices that have been or may be made or given in respect of any tax.
- (2) References in this Part to a person’s tax position –
 - (a) may include the tax position of a company which has ceased to exist, or an individual who has died;
 - (b) include, where appropriate, references to the person’s position as regards any deductions or repayments of tax which the person is required to make –
 - (i) under Article 41B or 41E of the Income Tax Law, or
 - (ii) under any provision of the Revenue Laws other than that Law; and
 - (c) are references to the person’s tax position at any time, or in relation to any period, specified in an information notice.
- (3) This Part applies in addition to any other power of the Comptroller to seek information under the Revenue Laws, whether by way of a notice or return or otherwise.

27B Information notices: general

- (1) This Article applies where the Comptroller reasonably requires information as to a person's tax position, and either –
 - (a) the person has been given a reasonable opportunity to deliver the information required, but has failed to do so; or
 - (b) the Comptroller reasonably suspects that, were a request for such information to be made, the person would seek to conceal or destroy the information.
- (2) Where this Article applies, the Comptroller may serve on the person a notice in writing, signed by the Comptroller or by an officer authorized by the Comptroller for the purpose, that specifies –
 - (a) the information required; and
 - (b) the period, being not less than 30 days beginning with the date of service of the notice, within which the information must be provided to the Comptroller.
- (3) A notice may also specify such other matters as the Comptroller may consider reasonable, including –
 - (a) the manner and format in which the information or part of it is to be provided; and
 - (b) the place at which the information or part of it is to be made available.

27C Information notices: third parties

- (1) This Article applies where the Comptroller reasonably requires from a third party, information as to the tax position of a person, or class of persons, other than that third party, and either –
 - (a) the Comptroller has already issued a notice under Article 27B; or
 - (b) the Comptroller considers that it would not be expedient in the circumstances to issue such a notice.
- (2) Where this Article applies, the Comptroller may serve on the third party a notice in writing (a "third party notice"), signed by the Comptroller or by an officer authorized by the Comptroller for the purpose, that specifies –
 - (a) the name of the person, or the bank account number or other details sufficiently identifying the person or class of persons, as to whose tax position the information is sought;
 - (b) the information required; and
 - (c) the period, being not less than 30 days beginning with the date of service of the notice, within which the information must be provided to the Comptroller.
- (3) A third party notice may also specify other matters that the Comptroller considers reasonable, including –
 - (a) the manner and format in which the information or part of it is to be provided;

- (b) the place at which the information or part of it is to be made available; and
 - (c) a warning that the third party is liable to prosecution if the third party discloses information relating to the notice to any person.
- (4) Where the Comptroller serves a third party notice, the Comptroller must, as soon as reasonably practicable after service of the notice, serve a copy of the notice on any person specifically identified in the notice.
- (5) However, the Comptroller is not required to serve a copy of a third party notice on a person if –
- (a) the Comptroller does not know the person’s name or address;
 - (b) provision of the notice would identify or might identify a person who has provided information taken into account by the Comptroller in deciding whether or not to serve the notice; or
 - (c) the Comptroller is satisfied that serving a copy of the notice may prejudice the assessment, collection or recovery of tax or the investigation or prosecution of tax matters.
- (6) A person who knowingly and without reasonable excuse discloses, to any person other than the Comptroller –
- (a) the fact that a third party notice has been served; or
 - (b) the contents of, or any information relating to, a third party notice,
- commits an offence and is liable to a fine of level 2 on the standard scale.

27D Appeals against information notices

- (1) A person on whom an information notice is served may appeal to the Commissioners against the notice by notifying the Comptroller in writing, no later than 30 days after the date of service of the notice.
- (2) Where an information notice requires information to be provided which comprises or includes a document, an appeal may be made on the grounds that the document is not in that person’s possession or power.
- (3) An appeal against a third party notice may be made only –
 - (a) on such grounds as are stated in paragraph (2); or
 - (b) on the grounds that compliance with the notice is unduly onerous.
- (4) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.
- (5) Where an appeal is made under this Article, the information notice is of no effect pending the final determination or withdrawal of the appeal.

27E Comptroller may retain, copy and require explanation of document

Where information required by an information notice includes, or is contained in, a document, the Comptroller's power under Article 27B or 27C to obtain information includes the power –

- (a) to retain a document for so long as is reasonably necessary to permit a full and complete inspection of the document;
- (b) to take copies of the document;
- (c) to require an explanation of the document; and
- (d) if a document which the Comptroller reasonably expected to be produced is not produced, to require the recipient of an information notice to state, to the best of the recipient's knowledge or belief, where the document is.

27F Amounts and administration of penalties

- (1) A person who refuses or fails to comply with an information notice is liable to an initial penalty of an amount not exceeding £300.
- (2) A person who continues to refuse or to fail to comply with an information notice after receiving notice of an initial penalty is liable to a further penalty of an amount not exceeding £60 per day for the period during which the refusal or failure continues.
- (3) Where a person is liable to a penalty under this Article, the Comptroller may serve on the person a notice in writing specifying –
 - (a) the amount of the penalty, being such amount as the Comptroller considers to be reasonable in the circumstances;
 - (b) the grounds on which the penalty is imposed, and whether it is imposed under paragraph (1) or (2);
 - (c) where the penalty is imposed under paragraph (1), the person's potential liability to a further penalty under paragraph (2); and
 - (d) the person's right to appeal against the penalty under Article 27G.
- (4) Subject to Article 27G, a person on whom a notice is served under this Article must pay the amount of the penalty no later than 40 days after the service of the notice.
- (5) The amount of a penalty is treated for all purposes, including collection and recovery, as if it were an amount of tax charged and payable under the Income Tax Law, except that the penalty –
 - (a) is not deductible for any purpose of the Income Tax Law; and
 - (b) is disregarded when determining the amount of a surcharge under Article 41I of that Law.

27G Appeals against penalty notices

- (1) A person who receives a notice under Article 27F(3) may appeal to the Commissioners against the notice by notifying the Comptroller

in writing, no later than 40 days after the date of service of the notice, of the grounds on which the appeal is made.

- (2) The grounds on which an appeal may be made are –
 - (a) that the person has taken all reasonable steps to comply with the information notice giving rise to the penalty; and
 - (b) that the amount of the penalty is unreasonable.
- (3) No right of appeal arises if the information sought by the information notice consists of information required to be kept under any of the Revenue Laws.
- (4) In determining an appeal under this Article, the Commissioners may –
 - (a) confirm the imposition of the penalty and its amount;
 - (b) declare that the penalty was wrongly imposed;
 - (c) reduce the amount of the penalty; or
 - (d) amend or set aside the notice.
- (5) Part 6 of the Income Tax Law applies, with the necessary modifications, to an appeal under this Article as if it were an appeal under that Law against an assessment.
- (6) Where an appeal is made against a penalty notice, the notice is of no effect pending the final determination or withdrawal of the appeal.

27H Offence of concealing information etc.

- (1) This Article –
 - (a) applies to a person from whom the Comptroller has requested information as to the person's tax position or as to the tax position of any other person, whether or not the request is made by an information notice; but
 - (b) does not apply where the Comptroller has indicated to the person (whether in making the request or otherwise) that this Article does not apply.
- (2) If, knowingly and without reasonable excuse, a person to whom this Article applies alters, conceals, destroys or otherwise disposes of the information requested by the Comptroller, the person is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (3) Despite paragraph (2), a person may alter, conceal, destroy or otherwise dispose of information requested by the Comptroller –
 - (a) where the request was not made by means of an information notice –
 - (i) after the end of the period of 12 months beginning with the date of the request, or
 - (ii) if the request is withdrawn, at any time after the withdrawal; or
 - (b) where the request was made by means of an information notice –

- (i) with the permission of the Comptroller, or
 - (ii) where the Comptroller has refused such permission or has failed to respond to the person's request for permission, with the leave of the Royal Court upon an application made for that purpose to the Court.
- (4) This Article is without prejudice to the provisions of Part 6 or any requirement, under any other enactment, to keep records or retain information for the purposes of establishing a person's tax position."

38 Related amendment to Goods and Services Tax (Jersey) Regulations 2007

- (1) In Regulation 18(1) of the Goods and Services Tax (Jersey) Regulations 2007⁷ –
 - (a) in sub-paragraph (a), after “retaining” there is inserted “, for 6 years after the date of supply,”;
 - (b) the proviso is deleted.
- (2) In Regulation 18(3) of the Goods and Services Tax (Jersey) Regulations 2007⁸ –
 - (a) in sub-paragraph (a), after “retaining” there is inserted “, for 6 years after the date of importation,”;
 - (b) the proviso is deleted.

PART 4

CITATION AND COMMENCEMENT

39 Citation and commencement

This Law may be cited as the Taxation (Income Tax, Goods and Services Tax and Revenue Administration) (Amendment) (Jersey) Law 202- and comes into force 7 days after it is registered.

ENDNOTES

Table of Endnote References

1	<i>chapter 24.750</i>
2	<i>chapter 13.265</i>
3	<i>P.51/2021</i>
4	<i>chapter 24.700</i>
5	<i>chapter 24.700.30</i>
6	<i>L.13/2019</i>
7	<i>chapter 24.700.30</i>
8	<i>chapter 24.700.30</i>