

GUE-1 Constitution

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Introduction

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Constitution

GUE-1 The Bailiwick of Guernsey consists of the Islands of Guernsey, Alderney and Sark, and some smaller islands. Guernsey occupies an unusual constitutional position as it is not under the rule of the United Kingdom nor is it a sovereign state or colony. Guernsey's independence is such that it has its own democratically-elected parliament known as the "States of Deliberation" and the Island has sole responsibility for its own finances and taxation. The freedom of Guernsey from taxation and fiscal control by what is now the United Kingdom is well established. A series of royal charters (most importantly that of Queen Elizabeth I) effectively exempted citizens of Guernsey from UK taxes, and local goods and services are exempt from UK customs duties and VAT.

Footnotes

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GUE-2 Relations with the European Union

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Introduction

Relations with the European Union

GUE-2 The Bailiwick of Guernsey is neither a Member State nor an associate member of the European Union. It has a special relationship with the European Union that is set out in Protocol 3, based on art.299(6)(c) of the European Treaty. The Island's constitutional position is laid down by Protocol 3 and cannot be changed unless that Protocol is changed by unanimous decision of all Member States of the European Union. Under the Protocol, Guernsey is within the Common Customs Area and the Common External Tariff of the European Union, allowing the free movement of goods within the Customs Union and the application of competition and state aid rules regarding trade in agriculture and fisheries products, as further specified in Regulation 706/73. The Island is not subject to EU provisions concerning the free movement of capital, persons and services although Protocol 3 prohibits the discrimination by the Island between nationals of EU Member States.

GUE-3 Currency, finance and business

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Introduction

Currency, finance and business

GUE-3 The currency in the Bailiwick of Guernsey is the pound. Guernsey, Scottish, Bank of England and Jersey pound bank notes all circulate freely. The Island's internal fiscal and social security administration is governed by the States of Guernsey and its departments, and the Guernsey Financial Services Commission (GFSC) regulates financial services business. Guernsey has pioneered the development of innovative financial and corporate structures, including the protected cell company and incorporated cell company, particularly used in the insurance and reinsurance sectors.

Provided a business (that is not a regulated business) can obtain suitable premises from which it can operate, it will be able to establish itself in Guernsey. No permission is necessary for expansion. However, for employees who are not locally qualified Guernsey residents, and require a housing licence to live and work in Guernsey, these licences must be obtained before essential employees start work. If an essentially employed person is to be recruited by an employer, an application for a housing licence must be made. Regulated business (being those operating in the financial services sector) must obtain the required licences before commencing activities in Guernsey.

Guernsey has a modern companies registry—facilitating the incorporation of a company within 15 minutes—and an Intellectual Property Registry with Guernsey laws covering copyrights, database rights, performance rights, registered designs and trade marks. Owners of intellectual property may now register their rights directly in Guernsey without first having to register them in the United Kingdom.

The Guernsey based International Stock Exchange commenced business in October 1998 under the name Channel Islands Stock Exchange and subsequently continued under its successor exchange,

the Channel Islands Securities Exchange, was established in December 2013. The Exchange provides listing and screen based trading of investment funds, specialist debt instruments and shares in companies. Access to the trading exchange can be direct or through local brokers, which include branches of major international firms. The Exchange concentrates on the following core products:

- specialist securities including Eurobonds, structured debt, warrants and SPVs;
- investment funds;
- primary and secondary listings of securities and shares issued by channel islands' companies;
- primary and secondary listings of securities and shares issued by overseas companies;
- specialist debt issues for professional investors; and
- insurance - linked securities.

GUE-4 The history of Guernsey law

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Introduction

Sources of law

The history of Guernsey law

GUE-4 Guernsey law differs substantially from English law in many important respects. These differences have emerged over many years in the context of Guernsey's unique history and culture.

The original source of Guernsey law is the common law of Normandy, known as the "Coutume" or "Customary Law", which dates back to the 10th century when the Duchy of Normandy came into being and included the Channel Islands and part of the North West of France. The main work of reference on the Customary Law of Normandy, Terrien's Commentary, was published in 1574. In 1583, the Crown, on behalf of Guernsey, approved Terrien's Commentary as being a correct statement of the Law of Guernsey with local variations. This approval by the Crown is known as "L'Approbation des Lois".

Since that time, Guernsey law has developed along a path which has moved away from that of continental Normandy, and although initially coloured by the legal process of the Duchy, has tended to follow the principles of English law in recent years (particularly in contract, tort, criminal and company law). This process has accelerated through the adoption of English as the main and official language in Guernsey and the training of advocates as barristers or solicitors in England and Wales, Scotland or Northern Ireland, as a prerequisite of their being called to the Guernsey Bar.

Statutes

GUE-5 A further source of Guernsey law is statute. Although the UK Parliament retains some rights, enacted law most often originates with Guernsey's States of Deliberation. When a law is to be made the States of Deliberation passes a "resolution" on a particular subject and orders that the necessary legislation be drafted. When this has been done the "projet de loi" (draft law) is submitted to the States of Deliberation, and then sent to Her Majesty for approval through established diplomatic channels. Once approval is obtained by way of royal sanction granted by Her Majesty in Privy Council, an Order in Council is made and registered by the Court of Guernsey.

In addition, "ordinances" can be brought into force. These are laws made by the States by Deliberation which do not require royal sanction. They are either made under the authority of an enabling law, such as an Order in Council, or relate to a subject upon which the States of Deliberation can legislate without reference to Her Majesty in Privy Council, e.g. under the provisions of The Reform (Guernsey) Law 1948. Statutory instruments are also made under the authority of an Order in Council.

The Guernsey Bar

GUE-6 The practitioners at the Guernsey Bar are called advocates, who must have qualified in England and Wales, Scotland or Northern Ireland as barristers, advocates or solicitors. The Judicature comprises the Magistrate's Court, the Court and the Guernsey Court of Appeal and a further right of appeal lies to the Judicial Committee of the Privy Council in certain matters. Advocates of the Guernsey Bar also have rights of audience in the courts of Alderney and Sark and are qualified to advise upon the laws of all of the Islands of the Bailiwick. In addition to having to be a barrister, advocate or solicitor, before call to the Guernsey Bar, an advocate has to undergo pupillage with a practising advocate of at least five years' call, pass an examination in the laws of the Bailiwick of Guernsey, and either attend the University of Caen in Normandy to attain the Certificat des Etudes Juridiques Françaises et Normandes or one of the faculties of the law schools of France to become a bachelier of laws.

GUE-7 Companies

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Legal persons and organisations

Companies

GUE-7 There is no statutory distinction made between public and private companies. Being an imported English concept, the framework of most Guernsey companies is similar to that of an English company; the shareholders' liability is limited, the company has a distinct legal identity and the company's powers of management are divided between shareholders and directors in much the same way.

In 2008, a new Companies (Guernsey) Law 2008 (as amended) (the "Companies Law") and a new companies registry in Guernsey—the Guernsey Registry—were introduced.

The Companies Law introduced a modern company incorporation and registration system replacing the role that the Greffe and judiciary played previously in the process of incorporation and maintenance of company records. Standard documents and forms relating to applications for incorporation can now be electronically filed and searches can be conducted online.

The Guernsey Financial Services Commission's (GFSC) role is significantly reduced, with consent only required for the incorporation of protected cell companies, incorporated cell companies, incorporated cells and where the company or its activities are subject to regulation as a financial services business. There is an annual validation fee of £250 for non-regulated companies and either £500 or £1,000 for companies which are indirectly or directly regulated by the GSFC.

The Companies Law created the role of the corporate service provider (CSP), a person or corporate body holding a licence in accordance with Guernsey fiduciary laws, who has the authority to carry out company incorporation services with the Guernsey Registry.

Incorporation can be effected by the Guernsey Registry within 24 hours, 2 hours or 15 minutes from receipt of completed documentation, on payment of £100, £350 or £750 registration fees respectively upon the submission of an online application by the CSP to the Registrar of Companies.

When approval is granted, the Registrar registers the memorandum (and articles as the case may be) in the Register of Companies, issues a certificate of incorporation stating the date of incorporation and allocates a registration number to the company. The Company is then incorporated.

There is a requirement to lodge certain company documents at the Guernsey Registry including (but not limited to):

- the company's memorandum of incorporation;
- a statement of the proposed first directors;
- a statement of the proposed address of the company's registered offices;
- a statement of the proposed first resident agent (an agent required by law to hold a record of the beneficial owners holding 10 per cent or more of the total voting rights of the company);
- the name and address of the founder member of the company;
- in the case of a company with a share capital, a statement of initial share capital;
- in the case of a company with a founder member who is a guarantee member, a statement of initial guarantee;
- a copy of any consent required by the GFSC;
- a copy of any special resolution required; and
- a declaration of compliance.

There is no requirement to file company accounts at the Guernsey Registry for public inspection.

The most salient features of the Companies Law are the following:

(a) Company seal: there is no requirement for a company to have a company seal and any rule of law requiring a common seal for valid execution of a document by a company is amended accordingly.

(b) Director disqualification provisions: director disqualification provisions give the Court power to declare that any officer of a company is unfit to be concerned in the management of that company. The Court can also issue a disqualification order prohibiting that person from being a director or other officer of the company or from participating in or being involved in the management, formation or promotion of any company. The Court shall direct that a copy of the order be served upon the Registrar of Companies.

(c) Fraudulent and wrongful trading: in respect of fraudulent trading, the Companies Law imposes both criminal and civil liabilities on parties in breach of its provisions. The criminal offence of fraudulent trading provides that where any person who is knowingly a party to the carrying on of any business of the company with intent to defraud creditors or for

any fraudulent purpose, that person will be guilty of an offence, the penalty of which shall be a fine and/or imprisonment. The civil offence is broadly the same save that where the Court holds, in the course of the winding-up of a company, that a person is guilty of this offence, he or she shall be liable to make such contributions to the company's assets as the Court thinks proper. In addition, upon the application of a liquidator or any creditor or member of a company, the Court may hold a director of a company guilty of wrongful trading where that director knew or ought to have concluded, prior to the insolvent liquidation and winding-up of a company, that there was no reasonable prospect of the company avoiding insolvency and that person failed to take every step to minimise the potential loss to the company's creditors.

(d) Quorum requirements: in the case of a company having only one member, one person may qualify for the quorum. In any other case (and unless the articles state otherwise), the quorum shall consist of two persons holding 5 per cent of the issued share capital for a company limited by shares.

(e) Written resolutions: anything that may be done by resolution passed at a general meeting (whether a special resolution or otherwise) may instead be passed by a written resolution, save where the company's memorandum or articles provide otherwise.

(f) Financial assistance for the acquisition of own shares— the company and any of its subsidiaries *within Guernsey* may give financial assistance directly or indirectly for the purpose of or in connection with the acquisition of shares in the company or to reduce a member's existing liability towards that company provided that it satisfies a solvency test immediately after the financial assistance is given. The company will satisfy the solvency test if (i) it is able to pay its debts as they fall due and (ii) the value of its assets is greater than its liabilities. The Companies (Financial Assistance) Regulations, 2008 provides additional guidance parallel to the provisions of the Companies Law by prescribing transactions which are not to be treated as giving financial assistance.

(g) Acquisition of own shares— Guernsey company law has moved from a model based on capital protection to a model based on solvency protection. Accordingly, a company is now free to return share capital to investors and purchase its own fully paid shares without recourse to the Court, without creditor approval and without the requirement for special resolutions to be passed, provided that the company in question meets the "solvency test" prescribed by the Companies Law (*see* (f) above) and any other particular requirements of its memorandum and articles.

(h) The migration of companies— allows a company to move its place of incorporation into or out of Guernsey. This process gives overseas companies the opportunity to apply to move their place of incorporation to Guernsey. Upon registration in Guernsey, the company will cease to be registered in the place where it was incorporated or registered and will become a Guernsey-registered company subject to Guernsey's laws and regulations.

(i) Protected cell companies (PCC)— the structure of the PCC enables the assets of a company to be divided into separately identified "cells" that are treated as distinct legal entities. The insolvency of one cell would not necessarily lead to the insolvency of the company as a whole, or of other cells, as creditors have recourse only to the assets of the cell of which they are creditors.

(j) Incorporated cell companies— each cell has a separate legal personality from the other cells and from the incorporated cell company under which it is formed. However, unlike PCCs, an incorporated cell is not a subsidiary of its incorporated cell company.

(k) Amalgamation of companies— two or more companies of the same type may amalgamate or continue as one company, which may be one of the amalgamating companies or a new company subject to the approval of the quorate board of directors from each or all of the companies.

(l) Company limited by guarantee— the Companies Law provisions provide for a company to be incorporated in Guernsey with the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company, should the company be wound up.

GUE-8 Partnerships

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Legal persons and organisations

Partnerships

GUE-8 General partnerships exist between persons carrying on business in common with a view to profit. The Partnership (Guernsey) Law 1995 is based upon the English Partnership Act 1890, and it is probable that Guernsey courts will refer to English case law in interpreting the law.

The Limited Partnerships (Guernsey) Law 1995 and additional amendments, provide for the registration in Guernsey of limited partnerships which may be formed for the carrying on within Guernsey or elsewhere of any lawful business. A limited partnership consists of one or more general partners who are jointly and severally liable for all debts of the partnership and are responsible for the conduct of the business of the partnership and one or more limited partners who invest a specified sum in the capital of the partnership and are not liable for any debts of the partnership beyond the amount they have contributed.

In 2014 Guernsey extended the regime of partnership structures to include limited liability partnerships with the introduction of the Limited Liability Partnerships (Guernsey) Law, 2013. The key features of the new limited liability partnership structure (“LLP”) are that:

- it is a body corporate with unlimited capacity and its own legal personality separate from that of its members;
- it may be formed in Guernsey to carry on lawful business with a view to profit, or any other lawful activity;
- a member is not liable for any debt of the LLP, or of any other member, by virtue solely of their membership of it;

- a member's liability to contribute its funds, and specifically a shortfall on its winding up, will be limited to whatever the member has agreed with the other members or with the LLP to contribute;
- it owns its own assets and is subject to the duties and liabilities of the business to the exclusion of its members;
- it carries on business itself with the members acting as its agents;
- a private written agreement must govern the rights and duties of the members as between themselves and the rights and duties between the members and the LLP itself;
- it is not a partnership and Guernsey partnership law does not apply to it; and
- it will be transparent for Guernsey income tax purposes.

GUE-9 Trusts

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Legal persons and organisations

Trusts

GUE-9 Guernsey trusts are particularly attractive in matters of asset protection and ownership, the mitigation of strict inheritance laws, anonymity, matrimonial protection, pension provision, and investment in securities or property. Guernsey trusts and company structures are particularly useful in the context of estate planning.

Trusts are governed principally by the Trusts (Guernsey) Law 2007 (the “Trusts Law 2007”). English trust law and principles are also referred to for guidance.

Guernsey trust law provides a statutory basis but still allows freedom to establish trusts for the different needs of clients. It is more straightforward and flexible than English trust law.

The introduction of the Trusts Law 2007 provides the following additional dimensions to an already sophisticated trust regime:

- *No rule against perpetuities*: according to the Trusts Law 2007, and subject to the terms of the trust, once a trust is incorporated, there is no limit on the period for which a trust may continue to be valid and enforceable. As such, there is no rule against perpetuities or remoteness of vesting in Guernsey. However, if a trust pre-exists the Trusts Law 2007, it must terminate on the expiration of 100 years unless it is a trust for a charitable purpose or is terminated sooner.
- *Purpose trusts*: the Trusts Law 2007 has legislated for the establishment of trusts for non-charitable purposes making it possible to hold property or to exercise functions without conferring a benefit on any person (so long as it is not contrary to public policy or so uncertain as to render it impossible to enforce). To ensure that trustees adhere to these trusts, the Trusts Law 2007 has also created the role of the “enforcer” who will monitor the administration of the trust and, if necessary, take action against an errant trustee for breach of the trust.

- *Settlor and third party reserved powers*: the Court now recognises that a trust will not be invalidated by the reservation or grant by the settlor of a number of specific powers including but not limited to a power to revoke, vary or amend the terms of the trust and a power to advance, appoint, pay or apply the income or capital of the trust property.
- *Exclusion of foreign law clauses*: this provision gives the Guernsey Court overriding jurisdiction on matters of Guernsey law over other foreign laws whether or not those foreign jurisdictions recognise the concept of a trust.
- Abolition of the need for directors of corporate trustees to give personal guarantees against any damages and costs awarded against a trustee's breach.
- Statutory lien over trust assets in favour of retiring trustees which, unless expressly waived or released, will prevent the need for a chain of indemnities from one retiring trustee to another.
- *Revision of limitation period*: this provision states that where there has been an action for breach of trust, that action must be brought within 18 years regardless of whether the beneficiary had actual knowledge or not.
- *Clarification of the duty to provide information*: trustees have a duty to give information to beneficiaries concerning the state and amount of the trust property.
- *Non-disclosure of deliberations or letter of wishes*: the Trusts Law 2007 states that letter of wishes may fall within the ambit of non-disclosure. It will be for the beneficiary to prove otherwise.

Trusts may be created by will or, more commonly, inter vivos, and may be made between the settlor and the trustee, or by declaration of trust by the trustee alone. Due to its legal and fiscal regime, Guernsey is a popular forum for trust administration and for the choice of the governing law of trust.

The Hague Convention on the Recognition of Trusts was incorporated into English law by the [Recognition of Trusts Act 1987](#) and was extended to Guernsey by the United Kingdom's unilateral declaration with effect from July 1994.

GUE-10 Immovable property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Forms of ownership

Immovable property

GUE-10 There is a two-stage process involved in the conveyance of realty; the contract (“conditions of sale”) followed by the conveyance itself. The conveyance must be acknowledged before a physical sitting of the Court for valid title to pass. It is then necessary to register title. There is an obligation to register wills of realty as documents of title. Similarly bonds (“obligations”), being charges against realty (similar in effect to United Kingdom mortgages), are completed before the Court and publicly registered. There are no restrictions on the ownership of immovable property by foreign nationals in Guernsey, although different rules apply in Alderney and Sark. However, there are certain restrictions (outlined below) in connection with the occupation of residential property within the Bailiwick.

GUE-11 Legal title to real property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Forms of ownership

Legal title to real property

GUE-11 Jointly-owned realty may be owned in undivided shares or for the survivor(s) of the owners. The maxim derived from Norman law, nul ne tenir de rester dans l'indivision, is applied, i.e. a person owning a share in realty, in certain circumstances, can force the sale of jointly owned property.

Parties to conveyances of real property have to appear before the Court in person or by attorney, or (in the case of a local company) pursuant to a resolution.

The person appearing, or so empowered to appear, gives consent verbally to the registration of the conveyance in the Court records. Conveyance fees in the form of document duty, are charged at a rate of between 2 and 3 per cent of the value of the property and are payable prior to registration. In the conveyance of property various duties must be performed by advocates.

GUE-12 Movable property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Forms of ownership

Movable property

GUE-12 There is no concept of community of matrimonial property. Movable property may be owned by individuals and legal persons in common or jointly. The Husband and Wife (Joint Accounts) (Guernsey) Law 1966 provides that monies and securities standing in joint names of spouses are deemed the absolute property of the survivor on the death of either of them.

GUE-13 Immovable property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Lifetime gifts

Immovable property

GUE-13 As stated at [para.10](#), immovable property is conveyed before Guernsey's Court, which sits in special session in that regard.

It is generally considered that contracts transferring immovable property require consideration, although this may be nominal with the consent of the Greffier in the case of a gift of immovable property, for the purpose of calculating document duty. A tax designed to discourage speculation in real property, the Dwellings Profits Tax, has now been suspended. There are no specific taxes on lifetime gifts of immovable property.

GUE-14 Movable property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Lifetime gifts

Movable property

GUE-14 There are no taxes levied on the transfer of movable property by lifetime gift. Nor are there any formalities for a lifetime gift of movables other than in relation to chattels such as motor vehicles, vessels and aeroplanes. The transfer of title of a motor vehicle must be registered with the States Environment Department. The transfer of title of a vessel must be recorded with the Registrar of Shipping in Guernsey if it is of the requisite size, and a transfer of title of an aeroplane requires registration with the appropriate registration authority.

GUE-15 Introduction

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Introduction

GUE-15 By The Law Reform (Miscellaneous Provisions) (Guernsey) Law 2006 (the “Law Reform 2006”), there is no longer a requirement in Guernsey law to dispose of personal and real assets in separate wills, although many testators still prefer to have two wills. Furthermore, wills made outside the Island in respect of property situate in Guernsey may refer to both.

GUE-16 Succession is governed by the *lex situs*. It was a principle of Norman law that family property should be preserved, and this principle still shapes succession to immovable property in Guernsey. Before the mid-19th century, it was not possible to make a will concerning realty, but this changed with the Inheritance Law of 1840. These rules only apply to realty situate in Guernsey, but will apply to such realty no matter where the deceased is domiciled or resident at the date of his death.

The laws of inheritance in Guernsey have changed as a result of The Inheritance (Guernsey) Law 2011 (the “Inheritance Law”) coming into effect. The new law came into force on 2 April 2012. The legislation creates a new regime for succession which will apply to those individuals whose wills are executed after 2 April 2012 or who die domiciled in Guernsey intestate after that date. The 2011 Law abandons much of Guernsey’s historic laws in favour of English style freedom of testamentary disposition. The 2011 Law operates a system which preserves the pre-2011 Law regime for wills executed before the commencement date.

GUE-17 The regime for testate and intestate succession under the 2011 Law: Abolition of forced heirship

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

The regime for testate and intestate succession under the 2011 Law: Abolition of forced heirship

GUE-17 A key change in the 2011 Law is the abolition of forced heirship. According to the 2011 Law a person can now leave their real or personal property to anyone they choose save that certain people can apply to court for provision, if they feel they have not been adequately provided for. The use of testamentary trusts are now unrestricted. However, this revision to the law does not affect any contracts, settlements or deeds made before 2 April 2012. It is important to bear in mind that a person who has executed a will before 2 April 2012 does not automatically become subject to the 2011 Law regime if the will is amended by a codicil after 2 April 2012 unless the codicil provides for the new laws to apply (a codicil is a document that amends rather than replaces a previously executed will).

GUE-18 Provision for family and dependants

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Provision for family and dependants

GUE-18 Part II of the 2011 Law allows certain family members and persons in other specified categories to apply to the Royal Court for a share (or an increased share) of the deceased person's estate if they do not consider the will to have made "reasonable financial provision". This application can only be made if the deceased died domiciled in Guernsey and if the application is made within six months after the date of death (subject to certain court approved extensions in time). The possible applicants are: a surviving spouse, former spouses who have not remarried, civil partners (even though Guernsey law does not currently recognise such relationships it will recognise those civil partners married in other jurisdictions), former civil partners, co-habitees, children, people treated as a child of the family and other persons being "maintained" by the deceased. It is important to note that jointly held property, passing by survivorship, may now be subject to such a claim.

GUE-19 Revised intestacy provisions

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Revised intestacy provisions

GUE-19 These apply to any intestate succession of a Guernsey domiciled person dying without a will.

GUE-20 Realty

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Realty

GUE-20 Realty is concerned with immovable property such as homes, land and other forms of real estate. If the deceased leaves only a spouse (including a civil partner), the spouse takes the whole absolutely (if they survive for 28 days after the deceased). If the deceased leaves a spouse and descendants (i.e. children or remoter descendants), the spouse would take half absolutely, and the descendants would take the other half subject to the spouse's right of use, until death or remarriage, over the other half of the matrimonial home. If a deceased leaves descendants but no spouse, the descendants share the property equally, with representation per stirpes. Where there is no surviving spouse nor descendants, the property will pass to family members in the following order:

1. Privileged collaterals, in other words brothers and sisters, nephews and nieces and their issue, the closest in parity of degree taking equally if more than one and with representation allowed up to the sixth degree.
2. Ascendants, the closest in parity of degree taking equally if there are more than one.
3. The closest in parity of degree taking and sharing equally if more than one.

GUE-21 Personality – moveable property

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Personalty – moveable property

GUE-21 Personalty is defined as movable property such as possessions, money and investments. If a property is owned by a company it will form part of a person's estate of personalty, not realty. If the deceased leaves only a spouse the spouse takes the whole personal estate (if they survive for 28 days after the deceased). If the deceased leaves a spouse and descendants the spouse would take half and the descendants would take the other half equally in parity of degree with representation per stirpes.

If a deceased leaves descendants but no spouse the proposal is that the descendants share the property equally with representation per stirpes. If there is no surviving spouse or any descendants the same order of inheritance will apply as for realty.

GUE-22 Commorientes and survivorship

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part I General Law

Estates of deceased individuals

Commorientes and survivorship

GUE-22 The new law also introduces the concept that if two or more people die in circumstances where one cannot tell who dies first the eldest is presumed to have died first. While the presumption is assumed by the court it can be countered by including a special provision in one's will.

If property is left subject to a condition that the successor or heir survives for a certain period of time the property vests in the recipient or heir upon death of the deceased. If the inheritor or heir fails to survive for the period of time stated the property then re-vests in accordance with the will or intestacy of the first to die. The laws of inheritance in Guernsey have changed as a result of the Inheritance (Guernsey) Law 2011 (the "Inheritance Law") coming into effect.

Non-discrimination under the Law Reform 2006

GUE-23 The Law Reform 2006 provides that no rule of law may be applied so as to discriminate on the grounds of legitimacy. This applies to:

- intestate succession to the estate (whether real or personal) of a person dying after 7 May 2008;
- testamentary succession to, and *légitime in*, the personal estate of a person whose will of personalty is executed after 7 May 2008; and
- testamentary succession to the real estate of a person whose will of realty is executed after 7 May 2008.

End of Document

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GUE-49 No capital taxes

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

*Advocate Laila Arstall*¹

No capital taxes

GUE-49 Guernsey has no taxes chargeable upon capital or wealth. There is no capital gains tax, no inheritance tax, no gift tax and death does not give rise to any taxes. However, on an application for a grant of probate or letters of administration to deal with the Guernsey property comprised in the estate of a deceased individual, fees are charged by the Ecclesiastical Court of the Bailiwick of Guernsey on a sliding scale of tariffs, depending upon the value of the estate.

On 15 November 2017, The Document Duty (Guernsey) Law 2017 came into force and is intended to achieve clarity and simplicity for buyers and sellers of land in Guernsey. A key change from the previous document duty regime is that the sale of shares in a company which owns Guernsey real property is now subject to document duty. This is caught by a second new law, called The Document Duty (Anti-Avoidance) (Guernsey) Law 2017, which was introduced at the same time and imposes a duty on transactions which have a similar effect to a transfer of an interest in real property, but which do not involve a conveyance or other registrable document.

Document duty is payable on a *chargeable transaction* which includes the acquisition by any person of an interest in real property or the creation of a charge against real property by the registration of a bond (i.e. mortgage) over real property:

Realty purchase price	Percentage rate of duty payable
£1–£250,000	2%
£250,001–£400,000	3.25%
£400,000–£750,000	3.5%
£750,000–£1,000,000	3.75%

£1,000,001+

4%

Certain transactions are exempt from the application of duty. Dwellings Profits Tax, a tax which was introduced to deter speculation in the housing market, has been suspended pursuant to the Dwellings Profits Tax (Suspension of Law) (Guernsey) Ordinance 2009, which became effective as from 25 March 2009.

Footnotes

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GUE-50 Impôt duties and no sales taxes

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Impôt duties and no sales taxes

GUE-50 The principal forms of indirect taxation are duties upon alcohol, tobacco and petroleum spirit. These taxes are administered and collected by the Customs and Excise Division of the Home Department. Unlike in Jersey, there are no general sales, purchase or value added taxes in Guernsey.

Legislation

GUE-51 The income tax legislation is largely contained in the Income Tax (Guernsey) Law 1975, as amended (ITL). However, since 2008, extensive changes have been made to the ITL 1975. The Zero 10 corporate tax regime was introduced principally by two amending laws to the ITL in response to the findings of the Code of Conduct on Business Taxation established by the European Finance Minister's Economic and Financial Committee (ECOFIN). These changes became effective from 1 January 2008.

In addition to the ITL, the Revenue Service publishes a collection of statements of practice, interpretations of law and extra-statutory concessions. Many of the concepts and expressions used will be familiar to a UK tax practitioner and where there is ambiguity in the law, the Guernsey courts will look to UK case law for guidance. The Director of the Revenue has jurisdiction to collect income tax in Guernsey, Alderney and Herm.

The following is a summary of Zero 10 changes to the framework for taxation in Guernsey. Companies and individuals regarded as not resident in Guernsey continue to benefit from rules that have the result that tax is generally not payable in Guernsey.

Summary of Zero 10 changes in taxation in Guernsey

1. There are currently three applicable rates of income tax, 0%, 10% and 20%.
2. The company intermediate rate, currently 10 per cent, applies to:
 - o income from certain types of banking business;
 - o income arising from the carrying on of regulated activities by a licensed fiduciary within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000;
 - o income from the carrying on of insurance business which is domestic business by a licensed insurer within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended;
 - o income from the carrying on of business as an insurance intermediary or as an insurance manager by a licensed insurance intermediary or manager within the meaning of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, as amended;
 - o income from licensed fund administration businesses;
 - o income from the provision of custody services;
 - o income from the provision of investment management individual client services;
 - o income from operating an investment exchange; and
 - o income from compliance and other related activities provided to regulated financial services businesses.
3. The company higher rate, currently 20%, applies to income from activities regulated by the Guernsey Competition and Regulatory Authority, income from the ownership of land and buildings situate in Guernsey, income from gas and hydrocarbons businesses, income from qualifying large retail businesses where the company has a taxation profit of more than £500,000.
4. The company standard rate, currently 0%, applies to income from all other businesses, offices and employments, and other sources
5. Category D and E exempt companies and companies with international company status lose their special tax treatment, with effect from 1 January 2008, after which the 0%, 10% or 20% rates as appropriate will apply to these companies. From then on, these companies will be Guernsey resident for tax purposes.
6. Collective investment schemes, including closed end investment vehicles (being Category A unit trusts, and B or C companies), are to continue to be eligible to apply for tax exempt status, as before. They will therefore continue to be treated as not resident in Guernsey and not liable to Guernsey tax on non-Guernsey source income in accordance with the Income Tax (Exempt Bodies) (Guernsey) Ordinance 1989, as amended.

7.The tax treatment of payments of dividends, royalties and interest to non-resident companies and individuals is simplified.

8.Special rules that were introduced to tax Guernsey resident individuals on a proportion of the accumulated untaxed profits of a company in which they held a beneficial interest through a mechanism of “deemed distribution” has been repealed with effect from 1 January 2013.

9.Guernsey resident individuals are still taxed on their worldwide income at 20% and this rate remains the same. However, for individuals who are Guernsey resident taxpayers, there is currently available a cap on the maximum amount payable in tax depending upon the source of income.

10.Relief for interest paid on loans is restricted.

11.No current plans to introduce wealth taxes, inheritance or capital gains taxes.

12.No current plans to introduce a goods and services tax.

The charge to tax

GUE-52 Apart from the taxation of income derived from the development and/ or rental of land and buildings situated in Guernsey and income from a source in Guernsey, the basis of assessment for Guernsey tax for both individuals and companies remains the test of residence in the year of charge. Income tax is assessed on a calendar year basis and payable by individuals and companies resident in Guernsey on their worldwide income. Tax is due in equal instalments on 30 June and 31 December. Subject to an application for separate treatment, a wife’s income is treated as her husband’s for all purposes (including the primary liability to pay the tax). Income of individuals that is chargeable to tax at the individual standard rate, currently 20 per cent, is charged under the following classes:

New classes of income and rates of tax	Description of rate	Rate
Classes of income of individuals		
2(1)(a) Income from businesses		20%
2(1)(b) Income from offices and employments		20%
2(1)(c) Income from the ownership of land and buildings situate in Guernsey	individual standard rate	20%
2(1)(d) Income from other sources		20%

Residence

GUE-53

The test for residence for individuals is based on the number of days (or more precisely, midnights) that an individual spends in Guernsey or elsewhere. There are the following types of residents:

- “Resident only” in Guernsey, where an individual spends between 91–181 days in Guernsey in a year of charge or spends 35 days or more in Guernsey in that year of charge and, during the four preceding years of charge, has spent 365 days or more in Guernsey.
- “Principally resident” in Guernsey, where an individual spends 182 or more days in Guernsey but also 91 days resident elsewhere in a year of charge, or spends 91 days or more in Guernsey in that year of charge and, during the four preceding years of charge, has spent 730 days or more in Guernsey.
- “Solely resident” in Guernsey, where an individual spends all his/her time in Guernsey and does not reside for 91 days or more elsewhere in a year of charge.
- “Non-resident” in Guernsey, being where an individual does not fall in any of the above categories of residence in Guernsey.

Special rules based on time

- GUE-54** A person who is resident only in one year of charge and then solely or principally resident in the next year of charge is treated as principally resident in that earlier year of charge. If an individual takes up, or ceases to be solely or principally resident in Guernsey part way through a year of charge, his or her foreign income will be split on a time basis so that income arising during his residence in Guernsey will be assessed to Guernsey tax.

GUE-55 Taxation of resident only individuals

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Taxation of individuals

Taxation of resident only individuals

GUE-55 In the case of an individual who is resident in Guernsey but not solely or principally resident (“resident only”), that individual is taxable on income arising in Guernsey and income remitted to Guernsey. This is so for years of charge up to and including 2009.

From 2010, the taxation of residents only is more complex:

- For resident only individuals who come to Guernsey for the purposes of employment and whose only income arising in Guernsey (other than bank interest) is employment income that is taxed at source under Guernsey’s ETI Scheme (similar to the UK’s PAYE scheme), such individuals are taxed on their Guernsey earnings and remittances to Guernsey. They are required to file a tax return for the year of charge which covers income arising in Guernsey and income remitted to Guernsey during that year. Funds remitted to Guernsey are presumed to be income unless the Director of the Revenue Service is satisfied to the contrary. This provision was introduced for the benefit of migrant workers and those who are posted to Guernsey on a temporary secondment.
- Individuals who are resident only and do not benefit from the concession above, may elect each year to pay a standard charge, currently £30,000, to be taxable on the total income arising or accruing in Guernsey in that year of charge (ignoring bank interest and without deduction for allowances or reliefs) and not taxable in Guernsey on income arising or accruing elsewhere. The election must be made within two years from the end of the year of charge to which it relates and shall be accompanied by a declaration of Guernsey source income (other than bank interest—which for these purposes is treated as if it arose from a non-Guernsey source). The standard charge is regarded as a tax and can be offset against

the amount of tax payable on the individual's Guernsey source income. Where available the individual may also be able to claim a credit for the amount paid as the standard charge against his tax liability in another jurisdiction.

- If an individual who is resident only and not able to benefit from the concession above, chooses not to make the election and pay the standard charge, he must file a tax return on his worldwide income for the relevant year of charge. He will be liable to tax on his worldwide income and will be able to claim allowances, reliefs and deductions against that income.

Taxation of solely or principally resident individuals

- GUE-56 An individual who is solely or principally resident in Guernsey is taxable on their worldwide income. Depending upon the source of income, they may be entitled to benefit from a cap on the total tax payable (*see para.58*). An individual may also be entitled to relief from double taxation if tax has already been paid on income that is assessable to tax in Guernsey (*see para.69*).

Taxation of non-resident individuals

- GUE-57 A non-resident is taxed only on Guernsey source but, unless the income arises from real property in Guernsey or employment or business carried on in Guernsey, certain types of income are then disregarded for the purposes of calculating the non-resident individual's tax liability. Accordingly, income in the form of distributions (both actual and deemed from Guernsey companies), interest, royalties and directors' remuneration, are all paid without deduction for tax in Guernsey.

This treatment of income arising in Guernsey as being tax-free in the hands of the non-resident individual does not apply where the non-resident individual carries on a business in Guernsey through a permanent establishment in Guernsey and the income is to be taken into account when computing the assessable income of that permanent establishment. The term *permanent establishment* includes a branch, a factory, shop or building site and a place of management. However, the fact that the body's directors regularly meet in a particular place does not, in itself, make the place a permanent establishment of that body. It is a question of fact whether a business is carried on and in each case should be analysed accordingly.

For Guernsey-registered companies with a local director or company service provider, non-residence of an individual shareholder or director can be evidenced by following procedures equivalent to anti-money laundering client due diligence.

Annual cap on tax payable by Guernsey resident taxpayers

GUE-58 For individuals who are resident in Guernsey, non-Guernsey source income will qualify for an annual cap on tax payable of £130,000 (for the year of charge 2019 onwards). This equates to liability on taxable income from such qualifying sources of 20% of £650,000. Therefore, those with taxable income from qualifying sources of over £650,000 in a year of charge will benefit from the tax cap of £130,000.

This £130,000 tax cap applies only to non-Guernsey source income. Where the resident individual has both non-Guernsey and Guernsey source income, they may elect within two years after the end of the relevant year of charge that their total tax liability for that year of charge on both qualifying and non-qualifying income is capped at £260,000 (for the year of charge 2019 onwards). This is equivalent to tax at 20 per cent on income of £1,300,000.

The qualifying and non-qualifying income is calculated net of allowances, reliefs and deductions but such allowances, reliefs and deductions are set off against non-qualifying income first. The cap is time apportioned where an individual is resident in Guernsey for only part of the year.

There are trace-through provisions to ensure that Guernsey source income is not disguised as non-Guernsey source income for the purposes of determining whether income is qualifying or non-qualifying income for the purposes of determining which tax cap might be available. The income can be traced through any number of companies, partnerships, trusts, agreements and arrangements.

Individuals resident in Guernsey who have purchased a Part A open market property (The Open Market Tax Cap)

GUE-58A From 1 January 2018, a new resident to Guernsey (who has not been resident in Guernsey in the previous three years) may claim a tax cap of £50,000, for the year they arrive in Guernsey and the following three years.

This cap can only be claimed if the individual has paid £50,000 or more in document duty on the purchase of a property, that is on Part A of the Open Market Register, and that property is purchased within 12 months (either before or after) they take up permanent residence in Guernsey.

This Open Market Tax Cap applies in respect of both qualifying and non-qualifying income identified above. Tax due on income arising from Guernsey land and property would need to be paid in addition to the Open Market Cap.

Allowances for interest paid on loans

GUE-59 Interest paid on capital borrowed for the purposes of a business is generally deductible from the assessable profits of that business. Similarly, relief may be available for individuals on interest paid on loans. However, such relief may be restricted as follows:

- interest on mortgages for a principal private residence, subject to a cap of £400,000 on the amount borrowed and to a cap of £8,000 per person (£16,000 for a married couple where both parties are borrowers) on interest paid during the year with effect from 1 January 2019. The cap will reduce over time to £0 by 2025
- loan interest relating to a property that is rented out (relief will normally be available against rental income of the same year);
- loan interest on borrowings to lend on to a company in which the borrower has at least a 10% shareholding and is actively engaged in the company's business activities so long as the funds are:
 - used by the company wholly and exclusively for purposes of its business;
 - not used to lend to an investment company;
- relief on interest paid by a business may be restricted if it arises from:
 - the funding of personal drawings of a sole trader or partner in the business;
 - a mixed business/private purpose;
- loan interest to acquire a business or part of a business (including goodwill or shares in a company that carries on a business) provided the claimant is actively engaged in the business; and
- interest on a loan that is used to buy an asset which is used wholly, exclusively and necessarily in the performance of the borrower's job, which is not provided by the borrower's employer.

Withdrawal of personal allowances for high earners

GUE-59A With effect from 1 January 2019 certain tax allowances and deductions are withdrawn at a ratio of £1 for every £5 that a person's "calculated income" exceeds the threshold (set at £100,000 for 2019). The allowances include:

- Personal Allowance;
- Retirement Annuity Allowance and Superannuation (however each individual will retain a maximum tax relief of £1,000);

- Mortgage Interest Relief.

“Calculated income” is an individual’s income net of deductions but gross of any withdrawable deductions to which that individual is entitled. The threshold is pro-rated in the year of arrival and permanent departure.

Assessment and collection

GUE-60 The Director of the Revenue Service may, by notice, require any person to provide a return of income within 21 days of receipt of the notice. Completed tax returns must be filed online by 30 November, in the year following the year of assessment. This return forms the basis for the assessment issued by the Director.

Payments on account of tax, based on the previous year’s liability, are due in two instalments, by the end of June and December during the year of assessment. A compulsory tax instalment scheme operates for payments of emoluments and pension payments. The deduction required is calculated by reference to a coding notice issued by the Director of Income Tax, and must be paid over within 15 days of the end of each quarter.

Any tax remaining unpaid must be paid within 21 days of assessment, although where the tax unpaid is small, this may be dealt with by adjustment of the individual’s coding for the following year.

Taxation of partnerships

GUE-61 Each partner is assessed separately on their share of partnership profits. This includes each partner’s share of any investment income or capital allowances due to the partnership. On any change in the partnership, the commencement and cessation provisions applicable to a sole trader are applied.

Benefits in kind

GUE-62 Benefits in kind are generally taxable and both the employer and employee are required to provide to the Director of the Revenue Service particulars of any benefits received by the employee.

The Revenue Service publishes a useful guide to the taxation of benefits in kind. The taxable emoluments arising from the provision to the employee of goods or services connected with the employer’s business is based on the cost to the employer of providing the benefit. The

emoluments arising from the provision of other benefits are equal to the market value of the benefits at the time of transfer, or, in the case of the loan of a benefit, 20% of the market value. Special rules exist for the taxation of company cars and the provision of accommodation.

Certain benefits such as the provision of a staff canteen, workplace crèche or staff car parking are exempt. In addition, the first £450 of total chargeable noncash benefits arising to an employee in any year is exempt, although this does not cover benefits relating to company cars or the provision of accommodation or shares issued as part of an employee incentive scheme.

Social security contributions

GUE-63 Social security contributions are payable in Guernsey by employed persons (currently 6.6%), self-employed (currently 11%) and non-employed (currently 10.4%) persons depending on their gross earnings, which will include the value of benefits in kind. Employers are also obliged to make social security contributions (currently 6.6%) in respect of their employees. There are upper and lower earnings limits that govern the maximum contributions payable. As with income tax, social security contributions for employed persons are made at source. It is the employer's responsibility to pay both employer and employee contributions to the Social Security Department.

Pension provision

GUE-64 Guernsey has a number of reciprocal pension agreements with different jurisdictions. Guernsey's legislative framework for pensions enables pension arrangements to be structured in Guernsey to meet a variety of requirements. Relief is given for income contributed to approved occupational or personal pension schemes by Guernsey residents.

With effect from 1 January 2011, the rules relating to Guernsey tax relief on contributions to both occupational and personal pensions and the principles underlying the calculation of benefits available to members of schemes were aligned. Whilst there is now no monetary limit on the amount which may be contributed to an occupational pension scheme or a personal pension scheme, the amount of tax relief for payments made to such schemes is capped by limits set by the Treasury and Resources Department, currently the lower of £35,000 or 100% of taxable income of the claimant. This limit applies to the overall contributions made by the individual to all approved occupational pension schemes and approved personal pension schemes in that year. Further restrictions on tax relief apply for high earners.

Unused relief can be carried forward for up to six years, subject to certain limitations. The member may take a tax-free lump sum of up to 30% of the fund value capped at a specified limit (for the year of charge 2019 this limit is £198,000). Again, these limits apply to the aggregate

amount of commutations received for all pension schemes by the individual. Tax is due if the sum taken is more than the prescribed limit. Arrangements exist to exempt from tax transfer payments made from or to a Guernsey scheme in connection with changes to an individual's pension provider.

Occupational pension schemes

- GUE-65** Contributions by employees are deductible for the purpose of calculating income arising from employment. Payments by employers are similarly deductible for the purpose of calculating business income.

Approval for a scheme must be obtained from the Director, and will only be given if certain conditions are satisfied. The scheme should provide for the provision of benefits to persons employed in connection with the carrying on of a business or the exercise of functions wholly or partly in Guernsey, either on their retirement or incapacity, or, on the death of such a person, for their surviving spouse or dependants. Retirement must be between the ages of 50 and 75 unless on grounds of incapacity.

Personal pension schemes

- GUE-66** A personal pension can be provided to an individual under a retirement annuity contract.

As an alternative to a retirement annuity contract, a personal pension may be provided pursuant to a retirement annuity trust scheme. To be approved, the scheme must be established pursuant to a trust established under either UK or Guernsey law, and administered in either the UK or Guernsey. In other respects the rules for approval of such a scheme are the same as those that apply to the approval of a retirement annuity contract. There are guidelines for the administration of such schemes and failure to follow these could lead to approval being revoked.

Exempt bodies

- GUE-69** Changes to Guernsey's taxation regime introduced in 2008 were designed to ensure that Guernsey meets international standards and obligations for the conduct of business, so as to continue to have access to world financial markets. As a result, and with effect from 1 January 2008, the special arrangements for offshore insurers that were identified as "harmful" by the EU Code of Conduct Group and the special arrangements for international companies, also identified as "harmful", were abolished (*see para.85*).

Currently, the changes preserve the existing arrangements for collective investment schemes, including closed end investment vehicles (being Category A unit trusts, B and C companies). These will continue to be eligible to apply for exempt status, as before. Such schemes were not regarded as “harmful” by the EU Code of Conduct Group.

By maintaining its exempt status where eligible, a company continues to be treated as not resident in Guernsey. As a result, an exempt company will not be liable to pay tax in Guernsey provided it does not hold any investment or other property situated in Guernsey that generates taxable income, other than from a relevant bank deposit or from an interest in another body to which an exemption from tax applies, or from a subsidiary that itself is taxed at the company standard rate, currently 0%. A Guernsey resident would still be taxable on actual distributions received from an exempt company. Further, a structure with exempt status is able to disclose in the scheme prospectus that it is exempt from Guernsey tax, which may be perceived as providing greater certainty than being taxed at the current company standard rate of 0%.

Whether a company is taxed at 0% or is exempt from tax has the same effect financially. However, clients may prefer the exempt status because of the possibility that the 0% rate of tax may, in the future, increase. Alternatively, clients may prefer the structure to be Guernsey resident and taxed at 0%, so as to claim the benefit of foreign double tax arrangements.

Applications for exempt status under Categories A, B or C are made annually at the beginning of the year and the Revenue Service sends application forms to those bodies that are currently exempt. Those eligible to renew their exemption may do so on payment of the required fee, currently £1,200 with effect from 1 January 2015. For those companies that do not renew their exempt tax status, they then become resident in Guernsey for tax purposes and will be issued with an annual tax return in the following January in respect of income arising during the previous year in which they are resident in Guernsey.

If a non-exempt company (which is therefore resident in Guernsey) is able to confirm to the Revenue Service in Guernsey that the company has no Guernsey resident beneficial members, Guernsey employees (other than local directors), has made no qualifying loans and has no source of income that would give rise to a liability to pay tax, the company will not be required to submit annual financial statements to the Revenue Service as a matter of course.

Insurance companies

GUE-70 Since changes were introduced in 2008 to Guernsey’s tax regime, insurance companies that are resident in Guernsey are treated for tax purposes like any other trading company. With effect from 1 January 2013 income from domestic insurance businesses will be taxed in Guernsey at the standard rate of tax, currently 10 per cent.

Exemption for trusts

- GUE-71** Where all of the beneficiaries of a trust are resident outside Guernsey, foreign income and Guernsey bank interest is exempt from income tax even if the trustees are resident in Guernsey. Furthermore, provided that the settlor and the spouse of the settlor are irrevocably excluded from the trust, the residence of the settlor for the purpose of this concession is irrelevant. There is no fee payable by a trust for exemption.

End of Document

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GUE-72 Classes of income of companies

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Companies

Classes of income of companies

GUE-72 The following classes of income in respect of which Guernsey resident companies may be taxed at the following rates:

Classes of income of companies

2(2)(a)	Income from banking business	company intermediate rate	10%
2(2)(aa)	Income from domestic insurance business	company intermediate rate	10%
2(2)(ab)	Income from fiduciary business	company intermediate rate	10%
2(2)(ac)	Income from insurance intermediary	company intermediate rate	10%
2(2)(ad)	Income from insurance manager business	company intermediate rate	10%
2(2)(ae)	Income from administration of controlled investments	company intermediate rate	10%
2(2)(af)	Income from custody services by banks	company intermediate rate	10%
2(2)(ag)	Income from the provision of investment management individual client services	company intermediate rate	10%
2(2)(ah)	Income from the operation of an investment exchange	company intermediate rate	10%

2(2)(ai)	Income from compliance and other related services	company intermediate rate	10%
2(2)(b)	Income from activities regulated by Guernsey Competition and Regulatory Authority	company higher rate	20%
2(2)(ba)	Income from gas and hydrocarbons business	company higher rate	20%
2(2)(bb)	Income from large retail business	company higher rate	20%
2(2)(c)	Income from the ownership of land and buildings situate in Guernsey	company higher rate	20%
2(2)(d)	Income from other businesses, offices and employments, and other sources	company standard rate	0%

Taxation of companies

GUE-73 In Guernsey, the rate of tax is 0 per cent for most companies, provided the income does not include income from:

- banking business;
- domestic insurance business
- fiduciary business
- insurance intermediary business
- insurance manager business
- licensed fund administration business
- custody services
- investment management individual client services
- the operation of an investment exchange
- compliance and other related services
- gas and hydrocarbon business
- large retail business
- trading activities regulated by the Guernsey Competition Regulatory Authority; or
- the ownership of land and buildings situate in Guernsey.

A company is resident in Guernsey for tax purposes if it is incorporated or controlled in Guernsey and with effect from 1 January 2019, a company will be treated as tax resident in Guernsey in a year of charge if:

- it is controlled in Guernsey, or is centrally managed and controlled in Guernsey in that year of charge; or
- it is incorporated in Guernsey and is not an “exempt company”. Exempt companies are essentially companies operating as part of a collective investments scheme.

However, a company shall not be treated as resident in Guernsey in a year of charge, even if it is incorporated or controlled in Guernsey, if it is proved to the satisfaction of the Director that:

- the company is tax resident in another territory (“Territory A”) under the domestic law of Territory A; and
- the company’s business is centrally managed and controlled in Territory A, and
- either:
 - o the company is tax resident in Territory A in accordance with a double taxation arrangement, in which a tie-breaker clause applies; or
 - o the highest rate of tax on a company in Territory A is at least 10%, and
- the company’s tax resident status in Territory A is not motivated by the avoidance, reduction or deferral of the liability of any person to tax.

Companies (including those incorporated outside Guernsey) which are beneficially owned, wholly or in part, by individuals resident in Guernsey, are subject to a regime of withholding tax in respect of income distribution attributed to those Guernsey resident individuals.

This withholding tax is payable in respect of the personal liability to tax of those Guernsey resident beneficial members. With effect from 1 January 2013 the deemed distribution régime which attributed income of a company to Guernsey resident individuals was repealed. As mentioned above, the rate of personal income tax payable by Guernsey residents is 20% and is chargeable on actual distributions to the beneficial members of the company.

Shareholders who are not resident in Guernsey do not suffer withholding tax on distributions made to them. The company will not be required to make any additional deduction or withholding in respect of Guernsey taxation from any payments made by the company to non-Guernsey resident individuals or companies provided that such non-Guernsey resident individuals or companies do not carry on a business in Guernsey through a permanent establishment in Guernsey.

GUE-75 Insurance companies

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Insurance companies

GUE-75 The Guernsey insurance sector can be divided broadly into two main areas:

1. domestic insurance comprising local insurers, overseas insurers, recognised insurers and intermediaries who advise on or arrange contracts of insurance in or from within Guernsey; and
2. international insurers, comprising captive insurers, protected or incorporated cell companies and life assurance companies who arrange contracts of insurance from within Guernsey, covering international risks.

All insurance entities (domestic and international) operating in or from within Guernsey require an insurance licence. There is a policy of selectivity, which means that the fitness and propriety of the intended shareholders, directors, officers, insurance managers and/or general representatives is critical to the success of an application for a licence.

Information provided with the application concentrates on determining whether the following criteria are met:

- the applicant is fit and proper;
- the insurers plan is commercially acceptable; and
- management and control are resident in Guernsey.

On applying to the GFSC for the licensing of an insurance company, a fee, depending upon the type of company and licence required is payable on application. Each year, the licensed insurer must file an annual return and a copy of its accounts with the GFSC at which time an annual fee is payable depending upon the type of company and licence required.

Insurance companies are often structured as protected cell companies or incorporated cell companies. Protected cell companies are treated as single legal entities and are taxed as such, so that any claims or elections affecting the company as a whole will also affect each cell of the company. The profits and losses of each cell must be calculated separately, but are then capable of being set off against each other so that only a single assessment is raised.

Incorporated cell companies are treated differently from protected cell companies. Each incorporated cell will have its tax status determined on its own merits. This is consistent with the fact that each incorporated cell is treated as if it was a separate entity for tax purposes from other cells and from the incorporated cell company itself.

End of Document

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GUE-76 Limited partnerships

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Limited partnerships

GUE-76 Guernsey law permits the creation of a limited partnership pursuant to a limited partnership agreement, whereby one or more general partners with unlimited liability conduct the business of the partnership and one or more limited partners invest capital into the limited partnership. The limited partnership is required to be registered in Guernsey and to maintain a registered office in Guernsey and in many respects is treated in a similar manner to a company. However, the limited partnership is not treated as a separate entity for tax purposes and the rules applicable to partnerships described above apply to the partners.

In 2014 Guernsey introduced limited liability partnerships formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013. The key features of a limited liability partnership (“LLP”) are that:

- it is a body corporate with unlimited capacity and its own legal personality separate from that of its members;
- it may be formed in Guernsey to carry on lawful business with a view to profit, or any other lawful activity;
- a member is not liable for any debt of the LLP, or of any other member, by virtue solely of their membership of it;
- a member’s liability to contribute its funds, and specifically a shortfall on its winding up, will be limited to whatever the member has agreed with the other members or with the LLP to contribute;
- it owns its own assets and is subject to the duties and liabilities of the business to the exclusion of its members;

- it carries on business itself with the members acting as its agents;
- a private written agreement must govern the rights and duties of the members as between themselves and the rights and duties between the members and the LLP itself;
- it is not a partnership and Guernsey partnership law does not apply to it; and
- it will be transparent for Guernsey income tax purposes.

The Income Tax Law 1975, as amended, provides that any income derived from international operations of a limited partnership in which an individual who is not solely or principally resident in Guernsey or a company which is not resident in Guernsey, is a limited partner, shall not be regarded as arising or accruing from a source in Guernsey. Any interest paid to that limited partner under a limited partnership arrangement shall also not be regarded as arising or accruing from a source in Guernsey.

Under s.42 of the Income Tax Law 1975, as amended, income arising from any business carried on by two or more persons in partnership, and in respect of income arising from any other source and belonging to the partnership, each partner shall be assessed and charged in respect of his share of the profits of the partnership. The term partnership includes a limited partnership and an LLP.

GUE-77 Trusts

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Trusts

GUE-77 Trustees may be charged to tax on income derived from property held by them without affecting the liability of any beneficiary to be charged in his own name; however, assessments are generally made on the person beneficially entitled to receive the income. Where all income is payable to non-residents (whether or not there is a power to accumulate), tax is only payable on Guernsey income other than bank interest.

The income arising under a settlement is treated as belonging to the settlor unless the settlement is irrevocable during the life of the beneficiary or for a period exceeding six years, and certain further conditions are met.

Executors and personal representatives are liable in that capacity for tax due on income arising up until the date of death. Income arising from the estate after death is taxable on either the executor/personal representative or the beneficiary of such income as above.

GUE-78 Dividends

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Withholding taxes

Dividends

GUE-78 There is no withholding tax requirement as such on dividends paid to non-residents by companies resident in Guernsey. However, in Guernsey, there is an obligation on the company, when it makes distributions, and in the case of certain deemed distribution events, to report those events to the Director of Income Tax, usually on a quarterly basis, and to withhold and account for tax where those distributions are being made to Guernsey resident shareholders.

Provided that the shareholder is not resident in Guernsey, then the company's distributions can be paid without further deduction of withholding tax except as indicated above.

A distribution includes any distribution made out of the assets of the company, including a dividend, but does not include any repayment of capital to the member. Tax on distributions is collected through the system of deduction of withholdings.

Distributions paid by the company will be treated as being declared gross but paid net and the company is required to deduct income tax at the appropriate rate from the grossed up distribution paid to the Guernsey resident beneficial member or its nominee. The company must then file a return with the Director of the Revenue Service within the prescribed period after the end of the relevant quarter and remit the tax deducted. The Guernsey resident recipient of the distribution, or its nominee, must disclose in its tax return a figure equal to the dividend grossed up at the appropriate rate. The duty to file quarterly returns will only arise when the company has paid a distribution or a deemed distribution has been triggered.

Shareholders who are not resident in Guernsey do not suffer withholding tax on distributions made to them. The company will not be required to make any additional deduction or withholding in respect of Guernsey taxation from any payments made by the company to non-Guernsey resident individuals or companies provided that such non-Guernsey resident individuals or companies do not carry on a business in Guernsey through a permanent establishment situate in Guernsey where the income deemed to be distributed to the nonresident is to be taken into account when computing the assessable income of that permanent establishment.

Interest and royalties

GUE-79 In Guernsey, changes to the tax legislation brought into effect from 1 January 2008 provide that the following classes of income are disregarded for the purpose of assessing liability to tax when paid to a non-resident:

- distributions;
- interest received;
- royalties; and
- directors' remuneration.

However, if the non-resident recipient carries on a business in Guernsey through a permanent establishment in Guernsey, then any income that is taken into account as profits chargeable to Guernsey tax that are derived from the business of the permanent establishment cannot be treated as “disregarded income”.

The term *permanent establishment* includes a branch, a factory, shop or building site, and a place of management. However, the fact that the body's directors regularly meet in a particular place does not in itself make that place a permanent establishment of that body. It is a question of fact whether a business is being carried on and each case should be analysed accordingly.

The combined effect of the changes to the tax legislation have the result that disregarded income payable to a non-resident individual or company is not subject to withholding tax and can therefore be paid gross.

GUE-80 Guernsey estate planning

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Estate planning

Guernsey estate planning

GUE-80 The absence of capital taxes means that local taxation is not a consideration in estate planning for Guernsey residents.

GUE-81 Offshore estate planning

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Offshore estate planning

GUE-81 In many cases, the use of a Guernsey investment company and/or Guernsey trust to hold assets can be of considerable assistance in the context of the preservation of family wealth for successive generations, particularly when members of the family and/or business interests are internationally dispersed.

The type of structure used will depend upon such considerations as the residence and domicile of the estate owner and the situs of assets. Tax neutrality, coupled with simple and flexible trust and company laws, has created the following examples of uses for Guernsey structures:

- investment/property holding (to minimise transfer fees and duties);
- asset protection (to protect against creditors, exchange control, forced heirship, etc.);
- capital gains tax mitigation;
- inheritance tax planning (securing that death is not an occasion of charge); and
- confidentiality and anonymity.

In addition:

- UK anti-avoidance provisions have less impact for persons resident but not domiciled in the UK, and such persons may be able to mitigate their tax liability by keeping income and/or gains offshore.
- Tax-efficient arrangements can still often be made for the benefit of people who are not closely related to the benefactor.
- Incentive schemes established by companies for the benefit of employees are often more tax efficient if established offshore.

- People who expect to realise substantial capital gains or who already have substantial income generating assets may wish to move offshore.
- Wealthy individuals who spend only short periods of time in any particular jurisdiction and/or negotiate special arrangements with domestic tax authorities may find that Guernsey is a suitable place for them to hold their investments.
- The availability of the statutorily-backed tax cap and standard charge for Guernsey residents makes Guernsey an attractive jurisdiction in which to establish residence.

End of Document

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GUE-82 Other Estate Planning Vehicles - Foundations

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Other Estate Planning Vehicles - Foundations

GUE-82 The Foundations (Guernsey) Law, 2002 (the “Foundations Law”) came into effect on 9 January 2013 and reflects accepted civil law characteristics of foundations without replicating the laws of other jurisdictions. Although there are similarities, a foundation is neither a company nor is it a trust. Under Guernsey law trusts, companies and foundations are 3 distinct and legal structures which have evolved to serve different purposes and to work in different environments.

Set out below are the key features of Guernsey foundations:

- They are ideally suited for private wealth management, succession planning structures and charitable giving.
- They are familiar to those from a civil law background.
- They are more flexible than a company structure in that the Foundations Law allows a substantial degree of bespoke adaptation.
- They have legal personality and may contract or sue, in their own name.
- There is no segregation of legal and beneficial law, as with the trust.
- The concept of “disenfranchised beneficiaries” allows concerned founders to limit the flow of information to certain classes of beneficiaries. This is unique to Guernsey’s Foundations Law.
- They are private structures.
- They require registration but the information that is publically available is restricted.

GUE-83 Protection and Management of Image Rights

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxes

Protection and Management of Image Rights

GUE-83 In December 2012 Guernsey introduced legislation to establish a framework for the protection and management of image rights. This framework sits alongside Guernsey’s existing intellectual property regime and provides a basis from which image rights, once registered in Guernsey, to be properly protected and commercially exploited.

It is now possible for personalities to register their image in Guernsey’s Register of Image Rights. An image (which includes any manifestation of a person’s personality, including their name and attributes or characteristics) may be registered on behalf of natural persons, legal persons, joint personalities, groups and fictional characters. Registration may be done in person or through a registered image rights agent, who has been trained by the Intellectual Property Office in procedures under the new legislation. The process for registration is similar to the registration of a trademark and, once registered, an image right is a right of property and, as such can be treated as, and traded, in the same way as any other of property. The image right can then be managed and exploited either through bespoke vehicles or existing structures, such as trusts, foundations or companies. Once registered the personality’s registration lasts for 10 years although this can be renewed indefinitely. For images, the duration is three years, subject to renewal on an indefinite basis. This is in contrast to the limited shelf-life of, for example, copyright in photographs.

The law provides clear remedies for infringement of the protected use of an image right. Remedies include actions for damages, orders for delivery up or disposal of goods which contain infringing images, injunctions and accounts of profits. Such remedies protect the registered holder against the unlawful exploitation of a registered right and not, for example, private use of images. The law gives clear expression to “fair dealing” exceptions which apply in relation to copyright matters, such as freedom to report news, engage in parody or satire, research, education and so

on. Reciprocal arrangements exist between Guernsey and other countries, both under statute and common law, so as to facilitate effective enforcement of remedies against wrongdoers.

End of Document

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GUE-84

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Anti-tax avoidance

GUE-84 Where the Director of the Revenue Service in Guernsey is of the opinion that the main purpose, or one of the main purposes of a transaction is avoidance or reduction of income tax, he has discretionary authority to make such adjustments as respect the liability of that person to tax as he deems appropriate to counteract the avoidance or reduction of liability under s.67 of the Income Tax (Guernsey) Law 1975. This provision is unlikely to be of relevance for non-residents using Guernsey for estate planning purposes.

GUE-85

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Relief for overseas taxes

GUE-85 Credit for income tax suffered overseas by an individual is generally granted against tax due in Guernsey on the same income, under bilateral double tax agreements. Where no bilateral agreement exists, unilateral relief is usually available. Unilateral relief amounts to the lower of the foreign tax levied or 75% of the Guernsey effective rate (the average rate of tax suffered by the Guernsey resident). Evidence of foreign tax paid must be forwarded to the Revenue Service in Guernsey.

For many years, Guernsey has operated a double tax treaty with the United Kingdom and with Jersey. Income arising in the United Kingdom and Jersey is granted double tax relief in Guernsey. The Guernsey UK double tax agreement has been replaced by a new agreement which will be effective in Guernsey in respect of income tax for the year of charge 2020.

Guernsey has signed up a number of additional double tax and mutual agreements providing relief from double taxation on certain types of earned income for individuals. Guernsey continues to build on these tax agreements to extend the range of circumstances in which relief from double taxation can be claimed.

GUE-86 Flow through of relief to individual for tax paid

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Relief for overseas taxes

Flow through of relief to individual for tax paid

GUE-86 Guernsey tax law specifically allows for credit for any overseas tax suffered by a company on its income to flow through to the Guernsey resident individual or company that is ultimately taxed on that income in Guernsey. Without this specific flow-through provision, credit could only be given against the Guernsey tax liability of the person (i.e. the company) that directly suffered the overseas tax.

GUE-87

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Enforcement of foreign taxes and confidentiality of tax information

GUE-87 It is a principle of private international law, generally accepted in most jurisdictions, that courts will not enforce the fiscal laws of a foreign jurisdiction. For these purposes, the United Kingdom and Guernsey are separate jurisdictions. Information that is filed with Guernsey's Director of the Revenue Service is held under an obligation to maintain its confidentiality and the staff that deal with the administration of tax are bound not to divulge such information to unauthorised third parties.

Under the double tax agreement between Guernsey and the United Kingdom, there are provisions for the exchange of information between the competent authorities of both jurisdictions to prevent fraud, for the administration of laws relating to the avoidance of taxes and for compliance with the terms set out in the double-taxation agreements.

In addition, Guernsey has signed up a number of tax information exchange agreements (TIEAs) that are based on text that broadly follows the Model Bilateral Agreement on Exchange of Information on Tax Matters issued by the Organisation for Economic Co-operation and Development. Requests for information are made between the competent tax authorities for the respective jurisdictions.

Information can only be disclosed to authorities concerned with assessment, collection, enforcement, prosecution, appeals and oversight of taxes covered by the agreements. Information disclosed remains confidential and cannot be used for other purposes or disclosed to any other jurisdiction.

On 13 December 2013 the Chief Minister of Guernsey signed an intergovernmental agreement with the US ("US-Guernsey IGA") regarding the implementation of the US law provisions commonly referred to as FATCA ("FATCA"), under which certain disclosure requirements are imposed in respect of certain holders of financial accounts who are, or being entities are controlled

by one or more, residents or citizens of the US. The US-Guernsey IGA is implemented through Guernsey's domestic legislation, in accordance with published guidance.

On 22 October 2013 the Chief Minister of Guernsey signed an intergovernmental agreement with the UK ("UK-Guernsey IGA") under which certain disclosure requirements were imposed in respect of certain holders of financial accounts who are, or being entities are controlled by one or more, residents of the UK. The UK-Guernsey IGA has now been superseded by the Common Reporting Standard ("CRS") which was launched on 13 February 2014 by the Organization for Economic Co-operation Development. The CRS is designed to create a global standard for the automatic exchange of financial account information, similar to the information to be reported under FATCA. As at the date of writing, the United States of America has not agreed to implement the CRS.

Early adopters of the CRS conducted their first information exchanges in September 2017. The CRS is implemented through Guernsey's domestic legislation, in accordance with guidance which is currently published in draft form.

In addition to Guernsey's participation in the above international initiative, Guernsey also has an established legal framework to allow exchange of information for the investigation of criminal matters. This framework was established by the Criminal Justice (International Co-operation) Law 2001, the Criminal Justice (Proceeds of Crime) Law 1999 and the Criminal Justice (Serious Fraud Investigation) Law 1991.

GUE-88 EU Savings Tax Directive

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Enforcement of foreign taxes and confidentiality of tax information

EU Savings Tax Directive

GUE-88 The EU Savings Tax Directive is part of EU law and its ultimate aim is to make savings income in the form of interest payments made in one EU Member State to beneficial owners who are individuals resident for tax purposes in another Member State to be subject to effective taxation in accordance with the laws of the latter Member State.

The Directive achieves this by requiring Member States to transmit information concerning the interest payment and its beneficial owner from the paying country to the receiving country in a systematic manner. This is known as “automatic exchange of information”.

While Guernsey is not within the EU’s fiscal territory, it is willing to participate in constructive dialogue about the development of genuine, internationally-applied standards. Accordingly, in 2004, Guernsey, along with nine other dependent or associated territories, including Jersey and the Isle of Man, agreed to introduce the same measures as the Directive, by entering into a series of bilateral treaties with EU Member States and introduce new domestic legislation. From 1 July 2011, paying agents in Guernsey automatically reported to the Director of the Revenue Service in Guernsey any interest payment which falls within the scope of the Directive as applied in Guernsey.

On 10 November 2015 the Council of the European Union formally adopted a directive to repeal the EU Savings Directive. Guernsey, along with other dependent and associated territories, are in the process of agreeing the termination of existing bilateral agreements and the consequential repeal of domestic law implementing those agreement under Guernsey law. Information which was reported under the EU Savings Directive is now reported under the CRS.

GUE-88A Economic Substance

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Economic Substance

GUE-88A In response to concerns expressed by the EU Code of Conduct Group on Business Taxation and following up on the commitment given to address those concerns by the end of December 2018, Guernsey, in common with the Jersey, Isle of Man and other offshore centres, has introduced substance requirements for certain companies that are tax resident in Guernsey. A company that is in scope of the requirements must demonstrate that it has economic substance and presence in Guernsey in three separate areas:

- in its decision making process;
- in its physical presence in Guernsey; and
- in the activities carried on in Guernsey.

The obligations arise for accounting periods commencing on or after 1 January 2019.

GUE-89 Sark

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxation in Sark and Alderney

Sark

GUE-89 Sark has three main forms of taxation:

- property tax;
- personal capital tax;
- property transfer tax.

Property tax and personal capital tax are administered under the Direct Taxes (Sark) Law 2002 and property transfer tax is administered under the Real Property (Transfer Tax, Charging and Related Provisions) (Sark) Law 2007.

The figures set out below are subject to confirmation by Chief Pleas, the local authorities of Sark, as at 19 October 2018.

Property tax and personal capital tax—the Direct Taxes (Sark) Law 2002

Under this law a person with a taxable connection with Sark is required to pay property tax, which is not negotiable, and may choose any one of eight options for the payment of personal capital tax.

Property tax

Registered owners or possessors of real property in Sark will be registered in the island's Cadastre with the total number of quarters relevant to their property on which the quarter rate is levied.

The quarter rate is determined by the Sark governing body, Chief Pleas, each year and for 2018 is £14.25 per quarter.

Personal capital tax

There are eight options for payment of personal capital tax which are based on the personal circumstances of the individual. The intention of the law is to accommodate the payment of personal capital tax at the minimum amount payable based on personal circumstances. Accordingly, the amount payable for the various options are set each year. The typical current rate of 0.30% on an individual's net capital assets applies with a minimum tax payable of £325 and a maximum tax payable of £6,500 for the year 2018. Age is also relevant and there are allowable deductions. An accurate amount payable by each individual can be determined through dialogue with the Assessor of Tax in Sark.

Personal capital tax is payable by those who are resident in Sark for an aggregate of 90 nights or more in the financial year or, being the owner or possessor of a property, has that property available to them for residence in Sark for 90 nights or more, whether or not the owner chooses to stay there for that period. If the property is not available to the owner, for example it is let out to a third party, then the owner is not chargeable to personal capital tax.

An individual can elect in writing to pay property tax and personal capital tax in one of three ways, which may further reduce the total tax payable:

- Payment in full by 28 January in the following year, in which case the amount payable can be reduced by 2.5%.
- Quarterly or monthly standing order.
- By direct debit, with 2.5% deduction if paid in full only.

Property transfer tax

Property transfer tax is levied on a transfer of property, including the sale or lease of property in excess of 20 years and the surrender or extinguishment of a long leasehold interest. An allowance, currently £50,000, is made against the consideration payable on the transfer of the property and the tax is levied at 4% of the adjusted figure. The tax is collected on the endorsement by the Assessor of the documents relating to the transfer of the property. The endorsement must take place before the documents are registered in the Court in Sark.

Impôt (excise duty) is also levied on alcohol, tobacco and petroleum spirit and a landing tax (poll tax) charged to each adult visitor, which forms part of the cost of the boat ticket.

In terms of civil litigation, most matters are first heard by the Court of the Seneschal in Sark, with appeals being referred to the Court in Guernsey, first sitting as the Ordinary Court and then on appeal as the Royal Court in Guernsey. There is also The Sark Tax Tribunal established under the Direct Tax Law for the purposes of hearing and determining issues relating to tax in Sark.

On 10 December 2008, the people of Sark elected 28 Conseillers to the island's parliament, Chief Pleas, so beginning the reformation of Sark's once feudal based constitution.

End of Document

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GUE-90 Alderney

European Cross-Border Estate Planning

Other European States

Guernsey

Guernsey

Part II Taxation

Taxation in Sark and Alderney

Alderney

GUE-90 Taxation is controlled by the Director of the Revenue Service in Guernsey and is the same, save that it levies its own taxes on conveyances of realty in Alderney.

As with Sark, civil court proceedings are first referred to the local court, the Court of Alderney. Appeals are heard by the Court in Guernsey first sitting as the Ordinary Court and then on appeal as the Royal Court.