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# Zero Tax in Guernsey

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## Introduction

A new corporate tax regime was introduced in Guernsey on 1 January 2008, known as the “Zero-Ten regime”. It also signalled the abolition of two further regimes, those for exempt companies (which currently pay a £600 annual exempt fee) and international business companies – other than in respect of collective investment schemes, which still have the option to apply for exempt company status.

## Tax Rates on company profits

All companies now pay a standard rate of 0% income tax on profits. Certain companies pay higher rates as follows:

- a rate of 10% is charged on the profits from specified banking activities;
- a rate of 20% is charged on the profits from activities regulated by certain utilities; and
- a rate of 20% is charged on rental income and profits from property development and the exploitation of land.

## Transitional Arrangements

All companies charged a 20% rate prior to 1 January 2008 are deemed to have ceased trading from a taxation perspective on 31 December 2007. For companies whose year-end is not 31 December, the relevant income will be apportioned.

## Taxation of Distributions

While companies are taxed at a rate of 0%, it is the responsibility of companies to deduct tax from distributions of profits (as opposed to capital) made to their shareholders. How these are taxed is dependent upon a shareholder’s place of residence. If the shareholder is an individual resident in Guernsey, a 20% rate is charged. If the shareholder is a company, the company standard rate of 0% applies. If the shareholder is non-Guernsey resident, no Guernsey income tax is payable or withheld.

It is the responsibility of the company to either collect and pay the tax charged or, where a shareholder is non-Guernsey resident, the burden is on the company to obtain evidence that a shareholder is not Guernsey resident before it makes a payment without deducting tax.

## Taxation of Distributions

Certain events will trigger a deemed distribution (in respect of which a liability to tax will arise for a shareholder), namely:

- a shareholder’s death;
- a disposal, repurchase or redemption of shares;
- a shareholder changing residency;
- the migration of the company out of Guernsey;
- the liquidation of a company;
- the amalgamation of a company with another company; and
- investment income will be deemed to be distributed at the end of each quarter.

There are certain exceptions to when tax is payable in respect of events that would otherwise constitute deemed distributions. These include where the shareholder’s interest in the company is 1% or less, where the company has been charged tax overseas or in Guernsey at a rate of 20% or more and where the company is a Guernsey exempt collective investment scheme. In addition, profits which have been taxed but not distributed by 31 December 2007 are not subject to further taxation.

## Collective Investment Schemes

As noted above, collective investment schemes still have the option to apply for exempt company status. One advantage of maintaining exempt status is that Guernsey resident shareholders are liable to Guernsey tax on a distribution only basis. In other words, the deemed distribution regime set out above will not apply. Further, a tax exempt company will not be deemed to be Guernsey resident for tax purposes which may be relevant in certain structures, for example, UK REITs.

## Loans to ‘participators’ in a company

Finally, it has been recognised that one way to avoid taxation under the new regime is for companies to make loans to or for the benefit of shareholders, directors or other connected persons. It has thus been decided that such loans will in certain circumstances create a tax charge on the borrower, subject to relief where the loans are repaid within six years of being made.

### Comparison with Jersey regime

Jersey has also introduced a new corporate tax regime. Broadly speaking, the Jersey and Guernsey approaches are very similar. However, there are two areas of difference worth noting:

#### (a) Goods and services tax

Jersey has introduced a 3% goods and services tax (GST) which will be required to be charged by service providers when they invoice customers based in Jersey. GST will not be charged on services provided to 'international services status vehicles' - an annual fee of £100 will be payable to secure this status.

Whilst the £100 fee is a relatively minor cost to business, it remains to be seen the extent to which the Jersey finance industry will pass on the costs of GST that it will bear on its own costs (such as commercial rent, office equipment, utilities etc), as there will be a limit on the amount of these costs that the industry will be able to recover.

Guernsey currently does not intend to introduce GST.

#### (b) Tax on financial services businesses

In addition to the categories of profits for which tax will be payable above the 0% standard rate (see page one) Jersey now applies a 10% rate to specified financial services businesses that are licensed by the Jersey Financial Services Commission. This includes trust company services and some fund functionary activities (such as registrar, custodial and administration services - but not those of fund managers).

This means that trust companies, registrars, custodians, administrators and other fund functionaries pay 10% tax in Jersey, whereas a rate of 0% applies in Guernsey.

Again, it remains to be seen to what extent the Jersey service providers who are subject to this tax will pass on the cost to their customers.

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