

Summary of Guernsey taxation

Service area / [Corporate, Trusts and Private Wealth](#)

Location / [Guernsey](#)

Date / [January 2020](#)

This document summarises certain key aspects of Guernsey taxation law for the calendar year 2020.

Corporate income tax

Residence

Companies tax resident in Guernsey are subject to income tax on their worldwide income.

A company is tax resident in Guernsey if:

- it is incorporated in Guernsey;
- it is incorporated outside of Guernsey but is “centrally managed and controlled” in Guernsey (control for these purposes is the strategic control and is generally exerted by the directors so the location of board meetings and decision making is key); or
- it is incorporated outside of Guernsey but is directly or indirectly controlled by one or more Guernsey resident individuals (control for these purposes is shareholder control, rather than director control, and generally applies where one or more natural persons are able to secure by means of the holding of shares, being a loan creditor or the possession of voting powers, that the affairs of the company are conducted in accordance with their wishes).

A company incorporated outside of Guernsey that becomes tax resident in Guernsey must notify the Revenue Service of it becoming resident in Guernsey.

A Guernsey tax resident company can be treated as non-resident for a particular year of charge if it is proved to the

satisfaction of the Director of the Revenue Service that, in the year of charge:

- it is tax resident in another territory (“Territory A”) under Territory A’s laws;
- its business is centrally managed and controlled in Territory A;
- either:
 - the highest rate of corporate income tax or corporation tax in Territory A is at least 10%; or
 - Territory A and Guernsey are both parties to a double tax agreement that treats the company as being resident in Territory A over Guernsey; and
- its tax residence in Territory A is not motivated by the avoidance of Guernsey tax.

Tax rates

A standard rate of 0% applies to most companies that are tax resident in Guernsey. However, income arising from certain activities is taxed at 10% or 20%.

The 10% rate applies to income arising from:

- certain types of banking business;
- custody business (when carried out by an institution or business that carries out certain types of banking business);
- fund administration (in relation to unconnected third parties);
- investment management (in relation to clients that are not funds and are not associated with funds);
- fiduciary business;
- the operation of an investment exchange;

OFFSHORE LAW SPECIALISTS

- certain compliance and other related services;
- domestic insurance business;
- insurance management and insurance intermediary business; and
- the operation of an aviation registry.

The 20% rate applies to income arising from:

- trading activities regulated by the Guernsey Competition and Regulatory Authority, such as telecommunications;
- the importation and/or supply of gas or hydrocarbon oil in Guernsey;
- large retail business carried on in Guernsey where the company has taxable profits arising or accruing from which in any year of charge exceed £500,000;
- the ownership of land and buildings situate in Guernsey;
- the business of the licensed cultivation or processing of the cannabis plant or its use for the licensed production of certain products; and
- the business of the licensed prescribed production of controlled drugs or their licensed prescribed use in any production, processing, activity or other use.

Non-corporate entities

Unit trusts and foundations are treated as companies for Guernsey income tax purposes.

Limited partnerships and limited liability partnerships are transparent for Guernsey income tax purposes and so are not taxable entities in Guernsey.

Income tax returns must be filed by 30 November following the end of the relevant tax year (a tax year is a calendar year although for companies carrying on a business income tax is computed by reference to the accounting period ending within the relevant tax year). Electronic filing of returns is mandatory. Tax is due in two instalments, by 30 June and 31 December, in relation to a tax year, with a final balancing payment due once the final assessment has been made. Penalties and surcharges can apply to late filing and/or payments.

Collective Investment Schemes

There is an exemption regime available for collective investment schemes, entities beneficially owned by collective investment schemes, entities established for the purpose of certain specified activities relating to a specific collective investment scheme, and entities established for the purposes of undertaking collective investment in which the units are listed on an approved exchange or market.

Exemption has to be applied for annually and is subject to payment of an annual fee currently fixed at £1,200. Certain conditions must also be met. Where exemption is granted the entity is treated as not being resident in Guernsey for tax purposes and is not liable to Guernsey tax on non-Guernsey source income (which includes for these purposes Guernsey bank deposit interest).

Personal income tax

General

Guernsey resident individuals pay income tax at a flat rate of 20%. The personal income tax year is the calendar year and tax returns must be filed (either electronically or on paper) by 30 November of the year following the relevant tax year. Tax is due in two instalments, by 30 June and 31 December, in relation to a tax year, with a final balancing payment due once the final assessment has been made. Penalties and surcharges can apply to late filing and/or payments. Taxes on employment income are deducted from salary payments.

There are different classes of residence which effect an individual's tax treatment. Individuals can be:

- "principally resident" – they are in Guernsey for 182 days or more in a tax year, or are in Guernsey for 91 days or more in a tax year and have spent 730 days or more in Guernsey over the four prior tax years;
- "solely resident" – they are in Guernsey for 91 days or more in a tax year, or are in Guernsey for 35 days or more in a tax year and have spent 365 days or more in Guernsey over the four prior tax years, and in either case have not spent 91 days or more in any other jurisdiction in the tax year; or
- "resident only" – they would be treated as solely resident in a tax year, but they have spent 91 days or more in another jurisdiction for that tax year.

Individuals that are within any of the above will pay Guernsey tax on their worldwide income, although foreign tax relief is available.

However, individuals that are "resident only" can elect to pay a standard charge of £30,000. Where an individual elects for the standard charge, that individual is exempt from Guernsey income tax on their worldwide income, but would still have to pay tax on any Guernsey-source income.

Allowances and deductions

Each individual taxpayer has a personal allowance of £11,575, which can be transferred between married couples and civil partners so that each married couple and civil partnership can have a joint personal allowance of £23,150. Pension contributions of up to £35,000 per person are deductible. Interest paid on a mortgage on a person's main residence is also deductible, but restrictions do apply – the maximum amount of yearly interest that is deductible is £6,500 (£13,000 for a married couple or civil partnership, where each spouse or civil partner is a borrower) and interest attributable to a portion of a mortgage over £400,000 is not deductible. Earners of more than £100,000 have the foregoing allowances reduced by £1 for every £5 over the £100,000.

Tax cap

A Guernsey resident individual can elect for a cap on their income tax liability. Elections can be made for a liability cap of £130,000 to apply for an individual or couple on non-Guernsey source income, and the cap can be increased to £260,000 if an election is made for the cap to apply to an individual or

Continued

couples' worldwide income. However, income arising on Guernsey real property and certain Guernsey pension payments are generally not subject to the cap.

New residents to Guernsey who purchase open market property worth at least £1.5 million can benefit from a lower tax cap of £50,000 for four years.

Withholding tax

Guernsey does not levy any withholding tax on interest, royalties or service fees.

Dividends paid by Guernsey companies to non-residents are also free of withholding tax.

Guernsey companies paying dividends to Guernsey resident individuals must deduct withholding tax of 20%, although lower rates can apply where and to the extent that the income from which the dividend is paid is taxed at the 10% or 20% rates. If the company has exempt status it does not need to deduct withholding tax from dividends paid to Guernsey resident individuals although it may be required to report the dividend to the Director of the Revenue Service

Anti-avoidance

Guernsey does not have specific anti-avoidance rules such as transfer pricing, thin capitalisation or controlled foreign company rules.

However, Guernsey does have a broad general anti-avoidance provision which targets transactions where the effect of the transaction or series of transactions is the avoidance, reduction or deferral of a tax liability. At her discretion, the Director of the Revenue Service in Guernsey can make such adjustments to the tax liability to counteract the effects of any perceived avoidance, reduction or deferral of the tax liability.

Foreign Account Tax Compliance

FATCA

Guernsey is party to an intergovernmental agreement with the US regarding FATCA and implemented FATCA due diligence and reporting obligations in June 2014. Under FATCA legislation in Guernsey, Guernsey "financial institutions" are obliged to carry out due diligence on account holders and report on accounts held by persons who are, or are entities that are controlled by one or more natural persons who are, residents or citizens of the United States, unless a relevant exemption applies.

Guernsey is also a party to an intergovernmental agreement with the United Kingdom in relation the United Kingdom's own version of FATCA, which it also implemented in June 2014. However, the United Kingdom's version of FATCA has now been superseded by the adoption by Guernsey (alongside numerous jurisdictions) of the much broader global Common Reporting Standard ("CRS").

CRS

Guernsey is a party to the OECD's Multilateral Competent Authority Agreement regarding the CRS and implemented the CRS into its domestic legislation with effect from 1 January 2016. Under CRS legislation in Guernsey, Guernsey "financial institutions" are obliged to carry out due diligence on account holders and report on accounts held by persons who are, or are entities that are controlled by one or more natural persons who are, residents of jurisdictions that have adopted the CRS, unless a relevant exemption applies.

Mandatory Disclosure Rules ("MDR")

Guernsey, along with the other Crown Dependencies, has committed to introduce MDR for CRS avoidance arrangements and opaque offshore structures. The legislation is yet to be published, but is expected to require promoters of avoidance arrangements and service providers to disclose information on the arrangement or structure to the Revenue Service. Such information would include the identity of any user or beneficial owner and would then be exchanged with the tax authorities of the jurisdiction in which the users and/or beneficial owners are resident, provided that there is a relevant information exchange agreement. The legislation is expected to come into force early 2020.

Double tax treaties and tax information exchange agreements

Guernsey has signed 14 full double taxation agreements and over 60 tax information exchange agreements. Guernsey is also a party to the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Base erosion and profit shifting

Guernsey is committed to adopting the BEPS minimum standards. Guernsey has implemented country-by-country reporting in respect of accounting periods commencing on or after 1 January 2016 and has also adopted the spontaneous exchange of tax rulings with other jurisdictions. On 7 June 2017, Guernsey along with over 60 other jurisdictions, signed the OECD's Multilateral Instrument to implement tax treaty-related measures to combat BEPS and treaty abuse.

Economic substance

Guernsey has introduced economic substance legislation for accounting periods commencing on or after 1 January 2019. The legislation was introduced to meet a commitment made to the EU Council to address concerns that Guernsey's 0% corporate income tax rate could facilitate offshore structures aimed at attracting profits which do not reflect real economic substance.

Economic substance requirements apply to a Guernsey tax resident company (and also certain exempt companies) where and to the extent that it:

- carries on (for its own account or as a partner or member of a partnership) one or more of the following "relevant activities": banking, insurance, fund management, financing and leasing, headquartering, shipping and distribution and

Continued

- service centres;
- is a holding company for Guernsey company law purposes and has as its primary function the acquisition and holding of shares or equitable interests in other companies and which carries on no commercial activity; or
 - has income (arising or accruing to the company directly or in its capacity as a partner or member of a partnership) from intellectual property assets.

Further details on Guernsey's economic substance requirements can be found [here](#).

Other taxes

Stamp duty/transfer taxes

Transfers of Guernsey real property attract a document duty. Transfers of interests in certain unlisted entities (other than collective investment schemes) that have a direct/indirect interest in Guernsey real property also attract a document duty (certain exemptions apply).

Apart from the above document duty, there are no other stamp or transfer taxes in Guernsey.

Social security

Guernsey does levy a social security on employers (6.6%), employees (6.6%), the self-employed (11%) and the non-employed (10.4%, reduced to 3.4% for over 65s). The annual upper earnings limit is £149,760.

Consumption tax

Guernsey does not levy any value added, goods and services or consumption taxes.

Capital gains tax

Guernsey does not levy a tax on capital gains.

Net wealth/net worth taxes

Guernsey does not levy a net wealth/net worth tax.

Inheritance Tax

Guernsey does not levy an inheritance tax. There are registration fees and ad valorem duty for a Guernsey Grant of Representation where the deceased dies leaving assets in Guernsey which require presentation of such a Grant.



FIND US

Carey Olsen (Guernsey) LLP
PO Box 98
Carey House
Les Banques
St Peter Port
Guernsey GY1 4BZ
Channel Islands

T +44 (0)1481 727272

E guernsey@careyolsen.com



FOLLOW US

Visit our corporate team at
careyolsen.com



PLEASE NOTE

This briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen (Guernsey) LLP 2020