

ORDER IN COUNCIL

**XII
2013**

ratifying a Projet de Loi

ENTITLED

The General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009

(Registered on the Records of the Island of Guernsey
on the 16th September, 2013.)



2013

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 16th day of September, 2013 before Richard John Collas, Esquire, Bailiff; present:- Stephen Edward Francis Le Poidevin, Esquire, Barbara Jean Bartie, Stephen Murray Jones, Peter Sean Trueman Girard, Esquires, Constance Helyar-Wilkinson, Terry George Snell, Niall David McCathie, Terry John Ferbrache, David Allan Grut, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 10th July, 2013 approving and ratifying a Projet de Loi entitled “The General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:

1. That the said Order be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to the Greffier of the Court of Alderney for registration on the records of that Island.



At the Court at Windsor Castle

THE 10th DAY OF JULY 2013

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 30th June 2006, the States of Deliberation at a meeting on 24th June 2009 approved a *Projet de Loi* entitled the General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 21st July 2010 considered the *Projet de Loi* when a Resolution was passed agreeing to the application to Alderney. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009, and to order that it shall have force of law in the Islands of Guernsey, Alderney and Herm.

"The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it".

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Alderney and Herm and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009

THE STATES, in pursuance of their Resolution of the 30th June, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney and Herm.

Power to make Ordinances as to general sales tax.

1. (1) The States may by Ordinance make such provision as they think fit in respect of the taxation of the supply of goods and services in the Islands.

(2) The tax levied in respect of the supply of goods and services under an Ordinance made under this Law is called "**a general sales tax**".

(3) Without prejudice to the generality of subsection (1), an Ordinance under this Law may make provision as to the following matters -

- (a) the classes, descriptions and categories of goods, services, supply of goods and services, businesses and undertakings which are subject to general sales tax,
- (b) the rates of general sales tax in respect of any class,

^a Billet d'État No. XI of 2006.

description or category of goods, services, supply of goods and services, business or undertaking,

- (c) the times at which, the events and circumstances in which, the periods in respect of which and the manner in which general sales tax is payable,
- (d) the times at which and the events and circumstances in which a supply of goods or services occurs or is deemed to occur,
- (e) the businesses, undertakings, suppliers of goods and services and other persons -
 - (i) liable to pay and account for general sales tax, and
 - (ii) excepted or exempted from liability,
- (f) the basis on which and the manner in which -
 - (i) the supply of goods and services is to be valued and assessed for the purposes of general sales tax,
 - (ii) general sales tax is to be calculated, assessed and levied, and
 - (iii) the price or value of goods and services, or in respect of the supply of goods and services, is

to be ascertained or substantiated,

- (g) the administration, payment, collection and recovery of general sales tax and the enforcement of liabilities to pay it,
- (h) for the purposes of paragraph (g) -
 - (i) the investigation of businesses, undertakings, suppliers of goods and services and other persons,
 - (ii) the entry and search of premises,
 - (iii) the obtaining of information and documents,
 - (iv) the examination, removal and retention of goods, services and documents,
 - (v) the taking of samples of goods and services,
- (i) allowances, discounts, deductions, reliefs and exemptions from or in respect of, and postponement of the incidence of, general sales tax, and claims therefor,
- (j) the making of refunds, repayments and credits in respect of general sales tax, and claims therefor,
- (k) the levying of interest, surcharges, penalties and

enhanced rates in the event of the non-payment of general sales tax or other non-compliance or default,

- (l) powers of entry for the purpose of valuing, measuring, assessing and categorising goods, services, the supply of goods and services, businesses and undertakings,
- (m) the preparation and maintenance of invoices, accounts, returns, statements and other records and the information to be entered on them,
- (n) the registration of undertakings, suppliers of goods and services and other persons and the information to be entered on any register,
- (o) the public inspection and evidencing of such records and registers and the information in them,
- (p) the exchange between departments of information in respect of goods, services, the supply of goods and services, businesses and undertakings,
- (q) the making of declarations and notifications, and the obtaining and exchange of information, in respect of-
 - (i) goods, services, the supply of goods and services, businesses and undertakings, and the class, description or category into which they fall,

- (ii) the persons who own or control, or have any other prescribed interest in, businesses or undertakings, including (without limitation), where those persons are bodies corporate, the ownership and control of the bodies corporate and the shareholdings in them,
- (r) the confidentiality of information,
- (s) the making of returns and assessments in respect of general sales tax and the preparation of statements of account,
- (t) the country, territory or place to which suppliers or recipients of goods or services are deemed for the purposes of any Ordinance under this Law to belong or in which supplies of goods or services occur,
- (u) appeals in relation to -
 - (i) the calculation, assessment and levying of general sales tax,
 - (ii) registration,
 - (iii) the valuation, assessment and categorisation of goods, services, the supply of goods and services, businesses and undertakings, and
 - (iv) other matters arising in the administration of

any Ordinance under this Law,

including the forum and grounds of such appeals and the parties thereto,

- (v) the establishment of a tribunal to deal with such appeals and a panel of persons from whom the members of the tribunal are to be drawn,
- (w) the jurisdiction, powers, constitution and procedure of the courts of the Islands, and any tribunal established under paragraph (v), in relation to such appeals and otherwise in relation to the administration of any Ordinance under this Law or matters arising thereunder,
- (x) the imposition of time limits and other restrictions subject to which -
 - (i) any claim for the payment or repayment of general sales tax, and
 - (ii) any other proceedings in respect of the administration, collection and recovery of general sales tax,

must be made or instituted,

- (y) the cancellation of liability to any description of tax or charge due under an enactment repealed, amended,

modified or disappplied by any Ordinance under this Law,

- (z) the person, body, authority or department responsible for the administration of general sales tax and any Ordinance under this Law,
- (aa) the appointment by undertakings and the suppliers of goods and services of representatives and agents for the purposes of the administration of general sales tax, and their functions,
- (bb) anti-avoidance measures,
- (cc) the service of notices,
- (dd) the levying of fees (whether in respect of registration or otherwise),
- (ee) the meaning of the expressions "business", "undertaking", "supply", "goods", "services" and "price" in this Law (and an Ordinance made in exercise of the powers conferred by this paragraph may amend or modify section 3 of this Law).

General provisions as to Ordinances.

2. (1) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and

- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).

(2) Any power conferred by this Law to make an Ordinance may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions,

- (iv) different provision for different classes, descriptions and categories of goods, services, supply of goods or services, business or undertaking, and for different Islands.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may, subject to subsection (4), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may make provision for the purpose of dealing with matters arising out of or related to the taxation of the supply of goods and services,
- (c) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (d) may empower the Department, and any other person, body, authority or department (including, without limitation, the Royal Court and any other court of the Islands), to make subordinate legislation, codes or guidance as to matters in relation to which an Ordinance may be made under this Law,
- (e) may empower the States to pass resolutions specifying or prescribing matters described in paragraph (d),

- (f) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law,
 - (g) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.
- (4) An Ordinance under this Law may not -
- (a) provide for offences to be triable only on indictment,
 - (b) authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008, or
 - (c) authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

Interpretation.

3. (1) In this Law, unless the context requires otherwise -

"**business**" includes any economic activity, trade, profession or vocation, whether or not carried on for profit,

"**a department**" means any department, council or committee of the

States of Guernsey or the States of Alderney, however styled,

"the Department" means the Treasury and Resources Department,

"document" includes information stored or recorded in any form (including, without limitation, in electronic form); and, in relation to information stored or recorded otherwise than in legible form, references to its production, however expressed, include (without limitation) references to the production of the information in a form -

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form,

"electronic form", in relation to the storage or recording of documents, includes storage or recording by means of any form of information storage technology,

"enactment" means any Law, Ordinance or subordinate legislation,

"general sales tax" : see section 1(2),

"information" includes data, however recorded,

"the Islands" means the Islands of Guernsey, Alderney and Herm,

"person" includes an individual and also -

- (a) a body corporate, and

(b) a partnership or other unincorporated body of persons, incorporated or established with or without limited liability in any part of the world,

"prescribed" means prescribed by or under an Ordinance under this Law,

"price" includes any charge, fee or valuable consideration of any description, and any discount, margin or other element of a price,

"service" includes any benefit, advice, privilege or facility which is, or which is to be, provided, granted or conferred in the course of business,

"States" means the States of Guernsey.

"subordinate legislation" means any regulation, rule, order, rule of court, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"supply" includes -

- (a) in relation to goods, supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase,
- (b) in relation to services, provide, sell, lease, grant or confer, and
- (c) importation and exportation,

"undertaking" means a person carrying on a business and includes an association, whether or not incorporated, which consists of or includes such persons.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law throughout the Islands.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

4. This Law may be cited as the General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009.

S. M. D. ROSS,
Her Majesty's Deputy Greffier.

^b Ordres en Conseil Vol. XIII, p. 355.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey

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