

GLOBAL TAX GUIDE

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Guernsey

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Key facts

Main tax rates

- Corporate tax rate: 0 percent
- VAT/GST standard rate: there is no VAT or GST in Guernsey
- Personal income tax top rate: 20 percent

Population/GDP

Population: 61,811
GDP: US\$ 2.4b (2007)

Currency

The pound sterling GBP() is the currency of Guernsey¹

Membership of economic groups

The Channel Islands have a special relationship with the UK which affects their relationship with the European Union.²

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- 1 Since 1921, Guernsey has been in a currency union with the United Kingdom. The Guernsey pound is not a separate currency, but Guernsey issues its own banknotes and coins denominated in pounds sterling, in a similar way to the banknotes issued in Scotland and Northern Ireland. It can be exchanged at par with other sterling coinage and notes.
 - 2 The Accession Treaty for the UK contained a special Protocol covering the Islands and other Crown Dependencies. This Protocol requires that there shall be free movement of industrial and agricultural goods between the territories and the Union, and that goods imported from outside the Community be subject to the same Common Customs Tariff and agricultural levies as would apply if imported into the UK. The fiscal independence of the islands is accepted and, apart from ensuring the proper functioning of free trade, they are excluded from the provisions of the Treaty.

Major industries

Financial services, tourism, agriculture, fishing

Website of tax/finance authority

www.gfsc.gg – Guernsey Financial Services Commission

www.guernseyfinance.com – Guernsey Finance

www.gov.gg – States of Guernsey – government site

Introduction

Guernsey is situated off the northwest coast of France in the Gulf of St Malo, and is approximately 130 km (80 miles) from the south coast of England. It is the largest island in the Bailiwick of Guernsey, which consists of the Islands of Guernsey, Alderney, Sark and Herm together with a number of smaller islets. It has an area of 63 km² (24 sq miles) and its capital is St Peter Port, the main financial and business centre.

Political stability lasting almost a millennium, the absence of exchange restrictions, an established infrastructure to meet the demands of the international finance community and an appropriate regulatory framework have made Guernsey a major international offshore finance centre.

Guernsey is governed by its own legislative assembly, the States of Deliberation (the States), to which members are elected by parish resident votes. No political parties are represented in the States, and the administration of government is carried out through a number of departments, each of which is responsible for a particular service or function. Reflecting the constitutional position, laws passed locally depend for their validity upon ratification by the Queen in Council.

The United Kingdom Government is, however, responsible for the foreign relations and the external defence of the Island. Whilst UK laws do not apply to the Island it has been found convenient to extend some legislation, such as aerial navigation and merchant shipping Acts, to the Island.

The Convention on the Organisation for Economic Co-operation and Development applies to Guernsey.

Guernsey is regarded as an example of a free enterprise economy with low and zero taxes, a free flow of capital, a skilled and mobile labour force and sophisticated financial and entrepreneurial infrastructure. These attributes have brought the Island to its position today of a leading offshore financial centre.

Collective investment schemes

A major growth area for Guernsey in recent years has been collective investment schemes, which may take many forms including unit trusts, open- or closed-ended investment companies, protected cell companies etc. These funds are able to obtain exempt status for Guernsey taxation purposes.

Guernsey funds are acceptable for marketing in many parts of the world, and Class A schemes, which are subject to particularly stringent regulation, may be marketed in the UK as having 'equivalent status' under the Financial Services and Markets Act 2000 (and thus being 'recognised schemes' under section 270 of that Act). There are also Class B schemes (intended for retail sale, but subject to less onerous regulation) and Class Q schemes (intended for professional investors only). Under recent changes to The Protection of Investors (Bailiwick of Guernsey) Law, 1997, schemes may be regulated (which includes thorough Commission scrutiny) or simply registered (allowing for faster application process, but offering less protection for investors).

Guernsey aims to obtain equivalent status in the other EU countries, subject again to those funds meeting the marketing requirements of each country. The Island has been successful in obtaining agreement from both the governments of Japan and Australia to market funds in those countries.

Before seeking to establish a collective investment scheme in the Island, a would-be promoter should first obtain advice regarding the requirements of the law, which continues to evolve to meet changing demands. A full list of all regulated funds is published on the Commission's website.

Stock exchange

In 1998 the Channel Islands Stock Exchange (CISX) was set up by the Guernsey Financial Services Commission (GSFC). The CISX aims to help local businesses to broaden their range of corporate services and to increase revenues. The exchange has achieved international recognition, being, for example a designated investment exchange within the meaning of the Financial Services and Markets Act 2000

CISX differs from other exchanges in that local fund managers and professionals can become listing members. This allows them to list their own funds, thereby making considerable savings.

Recent developments

Guernsey introduced a 0–10 (percent) income tax regime on January 1, 2008 whereby income tax is payable only by individuals and not, in general, assessed on corporations.³ There are no capital taxes and no value-added tax or similar. Local residents are taxed on the distributions, including deemed distributions, they receive from Guernsey companies.

With the ability to obtain a ruling from the Income Tax Office to ensure the applicability of the law, international investors can establish companies with total certainty as to their exposure to local taxation.

3 Under the new corporation tax regime introduced in 2008, only certain regulated corporations, including licensed banks, pay income tax at higher rates. Collective investment schemes may still elect to be treated as tax-exempt.

Guernsey has recently updated its company law (the Companies (Guernsey) Law, 2008) to consolidate the considerable amount of legislation since its previous law, the Companies (Guernsey) Law, 1994 and to benefit Guernsey's competitiveness as an offshore financial centre.

On July 1, 2008 the new online Registrar of Companies was launched with the ability to incorporate companies in less than 24 hours as standard and with two-hour incorporations available at a supplement. For special purposes, 15-minute incorporations are also possible for certain types of company.

Additional features of the Guernsey Registry include:

- On-line searches and on-line submissions;
- Company profiles, scans of physical documents and other Registry certificates available on-line;
- Annual validation (companies simply validate the information held once a year);
- Companies can be pre-incorporated to start on a certain date;
- Company names can be reserved for up to three months online; and
- Voluntary strike-offs are possible (dormant companies can be removed by the directors).

Guernsey's trust law was also updated. The Trusts (Guernsey) Law 2007 has produced, amongst other matters, the ability to use non-charitable purposes trusts, removed the limits on the length of a trust's duration, and clarified various points relating to the position of retiring trustees and under which circumstances information has to be given to beneficiaries.

Corporate taxes

General outline

Guernsey taxes its corporations at 0 percent. Certain licensed entities such as banks pay tax at 10 percent, companies which gain income from trading activities regulated by the Office of Utility Regulation, or income from the ownership of lands and buildings, are taxed at 20 percent.

The two principal sources of revenue to the government are income tax and states insurance contributions. These account for 80 percent of income. The balance is made up of investment income and other duties and taxes. Of these, import duties and imports account for only 6 percent of total public revenue.

Sources of tax law

The principal law is the Income Tax (Guernsey) Law 1975, as amended; in addition the Income Tax Office publishes annually a statement of Interpretations of Law and Extra Statutory Concessions. It is also possible to obtain a ruling from the Director of Income Tax, who is the administrative head of the Income Tax Office, on the application of the law in any particular instance.

Filing and assessment

The income tax authority issues tax return forms, and assessments are issued based on information filed. The assessment shows the amount assessed, the tax payable and the due dates for payment. Where the tax return is not filed then an estimated assessment will be issued and it is the taxpayer's responsibility to demonstrate that the assessment is incorrect. If the taxpayer consistently fails to submit their tax return then under section 200 of the Income Tax Law, the Director of Income Tax has power to impose fines until the returns are submitted.

Depreciation and amortisation

Expenditure of a capital nature is not deductible, nor is depreciation. Instead a claim will be made for writing-down allowances in accordance with the rates specified by the Income Tax Office. In general, the amount of allowance is computed by adding the cost of acquisitions, less the proceeds of sales to the tax written-down value brought forward and then applying the appropriate rate of allowance. Proceeds of sale, which exceed the written-down value plus acquisition cost in the year, gives rise to a balancing charge.

Foreign tax exemption and credit

Double tax relief may be available for any income received which has had tax deducted at source. In the case of income from the UK (other than for dividends and debenture interest) or Jersey, with whom the Island has double taxation arrangements, the rate of relief is the Guernsey effective rate of tax. This means that no further tax, on that income, is payable in the Island. Unilateral relief is given for all tax deductions by other jurisdictions.

Capital gains taxes

Guernsey has no corporate capital gains tax; however property sales may be subject to dwellings profit tax at 100 percent. Dwellings profit tax in Guernsey is shortly to be rescinded.

Position of losses

Business losses arising in a year of calculation may be off-set against business income for that year of charge. Only unrelieved business losses are available for carry-over to the following year. Any losses sustained prior to the implementation of the 0–10 tax regime are not available for off-set. Group relief was introduced by the Income Tax (Group Loss Relief Amendment) (Guernsey) Law 1997. Groups must consist of resident, non-exempt Guernsey businesses and outside ownership of a subsidiary company in a group is effectively limited to 10 percent. Guernsey has also introduced a

formal arrangement for relieving losses against the profits of other group companies and allows a one year carry-back.

Withholding taxes

Position of resident companies

Companies which are incorporated and resident in Guernsey are not subject to withholding tax. Dividends may be subject to income tax at 20 percent. Payments of interest to a non-resident by a Guernsey resident company are also subject to 20 percent withholding income tax.

By concession, payments of interest by Guernsey banks to non-residents or exempt companies are untaxed. However, as from July 1, 2005, interest and other returns on savings paid to citizens of EU Member States are subject to withholding tax at 20 percent until July 2011 and 35 percent thereafter.

Royalties are treated on the same basis as bank interest.

Position of non-resident companies

A foreign incorporated company will be liable to income tax only on the profits of its branch where these arise within a permanent establishment. It is usual to obtain a ruling from the Director of Income Tax as to the taxable profit of the branch and in particular the deduction for group expenses in the form of a specific ruling.

Dividends, interest and royalties

Dividends

There is no withholding tax on dividends for non residents following the introduction of the 0–10 tax regime. However, companies declaring dividends to Guernsey resident individual shareholders must deduct or account for the tax difference between the tax incurred by the company and the shareholders individual tax rate on the actual and deemed distributions.

Interest

There is no withholding tax on bank interest following the introduction of the 0–10 tax regime except as set out above.

Royalties

There is no withholding tax on royalties following the introduction of the 0–10 tax regime.

Indirect taxes

VAT/GST: main and reduced rates, exemptions

Guernsey does not have any value-added taxation or goods and services taxes.

Other indirect taxes

Indirect taxation forms a relatively small part of government income. As part of their relationship with the EU, the Islands apply the same common customs tariff as member countries on goods being physically imported into the Island from a foreign country. In addition the Islands impose import duties on certain goods, principally cigarettes, alcohol and petroleum products.

Personal taxes

Domicile and residency requirements

Long-term residency in Guernsey is carefully controlled. The Guernsey housing market is split into two, the local market and the open market. Only local persons or persons who hold a valid right to work license may reside in local market property, and licence holders are restricted on the property they may purchase. This is usually of a higher value. Persons who are not in possession of a valid right to work document may purchase local market property but not reside in it but they may purchase and reside in so-called “open market” properties. These properties usually exchange hands for amounts considerably higher than the local market.

Main rates and bands

Income tax at 20 percent, subject to personal allowances (GBP 8,700 for a single person for 2009), is levied on the income of individuals resident in Guernsey. There are no other direct taxes or capital taxes (with the exception of dwellings profit tax) chargeable in the Island. A person who is “resident”, and “principally resident” in the Island, (residence is defined by the Income Tax Law) is liable to income tax on their worldwide income, whether or not it is remitted to the Island. A person who is “resident”, but not “principally resident”, in the Island is liable to income tax on income arising in or remitted to the Island.

There are a limited number of allowances which are available to individuals as deductions from their personal income. Mortgage interest, subject to a limit on the principal amount, currently of GBP 400,000, is deductible for income tax purposes.

There is an annual maximum of GBP 250,000 tax payable on income from non-Guernsey sources, except bank interest, for high-net-worth individuals.

Dividends

Under the 0–10 tax regime, Guernsey-resident shareholders are liable to tax at 20 per cent on all distributions from local companies. Deemed distributions are also taxable and occur on death or change of residence of the shareholder, company migration, liquidation or disposal of the shares.

Social security/national insurance payments

The social insurance scheme applies to all persons in Guernsey, Alderney, Herm and Jethou who are over school leaving age. In general, contributions are required from both the employer (6.5 per cent) and employee (6 per cent) in respect of any employed person who is over school-leaving age and under age 65.

Transfer pricing and anti-avoidance rules***Transfer pricing rules (documentation requirements, APAs, etc.)***

There are no specific transfer pricing provisions under Guernsey tax law.

Anti-avoidance provisions

Guernsey has anti avoidance legislation.

Thin capitalisation/other interest deductibility rules

Guernsey has no thin capitalisation rules.

Controlled Foreign Company (CFC) rules

A foreign company controlled by an individual who is resident but not solely or principally resident in Guernsey is regarded as resident in Guernsey by virtue of section 4 of the Law. However, the company will not be charged to income tax in Guernsey except on any Guernsey sources of income other than bank interest. The individual controlling the company will be chargeable on any dividend income remitted to Guernsey which arises from his shareholding in the company. Similarly, if the individual controlling the company receives the income of the company in Guernsey in any other form, for example by way of a loan, then that too would constitute a remittance of income and be taxable in the individual's hands.

Tax treaties

Guernsey has double taxation arrangements with the United Kingdom and Jersey. Guernsey also has 13 tax information exchange agreements (known as TIEAs) which

conform to the OECD's standard agreement. Of these, 11 are with OECD countries: Denmark, Finland, France, Germany, Iceland, Ireland, the Netherlands, Norway, Sweden, the United Kingdom and the United States of America. There are two with non-OECD jurisdictions, Greenland and the Faroes. Negotiations for TIEAs with Australia, New Zealand and Canada are in progress.

Miscellaneous taxes

Taxes on payroll

Guernsey has no payroll taxes (save, of course, for income tax and social security payments).

Taxes on capital

There is no capital or wealth tax in Guernsey. However, capital gains tax (dwellings profit tax) is payable on the sale of residential property which has not been either owned for five years or lived in (by the owner) for a period of a year and a day. This tax is charged at 100 percent subject to certain allowances and inflation. Dwellings profit tax is shortly to be rescinded.

Taxes on property

Guernsey property is taxed by area and is classified as tax on real property (TRP) and calculated by area of land. Other rates as levied by the constables office cover matters such as refuse collection and street lighting.

Other taxes

Since 1960, individuals have paid income tax at the rate of 20 percent. There is no separate corporation tax. Guernsey levies no capital gains, inheritance, capital transfer, value-added (VAT/TVA) or general withholding taxes.