

GUIDE TO THE ZERO / TEN CORPORATE TAX STRUCTURE

This Guide explains the main features of the zero / ten corporate tax legislation and related shareholder taxation provisions and also describes the administrative arrangements.

References to the ‘Income Tax Law’ are to the Income Tax (Jersey) Law, 1961, as amended.

A consolidated version of the Income Tax (Jersey) law, 1961, incorporating all these amendments, will shortly be published on the Income Tax Website at www.gov.je/taxmoney

These notes contain my interpretation of the Income Tax Law and they do not affect a person’s right of appeal on any point concerning a liability to tax.

These are complex provisions and this first version of the Guide will be subject to revision, refinement and enhancement in the light of practical experience.

The Comptroller will always be willing to rule or give advice on any scenarios or circumstances that are not covered in this Guide.

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Comptroller of Income Tax
3rd June, 2008.**

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1. INTRODUCTION

The Income Tax (Amendment No. 28)(Jersey) Law 2007 and the Income Tax (Amendment No. 29)(Jersey) Law 2007 introduced the so called zero / ten system of corporate taxation.

The Income Tax (Deemed Dividends) (Jersey) Regulations 2007 lays down the prescribed percentage of 60% for deemed dividends for Jersey trading companies.

An Order, the Income Tax (Amendment of Law) (Jersey) Order 200- has been published on the Income Tax Website at www.gov.je/taxmoney amending the definition of ‘financial services company’ consequentially upon the enactment of amendments to the Financial Services (Jersey) Law 1998.

Further details are contained in this Guide.

2. FINANCIAL SERVICES ENTITIES LIABLE AT THE 10% CORPORATE RATE

The Law defines a ‘financial services company’ as one registered, or holding a permit, by virtue of various Laws administered by the Financial Services Commission.

For the sake of clarity and for the avoidance of doubt, notwithstanding the definition of such a company under the Laws administered by and for the purposes of the Financial Services Commission, for the purposes of the Income Tax Law, the following entities are the ones to which the 10% corporate rate of tax will apply:

- All entities carrying out banking business through a permanent establishment in the Island, whether through a Jersey company, through a branch or through some other structure**
- All entities carrying on the business or trade of trust business through a permanent establishment**
- All entities carrying on investment business, independent financial advice and similar activities through a permanent establishment**
- All entities carrying on the business or trade of funds administrator or funds custodian through a permanent establishment**

Permanent establishment, in relation to a company, includes a branch of the company, a factory, shop, workshop, quarry or a building site, and a place of management of the company, but the fact that the directors of a company regularly meet in Jersey will not, of itself, make their meeting place a permanent establishment. For the avoidance of doubt, it is the Comptroller’s view that clerical functions, such as invoicing operations; and management and administration services; and the entering into of contracts in respect of a company’s international business (to include, for example, swap financing and loan funding agreements) at the address of the company’s registered office will not amount to the carrying on of a trade through a permanent establishment in the Island.

All the profits of such entities will be taxed. Taxable profits will be determined under normal and existing tax law and principles.

The Comptroller of Income Tax will give rulings on the above to ensure that a pragmatic, just and reasonable solution is reached in any contentious cases.

3. UTILITY COMPANIES

Utility companies will continue to be taxed at 20%. Utility companies include the Jersey Electricity Company, the Jersey New Waterworks Company, the Jersey Gas Company and any person licensed or authorised to run a public telecommunications system under the Telecommunications (Jersey) Law 2002 and a person licensed or authorised to convey letters under the Postal Services (Jersey) Law 2004.

4. RENTAL AND PROPERTY DEVELOPMENT COMPANIES

Rental income and property development profits will continue to be taxed at the standard rate of tax of 20%

5. NON-FINANCIAL SERVICES ENTITIES LIABLE AT THE 0% STANDARD CORPORATE RATE

A non-financial services entity is one which is not a financial services entity and one which is not a utility company.

6. GROUP RELIEF FOR FINANCIAL SERVICES ENTITIES

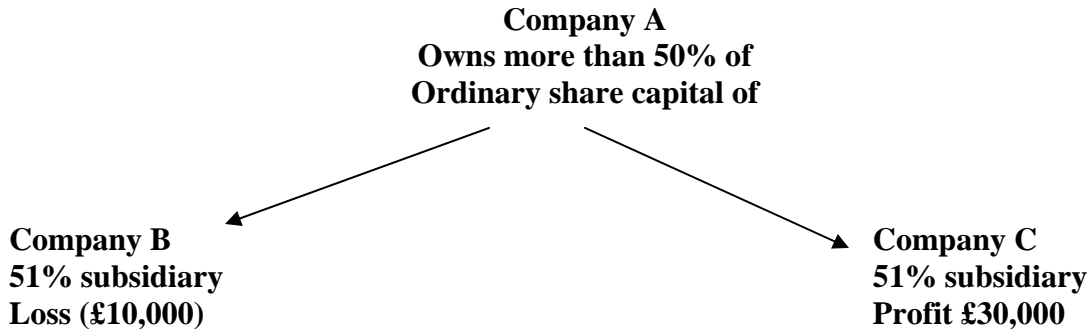
New provisions for relief for groups of qualifying financial services companies are introduced. A company in a group that suffers a loss can surrender that loss to be offset against the profits or gains of another company in the same group. The loss can only be offset against profits or gains determined for a financial period that is the same as, or overlaps with, the financial period for which the loss arises. If a company's financial period is more than a year, the profits or gains, or losses, for that period must be apportioned and only so much of the profits or gains, or losses, as are attributable to a 12 month period may be taken into account.

A qualifying company for these purposes means a financial services company that is taxed at 10%, or a 'grandfathered' international business company that is taxed at 10% or more.

The claim for relief must be made within 1 year following the year of assessment in which the financial period for which the surrendering company suffered the loss ended.

EXAMPLES

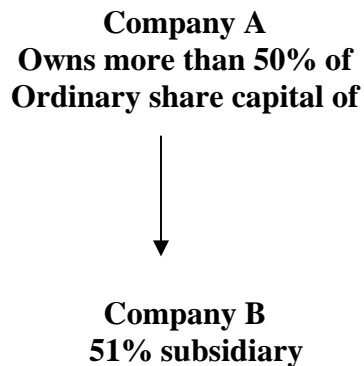
Three companies in a group all with year end 31 December 2010



Claim for group relief

- Company B£Nil @ 10%.
- Company C£30,000 less £10,000 = £20,000 @ 10% = £2,000

2 companies in a group with different y/e.



Results

| | |
|---|-----------|
| Company A trading loss year ended 30 Sep 2010 = | (£15,000) |
| Company B trading profit year ended 31 Dec 2009 = | £20,000 |
| Company B trading profit year ended 31 Dec 2010 = | £10,000 |

How can Company A obtain group relief?

For the year ended 31 Dec 2009

| | | |
|--|---|-----------|
| Overlap profits (01 Oct 2009 – 31 Dec 2009) $3/12 \times \text{£}20,000$ | = | £ 5,000 |
| Overlap losses $3/12 \times \text{£}15,000$ | = | (£ 3,750) |

For the year ended 31 Dec 2010

| | | |
|--|---|-----------|
| Overlap profits (01 Jan 2010 – 30 Sep 2010) $9/12 \times \text{£}10,000$ | = | £ 7,500 |
| Overlap losses $9/12 \times \text{£}15,000$ | = | (£11,250) |

For each of the years ended 31st December 2009 and 31st December 2010 the maximum amount that can be claimed as group relief is the lower of these two amounts.

7. GROUP RELIEF FOR NON-FINANCIAL SERVICES ENTITIES

Companies taxed at 0% and who are part of a group are also allowed to pass on losses so as to offset the profits of another company in the group. Although the companies are themselves taxed at a 0% rate, group relief will benefit the Jersey resident shareholders of the owners of the shares in the company whose profits are reduced, as these shareholders will be liable to tax in their personal assessments on actual and deemed distributions from such a company.

A qualifying company for these purposes means a company taxable under Article 123C at a 0% rate

The principles outlined at paragraph 4 above also relate to the granting of group relief for non-financial services entities and the same approach as shown may be taken to the calculation of group relief for non-financial services companies.

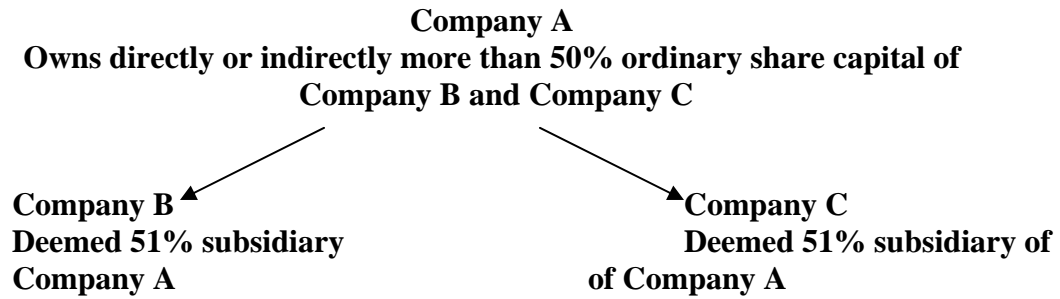
8. DEFINITION OF SUBSIDIARY FOR THE PURPOSES OF GROUP RELIEF

A body corporate will be considered to be a 51% subsidiary of another body corporate if, and so long as more than 50% of its ordinary share capital is owned directly or indirectly by that other body corporate.

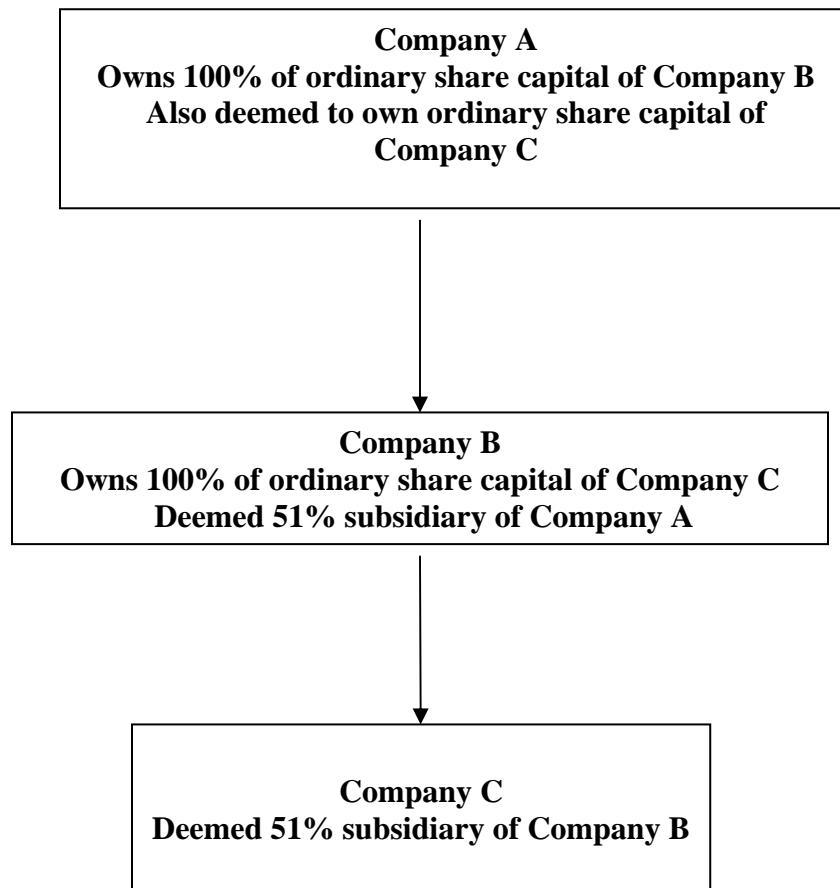
Ordinary share capital means all the issued share capital (by whatever name) of the company other than capital the owners of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.

Owned directly or indirectly means owned whether directly or through another body corporate or partly directly and partly through another body corporate or other bodies corporate. Ownership means beneficial ownership.

Example



In the case of a number of body corporates where the first directly owns ordinary share capital of the second, and the second directly owns ordinary share capital of the third then the first shall be deemed to own ordinary share capital of the third through the second and if the third directly owns share capital of the fourth then the first shall be deemed to own ordinary share capital of the fourth through the second and third and the second shall be deemed to own ordinary share capital of the fourth through the third and so on and so on.



Where the relationship referred to above exists there is, in the terms of the legislation, “a series”. Any three or more related companies constitute a series. The members of the series may be described graphically as follows³—

first owner



intermediary (or chain of intermediaries, if more than one)



last owned body corporate.

Where there is more than one fractional holding in a series the interest of the first owner at any particular stage is ascertained by multiplication of the fractions held by the first owner and all the intermediaries in the relevant chain of holdings.

A Ltd



100%

B Ltd



90%

C Ltd



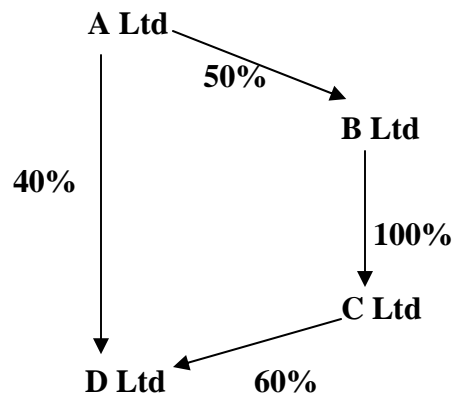
80%

D Ltd

Based on the legislation, the share ownership in the example outlined above is as follows:

| Parent A | Subsidiary | %Interest |
|----------|------------|-------------------------|
| A Ltd | B Ltd | 100 |
| A Ltd | C Ltd | 90 |
| A Ltd | D Ltd | 72 (i.e. 100 x 90 x 80) |
| B Ltd | C Ltd | 90 |
| B Ltd | D Ltd | 72 (i.e. 90 x 80) |
| C Ltd | D Ltd | 80 |

Where the first owner in any series owns a fraction of the ordinary share capital of the last owned body corporate and also owns another fraction or other fractions either directly or indirectly then, for the purpose of ascertaining the extent of the first owner's interest all fractions are aggregated.



The companies in column (1) have the interest in the companies in column (2) as set out below—

| (1) | (2) | % Interest |
|-------|-------|---------------------------|
| A Ltd | B Ltd | 50 |
| A Ltd | C Ltd | 50 |
| A Ltd | D Ltd | 70 (ie 40% + (50% × 60%)) |
| B Ltd | C Ltd | 100 |
| B Ltd | D Ltd | 60 |
| C Ltd | D Ltd | 60 |

9. LOSS RELIEF CLAIMS RESTRICTED

It would cause very substantial administrative and operational difficulties, both at the Income Tax Office and for Company Secretaries, if a company taxed at 0% or 10% was allowed to utilise losses as currently. This is because deemed dividend statements would already have been issued relating to the original profits and the relevant assessments raised on the Jersey resident shareholder. Alternatively, a liability to tax on full attribution would already have been calculated in accordance with them. Article 107 has now been amended to prevent such a company applying for a repayment of tax for a year of assessment in respect of a loss sustained in that year. Article 107A has now been amended so as to remove the right for a company taxed at either of these tax rates to seek to carry back a loss to an earlier year of assessment. Article 108 has been amended as a consequence to make it clear that, although a company taxed at 0% or 10% can no longer apply for a repayment of tax under Article 107, that does not prevent the company for carrying forward such a loss under Article 108 for set off against future profits arising to the company. Under zero / ten, therefore, trading losses can only be relieved as outlined in the group relief provisions above or by carry forward for set off against future profits from the same trade.

For the avoidance of doubt, these loss relief restrictions do not apply to utility companies. Their position remains unchanged.

10. DEDUCTION OF TAX FROM DIVIDENDS

What was previously implicit in the Income Tax Law has now been made explicit by a substituted Article 88. In other words, a tax deduction counts as a tax credit against the recipient's tax liability. So, if a company taxed at 10% on its profits deducts tax at that rate from a dividend paid out of these profits, the recipient has a credit against his or her liability to tax on the gross at the rate of 10%. That revised Article also revises the right of a company in Jersey to deduct tax from dividends so that it is confined to deductions from distributions of profits that are taxed on the company at either 10% or 20%. Any dividend paid by a Jersey company must be accompanied by information regarding the gross dividend, any tax deducted and the tax rate applied to the deduction so as to ensure that the recipient is able to complete his or her Income Tax Return and calculate his or her liability to tax.

Company secretaries will need to keep detailed records of what profits have been and are likely to be distributed, as various scenarios are likely to occur, even with just one company, with dividends being paid out of, for example, (a) undistributed taxed reserves at 31st December, 2008 (b) 0% rate trading profits in 2009 (c) 20% taxed profits from a Schedule A source and (d) capital gains.

EXAMPLE

| | |
|---|--------|
| Undistributed reserves (and already taxed) as at 31 st December 2008 | £4,000 |
| Trading profits year ended 31 st December, 2009 | £2,000 |
| Schedule A rental income year ended 31 st December, 2009 | £1,000 |
| Capital gains year ended 31 st December, 2009 | £3,000 |

2009 tax charge at 20% on Schedule A income £200

Profits available for distribution £9,800

Actual dividend paid £5,000

POSSIBLE SCENARIOS

If this dividend is paid partly out of undistributed reserves, a tax credit of 20% is attached as these profits have already been taxed in the past at 20%. If it is partly paid out of current trading profits, no tax credit is attached as these profits are charged at a 0% rate. If it is partly paid out of the capital gain, no tax credit is attached. And if it is partly paid out of the current Schedule A rental income, a tax credit of 20% is attached as that income continues to be taxed at 20%.

11. COMPANIES INCORPORATED ON OR AFTER 3RD JUNE, 2008

All companies resident for tax purposes in the Island prior to the 3rd June, 2008, will switch to a tax rate of either 0% or 10% for the year of assessment 2009 onwards. However, a company that becomes resident for tax purposes in the Island on or after 3rd June, 2008, will be taxed at either a 0% or a 10% rate immediately. Under no circumstances will such companies be able to elect for exempt company status.

12. OWNERSHIP OF SHARES IN RELATION TO DEEMED DIVIDENDS, LOANS AND FULL ATTRIBUTION

It is critical for the administration of the deemed dividends, loans and full attribution provisions that it can be determined explicitly who is the owner of the shares in a company. Article 82A has been inserted to make this explicit. An individual is deemed to own shares in a Jersey company if he has any interest in them, whether equitable, legal or contractual, other than an interest as a bare nominee or bare trustee. Such ownership will be deemed to exist even if the individual owns the shares even if the interest is through one, or a series of, bodies corporates or trusts. These provisions are also crucially important for the information an individual is required to declare on his personal Income Tax Return.

Specifically, an individual will be deemed to own shares if –

- **he has any right to acquire or dispose of the shares**
- **he has any right to vote in respect of the shares**
- **he has any right to acquire, to receive, or participate in distributions of the company, or,**
- **he has to give his consent for the exercise of any right of any other person interested in the shares, or if other persons interested in the shares can be required, or are accustomed to exercise their rights in accordance with the individual's instructions**

These provisions will ensure that the Jersey tax base is protected and that Jersey residents with interests in Jersey resident companies are assessable on the proper amounts applicable to them, whether their interests are held directly or indirectly.

It is important to note that these provisions apply, and consequently the deemed dividend provisions, to all unlisted and listed companies, where the Jersey resident individual has an interest of more than 2% in such a company, whether directly or indirectly.

However, if an individual has entered into an agreement whereby the beneficial interest in the shares does not pass to the individual until some future date, eg, under the terms of a share option agreement, that individual will not be deemed to own these shares before the date specified in the agreement.

13. OWNERSHIP THROUGH TRUSTS

For the sake of clarity and the avoidance of doubt, the term ‘deemed to own shares’ as detailed in Article 82A of the Income Tax (Amendment No. 29) (Jersey) Law 200- means any interest in shares, whether equitable, legal or contractual, other than an interest as a bare nominee or bare trustee. It also means an interest held directly, or held through, or partly through one, or a series of, bodies corporates or trusts, the latter term including both life interest and discretionary trusts, whether the trustees are Jersey resident or non Jersey resident.

Life interest / interest in possession trusts

Beneficiaries in life interest or interest in possession trusts are identified by name and are entitled to the income of the trust absolutely.

The profits arising in a 0% rate Jersey corporate, a 10% rate Jersey corporate or a Jersey corporate to which full attribution applies, the shares of which are held, directly or indirectly, for the benefit of Jersey resident life tenant, will be assessed on the trustees, as agent for the individual, under the deemed distribution or attribution regimes in proportion to the amount of profits the Jersey resident beneficiaries are entitled to, but without the benefit of any tax allowances or reliefs being granted.

Where there is no Jersey resident beneficiary there will be no charge under the deemed distribution regime.

In the case of a similar transaction or arrangement through a trust with non-Jersey resident trustees, the deemed distribution or attribution assessments will be raised on the individual Jersey resident beneficiaries, by virtue of Articles 82A and 134A, unless the Comptroller is of the view that the transaction or transactions, or arrangement or arrangements, entered into through the offshore trust were for bona fide genuine commercial reasons and were not designed for the purpose of avoiding or reducing a liability to Jersey income tax.

Discretionary trusts

Discretionary trusts empower the trustees, at their discretion, to decide how income is applied for the benefit of the beneficiaries.

The deemed distribution or attribution regimes will not apply to the profits of a 0% rate Jersey company, a 10% rate Jersey company or a Jersey company to which full attribution applies, the shares of which are held, directly or indirectly, by Jersey resident trustees of a discretionary trust, where the named beneficiaries are not Jersey resident and all Jersey residents are excluded from the class of beneficiaries.

The deemed distribution or attribution regimes will apply to the profits of a 0% rate Jersey company, a 10% rate Jersey company or a Jersey company to which full attribution applies, the shares of which are held, directly or indirectly, by Jersey resident trustees of a discretionary trust, where Jersey resident individuals are included in the class of beneficiaries. The quantum of the profits will be assessed depending on various criteria, such as the number and proportion of the shares held, directly or indirectly, by the Jersey resident trustees, the number of Jersey resident beneficiaries and the purpose behind the creation of the trust.

The Comptroller can be approached in all cases for a ruling.

Assessments will be raised on the Jersey resident trustees, as agent of the Jersey resident beneficiary.

In the case of a similar transaction or arrangement through an offshore discretionary trust, the deemed distribution or attribution assessments will be raised on the individual Jersey resident beneficiary, by virtue of Articles 82A and 134A, unless the Comptroller is of the view that the transaction or transactions, or arrangement or arrangements, entered into were for bona fide genuine commercial reasons and were not designed for the purpose of avoiding or reducing a liability to Jersey income tax.

14. CASH DIVIDENDS

Tax is charged under Schedule D Case III on the payment of a cash dividend paid by a company regarded as resident in Jersey. See paragraph 10 above for further details

15. STOCK DIVIDENDS

Stock dividends arise where the shareholder either:-

- a) receives his dividend in the form of extra shares, or**
- b) has a choice to receive a cash dividend or alternatively the dividend in the form of extra shares.**

Tax is charged under Schedule D Case III on the issue of a stock dividend as if it were the payment of a cash dividend of equal value. The Comptroller can be approached in all cases for a ruling as to what value is appropriate.

16. DEEMED DIVIDENDS

DEEMED INTERIM DIVIDEND : JERSEY TRADING COMPANY

An individual resident in Jersey who owns more than 2% of the ordinary share capital in a Jersey trading company is liable to pay tax on deemed interim dividends. The deemed interim dividends must be declared on his personal Income Tax Return form. The tax is charged under Schedule D Case VIII.

A deemed interim dividend is a dividend that is deemed to have been paid i.e. it is a dividend that has not actually been paid as a cash dividend or as a stock dividend.

A Jersey trading company is a company taxed at 0% and which is not a company subject to full attribution (see 16 below) or a collective investment fund.

The liability to pay tax arises where the amount of cash dividends paid and stock dividends issued (known collectively as relevant dividends) by the company out of its relevant profits chargeable under Schedule D at 0% is less than 60% of the amount of the relevant profits.

Relevant profits means the balance of the income, profits and gains chargeable to tax under Schedule D at 0% after;

- a) deducting allowable deductions, reliefs and allowances, and**
- b) deducting dividends paid on preference share paid before the last day of the following financial period.**

For example.

| | |
|-------------------------------------|-------------------|
| Profit per accounts | = £10,000 |
| 'Add backs' | = £1,000 |
| Capital Allowances | = (£3,000) |
| Dividends paid on preference shares | = <u>(£1,000)</u> |
| Relevant profits | = <u>£7,000</u> |

The 60% test is applied to the relevant profits of the financial period (being the period for which its accounts are made up).

CALCULATION OF THE DEEMED INTERIM DIVIDEND

The deemed interim dividend is calculated in two stages as follows.

Stage one

Amount deemed interim dividend attributable to an ordinary share.

(60% of relevant profits) less relevant dividends paid or issued.
Number of ordinary share issued.

Stage two

Amount of the interim dividend deemed to have been paid or issued.

No. of days in which shares held. x No of shares held. x Amount per share.
No. of days in financial period.

It is important to note that the deemed dividend is deemed to be paid in the year of assessment which falls in the following financial period.

SIMPLE EXAMPLE OF A DEEMED INTERIM DIVIDEND

Financial year end 31 December 2012

| | |
|--------------------------------|------------|
| Taxable profits of | £500,000 |
| Preference dividend | £100,000 |
| Prescribed percentage | 60% |
| Dividend paid 01.06.13 | £50,000 |
| Mr. A owns | 100 shares |
| Total ordinary shares in issue | 500 |
| Mr. A. bought shares | 01.07.12 |

Calculation one

500,000 less 100,000 = 400,000 (relevant profits)
400,000 x 60% = 240,000
240,000 less 50,000 = 190,000
190,000 / 500 = 380 (deemed interim dividend per share)

Calculation two

| | |
|-----------------------------------|----------|
| Deemed interim dividend per share | £380 |
| Time shares held in 2012 | 184 days |
| Total shares held | 100 |

Deemed interim dividend = $\frac{184}{365} \times 100 \times £380$
= £19,156 (deemed interim dividend to be declared
on 2013 Income Tax Return)

DEEMED FINAL DIVIDEND : JERSEY TRADING COMPANY

A deemed final dividend is only deemed to be paid upon the occurrence of one of the following trigger events.

- the individual ceases to own more than 2% of the ordinary share capital of the company;
- the winding up of the company;
- the death of the individual liable to pay the final dividend;
- where the company is treated as a company subject to full attribution for the following year
- the owner of the shares ceasing to be resident in Jersey.

CALCULATION OF THE DEEMED FINAL DIVIDEND

The deemed final dividend is calculated in two stages as follows.

Stage one

Amount deemed final dividend attributable to an ordinary share.

Relevant profits less relevant dividends paid or issued.
Number of ordinary share issued.

Stage two

Amount of the final dividend deemed to have been paid or issued.

No. of days in which shares held. x No of shares held. x Amount per share.
No. of days in financial period.

SIMPLE EXAMPLE OF A DEEMED FINAL DIVIDEND (CONTINUING THE EXAMPLE ABOVE)

Financial year end 31 December 2012

| | |
|--------------------------------|------------|
| Taxable profits of | £500,000 |
| Preference dividend | £100,000 |
| Dividend paid 01.06.13 | £50,000 |
| Mr. A owns | 100 shares |
| Total ordinary shares in issue | 500 |
| Mr. A. bought shares | 01.07.12 |
| Mr. A sold shares | 01.07.14 |

Calculation one

£500,000 less £100,000 = £400,000 (relevant profits)
£400,000 less £50,000 = £350,000
£350,000 / 500 shares = £700 (deemed final dividend)

Calculation two

Deemed final dividend per share = £700
Less: Interim dividend paid per share = £380

Balance of deemed final dividend per share = £320

Calculation three

| | |
|--------------------------|----------|
| Balance | £320 |
| Time shares held in 2012 | 184 days |
| Total shares held | 100 |

Deemed final dividend $\frac{184}{365} \times 100 \times £320 = £16,132$

£16,132 (deemed final dividend to be declared on 2014 Income Tax Return)

NB: For the avoidance of doubt Mr. A will also be subject to a deemed final dividend in respect of profits arising in the years 2013 and 2014. All the deemed final dividends must be pooled and declared by Mr. A on his 2014 Income Tax Return.

DEEMED DIVIDEND : JERSEY FINANCIAL SERVICES COMPANY

An individual resident in Jersey who owns more than 2% of the ordinary share capital in a Jersey financial services company is liable to pay tax on a dividend deemed to have been paid. The deemed dividends must be declared on his personal income tax return form. The tax is charged under Schedule D Case VIII.

A deemed dividend is a dividend that is deemed to have been paid i.e. it is a dividend that has not actually been paid as a cash dividend or as a stock dividend.

A Jersey financial services company is a company taxed at 10% and which is not a company subject to full attribution or a collective investment fund.

The liability arises where the amount of cash dividends paid and stock dividends issued by the company out of its tax adjusted profits chargeable under Schedule D is less than the amount of those profits. The shareholder becomes liable to a single dividend, deemed to be paid on the occurrence of a trigger event, being the same events that trigger the payment of a deemed final dividend arising to the owner of shares in a Jersey trading company.

The amount of the deemed dividend is the amount of the undistributed adjusted profits attributable to each share comprised in the ordinary share capital of the company. However, because the company itself is charged to tax at 10%, the owner of the shares will receive a tax credit of an amount equal to so much of the tax payable by the company on those profits as is attributable to each share.

CALCULATION OF A DEEMED DIVIDEND

The deemed final dividend is calculated in two stages as follows:

Stage one

Amount of deemed dividend attributable to an ordinary share

Relevant profits less relevant dividends paid or issued

Number of ordinary shares issued

Stage two

Amount of the deemed dividend to have been paid or issued

No. of days which shares held x No. of shares held x Amount per share

No. of days in financial period

SIMPLE EXAMPLE OF A DEEMED DIVIDEND

Financial year end 31 December 2012

| | |
|--------------------------------|------------|
| Taxable profits | £500,000 |
| Preference dividend | £100,000 |
| Dividend paid 01:06:13 | £50,000 |
| Mr. A owns | 100 shares |
| Total ordinary shares in issue | 500 |
| Mr. A sold shares | 01:07:14 |

Calculation one

| | |
|------------------------|---|
| £500,000 less £100,000 | = £400,000 (relevant profits) |
| £400,000 less £50,000 | = £350,000 |
| £350,000 / 500 | =£700 (deemed final dividend per share) |

Calculation two

| | |
|---------------------------|------------|
| Deemed dividend per share | = £700 |
| Time shares held in 2012 | = 184 days |
| Total shares held | = 100 |

Deemed dividend $\frac{184}{365} \times 100 \times £700 = £34,904$

£34,904 (deemed dividend to be declared on 2014 Income Tax Return)

Mr. A will receive a tax credit as is attributable to each share which reflects the 10% tax paid at the corporate level on those profits.

NB: For the avoidance of doubt Mr. A will also be subject to a deemed dividend in respect of the profits arising in the years 2013 and 2014. These deemed dividends must be pooled and declared by Mr. A on his 2014 Income Tax Return.

17. FULL ATTRIBUTION FOR INVESTMENT HOLDING COMPANIES

An individual resident in Jersey who owns more than 2% of the ordinary share capital in a company that is subject to full attribution is liable to pay tax on their portion of the company's relevant profits as if that portion was the individual's own profits. The individuals' share of the relevant profits must be declared on his personal Income Tax Return form.

Relevant profits means the balance of the income, profits and gains chargeable to tax under Schedule D at 0% after;

- c) deducting allowable deductions, reliefs and allowances, and**
- d) deducting dividends paid on preference share paid before the last day of the following financial period.**

A company is a company subject to full attribution if it is a company which is taxed at 0% and -

- a) it is not a trading company or a collective investment fund (collective investment fund also includes unregulated funds), or,**
- b) it is a company that supplies the personal services of the owners of the company, or persons connected with them, to a third person in circumstances in which, except for the company, the owner or connected persons would otherwise be an employee of the third person.**

CALCULATION OF THE ATTRIBUTED PROFITS

The attributed profits are calculated in two stages as follows.

Stage one

Amount relevant profits attributable to an ordinary share.

Relevant profits of the company

Number of ordinary share issued.

Stage two

Amount profits to be attributed to the shareholder.

No. of days in which shares held. x No of shares held. x Amount per share.
No. of days in financial period.

SIMPLE EXAMPLE OF ATTRIBUTION OF PROFITS

Financial year end 31 December 2012

| | |
|---------------------------------------|-------------------|
| Taxable profits of | £500,000 |
| Preference dividend | £100,000 |
| Mr. A owns | 100 shares |
| Total ordinary shares in issue | 500 |
| Mr. A bought shares | 01:07:12 |

Calculation one

| | |
|-------------------------------|---|
| £500,000 less £100,000 | = £400,000 (relevant profits) |
| £400,000 / 500 | = £800 (attributable profit per share) |

Calculation two

| | |
|--------------------------------------|-------------------|
| Attributable profit per share | =£800 |
| Time shares held in 2012 | = 184 days |
| Total shares held | = 100 |

$$\text{Attributable profit} = \frac{184}{365} \times 100 \times 800 = \text{£40,329}$$

£40,329 (attributable profit to be declared on 2012 Income Tax Return)

DOUBLE TAX CREDIT RELIEF

The company's relevant profits subject to full attribution to the Jersey resident shareholder(s) may include profits which have been subject to either U.K. or Guernsey income tax. Any claim for double tax relief under the Double Taxation Relief (Arrangement with the United Kingdom) (Jersey) Act 1952 or the Double Taxation Relief (Arrangement with Guernsey) (Jersey) Act 1956 will be given to the Jersey resident shareholder in his personal income tax assessment. The relief will be in proportion to his share of the attributed profits which has suffered either U.K. or Guernsey income tax which he has declared on his income tax return form.

18. SHAREHOLDER LOANS

A loan made to a Jersey resident shareholder or to a member of their family or household is liable to income tax under Schedule D Case VIII if :

- it is made by a company subject to tax at 0% or 10% (other than a company which is subject to the full attribution rules)
- is not made at a commercial rate of interest or made on non-preferential terms

A deduction of up to £1,000 may be deducted from the loan charged to tax. This is dependant upon the amount of the loan and whether the shareholder is in receipt of any taxable benefits in kind.

The shareholder is entitled to a credit when the loan is repaid equal to the amount of tax paid on the loan.

EXAMPLE

A shareholder receives a loan from the company in 2010 in the sum of £10,000. He repays £4,000 in 2011 and £6,000 in 2012. He is not in receipt of any taxable benefits in kind and his effective tax rate in 2010 is 12%.

Loan charged to tax in 2010

£10,000 less £1,000 = £9,000

£9,000 x 12% effective rate = £1,080 tax payable

Tax credit in 2011

£4,000 x 12% = £480

Tax credit in 2012

£6,000 x 12% = £720

19. RETURNS OF INFORMATION BY COMPANIES

A company which is resident in Jersey or which has a permanent establishment in Jersey is required to deliver to the Comptroller, either on delivery of a notice to the company or by a general notice, within the time stated in the notice, certain information concerning Jersey resident shareholders. However, collective investment funds (including unregulated funds) are exempt from this requirement. The details which may be required are as follows:

- a shareholder's name and address**
- the number of and the nature / kind of shares held by the shareholder**
- the number of days during the year of assessment or period specified in the notice for which the shares were held**
- the dividends paid or issued to the shareholder and the date paid**
- the gross dividend, any tax deducted, the rate of tax applied and the net dividend paid**
- the amount of any loan, from the company, to the shareholder, or to a member of his family or household, during the period specified**
- the amount repaid or reimbursed by a borrower in respect of any such shareholder loan**
- the amount, per share comprised in the ordinary share capital of the company, of any dividend deemed to be received under the deemed dividend provisions as described at paragraph 11 above**
- the amount, per share comprised in the ordinary share capital of the company, applicable to the individual in relation to full attribution of the profits of an investment holding company as described at paragraph 12 above**

The return must be made in a manner approved by the Comptroller and may be required to be certified by the secretary of the company as a true, complete and correct return to the best of his or her knowledge.

No return is required for an individual who owns share capital but who is a non resident of Jersey.

20. PRO- FORMA VOUCHERS

The Income Tax Office has produced pro-forma dividend vouchers, shareholder attribution statements and shareholder loan statements for company secretaries to use and complete if they wish. These will be available soon to download under the Zero/Ten heading at www.gov.je/taxmoney.

21. TRADE OF PROPERTY DEVELOPMENT

The effect of the new rule for taxation of the trade of property development under Schedule A is confined to cases where the land, building or structure is in Jersey. The consequence is that the trade of property development will continue to be taxed under Schedule D in two cases: where the trade is carried on in Jersey, but the land, building or structure is outside Jersey (Case I of Schedule D); and, where the trade is carried on outside Jersey and the land, building or structure is outside Jersey, but the person carrying on the trade is resident in Jersey (Case V of Schedule D.

22. RETURNS AND ASSESSMENTS

A revised Income Tax Return will be issued to all new companies formed after 3rd June, 2008 and to all existing companies in January 2010 for the year of assessment 2009.

It will contain various straightforward questions with answers required on a YES or NO ‘tick the box’ basis.

Completing the form on this basis will quickly establish whether the company is one liable at the 0% rate, the 10% rate or, at 20% rate applicable to utility companies or those companies with Schedule A – rental and property development – income.

The form will also allow a company to establish very quickly whether it should submit trading accounts in support of the Income Tax Return.

23. PENALTIES

There are penalties for negligently or fraudulently making an incorrect Income Tax Return. A fine of up to £2,000 may be levied, plus twice the tax lost – or in the case of fraud three times the tax lost – undercharged by reason of the negligence or fraud. A sympathetic approach will be taken for the first year or two of these new provisions, and if mistakes are made the Comptroller will be more concerned with advising and educating taxpayers and professionals rather than levying penalties on them.

24. CONCESSION 60

Concession 60 in relation to foreign incorporated investment companies is abolished with effect from 3rd June, 2008 for newly formed companies and from 1st January, 2009 for all other companies within this category.

25. CONCESSION RELATING TO ARTICLE 118

A concession has been published on the Income Tax Website so that the provisions of Article 118 in relation to non residents now takes effect from 3rd June, 2008.

26. MUTUAL TRADING ORGANISATIONS

Under the zero / ten provisions mutual trading organisations will be taxed at the standard rate of income tax on their rental income (Schedule A) and at 0% on their investment income. The investment income of a mutual trading organisation will NOT be attributed to members, on the presumption that no single member will hold more than 2% of the ordinary share capital of the mutual organisation.