



South Georgia and the South Sandwich Islands

Office of the Commissioner
Government House,
Stanley,
Falkland Islands.

16 August 2016

Income Tax

Report on Consultation

Summary

The consultation on the draft Income Tax Ordinance took place from March to May 2016.

The proposed legislation set out an income tax framework for South Georgia & the South Sandwich Islands, including liability to income tax, administrative arrangements for collecting tax, tax offences and penalties. The proposed legislation retained some of the features of the current tax arrangements in relation to the charge to tax and the tax rate, which remains at 7%.

The changes that were proposed included, changing the period at which liability to income tax arose from six months to thirty days, introducing a new administrative framework so that GSGSSI could properly administer tax and be satisfied that correct amounts of tax were being collected, and introducing tax offences and penalties and a tax appeal mechanism.

The draft legislation and an accompanying consultation were made available on the GSGSSI website with a news item highlighting the consultation, stakeholders were notified by email and the launch of the consultation was 'tweeted'.

A number of responses have been received from stakeholders that employ people to work on SGSSI and from the Falkland Islands Government (FIG) which administers the collection of tax for GSGSSI. The responses concerned, changing the period after which liability to tax arises from 6 months to 30 days, the introduction of notification and administration requirements on employers, the circumstances when a tax officer can make an authorised disclosure of tax information and the penalty for offences.

The views expressed have been considered by GSGSSI and have resulted in some amendments being made to the proposed legislation.

In relation to the proposed change to the period after which liability to tax arises, GSGSSI considers that there is a balance to be struck taking into account the need for an effective tax system, the number of potential tax payers, the patterns of work on SGSSI and the administration required. GSGSSI having carefully considered the views expressed has decided to revert to the six-month period (183 days) for the liability to income tax to arise.

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GSGSSI remains of the view that it is necessary to introduce a proper administrative framework for income tax so that it receives accurate and auditable information to enable tax liability to be accurately assessed and collected and to deal with non-payment. As a consequence the provisions relating to administration have only been amended to the extent necessary to reflect the change from thirty days to six months.

Having considered representations GSGSSI considers that it is appropriate to amend the provisions about disclosure of information by tax officers. GSGSSI propose to add 'disclosure as directed by the Commissioner', as an authorised disclosure by a tax officer. This would enable GSGSSI to ask for information for statistical and policy purposes and would be subject to normal public law restrictions. Taking into consideration the working relationship between GSGSSI and the Falkland Islands on matters including tax and administration of justice it has also been decided to amend the penalties for unlawful disclosure by tax officers to match that for the Falkland Islands. A similar change has also been made to the penalties for tax offences committed by taxpayers.

The opportunity has also been taken to make some minor amendments to the drafting to ease administration and add clarity.

It is intended to pass the legislation in its amended form by October.

Detail of Amendments

The amendments to the draft legislation are:

- Section 6 (1) (a) and (2) (c), where the reference to 30 days has been replaced with a reference to 183 days
- Section 9 (2) where the power to appoint tax officers is given to the Collector of Taxes rather than the Commissioner.
- Section 9 (3), which now enables tax officers to be appointed on such terms and conditions as may be specified by the person appointing them (the previous section 9 (3) is now 9 (4)).
- Section 9(9), has been amended to allow a tax officer to disclose information in accordance with a direction from the Commissioner.
- Section 9(10) where the penalty for disclosure has been amended from £10,000 and/or 2 years imprisonment to a £5000 fine only.
- New clauses at section 10 (3) and (4) to require an employer to tell a tax officer whether they expect a person to be present on SGSSI for more or less than 183 days, and to notify a tax officer if that changes.
- Section 11, has been re-drafted to require income tax to be payable on account for employees that are expected to be liable to tax.
- Section 11 also now provides for the Collector of Taxes to refund tax where an employee who was expected to be liable to tax subsequently does not become liable.
- Section 12 has been amended to cover employees who were not anticipated to become liable to tax and subsequently become liable to tax and where no payments of tax have

been made on account. They must pay the amount of tax payable or make up any difference. GSGSSI anticipates that in practice tax may still be collected through the employer however there may be circumstances where tax will need to be demanded from the person liable for tax

- Section 15 has been amended to change the penalty for tax offences to mirror the penalty for wrongful disclosure by a tax officer. The penalty is now also set at a £5000 fine only.

Conclusion

GSGSSI now intend to move forward to passing and implementing this legislation. It is expected that it will be in force by January 2017. Guidance and forms will be prepared and circulated in advance of implementation to enable employers and employees to understand and implement the new requirements.

The final version of the new Income Tax Ordinance will be placed in the legislation section of the website once passed.