

UK and Guernsey superannuation funds with (property) income arising in Jersey to pay income tax

Abolition of Articles 115g and 115ga

The abolition of Article 115(g) and Article 115(ga) of the Income Tax (Jersey) Law 1961 comes into effect for the year of assessment 2010.

The consequence of the abolition is that UK and Guernsey superannuation funds that have (property) income arising in the Island will, from 2011 (year of assessment 2010) be required to pay tax on that income.

In other words, income derived from leasing or ownership of Jersey property will be charged at a standard rate of 20% subject to specific professional tax advice to the contrary.

Registration of all affected Superannuation Funds

In addition, all affected Superannuation Funds are requested to register with the Comptroller of Taxes no later than **31 July 2010**.

- The registration details required are as follows:
- the full name of the Superannuation Fund
- the address for correspondence
- the address of the property in Jersey from which rental income is being received
- the annual rental income on that property

Non Resident Landlord Scheme / Withholding Tax

The abolition of Articles 115(g) and 115(ga) also means that, subject to the structure of the property holding entity, affected Superannuation Funds will now need to consider withholding tax implications under the non resident landlord scheme.

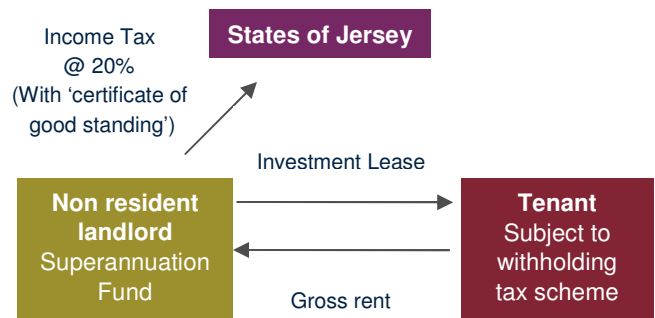
Under the non resident landlord scheme tenants of Jersey property (or Jersey agents who collect rent on behalf of a non resident landlord) are obliged to withhold Jersey income tax at 20% from rents paid to non resident landlords.

However, non resident landlords can apply for a 'certificate of good standing' which enables them to receive rent payments from their tenants gross. This does not cancel out the obligation to pay income tax itself. It simply means

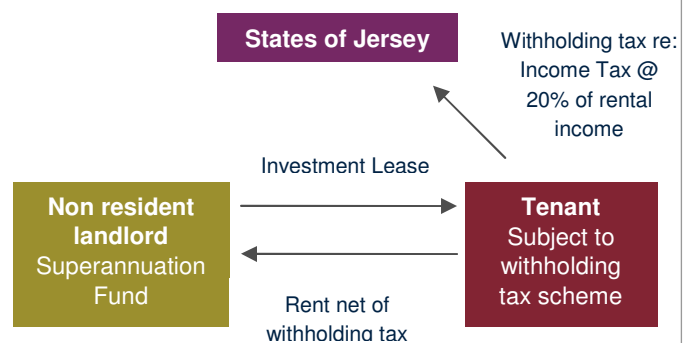
that the tenant is able to pay gross rent to the landlord with the landlord itself being obliged to account to the States of Jersey for the income tax on the gross rental income that it receives.

For further advice concerning withholding tax under the non resident landlord scheme please click here.

Income Tax position with 'Certificate of Good Standing':

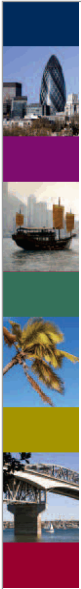


Income Tax position without "Certificate of Good Standing":



Goods and Services Tax

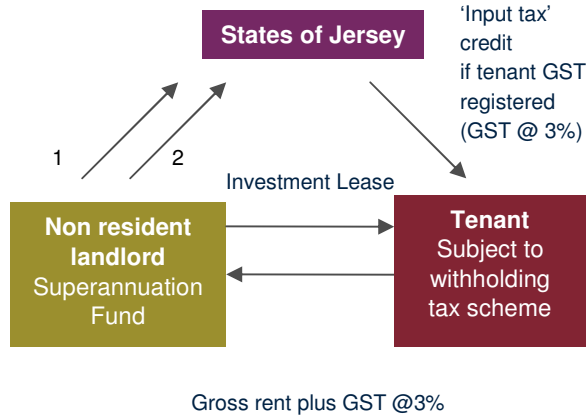
In addition, Superannuation Funds will need to ensure that their investment leases are structured to provide for Goods



UK and Guernsey superannuation funds with (property) income arising in Jersey to pay income tax

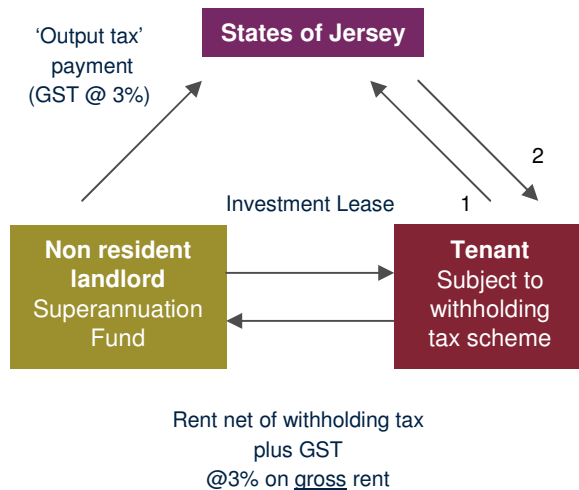
and Services Tax (“GST”) to be recovered on gross rental income rather than on rental income net of withholding tax.

GST position with Certificate of Good Standing:



1. Income Tax @ 20% (with Cert. of Good Standing)
2. 'Output tax' payment (GST @ 3%) registered (GST @ 3%)

GST position without Certificate of Good Standing:



1. Withholding Tax at 20%
2. 'Input tax' credit if tenant GST registered (GST @ 3%)

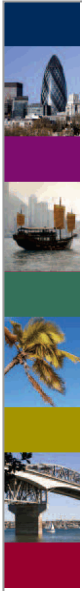
For a detailed explanation of the impact of GST on rental income streams, please [click here](#).

This briefing provides a general summary only of this area based on the current law and practice in Jersey at the date of writing and is subject to changes. It does not purport to be comprehensive and does not constitute legal or tax advice that may be relied upon. Specific, professional advice should be sought on each occasion.

About Ogier

Ogier is an award winning offshore legal and fiduciary services provider. We provide advice on all aspects of BVI, Cayman, Guernsey and Jersey law together with trust and administration services through a global network of offices covering all time zones and key financial markets.

Ogier continues to be recognised as a leading law firm by the principal legal directories, including Legal 500 and Chambers.



UK and Guernsey superannuation funds with (property) income arising in Jersey to pay income tax

Contact details

Jersey

Jonathan Hughes - Managing Associate

+44 (0) 1534 504336

jonathan.hughes@ogier.com

Peter Bertram

+44 (0) 1534 504111

peter.bertram@ogier.com

This client briefing has been prepared for clients and professional associates of the firm. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Ogier includes separate partnerships which advise on BVI, Cayman, Guernsey and Jersey law. For a full list of partners please visit our website.