

The Direct Taxes (General Provisions) (Sark) Ordinance, 2003

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred upon them by sections 7 (b), (c), (d), (e), and (h), 10 (c), and (h), and 20, of the Direct Taxes (Sark) Law, 2002, hereby order:-

General provisions relating to property tax

Designation of property

1. (1) In assigning a designation to any parcel of real property for the purposes of the Cadastre to be maintained in accordance with the Law, the Douzaine shall designate:

- (a) as a “dwelling”, any building wholly or principally used for the purposes of human habitation other than tourist or guest accommodation, together with its immediate curtilage, but excluding domestic outbuildings;
- (b) as a “domestic outbuilding”, any garden shed, store, greenhouse or other building in the immediate curtilage of a dwelling and used wholly for domestic purposes;
- (c) as “tourist or guest accommodation”, any hotel, guest house, self-catering or other commercial accommodation, together with its immediate curtilage, including storerooms and other outbuildings;
- (d) as “other commercial buildings”, any shop, office,

café, restaurant, public house, workshop or other building in industrial or commercial use, but not falling within paragraph (e), together with its immediate curtilage, including store rooms and other outbuildings;

- (e) as “agricultural buildings”, any barn, stable, shelter, store or shed predominately used for agricultural, animal husbandry, horticultural or licensed fishing purposes, but excluding any hay barn within paragraph (f);
- (f) as “hay barns”, any barn of over 50 square metres which is used exclusively for the storage of hay and/or animal feed;
- (g) as “open land”, any fields, woodlands, quarries, cotils and gardens beyond the immediate curtilage of a dwelling or other building.

(2) In the case of a parcel which includes land and/or building(s) falling within more than one paragraph of subsection (1), the Douzaine may either

- (a) assign a designation to that parcel on the basis of the predominant nature and use of the land and buildings comprised therein; or
- (b) assign a separate designation to different buildings or parts thereof, and/or to areas of land comprised therein, according to the predominant nature and use of each such building or part thereof, and/or of each

such area of land.

Calculation of quarters.

2. (1) In calculating the number of quarters to be recorded in the Cadastre in respect of any real property the Douzaine shall proceed in accordance with this section.

(2) As respects any dwelling, tourist or guest accommodation, or other commercial buildings, the quarters shall be recorded as the number of square metres of the floor area of the building divided by 3, but subject to a minimum of 3 quarters.

(3) As respects any domestic outbuilding, the quarters shall be recorded as the number of square metres of the floor area of the building divided by 10, but subject to a minimum of 2 quarters.

(4) As respects any agricultural building, the quarters shall be recorded as the number of square metres of the floor area of the building divided by 10, but subject to a minimum of 2 quarters.

(5) As respects any hay barn, the quarters shall be recorded as the number of square metres of the floor area of the building divided by 30, but subject to a minimum of 2 quarters.

(6) As respects any open land, the quarters shall be recorded as the number of square metres of the land divided by 1,000, but subject to a minimum of 2 quarters.

Measurement of land and buildings:

3. (1) For the purposes of the Cadastre land and buildings shall be measured in accordance with this section.

(2) In respect of open land, linear dimensions shall be taken at ground surface level, rounded down to the nearest metre; and areas derived therefrom shall be rounded down to the nearest 10 square metres.

(3) In respect of buildings:

(a) linear dimensions shall be taken externally, as near as may be to the ground surface level, rounded down to the nearest 10 centimetres;

(b) areas derived therefrom shall be rounded down to the nearest 1 square metre; and

(c) the result shall be multiplied by the number of useable (and, in the case of a dwelling, habitable) floors in the building accessible at ground level, or by permanent steps, fixed ladder, or installed mechanical elevator:

PROVIDED THAT the multiplier included in respect of floors or rooms within a roof space and with significantly reduced useable floor area and/or headroom because of severely sloping ceilings shall be reduced by 40%.

Property tax reference date.

4. The date by reference to which a person's possession of real property in Sark falls to be ascertained for the purposes of this Ordinance and any Ordinance imposing property tax for any year is, notwithstanding section 3 (1) of the Law, 1st January of that year.

Cases in which property tax is not payable.

5. (1) Property tax is not payable, subject to subsection (2), in respect of

- (a) the Sark school;
- (b) the Island Hall;
- (c) premises used exclusively as a doctor's surgery;
- (d) churches, and other property used wholly or mainly for religious purposes;
- (e) property vested in the Trustees of Island Property;
- (f) property vested in the Chief Pleas or in a Committee of Chief Pleas;
- (g) property occupied wholly or mainly by the Sark Emergency Services.

(2) Subsection (1) does not apply in the case of any property or part thereof which is let for financial reward or occupied as a dwelling.

General provisions relating to personal capital tax

Excluded assets.

6. (1) In the ascertainment of an individual's net capital assets for the purposes of the Law there shall be excluded (in addition to those assets excluded by the definition in section 22 (1) of the Law):

- (a) that portion of the capital of any collective investment or pension fund which, according to the fund's rules, may only be used to provide an income for a person:
 - (i) as a retirement pension, or
 - (ii) who is certified by a medical practitioner practising in Sark as suffering from physical or mental disability such that he cannot reasonably be expected to undertake gainful employment;
- (b) all Sark situated assets, equipment and stock in trade of a bona fide agricultural, horticultural, fishing, retail or other commercial business in which the individual is personally engaged for at least 200 hours during the year, other than land or buildings.

(2) For the avoidance of doubt, there are to be considered excluded from the definition of net capital assets in the Law:

- (a) as "furnishings" of an individual's principal dwelling in Sark, any ornaments, decorations and works of art displayed therein; and
- (b) as "personal effects", all household items, electrical or electronic equipment, clothes and jewellery,

unless held by way of investment.

Assets to be considered “beneficially owned”.

7. For the avoidance of doubt assets are to be considered “beneficially owned” by an individual if they are:

- (a) held by a nominee on behalf of that individual;
- (b) held by a trustee for the benefit of that individual, or on a discretionary trust settled by an individual under which that individual is not excluded from benefiting;
- (c) held by a body corporate or unincorporated body controlled by that individual or accustomed to following that individual’s instructions, otherwise than in the course of a fiduciary business licensed by the Guernsey Financial Services Commission;
- (d) any capital amount advanced to another as a loan by that individual, whether or not interest-bearing and/or documented, but excluding any amount which would not be deductible by that other, if resident in Sark, as a bona fide loan;
- (e) units, shares, bonds, stocks, debentures or other investments held under a policy of insurance for the benefit of that individual, whether or not capable of immediate encashment.

Loans and other liabilities.

8. For the purposes of the Law a loan or other liability is to be considered bona fide if it is documented as secured on or attaching to an asset of the individual concerned, for a duration in excess of one year, and

- (a) in the case of a loan, subject to interest equal to or greater than 1% below the lowest Bank of England base rate during the preceding 12 months, or
- (b) in the case of any other liability, repayable on the sale or other permanent disposal of the asset to which it is attached.

Valuation of land and buildings.

9. For the purposes of personal capital tax, an interest in any land or building is to be valued as follows:

- (a) if the land or building is situated in Sark, the net price which its holder might reasonably expect to achieve on a sale of that interest; and if the person's principal dwelling in Sark is situated on that same land, the value of his interest in that dwelling (which is excluded for personal capital tax purposes by section 22 of the Law) is the net price which he might reasonably expect to achieve for a 100 years lease at a peppercorn rent;
- (b) if the land or building is situated elsewhere, the lower of:
 - (i) the net price which its holder might reasonably expect to achieve on a sale of that interest; or
 - (ii) 20 times the annual rental which might reasonably be achieved from an annual tenancy

of the land or building.

Cases in which personal capital tax is not payable.

10. No personal capital tax is payable by an individual who, as at the date by reference to which his liability to personal capital tax would otherwise fall to be ascertained, has a taxable connection with Sark only by virtue of

- (a) his residence, or interest in a dwelling situated, on an island or islet which is separated from the main Island of Sark by a clear un-bridged space of water; or
- (b) his residence in Sark whilst in full-time employment, for less than 180 nights, and the whole in accommodation provided without rent or other charge by his employer.

Supplementary provisions

Interpretation and construction.

11. (1) A reference in this Ordinance to a provision by number and/or letter is to the provision of that number and/or letter in this Ordinance.

(2) A reference in a provision of this Ordinance to a subdivision by number and/or letter is to the subdivision of that number and/or letter in that provision.

(3) In this Ordinance “the Law” means the Direct Taxes (Sark) Law, 2002; and other words and expressions used in this Ordinance have the same meanings as they have in the Law.

(4) This Ordinance and the Law are to be construed as one.

Citation.

12. This Ordinance may be cited as the Direct Taxes (General Provisions) (Sark) Ordinance, 2003.