
STATES OF JERSEY



ANNUAL COMPANY FEES: GREEN PAPER – CONSULTATION AUGUST 2010 – SUMMARY OF RESPONSES

Presented to the States on 17th December 2010
by the Minister for Economic Development

STATES GREFFE

Summary of Responses

GREEN PAPER ON ANNUAL COMPANY FEES

7th December 2010

SUMMARY OF CONSULTATION DETAILS

The view of the public was sought as to the level of annual company fees in Jersey and whether these were set at a level which provided sufficient benefit to the States from companies incorporated in Jersey but which would not discourage businesses from coming to Jersey.

The Minister published a Green Paper entitled “Annual Company Fees” on 13th August 2010 with a consultation period until 24 September 2010.

The Green Paper provided a review of annual company fees in key competitor jurisdictions, raised the question of whether the flat fee system should be replaced with a tiered rate, considered the level of potential increase and compared the impact of an annual fee increase against an increase in the ISE fee (the fee paid to the Comptroller of Income Tax by “International Service Entities” in satisfaction of obligations to Goods and Services Tax).

The Green Paper made recommendations to retain the flat fee structure, to refrain from any increase in the ISE fee whilst other reviews are ongoing, to increase the annual company fee from £150 to £250, to commit to retain this level for at least 3 years and to ensure that the total annual company fees (including the ISE fee) should not exceed those payable in the Isle of Man.

The Green Paper included eight questions for respondents to consider and comment upon. The report and questionnaire were available on the internet and in paper form.

OVERVIEW OF CONSULTATION RESPONSES

In all, nine responses were received by the Economic Development Department with the majority by people linked to the finance industry. These included a consolidated report from Jersey Finance Limited which summarised the responses which it had separately received to the Green Paper.

Many of the respondents did not answer the specific questions posed by the Green Paper but instead wrote more generally about the subject. The responses which specifically addressed the eight questions posed are summarised below along with the general tenor of those who addressed the issues more generally.

1. *What is the likely impact on Jersey as a place to do business of an increase in the level of the annual company fee?*

Overall the views seemed to be somewhat neutral as to the impact on business of an increase. One respondent thought that the impact would be hard to measure but considered that any increases would tend to make Jersey less favourable as a jurisdiction and would not necessarily attract business. Another thought it would be difficult to justify to clients and a third considered it would have no impact on Jersey as a place to do business.

2. *What is the likely internationally competitive impact of an increase in the total level of Jersey annual statutory fees?*

The responses were relatively neutral but there were general concerns expressed about remaining competitive in relation to jurisdictions which offer the same services.

One respondent noted that small differences in cost, even in the context of substantial transactions, could prove decisive in practice and that initial set up costs and annual company fees play a surprisingly disproportionate role. Attention was drawn to the fact that the number of Jersey companies was small when compared with Cayman and BVI and perhaps a differential in the annual company fees would encourage more businesses to locate in Jersey.

Another respondent thought that an annual company fee increase would have no impact on Jersey's international competitiveness though it would be unlikely actively to encourage high-value investment structures to relocate.

3. *What are the advantages and/or disadvantages of keeping a flat system of Jersey company fees?*

Respondents thought that a flat system of company fees was simple, easy to understand and cheaper to administrate. None of the responses highlighted any disadvantages of a flat fee system.

4. *Do respondents agree that the increase in annual statutory fees should be by increasing the annual company fee and that the ISE fee should remain unchanged until such time as the other reviews of taxation and ISE fees are completed*

A significant number of the respondents felt that the ISE fee should be increased in place of the annual company fee with one suggesting that raising the ISE fee to £200 (together with a commitment to retain that rate for, say, three years) was the most palatable option for the Island.

The reasons included that a significant proportion of the population owned property holding companies by dint of the housing laws. One respondent stated that a significant increase in the annual fee would not be reasonable when such people had no choice concerning the mechanism of home ownership.

Some respondents thought that the ‘cost’ element of the annual company fee was around £35 and the remaining balance could be considered to be in the nature of a tax. This logic suggested that the more appropriate way to raise fees was through an explicit method of taxation such as in the ISE mechanism.

Another respondent thought that any increase should exempt local small trading businesses in the current economic climate and thus favoured increasing the ISE fee.

A further respondent felt that the ISE fee should remain unchanged.

5. *Do respondents agree that the company annual fee should not exceed the base fee (for non-financial services companies) charged by Guernsey (£250)*

Those respondents who specifically addressed this question were in unanimous agreement that the annual company fee should not exceed the base fee for non-financial services companies charged by Guernsey. Several respondents felt that an increase to £250 could not be justified on the basis of increased administration.

6. *Do respondents agree that the total annual statutory fees (a combination of annual company fees and the £100 ISE fee) should not exceed the amount charged by the Isle of Man (£360)*

Again, respondents were in unanimous agreement that the total annual statutory fees (a combination of annual company fees and the £100 ISE fee) should not exceed the amount charged by the Isle of Man (£360). Several respondents felt that a total increase to such levels could not be justified on the basis of increased administration costs.

7. *If an increase were to be implemented, would an above inflationary increase now be acceptable if the Government committed to fix that rate for a period of say 3 years?*

There was a common feeling that fixing the rate for a length of time was preferable and that the number and frequency of changes should be kept to a minimum in order to promote business confidence. Most respondents did not comment on the appropriateness of a 3 year fix. One respondent felt that whatever change was implemented should be kept in place for at least five years.

8. *Are there any alternative proposals that should be considered by Government?*

Generally it was accepted that jurisdictions levied fees for the services provided by companies. One respondent thought that locally owned Jersey companies should be, in some way, distinguished from those which are foreign owned, with the former being exempt from annual returns (and fees) and the latter having to file a return with an increased fee. One respondent thought that there should be no annual company fee at all in order to promote the competitiveness of the jurisdiction.

MINISTER'S / DEPARTMENT'S RESPONSE TO CONSULTATION

The Minister would like to thank everyone who has taken the trouble to participate in the consultation. Those responses which were received were both informative and well considered.

There were a number of common themes which emerged from the responses. Firstly, there was general agreement that it was important for Jersey to remain competitive compared to other jurisdictions. Unsurprisingly, respondents argued for as small an increase as possible, and also for any increase to be pegged to costs, inflation or fixed for as long a period of time as possible.

It is vitally important that Government listens to Jersey businesses. Significant weight was placed on the view that the suggested increase would have knock on effects and was an additional cost at a time when we are aiming for growth. Many respondents thought that an increase would have a significant and detrimental impact on small local trading and property owning companies and that they should be exempted, or that their position should, in some way, otherwise be mitigated. Practical considerations over the timing of any increase were also highlighted.

These and all the comments made were considered.

Whilst it was not a specific recommendation of the Green Paper, the Minister feels that the direction of those received responses points towards holding annual company fees at the current level for another year and that consideration is given instead to a modest increase in the ISE fee by way of alternative.

An ISE fee increase neatly avoids the perceived inequities that would be experienced by Jersey companies who exist only to hold property and also shields from further increase in overheads small businesses which operate only locally.

Of course, if this route is adopted all of the increase would be payable to the Treasury (as opposed to an increase in the annual company fee, where a proportion would go to the Jersey Financial Services Commission). As costs have risen since the last increase, it may well be necessary to realign the proportion of the annual company fee that is paid to the Jersey Financial Services Commission to ensure that all their costs are met. It is fundamentally important that Jersey invests in the Registries to ensure that they meet the needs of the 21st century.