

STATES OF JERSEY



Jersey

DRAFT TAXATION (INCOME TAX, GOODS AND SERVICES TAX AND REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202- (P.51/2021): AMENDMENT

Lodged au Greffe on 6th July 2021
by the Corporate Services Scrutiny Panel
Earliest date for debate: 20th July 2021

STATES GREFFE

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REVENUE ADMINISTRATION) (AMENDMENT) (JERSEY) LAW 202-
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PAGE 28, ARTICLE 37 –

- (1) In Article 37, after inserted Article 27C(2)(c) insert –
 - “(d) a warning that the third party is liable to prosecution if the third party discloses information relating to the notice to any person.”.
- (2) In Article 37, delete inserted Article 27C(3)(c).

CORPORATE SERVICES SCRUTINY PANEL

REPORT

Introduction

On 18th May 2021, the [Draft Taxation \(Income Tax, Goods and Services Tax and Revenue Administration\) \(Amendment\) \(Jersey\) Law 202-](#) was lodged by the Minister for Treasury and Resources (the “Draft Law”). This makes a number of changes to [Income Tax \(Jersey\) Law 1961](#), [Goods and Services Tax \(Jersey\) Law 2007](#) and the [Revenue Administration \(Jersey\) Law 2019](#).

The Panel agreed to review the Draft Law and engaged the services of an expert adviser to help scrutinise it.

Article 37 of the Draft Law introduces a new Part 6A into the Revenue Administration (Jersey) Law 2019. New Part 6A introduces a power for the Comptroller of Revenue (the “Comptroller”) to issue ‘Information Notices’ requiring a person to provide information relevant to a person’s tax position. Included within this is the power to issue an information notice to a third party requiring information about either a single person or a class of persons.

In particular, new Article 27C(6) imposes a criminal penalty on any person in receipt of a third party notice if they knowingly and without reasonable excuse disclose to any person other than the Comptroller that a third party notice has been issued or the contents or information relating to that notice.

Accordingly, the third party notice issued under Article 27C warns the recipient of this risk of prosecution, but by including this warning in the matters which may be included in the notice, the Panel believes that risks insufficient warning of the possibility of prosecution is given to the recipient.

On 25th June 2021 the Panel held a Public Hearing on the Draft Regulations with the Minister for Treasury and Resources. During questioning by the Panel members, the Comptroller indicated that in general Revenue Jersey would not be concerned about disclosure by a third party, and that this would only generally be an issue in cases of international tax investigations.

However, the Panel notes that the criminal penalty imposed by Article 27C(6) does not differentiate and proposes a criminal sanction for any breach (albeit with a reasonable excuse defence). The Panel therefore considers that the third party notice must always clearly state the position to the recipient so that they are aware that they are exposed to criminal sanction. The proposed amendment moves the provision that a warning is given about criminal prosecution for disclosure from the ‘permitted content’ in Article 27C(3) to the list of required content in Article 27C(2), becoming Article 27C(2)(d) rather than Article 27C(3)(c).

Conclusion

The Panel asks the States to accept this amendment which will ensure that recipients of third party notices are aware that they may be liable to criminal sanction for disclosure.

Financial and manpower implications

There are no financial or manpower implications in relation to this proposed amendment.