

STATES OF JERSEY



TAX LIABILITY OF ESSENTIALLY EMPLOYED PUBLIC SECTOR EMPLOYEES

**Lodged au Greffe on 18th February 2003
by Deputy P.N. Troy of St. Brelade**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that public funds should be utilised to meet the income tax liability arising as a result of the receipt of rental subsidies for those essentially employed public sector employees who have received such subsidies during the last 5 tax years, but to agree that no more than 50% of the liability should be met in this way with the employees concerned remaining responsible for the payment of the balance of the liability; and
- (b) to request the Policy and Resources and Finance and Economics Committees to take the necessary steps to implement the decision.

DEPUTY P.N. TROY OF ST. BRELADE

REPORT

On 18th September 2002 the Finance and Economics Committee considered a paper prepared by the Comptroller of Income Tax concerning tax due on rental subsidies paid to “(j)” category essentially employed public sector employees. Following the creation of a new assembly in 2003, the President of the Finance and Economics Committee convened what has been termed a “meeting of Presidents” on 13th January 2003 to discuss the problem. The meeting of Presidents could take no decision but could only make a recommendation to the Finance and Economics Committee and Policy and Resources Committee. The Finance and Economics Committee met on 15th January 2003 and the Policy and Resources Committee (since the demise of the Human Resources Committee, now recognised as the employer) met on 17th January 2003.

On 4th February 2003 I asked questions of the President of the Policy and Resources Committee concerning the circumstances under which a decision had been taken to utilise public funds in payment of the tax liability of “(j)” category essentially employed public sector employees. Many members expressed concern that public funds should be utilised in payment of a third-party tax liability, and the request that a report be prepared by the Policy and Resources Committee was accepted by the President.

From the question and answer session it became clear that both employer and employees had made errors in assessing their obligations to report rental subsidies to the Comptroller of Income Tax over an extended period, resulting in a demand from the Comptroller that the liability for the previous 5 years for each employee be paid to his department. At the time of writing this report there remains confusion over the exact sums involved, with reports in the media ranging from a total of £200,000 to £500,000. In his statement of 4th February 2003 the President of Policy and Resources referred to the sum as “*most unlikely to exceed £500,000*”.

The concept of underwriting the past tax liability of approximately 100 “(j)” category essentially employed public sector employees in relation to rental subsidies is a subject which should be debated by the Assembly. It is questionable as to whether the Rental Subsidy Scheme now has any credibility, as over the years salaries within the public sector in Jersey have become 20% to 40% higher than the equivalent in the U.K. public sector. Those who receive rental subsidies have what amounts to a pay increase over and above their work colleagues. However, if one accepts the situation in which we find ourselves, is it justifiable that public funds be utilised to pay the full tax liability on rental subsidies of employees?

In the President’s statement of 4th February he says –

“The problem had its origins in 1988, when the Finance and Economics Committee of the day approved the payment of rental subsidies to those who were recruited to the Island as “essential employees”. This approach was adopted because it was recognised that the cost of leasing or renting a property in Jersey was significantly higher than in the United Kingdom, particularly as these employees were obliged to rent in the “j” category market. It was apparent that if support was not provided it was unlikely that the States would be successful in recruiting such staff.

Unfortunately, it would appear that action was not taken at that time by the employing departments to establish the taxation consequences of such payments and this issue was not re-considered until recently, when a review of the arrangements associated with these payments was carried out.”

However, Members should be aware that every employer is under an obligation to make a return of earnings for all employees to the Comptroller of Income Tax, and even if the employee’s earnings had been correctly reported by the employer, (inclusive of the rental subsidy), it would fall to the employee to pay his/her own tax liability, not the States of Jersey.

Some employees have correctly declared to the Comptroller all rental subsidies received and paid the correct taxes due, while others have failed to do so. Why is it that some were aware of their obligations and others were not, given that since 1998 every tax form states ‘If your employer pays rent due under a lease in your name, that is taxable’?

On 4th February the President of Policy and Resources answered –

“I confirm that a small number of employees have correctly declared their rental subsidies whilst others have not. As I have stated earlier, in discussions with employees, it was apparent that there was a genuine lack of knowledge that such subsidies gave rise to a tax liability. This was not helped by the fact that their employer had not provided them with the information that would have assisted them in understanding their position. Indeed, in some circumstances, the method of paying the subsidy was convoluted and would certainly not have identified to employees that they were in receipt of a benefit that should be declared for tax purposes.”.

Despite the explanation given by Policy and Resources, there is an obligation for employees to declare the rental subsidy received to the Comptroller, and employers when submitting an employee’s annual earnings should declare the subsidy also. Here, both parties have failed to carry out their obligations and consequently both parties are at fault. Taking into account that both parties have made errors in tax reporting I ask members to agree that the employees concerned pay 50% of their tax liability, and that public funds are utilised only in payment of the other 50%.

In accepting a 50/50 split the Policy and Resources Committee and Finance and Economics Committee could agree to pay the total sum due to the Comptroller of Income Tax, and obtain reimbursement of 50% from employees in due course.

The financial implications of this proposition are self-explanatory and there are no additional manpower implications.