



## **Corporate Services Scrutiny Panel**

### **Income Tax (Payment of 2019 Liability) Regulations**

### **Review**

## **Witness: The Minister for Treasury and Resources**

Friday, 26th February 2021

**Panel:**

Senator K.L. Moore (Chair)

Deputy S.M. Ahier of St. Helier (Vice-Chair)

Senator T.A. Vallois

Connétable R. Vibert of St. Peter

**Panel Adviser:**

Ms. R. Benneyworth, Tax Consultant

**Witnesses:**

Deputy S.J. Pinel of St. Clement, The Minister for Treasury and Resources

Deputy L.B.E. Ash of St. Clement, Assistant Minister for Treasury and Resources

Mr. R. Summersgill, Comptroller of Revenue

Mr. R. Bell, Treasurer of the States

[15:01]

**Senator K.L. Moore (Chair):**

Good afternoon and welcome to this hearing of the Corporate Services Scrutiny Panel. The subject today is the regulations for the prior year tax changes. We have to start obviously with the usual introductions. I am Senator Kristina Moore and I am the chair of the panel.

**Deputy S.M. Ahier of St. Helier (Vice-Chair):**

Deputy Steve Ahier, vice-chair.

**Senator T.A. Vallois:**

Senator Vallois, a member of the panel.

**Connétable R. Vibert of St. Peter:**

Constable Richard Vibert, a member of the panel.

**The Minister for Treasury and Resources:**

Deputy Susie Pinel, Minister for Treasury and Resources.

**Comptroller of Revenue:**

Richard Summersgill, Comptroller of Revenue.

**Assistant Minister for Treasury and Resources:**

Deputy Lindsay Ash, Assistant Minister for Treasury and Resources.

**Treasurer of the States:**

Richard Bell, Treasurer.

**Senator K.L. Moore:**

We also have our adviser in attendance today.

**Tax Consultant:**

I am Rebecca Benneyworth and I am a tax consultant. I am the adviser to C.S.S.P. (Corporate Services Scrutiny Panel) for this project.

**Senator K.L. Moore:**

We have all become quite familiar with these remote hearings now, I think. If those who are speaking could use their cameras please. It is helpful to those who are hard of hearing to be able to lipread, in particular, but also it is always nice to see the person who is talking. We have, I think, an hour and a half to get through our questions. We hope that they will be answered in a full but relatively concise fashion, as we have come to expect from the Treasury team, so I am sure all will go quite smoothly. If we could kick off simply by starting with the situation around the 2019 income tax assessments. Have they all now been completed, Minister?

**The Minister for Treasury and Resources:**

They have, yes.

**Senator K.L. Moore:**

Good. Is there any data available on the final amount of that tax debt for that particular year? The distribution across the age ranges for the Jersey population will also be helpful for us, for the purposes of this review.

**Comptroller of Revenue:**

I think we forecast the 2019 liability at around £320 million to £330 million. From the data I have seen, which is not yet audited or reviewed, it is going to be slightly higher than that. Probably in the order of £340 million to £350 million. In terms of an age distribution, I think we can certainly attempt one, if not based on the 2019 data itself, on the 2018 data.

**Senator K.L. Moore:**

Perhaps we could ask, as soon as the division between the age ranges is prepared then if it could be shared with the panel we would be grateful. Comptroller, as you described, and I notice the change in language because my question was about the tax debt and you answered to tell us about the liability. Just for the sake of completeness, if you could give us your understanding and interpretation of the difference between the 2 terms please.

**Comptroller of Revenue:**

A tax debt in tax law would be an assessed amount of tax which has passed its legal due date and which has crystallised. That is to say, there is no further recourse to appeal or amendment in the normal course of things. In respect of what I think you are asking, which is about the amount of the 2019 tax liability, which was frozen by the law of 4th November. That is the amount I am referring to. It is not technically a legal debt and the way the draft regulations have been prepared, it is very careful to specify when parts of that suspended amount become a legal tax debt.

**Senator K.L. Moore:**

Thank you. With regard to the liability, you mentioned that the figures have not yet been audited. Is it the intention that the full breakdown and the audit will be prepared so that the data is before you prior to the regulations being debated?

**Comptroller of Revenue:**

No, I do not think so. I mean the reality is that the Assembly has suspended the 2019 liability. We forecast it to be in the order of £320 million to £330 million. As I say, it is looking like it might be slightly higher than that.

**Senator K.L. Moore:**

Are there any early indications of the choices that taxpayers are making with regard to whether they are going to take option one or option 2?

**Comptroller of Revenue:**

No, not really. Obviously the range of choices offered in the draft regulations are now in the public domain. People do not have to make those choices until autumn 2024. One of the important messages we will be giving to the public is that we will only really be providing information on the choices early in 2022; once the project has developed, the software and the systems to manage the system. The intention is we will really ask people to hold fire until thinking about this until 2022. Obviously many people will still approach us and ask questions and that is fine. The only thing I have a flavour of is that a number of people approach me to say that they intend to pay the debt off in a lump sum now and, indeed, a number have done so already.

**Senator K.L. Moore:**

Are you able to say what level of revenue has been raised through those lump sums as yet?

**Comptroller of Revenue:**

Yes, in the grand scheme of things it is not a significant quantity. I think about 150 people, or thereabouts, have already taken the opportunity to pay the 2019 liability as a lump sum. I think that is probably in the region of £1.5 million. It is probably worth caveating the data here because although I know that quite a few of those 150 are P.Y.B. (prior year basis) taxpayers who have just chosen to settle the amount, it will include the estates of deceased persons. It may include people who have left the Island.

**Senator K.L. Moore:**

How will the planned administrative changes that are necessary to implement the proposals be prioritised and how would the in-flows to the public purse then be predicted?

**Comptroller of Revenue:**

We are setting up a project team as we speak. That will seek to deliver the scheme and the necessary online services related to it so that people can, ideally wherever possible, make their elections online and make payments in the easiest way or make their election to defer until retirement and so on. In terms of forecasting the potential cashflow into the Exchequer, the treasurer may want to comment on this but we cannot forecast it with any absolute degree of certainty until people have made their elections. That will not be happening until the end of 2024. Clearly we know there is somewhere between £340 million, £350 million to collect. We know that if people pay that monthly over 20 years it will work out at a certain sum. We know that if 50 per cent choose to pay at the time they retire it will be a different sum. We can do some scenario planning around that

but in reality we cannot forecast it with any degree of accuracy until we know what people have elected to do.

**Senator K.L. Moore:**

We will go back to that topic, I think, a little later so we will have time to listen to any answers that the treasurer might have. Senator Vallois has a question.

**Senator T.A. Vallois:**

Comptroller, under the regime of a prior year basis and the changes that were made by the States last year, previously if you had overpaid on your prior year basis assessment you could opt to move that money to your following year to cover your tax liability under the Income Tax Law. What is the position now that that change has been made and we are still going through in terms of the regulations with this, in terms of the options that do not have to be decided until 2024, in terms of their ability to decide that that extra money that is being paid for their tax liability can apply to either their current year basis or to their tax liability as defined in these regulations?

**Comptroller of Revenue:**

I do not think the situation has changed substantially. It is still the case that if people have an overpayment on their tax account for any year of assessment or the current balance, they can elect either to carry it forward into the coming tax year or they can choose to have a repayment or they can choose to hold it on to account. For example, quite a few pensioners who are prior year basis taxpayers and pay on the pay-on-account scheme, so they make 2 payments a year in May and October, many pensioners, from what I have seen, chose still to make a November 2020 payment because they could afford to do so. That now is sitting on their account and is potentially, in the future, their intention to set that off against the frozen 2019 liability. But basically the options are there as they are now. The only caveat I suppose is that obviously the monies that were paid in 2020 for 2019 are now allocated to the 2020 year. So in some cases, outlying cases, that may give rise to a position where a taxpayer has an underpayment they did not expect to have, although that is going to be quite rare, I think. Or they might have a larger overpayment than they expected. But, as I say, I think in most cases pensioners have deliberately played it that way. Indeed a number of pensioners who have approached the Minister or phoned me, I have always said to them if you are on a fixed income and you have the money to pay your November 2020 payment on account it is probably the prudent thing to do because you will then have ultimately a lower 2019 P.Y.B. liability to address.

[15:15]

**Senator K.L. Moore:**

We are going to hand over now to the Constable of St. Peter, who will ask the next set of questions.

**The Connétable of St. Peter:**

Good afternoon, Minister and comptroller. I am going to look at the impact on individual taxpayers and firstly looking at married couples. Those that subsequently divorce need certainty about 2019 debt and how it will be allocated between them, especially as they will have to make elections by 30th September 2024. However, the current proposals do not appear to make any provision regarding the split for married couples. The 2019 liability is obviously still legally due by the husband. What provisions will be made to formally allocate the debt between the couples on divorce.

**The Minister for Treasury and Resources:**

It would be the same as it is now inasmuch as the husband, as you quite rightly say, will be liable for the debt and it would be - I will hand over to the comptroller who can give you the details - but would be dealt with in the legal part of the divorce, as it would be now.

**Comptroller of Revenue:**

It probably is worth saying, we do not really envisage this being any different from the present situation. If a married couple do decide to divorce the debt, as a matter of law, belongs to the husband or other spouse A and what happens is that when they sit down with their lawyers and look at their income and assets and liabilities, they divide them as they agree between them. It is exceptionally rare for a lawyer or for the couple to ask the comptroller to intervene but if they were to do so then the existing Income Tax Law would allow me effectively to say what proportion of a tax liability belonged to the wife in her own right on account of her own income. That is how it operates. That is effectively how it would operate for any tax liability or debt. It is an exceptionally rare occurrence and, of course, ultimately when independent taxation is introduced we will not be faced with any of these unusual questions in the future.

**The Connétable of St. Peter:**

I was going to mention that but of course you have managed to make provisions for business partnerships where the split will be based on profit-sharing arrangements of the firm.

**Comptroller of Revenue:**

That is a very different circumstance where the 2019 liability belongs to the partners in the partnership of today. We have made this arrangement. It was requested by some of the accountants in the Island who pointed out that in 20 years' time the partnership and the partners may be very different people. There was potentially going to be an intergenerational dispute between the current and future members of a partnership. The regulations make provision that the current partners, who own those liabilities, can account for them and that we are making provision

to earmark those now. Obviously if the partners are still there in 20 years, they can avail themselves of all the benefits of the regulations. As I say, we were lobbied on by the taxation community, which was a fair point, and we have made provision for. I suppose you could say that is an issue of intergenerational fairness.

**Senator T.A. Vallois:**

Just to follow up on the comptroller's answer there, can I ask then: even though you have taken soundings with regards to the partnerships, with regard to the accountants. At what point in the 20-year period with regards to this tax liability you would expect independent taxation to come into force in terms of practicalities for the public?

**Comptroller of Revenue:**

I think the Minister has said in public that she aims to begin the process of moving to independent taxation from 2022, and I know that her thinking on this is developing and is very current and that announcements will happen soon. I will not say much about that and maybe hand back to her on that. But obviously, as soon as a married couple enter independent taxation and move away from married taxation then their tax affairs become entirely discrete and separate, and they move forward from that point. At the point a couple moves to independent taxation, that does mean that the husband, if it is an opposite sex marriage, does remain liable for any previous historic tax debts. But I think then what I explained a moment ago to Constable Vibert kicks in. In the unfortunate event that that couple do divorce they would sit down with their lawyers and look at their assets and liabilities and reach an arrangement on them. As I say, in extreme circumstances, if they cannot reach an arrangement the law allows me to help allocate the responsibilities appropriately and proportionately. I will hand over to the Minister.

**The Minister for Treasury and Resources:**

Yes, we are working along the lines as described by the comptroller, to announce probably in a couple of weeks the way forward with the independent taxation. We have done a huge amount of work on it and, as the comptroller alluded to, it will make independent taxation much easier once we have the P.Y.B. to C.Y.B. (current year basis) sorted out. I am just reluctant to go into it not because it is secret but just because, from a public hearing point of view, it is quite easy to confuse the 2.

**Senator T.A. Vallois:**

Can I just clarify from the comptroller? In terms of when we are talking about moving to independent taxation he referred to a tax debt and previously in answer to the chair, he referred to the 2019 tax liability as not being a tax debt. How would that configure in the means of moving to independent taxation and the onus upon the other partner, which lies within the Income Tax Law?

**Comptroller of Revenue:**

Sorry, when I was answering you I was speaking generally. Let us say a married couple enter a state of independent taxation in 2025 then, for the sake of argument, if the couple had a tax debt from 2022 or 2023 that would still, in law, belong to the husband and we would not propose to do anything about that because that would involve retrospective legislation. What would happen, as happens now perfectly easily and well, is that when people divorce they settle these things between themselves and the taxman only intervenes in extremis. If, for example, somebody entered independent taxation in 2025 and they were a P.Y.B. taxpayer and they had a 2024 debt, and the 2019 frozen liability, those 2 things will be treated separately; the 2019 liability would be treated according to these regulations and the 2020-odd debt would be treated according to existing law.

**The Connétable of St. Peter:**

I shall return to the question plan. 20 per cent of P.Y.B. taxpayers who will be due to repay the 2019 liability are currently over pensionable age. Have the Financial Directions taken into account the impact of this on the timing of the repayments to be received?

**Comptroller of Revenue:**

I believe so. We have done quite a lot of modelling on this. The Minister is particularly concerned about lower income pensioners and the panel itself of course asked her to think about whether it will be possible for lower income pensioners or pensioners to pay from estate, and that option has been created in the regulations where lower income pensioners might be in financial distress even if they have to pay over 20 years. I think from the modelling we have done, we are very satisfied that over a 20-year period, even for pensioners on lower fixed incomes, the proportion of the repayment relative to income is going to be manageable. But the regulations do provide for payment from estate. I think, as ever, the ultimate backstop is always that Jersey's tax law does give Revenue Jersey, the comptroller, and the treasurer in this instance, the flexibility to extend time to pay arrangements wherever it is necessary to do it. I think there are sufficient safeguards in place and I think most pensioners on a fixed income will find that over a 20-year period the annual or monthly payment they choose to make will be a fraction of 1 per cent of total income.

**The Connétable of St. Peter:**

Thank you. Where a person's 2020 liability is considerably higher than their 2019 liability, the report accompanying the regulations indicates that Revenue Jersey will consider providing some relief in cases of hardship on a case-by-case basis. What steps will be taken to publicise this?

**Comptroller of Revenue:**

This is really alluding to what is the common practice of Revenue Jersey and, indeed, the Treasury when it comes to dealing with any taxpayer who finds themselves unable to pay the liability. The



website does contain information on our time to pay arrangements. I think the report says that where people's 2020 liability is greater than their 2019 as a result of an increase in their income our general expectation would be that they should be able to pay their taxes from that. There are other situations and during the course of the survey and the focus groups we thought, in particular, about people who were returning from career breaks or maternity leave and so on, so their 2019 income was potentially lower than the 2020. We would exercise the existing discretions that we have to make time to pay arrangements over an appropriate period of time and according to people's ability to pay.

**Senator K.L. Moore:**

I just wanted to ask the comptroller if he could elaborate just briefly on that point? In the circumstances when the liability is higher for 2020 there is an impact and a theory that the 2019 amount grows at a rate that is disproportionate over a time period. Are you aware of this or have you considered that circumstance and how it might be deemed to be?

**Comptroller of Revenue:**

I am not exactly sure I understand the point. I mean certainly there could be some cases.

**Senator K.L. Moore:**

If I could just explain. If somebody has been making payments in 2020 for 2019, however they have earned a greater sum in 2020 and therefore what they have paid in 2020 is now counted as 2020's liability rather than 2019.

[15:30]

Therefore they begin in a deficit position and how do you determine what should be done to help people overcome that?

**Comptroller of Revenue:**

Yes, I think that was what I was describing with Constable Vibert. There are some circumstances where a P.Y.B. taxpayer will have earned more in 2020 than in 2019, so by transferring their 2020 payments to the 2020 bill they will have an underpayment on their 2020 liability. Those are the circumstances when if they are wrong-footed by that, that we could use existing procedures and easements to allow time to pay. As I said, if they are in that situation because they have had increased pay we might expect them to be able to afford to do it but if they cannot we would obviously address that. But more particularly there will be people who return to the workplace full time in 2020 who were only in the workplace part time in 2019. We were particularly keen to make sure we could alleviate any issues caused by that.

**Senator K.L. Moore:**

I will hand over to Deputy Ahier, and I see Senator Vallois has a follow-up question but that sits within the questions that Deputy Ahier has so I shall allow her to follow up once these questions have begun.

**Deputy S.M. Ahier:**

Moving on to protecting public revenue. Where a person makes an election for deferred payment what steps will be taken to ensure that the liability will be paid when it falls due?

**Comptroller of Revenue:**

This is the additional provision that the Minister made partly based on focus group feedback and also points raised in the C.S.S.P. report. We were particularly keen to help younger P.Y.B. taxpayers still homemaking and family growing who might yet have to face perhaps school fees or university fees. So they have been given the possibility to elect to pay the liability at the point they retire. The regulations basically envisage people relying on a pension or another financial product or some form of asset. Now we did not want to be overbearing with this but equally the focus groups and indeed the States Assembly did not want us to be too cavalier. As usual, it is about striking a balance. The regulations give the comptroller and Revenue Jersey powers to satisfy themselves that if a taxpayer chooses to satisfy the liability on retirement that they do indeed have wherewithal and a plan. The law allows us to check that from time to time. What we would certainly do, which is what we do with all of the issues we handle in the tax world, is attempt to do that on a risk basis. Once we know what people have elected to do, if they have elected to pay on retirement and we know what the product is or the asset that they are effectively committing to make payment from, that is something we would keep under review in ongoing compliance programmes. So we may, for example, occasionally ask the taxpayer to reconfirm that they still have a pension in place, that they intend to pay the amount from the pension pot. Ultimately, as with all tax matters, at the end of the day if a taxpayer does default and tax debts do crystallise then ultimately we would use the normal procedures that are always used for trying to secure a tax debt.

**Deputy S.M. Ahier:**

Is it intended to seek evidence in every case where an election for deferred payment has been made?

**Comptroller of Revenue:**

No, I do not think it is. Again, as I say, we want to strike a balance. On the whole, we find that Jersey taxpayers are good for the money and good to their word. We would do that on a risk basis. We would not want to trouble or pester every single taxpayer who made that election. We would

very much consider our existing information about taxpayers and their assets and income, and so on. We would do analysis on that basis. There may be occasional checking with some taxpayers, partly on a random basis but mainly on a risk basis.

**Deputy S.M. Ahier:**

It is mentioned in the report that Revenue Jersey may ask customers to provide proof that their arrangement is in place from time to time. Do you believe that maybe that should have said “must”?

**Comptroller of Revenue:**

Ultimately that is a matter for the States Assembly. I think the feedback from the Island-wide survey and from the focus groups is ... I mean it is balance. People want flexibility, they want the widest flexibility. They want us to make it easier for people to pay. They want us to make it as long as possible, the payment period. But equally they do not want people to get away with not paying it. So I think “may” is right in this case because it allows us to operate on a risk basis, which is better for the public purse because it means we can focus on areas where we think there is a real risk of default and it does mean we do not go troubling people unnecessarily who were always probably going to be good for the money, putting it crudely.

**Deputy S.M. Ahier:**

Has the Minister considered asking persons who have made an arrangement for a deferred payment to declare on an annual basis that they confirm they will be able to pay when the liability falls due? For example, incorporating a question in the annual return and having a box to tick.

**The Minister for Treasury and Resources:**

As the comptroller has said, the whole idea of the regulations, and we certainly have listened to the panel’s suggestions, the focus groups, the survey, and the States Assembly. The regulations are designed to be fair and to produce the maximum flexibility. It also meets the different needs of P.Y.B. taxpayers at different stages in their lives. I think the “may” is appropriate in this case rather than “must”. But obviously if there is difficulty in repayment then they need to speak to the tax office, as they do now. That flexibility therein lies.

**Deputy S.M. Ahier:**

If I may offer a possible scenario where a person has elected for deferred payment to be met from their occupational pension however at the age of 55 they draw down their lump sum and fail to inform the comptroller of this change in circumstances. Some 12 years later the 2019 liability falls due but the individual has no assets with which to make the payment. What provisions are there to deal with such situations and how would the 2019 liability be collected?

**Comptroller of Revenue:**

Funnily enough all pension providers are obliged to send data to me about drawdowns, particularly where there are provisions in pensions tax laws. One of the things we routinely do every year is check those things against individual tax returns. Undoubtedly one of the checks we will be making in the future is where we see drawdowns or commutations of pensions notified to us by the provider for Jersey residents that we will be undoubtedly crashing that data with the dataset for the P.Y.B. liability. In that particular case, that is certainly one of the risk-based procedures we will be conducting, and if we do see that somebody had committed to pay from a pension and then we perhaps see them commuting the whole pension, if it is a trivial or small pension pot, we would be able to undertake inquiries. But clearly there are scenarios. In most cases we would ideally want the commitment to be against a financial product like a pension but it is not out of the question that taxpayers may ask us to take a hypothec on their house or something like that, which is in some ways a greater security, certainly when it comes to paying from estate rather than on retirement. But these are exactly the sort of areas where being able to operate on a risk base rather than a mandatory checking of every single P.Y.B. taxpayer or former P.Y.B. taxpayer is the most efficient and proper value for money thing to do.

**The Minister for Treasury and Resources:**

Can I just add to that, Steve? The hypothec mentioned by the comptroller is already in part of the legislation of the long-term care law, so if people cannot afford to pay up to the cap of I think it is about £58,000 now, then a hypothec on their property can be taken if the property is worth more than, I think, about ?450,000. That is already there in legislation so can be achieved.

**Deputy S.M. Ahier:**

Minister, you do consider that there are sufficient powers available and existing law to collect the 2019 liability?

**The Minister for Treasury and Resources:**

As I say, there is already that example to do that so yes, I think so.

**Deputy S.M. Ahier:**

I now pass over to Senator Vallois.

**Senator T.A. Vallois:**

Just a couple of follow-up questions from that last round, if I may. There was a question by the Constable of St. Peter around government financial projections. My question around that is I suppose more pointed towards the treasurer. I believe last term we changed the stated principle around accounting for a proportion of prior year basis in our accounting methods, in terms of the

taxation system that we have. How or will this affect that method and how will that change with this 2019 liability?

**Treasurer of the States:**

It is a good question. The change to the recognition of income arising from income tax in respect of P.Y.B., as you say, Senator, was a couple of years ago in accordance with accounting standards and the expectation of recognising the tax on income as the individual earns it. So the accounting standards are already ahead of this particular change in terms of how it will be treated. The difference that is created is that this essentially will place the liability into longer-term receivables rather than receivables in the following year. That change will follow the agreement of the regulations.

**Senator T.A. Vallois:**

Can I just check then? How does that fit with regards to say, for example, the Public Finances manual or the accounting methods that are required in terms of the public sector to recognise that change in receivables?

**Treasurer of the States:**

They are general accounting principles in terms of recognising the receivable either in the following year or now what will be some years ahead. We will only be able to clarify that totally. At the moment it would become more than one year rather than in the immediate year following the year of account. It does not change income recognition in terms of the income and expenditure account. It is really just the classification on the balance sheet between categories.

**Senator T.A. Vallois:**

It is just trying to understand from a layman's point of view how that looks in terms of the accounts and that is where I was trying to get an understanding from yourself what that means.

[15:45]

**Treasurer of the States:**

From an income and expenditure there is no difference. From the perspective of balance sheet it is really just a slight reclassification of a current asset to recognise that as a longer-term receivable to Government that we will work through once the regulations have been agreed. You will not see that in this year's accounts, if I understand correctly, because the regulations have yet to be agreed. But this is the second year that we will have been recognising income in this way in any case, but now all that changes is how we classify ... I am struggling not to say "debt", the asset receivable.

**Senator T.A. Vallois:**

I recognise our adviser has a question so I will hand over to her for the next question.

**Tax Consultant:**

It is just a follow-up for the comptroller and to the responses about the scenario that was painted and references to being able to match information from a pension company to your database, or possibly looking at somebody's property as the source of the repayment. Comptroller, as the regulations stand, the right to elect for deferred payment is automatic, so it is just a simple election with no permission required. At the moment you are not looking for evidence from every person who elects to defer payment as to how that payment is going to be met. Can you reflect for us on your ability to do your risk-based assessment if you do not have information from every individual about how they are going to meet that debt? At the moment they are not required to tell you whether it is out of pension, out of long-term savings, out of an anticipated inheritance or an investment property. That makes it much harder for you to use that risk-based approach that you have described. Could you give us a little bit more on that?

**Comptroller of Revenue:**

Yes. I think we will be asking people as part of the election process to set out what their proposal is for ultimate payment.

**Tax Consultant:**

Okay, thank you. We will have to reflect as to whether that power is currently in the regulations or not. We will leave that to have a mull over.

**Comptroller of Revenue:**

Yes, by all means. There are a couple of our technicians on the line who may be able to answer that more fully if they are able to do so now and in the conference, however I think the general 1961 law allows me to specify the nature of all returns. If we think that ought to be included in the regulation then that will be a useful thought.

**Senator T.A. Vallois:**

I believe it is back to me around the next area of questioning. To give some context, with regards to the report to the regulations that you have put forward you state that the purpose of making any remaining 2019 liability due is to help ensure that the administration of the estate is not unduly prolonged. Could you explain what that means and how it will help to ensure that the administration of the estate is not unduly prolonged in that sense?

**Comptroller of Revenue:**

I think in general in the Jersey estates law there is a requirement for the estate to be wound up within one year of the death, or at least the tax aspects of it. Basically the comptroller cannot pursue an estate after one year. The provision is to make sure that where a liability is indeed a debt and it has crystallised that it crystallises within that one-year timeframe set in the estates laws.

**Senator T.A. Vallois:**

On the basis of that answer, I will give you a hypothetical scenario that may come to fruition during this period. Where a person with a 2019 liability dies without leaving any assets but leaving a widow or surviving civil partner, is it intended that the remaining 2019 liability be collected from the surviving spouse or the civil partner? If so, what legal mechanism will enable you to do this particular requirement around ensuring that you obtain that 2019 liability?

**Comptroller of Revenue:**

If the scenario is that a 2019 liability is left by a deceased husband and that the widow is left with no assets whatsoever I do not think we would be pursuing the widow. The tax debt does belong to the husband and to his estate. If the widow were left with assets we would certainly seek to recover it, but obviously with the greatest of sensitivity. This really would, as it always does on these matters, depend on the net wealth that people are left with. In the scenario, for example, where the widow was left with a home but no immovable goods we certainly would not be pursuing the real estate while she lived.

**Senator T.A. Vallois:**

I suppose from that answer the question really lies around the ability for the Revenue Department to properly analyse and risk assess the ability for individuals to pay back that 2019 liability in order to get maximum return of what would have been expected. I suppose the question is where or how does that criteria lie in terms of that risk and who determines that criteria?

**Comptroller of Revenue:**

I think to some extent this is why the general expectation of Ministers in the regulations is that most people certainly who are working now will pay it over 20 years from earned income or on retirement and that even most pensioners will by default pay over a 20-year period and that most will do so. The Minister did agree to consider payment from estate as an option and the regulations do limit that to low-income pensioners who would be in real hardship if they had to make regular payments otherwise. The reason that the regulation has been crafted in that way is really to avoid this sort of risk. I suppose there are 2 risks. You paint the scenario of a very low-income pensioner with no real assets other than maybe a home. The other scenario is very wealthy pensioners who take steps to ensure that as they approach the dreadful day they have dispersed their wealth in such a way that the P.Y.B. liability does remain unpaid. Quite a lot of consideration has gone into the

crafting of that part of the regulations and indeed I think one of the panel members was involved in some of the discussion around that at a recent workshop with various interested Ministers and States Members.

**Senator T.A. Vallois:**

Thank you for that. Can I ask if you can describe how the collection of the 2019 liability will be affected by, for example, personal insolvency during the period from the commencement of the regulations until the end date of 2041? I think our personal insolvency is slightly different in Jersey but from your point of view, as the comptroller, how will that work and what does that mean?

**Comptroller of Revenue:**

I do not think, and this is without reference to all of the law and guidance on this, it would operate any differently from usual. If a person becomes personally insolvent obviously any tax debts that are on file may be pursued by the Viscount if there are assets to pursue alongside any other debts to the treasurer of the States. If the Viscount informs us that there are no assets to pursue or that there are insufficient assets to satisfy all debts to the treasurer then the sums would be written off, as they are now.

**Senator T.A. Vallois:**

To slightly follow up on that before I hand over to the chair, when you refer to utilising the Viscount particularly with regard to tax debts, I hate to keep bringing you back to this, but at the beginning of the hearing there was a difference in the language around what the expectation of a tax debt and a 2019 liability was. The explanation I am looking for is what it means for the 2019 liability in personal insolvency rather than more the general terms of the Income Tax Law.

**Comptroller of Revenue:**

What the regulations do effectively is that they make 1/17th of that liability a tax debt at a point in time over the next 20 years. So for example if at the end of year one of the deferment plan the taxpayer legally owes 1/17th of the liability, if at that point they go insolvent and do not pay it the tax debt is that 1/17th and that 1/17th could, if appropriate, go into the Royal Court certified by me, the Bailiff would issue an order for payment and the Viscount would pursue it. If the Viscount said there was no money to be had the 1/17th would have to be written off. The rest of the liability I think, and I will check this afterwards, because they are insolvent will fail to become a tax debt in future years so it will cease to exist. However if the taxpayer, and this is not what I am quite clear of Jersey insolvency law, becomes solvent again I am fairly certain that the existing law would allow the liability to be resurrected and pursued. Obviously in the case where a taxpayer thinks they are becoming insolvent I think they can ask for the one-year payment holiday and, if necessary, ask for further



payment holidays while they get back on their feet, but if they became legally insolvent I think that is how the regulations and the general tax law would operate.

**Senator T.A. Vallois:**

The final one before we move forward is to the treasurer on that point around accounting methods again and what that would look like in terms of projections for the accounting methods for bad debt. We have an ageing population in Jersey and around the world.

[16:00]

What consideration has been taken into account from the potential of not just insolvency but the hypothetical example I have given in terms of spouses may not have assets to provide the payment for that liability and going through that requirement in legal terms to obtain what is the 2019 offering that is in place? I am not going to use the exact language because we seem to get confused slightly between what is being asked for in the regulations with regards to the 2019 liability and what is referred to as a tax debt in the Income Tax Law. I think they are 2 very different things, so understanding that from a governmental financial projection point of view, I would like to understand from yourself, treasurer, how that will be taken into consideration for bad debts in the future?

**Treasurer of the States:**

That would be as we do it now in terms of applying our experience and what is changing. So a very good example of this may well be in coming months or the coming year the extent to which that experience changes as a result of COVID in respect of tax debts that are tax debts already. It would be a matter of not just applying some formulaic approach but to look at experience and to get also some judgment from the comptroller's team and my debt team with regards to scale of debts, and I am talking about debts that are already in play and the extent to which individuals have debts. That would just evolve into our existing bad debt experience in coming to the estimates or provision in the accounts.

**Senator T.A. Vallois:**

Okay, thank you. I will pass on to the chair for the next area of questioning. Thank you all for your answers.

**Senator K.L. Moore:**

Thank you and I think our adviser has a follow-up question. Rebecca, can I hand over to you briefly?

**Tax Consultant:**

I have asked the question that I asked for but I have got just one more little thing in relation to the last little bit that Senator Vallois was asking, not on bad debt but going back a little bit to this collection from the estate. Can I clarify with the comptroller - and we got into would the widow or surviving civil partner have assets, on the death of the husband, let us say - what we have got in the regulations is a provision to then bring the balance of the liability as a debt. Forgive me if I am asking a question that I possibly ought to know the answer to. Is it, in principle, collectable from not the assets of the estate but the assets of the surviving spouse or civil partner?

**Comptroller of Revenue:**

No. In principle, and it is important to do this in the regulations, death creates a tax point, a fairly fundamental tax principle, as you know. In a system of married man's taxation when the husband dies the tax point is created, the tax debts are there. If the estate is rich enough then obviously we would like the tax debt then crystallised to be paid from estate. If the estate is not rich and that would leave the widow in distress then what we would certainly do is agree with the trustees and/or the widow a continuation at the very least of the existing arrangement or a new time to pay arrangement. I think the Minister has made it very clear she would never be turning somebody out of their home. I think that is a point the C.S.S.P. also made at an earlier stage. There is no question of that.

**Tax Consultant:**

That is fine. That clarifies it for me. All I was trying to get at is does the liability switch over to the assets of the surviving spouse, if they have any, and it sounds as if the answer is no. That is great. Thank you very much.

**Comptroller of Revenue:**

It might just be worth me saying a little more about the debt versus liability issue if it is causing confusion.

**Tax Consultant:**

I think now I have got it, in that it is a liability and it is triggered into a debt by the regulations.

**Comptroller of Revenue:**

It is quite important in terms of another issue the panel has raised on a number of occasions, which is the position of lenders. By doing it this way it does significantly obviate any issues with mortgage payments and so on, and getting a mortgage.

**Tax Consultant:**

Yes, I think I have got that one absolutely clear now, that it only becomes a debt when prescribed by the regulations. Thank you for that.

**Senator K.L. Moore:**

Thank you. Now we are going to talk a little about general implementation of the proposals. As you have outlined already this afternoon there is a time lapse before the collection will begin and taxpayers make their decisions about how they wish to repay the liability for last year. Is there a road map or a plan that you can briefly talk us through for that implementation process yet?

**Comptroller of Revenue:**

I think I would say at this stage there is a plan for a plan. We are currently assembling a project team and once that team is in place their task is to develop a scheme of election, application and payments that does mirror the draft regulations. In drafting the regulations we have worked very closely with colleagues across the Treasury and operational staff in Revenue Jersey to make sure that what we are proposing in the regulations is indeed deliverable, and we believe it is. We will certainly be using the new revenue management system to deliver part of this but we may also need to develop some additional functionality in the Treasury or elsewhere to provide the full functionality we envisage. The team is being set up and we would expect to get on with detailed planning over the coming months.

**Senator K.L. Moore:**

Could you describe for me what you mean by full functionality?

**Comptroller of Revenue:**

Ideally because this potentially is affecting 35,000 existing P.Y.B. taxpayers we want to do as much of it electronically online so we need to develop an online system for making applications and elections. We want to make sure that our existing payment portals are up to the job of the flexibilities that this scheme will offer. We need to have registers of people who have made elections either to pay from retirement or estate. There is a degree of functionality that is not present in our existing systems that we need to develop.

**Senator K.L. Moore:**

Do you see this as a bolt-on to the new tax system that you have in your department or will it be a discrete, set aside project?

**Comptroller of Revenue:**

I think it will be a combination. One of the things I think we are all keen to do, particularly for former P.Y.B. employees, is to enable them to be able to make their payments through the existing income

tax instalment scheme, which is our version in Jersey of the pay-as-you-earn system effectively. I imagine quite a lot of employees will effectively ask us to up their I.T.I.S. (Income Tax Instalment System) effective rate, their monthly deduction and collect it through their employer through the I.T.I.S. scheme.

**Senator K.L. Moore:**

How do you see members of the public approaching the department to make that request?

**Comptroller of Revenue:**

In the first instance it is probably worth saying that we will be heavily encouraging people not to approach us at the moment. There is no need to. They do not need to think about this until 2024 at the latest and the plan at the moment is most of the communications around this will be issued early in 2022, and that is when we will give people information about the choices and how they can make the elections. As I say, we really want them wherever possible to engage online, but as ever there will be people who want to engage on paper and we will have to make sure we have got a system in place to cope with that. I hope that the majority of people will be prepared to make their election, their application and set up the arrangement through an online process. That will make it less costly and more efficient, but we will, as we always do, cater for those who are not comfortable with online services.

**Senator K.L. Moore:**

When considering the functionality of this technological support will there be opportunities for taxpayers to observe how much they have paid and to be able to quickly reference that within the programme?

**Comptroller of Revenue:**

That was one of the big things from the focus groups. They did say that they would like an all-singing, all-dancing super online service that told them what the state of the liability was and gave them flexibility. We do need to think about whether that requires some separate development but we will, wherever we can, build it into our existing systems. Certainly that is what taxpayers who were at the focus groups said that they would ideally like to have.

**Senator K.L. Moore:**

Therefore I anticipate that you endeavour to meet that expectation?

**Comptroller of Revenue:**

We always do and we will continue to strive to do so.

**Senator K.L. Moore:**

Thank you. I am going to hand over now to the Constable of St. Peter for some further questions.

**The Connétable of St. Peter:**

Thank you and continuing with implementing. When a person applies for a second or subsequent payment holiday the regulations confirm the comptroller may approve the application. Will the basis of approval or refusal of such an application and the factors the comptroller must or can take into account be on public record?

**Comptroller of Revenue:**

Yes, I think we absolutely will have to issue guidance on our policy on what guides these things. I do not think it will be very different from materials you can find on the Treasury website already but clearly we have to guard against the scenarios that Deputy Ahier and Senator Vallois have mentioned to avert the risk of people becoming insolvent or manipulation of estates and so on. The regulations automatically give people a one-year payment holiday. If they ask for a second or third we will look more carefully at those cases to make sure it is right to agree that and to make sure that people are not getting into a position where they may ultimately default. Absolutely further policy will be developed but on the back of existing policies that affect decisions on time to pay made either by Revenue officers or Treasury officers.

**The Connétable of St. Peter:**

Would that include other areas where you might have discretion as well?

**Comptroller of Revenue:**

Yes. Any area where the comptroller has a discretion in law we do generally try to set out in our website guidance how we exercise that discretion in broad terms. It is good practice and we try to do it.

[16:15]

**The Connétable of St. Peter:**

When you are collecting the 2019 revenue over the years you have got a budgeted amount that you believe you will collect. How will your performance against that budget year-on-year be reported? Will that be in the Government accounts?

**Comptroller of Revenue:**

I think that is possibly more for the treasurer than I, but we will certainly be tracking the collection rate against the expected and profiled collection expectation. That will be a high-level indicator for the treasurer as to whether people are meeting their obligations and commitments.

**The Connétable of St. Peter:**

Thank you very much and I will hand over to Deputy Ahier now.

**Deputy S.M. Ahier:**

Thank you, Connétable. Moving on to resources implications for Revenue Jersey. Is the process of moving payments originally made against the 2019 liability to the 2020 liability a manual or an automated process?

**Comptroller of Revenue:**

It was very largely an automated process and that was much easier to achieve because we were tackling the whole population all at once. Effectively our suppliers wrote computer scripts that were uploaded early in January or very late December and automatically all of the payments went from the 2019 ledger to the 2020 ledger. That seems to have gone very smoothly indeed. That was not greatly labour-intensive. The real labour there was the thinking and the specification of the scripts that were ultimately written and deployed.

**Deputy S.M. Ahier:**

Has that now been completed?

**Comptroller of Revenue:**

Yes.

**Deputy S.M. Ahier:**

We note that additional financial resources have been made available to Revenue Jersey to help with staffing. Is Revenue Jersey's staffing up to full strength now?

**Comptroller of Revenue:**

Yes, and it is possibly above its full complement. The complement I think at the moment is 120.5 full-time equivalent officers. The Minister has authorised additional recruitment. We have already recruited some new staff that are in training and we are starting to deploy. The intention is that we will run with an elevated level of resourcing for 2 to 3 years. The reasons for that are several. As you know our workload doubled in 2020 and has created quite significant backlogs of work that we are still clearing. The transformation programme is causing extra work. Some of the legislative changes are increasing demand and then the Minister is also very keen that we are resourced to

cope with increasing demand arising from the P.Y.B. changes and also the further changes to the personal tax system that she alluded to earlier.

**Deputy S.M. Ahier:**

How many of those staff are currently in training? I understand that it takes about 2 years for them to be fully trained.

**Comptroller of Revenue:**

I am afraid that is a bit like how long is a piece of string? The reality is that depending on the grade of a Revenue officer the training can take 6 months, it can take 2 years, it can take 3 years, particularly if we are asking people to study for external qualifications to get to the level of competence we would expect from the most specialised tax officers. At the level we are talking about, which is largely bringing in front line people who have no tax experience, they might be school leavers, university leavers or people who have sadly in the current circumstances been made redundant in other parts of the economy, we can usually get them up to speed within 6 months and we can usually get them doing some effective work within weeks. For example, at the moment I have got a young man sitting close to me in the Broad Street office who is being trained to work the Income Tax Instalment System. He is already answering phone calls from the public and doing a very good job of it.

**Deputy S.M. Ahier:**

You just mentioned that you were expecting to have additional resources. How much will these cost and has that been funded through the allocation from the Government Plan or has it been funded in another way?

**Comptroller of Revenue:**

At the moment we are largely funding from within existing resources provided in the Government Plan but the Minister is due to consider new business cases that will provide some of the extra funding needed for the P.Y.B. project, for example, and to make sure we really get on top of the customer service issues. As I say, the last year has really knocked us for 6. Our telephone calls increased by 80 per cent and written enquiries by around 100 per cent. It is very difficult to cope with those quick increases in volume, given the learning curve and issues around recruitment in the lockdown.

**Deputy S.M. Ahier:**

Thank you. I will now pass back to Senator Vallois.

**The Minister for Treasury and Resources:**

Sorry, Steve, can I add to that? I think it has been an extraordinary demand on Revenue Jersey with the changing of the computer system, as you will be very aware of that very outdated system and the training of the personnel to manage that, all confounded by the pandemic and then with changing this antiquated P.Y.B. to C.Y.B. law, which has been on the cards for years and years but has not been done and of course then bringing in independent taxation, which again is an archaic law and needs to be changed. It is a huge amount of demand and with the pandemic, as the comptroller said, the phone calls, enquiries, both written, email, and any other way, have been absolutely extraordinary, understandably, so a big demand on the department and they do need the additional resources to do the 2 changes in the law.

**Deputy S.M. Ahier:**

Thank you, Minister. I will pass back to the Chair.

**Senator K.L. Moore:**

Minister, while we are on the subject of resources, what consideration have you given to ease that burden on the department, rather than reverting to a greater resource cost at a time when the impact on public finances particularly of COVID is very much a concern for the population? Are you content with the rollout and the performance of the computer system? Had it been a successful computer system surely it would not have created so much contact from the public, as they would have been able to engage with it in an adequate way and would not have had to trouble your staff and cause you this additional resource expense.

**The Minister for Treasury and Resources:**

I think any massive change in technology is going to demand a huge amount of resource. Transferring all the data held on paper basically, dealt with manually, and feeding that into the system has been quite a demand. As I was just saying in answer to Steve, the other complications of the pandemic with people losing their jobs, possibly, not being able to pay their tax, unsure of the future, together with this move to P.Y.B., which was brought forward in order to help people who were possibly earning less in 2020 than 2019. We have, and I am repeating old stuff, listened very strongly to the focus groups and the Scrutiny Panel's report to provide flexibility in the payback of the liability. Clearly that is going to demand more resources but, as the comptroller alluded, to we are doing a lot of in-house training now, considerable amounts and bringing people up to speed with the new way of operating and will do so with the change to the law.

**Senator K.L. Moore:**

If I may, Minister, when this proposal was first mooted it was announced as something that would solve the problems of the COVID funding and the borrowing that you have undertaken to deal with



it. Therefore it is somewhat surprising to hear that the move to prior year tax is causing an additional resource burden to the public finances.

**The Minister for Treasury and Resources:**

No, it was never mentioned that it was going to solve the COVID process at all. We do not even know what the final debt will be of the COVID situation, so it was never going to solve it but it could contribute to alleviating some of the debt incurred through the pandemic. It was never going to solve it.

**Senator K.L. Moore:**

Yes, but the £320 million was announced as a solution for paying back the money that has been borrowed and it would be interesting to understand how you feel about that proposal now that it is costing you and the public purse more in terms of resource and given the length of time that repayments will be made, which may not even achieve a great proportion of the repayments needed to pay back any debts accrued in the past year.

**The Minister for Treasury and Resources:**

No, you are quite correct, the amount mentioned, the £320 million and it could be more from the 2019 liability, was a comparison, not a solution, of being able to assist in the COVID pandemic debt and was announced long before. On advice from Scrutiny and the States Assembly and the focus and survey panels we extended the repayment of the debt over 20 years instead of the original situation, which was going to be up to 5 years. The whole situation, the scenario, the regulations, the repayment has changed considerably since that comparison was made.

**Senator K.L. Moore:**

Knowing what you know now do you still think it is the right thing to do to progress with this or would you do it in a different way?

**The Minister for Treasury and Resources:**

I do not think that the great gift of hindsight is really necessary in this situation. We have had to move very rapidly since the initial discussions during my term of office of bringing in this change from P.Y.B. to C.Y.B. without any notice of a pandemic arriving, which has certainly accelerated the issue and demanded greater resources and hence greater financial input. I think there is no point in looking back. We have had to move very quickly on every issue in the Revenue Jersey Department, as has every other department.

**Senator K.L. Moore:**

Yes, but if I may slightly push the point, Minister, Jersey has always prided itself on prudence and great care of public finances, therefore one cuts one's cloth accordingly and there is, as Minister, opportunity for you to do that and indeed that is what the public see as your role. My question is really to ask you whether you see that as an opportunity because increasing the burden on your department and increasing the resource it takes to run it is perhaps not seen to be cutting your cloth accordingly to the circumstances.

**The Minister for Treasury and Resources:**

I think the way we have proceeded in this has been very prudent inasmuch as there has been no interruption whatsoever of the Strategic Reserve Fund, or the rainy day fund as people call it, in order to fund the debt to date. I think prudence is very much to the fore and I am extremely careful of how we spend money. Of course, as with every other jurisdiction globally, we have been hit with a situation that has demanded additional resources in this pandemic, which was unexpected but still has to be attended to and responded to. As you will well know, and so will the public, Jersey responded extremely quickly to track and tracing and a vaccination programme and of course that costs money, as it does to administer it, let alone buying the products. We have had to cut our cloth to suit the demands of what is pretty much an emergency. It is very difficult to say would we have done it differently because we have had to respond to the situation that we face.

[16:30]

**Senator K.L. Moore:**

Okay, thank you. I will hand over to Senator Vallois now for the final questions.

**Senator T.A. Vallois:**

Thank you and I hope you are okay staying a little bit longer than what was planned, Minister and officers. To make the point, we are really grateful for all the hard work that the public sector has put in, whether that is Treasury or throughout the public sector over the last year. It has been an extremely difficult time, so we are with you on applauding their ability to get through what we have been through. Our role is with me now having to ask with regards to the regulations, the technical aspects of the regulations. During this hearing it has come about that the liability becomes a debt when prescribed by regulations but it is not clear from the regulations that are in the public domain whether the 2019 liability is to be classified legally as a tax debt when it passes into collection as prescribed. I need some clarification from you, Minister, around this to make it clear whether general powers in tax law as to collection of tax debts will apply to the 2019 liability once payment arrangements have commenced?

**The Minister for Treasury and Resources:**

I had better hand you back to the comptroller because I think he did answer that before. Perhaps you need some more detail.

**Comptroller of Revenue:**

Yes, it is in the regulations. I was trying to find the specific one but the regulations do stipulate that 1/17th of the liability becomes due and payable at the end of each calendar year of the 17-year statutory payment period. I think they further stipulate that the comptroller cannot pursue that debt for 3 years, so they are very generous in that regard. One of the reasons we did it this way was in response to concerns that the 2019 liability being suspended might affect the position of people when it came to borrowing money, so this significantly mitigates that and lenders have assured us that the way we have crafted all this is okay. To be absolutely clear, the liability is in suspense and through the framework of the regulations 1/17th will only become a tax debt if it is not paid at the end of the year in which it should have been paid. That is the difference between liability and debt. Once it becomes a debt unusually compared to ordinary tax debts the regulations stipulate that it cannot be pursued for I think it is 3 years.

**Senator T.A. Vallois:**

Okay. Thank you very much for clarifying that. Can I ask you why you chose 1/17th?

**Comptroller of Revenue:**

Sorry, I am looking at Regulation 15 for the 3-year period. We were effectively stipulating 20 years. As you will recall when this was first proposed the Minister in the consultation suggested 5 to 10 years. On the basis of what the focus groups were advising, and on the basis of all the other stakeholders who have expressed opinions, the Minister agreed to make it 20 years. People can start paying voluntarily from 2022 over a 20-year period. As I alluded to earlier, particularly for lower income people and particularly for lower income people on fixed incomes, pensioners in particular, setting it at that level means that the annual payment people will be making is in most cases less than 1 per cent of annual income. We have devised it in a way that makes it relatively painless for the majority of people. That was the fundamental rationale.

**Senator T.A. Vallois:**

Thank you for explaining that. It is really helpful. Are there any circumstances under which interest would be charged on the 2019 liability once the payment arrangements have commenced?

**Comptroller of Revenue:**

If people operate within the terms of the regulations there are no circumstances under which interest would be charged. If they defaulted in the ways provided in the regulations and it became an ordinary tax debt then in the future when the Minister activates provisions that exist in the Revenue

Administration (Jersey) Law but have not yet been given operational effect then there would be scope to charge interest on all tax debts other than the suspended liability for 2019, which is paid in accordance with these regulations. As long as people meet the commitments of the regulations and stick to them there is no chance that they will be charged interest. If they defaulted, if it became a standard tax debt in the future, it could be liable to interest. Having said that, I think it is highly unlikely because I am pretty sure our lawyers would tell us that because it is a 2019 tax liability any interest provisions that the Minister gives effect to over the next year or 2 will not be applicable retrospectively.

**Senator T.A. Vallois:**

Thank you for that. When you refer to the Revenue Administration Law has not been given operational effect, and it would be, can I ask you to give me a hypothetical situation in which this might apply?

**Comptroller of Revenue:**

Sorry, yes. At the moment the Revenue Administration Law - although it might be the Income Tax Law but I think it is the Revenue Administration Law - does create the ability to charge interest on tax debts. That was introduced in 2019, however in the Assembly on 2 occasions the Minister has said that she is not minded to put those into operational effect yet. I think they require an order to be made to put them into effect and she has not done that because of the current position with COVID. At some point in the future I am sure she will want to give effect to that so that the real value of tax debts in the round is maintained but that is not the position at the moment. At a future date it is likely that tax debts in Jersey will attract interest, depending on how late they are paid but that would never apply to people who make payments within the terms of the 2019 liability regulations.

**Senator T.A. Vallois:**

Finally, if I may give you a scenario. If a person chooses to make repayments as prescribed in Regulation 3, so that is payable in annual instalments, they subsequently apply under Regulation 6 to change payment methods to a deferred payment and you accept this as comptroller. Some years later, it might be insolvency of his employer, which of course I asked you about before, the person realises that they will not be able to meet the 2019 liability when it falls due and they therefore apply under Regulation 7 to move back to regular payments on grounds of changed circumstances. From that hypothetical could you explain under what circumstances you might not move the individual back into regular payments as the regulations at 7.4 state that: "The comptroller may [and I emphasise the "may"] require the person to revert to annual payments in the event they will no longer be able to meet the liability at pensionable age."

**Comptroller of Revenue:**

I am not quite sure if I have entirely understood it, but let me give an answer and you can tell me if I have hit the bullseye. If somebody seeks to change schemes then obviously the regulations permit that to happen, and if they want to change back again it is possible to do so. I think to the extent that people want to move back into a regular payment scheme we would always be very happy for that to happen, because clearly there is a lower risk to the Exchequer and the public purse if people are making regular payments. Where people are coming and saying: "I have realised I may not be able to pay this on retirement" or: "I have decided I do not want to. I want to settle it now" I think as a matter of general policy we would be very ready to accept that. Equally, in the reverse where somebody has been making regular payments but then decides they cannot afford to do that or they do not want to do that, the sorts of scenarios we deliberately intended if a child decides to go to university and the parents need to find extra money, then that is allowed too. I think the only issue, and I think your scenario involved a double-switch, that would probably be under our risk-based approach something that we would look at more closely and think about more carefully. The bottom line is if somebody wants to start making a regular payment we would always prefer that to any other option. Did that answer your question, Senator?

**Senator T.A. Vallois:**

To a certain extent, but I think what is coming up more and more in terms of the answers during the hearing is that there is this risk-based approach. I suppose the question around the regulations is whether there is going to be some form of statutory guidance required under this so that people know where they stand and that there is not an ability to take the mickey out of the system and the requirements that are in place. There is a balance of respect between collection of tax revenues and the responsibility of providing public services.

**Comptroller of Revenue:**

Yes. This is where you get to your constitutional law and constitutional tax law and I am not the best person to advise you on that. Traditionally most jurisdictions recognise that tax systems are rather complicated things and that the person administering it has to be given a degree of discretion. Equally, the States Assembly can fetter my discretion quite deliberately in statute and in many ways that is good for me on occasion because it means that I give black and white, yes or no answers. Obviously where I have to exercise my discretion is my obligation to produce guidelines and policies on how I do that. If you wish to specify more or stipulate more then that is a parliamentary matter and I have no discretion. That is the judgment you need to balance and think about.

**Senator T.A. Vallois:**

I recognise that our adviser wishes to ask a question, so I will hand over to her.

**Tax Consultant:**

Thank you very much, Senator Vallois. Comptroller, it is really just me splitting hairs slightly, this question on “may” or “must”.

[16:45]

I think you have recognised the desirability on someone who has elected for deferred payment to say: “No, I will start paying now” but in the scenario that Senator Vallois illustrated what we have got is someone who is not going to be able to pay on a deferred payment and really I am just wondering if the regulations ought to say that you “must” move them back to regular payment rather than you “may” move them back to regular payment. Yes, it is taking away that discretion but I just wondered whether that was the appropriate point at which you would.

**Comptroller of Revenue:**

I may not have totally absorbed the subtlety of the scenario. If the taxpayer is coming to me and saying: “I really do not think I will be able to pay this when I retire and I intend to start making monthly payments” then I think it is unlikely I would be standing in their way. Giving me the discretion to say: “Okay, I know you will not be able to pay when you retire and I am not going to take any action whatsoever in the event you have given me that information” would be a very unusual position to take. As I say, the difference between “must” and “may” in any regulation is that one gives the administrator of the tax system discretion and the other takes it away, which produces very black and white, yes or no answers, which is entirely appropriate in the right circumstances.

**Senator K.L. Moore:**

Okay. Noting the time we have run over a little this afternoon, for which I apologise. I think we should call the hearing to a close and would like to thank you all for your answers and wish you a very pleasant weekend. Thank you all for joining and thanks to all those who have tuned in to watch.

**The Minister for Treasury and Resources:**

Thank you very much, Chair.

[16:46]