

STATES OF JERSEY



EXPENDITURE PROPOSALS FOR 2012 AND 2013 AND DRAFT BUDGET STATEMENT 2011 (P.157/2010): SEVENTH AMENDMENT (P.157/2010 Amd.(7)) – AMENDMENT

**Lodged au Greffe on 8th December 2010
by the Minister for Treasury and Resources**

STATES GREFFE

EXPENDITURE PROPOSALS FOR 2012 AND 2013 AND DRAFT BUDGET
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In the substituted paragraph (c), for the words “an equivalent amount of tax” substitute the word “additional”; for the words “in relation to the profits of” substitute the words “from certain”; for the words “through the mechanisms in place in relation to the profits of similar” substitute the word “from”; and after the words “1st January 2012” insert the words “provided that to do so would not jeopardise the integrity of Jersey’s business tax regime or its international competitive position”.

MINISTER FOR TREASURY AND RESOURCES

NOTE:

This amendment has been lodged by the Minister for Treasury and Resources less than 14 days before the start of the debate in accordance with the provisions of Article 20(3) of the Public Finances (Jersey) Law 2005. Paragraphs (2) and (3) of Article 20 are in the following terms –

- (2) A draft or proposition to which this Article applies is not capable of being amended during a debate in the States on the draft or proposition except in accordance with an amendment lodged at least 14 days before the start of the debate.
- (3) Paragraph (2) does not apply to an amendment moved by the Minister if the States agree that the amendment may be debated forthwith or at a time approved by the States.

In accordance with the provisions of paragraph (3) the Minister for Treasury and Resources will seek the agreement of the States to debate this amendment during the debate on the Expenditure Proposals for 2012 and 2013 and Draft Budget Statement 2011.

Note: If the amendment is adopted the proposed new paragraph (c) would read as follows –

“(c) to agree that a new mechanism should be put in place to ensure that ~~an equivalent amount of tax~~ *additional* revenue is raised ~~in relation to the profits of~~ *from certain* non-locally owned non-finance companies trading in Jersey as is raised ~~through the mechanisms in place in relation to the profits of similar~~ *from* locally owned companies trading in the Island, and to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation to give effect to this decision so that the new system can be fully implemented by 1st January 2012 *provided that to do so would not jeopardise the integrity of Jersey’s business tax regime or its international competitive position.*”

REPORT

Summary

Although some of the objectives behind the amendment brought by the Deputy of Grouville are agreed, the Treasury is not able to support the amendment in its current form.

We are prepared to commit to bringing a proposition to the Assembly, but in a form that does not jeopardise the integrity of Jersey's business tax regime or put Jersey at a competitive disadvantage.

The Deputy recognises in her report that this is a complex matter and that it could be achieved by means other than a tax by introducing, say, a charge of some nature. Unfortunately this has not been reflected in her proposition, and bringing this amendment provides this flexibility.

Background

The Council of Ministers has long acknowledged that one of the unintended consequences of the zero/ten tax regime is that non-local non-financial services companies do not pay income tax on the profits they earn in Jersey.

We committed, in my Business Tax Review consultation document, to consider whether it is possible to recoup the corporate tax revenue lost from certain non-finance companies with Jersey-based business activities on the introduction of zero/ten, without unintended economic consequences.

Much time and effort has been put into trying to find a way to resolve this without jeopardising the zero/ten regime itself. As the Deputy herself acknowledges, achieving this is complex and time-consuming. Measures have already been introduced in Budget 2011 which bring extraction and oil companies within the charge to tax at 20%.

The Deputy also recognises that this could be achieved by means other than a tax by introducing, say, a charge of some nature. A number of options are currently being considered, including an alternative charge, as well as a direct tax on profits.

The scope of such a charge also needs careful consideration. What does "non-financial services companies" mean? To bring in a charge or tax on profits for all foreign-owned companies registered in Jersey that are currently subject to tax at 0% would be highly detrimental to the Island's economy. One of the options considered in the Business Tax Review consultation was a flat rate of tax, and the overwhelming response was that this would result in a net decrease in tax revenues.

In addition, the Deputy's amendment refers to an equivalent amount of tax as is raised through the mechanisms in place in relation to profits of similar locally-owned companies trading in the Island. By this, it is assumed that the proposition refers to the deemed distribution mechanism. Members will be aware that these provisions are currently the subject of review by the EU Code of Conduct (Business Taxation) Group, and we understand that the Code Group considers them harmful. Although we do not agree with that analysis, we have agreed to change our provisions if they are indeed found to be harmful. It is possible that these taxing provisions will be removed for locally-owned companies.

One other factor which is relevant to this issue is that Jersey's company tax system is based on the premise that 0% is our general rate of tax. It is vital that any changes to our tax regime do not jeopardise the acceptability of the zero/ten regime to the Code Group. Extending the 10% band to other companies without fully understanding the impact on this analysis is critical. The measures noted above that bring extraction and oil companies within the charge to tax at 20% were carefully considered, and this does not impact on the analysis. It is also important to await the outcome of the assessment so that we can fully understand any issues that the Code Group might have, and ensure that any changes that we make are acceptable.

The intention is that if it is practicable, proposals for increased revenue-raising will be introduced from 2012. The outcome of the EU review of zero/ten will influence what these measures are, but the timing of this review is outside our control. For this reason, we are not in a position at this stage to guarantee that we will be able to bring legislation before the States in 2011 to be implemented in 2012, although that is our firm intention.

Manpower

There are no extra manpower requirements to administer these amendments, although this is taking up, and will continue to take up, existing resources.

Financial

The additional tax revenues that could be raised from this proposition are unknown as it depends on the nature of the measure. The Deputy of Grouville, in her proposition, suggested that the benefits would be great, but did not seek to quantify this. Of the £80–100 million estimated lost revenues from the introduction of 0/10, the vast majority related to the decrease in revenues from the financial services companies who experienced a reduction in their tax rate from 20% to 10%.