

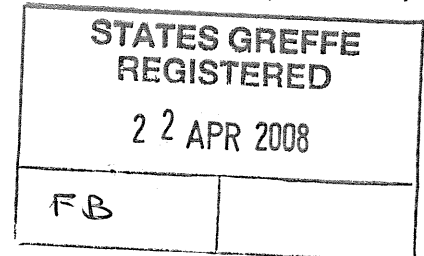
Our ref: RJR/PS

21st April 2006

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Dear Deputy Ryan

Your letter 14th March 2008 to my firm invited submissions on the draft Taxation (Land Transactions) (Jersey) Law 200-. The closing date for those submissions was set as 15th April but I should be grateful if you would agree to receive this late submission.

I have practiced as an advocate since 1984, principally in property transactions and private client work for local persons. I have acted for many purchasers and vendors of share transfer apartments.

Deputy Hill's proposition was introduced and passed by the States Assembly because there had long been a feeling that persons purchasing property by means of share transfer were not bearing their proper share of the tax burden. It was recognised that the share transfer transactions in question were essentially land transactions and fairness required that they should be subject to taxation in just the same way as transactions involving freehold property.

There is no distinction between residential and commercial transactions in freehold property and both are subject to payment of stamp duty. The exclusion of commercial property from the draft law undermines the principle of fairness that all those transacting in land should bear a proper burden of taxation to be spread over all transactions taking place in the Island.

Whilst the draft law (if enacted) will ensure that a certain amount of tax is paid upon the transfer of some fine properties and penthouse apartments, in the vast majority of cases it will tax Island residents of average, or below average incomes, many of whom will be trying to secure a foothold on the housing ladder. A taxation system should be demonstrably equitable but the present proposal expressly discriminates against local residents in favour of commercial investors, many of whom will be conducting high value transactions which are essentially no different in legal terms to the purchase of a one bedroomed town flat by a local couple.

Your letter of 14th March suggests that there would be practical difficulties in taxing commercial property transactions. It is difficult to comment on the practical issues as they are not outlined in any of the available documentation. However I would submit that those dealing with commercial property would be well aware in the majority of cases if the underlying beneficial ownership of the property owning company has changed. The draft law seeks to place a legal obligation on a purchaser of shares to pay a self-assessed tax and I see no reason in principle why this should not also apply to most commercial properties. If it really is too difficult to encompass share transfers relating to commercial properties, this only begs the question of whether it is fair to impose the burden on those who are easier to "catch".

Your letter of 14th March also suggests that a tax in relation to commercial properties might be harmful to Jersey's international standing. To the best of my knowledge, most jurisdictions have some form of land transfer tax; surely overseas investors would not be shocked to find that Jersey attempts to impose a reasonable levy on a transfer of shares where the underlying transaction concerns land. If such taxation is really so appalling in the international sphere, why should it be acceptable in relation to local residential accommodation?

Specifically in relation to the draft law, I should be grateful if you would permit me to make four observations:-

1. In my view Article 3(1)(a) does not appear to apply in the case of a single residential house owned by a limited company. In such a case the mere ownership of the shares in the company does not confer any express right to occupy the house. The articles of association of such a company are usually fairly standard and are not drafted to confer any rights upon shareholders to use the asset of the company (i.e. the house). The directors of the company have the legal power to decide how the asset of the company is exploited and therefore who should occupy the house owned by the company. Of course the shareholders and directors are usually one and the same and therefore the house is occupied by those who own the company. However their shareholding does not confer a right of occupation and therefore it seems to me that they will not be liable to pay LTT when acquiring the shares in such a company. This scenario would apply to 1(1)(j) category residents who are required to purchase property in the name of a company and to any purchaser of shares in a company which holds title to a freehold property. Many such company-owned properties are of significant value.

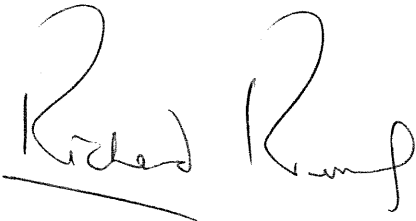
2. I note that the schedule to the law provides for much reduced rates of tax (£50 or £60) in the case of shares passing to a legatee or heir or in the case of a transaction between spouses. These provisions mirror the reduced rates of stamp duty payable in such cases where freehold property is concerned. However in the case of freehold property we lawyers (regardless of stamp duty considerations) have to prepare a hereditary contract to be passed before the Royal Court and the Public Registry has to process and register that contract. It is therefore of little consequence to the lawyers and Registry staff to deal with stamps to the value of £50 on the contract. In the case of LTT the lawyers will be obliged to deliver a statement to the Comptroller who will be required to issue a receipt in a prescribed form with a unique number and process the payment of £50 or £60. The lawyer will then be required to produce the receipt to the company secretary. Is all that additional work on the part of the lawyer and Comptroller merited for just £50 or £60? It may cost the Comptroller as much, if not more, to collect that sort of sum. I would therefore suggest that these transactions should simply be exempted from the obligation to deliver a statement and pay tax.

3. In the course of my professional life, I have acted as executor of persons who have died leaving apartments held by share transfer. On occasions the secretaries of the relevant companies have required that the shares be formally transferred to me as executor, especially if it is desired to attend any meeting or exercise any voting rights in the company. As executor I would already have paid probate duty on the value of the shares and it would be inequitable if LTT was also payable on the transfer of the shares to the executor also. I therefore suggest that transactions of this nature be charged at £50 or preferably exempted for the reasons given in the preceding paragraph.

4. I have concerns in relation to the timing of a payment of LTT, i.e. after a transaction has occurred but before a company registers an instrument of transfer of shares. Most residential transactions are funded by commercial lenders who often stipulate that their funding shall not be released to complete the transaction until the company has registered the transfer of shares. The imposition of a requirement between those stages to pay LTT and obtain a receipt makes the process more complicated. It could be overcome if lenders were happy to accept undertakings from lawyers and company secretaries but I hope that there has been adequate consultation with local lenders on this point to avoid drawing out the process and making these transactions more stressful than necessary for local people.

I trust the above may be of assistance to you. Should you wish me to clarify or expand upon any of my submissions, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "Richard Renouf". The signature is written in a cursive style with a horizontal line underneath the name.

Advocate Richard J Renouf

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