STATES OF JERSEY

JERSEY INFRASTRUCTURE LEVY: APPROVAL IN PRINCIPLE (P.100/2017) – AMENDMENT

Lodged au Greffe on 28th November 2017
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

JERSEY INFRASTRUCTURE LEVY: APPROVAL IN PRINCIPLE (P.100/2017) – AMENDMENT

1 PAGE 2, PARAGRAPH (a) –

After the word "Jersey," insert the words "which will incentivise sustainable development predominantly on brown field sites and discourage the development of green field sites,".

2 PAGE 2, NEW PARAGRAPH –

In paragraph (a), after the words "in principle," insert the words "and subject to the provisions of paragraph (c)," and after paragraph (b) insert the following new paragraph –

> "paragraphs (a) and (b) shall be void and have no effect until the Minister for the Environment and the Minister for Treasury and Resources have conducted and published an appraisal of the net funds estimated to be raised annually by the introduction of the Infrastructure Levy and the net funds estimated to be raised annually by the introduction of a Stamp Duty anti-avoidance provision and proposals on Stamp Duty – enveloped property, as set out on pages 12 and 31 of the Draft Budget Statement 2018 (P.90/2017), in the same time period, and that appraisal has shown that the proposed Infrastructure Levy is estimated to yield at least 10% more revenue than the proposals to reform Stamp Duty".

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

It would be fair to say that the proposed Jersey Infrastructure Levy has caused a degree of controversy since it was first announced. The arguments from the construction industry are varied, but include that this will have an impact on house prices, in that it will (over time) cause house prices to raise.

I have some sympathy with that argument.

However, it is also true to say that I am not a great supporter of capital gains tax, in that: (a) it is generally regarded as an inefficient means of collecting revenue; and (b) I find it somewhat at odds with the fundamental bases upon which our financial services industry is based. In other words, we do not presently tax capital gains as far as I am aware. If we begin to tax the value of land, why not tax the value of shares? It is clear from the comments from the Minister that this is a tax, and in that regard there should be some very clear liaison with Departments that DO collect taxes, such as the Treasury, on this matter, as well as with representatives of the finance industry.

The purpose of my amendments (for which there will be separate votes) are twofold:

The first amendment is purely to recommend, as a principle, that should the levy be approved (in principle), it should be used to incentivise brown field development and dis-incentivise green field sites.

Whilst not directly part of the wording of the amendment, in my view, the reference to sustainable development should also include incentives towards encouraging better development. For example, it should be examined whether developments that are greater than (say) 10% above minimum size standards should attract less of a levy. Thereby (particularly if building in urban areas) one could provide financial incentives to encourage a better quality of development. Extra environmental credentials might also be encouraged. I do not want to be prescriptive here, these are just illustrations, and I would consider that this should be part of the deliberations as any details are developed.

However, one of the flaws with the proposed levy by it being a capital tax, is that it is notionally a one-off charge. Once a site has been built on, it will only be the incremental increase in footprint that will attract a levy when any building is next developed, and, in my view the potential (in the longer term) for significant sums of money to be raised seems limited.

Hence my second amendment.

On reviewing the 2018 Budget, it is apparent that there is work being carried out to close some loopholes in Stamp Duty legislation.

An example that was cited in a recent Hearing of the Corporate Services Scrutiny Panel was that of a commercial office block, which if sold would usually attract Stamp Duty of £1.7 million; whereas, because of an anomaly in the Law it might be possible that such duty might not be paid – i.e. the return to the Treasurer would be £nil.

According to the report accompanying P.100/2017, a levy rate of £80 per m^2 on developments over $75m^2$ would be expected to raise between £1.5 million and £2.5 million a year.

As an aside, this seems slightly at odds with the financial and manpower implications element of the report which states that "there are no financial or manpower implications for the States arising from the adoption of this proposition".

My concern therefore, is as follows:

The introduction of a whole new levy, with the consequent manpower implications, will 'only' raise between £1.5 – £2.5 million per year. It will need staffing, and I assume it will need an appeals mechanism, and all the other checks and balances that go with a new tax.

The closure of certain loopholes will, on one transaction alone, raise £1.7 million, with no additional manpower requirements. In addition, Stamp Duty, in general, does not hit first-time buyers.

So therefore, in my mind, why not determine how much could be raised by closing the Stamp Duty loopholes first, before going to the expense of developing a whole new Infrastructure tax.

I stress, I would have no problem if the extra funds raised by the Treasury were allocated to some form of Infrastructure fund, administered in the way envisaged under the proposed levy.

I also return to the point that this is, in effect, a capital gains tax. Whilst not specifically stated in the proposition, the biggest gain that is likely to occur is when a green field without planning permission becomes one <u>with</u> planning permission. After that, the levy is intended to be raised (in certain circumstances), based on the increase in footprint.

As such, unless we see massive development in the countryside (bearing in mind the exclusions for social housing, States developments, or developments by charities), the scope for having a sustainable source of funds seems limited.

Therefore, before we go to all the time and cost of developing a new tax, why not assess whether it would be more efficient to raise these funds through an existing mechanism. Stamp Duty exists, and the loopholes are going to have to be closed in some way. If that assessment suggests that the closure of the Stamp Duty loopholes would raise greater funds – bearing in mind that sales of buildings <u>**will**</u> repeat – whereas a greenfield site can only be built on once (i.e. achieving the significant gain only once), then it would seem to make sense to concentrate on mechanisms to raise funds within the Stamp Duty envelope rather than by creating a new and complicated tax-raising mechanism.

Financial and manpower implications

The financial implications of performing an appraisal should be minimal.

There will be no manpower implications additional to the main proposition.