STATES OF JERSEY

GOODS AND SERVICES TAX: EXEMPTION OR ZERO-RATING FOR FOODSTUFFS AND DOMESTIC ENERGY

Lodged au Greffe on 24th February 2009
by the Deputy of Grouville

STATES GREFFE

PROPOSITION

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

(a) to refer to their Act dated 13th May 2005 in which they approved the introduction of a broad-based Goods and Services Tax (GST) at a rate of 3% fixed for 3 years, and to their Act dated 18th April 2007 in which they approved the Draft Goods and Services Tax (Jersey) Law 200-, and to agree to vary those decisions in order to exempt or zero-rate the following items –

(i) foodstuffs in line with United Kingdom Value Added Tax arrangements as set out in the Appendix; and

(ii) domestic energy;

(b) to request the Minister for Treasury and Resources to investigate whether alternative progressive tax measures can be brought forward for approval to restore the revenue foregone under paragraph (a) as an alternative to withdrawing the increases in income support, income tax exemptions and allowances and the food costs bonus that were agreed by the States on 3rd December 2008 and which it was agreed on that day would only remain in place while GST was payable on foodstuffs or on domestic energy;

(c) to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation to give effect to the decision.

DEPUTY OF GROUVILLE

REPORT

The Goods and Services Tax was introduced on 6th May, 2008. I acknowledge that we, as a Government, need to increase our income to make up the potential deficit that could be created whilst having to comply with the OECD requirements made on us. It was in my opinion however, unfortunate that a regressive tax measure was introduced on both working people and pensioners on a fixed income in the first instance, before other possible taxation measures were put in place. I know that there are many Jersey people who feel aggrieved that they have been targeted as a first port of call, to make up the future deficit, while Companies owned by offshore investors pay no tax at all while trading in the Island. And indeed we are now seeing long-standing Jersey Companies being sold off to outside investors to take full advantage of this facility we provide.

There are talks about introducing 'Blampied' proposals on foreign-owned companies, to try to force a contribution to the Treasury by imposing a tax on the deemed rental value of the business premises, but these talks have been taking place for as long as I have been in the States and it is unfortunate they have taken so long and were not introduced before GST.

There are talks about increasing the annual return rates on foreign-owned companies. But these could be complex and regarded as discriminatory.

There are talks about reviewing the ridiculous scenario of taxpayers' monies being handed over to the tune of £60 million per annum towards supplementation.

There are talks about land value taxes being charged to developers. Yet we still went ahead and re-zoned 60 vergées of agricultural land last July, giving a huge tax-free gain to each of the owners/developers.

None of these proposals have been introduced or even seriously brought forward, yet we introduce a regressive tax as the first measure of making up a deficit to comply with the OECD requirements.

It has always been my opinion that a government, even when having to take difficult decisions, should always try to take its people with it. To my mind, taxing the ordinary people of this Island for their already expensive loaves of bread and pints of milk, while thriving foreign-owned companies trading in Jersey pay nothing, and property speculators pay nothing, is not the way to achieve this.

GST is now introduced, some might still be unhappy with this tax but what I am seeking to do, in these difficult economic times, is to give some relief on life's essentials.

I have always supported exempting a range of essential items from GST. However, the Assembly did not support those proposals, which originally included such items as children's clothing, child care costs, books and newspapers.

We now have a new Assembly and many of the new members, as well as some of the previous Assembly, are uncomfortable with the scenario that has been created.

Because of the dramatic increases in food costs over the past 2 years and Jersey Electricity prices soaring by 24% this year, I believe it would be quite wrong to maintain a tax on food and domestic energy consumption. I am limiting the proposed exemptions or zero-ratings to these 2 commodities because people have to eat– and they have to heat their homes.

People are struggling in today's unprecedented economic situation and I believe it would be an irresponsible Government not to try and help its people in some way.

The fact of huge increases in energy and food costs, places, in my opinion, a very different complexion on the issue of whether we should tax food and domestic energy. Whilst it may have seemed to some that not exempting these items would make GST a more "efficient" tax – we now face dramatically altered circumstances. And only Members removed from what the vast majority of Islanders are experiencing, would stick with a decision which is no longer compatible with a significantly different set of issues.

Originally I had thought of lodging a proposition exempting all *basic* foodstuffs. However, as I discovered the last time I lodged a similar proposition, major food retailers who have explained that they would find it complex and challenging to work with an exemption that only encompassed *basic* foodstuffs. It would also appear that the Treasury has difficulty in alighting on a ready workable set of definitions.

It is plain that if we are to exempt food – by far the simplest and least bureaucratic method would be to use the definitions already established in the United Kingdom VAT system. Whilst it will be claimed that VAT is an unusual and complex system, the fact remains that the definitions have been established and refined in the UK.

It is also plain that food retailers in Jersey could use, with minimal difficulty, the business systems and coding which handle VAT food exemptions, as these are already established in till and stock systems.

I have deliberately not included all energy costs as we need to actively look to 'greener' measures for other energy consumption. I have therefore just limited the proposition to domestic energy as foodstuffs and domestic energy are inescapable purchases. The cost of these 2 commodities is rising astronomically.

We are already experiencing increases in Jersey Electricity of 24% this year alone. Is it right that the States then capitalises on these increases by charging a new tax on top?

It is very difficult for people, especially pensioners who may be at home more than most, who are trying hard to budget on fixed incomes which, if based on bank interest will not even be fixed but will in fact have diminished quite dramatically in the current economic climate.

For those members wishing to use the argument that keeping this tax simple and across the board is best, I would suggest that it is not as simple as people may realise. In order to compensate for GST's introduction without exemptions, a number of measures have been introduced which require members of the public to make demeaning claims to get the tax back. Many people in our Island, some of them pensioners, simply won't embark on this procedure. Surely far simpler a proposition is not to charge the tax on life's essentials in the first place.

I set out below an e-mail I received from the Treasury, setting out just how complex and costly the administration of the tax and the tax without exemptions, really is –

> Deputy Labey
>
> I have pulled together an estimate of the costs of the various measures to compensate/mitigate the effects of GST, which have I believe already been identified to you:
>
> - increased tax thresholds by an extra 3.5% from 3% to 6.5% for 2008 in the 2008 Budget at a cost of £4 million
> - included protection from GST for those on the original income support at a cost of £1.75 million
> - Provide an allowance for those households between the income support scheme and income tax system known as the GST bonus scheme at a cost of £0.4 million
> - the Le Fondré proposition P.138/2008 to further increased income support by £3 million, double the GST Bonus Scheme at a cost of a further £0.4 million and provide an increase in income tax exemption thresholds from 3% to 5% in 2009 at a cost of £2.4 million.
>
> This equates to a total cost of £11.95 million p.a.
>
> Best regards
>
> **Head of Financial Planning**
> **Treasury and Resources Department**

At the time of the debate of P.138/2008 it was understood by some members including myself, that there should be an equitable distribution of the higher than expected tax receipts to try to help 'middle Jersey'. Those families who work, pay tax, bring up children, pay the inflated Crown Dependency university fee rate and pay the huge housing costs obliged to put a roof over one's head in the Island. Hence Senator Ferguson's amendment P.158/2008 Amd.(2). Unfortunately this was not approved by the Assembly so 'middle Jersey' and those on the marginal relief band, did not receive advantage from the tax take yet are still struggling in this expensive Island with a backdrop of higher costs and taxes.

Part (b) of the proposition requests the Minister for Treasury and Resources to either implement the decision of 23rd September 2008 in which the States agreed that the increases in income support, the Food (Offset of GST) bonus and income tax allowances approved in paragraph (a) of P.138/2008 would only remain in place while GST was payable on foodstuffs or on domestic energy and that they would be adjusted proportionately in the event of any future decision by the States to zero-rate or exempt foodstuffs or domestic energy. Or indeed, if the States were so minded, to bring forward a proposition to put aside P.138/2008 and instead, bring forward alternative, progressive, tax measures in order to recover the revenues forgone by not taxing food or domestic energy. Any number of taxes could fulfil this role, for example some of those already mentioned; reducing Social Security supplementation by the same amount, and recovering this loss by closing social security avoidance loopholes, other measures could include wind-fall taxes on property speculation, land value taxes, taxing foreign owned companies. I am not a tax expert and it is for those in Treasury to bring forward reasonable measures to make up not taxing food and domestic energy.

As I say, I am not a tax expert and neither am I an economist, but it is interesting to note that during our current economic crisis, the UK Government have reduced their VAT rate on everything by 2.5% to stimulate the economy. We, on the other hand, are already talking about increasing our rate.

Financial/manpower statement

There will be some additional administrative costs – but as was demonstrated convincingly by Scrutiny, claims of excessive administration cost associated with exemptions or zero-rating were grossly overstated.

There will also obviously be the taxation revenue loss incurred through exempting these 2 items. But this might encourage Treasury and Resources to look more vigorously at more progressive taxation measures to make up the lost revenue.

The current year (2009) estimates are as follows –

Foodstuffs (based on UK VAT liability treatment)

Estimated tax loss – £4.5 million

Domestic energy (based on supplies of electricity; gas; fuel oil; coal [expenditure survey items 4.6.1 to 4.6.4] being eligible for zero-rating)

Estimated tax loss – £1.5 million

Notes –

(i) The projections are based on the most recent Household Expenditure Survey updated using published RPI figures.

(ii) The above figures reflect the revenue loss resulting directly from reducing the tax base by allowing the supplies involved to be eligible for zero-rating.

APPENDIX

UK VAT Exemptions

Group 1 – Food

The supply of anything comprised in the general items set out below, except –

(a) a supply in the course of catering; and

(b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

General items

Item No.

1. Food of a kind used for human consumption.

2. Animal feeding stuffs.

3. Seeds or other means of propagation of plants comprised in item 1 or 2.

4. Live animals of a kind generally used as, or yielding or producing, food for human consumption.

Excepted items

Item No.

1. Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products, and prepared mixes and powders for making such products.

2. Confectionery, not including cakes or biscuits other than biscuits wholly or partly covered with chocolate or some product similar in taste and appearance.

3. Beverages chargeable with any duty of excise specifically charged on spirits, beer, wine or made-wine and preparations thereof.

4. Other beverages (including fruit juices and bottled waters) and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.

5. Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs, and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.

6. Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.

7. Goods described in items 1, 2 and 3 of the general items which are canned, bottled, packaged or prepared for use –

   (a) in the domestic brewing of any beer;

   (b) in the domestic making of any cider or perry;

(c) in the domestic production of any wine or made-wine.

Items overriding the exceptions

Item No.

1. Yoghurt unsuitable for immediate consumption when frozen.

2. Drained cherries.

3. Candied peels.

4. Tea, maté, herbal teas and similar products, and preparations and extracts thereof.

5. Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof.

6. Milk and preparations and extracts thereof.

7. Preparations and extracts of meat, yeast or egg.

Notes:

(1) "Food" includes drink.

(2) "Animal" includes bird, fish, crustacean and mollusc.

(3) A supply of anything in the course of catering includes –

  (a) any supply of it for consumption on the premises on which it is supplied; and

  (b) any supply of hot food for consumption off those premises;

  and for the purposes of paragraph (b) above"hot food" means food which, or any part of which –

  (i) has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature; and

  (ii) is at the time of the supply above that temperature.

(4) Item 1 of the items overriding the exceptions relates to item 1 of the excepted items.

(5) Items 2 and 3 of the items overriding the exceptions relate to item 2 of the excepted items; and for the purposes of item 2 of the excepted items "confectionery" includes chocolates, sweets and biscuits; drained, glacé or crystallised fruits; and any item of sweetened prepared food which is normally eaten with the fingers.

(6) Items 4 to 6 of the items overriding the exceptions relate to item 4 of the excepted items.

(7) Any supply described in this Group shall include a supply of services described in paragraph 1(1) of Schedule 4.

Amendments to Group 1:

The Finance Act 1999 section 14 stated that Group 1, in respect of preparations of meat, yeast or egg, shall b deemed to have and to always have had effect as if for Items "4 to 6" in Note (6) there were substituted"Items 4 to 7" (effective from 27 July 1999).