STATES OF JERSEY

DRAFT REVENUE ADMINISTRATION (JERSEY) LAW 201- (P.122/2018): AMENDMENT

Lodged au Greffe on 12th February 2019
by the Corporate Services Scrutiny Panel

STATES GREFFE

1 PAGE 25, ARTICLE 17 (interest for late payment of a tax) –

In Article 17(2) for "Minister may specify by Order" substitute "the States may specify by Regulations".

2 PAGE 26, ARTICLE 18 (further penalty interest for late payment of tax) –

In Article 18(3) for "Minister may specify by Order" substitute "the States may specify by Regulations".

3 PAGE 26, ARTICLE 19 (interest arising from over-payments) –

In Article 19(2) for "Minister may specify by Order" substitute "the States may specify by Regulations".

4 PAGE 28, ARTICLE 26 (duty to produce records) –

In Article 26 –

(a) number the existing text as paragraph (1);

(b) after paragraph (1) insert –

"(2) A person on whom a notice is served under paragraph (1) may, within 40 days of service of that notice, appeal to the Commissioners against the notice by notifying the Comptroller.

(3) The following provisions of the Income Tax Law apply, with the necessary modifications, to an appeal under this Article as they apply to an appeal under that Law against any assessment –

(a) the proviso to Article 27(1);

(b) Article 27(2);

(c) Article 28(1);

(d) Articles 29, 29A and 31 to 36.

(4) Where an appeal is made under paragraph (2), the notice served by the Comptroller is of no effect pending the final determination or withdrawal of the appeal.".

CORPORATE SERVICES SCRUTINY PANEL

REPORT

These amendments are based on evidence we received during the course of our review of the Draft Revenue Administration (Jersey) Law 201- (P.122/2018).

Amendments 1–3 relate to the interest rate chargeable on late paid tax and overpaid tax. The amendments require that the interest rates be set by Regulations instead of Ministerial Order. This means that the Minister will have to bring the interest rates back to the Assembly and make a case for the proposed rates, including any differential between the rates for late paid tax and overpaid tax.

As drafted, the Law allows the Minister to set the interest rate paid on late tax by Ministerial Order. The indicative rate set out in the Taxes office consultation was 8%. Some stakeholders felt that this rate was punitive and should be closer to the Bank of England Base rate.

The draft Law also provides for the States to pay interest where tax has been overpaid. The consultation indicated that the rate of interest would be set at the Bank of England base rate. The rate would be set by Ministerial Order.

We received evidence criticising the difference between what the States would be charging on late paid tax on the one hand and paying on overpaid tax on the other. It was also suggested to us that there would be no incentive for the Taxes Office to resolve cases quickly, given the high rate of interest on late paid tax and the differential between the 2 rates.

Amendment 4 introduces a right of appeal in cases where a taxpayer receives a “production notice” to provide records to the Taxes Office in relation to their tax affairs. We heard that the use of a similar power in the existing Law has increased markedly in the last few years. Stakeholders raised concerns at the ability for the Taxes Office to go “fishing” without any right for the taxpayer to appeal the production notice.

Through our amendment, taxpayers would be able to appeal to the Commissioners of Appeal for tax, in line with the existing appeal process which is set out in the Income Tax Law.

It is worth noting that these amendments are set in the wider context of concerns expressed by stakeholders during our review that the Draft Revenue Administration (Jersey) Law 201- adds more powers to the Comptroller of Taxes without providing additional safeguards for taxpayers. We also heard that other long called-for reforms to the taxation system and how it is administered are regularly promised but not delivered. These amendments will, in part, help to address the imbalance that was highlighted to us.

We intend to publish a comments paper prior to the debate on P.122/2019, outlining the evidence submitted to us and commenting on the wider programme of tax reform.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of this proposed amendment.