

STATES OF JERSEY



DRAFT INCOME TAX (AMENDMENT – STAGE 1 OF INDEPENDENT TAXATION) (JERSEY) LAW 202- (P.78/2021): COMMENTS

**Presented to the States on 9th September 2021
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction

1. The Draft Income Tax (Amendment – Stage 1 of Independent Taxation) (Jersey) Law 202- (P.78/2021) (“the Draft Law”) was lodged by the Minister for Treasury and Resources (“the Minister”) on 3rd August 2021. The Draft Law proposes to introduce a system of Independent Taxation in three phases.
2. The States Assembly has previously adopted legislation that enables elements of the draft Law to come into force through the adoption of Personal Tax Reforms (P.119/2019), which the Corporate Services Scrutiny Panel (“The Panel”) published comments on prior to its debate on 4th February 2020 (P.119/2020 Com.), and the introduction of the equal right to access information by both partners in marriage and civil partnerships as adopted through the Draft Finance (2021 Budget) (Jersey) law 202- (P.147/2020).
3. Noting the prior work undertaken on this issue by the Panel and the impact it will have on islanders, the Panel agreed to undertake a review, and engaged an expert adviser with previous experience of working with the Panel (adviser report – Appendix 1).
4. These Comments outline the key findings of the Panel’s review to aid the Assembly in its debate of the Proposition and the Minister during its implementation, should the Draft Law be adopted.
5. The Minister wrote to the Panel on 25th June 2021, outlining a planned phased approach for the introduction of Independent Taxation. The Panel was briefed by the Minister and officers during a private meeting held on 15th July 2021 and undertook a public hearing with the Minister on 25th August 2021.
6. The Panel issued a call for evidence and received 41 written submissions and 30 submissions from social media from Members of the Public. These views are outlined later in this paper.
7. The Panel notes the addendum published by the Minister for Treasury and Resources regarding her intention to propose the draft Act without notice, should it be adopted in Third Reading.

Phased Approach

8. The Panel notes that the proposals consist of a three-part phased approach to the implementation of Independent Taxation, divided into three parts.
 - a) Phase 1 is to be implemented by the Draft Law, and will result in three taxpaying groups coming into Independent Taxation:
 1. Couples who marry or form civil partnerships who arrive in Jersey on or after 1st January 2022;
 2. Individuals who are married or civil partners who arrive in Jersey on or after 1st January 2022; and

3. Those married couples and civil partnerships who have elected for separate taxation for the tax year 2020 and who jointly elected to be independently taxed for 2022 by the due date of 29th October 2021.
 - b) Phase 2 is expected to begin in 2023 and will be implemented by the Draft Law. All married couples and civil partners will be granted the option to elect for Independent Taxation in 2023 by making a joint election in 2022 by 29th July 2022.
 - c) Phase 3 is not covered by the draft law, but is expected to come after 2023, and expected to complete in 2025 or 2026. At the end of this phase, all married couples and civil partners will be taxed independently on a mandatory basis. Phase 3 will also include a compensatory allowance to compensate couples who will pay more total tax than under married man's taxation.
9. The Panel notes that the phased approach appears to conflict with the statement provided in the Government Plan 2021-24, where Independent Taxation is defined as being introduced "for the year of assessment 2022"¹. This is further noted in the submission provided by John Shenton, a local tax expert².
10. During its public hearing with the Minister for Treasury and Resources on the 25th August 2021, the Comptroller of Revenue outlined that Phase 1 of the Draft Law would consist of "existing separately assessed couples, of which there are over 600, and invite them to take part in a pilot"³, and that this would further influence the design of the transitional arrangements.
11. The Comptroller of Revenue further outlined during the public hearing that Phase 2 would consist of "about 14,500 couples", with the remainder entering Independent Taxation from 2024 onwards. In her report, the Panel's Adviser estimates that Phase 3 will eventually result in "around 22,000 extra taxpayers", a 34% increase in the current workload for Revenue Jersey, although this workload is likely to somewhat decrease at the end of Phase 3 after separate assessment ceases following the full introduction of Independent Taxation.
12. The Panel notes from its public hearing with the Minister that the administration of Independent Taxation would result in estimated additional costs of between £1,250,000 to £1,500,000⁴.

Changes to the Amount of Tax Paid

13. Under Independent Taxation, every taxpayer in Jersey will be taxed identically, regardless of their marital/civil partnership status with all tax to be calculated using the same marginal rate calculation at 26% and 20% of total income. This

¹ [Government Plan 2021-2024, p.157](#)

² [Submission – John Shenton – 14 August 2021, p.2](#)

³ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.7](#)

⁴ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.17](#)

will, thereby, abolish the married man's tax allowance and the second earner's allowance. The Income Tax Instalment System (IT IS) will reflect their own personal income and liability, rather than that of the couple's.

14. However, as noted in the report of the Panel's Adviser and submissions received from several members of the public, and as outlined in the Feasibility Study undertaken into the introduction of Independent Taxation in Jersey in October 2013, there will nonetheless be a disparity between the amount of tax paid by couples on different incomes, with some paying more tax as a result of the change.
15. The Panel wishes to highlight a particular concern regarding the amount of tax paid by couples on high salaries. The report of the Panel's Adviser and the submission received from John Shenton both indicate that couples on significant incomes where one pays at 20% but the other earns an amount that is liable at the marginal rate, the amount calculated will be less than 20% of their income, resulting in a tax saving.
16. The Panel's Adviser has calculated that the couples who will benefit from a reduction in tax upon the introduction of Independent Taxation will have a joint income in excess of £138,666, with the lower earner having no more than £69,333, regardless of total income, and concludes that it is "highly likely" that these couples will elect to join Independent Taxation as soon as possible. The Comptroller of Revenue outlined that this would yield a potential cost of "around £4 million"⁵.
17. On the other hand, the Panel's Adviser has calculated that single income couples without any additional allowances other than the basic married man's allowance will be "almost always worse off under the proposals", due to the shift in allowances from £25,700 to £16,000.
18. The Panel's Adviser expects that only single income households with incomes "in excess of £111,367" will be unaffected, which is the point where couples become 20% taxpayers.
19. The Panel Adviser's report has provided several calculated models of how the move to Independent Taxation as outlined by the Draft Law and the evidence gathered by the Panel will affect those on various incomes and in various scenarios (e.g. number of children, different levels of contribution to the overall household income). These models have also been reviewed by the independent tax expert John Shenton.
20. The Panel notes that these scenarios are indicative of lower income couples who will see a considerably more significant increase in taxation than those on higher incomes. The Panel further note the model provided of "Peter & Tommy" and the need for one of them to agree who is to claim the child allowance and whether it is to be split between them. The Panel would therefore recommend that the Minister provides clarification and considerable support to

⁵ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.17](#)

couples whose application of the child allowance will be disrupted by Independent Taxation.

21. As outlined in the modelling provided by the Panel's Adviser, the hypothetical "Mr & Mrs E", whose combined income is £380,000, would pay £8,736 less in tax under Independent Taxation.
22. The Panel would, therefore, strongly recommend that the Minister seeks to resolve this disparity, to prevent lower-income couples from potentially subsidising wealthier Islanders' tax bill.

Move to Current Year Basis Taxation

23. The Panel further notes a concern raised by its Independent Adviser regarding how the introduction of Current Year Basis taxpaying for all will be immediately followed by Independent Taxation, leading to all taxpayers previously taxed under Prior Year Basis having residual 2019 liabilities to pay, and the need to notify Revenue Jersey how they intend to make payment of these liabilities whilst Independent Taxation is introduced.
24. The Panel further notes the receipt of submissions from members of the public in regard to this concern and would recommend that the Minister and her Officers undertake work to address concerns taxpayers may have and allow them to understand and plan for paying these liabilities before 2024.

Compensatory Allowance

25. During its public hearing, the Comptroller of Revenue confirmed that there would be no loss of tax revenue or additional revenue gained by Treasury and Exchequer in the first year following the introduction of Independent Taxation⁶.
26. It was further confirmed to the Panel that situations where couples are found to pay more tax under Independent Taxation will have this offset by a Compensatory Allowance⁷. This allowance is not covered in the Draft Law but will be a fundamental component for the introduction of Independent Taxation to prevent significant financial inequities.
27. The Minister outlined in the Panel's hearing that, without the Allowance, Treasury and Exchequers would receive a net income of "over £10 million", and that this allowance would prevent extra revenue from being obtained, and to avoid increasing the taxes paid by those on lower incomes⁸.

⁶ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.17](#)

⁷ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.7](#)

⁸ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.17](#)

28. The Minister estimated that there will be around 7,100 married couples who will be financially worse off as a result of Independent Taxation if they are not adequately compensated⁹.
29. The Minister confirmed to the Panel that the allowance would be bespoke for each couple and designed to ensure that the changes to Independent Taxation from married man's taxation would be tax neutral in the first year of the change, which is expected to be 2024¹⁰.
30. Following the first year of the allowance, it is expected that it will be adjusted each year to account for increases in the personal allowance of each household, and changes in their circumstances. The allowance is expected to remain in place until 2034¹¹. The Panel has received submissions from Islanders who are concerned about the impact this will have on their finances after 2034. The Panel share these concerns.
31. As noted in the report provided to the Panel by its independent Adviser, it is expected that the allocation and adjustment of the allowances by Revenue Jersey is likely to be resource-intensive and increase the administration costs associated with introducing Independent Taxation. However, the Panel is not of the view that this should deter the Minister from moving to protect those on lower incomes from paying more tax.

Child Tax Allowances

32. As part of her report, the Panel's Adviser has also considered the impact that Independent Taxation will have on child allowances and related tax allowances.
33. The Comptroller of Revenue outlined during the Panel's hearing that the default position will be for couples to equally share these allowances¹². However, the Panel notes concerns expressed by its Adviser in her report that some couples may see an increased tax bill if one partner does not have sufficient income to shelter their tax allowance and notes her recommendation that clear advice must be made available to taxpayers once Independent Taxation begins.
34. The Panel was pleased to hear during its public hearing that the Island's Children's Commissioner has approved the proposition¹³.
35. Nonetheless, the Panel further notes the Adviser's conclusion that a next step to reduce administrative costs and simplify the tax system would be the removal of child allowances from the tax system, and the adoption of a Child Benefit

⁹ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.3](#)

¹⁰ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, pp.13-4](#)

¹¹ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.16](#)

¹² [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.10](#)

¹³ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, p.12](#)

system as found in the UK, where a tax-free benefit payment is provided to the mother with whom the child/children reside with.

36. The Panel would, therefore, recommend that the Minister provides full clarity to both the States Assembly and the public regarding the future of the Child Allowance in Jersey, and how it will adapt under Independent Taxation.

Submission from John Shenton

37. The Panel wishes to highlight a series of key concerns raised by the local tax expert John Shenton in his submission to the Panel. Mr Shenton's highlights that the use of a phased approach to Independent Taxation will inevitably result in two identical families paying different levels of tax, subject to one family electing to move to Independent Taxation during Phase 2 of the Draft Law¹⁴.
38. Whilst the Panel understands that the Compensatory Allowance will offset this risk for lower income Islanders, the Panel is concerned that there is no proposed means to address this difference for higher income Islanders who may benefit from the move to Independent Taxation, as highlighted by the report of its Adviser.
39. The Panel also wishes to note concerns expressed by Mr Shenton about the application of mortgage interest relief and other provisions by Revenue Jersey¹⁵, and would strongly urge that clear and easily accessible information is provided to alleviate the concerns of Islanders.

Submissions from Members of the Public

40. As previously highlighted in the introduction to this Comments Paper, the Panel published a call for evidence and received 71 submissions from members of the public in writing and from social media. These have been uploaded to the Panel's review webpage, aside from several that have been kept private at the request of the individual submitting.
41. The Panel has found that, although many welcome the introduction of Independent Taxation, in particular noting how it will help to provide at least some protection against financial abuse and control from one partner who is domestically abusive towards the other, there are a number of Islanders – including pensioners and those on lower incomes – who have expressed considerable concern that Independent Taxation will see them pay more and be financially damaging for them.
42. Likewise, a number of submissions included a request for Independent Taxation to not be mandatory, in order to prevent certain couples from paying more tax or facing additional administrative burdens¹⁶. Whilst the Panel is not of the opinion that Married Man's Taxation should be maintained in Jersey, it does note that this identifies a wider concern regarding the lack of information provided to Islanders about how the move to Independent Taxation will affect them.

¹⁴ [Submission – John Shenton – 24 August 2021, p.4](#)

¹⁵ [Submission – John Shenton – 24 August 2021, p.4](#)

¹⁶ [Written Submissions from Members of the Public](#)

43. Using the evidence gathered from the submissions provided from members of the public, the Panel is of the conclusion that not enough information has been provided to Islanders about the planned move to Independent Taxation, and how it will affect them. The Panel is particularly concerned that many Islanders who are pensioners, on lower incomes, and those with care responsibilities have expressed worry to the Panel that they will be negatively impacted through these changes, despite clear work being undertaken by Revenue Jersey to offset any of these impacts.
44. During the Panel’s public hearing, the Minister confirmed that there is a timeline of public engagement, with a “variety of social and printed media” planned to inform Islanders of the changes to Independent Taxation, the provision of a new ‘How Tax Works’ online calculator¹⁷ and face-to-face roadshows in Parishes. However, the Minister noted that COVID restrictions and staffing issues had delayed these plans¹⁸.
45. The Panel received a demo version of the online calculator from Revenue Jersey officers and shared it with its Adviser. The Panel is concerned regarding the accessibility of the calculator – with particular concern given to those with colour-blindness or difficulties in distinguishing colour, and that the Calculator lacks some of the necessary details that taxpayers will need to receive to understand their financial situations. Further discussion of the Calculator can be found in the Adviser’s report, which is attached as an appendix to this report.
46. The Panel would further recommend that it should receive all items to assist Islanders with the move to Independent Taxation from the Minister before they go live.
47. However, the Panel would raise a concern that the continued existence of Married Man’s Taxation in Jersey has led to a possible cultural lacuna regarding the completion of tax returns and affiliated documentation and would recommend that Revenue Jersey seeks to understand the epistemic risk present and the need to aid Islanders so that they are not disadvantaged. It is likely that this will be increased by the need for Revenue Jersey to expand its register of couples living together to include all married and civil partnered couples.
48. Regarding previous public engagement undertaken on this subject, the Panel understands that Focus Group work was undertaken between the 22 and 29 June 2021, with a report published on 19 July 2021, with this report provide to the Panel and published before the proposition is debated on 14 September 2021. Consultations between Revenue Jersey and key stakeholders too place between 2017 and 2018.
49. The Panel agrees with its Adviser’s report that insufficient information has been made available between the lodging of the proposition and the planned debate, and that the Minister has not sought to publicise the details sufficiently or adequately behind how Independent Taxation and the Compensatory

¹⁸ [Transcript – Public Hearing with the Minister for Treasury and Resources – 25 August 2021, pp.18-9, 22](#)

Allowance will work, and work to ensure Islanders that they will not be financially worse off because of Independent Taxation.

Conclusion

50. The Panel concludes that the Draft Law will begin to facilitate the move to Independent Taxation in Jersey. The Panel believes that this a long-awaited and essential change that will end an outdated and discriminatory system of taxation. The Panel is further pleased to note the attention given to the provision of a Compensatory Allowance by the Minister to offset a higher tax bill under Independent Taxation, and the work undertaken by Officers to ensure that this Allowance is bespoke to each taxpayer.
51. However, the Panel must express its disappointment in the lack of communication provide by the Minister and her department to Islanders over how Independent Taxation will affect them, and the failure to adequately ease the concerns of Islanders, particularly those on lower incomes. The Panel would strongly urge the Minister to immediately begin work on publicly addressing the concerns outlined in this Comments Paper and ensure that no Islander is left to worry about their financial future after 2024.
52. The Panel notes that Independent Taxation will inevitably result in an increase in the administrative costs to be incurred by Revenue Jersey, and would recommend that the Minister regularly reviews the department's resources to ensure that it is able to sustain the additional work that will be required.
53. The Panel would further recommend that the Minister provides a clear understanding to the States Assembly of the planned future of the Child Tax Allowance following the introduction of Independent Taxation. This will ensure that support received by Islanders is not negatively impacted by the move away from Married Man's Taxation.
54. Finally, and as previously highlighted, the Panel is also concerned regarding the benefits that wealthier taxpayers are likely to enjoy under the regime proposed by the Draft Law and would strongly urge the Minister to undertake work to ensure that Islanders on lower incomes do not subsidise those on significantly higher incomes, whilst providing further clarity on how she will mitigate any tax benefits obtained from those on higher incomes during Phase 2 of the Draft Law against those not in the scheme but on identical incomes.

Appendix 1

Report to The Corporate Services Scrutiny Panel

Income Tax (Amendment – Stage 1 of
Independent Taxation) (Jersey) Law 202-
P.78/2021

The implications for taxpayers, Revenue Jersey
and the Revenue of the Government of Jersey

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Table of Contents

1. Background	3
How married man’s taxation works	3
Election for separate assessment by a couple	6
Previous work on independent taxation proposals	6
2. The current proposals	8
3. How will it work in practice?	9
The Compensatory Allowance	11
Child allowances and related tax allowances	13
Completion of tax returns	15
2019 deferred liability for former Preceding Year Basis (PYB) taxpayers	15
4. Communication and consultation with affected taxpayers	17
Focus group results	18
Submissions to scrutiny	19
Online tax calculator	22
Elections for early adoption of independent taxation	23
5. Summary : Impact on taxpayers, including the impact on children	26
6. Implications for Revenue Jersey and for the revenue of the Government of Jersey	28
Administrative implications for Revenue Jersey	28
Implications for revenue of Government in Jersey	29
Appendix : Output from current version of tax calculator	31

1. Background

- 1.1 Personal income tax in Jersey has been based on a concept known as ‘married man’s taxation’ since 1928. Under this system married couples (and more recently civil partnerships) have been taxed as a single unit with the tax system regarding the husband (or elder partner – Spouse A - in a same sex marriage or civil partnership) as the individual responsible for the couple’s joint tax affairs and tax liabilities.
- 1.2 The same system operated in the UK until 1990 when independent taxation for married women was introduced. The proposals in Jersey largely mirror what was done in the UK at the time of the change, although in Jersey it is planned to spread the change over a period of years to reduce the impact on tax administration, whereas in the UK this was done in a single tax year.
- 1.3 In broad terms the proposals will tax all individuals in Jersey the same way, irrespective of whether they are married or not. However, some aspects of the existing system of tax allowances and exemptions in Jersey mean that full independent taxation (that is, irrespective of the circumstances of one’s spouse or civil partner) will not be achieved in the short to medium term unless further reform of the tax and benefits system is carried out.

How married man’s taxation works

- 1.4 The married man’s system of taxation treats all of the income of a married couple or civil partners as belonging to the husband (or Spouse A in same sex unions). Spouse A is then awarded a married man’s tax exemption, together with any other allowances provided for by his circumstances (such as child allowance or Mortgage interest relief) and the resulting net income is taxed at the marginal rate of 26%. If this amount of tax is lower than 20% of the gross income, this is the couple’s tax liability for the year.
- 1.5 It is usual in many couples for the man to complete the tax return on behalf of the couple, and indeed he (or spouse A) is legally required to do so. An additional allowance is available to the couple where the wife or Spouse B is employed (now known as the second earner’s allowance).
- 1.6 Where a couple is taxed under this system, Revenue Jersey will not discuss the taxation affairs of a married woman or Spouse B with them without permission from the husband or Spouse A, although the 2021 Budget legislation introduced joint rights of access to tax information¹.
- 1.7 When a couple separates permanently each party returns to being taxed as a single person from the date of separation.

¹ [Finance \(2021 Budget\) \(Jersey\) Law 2021 L.3/2021](#) Articles 14 & 15

Examples of taxing couples under married man’s taxation : scenarios

The following example couples will be used throughout this report to illustrate how the tax burden on them will change under the independent taxation proposals. I have not included mortgage interest relief in the examples because it is being phased out.

Mr & Mrs A

Mr A is employed and has a salary of £25,000. Mrs A does not have any income. The couple have two children under 4 years old and live in rented accommodation.

Mr & Mrs B

Mr B is employed with a salary of £32,000. Mrs B works part time and earns £4,000 a year. The couple have no children and live in rented accommodation.

Peter and Tommy

Peter and Tommy are civil partners. Peter is the elder by two years. Peter is employed and earns £40,000 a year, and Tommy is also employed, earning £25,000 a year. Tommy pays childcare for their adopted son Freddie who is 4 years old costing £5,200 a year.

Mr & Mrs C

Mr C is a self employed accountant with income of £180,000 a year. Mrs C has a part time job earning £15,000 a year. They have no children and own their home outright.

Mr & Mrs D

Mr and Mrs D are both retired and in their late 70’s. Mr D’s pension is £18,000 a year and Mrs D’s pension is £8,000 a year.

Married man’s taxation – calculations

Mr & Mrs A

	£	£
Income – Mr A		25,000
Tax allowance – married man	25,700	
Child allowance x 2	<u>6,120</u>	
Total allowances / exemptions		31,820
Taxable income		NIL
Tax due		NIL

Mr & Mrs B

	£	£
Income – Mr B		32,000
Income – Mrs B		4,000
Tax allowance – married man	25,700	
Second earner's allowance*	<u>4,000</u>	
Total allowances / exemptions		29,700
Taxable income		6,300
Marginal rate calculation – 26%		1,638
20% of gross income		7,200
Tax due (the lower amount)		£1,638

* Although the second earner's allowance is £6,300, it is limited to the income of the second earner, in this case £4,000.

Peter & Tommy

	£	£
Income – Peter		40,000
Income – Tommy		25,000
Tax allowance – married man	25,700	
Second earner's allowance	6,300	
Child allowance	3,060	
Childcare allowance	<u>5,200</u>	
Total allowances / exemptions		40,260
Taxable income		24,740
Marginal rate calculation – 26%		6,432
20% of gross income		13,000
Tax due (the lower amount)		£6,432

Mr & Mrs C

	£	£
Income – Mr C		180,000
Income – Mrs C		15,000
Tax allowance – married man	25,700	
Second earner's allowance	<u>6,300</u>	
Total allowances / exemptions		32,000
Taxable income		163,000
Marginal rate calculation – 26%		42,380
20% of gross income		39,000
Tax due (the lower amount)		£39,000

Mr & Mrs D

	£	£
Income – Mr D		18,000
Income – Mrs D		8,000
Tax allowance – married man*	26,100	
Second earner's allowance**	<u>6,300</u>	
Total allowances / exemptions		32,400
Taxable income		NIL
Tax due		NIL

*Allowance given for older married man born before 1952

** This is available if Mrs D has a pension in her own right

Election for separate assessment by a couple

- 1.8 Married couples and civil partnerships are permitted if they choose, to elect for 'separate assessment' for any tax year. Under separate assessment each is responsible for a proportion of the income tax due by the couple, and each can keep their income information confidential from their spouse or civil partner. However, electing for separate assessment does not change the way in which the tax liability for the couple is calculated, and cannot, therefore, affect the amount of tax that the couple jointly pay.
- 1.9 For example, if **Peter and Tommy** in the examples above elect to be separately assessed their joint tax bill of £6,432 would be assessed on each of them in accordance with their income. So Peter would be liable to £3,958 (£40,000 / £65,000 of the joint liability) and Tommy would be liable for £2,474.
- 1.10 Election for separate assessment can be made by either party to the marriage or civil partnership and must be made by 31 October in the relevant year of assessment, or within one month of the date of the marriage or civil partnership if that occurs after 1 October.

Previous work on independent taxation proposals

- 1.11 Work on this aspect of modernising the tax system commenced some time ago, and in November 2013 a commitment was made to introduce independent taxation, based on a detailed feasibility report² prepared on behalf of the then Minister for Treasury and Resources by the Tax Policy Unit.
- 1.12 That report proposed that implementation of independent taxation would commence in 2016 and be fully implemented by 2020.

² [A Feasibility Report into the introduction of independent taxation in Jersey dated October 2013](#)

- 1.13 The report did, however, identify a number of difficult issues which would need to be considered and solutions found in order to implement independent taxation – these included the Prior Year Basis of assessment (for which reform was brought forward in 2020) and pressure of work at Revenue Jersey.

2. The current proposals

- 2.1 The [Draft Income Tax \(Amendment – Stage 1 of Independent Taxation\) \(Jersey\) Law 202- \(P.781/2021\)](#) (the Draft Law) was lodged by the Minister for Treasury and Resources on 3 August 2021. As the name suggests, the Draft Law makes the initial changes of the programme which will be implemented in three phases.
- 2.2 In reviewing the proposals and the impact on taxpayers, Revenue Jersey and the revenue of the Government of Jersey this report will look at the three phases together so that an understanding of what the proposals as a whole will achieve. Specific comments on the first phase are necessarily brief as there is limited impact initially.
- 2.3 The proposals to introduce independent taxation is to be managed over a period of time, principally to allow Revenue Jersey time to implement the systems and communications and support taxpayers will need as they transition to the new system.
- 2.4 Phase 1 – to be implemented by the Draft Law – largely prevents any more taxpayer couples being added to the current system. It also includes a small cohort of around 700 existing married couples and civil partners who are to be permitted to elect to join independent taxation early so that the planned communication and support model can be tested on a small population. So phase 1 will see three groups of taxpayers coming into independent taxations:
- Couples who marry or form civil partnerships on or after 1 January 2022
 - Individuals who are married or civil partners who arrive in Jersey on or after 1 January 2022, and
 - Those married couples and civil partnerships who have elected for separate taxation for the tax year 2020 and who jointly elect to be independently taxed for 2022 by the due date of 29 October 2021.
- 2.5 Phase 2 is planned to commence in 2023 and is also provided for by the Draft Law. All married couples and civil partners will be permitted to elect for independent taxation in 2023 by making a joint election in 2022 by the due date of 29 July 2022.
- 2.6 Phase 3 – for which we do not currently have draft legislation – will come after 2023, and will be phased over a period of years. Indications are that Phase 3 will commence in 2024, and will extend through 2025 or 2026. By the end of phase 3 all remaining married couples and civil partners will be taxed independently, this being mandatory rather than elective. Phase 3 will include the introduction of an additional tax allowance (the compensatory allowance) which will compensate those couples who will pay more tax in total under independent taxation than they would if married man's taxation were to continue.

3. How will it work in practice?

- 3.1 The new independent tax system will tax everyone in the same way, irrespective of whether they are married or single. Each individual will receive a single allowance (currently £16,000 per annum) and their tax will be calculated in the same way as currently – using the lower outcome of a marginal rate calculation at 26% and 20% of their total income. The married man's tax allowance and the second earner's allowance will therefore be abolished.
- 3.2 Individuals will be responsible for their own tax affairs, for completing returns and for paying the tax due each year. For individuals who pay tax through the Income Tax Instalment System (ITIS) the rate applied will reflect their own personal income and liability rather than that of the couple.
- 3.3 However, as mentioned at 1.3 above, there remain some aspects of the tax system that will prevent absolute independent taxation, as couples will have to decide which of them is to claim certain allowances such as child allowance. This is no different to the position of couples who are not married but have children in the household. Nevertheless, the presence of child allowance and related amounts adds complexity to the tax system and increases the administrative cost of operating income tax.
- 3.4 As identified in the previous Feasibility Study³, there will be 'winners and losers' in the move to independent taxation. That is, there will be couples who pay less tax as a result of the change, and some who will (or would) pay more as a result.
- 3.5 Those who are likely to pay less tax as a result of the change include those where the couple jointly pay tax at 20% but where after independent taxation one of them is liable at the marginal rate. By definition if that applies, the amount so calculated will be less than 20% of their income, so there is a tax saving. This will affect dual income couples with significant income.
- 3.6 Couples benefitting from a reduction in tax on the introduction of independent taxation will have joint income of in excess of £138,666, with the lower earner having income of no more than £69,333 irrespective of the total income. Revenue Jersey has estimated that the total cost in lost tax revenue to these couples would be £4 million a year. It is highly likely that such couples would elect to join independent taxation as soon as possible.
- 3.7 Single income couples without any additional allowances other than the basic married man's allowance will almost always be worse off under the proposals, because as a married couple they currently have an allowance of £25,700 and after the change that allowance will become £16,000.

³ [A Feasibility Report into the introduction of independent taxation in Jersey dated October 2013](#) page 35 para 2

Only single income households with income in excess of £111,367 will be unaffected – this is the point at which the couple become 20% taxpayers, so the amount of the allowance/exemption is irrelevant.

Independent taxation – calculations

Mr & Mrs A

	Mr A	Mrs A
	£	£
Income – Mr A	25,000	
Tax allowance	(16,000)	
Child allowance x 2	<u>(6,120)</u>	
Taxable income	2,880	NIL
Tax due at 26%	749	NIL
Tax previously due	NIL	
Increase/(decrease) in tax	£749	

Mr & Mrs B

	Mr B	Mrs B
	£	£
Income	32,000	4,000
Tax allowance	<u>(16,000)</u>	<u>(16,000)</u>
Taxable income	16,000	NIL
Marginal rate calculation – 26%	4,160	NIL
20% of gross income	6,400	
Tax due (the lower amount)	£4,160	
Tax previously due	1,638	
Increase/(decrease) in tax	£2,522	

Peter & Tommy

	Peter	Tommy
	£	£
Income	40,000	25,000
Tax allowance	(16,000)	(16,000)
Child allowance*	<u>(3,060)</u>	
Childcare allowance**		<u>(5,200)</u>
Taxable income	20,940	3,800
Marginal rate calculation – 26%	5,444	988
20% of gross income	8,000	5,000
Tax due (the lower amount)	£5,444	£988
Total tax due by the couple	6,432	
Tax previously due	6,432	
Increase/(decrease) in tax	NIL	

*Peter and Tommy will need to agree between them who is to claim the child allowance, or whether it is to be split between them. In some cases, the second partner will not have sufficient income to use the allowance, so it would be preferable to the couple for the one with higher income to claim it.

** The childcare allowance can only be given to the individual paying for the childcare (a change made by the Draft law, but always intended to be the case). If Tommy’s income were lower, then it might be preferable for Peter to pay for the childcare so that he can benefit from the allowance.

Mr & Mrs C

	Mr C	Mrs C
	£	£
Income	180,000	15,000
Tax allowance	(16,000)	(16,000)
Taxable income	164,000	NIL
Marginal rate calculation – 26%	42,640	
20% of gross income	36,000	
Tax due (the lower amount)	£36,000	
Tax previously due	39,000	
Increase/(decrease) in tax	£(3,000)	

Mr & Mrs D

	Mr D	Mrs D
	£	£
Income – Mr D	18,000	8,000
Tax allowance	(16,000)	(16,000)
Taxable income	2,000	NIL
Tax due	520	NIL
Tax previously due	NIL	
Increase/(decrease) in tax	£520	

The Compensatory Allowance

- 3.8 As can be seen from the examples above, many couples in a variety of circumstances are likely to pay more tax under independent taxation than they currently do. This is likely to affect all lower income couples where there is a single income (see paragraph 3.7 above) and couples with two incomes but where one of them has income of less than £16,000 a year. This is because the married man’s allowance plus second earner’s allowance total £32,000 but after independent taxation the total allowance of £32,000 due to the couple cannot be transferred between the partners when it has not been fully utilised.

- 3.9 It is therefore proposed that in Phase 3 (the mandatory element of the changes) an extra allowance will be available to compensate those who would be worse off after the change. Revenue Jersey’s estimate is that without the compensatory allowance these couples would jointly pay an extra £10 million a year⁴ in tax. Although we do not yet have draft law to implement this new allowance (at present called the ‘compensatory allowance’) the Minister for Treasury and Resources provided information in the public hearing on 25 August⁵ on how it is anticipated that the allowance would work.
- 3.10 The Minister indicated that the allowance would be bespoke for each couple and would be calculated so that the change from married man’s taxation to independent taxation would be tax neutral for the couple in the first year of change. Thereafter the allowance would be adjusted each year to take account of increases in personal allowance and changes in circumstances so that it gradually tapers away over a period likely to be 10 years⁶.
- 3.11 The Assistant Minister provided more information about the calculation of the compensatory allowance in her letter to the Panel dated 3 September 2021⁷. The calculations below have been checked against the Minister’s proposal.
- 3.12 Looking at the examples above, this indicates that the following calculations are likely to apply in the first year of independent taxation for the affected couples:

Mr & Mrs A

	Mr A	Mrs A
	£	£
Income – Mr A	25,000	
Tax allowance	(16,000)	
Compensatory allowance	(2,880)*	
Child allowance x 2	(6,120)	
Taxable income	NIL	NIL
Tax previously due	NIL	
Increase/decrease in tax	£NIL	

* Although the compensatory allowance would be £9,700 it is not all needed to reduce the taxable income to NIL as it was previously.

⁴ [Public hearing with the Minister for Treasury and Resources](#) page 17

⁵ [Public hearing with the Minister for Treasury and Resources](#) page 12 et seq

⁶ [Public hearing with the Minister for Treasury and Resources](#) page 16

⁷ Letter from Assistant Minister for Treasury and Resources to CSSP dated 3 September 2021

Mr & Mrs B

	Mr B	Mrs B
	£	£
Income	32,000	4,000
Tax allowance	(16,000)	(16,000)
Compensatory allowance	(9,700)*	
Taxable income	6,300	NIL
Marginal rate calculation – 26%	1,638	NIL
20% of gross income	6,400	
Tax due (the lower amount)	£1,638	
Tax previously due	1,638	
Increase/decrease in tax	NIL	

*The planned compensatory allowance of £9,700 is to be reduced by earned income of the second spouse in excess of £6,300 and any unearned income. As Mrs B's earned income is only £4,000 the maximum amount of £9,700 is available.

Mr & Mrs D

	Mr D	Mrs D
	£	£
Income – Mr D	18,000	8,000
Tax allowance	(16,000)	(16,000)
Compensatory allowance	(2,000)*	
Taxable income	NIL	NIL
Tax due	NIL	NIL
Tax previously due	NIL	
Increase/decrease in tax	£NIL	

* Although the compensatory allowance would be £8,000 (£9,700 - £1,700 (the excess of Mrs D's income over £6,300)) it is not all needed to reduce the taxable income to NIL as it was previously.

- 3.13 Inevitably the calculation of the allowance and the adjustment of the allowances over time is likely to be a very labour intensive job and increase the administrative costs of collecting tax. However, the allowance is essential if ordinary taxpayers are not to be significantly disadvantaged by the change.

Child allowances and related tax allowances

- 3.14 To the extent that there remain allowances which are available jointly to a married couple or civil partners there is a barrier to the full implementation of independent taxation. Where a couple have to agree between them who is to claim the allowances, or have to agree to share the allowance, their tax matters can never be truly independent of each other.

- 3.15 The Comptroller indicated in the public hearing that the default position will be to share allowances of this nature equally between the couple⁸. However, it is important to note that for some couples this could result in their joint tax bill rising if one partner does not have sufficient income to shelter the tax allowance (see, for example, my comments on Peter and Tommy above, and the example of Mr and Mrs A in the Appendix). It will be important for clear advice about this to be available to taxpayers once independent taxation commences. The same comments apply to relief for mortgage interest, although as this relief is currently being phased out it will not be an issue in the medium term.
- 3.16 The allowance for childcare costs paid by one or both of the couple is not subject to this difficulty as the allowance can only be claimed by the individual paying for the childcare. However, in a case where the individual paying for the childcare has lower income, this may necessitate the couple rearranging their finances in order for the other partner to benefit from the tax allowance.

Key Finding 1: *Clear information about how to make elections for child allowance and mortgage interest relief will be essential when independent taxation commences if couples are not to be financially disadvantaged. The online calculator does not currently deal with this point.*

Recommendation 1: *That the Minister ensures that the gov.je pages on this are updated to explain (with illustrative examples) how couples taxed independently should decide who is to benefit from child allowance and mortgage interest relief. The way in which this is presented by the online tax calculator should be considered carefully. The guidance should also reflect the need for couples to consider the impact on their tax position of who pays for childcare where childcare tax relief is available.*

- 3.17 To further simplify the tax system and to reduce administrative costs associated with checking the allocation of allowance between a couple removal of child allowances from the tax system would be a next step. However, there are rightly important considerations to be taken into account in contemplating further reform.
- 3.18 In the UK the elimination of a tax allowance for children was accompanied by a significant increase in Child benefit – an amount normally paid to the mother with whom the children reside, and which is a tax free benefit payment (subject to the withdrawal of the benefit through the tax system for high income families, which is a complex and difficult measure to administer).

⁸ [Public hearing with the Minister for Treasury and Resources](#) page 10

Completion of tax returns

- 3.19 One consequence of the change for taxpayers is that people who are currently not required to submit a tax return will, at least for one year, be required to make a return. Once it is established that their income falls below the level of their tax allowances, they will no longer be required to make a return⁹, but a significant majority of the submissions made by taxpayers expressed concern about the added burden that this element of the changes will impose. This is commented on in more detail at 4.14
- 3.20 There will be a sizeable population of taxpayers (Spouse B) who have never engaged with the tax system and are less than confident about doing so. Revenue Jersey will have to prepare their support model thoroughly so that the needs of these taxpayers for extra support can be met when the time comes.
- 3.21 There is also a concern that individuals in the position of having income below their personal allowances may inadvertently fall foul of the tax system if their income increases. Given that many are not used to dealing with their own tax affairs they may not realise that if their income increases, they may need to make a return for a particular year; they may then fall into non-compliance and tax debt without being aware of this fact.

Key finding 2: *There is a risk inherent in the changes that some individuals may fail to report income that is taxable, arising from unfamiliarity with the tax system and increases in income after independent taxation commences.*

Recommendation 2: *That during the period of introduction of independent taxation Revenue Jersey recognises the needs of this particular group of individuals and develops specific targeted information that will help them understand what the requirements of the tax system are and how to comply.*

Recommendation 3: *That Revenue Jersey develop or refine processes to identify when taxpayers' income increases by sufficient amount to need to complete a tax return and use these to notify individual taxpayers directly of their obligations.*

2019 deferred liability for former Preceding Year Basis (PYB) taxpayers

- 3.22 The change to independent taxation, while generally welcomed by taxpayers (see paragraph 4.8) comes immediately following the introduction of the Current Year Basis for all, meaning that those taxpayers previously taxed under the PYB have residual 2019 liabilities to pay and must notify Revenue Jersey how

⁹ [Letter to CSSP from the Minister for Treasury and Resources dated 25 June 2021, page 2 'Phase 2' second paragraph](#)

they intend to make payment of these liabilities during the period for introduction of independent taxation (by 30 September 2024).

- 3.23 I am concerned about the potential for confusion regarding their tax liabilities particularly affecting married couples and civil partnerships. There are two complex changes being implemented in the tax system at the same time, with the deferred 2019 liability falling into payment and the advent of independent taxation with the associated complexity of the compensatory allowance for them to assimilate and understand, and to plan for financially. There is a real risk that taxpayers will be overwhelmed by the pace of change, and that this could undermine the important principle of voluntary compliance. Several submissions from the public referred to this issue.

“On top of that is the postponed payment and proposed loan arrangement for 2019. I am 72 and I can see nothing ahead of me other than increased tax payments year on year.”¹⁰

“I feel that overall the taxpayer is having to go through too many changes, first with the adoption of being taxed on a current year basis - I believe that the majority of taxpayers do not appreciate that they still owe a years tax but they soon will later this year and this will all cause unrest. This together with the new proposal will leave taxpayers in a very unsettled and confused state”¹¹

Key Finding 3: *That the pace of change in reform of the personal tax system presents a real challenge to taxpayers in understanding their tax liabilities and effective financial planning. There is a risk that this could undermine the important principle of voluntary compliance as taxpayers give up trying to understand their tax position.*

Recommendation 4: *That communications with taxpayers over the medium term seek to make their responsibilities and liabilities very clear and that this is regarded as a priority issue. The quality of written communication should be subject to close review with this priority in mind.*

¹⁰ Comment by Anonymous 15 – page 16 [Summary of submissions to CSSP](#)

¹¹ Comment by Anonymous 12 – page 14 [Summary of submissions to CSSP](#)

4 Communication and consultation with affected taxpayers

- 4.1 Although the promise of independent taxation has been widely publicised over the last six months (as announced by the Minister for Treasury and Resources on 8 March 2021¹²) little detailed information has been placed in the public domain about how the changes would affect taxpayers.
- 4.2 Focus groups were assembled to test the communications material and online calculator tool. The Focus Group work was carried out during the period 22 to 29 June 2021 and the report published on 19 July 2021. The report has been provided to the Panel for review and the Minister has stated that the report will be put in the public domain before the proposition is debated from 14 September 2021.
- 4.3 The Minister has indicated that consultations¹³ have taken place with members of the public, the public sector and voluntary organisations, including telephone interviews with over 2,000 Jersey residents. The results of those consultations have not been made available for Review at this time. Only two submissions were made to Scrutiny during the review of P.119/2019.¹⁴
- 4.4 The proposition was lodged on 3 August 2021 for debate on or after 14 September 2021. This has allowed very little time (a period of six weeks in total) for the public to respond and is contrary to The Government Code of Practice on public consultations which states that “Significant public consultations should normally last for at least eight weeks (excluding major holiday periods) and twelve weeks where appropriate.”
- 4.5 In addition, this period comes at peak holiday season, and a number of those who would have wanted to contribute are not able to provide comments in time. Added to this, work is still being done by firms of accountants to deal with 2020 tax returns, for which the filing deadline has been extended due to COVID, also coinciding with the consultation period.
- 4.6 The written submissions received by Scrutiny indicated that almost all of those responding considered that they did not have enough information about the proposals, and many were very concerned about the tax increases they are expecting to bear. This is dealt with in more detail from paragraph 4.12 onwards, with extracts from submissions to illustrate these points.
- 4.7 During the public hearing the Minister indicated that the face to face meetings could not take place before the proposition is debated as too many people were

¹² [Announcement by the Minister for Treasury and Resources](#) 8 March 2021

¹³ [Public hearing with the Minister for Treasury and Resources](#) page 7

¹⁴ [Comment paper by Corporate Services Scrutiny Panel on P.119/2019](#) dated 31 January 2020, paragraph 19

away¹⁵. This amplifies the concern that I have that although plans to implement independent taxation were announced in March 2021, the final stages of this process have been rushed over the summer period and allowed insufficient time for islanders to assimilate the detail of the proposals. Many submissions, particularly those from retired taxpayers and those with sick spouses and civil partners expressed deep concern for their financial future. Specific quotes regarding this issue are at paragraph 4.18.

Key finding 4: *The short time allowed between lodging the proposition and the planned debate has meant that the public feel that insufficient information is available to them to make considered responses to the request for comment. Many expressed very deep worries about the impact of the proposals on their household finances. This is a direct result of the failure to allow sufficient time to adequately publicise the details of the measure and ensure that the public are properly informed about the proposals.*

Recommendation 5: *That for the next element of the changes the Minister allows sufficient time between lodging the proposition and the planned debate to ensure that those affected are properly informed about the proposed changes and precisely how their tax bills will change.*

Focus group results

- 4.8 The overall themes emerging from the Focus groups indicate that on the whole the principle of independent taxation is widely supported by taxpayers. The ‘Overall themes’ section of the report¹⁶ indicating that many respondents saw the proposal as a good move, which will contribute to ‘equality and fairness’ in the tax system. Other comments indicated that several regarded the change as long overdue¹⁷.
- 4.9 The principal outputs from the focus groups concerned the design and layout of the leaflet which is intended to explain the changes to taxpayers and the information to be published as website pages. The focus groups also tested the tax calculator tool presently called ‘How Tax Works’.
- 4.10 In general, most of the members of the focus groups found the information confusing and did not really understand how independent taxation would affect them personally. Respondents found some of the language used inaccessible and generally found the design, layout and language challenging. The timelines were found to be particularly confusing.

¹⁵ [Public hearing with the Minister for Treasury and Resources](#) page 18

¹⁶ Report on Focus groups by 4insight page 7

¹⁷ Report on Focus groups by 4insight – Word cloud page 8

4.11 During the public hearing with the Minister for Treasury and Resources the Minister confirmed¹⁸ that the proposed leaflet had been redesigned taking into account the comments arising from the Focus Group report.

Submissions to scrutiny

4.12 There have been 41 submissions to CSSP in response to the request for comments on the proposals, a mixture of email comment and full written submissions. There have also been 30 comments made via social media.

4.13 The majority of responses indicate that members of the public are not well-informed about how the current system of taxation works in detail and are concerned that they do not understand how the proposals will affect them. However, this is understandable as the planned leaflet which is intended to be sent to every household has not yet been distributed, so in general the public feel very much ‘left in the dark’ as to how the change will affect them. Some illustrative examples follow.

“... I am infuriated that in the gov press release of the proposal that at the end it says this: “At this early stage, Revenue Jersey is not able to answer questions about the personal impacts of Independent Taxation.” As the panel calling for evidence, I’d point out that I have no idea what this means for me at all. There is no details as to the allowances that will be in place. No examples of a variety of incomes either and what can be expected. Will taxpayers be paying more if one has an income greater than the other partner? Will we be allowed to elect to give unused allowances to the other partner?...”¹⁹

“... I can’t tell if this is an idea that the Minister might have in her allowances to be announced. I also can’t ask Revenue Jersey.”¹³

“We need to know more information, as a married person if one person isn’t earning and the other is, do you still get the married allowance?”²⁰

“How can we be sure that married couples will not pay more tax under this proposal?”²¹

“How will these proposals affect couples where one of them stays at home to care for children and does not have their own income?”²²

“Will the Scrutiny Panel ensure that before any debate The Compensatory allowance mentioned by Deputy Susie Pinel will be

¹⁸ [Public hearing with the Minister for Treasury and Resources](#) page 23

¹⁹ Comment by Nicki Heath – page 1 [Summary of submissions to CSSP](#)

²⁰ Comment by Anonymous 3 – page 5 [Summary of submissions to CSSP](#)

²¹ Comment by Simon Wilson – page 11 [Summary of submissions to CSSP](#)

²² Comment by Joan Hennequin – page 6 [Summary of submissions to CSSP](#)

made Public. I fail to understand how any one can put forward proposals without any substantiation.”²³

- 4.14 At least one respondent was frustrated that they were unable to find out any information about how the proposals would affect their own financial position and did not feel able to comment on the change in any detail.

“ ... If the panel are able to extract some level of detail out of Revenue Jersey, I’m sure there are many that would love to know. As it is without it, I can’t say one way or another if I like the proposal or not, or agree with it...”²⁴

“At the present time there is not enough information available to arrive at a decision about this”²⁵

- 4.15 A number of submissions from older taxpayers (and in particular older married women) were critical of the proposed change. A significant number expressed the view that they did not see the need for change and did not wish to have to complete a tax return every year or deal with their tax affairs. Many in this group advocated for a choice by couples regarding whether they should be taxed independently or not.

- 4.16 It is quite likely that for this group of taxpayers the need to complete a tax return will be a requirement only for the first year of independent taxation. Many of them will have income of less than their new tax allowance of £16,000 and will therefore be required to complete a return only for the first year. Thereafter they will not be required to complete a return unless their income increases to more than their tax allowance. However, as indicated in 3.20 above, this of itself is a cause of concern if these taxpayers are not familiar with the tax system and do not understand what is required of them.

- 4.17 Those objecting to the principle of independent taxation were balanced (although not in absolute numbers) by those taxpayers who welcomed it. In particular, there were several submissions from individuals in difficult and abusive relationships, indicating that the changes would allow them more control over their finances and reduce the opportunity for their spouse or civil partner to exercise coercive control over them. Those responding along these lines indicated that if independent taxation were a choice rather than mandatory for all, some individuals would be unlikely to be able to access the change due to coercion by the partners.

“I was in an abusive relationship and the fact that the tax bill went to my (now ex) husband, was horrendous. He used to use it as a bargaining tool for things. This needs to be made separate. It’s an archaic law that demeans women and can fuel abuse in relationships.”²⁶

²³ Comment by Anonymous 20 – page 19 [Summary of submissions to CSSP](#)

²⁴ Comment by Nicki Heath – page1 [Summary of submissions to CSSP](#)

²⁵ Comment by Anonymous12 – page 14 [Summary of submissions to CSSP](#)

²⁶ Comment by Anonymous 4 – page 5 [Summary of submissions to CSSP](#)

“This proposal will not end financial abuse but it will be a step towards preventing rather than promoting it as the system does now.”²⁷

- 4.18 Some of the responses indicated that there is very little understanding in the general public about how the tax system in Jersey works; this will undermine the capacity of taxpayers to understand the implications of the changes and how they will be financially affected by them. A significant number were very concerned as they understood from the information available to them that they would be worse off after the change.

“We are on a very tight budget here in Jersey, and with cost of living rising faster than employment income, this would be a blow too hard to handle. We find ourselves worrying about the sustainability of raising our children in Jersey when thinking about the possibility of a lack of support for those who choose to live on one income. I implore the committee to consider those families (and there are many) who rely on one income to support their children.”²⁸

“From what I can tell this will hit me and my husband and many more middle earners in the pocket when we struggle at times anyway.”²⁹

“If the proposed change to independent taxation is adopted, we would not be able to financially survive. I know that I am not alone with this concern particularly with the rapidly rising cost of living in Jersey”³⁰

“I would like to know how it will work for me as I am the only one working in our household as my husband is unable to work due to illness I cannot afford to pay anymore tax as we live month to month now.”³¹

“I am 72 and I can see nothing ahead of me other than increased tax payments year on year The whole situation is extremely worrying and there will be plenty of other people in the same situation”³²

- 4.19 We have been advised by the Minister³³ that public meetings are proposed to provide information to taxpayers, but that neither the leaflet advising taxpayers about the changes nor the public meetings have yet been implemented.

- 4.20 In a letter to CSSP dated 25 June 2021³⁴ the Minister indicated that “A full explanation of the complete reform journey will be provided to the Public from the outset..” It is not clear what the minister meant by the term ‘outset’ but it is apparent from the responses to the Panel’s request that some taxpayers are concerned about the lack of communication so far.

²⁷ Comment by Anonymous 7 – page 6 [Summary of submissions to CSSP](#)

²⁸ Comment by Anonymous 19 – page 18 [Summary of submissions to CSSP](#)

²⁹ Comment by Laura Traylen – page 14 [Summary of submissions to CSSP](#)

³⁰ Comment by Anonymous 18 – page 17 [Summary of submissions to CSSP](#)

³¹ Comment by Anonymous 17 – page 17 [Summary of submissions to CSSP](#)

³² Comment by Anonymous 15 – page 16 [Summary of submissions to CSSP](#)

³³ [Public hearing with the Minister for Treasury and Resources](#) page 18

³⁴ [Letter to CSSP from the Minister for Treasury and Resources dated 25 June 2021](#) Page 3 under ‘Managing the customer experience’

4.21 It is lamentable that so many ordinary taxpayers have been moved to make submissions to Scrutiny's request for feedback on the proposals because they are so very worried about their financial security and how they expect these proposals to adversely affect them. They should not have been placed in the position that they are worried for their financial survival when clearer communication that this will not be the case would have avoided the stress and worry that misunderstanding has caused.

Key Finding 5: Understanding of the tax system among taxpayers in Jersey and how it affects individual taxpayers is poor. This will undermine the ability of taxpayers to process the effect of the changes on their own circumstances.

Recommendation 6: That the Minister urgently undertakes a public information exercise to help taxpayers understand the impact of the changes, and specifically how the changes will affect single income couples and pensioners. This campaign should be structured to ensure that individuals have the opportunity to attend planned meetings out of working hours as far as possible, and at a time and place convenient to them.

Online tax calculator

4.22 An online tax calculator tool (presently called 'How tax works') has been developed to support understanding of how the tax system in Jersey works and to provide information for couples who may wish to elect for early implementation of independent taxation. This initiative was welcomed by member of the focus groups³⁵.

4.23 In a letter from the Assistant Minister for Treasury and Resources³⁶ to the Panel dated 3 September 2021 it was clarified that the calculator will be available from September 2021 to support the Phase 1 choices by the pilot group, and thereafter be enhanced as version 2 in early 2022 before Phase 2 elections must be made by the approximately 14,000 couples who are likely to consider electing for independent taxation from 2023.

4.24 Understanding how the measure will affect the tax payable by a couple is absolutely essential to enable couples to decide whether to elect for early commencement of independent taxation. Those couples who will pay more tax after the change would clearly not wish to elect to join the new system early, as the compensatory allowance will not be available until Phase 3, the mandatory element of the change.

³⁵ Report of Focus groups by 4insight Page 17

³⁶ Letter from Assistant Minister for Treasury and Resources to CSSP dated 3 September 2021

- 4.25 The calculator was shown to the focus groups with some illustrative figures. Several people thought that the tool should be renamed³⁷ 'Tax Calculator' and should be given more prominent position. Some found the outputs a little unclear and would have liked a clearer 'you will be better off / worse off' result³⁸.
- 4.26 Overall the focus groups liked the tax calculator and found it useful. The only criticism of it was the visual design and layout which most felt could be improved.
- 4.27 I have been provided with the current version of the tax calculator to review. In my view it is easy to enter the date and the text is clear and easily readable. There is an option to view an independent taxation calculation which shows the tax liability for both of the couple. However, I considered that information about how much the marginal rate calculation has benefitted the taxpayer was not necessary and risks confusing lay taxpayers. The colour code is, in my view not sufficiently inclusive as the use of red and green excludes those with difficulty discerning colour differences. It might have been clearer to display the information as vertical bars with no colour. I have attached some screen shots as Appendix 1.

Key Finding 6: The tax calculator tool is a development which will contribute significantly to taxpayers' understanding of the tax system and in particular of the impact of independent taxation on them personally. The use of red and green colours may however limit its usefulness for some taxpayers.

Recommendation 7: That the Minister considers renaming the tool in line with the recommendations from the focus groups and ensures that it is highlighted to taxpayers to make them aware of it. The visual design of the calculator should be checked to ensure it is sufficiently inclusive for users.

Elections for early adoption of independent taxation

- 4.28 During the proposed implementation of independent taxation there are two opportunities for married couples and civil partners to elect for early commencement of the new rules. These are as follows:
- Phase 1: Couples who have elected for separate assessment for the year 2020 are permitted to elect for independent taxation to apply to them from 2022. The election must be made by 29 October 2021, and
 - Phase 2 : All remaining married couples and civil partnerships are permitted to elect for independent taxation to apply to them from 2023. They must make an election by 29 July 2022.
- 4.29 In both cases, the election must be made jointly by the couple, and once made is irrevocable.

³⁷ Report on Focus groups by 4insight 'Overall themes' page 7

³⁸ Report on Focus groups by 4insight Page 17

4.30 Given that the Draft Law is to be debated from 14 September, the period allowed for Phase 1 couples to make the election is a matter of a few weeks. The lack of detailed knowledge about the measure and how it may impact a couple's tax liability is of concern. The time period is very short indeed for couples to elect to join phase 1.

4.31 During the Public hearing, the Comptroller indicated³⁹ that as there is a limited number of couples (671) affected by the election in Phase 1. Revenue Jersey intends (and is already gearing up) to write to every eligible couple immediately the proposition has been debated – if it is accepted. The letters would then be followed up with personal telephone contact to ensure that eligible couples are aware of the need to act quickly.

4.32 For Phase 2 elections it is intended that the tax calculator referred to above will be available on the gov.je website pages dealing with independent taxation. It will be important to ensure that all affected couples are aware of the opportunity to make an election and the latest date by which one can be made. They will then be able to use the tax calculator to ascertain for themselves whether early election would benefit them.

4.33 The response received by CSSP from John Shenton, a tax consultant, has levied strong criticism that the approach allowing only those couples who have elected for separate assessment in 2020 to be taxed independently in 2022 is unfair to those couples who would benefit from electing early, but who were not to know in 2020 that such an event would arise. He has pointed out that the proposition as lodged:

'...will mean that two sets of identical taxpayers could face significantly differing tax bills from 2022 ..'

He correctly asserts that gov.je says this about electing for separate assessment:

"... that electing for separate assessments makes no difference to the amount of tax you pay as a couple ..."

But as he points out this is not now correct. The opportunity for some couples to elect for independent taxation early (from 2022) potentially allows them to pay less tax in 2022 than those who cannot elect, by virtue of their decision to elect for separate assessment in 2020.

4.34 In raising this issue of fairness with the Minister and the Comptroller in the public hearing the response⁴⁰ was centred on the need for a small cohort of participants in 2022 in order to test the communication and support measures before the remaining population was invited to elect in 2022 for 2023. I do not consider that this sufficiently recognises the need to treat all taxpayers the same.

³⁹ [Public hearing with Minister for Treasury and Resources](#) page 20

⁴⁰ [Public hearing with Minister for Treasury and Resources](#) page 23

Key Finding 6: *Although the desire to manage the transition and the numbers of taxpayers carefully is understandable, the proposition as laid imposes a different tax burden on couples with identical circumstances. This offends the fundamental principle of fairness which is one of the Government’s stated aims for the Jersey tax system.*

Recommendation 7: *That the Minister extends the opportunity to elect for independent taxation to apply in 2022 to any couple who would financially benefit from the election. This could be done by permitting couples who elect for separate assessment in 2021 to also elect for independent taxation in 2022. This would, however, necessitate an extension to the deadline of 2 days for those who are already married or civil partners by 1 October 2021.*

5. Summary : Impact on taxpayers, including the impact on children

- 5.1 The analysis in section 3 of this report identifies the financial impact of independent taxation on taxpayer couples with a variety of different circumstances.
- 5.2 The planned implementation of the compensatory allowance when Phase 3 of the change comes into force means that the adverse tax outcomes will be mitigated for all affected households, including families with children. It is the Minister's desire⁴¹ 'that wherever possible existing married people will not be financially disadvantaged by the move to Independent Taxation.'
- 5.3 Given that the intention is to phase out the compensatory allowance over time, it is possible that some couples will see an increase in their tax liability over this period, although this would probably be offset by increases in the individual personal allowance. In any event, in the interests of fairness between couples with similar incomes and circumstances the compensatory allowance should not, in my view become a permanent feature of the tax system.
- 5.4 In regard to the impact on children, the Minister indicated that the Children's Commissioner has provided a letter confirming that the proposition and the proposals for independent taxation are being developed in accordance with the United Nations Convention on the Rights of the Child, and a copy of this letter has been made available to the Panel.
- 5.5 In paragraph 3.17 I have observed that the existence of child allowance is a barrier to fully independent taxation, in that one member of a couple cannot be taxed in isolation from knowledge of the affairs of the couple jointly, increasing complexity and administrative costs for the administration of tax. I have also noted the need for taxpayers with children to be provided with clear detailed information about how their choices about claiming additional tax allowances might be managed to ensure that the introduction of independent taxation does not increase the tax paid by the couple. Clearly, if a proposal for further reform of the tax system was to be considered the impact on couples with children would have to be considered in the light of those proposals.
- 5.6 In paragraph 3.23 I have raised the issue regarding the pace of change affecting some taxpayers, particularly those also affected by the move from PYB to CYB and the related 2019 liability which falls due for payment on the same period as some of them will commence independent taxation.
- 5.7 In paragraph 4.16 I have noted that some taxpayers who will need to take responsibility for their own tax affairs after the full implementation of independent taxation regard this as an unwelcome additional burden. In practice, it is likely however, that where the spouse or civil partner has previously taken

⁴¹ [Letter to CSSP from the Minister for Treasury and Resources dated 25 June 2021](#) page 3 para 2

responsibility for their tax compliance they will continue to support their spouse or civil partner with their new responsibilities.

- 5.8 Finally, in paragraphs 4.33 to 4.34 I have highlighted my concern that the proposal to allow only certain taxpayer couples to elect for independent taxation from 2022 is unfair on those couples who would benefit financially from early adoption but who did not elect for separate assessment in 2020.

6 Implications for Revenue Jersey and for the revenue of the Government of Jersey

Administrative implications for Revenue Jersey

- 6.1 Once independent taxation is fully implemented it is estimated that there will be around 22,000 extra taxpayers. There are currently around 65,000⁴² returns filed a year, so this represents an increase of 34% on the current workload for Revenue Jersey.
- 6.2 There will be a small reduction in workload once the reform has been fully implemented, as around 700 couples who currently elect to be subject to separate assessment will no longer be worked manually, as separate assessment will cease once independent taxation is in place.
- 6.3 It is not currently clear how many of the additional 22,000 taxpayers will not need to file a tax return after the first year of independent taxation, but the number is likely to be significant, and to cover many of the taxpayers who made submissions on this specific issue.
- 6.4 Take up of online filing is increasing. It is not possible to identify the current online filing take up for 2020 as the deadline for online filing has been extended from 31 July 2021 to 31 August 2021 as a result of disruption caused by the COVID pandemic. Clearly a high proportion of online filing is likely to mean less administrative work for Revenue Jersey. However, given that these 22,000 taxpayers will be new to the tax system in my view the majority are unlikely to adopt online filing in the first year.
- 6.5 In addition, Revenue Jersey are currently implementing new processes to record the deferred 2019 liability for the 30,000 taxpayers previously taxed on a PYB. These liabilities are applicable to Spouse A for couples who remain married, and the necessity of recording the liability, and any elections made regarding settlement, and any payments made towards it will doubtless impose significant burdens on administration of the tax system.
- 6.6 The Minister stated in responses⁴³ during the public hearing that the estimated administrative costs of implementing independent taxation were of the order of £1.25 to £1.5 million. These costs are in addition to the publicised cost of the measure of £4 million, which relates only to the lost tax revenue related to those wealthy couples who benefit from independent taxation.
- 6.7 The Comptroller gave evidence⁴⁴ that Revenue Jersey has now taken on 12 additional staff, and that funding has already been approved to enable the

⁴² [Gov.je press notice dated 26 May 2021](#)

⁴³ [Public hearing with Minister for Treasury and Resources](#) page 17

⁴⁴ [Public hearing with Minister for Treasury and Resources](#) page 32

department to cope with the additional work required by the tax modernisation programme.

6.8 Given the pace of reform to the income tax system in Jersey it is not possible to comment authoritatively on whether Revenue Jersey has sufficient resource to cope with a combination of the CYB reforms and the move to independent taxation, as those first reforms have not yet bedded in, nor indeed has the full impact of them been experienced yet.

6.9 However, I am bound to make an observation on one aspect of the potential cost of implementing these reforms. Throughout preparing my comments for this report the importance of clear, timely and effective communication with taxpayers has been woven through almost every aspect of these proposed changes. The quality of the written and online communication has never been more important, and achieving the required level of clarity and simplicity is not an inexpensive exercise. It is not clear how much of the budget of up to £1.5 million has been allocated to taxpayer communication but I would like to draw attention to this issue.

Implications for revenue of Government in Jersey

6.10 The published cost of the proposals is estimated to be £4 million a year. This sum relates to the loss of tax revenue arising from couples who will benefit from the changes. The benefit is generally available to higher income couples. If their circumstances dictate, some families will benefit by many thousands of pounds.

Example : Mr & Mrs E

Mr E has total income of £300,000. Mrs E has income of £80,000 including earned income of £8,000. They incur mortgage interest on their main Jersey residence of £10,000. They have four children, two of whom are below school age, in respect of whom they incur childcare costs of £20,000.

Mr & Mrs E – married man’s taxation

	£	£
Income – Mr C		300,000
Income – Mrs C		80,000
Tax allowance – married man	25,700	
Second earner’s allowance	6,300	
Child allowance x 4	12,240	
Mortgage interest relief (maximum)	7,500	
Enhanced childcare relief (maximum)	16,320	
Total allowances / exemptions		68,060
Taxable income		311,940
Marginal rate calculation – 26%		81,104
20% of gross income		76,000
Tax due (the lower amount)		£76,000

Mr & Mrs E – independent taxation

	Mr E	Mrs E
	£	£
Income	300,000	80,000
Tax allowance	(16,000)	(16,000)
Child allowance x 4		(12,240)
Mortgage interest relief (maximum)		(7,500)
Enhanced childcare relief (maximum)		(16,320)
Taxable income	284,000	27,940
Marginal rate calculation – 26%	73,840	7,264
20% of gross income	60,000	
Tax due (the lower amount)	£60,000	
Total tax due	£67,264	
Tax previously due	76,000	
Increase/(decrease) in tax	£(8,736)	

- 6.11 As a percentage of the amount of income tax assessed on individuals the expected loss of revenue is around 1% of the annual tax yield. (Based on personal income tax of £425 million for 2017⁴⁵ – the last year for which statistics have been published).
- 6.12 The Minister has not yet been able to confirm what plans there are to finance this cost; the Report accompanying the Draft Law⁴⁶ indicates that the Minister is currently considering options to offset the costs.

Finding 7: *That the loss of income tax revenue to the Government of Jersey amounting to approximately 1% of income tax assessed on individuals in a year has not yet been budgeted for in terms of funding this loss of revenue.*

Recommendation 8: *That the Minister urgently identifies an appropriate way to fund this cost, which will in part commence in 2022 and places this information in the public domain.*

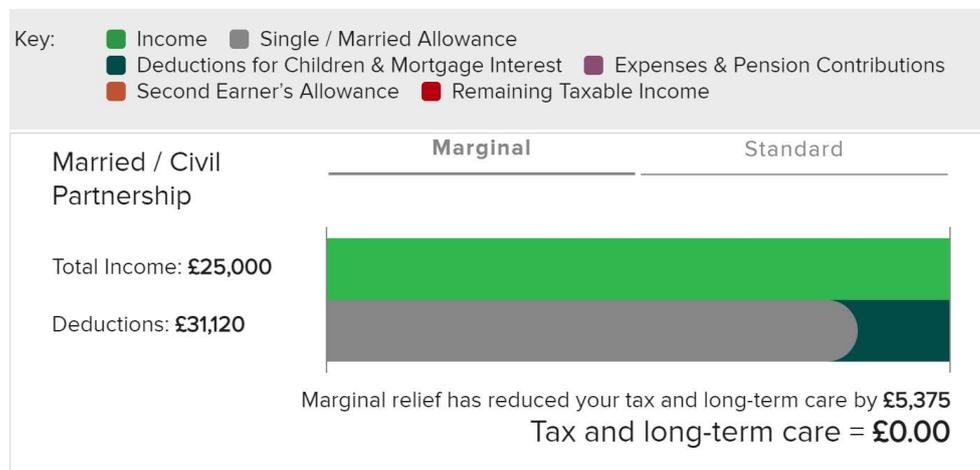
Rebecca Benneyworth MBE FCA
5 September 2021

⁴⁵ [Tax Statistical Digest 2017 Revenue Jersey](#)

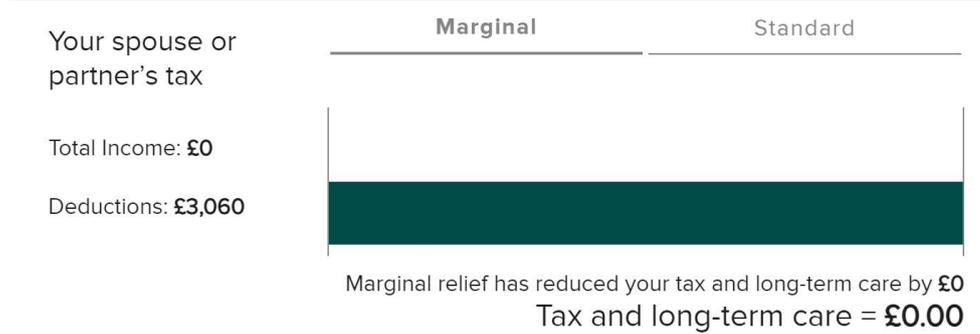
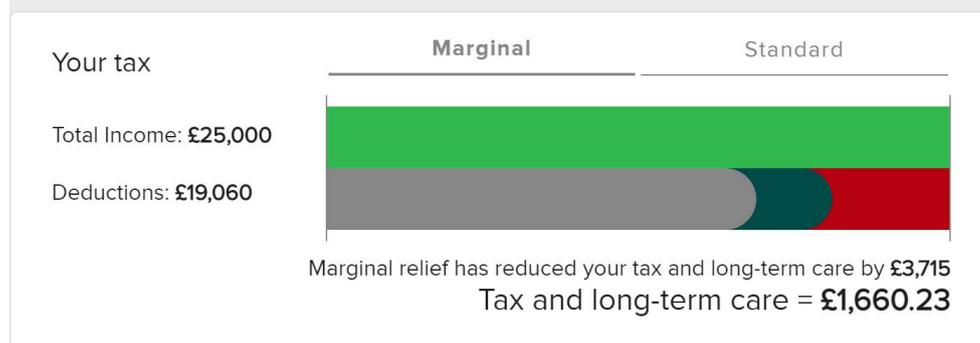
⁴⁶ [Draft Income Tax \(Amendment – Stage 1 of Independent Taxation\) \(Jersey\) Law 202-](#) page 6 under 'Exchequer impact'

Appendix : Output from current version of tax calculator

Mr & Mrs A



Independent Taxation



Comments

1. The use of red and green might make this difficult for some taxpayers to use if they have difficulty discerning colours.
2. There are 2 children in the household. This illustration allocated one of the child tax allowances to Mrs A even though she does not have any income. Although Revenue Jersey do not wish to be seen to give tax

advice, this is an important point to consider. Is the calculator giving a sufficiently clear picture to taxpayers?

- For the lay taxpayer the following diagram (which could be presented in shaded black and white rather than colour) might make this clearer as comparing vertical columns is easier to assimilate than horizontal. Note that the diagram below only covers tax, whereas the calculator shows tax and long term care.

