STATES OF JERSEY

LONG-TERM CARE SCHEME (P.99/2013): AMENDMENT

Lodged au Greffe on 5th November 2013
by Deputy J.H. Young of St. Brelade

STATES GREFFE

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After the words “dated 22nd August 2013” insert the words –

> “except that in section 1.1 the words “They will require the LTC contribution rate to rise over the next 30 years to just under an estimated 3% by 2044.” shall be deleted and for Section 1.12 there shall be substituted the following section –
>
> “1.12 The LTC contributions from taxpayers be based on a scale of percentage contributions relative to individual taxpayers’ total gross income for income tax purposes, taking no account of deductions of income tax allowances and marginal tax relief, with the scale calculated to increase the LTC percentage contribution payable by the taxpayer progressively from a nil contribution at a lower threshold of total gross income rising to the full (headline) LTC contribution percentage rate payable on total gross income at the level of an upper earnings cap.”.”

DEPUTY J.H. YOUNG OF ST. BRELADE

REPORT

1. Introduction

The long-term care scheme which provides an insurance-based protection against catastrophic costs of long-term care is to be welcomed. Funding the scheme will require contributions to be paid by everybody resident in Jersey for tax purposes for decades to come. In the first year of the 1% rate, £16 million of LTC charges will be raised. By 2044 it is predicted the charge will be 3 times greater. It is important to ensure this new tax system not only generates the income but is fair to all sections of our community.

2. Basis of LTC charge proposed – income tax liability

Following the States' agreement to establish the LTC fund in 2011 and the Minister's statement earlier this year that he intends to use the existing income tax system, it is now proposed that LTC contributions will be based on the taxpayers' income tax liability. The Minister has decided against applying a percentage rate LTC contribution based on taxable income as was originally envisaged.

This means that for most people, it will be the marginal rate calculation used in the income tax system which decides how much LTC charge they pay. But for a significant minority of taxpayers paying the standard tax rate, different rules apply to their tax assessments and therefore to the amount of the LTC charge they are required to pay.

The Minister's LTC charge proposal attempts to be progressive (one which seeks to increase the charge proportionality as income increases). Because of the wide variations which will affect individual taxpayers, the Minister's proposal only succeeds in being progressive for the average taxpayer in each income band. For standard rate taxpayers the percentage LTC charge will exceed that of marginal tax payers with equivalent gross income.

3. The Two Tier Tax system – anomalies and unfairness

The two-tier tax system was intended to provide marginal income relief to low-income taxpayers. Since the introduction of 20 means 20 policies which phased out tax allowances for standard rate taxpayers, 84% of taxpayers are now assessed using the marginal tax rate.

It is no longer the case that marginal income relief is applied only to low-income earners. Elements of our tax system are regressive. Depending on personal circumstances, some households earning anything up to £200,000 per annum can fall within the marginal tax band.

However, some standard rate taxpayers who have income of less than half of this amount are taxed at a higher percentage of income than these higher earners.

The proposed use of the income tax liability as a base of LTC contributions also means that some high-earners, with gross income of £150–200k will not pay the full 1% LTC percentage charge under the Minister's proposed system, although individuals earning half that amount will pay the full LTC percentage.

The effective income tax rate payable by individuals in 2013 is determined by their eligibility to receive tax allowances rather than their income. This shift has happened because in recent years allowances have increased responding to genuine social need, the child care allowance being introduced, and now the further education allowance. This has been done without sufficient regard to the fairness and equity of our tax system and clearly has significant unintended effects. Recognising the need for equity in tax matters, the UK, the Isle of Man and Guernsey all have maintained universal tax allowances, which have been withdrawn from standard rate taxpayers in Jersey, despite their incomes being lower in some cases than marginal taxpayers.

The anomalies of the two-tier tax system are comprehensively exposed in the Minister for Treasury and Resources' own tax policy report published in October this year. This report makes it clear that the principal barrier to making the long overdue change to our archaic Income Tax Law which still regards a woman's earnings as the property of her husband is our two-tier tax system.

The Minister for Treasury and Resources' report recognises that removing the marginal rate tax calculation and replacing it with a universal set of tax exemptions and allowances is a long-term objective which would enable the overdue modernisation of our tax regime.

All this causes me to question the wisdom of adopting a system of LTC contributions which perpetuates the two-tier tax system and enshrines it in complex new legislation for the long-term future to 2044. Once this is passed into law, it is highly unlikely to be amended for many years.

4. Finding an alternative method of assessing the LTC charge

Whilst I was researching a viable alternative to using the income tax liability for the LTC rate, I requested the Minister to provide me with Oxera's analysis from their model of income tax yield from the 2011 Income Tax database which is referred to in section 4 of the Minister's report, page 11.

The Minister provided me with a copy of the confidential economic impact assessment of the LTC scheme produced for the Ministerial Group in July 2013. After drafting my amendment, I was informed by the Minister that this comprehensive report will be published shortly before the States debate.

The information in the report will demonstrate that it is entirely possible to use the income tax system to produce a workable alternative way of assessing the LTC charge which is fair and progressive. The detailed information on the estimated LTC yield and its impact on individual taxpayers at different levels of income is readily available.

5. The Alternative – LTC contribution based on gross taxable income

The alternative LTC structure I propose is not only progressive, ensuring that lower income groups are not unfairly treated, but is also consistently progressive in its effects on all individual taxpayers.

I propose that a progressive scale of the percentage LTC charge be adopted to distribute the charge fairly between taxpayers at different gross income levels. This LTC percentage should progressively increase from a threshold level of gross income at which no LTC charge is due, rising to the full (headline) LTC charge payable at the level of gross income set by the LTC cap. This scale could reflect the estimated LTC yield for all taxpayers set in (say £10k) bands of gross income using the present tax system. This would be certain to produce the same total estimated yield of LTC, although the distribution of the LTC charge between taxpayers would be fairer.

A percentage LTC charge based on the individual gross income for tax purposes would provide a fairer basis of the LTC tax because it avoids the distortions of the two-tier tax system. The present wide range of tax rate payable by individuals at the same level of total gross income would be not replicated in the LTC charge.

The alternative system I propose for LTC will ensure that high-income earners pay a higher rate than lower income earners. It would require a minimum income threshold to be set below which no contribution would be payable. The LTC cap could also be set a higher level than is proposed by the Minister, as under his proposal some higher income groups will not pay the full LTC rate. This would increase the total yield from LTC contributions, but I have not proposed this.

My amendment will not reduce the total annual yield of £16 million for LTC set at a 1% standard rate. It will only alter its distribution between individual taxpayers.

Under the Minister's proposal, a majority (84%) of taxpayers receiving marginal relief would not pay the full LTC rate, but all standard rate taxpayers would do so. My proposal would ensure that the same percentage LTC would be charged to all taxpayers with the same income.

6. Arguments against using the gross taxable income for the LTC charge

My discussion with the Minister identified 2 main arguments against the alternative LTC system I have proposed. First, we have to use the existing tax assessments system for the LTC charge because it gives certainty that the income to the fund can easily be collected. Without this certainty the LTC scheme cannot be implemented. I accept this entirely, but the economic assessment shows the alternative system of charging percentage contributions to the LTC fund based on taxpayers' gross taxable income will be equally as certain to produce the level of income required and could even increase it.

The second argument cited by the Minister is the administrative complexity and additional resource which is argued would be required to set up the alternative system. However, details of all our personal income is already held in our income tax system, and it would be possible to modify the LTC scheme now proposed to collect contributions based on the individual taxpayer's gross income. It will require alterations to the income tax computer system, but since the LTC charge is not due to be introduced until 2015, there is time to make these changes.

Administrative convenience is insufficient reason to set a base for this new tax which perpetuates the present unfairness for some taxpayers. The over-riding consideration should be to ensure that, not only is the LTC system reliable in its income-producing capability, but is also equally fair to all taxpayers and minimizes any potential detrimental economic effects.

7. Financial and manpower implications

My amendment will not reduce the total LTC yield of £16 million per annum for a 1% standard rate but may increase it.

The Minister has advised me that if my amendment is adopted it will require substantial additional manpower to administer the LTC scheme in excess of the 9.5 FTE estimated in the Minister's proposal. Without considering the operation of a possible scheme in more detail, it is not possible for the Minister to be more precise. I believe that with modernisation of systems and a restructured organisation of the Income Tax and Social Security Departments, it should be possible to contain this additional manpower requirement. The Minister considers my belief over-optimistic.