STATES OF JERSEY

UPLIFTS IN LAND VALUES: LAND DEVELOPMENT TAX OR EQUIVALENT MECHANISM(S) (P.90/2011) – COMMENTS

Presented to the States on 4th July 2011
by the Minister for Treasury and Resources

STATES GREFFE

COMMENTS

The Minister for Treasury and Resources appreciates the sentiment behind this proposition and agrees that a land development tax warrants further review. However, for the following reasons the Minister for Treasury and Resources opposes this proposition:

- it is completely impractical to design and consult on a form of land development tax in the time remaining before lodging the draft Budget 2012 in September, and

- as the Oxera reports indicate, a poorly-designed tax risks creating issues (e.g. increased house prices, reduced property development, etc.) whilst raising little revenue.

The Minister for Treasury and Resources commits to review the land development tax option as part of the wider review of tax policy.

Supporting analysis

In the report entitled "Which tax is best suited to Jersey's objectives?" dated February 2005, Oxera state –

> "Overall, there appears to be scope for the introduction of a DGT (Development Gains Tax1), in the form of either a direct tax or planning gain."

However, in both this report and the follow-up report ("Further analysis of land/development based environmental taxes" dated January 2008), Oxera identify a number of issues which would have to be addressed before a development gains tax (or equivalent) could be brought before the States.

As the draft Budget legislation must be lodged by 27th September 2011, this gives a period of only 12 weeks (from the date of the debate) in which to address and find solutions to all of the issues raised by Oxera. The Minister for Treasury and Resources has been advised by senior Treasury officials that the design of a credible land development tax within this timeframe is completely impractical.

The main issues identified by Oxera and which need further consideration include (but are not limited to):

- the particular circumstances of the Jersey housing market need investigating to ensure that any land development tax would actually fall upon landowners rather than be passed on to private households through increased rents and sale prices;

- how the tax would be introduced without creating distortions in the market;

- what would constitute a taxable event, for example would sales of land which reflect a "hope value" of future re-zoning/planning permission be subject to the tax?

[1] Development gains tax is the term used by Oxera in their reports, land development tax is the term used in the proposition.

- how would the “taxable amount” be calculated such that the tax is only due on the increase in the value of the land that has been caused by the re-zoning/planning permission decision; and

- when would the tax actually be payable, particularly if the sale of the land is delayed until some point in the future. This is particularly relevant in situations where a landowner develops their own land and then lives in the property.

All of the above points will also determine the impact of the administrative burden and the complexity of the tax.

In paragraph 57 of the Deputy’s report it is stated that –

> “The only serious argument against action is that it is difficult to do. In response to this I would simply say firstly, that I am not so sure that it is true.”.

This statement is inconsistent with Oxera’s conclusions, as evidenced by the points above and the following extract from the 2008 report –

> “…given that some of the detailed issues arise as a result of the interactions with the planning system itself, and the local market characteristics, it is possible that Jersey would need to develop more or less from scratch a structure that worked for Jersey.”.

As Oxera indicate throughout both reports, in order for a land development tax to be successful, it must be credible or landowners may hold back sales, planning applications, etc. In this context “credible” means that landowners believe that the tax is going to be in place for the long term and hence cannot be avoided through delaying their actions. It is essential that any land development tax is well designed (i.e. addresses all of the issues raised by Oxera) and forms part of a comprehensive fiscal framework rather than being introduced as a standalone, piecemeal measure.

Work has already commenced on the development of this comprehensive fiscal framework, including establishment in 2011 of the tax policy unit. The tax policy unit is conducting a review of Jersey’s overall tax policy to ensure that it meets the needs of the Island over the medium to longer term. Property taxes, of which land development tax is just one of a number of measures, are already being looked at as part of this review.

Finally, paragraph 13 of the Deputy’s report indicates that such a tax could raise £25 million over a period of years. This is clearly very attractive; however this calculation should be treated with extreme caution. Firstly, it assumes a tax rate of 50%; it is questionable whether 50% is the “reasonable rate” of tax anticipated by Oxera in their 2005 report. As the tax rate is reduced, so is the potential yield. Secondly, this yield is calculated by reference to figures in the 2005 report which are out of date.

In terms of anticipated yield, Oxera acknowledge in their 2005 report that –

> “…it is reasonable to conclude that the revenue potential of a DGT, measured on an average per-year basis, is quite small”.

This of course is no reason not to pursue such a tax. However, the figure quoted by the Deputy in paragraph 13 should be treated with caution and should not be considered to be certain or necessarily achievable.

It should also be acknowledged that progress has already been made in the area of Planning Obligation Agreements. Such agreements, as Oxera note in their reports, should have the same underlying economic affect as a land development tax (i.e. a transfer of value from landowners to the community) without the introduction of some of the administrative complexities associated with the taxation approach. Planning Obligation Agreements also have the benefit of being able to focus on addressing the particular externalities arising out of a development. Put simply, they are a firm mechanism to ensure that the impacts arising from development are mitigated, or to achieve measures to make development acceptable.

Planning Obligation Agreements have already been used in Jersey to achieve transport improvements and affordable housing, to great success.

The revised Island Plan has extended further the potential scope of Planning Obligation Agreements, so that they can be used more often to deliver social housing and other benefits to the community (e.g. public art, new public spaces, etc.) Supplementary planning guidance on the use of Planning Obligation Agreements will be brought forward in due course now that the Island Plan has been approved. In particular the mechanism for affordable housing contributions will be brought before the States for endorsement by the end of 2011.

The introduction of a land development tax alongside Planning Obligation Agreements would result in 2 measures which would impact on the value of land, this duplication and the potential issues it causes would need to be addressed before a land development tax could be introduced.

On the basis that it is not feasible to bring forward the proposals as requested in part (a) of the proposition as part of Budget 2012, it is not necessary to address part (b) of the proposition.