

STATES OF JERSEY



PROPOSED GOVERNMENT PLAN 2022– 2025 (P.90/2021): TWENTY-SECOND AMENDMENT

STAMP DUTY

**Lodged au Greffe on 30th November 2021
by Corporate Services Scrutiny Panel**

STATES GREFFE

PROPOSED GOVERNMENT PLAN 2022–2025 (P.90/2021): TWENTY-SECOND
AMENDMENT

1 PAGE 2, PARAGRAPH (a) –

After the words “Article 9(2)(a) of the Law” insert the words –

“, with the proposed taxation and impôts duties changes to include the introduction, following a review by the Minister for Treasury and Resources and no later than 31st December 2022, of a higher Stamp Duty rate for ‘Buy to Let’ investment properties, second homes and holiday homes”.

2 PAGE 3, PARAGRAPH (I) –

After the words “to the Report” insert the words –

“, except that, on page 155 of Appendix 3, after the words “this review will conclude in 2022.” there shall be inserted the words “The Minister for Treasury and Resources will introduce a higher Stamp Duty rate for ‘Buy to Let’ investment properties, second homes and holiday homes no later than 31 December 2022.”, in addition to any further changes to Appendix 3 identified as required by the Council of Ministers to reflect the implementation of such a policy”.

CORPORATE SERVICES SCRUTINY PANEL

Note: After this amendment, the proposition would read as follows –

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

to receive the Government Plan 2022 – 2025 specified in Article 9(1) of the Public Finances (Jersey) Law 2019 (“the Law”) and specifically –

- a. to approve the estimate of total States income to be paid into the Consolidated Fund in 2022 as set out in Appendix 2 – Summary Table 1 to the Report, which is inclusive of the proposed taxation and impôts duties changes outlined in the Government Plan, in line with Article 9(2)(a) of the Law, with the proposed taxation and impôts duties changes to include the introduction, following a review by the Minister for Treasury and Resources and no later than 31st December 2022, of a higher Stamp Duty rate for ‘Buy to Let’ investment properties, second homes and holiday homes;
- b. to approve the Changes to Approval for financing/borrowing for 2022, as shown in Appendix 2 – Summary Table 3 to the Report, which may be obtained by the Minister for Treasury and Resources, as and when

required, in line with Article 9 (2)(c) of the Law, of up to those revised approvals;

- c. to approve the transfers from one States fund to another for 2022 of up to and including the amounts set in Appendix 2 – Summary table 2 to the Report, noting that the transfer from the Consolidated Fund to the Technology Fund is subject to the Assembly’s approval of a proposition to create such a Fund in 2022, in line with Article 9(2)(b) of the Law;
- d. to approve each major project that is to be started or continued in 2022 and the total cost of each such project and any amendments to the proposed total cost of a major project under a previously approved Government Plan, in line with Article 9(2)(d), (e) and (f) of the Law and as set out in Appendix 2 - Summary Table 4 to the Report;
- e. to endorse the efficiencies and other re-balancing measures for 2022 contained in the Government Plan as set out in Appendix 2 Summary Table 6 and reflected within each gross head of expenditure in Appendix 2 – Summary Table 5(i):
- f. to approve the proposed amount to be appropriated from the Consolidated Fund for 2022, for each head of expenditure, being gross expenditure less estimated income (if any), in line with Articles 9(2)(g), 10(1) and 10(2) of the Law, and set out in Appendix 2 – Summary Tables 5(i) and (ii) of the Report;
- g. to approve up to £480 million to be appropriated from the Consolidated Fund for the Past Service Pension Liabilities Refinancing head of expenditure, subject to the availability of funding, which may include, in full or in part, use of the borrowing/financing referred in paragraph (b);
- h. to approve the estimated income, being estimated gross income less expenditure, that each States trading operation will pay into its trading fund in 2022 in line with Article 9(2)(h) of the Law and set out in Appendix 2 – Summary Table 7 to the Report;
- i. to approve the proposed amount to be appropriated from each States trading operation’s trading fund for 2022 for each head of expenditure in line with Article 9(2)(i) of the Law and set out in Appendix 2 – Summary Table 8 to the Report;
- j. to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2022 as set out in Appendix 2 – Summary Table 9 to the Report;
- k. to approve an amendment to the policy of the Strategic Reserve Fund to enable that Fund to be used as a holding Fund for any or all monies related to the repayment of debt raised through external financing, with the monies used to offset the repayment of debt, as and when required; and
- l. to approve, in accordance with Article 9(1) of the Law, the Government Plan 2022-2025, as set out at Appendix 3 to the Report, **except that, on**

page 155 of Appendix 3, after the words “this review will conclude in 2022.” there shall be inserted the words “The Minister for Treasury and Resources will introduce a higher Stamp Duty rate for ‘Buy to Let’ investment properties, second homes and holiday homes no later than 31 December 2022.”, in addition to any further changes to Appendix 3 identified as required by the Council of Ministers to reflect the implementation of such a policy.

REPORT

Background

1. This amendment seeks to raise reasonable tax revenue from those purchasing “Buy to Let” investment properties, second homes and holiday homes by applying a higher rate of Stamp Duty and Land Transaction Tax (LTT) on this category of property purchase. Definitions of these can be stated as:
 - a. Buy to Let – Purchasing a property specifically to let (rent) out
 - b. Second home – Any residential property other than a main residence
 - c. Holiday home – A home that people own in order to holiday in and that is in a different location to the home they usually live in
2. Stamp Duty is levied on the purchase of properties bought on the Island and the registration of wills of Jersey immovable property.
3. Land Transactions Tax is levied on share transfers involving shares which give the owner the right to occupy property in Jersey.
4. The Corporate Services Scrutiny Panel (the Panel) has long called for action to be taken by the Government in regard to Stamp Duty and LTT and was disappointed to note that the Government Plan 2022-25 contains no proposed changes.
5. As highlighted in the Government Plan, Treasury and Exchequer are conducting a review (the review) into Stamp Duty, LTT and the Taxation of Enveloped Property (holding real estate within a company). This current review however has been ongoing since at least 2020, with seemingly limited progress made in introducing new or creative ways of implementing duty on the sale of properties. The Panel would highlight that the Treasury and Exchequer has carried out similar work previously, for example the Property Tax Review, a paper for which was published in 2014.¹
6. Last year the Corporate Services Scrutiny Panel (the Panel) proposed an amendment to the Government Plan 2021-24 which, following acceptance by the Council of Ministers and States Assembly, increased Stamp Duty on property purchases over £2 million.²
7. The Panel has lodged this amendment mindful of the financial gain and wealth associated with Buy to Let property, holiday home and second home purchases, and the contribution it will make to assist with reducing property demand and re-balancing the market towards owner occupiers and first-time buyers.
8. If adopted this amendment will require the Minister for Treasury and Resources to introduce a higher rate of Stamp Duty for “Buy to Let” investment properties,

¹ [R.101/2014 Property Tax Review: Publication of Green Paper and PWC Paper](#)

² [P.130/2020 Amd.\(7\)](#)

second homes and holiday homes, no later than 31 December 2022. The Panel has outlined a potential rate of 2%, however, acknowledges that further review is needed to consider legislative elements of its introduction. It accepts that the Minister for Treasury and Resources (the Minister) may wish to alter this rate upon review.

Increasing Stamp Duty

9. It has been well rehearsed that the Island is facing unprecedented demand for residential property, with this showing no sign of slowing. Indeed the House Price Index for the third quarter of 2021 has shown overall housing market activity, on a rolling four-quarter basis, to be 40% higher than in the corresponding quarter of 2020.³ The index also highlights the continued rise in property prices, with the mix-adjusted average price of dwellings sold in Jersey during the year ending Q3 2021 being 4% higher when compared with the previous quarter.
10. It is clear that timely actions to reduce the continued demand and increase in property price is needed; the Panel believes that waiting until after a further review being carried out by the Government of Jersey will result in unnecessary delays when no time constraints are imposed.
11. The Environment, Housing and Infrastructure Panel's [Affordable Housing Supply and Delivery Review](#) found that anecdotal evidence suggested that the demand for, and purchase of, buy-to-let properties by investors may be contributing to higher property prices, and also the availability of affordable properties for first time buyers.⁴
12. Actions to combat the impact of Buy to Let property being purchased in other jurisdictions have been implemented. In 2015 HM Treasury in the UK announced the introduction of a 3% higher rate of Stamp Duty Land Tax (SDLT) to be charged on the purchases of additional properties, such as Buy to Let properties and second homes, with this coming into effect from 1 April 2016.⁵ This was introduced on all properties purchased for over £40,000 and is operated on a tiered structure based upon the SDLT rate levels as shown in Figure 1.⁶

Stamp Duty Land Tax	Standard rate	Higher rate
Up to £125,000*	0%	3%
The next £125,000 (the portion from £125,001 to £250,000)	2%	5%

³ [House Price Index Q3 2021](#)

⁴ Report - Affordable Housing - Supply and Delivery Review - 10 November 2021 [[S.R.14/2021](#)] p.60

⁵ Spending Review and Autumn Statement 2015 - November 2015 [[PU1865](#)] p.42

⁶ Gov.uk, Stamp Duty Land Tax [online] [retrieved 22.11.2021] available from: <https://www.gov.uk/stamp-duty-land-tax/residential-property-rates>

The next £675,000 (the portion from £250,001 to £925,000)	5%	8%
The next £575,000 (the portion from £925,001 to £1.5 million)	10%	13%
The remaining amount (the portion above £1.5 million)	12%	15%
* Higher rates do not apply to properties costing £40,000 or less		

Figure 1. SDLT Rates

13. As the higher rate has been in force for some time HM Treasury guidance is available to cover various situations in which the rate would or would not apply, for example in the case of cohabitating partners or married couples.⁷ The Panel has, through correspondence with the Law Drafting Office, ascertained that further time is required to review the legislative elements that would be required upon implementation of a higher rate of Stamp Duty in Jersey. This includes consideration of penalties for non-compliance and situations such as gifted property. As such the Panel has formed this amendment to allow the Minister to implement a higher rate of Stamp Duty for “Buy to Let” investment properties, second homes and holiday homes by 31 December 2022 to allow time for this review to take place.
14. It has been highlighted that the changes in the UK resulted in an increased sale to owner-occupiers, or to more sanguine/less affected landlords, and reduced overall residential property transactions. Indeed there was a drop in the ratio of Buy to Let mortgage completions, to 8% in April 2016 versus 18% that took place in February 2016.⁸ This has continued in the long term, with 12% of homes in Great Britain being bought by landlords in 2020 down from 16% in 2015.⁹ It should be pointed out that the introduction of the surcharge will potentially have a knock-on effect on longer term revenues from the UK SDLT.¹⁰
15. The UK Government outlined that some of the additional Tax collected would be used to provide £60 million for communities where the impact of second homes were particularly acute and doubling the affordable housing budget and helping first time buyers.¹¹ The Panel highlights that any additional revenue gained from the higher rate of Stamp Duty could be used in a similar manner.
16. Although not statistically representative, the Government Plan Review Panel’s public perceptions survey has suggested that there may be acceptance by

⁷ HMRC Internal Manual, Stamp Duty Land Tax Manual, 20 August 2021, SDLTM09730 [online] [retrieved 24.11.2021] available from: <https://www.gov.uk/hmrc-internal-manuals/stamp-duty-land-tax-manual/sdltm09735>

⁸ Office for National Statistics, The effect of stamp duty changes on housing market activity: April 2016, [online] [retrieved 22.11.2021] available from:

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/theeffectofstampdutychangesonhousingmarketactivity/september2016#sales-of-flats-more-than-double-the-5-year-average-in-march-2016>

⁹ Hamptons, 2021, “Spring 2021: HAS THE DOOR CLOSED ON BUY-TO-LET?” [online] [retrieved 22.11.2021] available from: <https://www.hamptons.co.uk/research/reports/2021/buy-to-let-report/buy%20to%20let%20report.pdf/>

¹⁰ Christine Whitehead, Kath Scanlon & Fanny Blanc, 2018, page 9, “A tax too far? Monitoring the impact of SDLT”, [online] [retrieved 22.11.2021] available from: <https://www.lse.ac.uk/geography-and-environment/research/lse-london/documents/Reports/A-tax-too-far.pdf>

¹¹ Spending Review and Autumn Statement 2015 - November 2015 [PU1865] p.42

Islanders of this type of taxation with 28 of 38 (74%) agreeing with higher Stamp Duty for Buy to Let properties and, lower Stamp Duty for first time buyers, with 29 agreeing with Higher Stamp Duty for purchases by those who own more than one property.

17. The Panel believes that a 2% surcharge to be a fair amount to impose on Buy to Let property, holiday home and second home purchases; however acknowledges that this figure may be altered upon completion of the review by the Minister for Treasury and Resources. The Panel believes that this additional rate should be applied at the point of Stamp Duty being taken and that mortgage status at this stage would only assist in its determination. Consideration has been given to the connotations borrowing for a mortgage may have upon the Stamp Duty rate, however, believes this requires deliberation at a later date.
18. For illustrative purposes adoption of a higher rate of 2% would result in the following rates:

Transaction value up to	Standard rate	Higher Rate
1 – 50	0.5% up to 50k	2.5% up to 50k
50,001 – 300,000	1.5% on excess up to 300k	3.5% on excess up to 300k
300,001 – 500,000	2% on excess up to 500k	4% on excess up to 500k
500,001 – 700,000	3% on excess up to 700k	5% on excess up to 700k
700,001 – 1,000,000	3.5% on excess up to 1m	5.5% on excess up to 1m
1,000,001 – 1,500,000	4.5% on excess up to 1.5m	6.5% on excess up to 1.5m
1,500,001 – 2,000,000	5.5% on excess up to 2m	7.5% on excess up to 2m
2,000,001 - 3,000,000	7% on excess up to 3m	9% on excess up to 3m
3,000,001 – 6,000,000	9.5% on excess up to 6m	11.5% on excess up to 6m
6,000,001 +	10.5% on excess	12.5% on excess

Conclusion

19. The Panel has brought forward this amendment in order to place additional duty upon properties purchased as a “Buy to Let” investment property, second home and holiday home. As further review is needed to ascertain necessary legislative elements, the Panel has not stipulated an exact commencement date or rate, but

adoption of this amendment will require the Minister for Treasury and Resources to implement a higher rate by 31 December 2022. It is hoped that this interim measure will help to alleviate the continuing demand for property in the Island and allow owner-occupier and first-time buyers preferential financing when buying their home.

Financial and manpower implications

The Panel has been advised by the Treasury and Exchequer Department it is unable to estimate what additional tax revenue will be generated from the additional tax rate as “Buy to Let” investment properties, second homes and holiday homes are not separately identified when property transactions are notified and a transfer of ownership form is completed.

There are no manpower implications in administering this tax as an additional tax rate is unlikely to impact the number of transactions notified. A higher tax rate for some Stamp Duty/Land Transaction Tax transactions may increase the risk of non-compliance with the law change, though it is possible additional compliance activities can be met from existing manpower resources.