STATES OF JERSEY

DRAFT BUDGET STATEMENT 2018 (P.90/2017): FOURTH AMENDMENT

Lodged au Greffe on 15th November 2017
by Senator P.F.C. Ozouf

STATES GREFFE

PAGE 2, PARAGRAPH (a) –

At the end of paragraph (a) insert the following words –

"except that –

(i) the inbound duty-free allowance for cigarettes is reduced to 40 (and, for tobacco products, to 50g) with effect from 3rd April 2018, raising estimated additional income of £1,500,000,

(ii) a 10% rate of tax is applied to Class 1 bookmakers, raising estimated additional income of £250,000,

(iii) the new Income Tax levied on large retailers is applied to large liquor vendors, raising estimated additional income of £450,000,

(iv) a new Stamp Duty rate of 10% is introduced for residential properties sold for more than £10 million to people newly arrived in the Island, raising estimated additional income which will depend on the number of properties purchased, and

(v) the new Income Tax levied on large retailers is levied at the rate of 10% rather than 20%, reducing estimated income by £2,800,000;".

SENATOR P.F.C. OZOUF

REPORT

Summary

The main purpose of this amendment is to reduce the proposed Retail Tax from 20% to 10% which is shown in part (v).

The loss of revenue that the Treasury has calculated as £2.8 million.

I have worked hard to identity a number of additional revenue-streams in order to fund this reduction.

In doing so, a number of the additional revenue-raising proposals have been identified, which may in themselves find favour as standalone proposals.

The alternative measures are designed to be fairer, and taken together with my other Budget amendments – are designed to ensure that the cost of living of Islanders is lowered, which will have an important beneficial effect on all Islanders whether they are students, in work or retired.

The proposals also have other important intentional health considerations. They recognise the problematic effects of smoking and alcohol. They also recognise and seek to raise revenue from betting shops.

The proposals are in summary –

- That the inbound duty-free allowance for cigarettes is reduced from 200 to 40 sticks (and, for tobacco products) with an estimated additional income of £1.5 million for 2018 or £1.85 million for a full year.
- The extension of the 10% income rate is applied to Class 1 bookmakers on the same basis as the Financial Services sector without a turnover or profit test and is – if approved – estimated to raise an additional revenue of £250,000.
- To extend the new retail tax to large retailers and to ensure it is applied to all large liquor vendors with the same turnover and profit test, but at a rate of 10%, which if approved would raise an estimated additional revenue of £450,000.
- The introduction of a new Stamp Duty Band rate of 10% for residential properties sold for more than £10 million to people newly arrived in the Island – the amount of additional income of will depend on the number of properties purchased but could be hundreds of thousands of pounds.

The total revenue of the additional of replacement measures on an annual basis would be sufficient to meet the reduction in revenue.

Background

In last year's Budget 2017, Senator S.C. Ferguson proposed –

"*(e)* *to agree in principle that from 2018 a 20% tax on profit should be applied to all large retail businesses operating in Jersey, whether owned by Jersey resident companies or by non-resident companies, where taxable profits are* *above GBP 500,000 per annum providing this does not pose a risk to the zero-ten regime and to direct the Minister for Treasury and Resources to bring forward the necessary legislative changes for debate by the Assembly during 2017;".*

The following report was attached –

"*This amendment is intended to expedite taxation legislation equivalent to that existing in Guernsey and the Isle of Man. It should solve the conundrum of inequitable taxation between all retail organisations owned by local residents and those owned by corporations outside the Island. This has been a matter of concern for Islanders from some time and this particular piece of legislation should go some way to assuaging that concern. The Guernsey proposition is attached as an Appendix. It can be seen that this is a simple piece of legislation. The BEPS (Base Erosion and Profit) Project initiated by the OECD and to which the Crown Dependencies are signatories may well affect the taxation income from these sources in the future. In the meantime this particular amendment will make a level playing field in the retail sector.*

Financial and manpower implications

There are no manpower implications. The financial implications will simply be an increase in States income which is difficult to define at this time."

<u>The Minister for Treasury and Resources has proposed the Retail tax because of this proposal.</u>

The purpose of this amendment is to provide an alternative.

Retail Taxes in Guernsey and Isle of Man

The justification of the adoption of a new retail tax is that it has been introduced in the other Crown Dependencies.

The Isle of Man has introduced a Retail Tax at 10%.

Guernsey has adopted a Retail Tax of 20%.

However, both islands have important and different aspects to their economies.

The Isle of Man is subject to the same rates of United Kingdom Value Added Tax and Duties (which we call impôts) so have the higher rate of 20% VAT and higher duties that the UK, in effect a common purpose arrangement.

Guernsey, despite a number of suggestions for its introduction, does not apply Good and Services Tax.

<u>Discussion – who pays tax companies or individuals?</u>

Economists always remind us that companies don't in themselves pay tax, but people do.

The reality is that ultimately someone will pay the tax collected by the company or other non-natural entity.

There are only 3 possible classes of real people who will ultimately pay –

1. Shareholders or owners
2. Employees of the company
3. Consumers.

The effect on prices

I am gravely concerned that the result of this additional tax will be higher prices. The Treasury conceded this. On page 143 of their Budget documents they state –

> '*if fully passed on in prices, a 20% tax on profits would add 'only 1-2% to the costs of good sold by the retailers affected'.*

The research that I have undertaken that the prices of goods sold by the companies affected if the 20% rate would be adopted would be in the region of 3%.

That is equivalent to an additional 3% GST for those customers who would continue to shop at those establishments.

The importance of a vibrant retail offering

Jersey enjoys one of the most vibrant and busy high streets. A wide and diverse of local and non-local retailers. Long may that continue.

The Connétable of St. Helier should be congratulated for his work and the appointment of a 'Town Centre Co-ordinator', a proposal which was originally an initiative of Economic Development in or around 2006.

Empty shops, to the extent of their remaining empty, have been encouraged to display art, and even pop-up shops have been allowed to occupy empty or transitioning retail premises.

Many people from Guernsey come to Jersey to shop because of the wide range of retail establishments we have.

This is despite a sector that has however been hugely affected by the emergence of online retail.

The reality is, that resulted in falling rentals or at least stagnant rentals (which are sadly not reflected in lower rates bills due to lack of revaluation of Rates levied by the Parishes and some of which is paid to the Island-wide rate) are a reality.

Levying this indiscriminate tax is likely to act as a disincentive for retailing.

The importance of continued investment in Retail

Continued investment in retail is absolutely vital.

To impose a tax at 20% will restrict the ability of major retailers to invest.

In fact the 20% may result not only in **higher prices** but investment in retail **falling**.

The Finance Sector and its 10% Special Rate of Tax

The arguments as to why the Island is unable to levy a 10% General Rate of tax are well known to Members.

The Island's 0% General Rate of tax is of vital importance to the financial and business services sector.

Nothing should be done to compromise the General Rate of tax.

However, exemptions can be made, and one is made to levy a special 10% on Regulated Financial Services Providers, they make up a small number of businesses in themselves.

Fairness of treatment

The Retail Sector do not feel it is fair or reasonable to charge their sector, albeit that there are tests of turnover and profit included in the proposal.

A 10% rate of tax would put the limited number of Financial Services providers on the same footing as the finance sector.

The reduction in the duty-free allowance

Members will be aware that this has been the subject of discussion and previous Budget debates.

The Island is not able to abolish the duty-free allowance completely, but is allowed to vary the amount of duty-free goods.

Australia is often cited as one of the jurisdictions in the world that has been at the vanguard of policies to protect citizens against the serious health issues that smoking causes.

Cigarettes are sold in Australia and New Zealand in packs of 25 sticks. Australia has successfully implemented a reduction in the duty-free allowance of tobacco products imported into Australia to 50 sticks.

New Zealand has also adopted such a policy.

In other words this is not something completely outwith the experience of other jurisdictions.

The United Kingdom when it exits the European Union will be faced with the dilemma as to what to do with its duty-free allowance.

Currently this is only available to passengers arriving into the United Kingdom from outside the European Union.

There is no duty-free allowance within the current European Union and when the United Kingdom exits the EU they will no longer be able to continue with the current absence of duty-free products which has been in place across the European Union for some years.

This will no doubt cause some concern for health authorities who argue, rightly, that the existence of duty-free completely undermines the policy of not prohibiting tobacco sales but certainly providing a disincentive for their consumption.

As has been the case in previous tobacco-related issues, such as the raising of the age for tobacco products to 18-year-olds, Jersey’s experience as a testbed for innovative policy options may well provide a helpful set of data for our friends and colleagues in the United Kingdom.

Even if this is not the case, there is a real justification for reducing the amount of duty-free tobacco that is permitted to be imported in Jersey. The 200 cigarette limit was established many decades ago. It was certainly before the negative effects of smoking became more widely-known and accepted. The current duty-free allowance therefore remains completely at odds with the health objectives set out in the Tobacco Strategy.

Estimates have been made by the tobacco importers that the amount of duty-free tobacco consumed in Jersey has been as high as 50%. I doubt that it is at this level, but I certainly expect it to be within the region of 25% to 30%.

The current amount of revenue from tobacco duty is in the region of £15 million per annum. If there was a 20% increase in local purchases of tobacco products, this would raise £3 million per annum.

I have been cautious in estimating the amount of additional revenue that would accrue to the Treasury if this proposition were adopted.

I fully accept that the Customs and Immigration Department of the Minister for Home Affairs **will** require additional resources in order to advertise and ensure compliance.

I’m advised by the Treasury that this would be an appropriate use of contingency.

The additional costs – as advised – would be in the region of £200,000 for the first year. After a year’s experience, further amount of contingency funding can be made available to Customs and Immigration for 2019.

Based upon this experience, the next Medium Term Financial Plan for the period 2020 to 2024 will be to permanently have inscribed in the budget of the Customs and Immigration Department a sufficient amount of money to ensure continued compliance.

Finally I have taken the precaution of only proposing that this event takes place after a number of months where work can be undertaken to raise awareness and to ensure proper compliance arrangements are in place. I propose that this measure takes effect from 3rd April 2018, which is immediately after the Easter break.

Extension to the whole liquor trade

If large off-licence traders are to be taxed on their profits, then I see no reason not to include the profits of on-licence businesses and off-licence businesses should not be treated on the same basis.

There are concerns about the margins on liquor sales in the on-licence sector and I have lodged an additional proposition to investigate this sector.

Figure 10 of the main Budget proposal showing the ever and ongoing widening of the on-licence alcoholic beverage should be of concern to all Members.

Here are the margins from the Budget 2011 Report –

Comparisons with neighbouring jurisdictions

Figure 7.4: 2011 Retail price margins – comparisons with the UK (June 2011)

	Jersey Retail Price	Jersey Duty	GST	Price net of duty & GST	Duty & GST as % of price	UK Retail price	UK Duty	UK VAT	Price net of duty & VAT	Duty & VAT as % of price
Litre of Whisky	£20.07	£9.95	£0.96	£9.16	54%	£17.00	£10.21	£2.83	£3.96	77%
Pint of standard Beer	£3.45	£0.30	£0.16	£2.99	13%	£3.50	£0.47	£0.58	£2.44	30%
20 King Size Cigarettes	£5.95	£3.50	£0.28	£2.17	64%	£6.84	£4.07	£1.14	£1.63	76%
Litre of Unleaded Petrol	£1.26	£0.43	£0.06	£0.77	39%	£1.36	£0.58	£0.23	£0.56	59%

Here are the margins as shown in Figure 10 of the 2018 Budget –

FIGURE 10 – 2017 retail price margins – comparisons with the UK (June 2017)

	Jersey Retail Price	Jersey Duty	GST	Price net of Duty & GST	Duty & GST as a % of price	UK Retail Price	UK Duty	UK VAT	Price net of Duty & VAT	Duty & VAT as a % of price
Litre of whisky	£20.96	£14.04	£1.00	£5.92	72%	£21.00	£11.50	£3.50	£6.00	71%
Pint of standard beer	£3.56	£0.36	£0.17	£3.03	15%	£3.06	£0.49	£0.51	£2.06	33%
20 king size cigarettes	£8.38	£5.75	£0.40	£2.23	73%	£9.52	£5.73	£1.59	£2.20	77%
Litre of unleaded petrol	£1.11	£0.47	£0.05	£0.58	48%	£1.16	£0.58	£0.19	£0.39	66%

FIGURE 11 – Comparison of typical 2017 tax and duty levels for a range of commodities (June 2017)

	Jersey Duty	Jersey GST at 5%	Guernsey Duty	UK Duty	UK VAT at 20%
Litre of whisky at 40% abv	£14.04	£1.00	£13.58	£11.50	£3.50
Bottle of table wine	£1.49	£0.34	£1.79	£2.16	£1.00
Pint of beer/lager at 4.5% abv	£0.36	£0.17	£0.43	£0.49	£0.51
20 king size cigarettes	£5.75	£0.40	£4.41	£5.73	£1.59
Litre of unleaded petrol	£0.47	£0.05	£0.64	£0.58	£0.19
Litre of diesel	£0.47	£0.05	£0.64	£0.58	£0.20

These tables show that the margin differential in off-licensed alcoholic drinks has improved, and the net prices in Jersey are almost identical to the United Kingdom.

The situation for the net price in tobacco has also improved and net prices are almost at the same level as the UK.

The situation for remains a problem – and the evidence from similar-sized islands provides evidence of these concerns.

The most startling differential is that from the on-licensed trade. The example of a pint of beer shows that net of duty and tax, a pint of beer is 97p higher in Jersey than in the United Kingdom.

Does it really cost an additional 97p to serve a pint of beer in Jersey?

The fact that the Treasury has identified that extension of a 10% rate of tax to Taverners licence-holders would yield £450,000 indicates powerfully that despite the annual refrains from the liquor companies that complain vociferously against annual duty increases, this number sheds new light on the fact that even with the profit test of over £500,000, and that this will affect only companies with turnovers of over £2 million, their profitability must be in the order of £4.5 million.

That is probably a conservative number, as it has been said that one large pub chain has profits across the Channel Islands of over £20 million.

Extension of the retail tax at the lower rate of 10% would only affect those large groups and not small businesses.

It provides an important contribution to permit the lowering of the retail tax at to 10% and will ensure all large liquor vendors – whether they be on-licences or off-licences – are treated equally.

The review which is the subject of another amendment is also an important part of getting to understand the reasons for what seem very high margins, and seeks recommendations to improve the consumer prices, to maintain a vibrant night-time economy, and is also complementary to the important work of the Assistant Minister for Economic Development, Tourism, Sport and Culture, the Connétable of St. Brelade, and Senator P.F. Routier, O.B.E. as Assistant Chief Minister, who have overseen the important new Licensing Law amendments.

Extension of the 10% Financial Services Special 10% Rate to Licensed Betting bookmakers

Many people I have consulted have been surprised to learn that in fact, whilst there are some fees charged by the Jersey Gambling Authority, their profits are not taxed at the same rate as Regulated Financial Services.

Gambling does have an effect on some people's lives to a deleterious effect.

As a standalone Proposition, it could be argued that this is one sector that should be the subject of a special rate of tax because of the impact on society that gambling has.

Particularly people who can least afford it.

Whilst there are arguments as to the extent to which the retail tax would increase prices it is hard to see how betting shops would pass on the tax to users of betting services.

I have no doubt the sector will make its representations prior to the budget debate, but I remain resolute in believing that this is a sensible and proper extension of the special 10% right and without the turnover and profit test that will be applicable, if approved, for retail.

I have not sought at this stage to extend the 10% rate to online gaming. I do have concerns about the emergence of the sector in Jersey, as in my view it sits somewhat uncomfortably with the activities of our Financial Services sector.

But apart from the fact that jurisdictions have already established well-regulated e-gaming activities, Islands develop specialisations and should focus on what they are good at.

This is a matter which will no doubt be the subject of further debate, but the fact that the High Street betting shop should be taxed is a reasonable one, and I hope it finds favour with Members.

Extract from last year's Budget debate

In proposing her amendment, Senator Ferguson made the following remarks –

> "*I will make no apologies for a quick look at the background of this because I think that most Members in this Assembly now were not here at the time when the original Zero/Ten came in.*
>
> *All the Crown Dependencies started with the implementation of the Zero/Ten policy.*
>
> *All the Crown Dependencies recognised the inequity of the position with regards to overseas companies trading in the Islands, but they felt powerless to do anything about it at that time.*
>
> *There were 3 fairly comprehensive scrutiny reports, which discussed the matter. It was recognised that a Jersey branch of a U.K. (United Kingdom) company, the full profits would be taxable in the U.K. as soon as they are earned.*
>
> *But in the case of a U.K. group with a Jersey subsidiary, the subsidiary will pay no tax in Jersey and the group would only pay tax when its profits are paid to the U.K. parent as a dividend. A dividend would attract tax, so there is a strong incentive to avoid receiving dividends from Jersey subsidiaries. The profits could be reinvested tax-free either in Jersey or elsewhere in the group or extracted by way of a loan to the parent group.*
>
> *For instance, there is a large department store in the Island, which is, when I last looked, owned through a Luxembourg subsidiary. For businesses owned outside the U.K. the treatment would vary, but it does seem likely that a Guernsey company would be able to avoid or postpone for a long time any tax on its Jersey operations.*

Off-Island owned trading companies will pay no Jersey tax and therefore they will be able to avoid or delay paying tax elsewhere. This gives them an unfair advantage over locally-owned businesses and it also means that Jersey businesses will be more valuable to off- Island investors than they are to Jersey residents and it gives a tax advantage, as I have said, to off- Island investors, which would only accelerate the current trend for Jersey businesses to be sold to non-Jersey investors, all pretty prescient I would say. In S.R.14/2007, the Corporate Services Scrutiny Sub-Panel followed up one of the major concerns identified in its reports, this fact that non-Jersey owned businesses would escape tax liability in Jersey.

The panel and their adviser adapted a proposal originally submitted by Jurat Blampied – the Blampied Proposal – for a tax on owner-occupied business property as a workable solution. The Minister for Treasury and Resources acknowledged that the proposal had some merit and agreed to investigate the economic impact and the potential yield. The result was the Draft Income Tax (Amendment No. 32) (Jersey) Law 200-, which was lodged on 21st October 2008. As a result of the various elections to panels and ministerships following the election, an agreement was reached between the Minister and the Scrutiny Panel that, after the legislation had been reviewed by the new panel, it would be debated.

The debate was scheduled for March 2009. The new Minister and the Scrutiny Panel adhered to that agreement and the then current Corporate Services Panel presented their report to the States.

The panel was greatly disappointed that no substantive work had been done by the Treasury concerning the implications of the comments made by the panel in 2008. It appeared that the onus had been put on Scrutiny to justify the progression or lack thereof of this piece of legislation. Certainly the panel has received no evidence of further consultation and, apart from some indicative work done by the Tax Department, there is no detailed evidence to support the Minister's reluctance to introduce the deemed rental amendment.

The conclusion was that there were 2 main issues inherent in the proposal, the first was that all businesses profiting from their activities in Jersey should contribute to the Island. This is eminently fair. The second issue was that of equity between non-finance local and foreign-owned trading companies.

This question of equity for local businesses remains extremely important and must be addressed, it still goes on. The panel was of the opinion that the deemed rental concept had much to commend it, but it did depend on the availability of the information. The biggest problem, as was pointed out by the Comptroller of Taxation, was that the information was difficult to access and was incomplete.

As most comptrollers are only too happy to collect as much tax as possible, I must consider that his regret over this was absolutely genuine. The Treasury estimated that Zero/Ten proposals would cost the Island £10 million to £12 million in lost tax revenue from foreign-owned non-finance companies. The department also estimated, this was at the time of the report, that the deemed rent tax would recover about half that sum, some £4 million to £6 million. So, for nearly 10 years we have had a tax policy, which is incredibly inequitable for local businesses and encourages local owners to sell out to foreign firms.

I cannot blame them, but it would be nice if we retained some local ownership of local businesses and all we have done is wring our hands and say: "Woe is me", or whatever is the political equivalent. In the meantime, the Isle of Man produced a 'Tesco tax' in 2013 and Guernsey produced an amendment to their budget legislation in October 2015 and all we hear is words, not deeds.

I ask the Assembly to support me in this amendment so that we can start producing deeds, not just words."

Senator Ferguson's proposal was amended by the Minister for Treasury and Resources, who successfully replaced the words "taxable profits are above GBP 500,000 per annum" to "annual taxable profits exceed a certain threshold (which is to be determined during 2017)".

He explained –

"I have already said publicly on many occasions so far that we are considering broadening the scope of companies that pay tax in Jersey. I am actively looking for a way to tax the profits of larger retail businesses.

At the moment, such businesses in Jersey are of course zero tax rated, whether they are locally or non-locally owned. In making any changes, we have to protect the internationally compliant status of the Island's Zero/Ten corporate tax regime.

That means not discriminating between locally and non-locally owned businesses. So any taxation, just to emphasise the point, or any changes to the corporate taxation regime, requires that both locally and non-locally businesses are treated exactly the same.

It does mean that most companies and most profits must be taxed. The Zero/Ten regime states and makes it absolutely clear that the majority of companies and the majority of profits must be taxed at the zero rate to maintain that compliance.

Now the wording of the Senator's amendment is very specific, it is a copy in fact of the retail tax introduced in Guernsey in 2016, and although the tax models used by Guernsey, and for that matter the Isle of Man, are useful starting points, they might not be appropriate for Jersey, as our finance sectors differ in a number of different ways.

If we are to make a properly-informed decision about how to broaden our tax base, we need to first be in a position to gather evidence on company profits.

We need to know how many companies and what percentage of profits are taxed at zero compared to those taxed at 10 per cent and 20 per cent.

Now, we have already started gathering this evidence, in fact the process started long before the Senator lodged her proposition. So this is something that has been in train and is ongoing and it resulted from the fact that we made changes to the 2015 Corporate Income Tax Return form to allow us to collect the information necessary from companies and by exchanging also information with the Jersey Financial Services Commission.

You cannot get the information necessary on company profits without going through an appropriate process in the income tax return form and information exchanged with the J.F.S.C. (Jersey Financial Services Commission) are the routes and they take a small amount of time obviously before that can be completed.

My Budget proposals, of course Members will be aware, will allow the Taxes Office to collect the profit data from all companies, which are taxable in the Island, as a result of that. Based on that information, I will work with Treasury officials to determine whether it is safe to propose a change to the taxation of larger retail businesses in Budget 2018.

It is a point that the Senator herself makes in her proposition that to bring forward the proposal, providing it does not compromise our corporate tax system, and so we are agreed on that point. So my amendment to Senator Ferguson's amendment gives the Treasury quite simply more flexibility to use the data gathered from the company tax returns when we have received it to develop a solution that is evidence-based and is appropriate for Jersey and the makeup of Jersey corporate profits.

We are simply saying that, by removing the sum taken or applied in Guernsey of half a million pounds of profits, we do not know at the moment, because we do not know the profit levels, whether half a million pounds is right. It might be higher than that. It might be that we have to reduce it to a figure lower than that.

We do not know at this stage because the corporate profit information is not available here in the Island, so we want the flexibility, when the data is collected, to be able to set it at an appropriate level.

But what I can say to Members is we are committed to looking at ways of expanding the scope of businesses that we can bring within the corporate tax net to address some of the issues that the Senator has rightfully raised. Latest data that we have in Treasury suggests that the tax leakage, if I can put it that way, that is between non-locally owned companies trading in the Island where the profits go off-Island, those profits of course are still going to be taxed in the jurisdiction where the shareholders reside, but it is revenue that is lost to the Island and we think that tax leakage amounts to around about £7.5 million to £8 million a year.

The measure of expanding the scope of Zero/Ten will help us to close that gap. It is again a matter of fairness as well as a matter of generating some additional revenue and making sure that we do not have leakage in our corporate tax system.

So my amendment to the Senator's amendment is simply saying: 'Yes, we agree with the principle; yes, we want to do it; yes, we are doing it, we have started the process of collecting the data with the intention of bringing back a firm proposal in Budget 2018.'

But we do, and I would urge Members to support the fact that we want to have the data first, which will come as a result of the new information from the 2015 corporate tax returns, which will be then analysed by the Treasury Department and allow us to bring forward an informed proposal of the exact levels that we need to apply and on the basis that we are able to proceed because we do not damage the Zero/Ten corporate tax system."

Financial and manpower implications

The financial and manpower implications of this proposal are clear in terms of the additional revenue raised.

It should be stated that the report indicates that a figure of £200,000 has been indicated in order to ensure compliance for the tobacco element of the proposal.

There will be some additional work for the Income Tax Department with the extension to the gambling and liquor trades.

Re-issue Note

This publication is re-issued to correct an error on page 2, in the wording of the proposed new sub-paragraph (ii) of paragraph (a).