STATES OF JERSEY

PROPOSED GOVERNMENT PLAN 2023-2026 (P.97/2022): SECOND AMENDMENT (P.97/2022 AMD.(2)) – COMMENTS

STAMP DUTY OF BUY TO LET INVESTMENTS, SECOND HOMES AND HOLIDAY HOMES

Presented to the States on 8th December 2022
by the Council of Ministers

STATES GREFFE

COMMENTS

Summary

This amendment to the proposed Government Plan would increase the rate of the higher rate of stamp duty for buy-to-let, second homes or holiday homes from 3 to 4 percentage points above the normal rate of Stamp Duty for residential property from 1 January 2023. It also proposes that the revenue received from the higher rates of Stamp Duty, Land Transactions Tax and Enveloped Property Transactions Tax should be ring-fenced for use by the Dwelling-Houses Loan Fund.

The Council of Ministers asks States Members to reject the amendment on the basis that (a) a 4 percentage point surcharge may increase the risks of this measure, having a greater impact on the housing market at a time of significant volatility; (b) a funding source for such housing purchase schemes is already in place; and (c) further ring-fencing of funds is contrary to advice of the Fiscal Policy Panel and damages the position of the General Reserve.

These comments also apply to the corresponding Second Amendment to the Draft Finance (2023 Budget) (Jersey) Law 202-, lodged by Deputy Andrews.

Economic impact

1. The Council of Ministers considered the economic analysis prepared by external economists to advise on the potential economic and social impacts of the higher rate of tax for buy-to-let, second homes and holiday homes.

2. In terms of the evidence from the UK, it was found that since its introduction in 2016, the additional rate of Stamp Duty Land Tax (charged at +3pp in England and Northern Ireland, and +4pp in Scotland and Wales) has been somewhat effective in deterring buy-to-let investors. The number of buy-to-let mortgages reduced to below pre-surcharge levels, with survey evidence suggesting the surcharge was a key factor. Furthermore, more than one-quarter of landlords say the surcharge has had a significant impact on their business.

3. The evidence also suggested that the surcharge may be causing upward pressure on rents in Scotland, Wales and Northern Ireland (Scotland and Wales have a +4pp surcharge). However, at the same time, rental price growth in England slowed, highlighting the uncertainty of impacts on the rental market. Upward pressure on rents can occur either through the additional costs being passed on to tenants, or by an increasingly competitive market due to a fall in the number of rental properties available.

4. On the basis of this evidence, the Council of Ministers proposed that the higher rate of tax should be initially set at 3 percentage points. It was considered that this level of surcharge would strike a balance between achieving the policy objective while limiting the risks of any unintended upward pressures on rents.

Adjustment to forecast

5. As outlined in the amendment to the proposed Government Plan (P.97/2022: Amd. 25) the revenue projection for the 3-percentage point higher rate of Stamp

Duty for 2023 has been revised to £4.66 million, from £1.597 million, resulting in an increase of approximately £3 million.

6. One of the objectives of this amendment is to raise higher levels of additional revenue that can be used to support the Dwelling-Houses Loan Fund. Based on the previous revenue projection, the amendment states that the proposed 4 percentage point surcharge would raise an additional £400,000 in 2023, resulting in a total of £2 million in revenue compared to the £1.597 million under the original proposition.

7. However, using the revised forecast, a 4-percentage point surcharge would raise an estimated total of £5.13 million, which is £470,000 above the revised 2023 forecast and £70,000 higher than the estimate in Deputy Andrews' amendment.

Financial implications of proposed amendment

8. The amendment also proposes to ring-fence the revenue from the higher rate of tax to the Dwelling-Houses Loans Fund.

9. To fund the deficit created by transferring £2 million from the Consolidated Fund, the Deputy proposes to reduce the General Reserve by £1.6 million.

10. The General Reserve is designed to be held outside operational expenditure limits and can be used to meet unforeseen pressures or provide advance funding for urgent expenditure in the public interest. Any reduction to this reserve places pressure on the ability to fund any unforeseen expenditures and is not recommended.

11. The General Reserve balance for 2023 is likely to be significantly reduced by expenditure forecasted within the Government Plan. Any further reduction in the balance of funds due to this amendment would affect the Government's ability to fund unforeseen events and pressures on public finances.

12. As supported by the Fiscal Policy Panel's (FPP) recent report, the Government should be prepared to react quickly to provide additional targeted support should it need to with the prospect of high and rising inflation. The General Reserve includes amounts to manage anticipated inflationary pressures for above-inflation increases and any erosion of these amounts is not recommended.

Dwelling-Houses Loan Fund/Assisted housing purchase schemes

13. The Deputy has suggested the revenue generated by the higher rate of tax could be used to fund the Dwelling-Houses Loans Fund.

14. It should be noted that £10 million has already been allocated within the General Reserve for assisted home ownership schemes in 2022, which will be carried forward to 2023 within the reserve for the same purpose. Therefore, a separate hypothecated fund for assisted home ownership schemes as proposed by the Deputy creates duplication and adversely affects value for money through requiring the management of multiple funds for the same purpose.

15. The Building Loans (Jersey) Law 1950 established a “Dwelling-Houses Loan Fund” (DHLF) for which the States may lend monies to any person for the purpose of acquiring a house, land, construction of a house or converting a building to a house.

16. The Fund also extends to the acquisition of a share transfer property. The Fund has previously been used to facilitate assisted ownership schemes, but it recently has not been in use due to the restrictive terms of the Fund (as set out in the law).

17. The restrictive terms of the Fund may be amended to allow for the funds to be used for specific assisted ownership schemes, but this will require a legislative amendment passed by the States Assembly. Legislative amendments can take months to draft and enact and as a result may reduce the speed at which any financial support to first-time buyers and potential homeowners could be offered from this Fund.

18. It is more likely that any use of assets held in the Fund to support assisted home ownership schemes would be by way of a transfer out of the fund (approved in a Government Plan). The Deputy’s amendment does not propose this, and it is therefore possible that the funds added through the amendment would be held in the Fund pending a transfer out in a future Government Plan or pending a legislative change to the terms of the Fund.

19. Given that £10 million already exists to support assisted home ownership schemes in 2023, it is not considered necessary to secure additional funding for this purpose, at this time. Great care will need to be taken to ensure that the scale and nature of an assisted home ownership scheme will lead to an overall benefit to the condition of Jersey’s housing market and economic wellbeing, and this will be considered in light of the FPP’s advice. Should further funding be deemed necessary to support an appropriate scheme in the future, this will be sought in the next Government Plan.

20. As set out in his Ministerial Plan, the Minister for Housing and Communities has committed to work collaboratively with States Members to find solutions and new opportunities to address the housing crisis, together. As such, the Minister would welcome the opportunity to engage with Deputy Andrews, or any other States Member, about how the existing £10m funding for assisted home ownership schemes can be used optimally.

Fiscal Policy Panel advice

21. The FPP provides independent advice to the Minister for Treasury and Resources and States Members on various matters related to fiscal policy.

22. It has been the long-standing view of the FPP that ring-fencing (also known as hypothecation) is undesirable. In its latest Annual Report dated November 2022, the Panel states:

Hypothecation is where the government commits to spend a revenue stream, usually taxes, on a specific objective or policy issue. The Panel has previously recommended that hypothecation should only be introduced where revenue and spending are likely to be justifiably related. No new separate funds are proposed in the Government Plan. The Panel is pleased that their previous recommendation that the proliferation of separate funds is undesirable has been followed. Thorough consideration should be given towards the consolidation of funds and no further funds should be proposed without strong rationale.[1]

23. Whilst the Deputy's rationale links the funding of home ownership schemes and the proceeds from a 4 percentage point surcharge, this report has already noted that a funding source for schemes is in place.

24. The FPP's annual report also identifies that the cost of housing remains a risk to economic growth in Jersey and that this should be addressed as a priority, consistent with the Government's aims. However, the FPP also specifically raise the point that interventions which boost short-term housing demand and support prices artificially are not desirable.

25. It is for this reason that great care will be taken to utilise the existing £10 million held for assisted home ownership schemes in 2023, and that funding for a scheme beyond this level in 2023 is more likely to create tension with the FPP advice and, as such, is not supported by the Council of Ministers.

[1] FPP 2022 Annual Report.pdf (gov.je), p.36