STATES OF JERSEY

DRAFT BUDGET STATEMENT 2017 (P.109/2016): SECOND AMENDMENT (P.109/2016 Amd.(2)) – COMMENTS

Presented to the States on 12th December 2016
by the Council of Ministers

STATES GREFFE

COMMENTS

The amendment lodged by the Deputy of St. Ouen consists of 2 distinct parts, which impact on different elements of the Island's property market –

- the first part impacts on the high end of the residential property market (i.e. residential properties worth more than £3 million);
- the second part impacts on the commercial property sector (i.e. land and buildings not used for residential purposes).

It is therefore appropriate to consider each part of the amendment on a standalone basis.

<u>Part 1: reject the Budget proposal to raise additional stamp duty/land transaction tax on transactions worth more than £3 million</u>

Key points:

- The Budget proposal only increases stamp duty/LTT on residential properties worth more than £3 million – well above the value of the vast majority of the "local" market.
- Budget proposal increase the States' revenues by £220,000 per annum, helping the Treasury to maintain flexibility in managing the States' finances during the course of this MTFP.
- Additional stamp duty cost is unlikely to discourage any individual who wants to move to Jersey under the HVR regime.
- Stamp Duty is <u>not</u> payable on the registration of wills where: (i) the matrimonial home is devised to the spouse/civil partner; (ii) the property is devised to a tax-approved charity; or (iii) the property is left in the same way as it would be if the deceased was intestate.
- **The Council of Ministers strongly opposes this part of the amendment.**

In the Draft Budget Statement 2017, the Minister for Treasury and Resources proposes increases to stamp duty and land transaction tax ("LTT") which would only apply to residential properties worth more than £3 million. This proposal raises additional revenues of £220,000 per annum from 2017 (based on the prudent forecasting methodology adopted by the Income Forecasting Group), which will provide additional revenue to the Treasury to manage the States' finances during the course of this MTFP. Although prudently forecast to raise £220,000, on those one-off, very large transactions which occur from time-to-time within the residential property sector, this proposal could raise significant amounts of revenue from a single transaction.

In developing the Budget proposal, the Council of Ministers was keen to ensure that it did not impact on the vast majority of Islanders looking to buy property in the Island. On the basis that the Statistics Unit have reported that the mean price of *4-bedroom houses* which sold in Q3 of 2016 was £811,000, this is not a tax proposal that many Islanders will be impacted by.

Those who may pay a bit more include high-value residents ("HVR") moving to the Island. A report looking at the impact of the HVR tax changes introduced in July 2011 is to be released before the Budget debate. This report contains positive news about the numbers of HVRs who have relocated to the Island in recent years and the amount that they contribute. This is due to a combination of factors, including improved marketing of the regime, maintaining internationally competitive tax rates, and the Island's natural beauty and high standard of living. We welcome these HVRs and the significant contribution they make to our Island, both financially and more broadly.

Under the Budget proposal, anyone transacting in property worth more than £3 million, potentially including these HVRs, would be asked to pay more. Although it will increase the costs of purchasing property worth more than £3 million, it is the Council of Ministers' view that, in itself, this increase is unlikely to discourage any individual who wants to move to Jersey under the HVR regime. This is particularly true considering most of the HVRs who relocate to the Island come from the UK, where the rates of stamp duty on residential property are significantly higher than those proposed in the Budget (see Figure 1 – the comparative analysis).

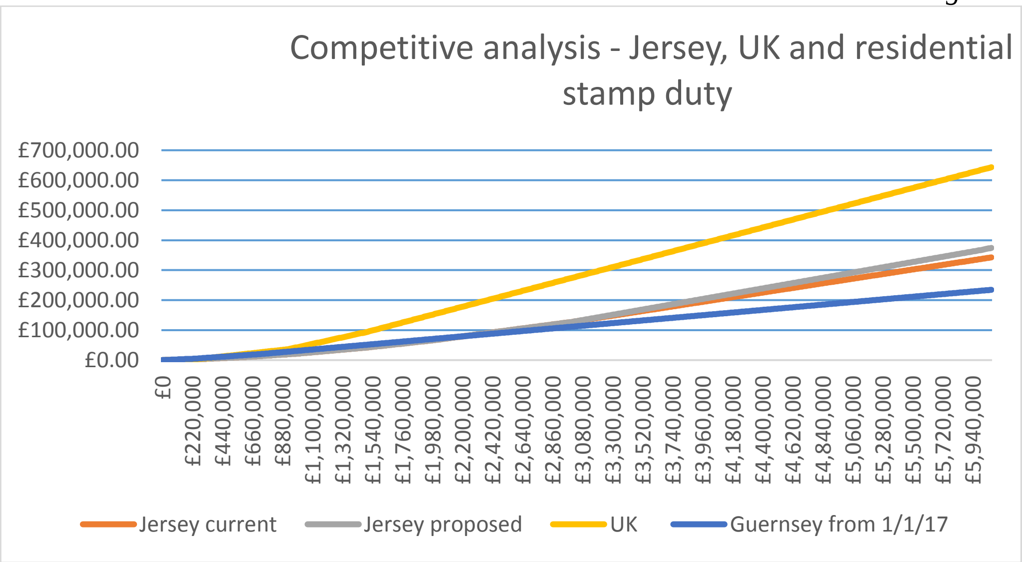
The Budget proposal does impact on the Registration of Wills of property worth more than £3 million, where stamp duty is payable when, and only when, the Will is registered. However, there are a range of circumstances in which this stamp duty is not payable –

1. Where the deceased leaves their matrimonial home to their spouse/civil partner.
2. Where the deceased leaves the property to a tax-exempt charity.
3. Where the deceased leaves the property to those persons who it would have passed to, and in the same shares, if the deceased had died intestate.

In his report, the Deputy references the headline stamp duty rate of 9% (applicable only on the element of value in excess of £6 million) and uses the label "inheritance tax". Referencing the headline rate in this way is misleading. For example, the effective rate of stamp duty payable on the registration of a Will devising a property worth £3.5 million (assuming none of the above exemptions apply) is, due to the sliding scale calculation, only 4.8%.

The Council of Ministers strongly opposes this part of the amendment and encourages members to vote against it.

Figure 1



Part 2: increase the stamp duty charged on commercial property worth more than £1 million

Key points:

- The residential and commercial property markets are very different markets, with different market participants, different motivating factors and looking in different geographical areas.
- The Council of Ministers does not accept that the fact that there is a differential between the rates charged on residential and commercial property is, in itself, sufficient justification to increase the stamp duty on commercial property.
- The Deputy's proposed increase would fundamentally change the competitive position vis-à-vis the stamp duty charge on commercial property in the UK.
- In advance of the 2018 Budget, the Treasury will complete a review of the opportunity for introducing changes in the context of commercial stamp duty; including concluding the longstanding issue of whether LTT can be extended to encompass commercial property held in special purpose vehicles.
- **The Council of Ministers also opposes this part of the amendment.**

The Deputy proposes to increase stamp duty on commercial property worth more than £1 million; such that if both Parts of his amendment were approved by the States, there would be a single set of stamp duty rates applying to property in the Island. This result aligns with the Deputy's main argument for Part 2 of his amendment, namely: "I believe that there are no longer any good reasons for making such a distinction [based on the use of the property]."

This policy position is inconsistent with the approach adopted in the UK and Guernsey, where different stamp duty rates are applied to residential and commercial properties. Indeed, when introducing stamp duty land tax in 2003, the UK government specifically announced a "commitment to consider the commercial and residential markets separately in future decisions on stamp duty".[1]

Having differentials between the stamp duty charged on residential property and commercial property recognises the fact that these are very different markets, with different market participants (e.g. large, global institutional investors vs. home-buyers), with different motivating factors (e.g. seeking a return on an investment vs. seeking a home to live in), looking in different geographical areas (e.g. across the globe vs. exclusively within the Island).

Therefore the Council of Ministers does not accept that the fact that there is a differential between the rates charged on residential and commercial property is, in itself, sufficient justification to increase the stamp duty on commercial property. Particularly as the change proposed by the Deputy would change the fundamental competitive analysis, namely that (with the exception of property worth less than £285,000) stamp duty on commercial property in Jersey is always less than the UK – the result of the change being that Jersey would have higher stamp duty rates on commercial property in excess of £3.6 million (see Figure 2 – comparative analysis).

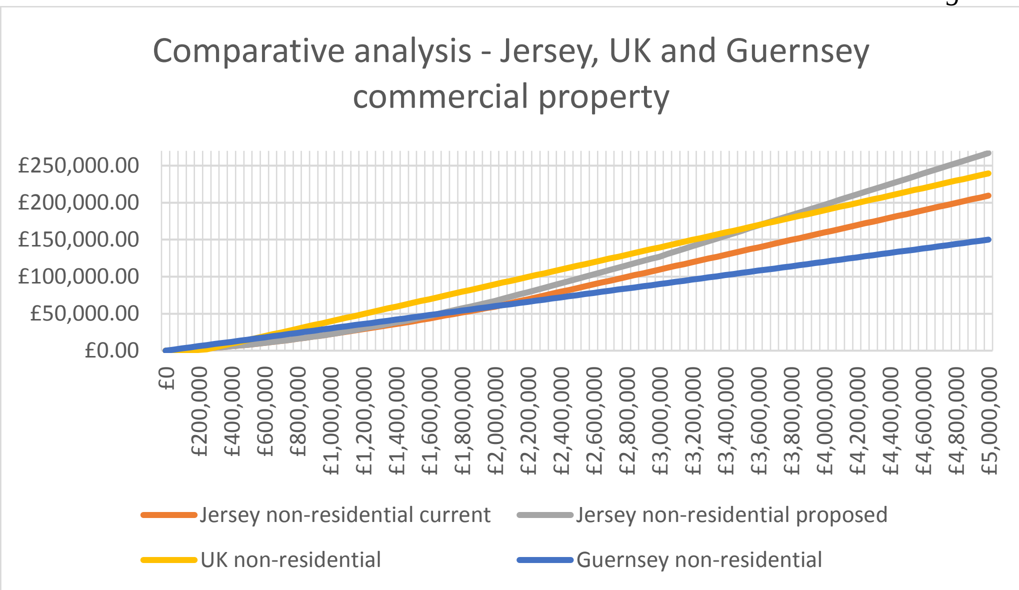
[1] See: http://webarchive.nationalarchives.gov.uk/+/http:/www.hmrc.gov.uk/budget2003/pn05.htm

The Council of Ministers is not, however, in principle, opposed to considering changes in commercial stamp duty and is acutely aware of the fact that commercial property held in special purposes vehicles remains outside the scope of both stamp duty and LTT. Due to the prioritisation of other work-streams, further work has not been undertaken on the issue in recent years.

The Council of Ministers commits that, in advance of the 2018 Budget, the Treasury will complete a review of the opportunity for introducing changes in the context of commercial stamp duty; including concluding the longstanding issue of whether LTT can be extended to encompass commercial property held in special-purpose vehicles. This review will be undertaken in consultation with the commercial property sector, rather than making a change with just one month's notice, the prospect of which has unsettled the sector.

The Council of Ministers therefore also opposes this part of the amendment as it is important not to make such a decision without careful analysis of the consequences, but commits that, in advance of the 2018 Budget, the Treasury will complete a review of the opportunity for introducing changes in the context of commercial stamp duty; including concluding the longstanding issue of whether LTT can be extended to encompass commercial property held in special purpose vehicles.

Figure 2



Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were submitted to the States Greffe after the noon deadline as set out in Standing Order 37A in order to ensure that the States Assembly has the latest information when considering the effect of the amendments.