STATES OF JERSEY

DRAFT BUDGET STATEMENT 2019 (P.114/2018): THIRD AMENDMENT

Lodged au Greffe on 20th November 2018
by the Connétable of St. Helier

STATES GREFFE

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PAGE 2, PARAGRAPH (a) –

After the words "as set out in the Budget statement", insert the following words –

> ", except that the estimate of income should be reduced by £3,000,000 by reducing the rate of Income Tax on Large Corporate Retailers to 10%".

CONNÉTABLE OF ST. HELIER

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

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

(a) to approve, in accordance with the provisions of Article 10(3)(a) of the Public Finances (Jersey) Law 2005, the estimates of income from taxation and duties during 2019 of £757,812,000 as set out in Summary Table A of the Budget Statement, with the sum to be raised through existing taxation measures and the proposed changes to income tax, impôts duty, goods and services tax, stamp duty and land transactions tax, as set out in the Budget Statement, except that the estimate of income should be reduced by £3,000,000 by reducing the rate of Income Tax on Large Corporate Retailers to 10%;

(b) to approve, in accordance with the provisions of Article 10(3)(c) of the Public Finances (Jersey) Law 2005, the appropriation of £20,533,000 in 2019 from the amount appropriated to growth in the Medium Term Financial Plan Addition for 2017 – 2019 (P.68/2016 as amended) to the revenue heads of expenditure of those States funded bodies as set out in Summary Table B, noting that these sums incorporate the £9,400,000 growth funding approved by the States in their Act dated 30th November 2017 (as detailed in paragraph (b) of P.90/2017 as amended);

(c) to approve, in accordance with the provisions of Article 10(3)(d) of the Public Finances (Jersey) Law 2005, a capital head of expenditure for each of the capital projects for States funded bodies to be started or continued in 2019 (other than States trading operations), as set out in the proposed programme of capital projects in Summary Table D, with the net allocation from the Consolidated Fund totalling £32,975,000;

(d) to approve, in accordance with the provisions of Article 10(3)(e) of the Public Finances (Jersey) Law 2005, each of the capital projects that are scheduled to start during 2019 in the recommended programme of capital projects for each States trading operation, as set out in Summary Table E, that require funds to be drawn from the trading funds in 2019;

(e) to refer to their Act dated 8th October 2015[1] in which they agreed in accordance with Article 4(2) of the Public Finances (Jersey) Law 2005, that in 2019 a transfer of £50,000,000 would be made from the Consolidated Fund to the Strategic Reserve Fund; and to vary that decision and instead transfer that same amount from the Consolidated Fund to the Stabilisation Fund in 2019, in line with the requirements of Article 4A(1) of the aforementioned Law.

[1] The decision to transfer monies between the Consolidated Fund and the Strategic Reserve Fund was approved in paragraph (b)(iii) of P.76/2015 as amended (see https://statesassembly.gov.je/assemblypropositions/2015/p.76-2015.pdf).

REPORT

The purpose of this amendment is to seek to mitigate the damage which I believe is being done to Jersey's retail sector by the imposition of a new income tax on the profits of large retailers in last year's Budget (P.90/2017). I will argue that the harmful nature of the new tax does not stop there as it will have, if it has not had already before its first receipts are collected, adverse impacts on the well-being of the least well-off in Jersey, on our visitor economy, and on the vitality of our town and village shopping centres. Some have said that this tax should be abolished completely until such time as the States has adopted a Retail Strategy, and until its likely effects have been properly researched; to do so would be a welcome stimulus to a crucial sector in the Island's economy in uncertain and difficult trading conditions – however, the majority of firms and retail groups have indicated a willingness to bear the new retail tax were it to be limited to 10%, i.e. the same level that is applied to the financial services sector. Such a reduction was proposed earlier this year by former Senator P.F.C. Ozouf (P.62/2018), and this was only defeated by the narrowest of margins when it was debated on 9th April.

Since then, the arguments against maintaining the tax at the higher rate have intensified, with the added pressure on retailers looming in spring 2019 with Brexit, when their supply chain for goods could be affected. This uncertainty, not of their own making, will further deter investment decisions, unless Jersey is considered an attractive place in which to invest. Clearly with a Retail Tax higher than the UK, and the Island being at the very end of a supply chain that is already pressure, we are not putting ourselves in a good position. The situation has developed further with the Retail Policy Review being undertaken by the Economic Affairs Scrutiny Panel; this has already amassed a large number of cogent submissions which support the case for a reduction in the tax from 2019.

Background

The principle of introducing a new retail tax was proposed by Senator S.C. Ferguson in the fourth amendment to the 2017 Budget (P.109/2016) which was itself amended by the Minister for Treasury and Resources and approved by a large majority. Analysis of the debates on 14th December 2016 shows that the States agreed with the proposer's view that, given the work done by Scrutiny 10 years earlier on the effects of the Zero/Ten tax regime, it was high time that the inequity in the taxation of non-finance local and foreign-owned trading companies was addressed. Only the Minister for Economic Development struck a cautionary note when he advised Members: *"retail is struggling. We are in a different world at the moment with the growth of the internet."*.

A year later, the proposed 20% tax on the profits of large retailers was part of the 2018 Budget, only this time the amendment, lodged by Senator P.F.C. Ozouf, sought to reduce it to 10%. The debate which followed was complicated by the fact that the amendment sought to raise the lost revenue by a combination of fiscal measures affecting duty free cigarette sales, gambling, large liquor vendors and stamp duty, but the Senator's arguments against such a significant tax hike as was being proposed on the larger food retailers were unequivocal: *"upon evidence,"* he said, *"I am concerned that the effect of the retail tax will be detrimental to Islanders and particularly to Islanders on low incomes, and those that cannot travel, that need to purchase goods not online."*. He went on: *"any price hike is going to make income inequality worse rather than better, because it is going to be those at the lower end of the income scale that use* *a bigger proportion of their budgets for groceries ... (who) are going to be impacted the most ... they are going to see a falling standard of living.".* He returned to the effect on food prices in his summing-up: *"my principal motivation for bringing this amendment is to reduce an otherwise certain, in my view, increase in the cost of living of, principally, groceries.".*

Senator Ozouf also expressed concerns about the effect of such a measure on the confidence of the retail industry: *"basically we have a general rate of tax of zero % and a special rate of tax of 10% for financial services. The retail industry in their representations (is) wondering: "Why are we being asked to pay this higher rate of tax than the finance industry?" Because that is what is being proposed. When this issue was agreed last year I do not think it was made clear enough to Members that while the tax of retail in Guernsey is 20%, it is 10% in the Isle of Man. Guernsey does not have GST and there are obviously very different factors at work. The Isle of Man has VAT, the same duty rates as the UK but they brought it in at 10%.".* He went on to praise Jersey's *"splendid retail offering compared to most towns or cities for a small island of our nature. [Approbation] It is one of the things that is the joy of most visitors that come to see me ... they come into town and they walk up and down King Street and they are just absolutely astonished at the range of businesses and their range of goods that are on sale in Jersey ... I do not think that this Assembly should do anything which would inhibit and prevent or threaten that retail offer.".* This concern about the potential effect on retail vitality was shared by former Deputy A.D. Lewis of St. Helier: *"If you take away those (fiscal advantages) from those major retailers, they may well decide, 'You know what: it is just not worth sending that container down to Jersey once a week, it really is not worth the extra aggravation.' Anything you do to change that fiscal position of those retailers will gradually chip away at the reason why they might be here ... (it) may then just take a boardroom decision one day, tick, we are leaving".* This last comment in particular was prescient, given the evidence presented to the Retail Policy Review in recent weeks.

Proposing the relevant Article of the Law in the Budget debate following the defeat of the Ozouf amendment, the then Minister for Treasury and Resources, former Senator A.J.H. Maclean, sought to allay the concerns raised by some Members that there had not been sufficient consultation with those likely to be affected by the new tax on large retailers. However, his contention that there had been *"a lot of consultation"* was later disputed by the Chamber of Commerce, who, following a Freedom of Information Request, wrote to the Treasury Department on 15th January to protest at the lack of timely or meaningful consultation: *"Our retail sector has yet to see the decimation that many of the UK high streets have seen in the last decade, but it is clear that factors that influence decisions to be part of the retail sector are marginal and it takes very small changes to have a significant and lasting effect on the high street and beyond. The implementation of a tax as the agreed level will affect all of our large retailers, their decisions on training, expansion, recruitment and whether to be trading in Jersey at all.".*

A few months later, Senator Ozouf came back to the States with a rescindment motion which I was pleased to countersign (P.62/2018); apart from carefully documenting the lack of consultation in the lead-up to the introduction of the new tax, the Report made several key points which persuaded 21 Members to change the way they voted during the Budget debate –

- the retail sector employs more people than any other outside finance, and produced £149 million in GST receipts for the States between 2008 and 2015;

- the scale of this sector in terms of its contribution to employment and tax collected, quite apart from the essential role it plays in providing goods to all Islanders, cannot be understated;
- decisions regarding this sector's competitiveness and the level of investment required to sustain it, and any effect on the cost of living which would be felt particularly acutely in the grocery sector, should be taken with the greatest of care;
- the issue of creating an unlevel playing-field amongst retailers (the Co-op is not subject to the new tax) was an uncomfortable position for many Members;
- all local business groups and associations made strong representations that the imposition of a 20% tax had not been thought through;
- warnings were given that if the cost could not be borne by the businesses themselves, the cost would be passed on in terms of higher prices. The cost of living has already increased due to the exchange rate volatility after Brexit, and a further self-imposed price increase would, moreover, damage confidence in Jersey's much-valued, vibrant retail sector.

The fact that the replacement of the retail tax by one pitched at the lower rate of 10% was nearly achieved, can also be attributed to the clear and concise communication by the Chamber of Commerce, which wrote to all States Members in the following terms –

> "*We jointly write to you today, as a collective group of business representative organisations, all sharing one common theme. Our very grave concerns regarding the budget decision to introduce a new Retail Tax at a rate of 20%. From our subsequent research and Freedom of Information request shared with you via email on 16th January 2018, we have proved without a doubt that there was no consultation a.) over a twelve-month period, or b.) at all. However, each of you were explicitly informed this vital work of consulting commerce had taken place. Therefore, your decision to vote in favour of the tax may have been based on an assumption that retailers had plenty of notice, discussion and time to plan. They had not.*
>
> *You will be aware of the empty retail outlets in and around the island, especially in St. Helier, which are currently at a vacancy rate of 2.2%, the highest for ten years. That represents approximately £1 million of available rental space in St. Helier alone and while footfall figures for February were up 7.3%, these customers are not translating into sales.*
>
> *A vibrant and diverse retail offering is equally as important for islanders as it is for visiting tourists. The negative impact of large empty shops on the high street cannot be underestimated and first impressions can only be formed once.*
>
> *Jersey's retail sector is dependent upon new entrants into the island, replacing those that leave either because their local store has not been a success, or Head Office make a strategic decision to exit the market. It is, therefore, vitally important new retailers are encouraged to establish a presence in Jersey. However, most new entrants are UK retailers, where corporation tax is 19% and set to reduce to 17% by 2020, leaving Jersey uncompetitive.*

On-island retailers are already operating at an unfair advantage to off-island retailers, who can deliver their goods to Jersey (up to the value of £240) and not charge tax. Whereas on-island retailers must charge and collect the Goods and Services Tax (GST) on all items. It must be noted that a continued erosion of the retail sector and empty units, will result in reduced GST receipts for the States.

The Jersey Chamber of Commerce, Jersey Retail Association and Consumer Council have agreed that a rate of 10%, akin to that of the Finance sector, would be fair. There can be no doubt, the 20% rate will be and is already being harmful to the sector and local economy, as:

- *Costs will be passed onto the consumer*
- *Investment in premises, services and training will be abandoned or scaled back*
- *Non-Jersey retailers will think twice about entering the market when a cheaper rate of corporation tax is available in the UK and where there is far greater access to staff*
- *Shops will remain empty and visually blight the high street and other retail outlets around the island*
- *Fewer jobs will be available and unemployment will rise*
- *Tax revenue from ITIS and Social Security will be reduced and income support payments will likely increase.*

As has been previously stated, the introduction of this tax is likely to result in increased food prices and will affect the least well-off islanders the most ... Commerce accepts it must pay its way in Jersey, however, it must be done in a way that does not threaten future prosperity, jobs or the island's economy.".

The Retail Policy Review (launch date 31st July 2018)

The Economic Affairs Scrutiny Panel is reviewing retail policy in Jersey and exploring the challenges and opportunities local retailers face. As well as the main shopping area of St. Helier, the Panel is looking at out-of-town retail areas, including St. John's Village and Les Quennevais Precinct. Its terms of reference are –

1. To identify the current challenges and opportunities facing Jersey's retail sector.
2. To assess the current value of the retail sector to the Island in term of its economic, social and environmental impacts.
3. To assess what the current policies, strategies and initiatives of the Minister for Economic Development, Tourism, Sport and Culture are, and whether these are fit for purpose.
4. To follow up on past accepted recommendations of the previous Economic Affairs Scrutiny Panel in relation to its retail policy review.
5. To determine what effect the 20% tax on retail profits above £500,000 has had on the retail sector.
6. To assess the role of out-of-town retail areas and the impact they have on local parish communities.

Although the Panel will not have concluded its work in time for the debate on next year's Budget, it is clear from the vast majority of more than 35 submissions, as well as from the public hearings, that some of the fears of those who opposed the introduction of the new retail tax are being realised.

The Chamber of Commerce's submission states: *"The imposition of a 20% Retail Tax, which is higher than the UK, is according to some of our retail Members, stymying investment in larger stores. The States of Jersey Treasury, states 'we just do not know the effect of a 20% Retail Tax but will judge the effects after three years. Many in industry deem this to be a high-risk strategy, brought in without any evidence or prior thought to the possible consequences, at a crucial pinch point in this sector and with scant consultation. A review 2021 after three years of the effects, maybe too late to reverse the untold damage to investment by large retailers. Several members who have recently invested, have categorically said they would not have invested if they had known at the time. Others are now holding back, reconsidering or shifting investment into the UK/Ireland."*.

These points are borne out in the comments of the largest food retailer: *"All capital investment has been slashed and we are looking to invest in other markets. We have turned down two new franchises in Jersey which has resulted in at least 30 lost jobs. There will be no new franchises and our capital investment programme will be heavily curtailed. We will direct our growth efforts to those territories that don't penalise us at this level."*.

Visit Jersey notes that: *"It is estimated that in 2017 visitors spent £16m in Jersey's shops. This expenditure generates £800,000 of GST revenue. The town is also lacking a section for designer brands. It is common now for regional towns and cities to have a cluster of such brands, either on a street or in a centre. Given the prosperity in the island, there is opportunity to explore this avenue."*.

This begs the question, why would such brands wish to invest in Jersey now that a higher tax on retail has been added to the other factors which add cost to retailing in the Island?

A well-established local jeweller comments: *"The new retail tax is badly thought out. The imposition of 20% on selected successful retailers is discriminatory and will act as a complete disincentive to new retail investment. We believe in paying taxes but we also believe that taxation should be fair for all. Why can we not have, for example, a 10% corporate tax rate across the board?"*.

Meanwhile, the Jersey Retail Association has also responded to the Corporate Services Scrutiny Panel's review of the Draft Budget Statement 2019 in the following terms –

> *"Before the JRA became fully active at the end of February 2018, information pertaining to the Island's retail sector was difficult both to source and to communicate to retailers, government and the media.*
>
> *This lack of information has led to decisions – such as the States Assembly approving a 20% retail tax – which are damaging to the industry. The JRA maintains that had a retail champion existed to provide meaningful consultation, this tax rate would have been set at 10% in line with that levied on the finance industry ... Of concern is the complete lack of consultation undertaken with the industry, despite previous claims to the contrary. The*

failure to engage with the industry was proved through research and a Freedom of Information request which, on 16 January 2018, showed not only that there had been no consultation with the industry over the previous 12 months, but that no consultation at all had taken place. Equally concerning is the lack of a review by the Treasury Department to ascertain the likely impact of this tax on the industry. It is also worrying that a decision of this significance has been taken in the absence of a current retail strategy – a piece of work which is due to be complete next year …

As the JRA has commented before, there is a lack of available data on the retail industry's many financial contributions. Although there are large holes in the information available, the most recent statistics (below) highlight the sector's contribution to the economy:

> *2015: retail sales: £720mn*
> *2015: GST returns from retail: £36mn*
> *2018: 7,890 people employed by the sector*

With the industry making such a significant contribution to the economy, it is clear that investment in the sector is needed to sustain and grow these figures.

Instead of mirroring Guernsey's 20% retail tax rate, more attention should be paid to the trading environment in the UK. In the first six months of the year, Britain's high streets have seen a net loss of 1,123 stores, according to the accountancy firm PwC. That is the equivalent of 14 shops closing every day, as UK high streets face their toughest trading climate in five years.

When delivering his budget, UK Chancellor Philip Hammond outlined a £1.5bn package of measures to support retailers. This package included relief on business rates, and a pledge to invest more in town centre infrastructures. He said: 'This package will provide short-term relief for struggling retailers and a long-term vision for town centres, helping them to meet the new challenges brought about by our changing shopping habits.' In announcing these measures, the UK government showed that it understood and recognised the value of retail, both to the economy and to the local community.

While Jersey's shop vacancy rate is low when compared to that of the UK, it is at its highest level for ten years. In St. Helier alone, there is approximately £1 million of rental space available. This represents a significant loss in rental tax, and is also a blight on the high street, discouraging both tourism and inward investment to fill the empty stores.

Corporation tax is currently set at 19% in the UK and is set to reduce to 17% by 2020. Against these figures, a 20% tax for retail businesses in Jersey is uncompetitive and will discourage further retailers from coming to Jersey. This will keep the empty shops empty, cause further losses in tax on rentals, GST, and personal tax from the shrinking workforce.

The 20% retail tax is also a significant barrier to retail investment among stores currently trading in the Island.

It is well documented that owing to advances in technology, the retail business model is changing. In the UK, it is estimated that 20% of all retail sales now take place online.

The future retail model is shifting to a 'experiential' approach with services and events becoming a fundamental part of retail business. All experts agree that an omnichannel approach is needed with click-and-collect, mobile tills in stores and digital catalogue stations all becoming important. Developing businesses in line with this model requires significant investment, which will be stifled by the tax.

The introduction of this tax is likely to result in increased food prices, which will affect the least well-off Islanders the most. It is estimated that costs will be passed onto the consumer at a rate of 1-2%. This price increase will only increase the sales going to off-island internet providers such as Amazon Pantry, who contribute nothing to the Jersey economy.

In conclusion, the JRA calls for:

> *The retail tax to be amended to 10% in line with the finance industry.*
> *A full review of the impact that levying a 10% tax on retailers will have on the future of the industry in Jersey."*.

Draft Budget Statement 2019 (P.114/2018)

'Budget 2019' contains no acknowledgement that the provision to tax the profits of large retailers remains unfair, divisive, damaging and unnecessary. The Minister's foreword states in the second paragraph: *"this Budget contains no surprises, with no major tax measures, and will not seek to disturb the sensible long-term fiscal framework of achieving a balanced budget that was pursued by my predecessors."*. But the retail tax is a major tax measure which, as has been shown in this report, was introduced without the consultation which States' Members were assured had taken place; consultation which should have been done, given the fact that retail is the second biggest sector in Jersey's economy, and considering the risk that the new tax will directly affect the lives of nearly 8,000 employees.

The Minister refers to the key elements of the proposed Common Strategic Plan, the 4th of which is: "We will reduce income inequality and improve the standard of living", and we must ask how maintaining the retail tax in 2019 and beyond can possibly be seen to be consistent with this pledge, given the fact that it will affect the least well-off more than those on higher incomes. The fact that there is reference in the Budget book to a forthcoming review of the mutuals serves to remind us that there is one large food retailer that is unaffected by the new tax and that it is, therefore, not fair.

Jersey's retail offer has weathered the recession very well, and our shopping centres continue to outperform many elsewhere, but the pressures on retailers continue to grow from their untaxed online competitors; and other challenges continue, including staff recruitment and retention. I believe that the States should agree to reduce the tax on the profits of large retailers to 10% and thus send out the message that we value the retail sector and want it to prosper.

Financial and manpower implications

The Treasury Department has estimated that the reduction in the income tax on the profits of large retailers in 2019 will cost approximately £3,000,000 when it is collected the following year.