RICS

RICS Jersey

RECEIVED
20 FEB 2009
STATES GREFFE

10th September 2008

RESPONSE TO THE TREASURY & RESOURCES DEPARTMENT GREEN PAPER –

"IMPLEMENTING A DEEMED RENTAL CHARGE ON NON-FINANCE NON-JERSEY OWNED COMPANIES"

by

A WORKING PARTY OF THE JERSEY GROUP OF THE ROYAL INSTITUTION OF CHARTERED SURVEYORS

REMIT OF WORKING PARTY

To consider the Green Paper published and circulated by the States of Jersey Treasury & Resources Department regarding the possible introduction of a deemed rental charge but primarily focusing on the proposal to abolish the current Jersey tax exemption for UK superannuation funds at Article 115 (g) of the Income Tax (Jersey) Law. Such response to be lodged with the Minister for Treasury and Resources no later than 12th September 2008.

COMPOSITION OF WORKING PARTY

The working party comprises a panel of experienced local commercial property agents and valuers, the majority being professional members of the Royal Institution of Chartered Surveyors and all being currently active in the Channel Islands commercial property market.

Five of the leading local commercial property practices are represented which together on average deal with transactions involving in excess of £100 million worth of commercial investment sales and acquisitions per annum. Our clientele ranges from private individuals to family trusts, institutions, development companies, States' departments, WEB and indeed the superannuation funds that will be affected by the Green Paper's proposals.

None of the individuals concerned are personally affected by the proposals but many of their firms' clients will be.

PREVIOUS SUBMISSIONS REGARDING ARTICLE 115 (g)

This subject was given extensive airing during 2006 as a result of the Scrutiny Panel's consideration of Treasury and Resources "Zero Ten" proposition to repeal Article 115 in respect of United Kingdom charities and superannuation funds.

The Royal Institution of Chartered Surveyors
Tubs Hill House
London Road
Sevenoaks TN13 1BL
United Kingdom
T +44 (0)1732 463 763
F +44 (0)1732 463 764
se@rics.org.uk
www.rics.org
RICS Jersey
is administered by
RICS South East

Repeal of the Article was subsequently abandoned presumably due to the weight of industry argument against the proposal from widespread sources such as the IOD, HSBC, PricewaterhouseCoopers, Mourant du Feu & Jeune, private investors and surveyors.

We believe that there is no reason why the arguments arraigned against the repeal of Article 115 at that time will have diminished in their relevance and indeed we would point to the declining performance of the commercial property market globally as a further cogent ground for the preservation of the status quo. We would therefore contend that the current stage in the property cycle would be a wholly inappropriate moment to invoke a tax change that could further negatively impact the market.

CONSEQUENCES OF REPEALING ARTICLE 115

In addition to and underlining the robust array of arguments which was proffered across the board to Scrutiny in 2006 we wish to summarise the adverse consequences of repeal in Jersey as follows:-

- UK pension funds will no longer source commercial investment stock in Jersey. Deterred by the removal of a considerable incentive to invest they will invariably retrench back to the mainland market and to Guernsey. Such a demurring strategy will result in a number of large scale retail and office investments being offered in the near future but to a severely truncated target audience.

- This will invariably lead to downward price corrections and diminution in values.

- Local individual beneficiaries of UK pension funds and charities will be adversely affected at a personal level.

- The inevitable slide in values will to the detriment of local owner occupiers and investment company balance sheets and could theoretically begin to drag down values across the whole of the commercial spectrum locally.

- Declining values will jeopardise the financing of new schemes which are already suffering the considerable effects of the so called "credit crunch". Certain developments may be placed on hold or conceivably abandoned. Indeed it is not beyond possibility that the Esplanade Quarter development could be negatively impacted or at least the resultant projected cash returns to the States for regeneration of other parts of the town severely diminished. Such a prestigious scheme would normally be targeted for investment by superannuation funds and therefore their disaffection would be ill-advised.

- Stamp duty revenues will invariably decline thus offsetting any potential fiscal gains from repeal of the Article.

- The States' own portfolio of property holdings will inevitably decline in value should the superannuation funds and charities be alienated by repeal of Article 115.

CONCLUSION IN RESPECT OF ARTICLE 115

It is therefore the view of this working party that any perceived advantage created by the abolition of the current Jersey tax exemption in terms of additions to the tax base will be more than outweighed by the negative side effects. Furthermore, we predict that the commercial property market will invariably and potentially irretrievably be compromised in terms of its ability to compete against other jurisdictions and its attractiveness to top end investors.

ASSESSMENT OF THE DEEMED RENTAL CHARGE

Whilst we have no fundamental objection to the concept of the deemed rental charge the working party is nevertheless concerned that deemed rental income should be assessed in a fair, professional and equitable manner and that any such process should incorporate a right of appeal or be subject to arbitration.

We believe that the form of assessment should follow that laid down by the RICS Valuation Standards Manual (6th Edition) dated January 2008 (otherwise known as the "Red Book").

The purpose of these standards is to ensure that valuations produced by RICS members achieve high levels of integrity, clarity and objectivity, and are reported in accordance with recognised bases that are appropriate for the purpose. It is our understanding that the rental values assessed by the various parochial rating panels do not conform to these strict requirements.

It will in our view be imperative that a mechanism be put in place which ensures that rental values can be independently and accurately assessed using up to date market information.

MEMBERS OF THE RICS WORKING PARTY

Alistair M Sarre MRICS – Sarre & Company
Julian Roffe FRICS, MCI Arb – Sarre & Company
Jon Carter – CB Richard Ellis
Bill Sarre MSc, MRICS – CB Richard Ellis
Richard M Lock BSc, MRICS – Buckley and Company Limited
G B Gothard FRICS – Guy Gothard & Co
Christopher Daniels MRICS – Barnes Daniels & Partners
Richard Barnes MSc, MRICS- Barnes Daniels & Partners