



JERSEY
Chamber of Commerce

Treasury & Exchequer,
PO Box 535,
19-21 Broad Street,
St. Helier,
JE2 3RR.

22nd January 2020

For the Attention of Deputy Susie Pinel, Treasury Minister

CC: Deputy Lindsay Ash; Senator Kristina Moore; Deputy Steve Ahier; Deputy Jess Perchard;
Connetable Karen Shenton-Stone; Connetable Richard Vibert

Dear Minister,

P.119/2019(Re-issue) Personal Tax Reforms [P.119/2019 (re-issue)]

Lodged by: Minister for Treasury and Resources

Proposition date: 22/11/2019

Debate date: 04/02/2020

Chamber are somewhat confused by the proposals laid down above which are due to be debated on 4 February 2020 and would welcome the thoughts of the Treasury and Resources Minister and the Corporate Services Scrutiny Panel, who have agreed to review the proposal, prior to the debate scheduled for early next month.

The proposal covers three specific areas, but the supporting report makes little reference to these specific proposals and we would suggest that the report, and the evidence presented, actually argues against the implementation of the proposals outlined below.

The full proposal is for the States to decide whether they are of opinion to agree that reforms should be made to the Income Tax (Jersey) Law 1961 ("ITJL") with regard to the taxation of married couples and couples in civil partnerships in order to:

(i) create joint and several responsibility of married couples and couples in civil partnerships to furnish a joint tax return from the 2021 tax year of assessment, while continuing to provide for the existing election for "separate assessment" under Article 121A;



(ii) give those couples described in sub-paragraph (i) equal rights of access to tax information, except where couples have opted for “separate assessment”; and

(iii) create joint and several liability for the payment of outstanding taxes, except where couples have opted for “separate assessment”.

If one looks at the report in greater detail it states that “the end goal of independent taxation would give Jersey a personal income tax system that fundamentally treats married and unmarried taxpayers the same way” and then then refers “to overdue reforms to the most egregious aspects of our existing married couple regime” but we would suggest that the changes proposed are diametrically opposed to these goals.

Bullet point (i) would create a liability for a spouse / civil partner to file a tax return for something that was not issued in their name and for which the spouse / civil partner could not be certain had been returned or completed. An individual taxpayer would not have this issue. The proposal is incomplete in that it does not provide any guidance to the spouse / civil partner as to what happens should the husband or first mentioned civil partner agree to sign but then fail to sign the return. It also places responsibility for the spouse / civil partner to agree the content of the return as the proposition implies that all the relevant parts of ITJL would be joint and several therefore resulting in fines and penalties that were outside the control of one of the parties. It is accepted that one could elect for separate assessment, but one would need to factor in the additional administration costs for both the taxpayers and the Taxes Office. We would suggest that the additional administration far outweighs any benefit. If one was to elect, then the aforementioned changes would not be required.

In relation to bullet point (ii) we have less concerns in that provision already exists for a second party to file separately and therefore the concerns relating to equal rights can be managed. One would however need to look at the deadlines for making such separate election in order that taxpayers were fully informed in good time.

Our main concern however is in relation to bullet point (iii) which we feel is totally unjustifiable and contrary to virtually every aspect of the report and Annex A which accompanied the proposition. Our brief rationale is that the Comptroller already has the power, under Article 42 of ITJL (reproduced at Appendix 1) to collect the relevant amount of tax due if the married couple / civil partner were treated as separate persons for Jersey tax purposes. The proposals put forward would, in our opinion, create further discrimination between the tax treatment of individuals and married couples and is in direct contradiction with the conclusions drawn in the report. The proposal would seek to make the spouse / civil partner liable for the debt of the other party. Should one have full independent taxation, as envisaged in the future, then this would not be the case. One would appreciate your detailed comments in relation to this regressive step.

We would also welcome your wider comments on the report and Annex A that accompanied the proposition. Annex A talks repeatedly about the tax system being modernised, significant impacts being mitigated, it being equitable, better reflecting modern society, equality, parity and transparency. These principles being intrinsically dovetailed into the proposals of the long-term tax



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policy principles of being low, broad, simple and fair. We are unable to see how the first step, being the proposition to be debated on 4 February 2020, meets any of the above.

We also have significant reservations as to why the 3,150 married couples who are currently being overcharged by c£1k each year (and have been for many years) have been simply ignored. Nowhere in the reports is any suggestion that these overpayments which have arisen due to the discriminatory nature of ITJL are to be addressed. The report suggests that this discrimination will not only not be addressed but this discrimination will be extended to compensate those that have not previously been discriminated against. We would appreciate your comments as to how this fits within the long term tax policy principles and the aims of the report and Annex.

In the conclusion of Annex A, it is clearly stated that “what is clear is that a system of married taxation will be in place for a period of years”. If this is the case, we would be grateful if you can confirm:

- Why this proposition is required at this time unless it is simply to increase the collection powers of the Comptroller and a revenue raising measure, as one cannot see that there is any benefit whatsoever to married couples that the separate assessment election does not already address; and
- What steps are being taken to move urgently to independent assessment and address the current discrimination against more than 3,000 married couples / civil partners who have paid significantly more tax than individual taxpayers.

We look forward to hearing from you. Naturally should you wish to discuss the above in greater detail please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Murray Norton'.

Murray Norton.

Jersey Chamber of Commerce, Executive Council.



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Chamber sign off;

Appendix 1

Income Tax (Jersey) Law 1961 (as amended)

Article 42 Proceedings for recovery of tax

(1) Proceedings for the recovery of income tax may be instituted by the Treasurer of the States at any time after the assessment to tax has been finally settled.

(1A) Notwithstanding paragraph (1), proceedings for the recovery of an instalment of income tax due under Article 41A may be instituted by the Treasurer of the States at any time after the amount of the instalment has been finally determined in accordance with that Article.

(1AA) Notwithstanding paragraph (1), proceedings for the recovery of an instalment of income tax due under Article 41AA may be instituted by the Treasurer of the States at any time after the instalment falls due.

(1B) Proceedings for the recovery of monies due under Article 41B(5), 41B(5AA), 41B(5D), 41E(5) or 41E(5D) or under paragraph 3(8) or 4(8) of Schedule 3A may be instituted by the Treasurer of the States at any time after the monies fall due.

(2) Where under the provisions of this Law income tax has been charged on the spouse A in respect of the profits or income of the spouse B, the powers of recovery provided in this Law in the case of non-payment of any such tax shall extend to the property, goods and chattels of the spouse

(2B) Provided that no action for recovery shall be instituted against the spouse B unless a notice demanding payment has been served by the Comptroller on the spouse B and he or she has failed to pay the amount of tax payable by his or her spouse A within 7 days of such service.

(3) Where under the provisions of this Law income tax has been charged on civil partner A in respect of the profits or income of civil partner B, the powers of recovery provided in this Law in the case of non-payment of any such tax shall extend to the property, goods and chattels of civil partner

(3B) Provided that no action for recovery shall be instituted against civil partner B unless a notice demanding payment has been served by the Comptroller on civil partner B and he or she has failed to pay the amount of tax payable by civil partner A within 7 days of such service.