STATES OF JERSEY

GOODS AND SERVICES TAX: RESTRICTION ON AMENDMENT OF 3% RATE

Lodged au Greffe on 29th January 2008
by Deputy G.P. Southern of St. Helier

STATES GREFFE

PROPOSITION

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

(a) to agree that the restriction in Article 8(4) of the Goods and Services Tax (Jersey) Law 2007 that prevents the Regulation-making power in Article 8(1) being used for 3 years after th introduction of the 3% GST rate should be amended to allow for the rate to be reduced below 3% within the 3 year period; and

(b) to request the Minister for Treasury and Resources to bring forward for approval the necessary amendment to Article 8(4) of the Law to give effect to the proposal.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

The Fiscal Plan (P.45/2005) adopted by the States on 17th May 2005 contained the following statements:

Summary of proposals

- **introduce a GST with a rate of 3% and minimal exclusions;**
- **only exclusions allowed are for exports and export-related services, extra-Island transport of goods and services, construction and letting of residential properties, domestic financial services including life assurance, and postal services;**
- **introduce the tax in 2008;**
- ***cap, by law, the rate at 3% for at least 3 years from its introduction in 2008.***

The Crown Agents have recommended a broad-based 3% rate of GST, capped at this rate by law for 3 years and with a registration threshold of £300,000.

The Explanatory Note that accompanied the GST Law adopted on 17th April 2007 also contained the following description of the Articles:

> *Part 2 Imposition of GST*
>
> *Article 6* makes GST chargeable on the domestic supply of goods and services by taxable persons, on the importation of goods by any person into Jersey, and on supplies of services outside Jersey that have certain connections with Jersey, including a Jersey recipient.
>
> *Article 7* specifies who is liable for GST.
>
> *Article 8* specifies 3% as the general rate of GST and **this is capped for 3 years** Afterwards, the States may alter the rate by Regulations.

Members will note the use of the words "cap" and "capped" in describing the intention that lay behind the wording of the GST Regulations. All members I am sure took these words at face value, that is, that the Minister for Treasury and Resources had promised to set an upper limit to the rate of GST for the period of 3 years However, the words of the Minister for Treasury and Resources himself on that day do not make his intention clear:

> *"The first reason is that I gave a commitment when I introduced G.S.T. a couple of years ago that I would keep the rate* ***fixed*** *for 3 years if we had no change in the exemptions and although we have had one change in the exemptions so far as health is concerned and we have had another one in terms of property maintenance, but the financial effect is neutral, so I am happy to maintain my pledge that G.S.T. would stay for 3 years, and indeed I would be failing my duty if I were to accept an amendment which invited me to renege on my pledge. I am not going to do that but even were I minded to, I wonder what sort of message that would give to the public. It is a message not that we are keeping our spending under control, but look let us try and* ***raise*** *the tax level as soon as we can so that perhaps we can spend more.*

The intention to cap, that is, not to raise, the rate sits alongside an intention to fix the rate. These 2 actions are very different. Moreover, in his comments on Senator Syvret's amendments to introduce exemptions on a range of goods and services, whilst clearly addressing the possibility of a rise in the GST rate, the Minister talks of a "*rate (that) will be* ***fixed*** *for at least 3 years:*".

Is the 3% rate bound to rise?

The proposition claims that "*it is a fact*" that the rate of tax will rise from 3%. This is a most curious assertion. A fact is something that has already occurred and is irreversible, which is obviously not the case when discussing an increase in the 3% rate. The Committee has, however, given a solemn undertaking that **the rate will be fixed** for at least 3 years after the introduction of the tax in 2008.

Somewhere in the long process of getting this tax into law, a commitment to “cap” the rate to prevent upward change was transformed into the act of “fixing” the rate at 3%, and this has been “hard-wired” into the law. The rate can neither be raised nor lowered. One has to ask why this change has been introduced. The public and the States clearly wanted assurance that the GST rate would not be raised. What we have is a rate that cannot be lowered, either. Neither the public, nor the States asked for this. In fact some 19,500 residents recently asked for the introduction of GST to be deferred, even at the 3% rate.

The Law currently states:

8 The general rate of GST

(1) GST shall be charged at the rate of 3%.

(2) GST shall be charged –

(a) on the supply of goods or services, by reference to the value of the supply;

(b) on the importation of goods, by reference to the value of the goods.

(3) The States may ***amend*** paragraph (1) by Regulations.

(4) The power in paragraph (3) shall not be exercised before the third anniversary of the day on which paragraph (1) comes into force.

Further on in the comments referred to above, the Minister for Treasury and Resources went on to say, in discussing future actions:

> *“If the rate is re-appraised in 2011, or at some future date, it will be States Members themselves who, taking all circumstances into account, will decide upon any changes. The Committee will not make any predictions on what those circumstances will be and fails to see how anybody else can confidently predict fiscal measures or the political response so far in advance.”*

No-one *“can confidently predict fiscal measures or the political response in advance”*. This is certainly true of the current Minister for Treasury and Resources. He could not predict the additional £30 million of tax revenue produced by the fiscal services sector in 2006. Nor can he say whether this remarkable growth will be reflected in the 2007 figures, although the signs are that it will be repeated, if not exceeded. The “credit crunch” may have some impact on these figures in 2008, but we have been repeatedly told by the CEO of Jersey Finance and by the Chief Minister, that we should remain confident that any damage will pass us by. If the upward trend in the finance sector is sustained into 2008 and 2009, then the new Assembly, elected later this year, may indeed take a very different view of GST. They may wish to bring the rate down. If this house leaves the GST Law as it is, then we will be tying their hands, not only to stop them from raising the rate which is our intention, but also from reducing the rate, which is not.

This amendment will put into the Law an accurate wording which better reflects the expressed intention of this Assembly to “cap” the rate of the Goods and Services Tax.

There are no financial or manpower costs to this proposition.