STATES OF JERSEY

DRAFT INCOME TAX (AMENDMENT No. 39) (JERSEY) LAW 201- (P.113/2011): AMENDMENT

Lodged au Greffe on 5th July 2011
by Deputy T.M. Pitman of St. Helier

STATES GREFFE

PAGE 9, ARTICLE 1 –

In paragraph (b), for the inserted paragraph (3B) substitute the following paragraph –

(3B) Notwithstanding the rate of tax required by Article 1 to be charged for a year of assessment, so much of the income of a person to whom this paragraph applies by virtue of paragraph (3A) as is chargeable to tax under Schedule D shall be charged to tax –

(a) on so much of that income as does not exceed the limit prescribed for the purposes of this paragraph, at the rate of 25 pence in the pound; and

(b) on so much of that income as exceeds the limit prescribed for the purposes of this paragraph, at the rate prescribed for the purposes of this paragraph.".

DEPUTY T.M. PITMAN OF ST. HELIER

REPORT

'I don't need any evidence!' *Assistant Minister for Treasury and Resources, Deputy Eddie Noel sums up the Executive's attitude to those who believe that preferential taxation policy benefiting 1(1)(k) residents should be evidence justified. June 2011.*

Why I am bringing this amendment

In times of growing global awareness as to the need for governments the world over to create a fairer and more equal society – a commitment that the States of Jersey has itself signed up to – one would surely expect States Members to be genuinely shocked by the above statement from the Assistant Minister for Treasury and Resources. Yet the amount of foot-stomping which greeted the Deputy's words – the latest it must be highlighted – in a series of non-answers to questions on the lack of cold, hard facts surrounding continued support of the 1(1)(k) system suggests that for many, this is just not the case.

Be this as it may, I should highlight here at the onset that this is actually the first of 2 proposals that I will be bringing relating to the taxation of 1(1)(k) residents. This first proposition relates only to the issue of future applicants for so-called 'High Value Residency' to tie in with the proposals to reduce – in real terms – the overall tax obligation of such individuals. The second will deal with the slightly more difficult issue of those individuals already granted 1(1)(k) status. More difficult, I acknowledge, but an issue nevertheless that must be dealt with.

'There is no evidence either way. I acknowledge that it is just a judgement call.' *Minister for Treasury and Resources, Senator Philip Ozouf acknowledges that the long-spun claim that all 1(1)(k) residents would leave the Island if requested to pay a more realistic rate of tax has no basis in evidence. April 2011.*

As may be intimated from the 2 quotes above, I bring these proposals as a consequence of it becoming apparent to me that this Minister for Treasury and Resources; and, indeed, the Council of Ministers of which he is a part, are intent on continuing to pursue policies that are not only deeply flawed, but can be seen as demonstrably so.

Indeed, the outcome of these policies, if left unchallenged, can lead only to the further compounding of what is already an increasingly divided two-tier society of 'haves' and 'have nots'. One tier that must 'tighten its belt'; the other tier to which the government perversely sends the message: 'please let us help you loosen it'. Such double standards in a difficult economic climate can only be divisive.

'Super rich immigrants could pay just 1% tax on all income after a minimum £125.000 bill was proposed to under new plans to entice them to live in Jersey. Changes proposed to tax rules for new wealthy 1(1)(k) immigrants would drop their Jersey tax rates from 20% to 1%, matching the existent 1% rate for foreign income.' Jersey Evening Post newspaper headline advising Islanders of the new proposals. June 2011.

Though I am obviously moving for an increase on the rates proposed by the Minister for Treasury and Resources, these rates are still very generous – quite probably still far *too* generous – viewed against the increasing global awareness of the failure; and, indeed, negative impact on society of flawed free-market policy thinking on tax breaks for the wealthiest.

The myth that policies helping the rich to become even richer automatically improve life for all

It is interesting that, along with debunking the myth that all current 1(1)(k) residents paid at least £100.000 in tax, a key eventual outcome of my persistent questioning of the Minister for Treasury and Resources over more than a year was his final admission that, contrary to the much-touted spin there is actually *no proof* whatsoever that were the most wealthy in Jersey asked to pay a little more tax they would all up sticks and leave.

This admission is very interesting because it had been the key excuse that has been allowed to shape government policy for many years. Along with the further myth – repeated by similar apologists for greed around the globe ad infinitum these past 3 decades or so – that the only way society will become wealthier from top to bottom is if the richest are allowed to keep a bigger slice of the economic pie. Thus, or so such apologists argue, the pie automatically gets bigger and the size of the slice for everyone else increases accordingly.

Though a mere lay person making no claims to be a professional economist (of course, in all fairness neither the Minister for Treasury and Resources nor his Assistant are either), there is only one easily spotted problem with this hypothesis: it simply isn't true – for without built-in safeguards it just does not work. In fact, to borrow Senator Perchard's oft-quoted expression: 'it is a nonsense'.

Anyone doubting this reality of this statement, or perhaps intimidated by the thought of the Minister for Treasury and Resources publicly ridiculing them within the Assembly with one of his 'I really think the Member is in need of one of my *tutorials'* putdowns need look no further for confirmation of this than researching the works of award-winning economist Ha-Joon Chang.

Regularly backing his thesis up with extensive data, Chang highlights how the general reality behind so-called 'trickle down economics' is that if left to the market (the approach forever being championed in policy within the States by the current Minister for Treasury and Resources and a number of others), while it can happen, its impacts are usually 'meagre'. Yet extensive as Chang's work is, given the limited space available in this report one brief, but telling quote, from his latest best-selling economics book is probably quite sufficient for any one whose mind is genuinely open to fact.

'According to World Bank data, the world economy used to grow in per capita terms at over 3 per cent during the 1960s and 70s, while since the 1980s it has been growing at the rate of 1.4 per cent per year (1980 – 2009). In short, since the 1980s, we have given the rich a bigger slice of our pie in the belief that they would create more wealth, making the pie bigger than otherwise possible in the long run. The rich got the bigger slice of the pie all right, but they have actually reduced the pace at which the pie is growing' *Ha-Joon Chang. 2010.*

The underlying key to all of this – for which you certainly don't need to be an economist – is the obvious fact that allowing income resulting from appeasement taxation policies to be concentrated with the oft-touted 'wealth creators' is that claimed automatic higher growth does not happen if those wealthy beneficiaries or 'investors' do not invest *more.* How this could/would be guaranteed within the latest appeasement policies offered the super-wealthy was the question Deputy Noel once again could – or would not answer in June this year.

What makes all of this all the more galling for those of us committed to a genuinely fairer and more equal society is that we have spent years being fobbed off with statements that all 1(1)(k) residents invest heavily within Jersey. Indeed, I have been on the receiving end of such mocking rhetoric myself on many occasions. Yet what do we find admitted within Withers – and rather lamely used a justification for them to be given even greater reduction in their tax obligation? I quote from page 14: ***"While there are examples of 1(1)ks investing locally, these tend to be few and far between.'***

Consequently, Members should really be asking why we have been consistently misled about this for decades. Yet now we are being asked again to 'trust' the judgement of some of those who have misled us for so long. Members should also remember the question that Deputy Noel could not – or would not – answer at the beginning of this report.

The truth is that if we are to retain a 1(1)(k) policy (and I obviously don't think that long-term we should) what is really required is some form of regulation to contract all such new applicants to guarantee investing a specific minimum in the local economy. Only by these means – as Chang's work makes clear – can such policies hope to work.

Flawed policy-making– yet the Minister wants us to appease the wealthiest even further

Incredibly, though Jersey now has a long history of giving these breaks or incentives to 'High Value Residents' – with an equally long record of refusing to give any details to back the benefit of the policy up – the Minister for Treasury and Resources is now trying to sell Members this latest policy on the reality of needing to give the rich even *more!* Can any Member view the most recent 'top secret' report in full to question claims by the Assistant Minister for Treasury and Resources that this report – actually written by a legal firm – to go over the fine details for themselves?

The answer, of course, has been no. We would only be allowed to see a 'redacted' version; an 'executive summary'. In essence we will be allowed only the 'evidence' that sits well to support their proposals. The true, wider picture will be denied us – just as it has been with documents from Home Affairs. A policy leading, I hardly need to remind Members, to a scenario where claim and counter claim simply spiral and escalate due to the lack of transparency.

Of course, I wrote the above prior to finally receiving our 'redacted' copy of the 1(1)(k) review. On reading it, the reason for the reluctance to provide it to all Members becomes very clear. At a cost of £60,000 to the taxpayer, never can so many pages (99 of them) have contained so little of substance regarding the issues that really matter when considering such policies. Nothing analysing the morality of such taxation policies – other than a scant paragraph on page 44 offering the pathetic excuse stating that the report: ***'does not address the overall legitimacy of regimes specifically designed to attract HNWIs (1(1)Ks)'***.

Yet even leaving aside the fundamental issue of the stark conflict of giving someone who is very wealthy special tax benefits – simply because they *are* very wealthy – when set against commitments made by the Council of Ministers within the Strategic Plan to creating a fairer and more equal society, the questions that should surely be asked next are: what has really happened in the past? What have been the pros and cons of pursuing these polices? Does morality and equality have no place within Jersey government's responsibility to the whole community?

Sadly analysis of the past reveals that these questions have been simply swept aside. In 2011 – the 21st Century – with the world still struggling to pull back from the brink of the abyss where free-market polices have inevitably brought it, I have to posit that such a continued head-in-the-sand approach can no longer be acceptable. Government within a democracy has a responsibility to *all* members of society whether rich or poor. Equality in treatment: nothing less – nothing more.

A Report painting only half of the picture

It must also be stated that given his record of criticising the arguments and reports of others, the report attached to P.113/2011 is shoddy to say the least. Not only zero consideration to the important issues I outline above (just as with the Withers Report), but selective (as is Withers) even in the apparently 'supportive' evidence it provides. Just consider as one example the mention made of the situation in Switzerland.

Anyone reading this report and accepting the information at face value would automatically conclude that Switzerland – as one of our apparent rivals for these 'very mobile individuals' (to use one of the Assistant Minister for Treasury and Resources' favourite excuses) are fully signed up to 'race us to the bottom' in the battle to attract such wealthy individuals. Whilst it is certainly true that the Swiss have a long and dubious history in this area, in 2011 this impression could not be more misleading. Global awareness – and with it anger – is growing and Switzerland has not been immune.

Only as recently as May 2011 the Sunday Times reported **'Swiss tell UK tax exiles to pay up or go.'**

Far from still further appeasement of those who arrogantly believe that their significant wealth justifies them being treated differently to ordinary citizens, a much different picture emerges. With a public referendum (now there is an idea for Jersey that the Council of Minister should step up to the plate and take on!) leading to the abolition of tax deals for foreigners in Zurich, even though the proposals were very narrowly defeated in the canton of Thurgau, moves – supported by both the country's Social Democrats and Green Party – are being stepped up to scrap them nationally.

The tide is rising globally against such tax breaks, I would suggest, and it is highly doubtful whether it can be stopped. We really should be showing a lead. Little if no analysis of any of this in either the Minister's report or that of the taxpayer-funded Withers Report either. Anyone needing just one example should consider the effect that growing residents from local HNWIs in Switzerland had on the decision in Zurich.

Whilst the possibility of this locally is given a line in the Withers Report, no analysis of depth follows. The message being pumped out by the Council of Minister appears loud and clear. What matters is that the locals – most importantly Mr. and Mrs. 'Average' who actually made Jersey the success that it has been – can't afford to 'mobilize' away. They are a captive market, stuck here for good or bad – and thus can be taxed accordingly without any of the perks of tax appeasement offered to 1(1)(k)s.

Commitments to a fairer society cannot be allowed to be just words on a Strategic Plan

As observers such the Guardian newspaper journalist, Nicholas Shaxson, highlights in his internationally best-selling book 'Treasure Islands'. Because it is morally impossible to justify a whole plethora of current, politically rightist, taxation mechanisms, proponents of tax avoidance/evasion and demonstrably flawed ‘tax breaks’ for the super-wealthy instead generally resort to ‘attacking the messenger’.

I have no doubt given the repeated none answers provided by the Minister for Treasury and Resources and his Assistant that these proposals will be met with very much the same. It is after all difficult to seriously debate the underlying issues when one is met with an almost childish response like ‘I don’t need any evidence’. Nevertheless, the fact is that the world has changed and it is surely better for Jersey’s own government to face up to tackling such outdated anomalies itself now – rather than eventually find changes forced on us.

Already following the taking of the comparatively minor issue of the democratically voted reduction of 2 Senators to the Privy Council, moves are already being mooted to petition the Crown to put an end to two-tier taxation discrimination. The knock-on effects of this would clearly be incredible. Though personally this is a move I would support as a politician wholeheartedly if the Council of Ministers should prove unable to show the necessary leadership. The tired and completely exposed excuses of the past will no longer suffice.

Conclusion

With the best will in the world, I have to agree with those who have commented that the proposals put forward by the Minister for Treasury and Resources appear to have little logic underlying them. Indeed, more ‘window dressing than reality’ as one member of the public put it to me. Where is the justification for effectively allowing the richest of the rich to pay tax at a single percentage of their real income? There is and can be no such justification.

It is also fine to wheel out again and again the same old rhetoric of what great contributions 1(1)(k)s make to charities. The fact is, donations to charity – even when they are *on occasion* substantial – should not have any bearing on how a government constructs its taxation policy. Evidence I will be making use of within the debate only re-affirms this.

So why do I set my own amendments at the chose figures? This is a valid question – and an uncomfortable if I am honest because the fact is in reality they are also far too low. As I have consistently made clear throughout my time in politics, people should be treated equally and taxation for all of those who can afford to pay should be no different.

I set the figures at 25% on the first million – securing a maximum of £250.000; and 2% on the remainder out of pure pragmatism.

The so-called ‘average’ Islander really should be able to expect someone with an income of many millions to face up to their taxation obligation fairly – just as any other individual with income above the recognised base level would need to. However, until we progress to a stage where equality and a fairer society really is at the forefront of the intentions of everyone in politics, the rates I prose are at least a modest step in the right direction.

Given that as recently as the 1990s, requirements for the minimum from a 1(1)(k) resident was set at a high of £200,000 – far more than at the present – a guarantee of a minimum of a quarter of a million pounds is hardly draconian or excessive. Such a modest step should equally be acceptable with regard to those 1(1)(k) individuals already in residence. Finally, I would clarify that I also set the first figure at 25% as I believe – like many who spoke at the last election – that such a slightly higher taxation rate is ultimately inevitable for all of those individuals who earn in excess of £100.000 per annum.

We cannot, in my view, cling to the ludicrous argument seen in the United States where Republicans contrived to do their best to scuttle progress to a fairer society by forcing the government to continue with tax breaks for a wealthy elite who hardly need them. However, the bottom line is that this is not about political ideology – it is about honesty and integrity. We must finally go forward with action and not mere words.

Note

For convenience, this Report covers both this amendment and my associated amendment to the Draft Income Tax (Prescribed Limit and Rate) (Amendment) (Jersey) Regulations 201- (P.114/2011 Amd).

For drafting reasons my amendment is brought in 2 parts. This amendment to the Draft Income Tax (Amendment No. 39) (Jersey) Law 201- would impose the 25% tax rate on so much of the person's income as did not exceed the prescribed limit. The associated amendment to the Draft Income Tax (Prescribed Limit and Rate) (Amendment) (Jersey) Regulations 201- (P.114/2011 Amd) would increase the prescribed limit from £625,000 to £1 million and increase the rate of tax applicable above the prescribed limit from 1% to 2%.

Financial and manpower implications

Highlighting exact figures relating to 1(1)(k) policy – whatever its agreed percentage rate – is obviously extremely difficult. This being because no-one can know the exact total global income of an individual in advance.

Nevertheless, in order to comply with Standing Orders, I can outline that viewed in its most basic terms the financial and manpower implication of these amendments being adopted is that in contrast to the Minister's proposals, income achieved from the rates in my amendment would be double that of the former.

For example: An individual with a £1 million of local income would contribute a far more realistic £250,000 from this. With another £5 million of global income, he or she would pay just another £100,000. When these 2 figures are condensed into one, the total taxation on what has to be acknowledged as a vast income is obvious. Hardly genuinely off-putting – and in reality still hardly fair, viewed against the tax burden placed on 'ordinary' working people contributing to our economy. But at least this would be a step in the right direction compared to the Minister's proposals, until the whole system can be put to the general public.