



Corporate Services Scrutiny Panel

Enveloped Property Transactions Tax

Witness: The Minister for Treasury and Resources

Thursday, 27th January 2022

Panel:

Deputy S.M. Ahier of St. Helier (Vice-Chair)

Senator T.A. Vallois

Senator S.W. Pallett

Witnesses:

Deputy S.J. Pinel of St. Clement, The Minister for Treasury and Resources

Deputy L.S.B. Ash of St. Clement, Assistant Minister for Treasury and Resources

Mr. R. Summersgill, Comptroller of Revenue

Mrs. F. Fraser, Deputy Director, Domestic Tax Policy

Mr. G. Boyd, Senior Economist, Government of Jersey

[11:32]

Deputy S.M. Ahier of St. Helier (Vice-Chair):

Welcome to all those who are watching or in attendance today. We are having a Corporate Services Scrutiny Panel public hearing with the Minister for Treasury and Resources. If I just make a few comments before we start. Normal hearing standards apply. The hearing will be recorded and transcribed. If anybody wishes to speak can you please use the chat function and please speak in order and do not interrupt anyone else. Please make sure that you are on mute - very important - when not speaking. Remember to come off mute when speaking. Please ensure that there is clear visual available when you are speaking; speakers will be shown on the live recording. If we run out of time for any questions I ask that the Minister will respond to them at a later time. Now if we could do the introductions. First, we will do the panel. My name is Deputy Steve Ahier. I am chair of the panel today.

Senator T.A. Vallois:

Senator Tracey Vallois, a member of the panel.

Senator S.W. Pallett:

Senator Steve Pallett, a member of the panel.

Deputy S.M. Ahier:

From your side please, Minister.

The Minister for Treasury and Resources:

Susie Pinel, Minister for Treasury and Resources.

Comptroller of Revenue:

Richard Summersgill, Comptroller of Revenue.

Deputy Director, Domestic Tax Policy:

Fiona Fraser, deputy director, domestic tax policy.

Senior Economist, Government of Jersey:

Greg Boyd, senior economist for the Government of Jersey.

Deputy S.M. Ahier:

Is that all your representatives, Minister?

The Minister for Treasury and Resources:

The Assistant Minister, Deputy Ash, is available to help with answers as well.

Deputy S.M. Ahier:

We thought that Senator Gorst may have been in attendance.

The Minister for Treasury and Resources:

No, he is not.

Deputy S.M. Ahier:

Okay, fine. We will proceed. We will start with the case for change. Minister, why have you decided that now is the right time to propose the introduction of enveloped property transactions tax?

The Minister for Treasury and Resources:

A very good question. I do not think it is necessarily now is the right time, it was put forward by a previous Minister for Treasury and Resources in 2018, so we are 4 years down the road of discussion of this introduction. It is one of those tax issues that has been in the background for a very long time and, on the basis of fairness and equity, we feel that it is the right time to push it forward.

Deputy S.M. Ahier:

You have been working on introducing this proposition since 2018?

The Minister for Treasury and Resources:

Not personally as such, but it has been in the public domain and there was a big consultation in 2019; so plenty of consultations with Jersey Finance, with the accountancy firms, with the public. Yes, there has been a lot going on in the preceding 3 or 4 years. It is not a sudden kneejerk reaction but it is something that we feel is right to bring in because, as I have said, the fairness in the situation, which at the moment considering Jersey's tax system is based on broad, simple and fair, is not fair inasmuch as a lot of transactions, if in enveloped situations, are not being taxed, which is unfair, with the ones that are not enveloped are now being taxed.

Deputy S.M. Ahier:

But it is being brought in earlier than the review on the stamp duty, for example. Why are they not running concurrently?

The Minister for Treasury and Resources:

They are slightly 2 separate issues. The enveloped properties, yes, of course once this is agreed and removed then property transactions will be subject to stamp duty but, as I say, this has been in the discussion arena and consultation arena for 4 years, so it is time we got on with it.

Deputy S.M. Ahier:

Why was London Economics only asked to provide an update assessment of the economic and distributional impacts of the proposed new enveloped property transactions tax in December 2021?

The Minister for Treasury and Resources:

May I ask the Comptroller or Deputy Comptroller to come in on that one please?

Comptroller of Revenue:

I can certainly address that one. Mrs. Fraser, will ...

Deputy S.M. Ahier:

I am sorry, Comptroller, we are unable to hear you clearly.

Comptroller of Revenue:

I can address that issue. Mrs. Fraser has command of all the greater technical detail. We wanted to refresh the economic analysis on the back of the refinements of the legislation. The draft legislation in its final form was circulated among key stakeholders in May/June time of last year. We were discussing the detail of the legislation with stakeholders right up until Christmas. Once we had agreed to make some changes to the law in response to that, that was then the time to refresh the economic analysis. The main analysis at the outset had been done by Deloitte some years ago so it was important that it was refreshed.

Deputy S.M. Ahier:

Why was London Economics specifically chosen?

Senior Economist, Government of Jersey:

I will come in on that. London Economics are part of the framework contract we have within the Economics Unit. We have a couple of firms under that framework contract to deliver things in a pretty short timescale. They produce other work for us. They know the Island, they know our tax system.

Deputy S.M. Ahier:

Thank you. There is a question from Senator Vallois.

Senator T.A. Vallois:

Can I ask why was until December that the analysis was determined instead of having an updated analysis to discuss with stakeholders back in May last year? Why was that decision made?

The Minister for Treasury and Resources:

Again, I will hand over to the Comptroller.

Comptroller of Revenue:

The economic analysis that was available in May last year was based on the original principles of the proposition and the existing state of plans. Once we were able to expose draft legislation and then begin to refine it, a number of important exclusions, for example, were identified, which are in the final law. It was only once the scheme was at that level of detail that it was sensible to commission further economic analysis because clearly the exemptions that had been agreed with stakeholders as being appropriate significantly changed the landscape. It is worth saying, as you

will have noticed, that from the time of the first economic analysis to the time of the second economic analysis the forecast of revenue that might arise from the measure increased quite a bit. The original forecast was £1 million, the most recent forecast is quite a broad range but somewhere from £2 million to £5 million. That is largely based on the fact that enveloping has increased or the number of enveloped transactions has increased. We have more data. That is an interesting aspect of this. Economic impacts analysis will obviously change at different points in the development of a policy. I think usually you would aim to do economic impact analysis towards the completion of the project when you know the exact shape of the scheme. As I think you know, engagement on this particular project has been quite hard to achieve. We have been striving to engage stakeholders, as the Minister said, since 2019. The number of responses to the first public consultation was rather low but broadly supportive. But it did become very clear over the last year or so that there are some stakeholders who do not support the tax, do not want it, and they were perhaps a little late in the day in engaging with us on the technical detail. But where we have had engagement, it has enabled us to refine the law. There are quite a few exemptions that have been created through the consultation, and so on.

Deputy Director, Domestic Tax Policy:

I think it might be helpful if I can point you as well to the section of the economic analysis in the report that accompanied the proposition. That makes clear that the Revenue Policy Development Board has had input and advice from the Economics Unit of the Government throughout the development of this policy. Certainly since I have been involved. It is not a case that we had a report in 2019 and nothing until December 2021. There was ongoing advice from our Economics Unit, and obviously COVID was something different between 2019 and when London Economics have looked at the situation. It is absolutely right what the Comptroller says, that we needed to wait and understand what was the final legislation, what was the scale of the legislation before we could ask for an updated analysis. But it is not right to think that there was nothing in between. There definitely was economic expertise input, just not in a formal analysis until it was clear what the proposition and the law was going to look like. I hope that is helpful.

Deputy S.M. Ahier:

Thank you. Minister, please could you illustrate how this tax is low, broad, simple and fair?

The Minister for Treasury and Resources:

I think I mentioned at the start that the whole reason for this is fairness and equity inasmuch as a lot of transactions go on at the moment that are not enveloped properties, so consequently pay stamp duty. A lot of enveloped properties are not paying duty in transactions so it is a fairness situation. I think, as the Comptroller has mentioned, it is not really revenue raising, although it does raise some revenue, but it is virtually impossible to estimate quite how much that will be.

[11:45]

I think there are about, as an estimate again, 30 to 40 transactions that have been involved using enveloped property in the last year. We do not know until we bring this law in quite how many are still subject to the enveloped transaction. It is something that we need to bring in the legislation in order to establish quite how many transactions would be involved.

Deputy S.M. Ahier:

And simple? There seems to be a fair degree of complexity.

The Minister for Treasury and Resources:

There is a degree of complexity because it is a very complicated law. As is any tax law.

Deputy S.M. Ahier:

It is suggested in the London Economics report that the gap between properties in Jersey's tax system is perceived. What evidence of the gap is there?

The Minister for Treasury and Resources:

Sorry, Chair, I missed ...?

Deputy S.M. Ahier:

The executive summary on page 4 said: "The proposed changes are intended to close a perceived gap in the current treatment of property transactions in Jersey's tax system."

The Minister for Treasury and Resources:

Exactly as I have just mentioned. There is a gap inasmuch as those transactions that are not within an enveloped situation or company situation are not treated in the same way as those that are not. It is to close that gap, exactly.

Deputy S.M. Ahier:

The evidence of the gap being there?

The Minister for Treasury and Resources:

Is in the economic analysis. I do not know whether the Comptroller wishes to add anymore to that.

Comptroller of Revenue:

Commercial properties are either sold individually and attract some duty or are sold within an envelope and attract no tax at all. Enveloping, I would like to stress, is a perfectly legitimate and reasonable business activity. People envelope properties for all sorts of good reasons. It would not be right to characterise this solely as an anti-avoidance measure. It is just that many people have identified this as an inequity in the tax system. There are a number of States Members who have persistently raised this as an issue with the Minister over previous years and asked her to take action. The gap exists, it is not a perceived gap. It is, to some extent, very difficult to estimate the size of it and so on. It is entirely true to say that opinions divide and there will be Members of the States Assembly who do not think this is the right thing to do. There will be Members who think it is absolutely right. But, ultimately, if you sell a commercial property in an envelope it is not taxed at all. If you sell it outside an envelope it attracts stamp duty. If we do not address that then it is likely that the stamp duty receipts will be affected in the long run. That is the issue before you.

Deputy S.M. Ahier:

Is this simply a case of introducing a new type of tax? To confirm, no stamp duty or land transaction tax is charged for commercial properties.

Deputy Director, Domestic Tax Policy:

If I may, sorry, about this. I do not have a hand function maybe because we are on live. The data that we used, the perceived gap, I think it is right for the economist to say that because they have not undertaken the analysis but we have used publicly available information in the past from, for example, Channel Islands Market Report. At a very basic level, the office investment market value and look at stamp duty receipts, there is clearly a gap between the amount of commercial property that is being sold in Jersey and how much stamp duty is received. There is empirical evidence, objective evidence to show the gap.

Deputy S.M. Ahier:

Thank you. Minister, will this place new financial and administrative burden upon companies?

The Minister for Treasury and Resources:

I think the transition probably will because obviously a legal transition is going to be a financial burden but, from that point of view, I do not think there is going to be necessarily additional costs apart from the fact that all companies will be subject to the stamp duty on a transaction.

Comptroller of Revenue:

If I could answer that. I think there are 2 aspects to this. Obviously this is a new form of taxation so somebody will be paying a bit more tax. The law says that the tax falls on the person buying the enveloped property. I think the economic analysis will suggest that ultimately in the long run that

cost is likely, effectively, to be shared through the value chain. In terms of the administrative burden and the bureaucracy, we are proposing to model this on the land transaction tax process, which is incredibly simple. So when a transaction occurs a lawyer downloads and fills out a form, the clerk takes the form to the cashier's office in La Motte Street with a cheque, and they immediately get a receipt for the money, even though it has not cleared banking. The new process for E.P.T.T. (enveloped property transactions tax) will be similar except we are hoping to make it more digital and allow electronic payment so that the transaction can be completed within a matter of minutes. Obviously what this does mean is that legal professionals will have to perform a degree of due diligence, in the way they do on land transaction tax, but that is piggy-backing on existing processes and a lot of these transactions, being quite large commercial ones, I believe the legal community will be well-versed in. I have seen that some lawyers have written saying they feel that this could be very bureaucratic. I do not personally think that is the case. I think we can make it very simple. I think Fiona may be able to say more on that but, broadly speaking, I would not envisage this being a significant additional compliance burden for largely the legal community.

Deputy S.M. Ahier:

Has the possibility of wider economic effects been considered? Does this pose a risk of external investors' confidence in the use of Jersey companies as acquisition vehicles?

Deputy Director, Domestic Tax Policy:

We do not, we think that if anything this will, by reducing the difference in treatment between certain types of property transaction, make it clearer and more certain for people looking to invest possibly in Jersey. It is absolutely true that it will introduce additional cost. Legally, as you will know, it will be the buyer that pays but there is bound to be some negotiation between the buyer and the seller, so in that sense there may be some negotiation. But the economic analysis makes clear that it will not impact more broadly on Jersey's real estate market or its economy, and we have spoken to a number of stakeholders as well as round-table events, which were very helpfully facilitated at J.F.L. (Jersey Finance Limited) last year. People who deal with this day in day out do not see that this is going to put people off investing in Jersey because there are lots of other very good reasons that they come and invest in, in holding companies, for example. This tax, if it goes through, will become part of the due diligence for those advising investors. There will be a simple process, as the Comptroller has outlined, and we do not believe that it will impact ... what it could impact arguably, is by having this difference in treatment and the uncertainty about what is the best way to structure particular transactions.

The Minister for Treasury and Resources:

It is unlikely to have an impact on the smaller businesses. It is those over £700,000, roughly speaking, that would be impacted by it. Not an effect on the smaller businesses. Greg, has got his hand up.

Senior Economist, Government of Jersey:

Just to back up what Fiona said. I mean I think this is really about levelling the playing field. I think that the fundamentals of commercial property have not changed. Rents are as they are, demand for office space, for example, has not changed. I do not think it causes a lot of uncertainty for investors.

Deputy S.M. Ahier:

The London Economics report highlights that they are not experts in tax law nor property markets. What professional analysis has been carried out in these areas?

Comptroller of Revenue:

I think that is the usual sort of caveat an economist would give when analysing any aspect of social law tax or economic fiscal reform. I do not think it in any way reduces the competence to make the economic analysis. As Greg said, the economists are very well-versed in the ways of Jersey. Clearly, in terms of tax advice, the Minister largely receives that from Revenue Jersey. We have a good compliment of extremely well-versed tax people, including lawyers and pretty top-notch accountants. We also additionally have our own legal advisers, including dedicated tax lawyers. We have largely sought advice on the property market from senior professionals in the Jersey property market. As I say, opinion is divided. Some of those senior professionals broadly support what is being done and do not consider it a significant issue; others dislike it.

Deputy S.M. Ahier:

What were the terms of reference for the adviser engagement brief to enable the appointment given that they are not experts in tax law or property markets?

Comptroller of Revenue:

Mr. Boyd may want to come in on this but, as you are probably aware, the Government has a number of contracts with professional, economic and statistical bodies to provide advice. I think colleagues who are responsible for those processes would be quite confident in the levels of professionalism of our economists. I think if anyone out there is doubting the technical competence that is obviously something ... I suppose it is part of the process of lobbying against but we are confident in the economic analysis we have received. We always recognise that when you are dealing with a new tax, and we rather had this conversation in respect of the G.S.T. (goods and services tax) *de minimis* level yesterday, that you sometimes do not know the size of the market or what you are planning to

tax and you will only know for sure when you do tax it although, as Fiona has outlined, there are ways of establishing that there indeed is a gap. As I say, I think States Members know that very well given the degree of lobbying the Minister has received on this issue in recent years.

Deputy S.M. Ahier:

Thank you, I will now pass over to Senator Pallett.

Senator S.W. Pallett:

Minister, you and your team have mentioned the economic analysis that you received. The London Economics report refers to a Deloitte report produced for Revenue Jersey. As this report does not appear to be in the public domain, how can the methodology be considered by the States Assembly?

[12:00]

Deputy Director, Domestic Tax Policy:

The short answer is we were unable to release the whole of the 2019 report because there were some contractual restrictions around it. I did share the whole report with the C.S.S.P. (Corporate Services Scrutiny Panel) who were reviewing the proposition. What we are going to do today, the Minister wants to put out as much information as is available. I hope one of my team is probably already speaking to the Greffe to make sure that we can add the section of the 2019 report that is referenced in the economic analysis, that is section 3, pages 8 to 11, and additionally we are going to include the appendices of source data upon which Deloitte built their methodology and on which London Economics have commented in their economic analysis. That is going to be available. As I say, they are both economic analyses but one is obviously more up to date. But we are going to lodge that so people can have a look at it if they want to. We just were not able to release the whole report at the same time as the current analysis.

Senator S.W. Pallett:

Thank you, that sort of answers my next question, which was around will you be releasing the whole of the report, but what you are saying is you will be releasing some more extracts from the report. I presume the timetable for that is going to be well in advance of the debate.

Deputy Director, Domestic Tax Policy:

Today, I hope, Senator Pallett. We have been speaking to the Greffe and they have been incredibly helpful about putting things on.

Senator S.W. Pallett:

Is there any other economic analysis that you will be providing State Members with to support them in regards to this proposition?

Deputy Director, Domestic Tax Policy:

I do not think so because we have the up-to-date one from London Economics and, bearing in mind the last question, it is an economic analysis so you do not ask lawyers to write economic analyses the same way you do not ask economists to advise on tax law. But they have had input to the economic analysis. That will be the key document, as I say, with these 2 separate P.D.F. (portable document format) documents, which give some information that LE have used to update their report.

Senator S.W. Pallett:

Minister, you have mentioned consultation, mentioned round-table meetings as an example, in terms of the consultation that you undertook during the creation of the proposition, is there anything you want to add in regards to the consultation that you have carried out?

The Minister for Treasury and Resources:

I think there has been a fair amount of consultation, as just been said by the previous answers. As the Comptroller said in the first place, perhaps we should have done a little more after the low response to the consultation in 2019 but this prospective law has been lodged for 12 weeks now or 10 weeks. The debate is 8th February. I think we have done as much as we could have done with Jersey Finance, with the accountancy firms, with the London Economics analysis so I am not sure there is any further we can go really.

Senator S.W. Pallett:

You mentioned that stakeholders were generally positive about the proposition. But is there anything you want to add in terms of anything that was maybe positive or negative that came out of that consultation?

The Minister for Treasury and Resources:

I think there is concern, in some cases, about the obviously increased cost of transactions, which will happen obviously if this law is not produced. But we are talking about commercial property mainly rather than residential but it is back down to the fairness and the equity, which is the gap that we are trying to close, which is what we said in the first place really. Is that it is not fair the way it is conducted at the moment and this law introduction will avoid that gap. I do not know whether Fiona wants to add to that.

Senator S.W. Pallett:

Fiona wants to speak, I think. She has her hand up.

Deputy Director, Domestic Tax Policy:

There are very firmly-held views against the policy and people then were not willing to engage necessarily early on with the technical detail because fundamentally they had a problem with the policy, particularly in respect of commercial property, which I know the Scrutiny Panel has taken on board with one of your proposed amendments. But some of the people we were talking to were across the spectrum. It was commercial and residential real estate experts on the Island, it was development companies, it was people who invest and, as a result of that, it was incredibly helpful because, for example, we ended up mirroring the leasehold rates that are in the Stamp Duty Law.

Senator S.W. Pallett:

Sorry, Fiona, you have frozen.

The Minister for Treasury and Resources:

Fiona, you have frozen.

Deputy Director, Domestic Tax Policy:

Sorry. Is that better?

Comptroller of Revenue:

As I hope you can gather, Fiona and her team have been leading on this project for quite a long time now. I think they have worked extremely hard to engage stakeholders and to get feedback. As I think I told you in a briefing before Christmas, there are some issues for us to tackle about how we engage stakeholders and how they engage with us. As Fiona indicated, some stakeholders were quite reluctant to engage with us on the technical detail because they did not agree with the principle. They have left it quite late in the day, I think it would be fair to say, to raise some technical issues with us. Having said that, the Minister has been perfectly happy for us to re-engage with stakeholders, even over the last few days, to discuss technical issues. It is always the case with tax law that it is devilishly complicated and it is quite easy to get things wrong. We always prefer to have long detailed engagement with stakeholders, particularly with people who really know the nuts and bolts of any particular sector of the economy that is affected by it.

Senator S.W. Pallett:

Have those stakeholder concerns been more around the commercial element rather than the ...

Comptroller of Revenue:

There has been a good deal of high-quality engagement That is something we will always strive to do. Tax law can always be improved by very active engagement from everyone who is affected by it.

Senator S.W. Pallett:

Did the stakeholders converse purely with yourself - really to the Minister - or were other Ministers involved? If so, what was their specific remit and reasons for inclusion?

Comptroller of Revenue:

As you will be aware, and as I have said, some stakeholders do not agree with the principle of this. Certainly during the course of last year they asked to see Ministers to lobby direct, so a number of Ministers have seen the stakeholders who do not agree with the principle. I think they had the opportunity also to speak to the Revenue Policy Development Board, which Fiona will be able to confirm. Fundamentally, one of the issues for the Assembly is that some stakeholders do not agree with what Ministers want to do. I think Ministers, it is absolutely fair to say, have given those stakeholders a lot of airtime, they have listened to their issues, they have been debated between Ministers, and the law that is now before the Assembly is the law that the Council of Ministers support.

Senator S.W. Pallett:

Really one for the Minister: has there been broad support, unanimous support, from Ministers in regards to bringing this new tax in?

The Minister for Treasury and Resources:

Not unanimous, no. I think with the amendments that the panel have brought forward, if I dare to mention those, that we will certainly consider the first one, which might be persuasive of one Minister who is not in favour, as it stands at the moment. We will not be supporting the second amendment.

Senator S.W. Pallett:

I do not want to go into other members' questions so I will leave that there. The panel received evidence that the changes to the Companies (Jersey) Law 1991 will create uncertainty and complexity around the transfer of shares in a Jersey company. Why were these included and are they really necessary?

Deputy Director, Domestic Tax Policy:

Can I take that one? Would you like me to?

Senator S.W. Pallett:

Go ahead, Fiona.

Deputy Director, Domestic Tax Policy:

This amendment, basically we were mirroring what already exists in respect of share transfer transactions under land transaction tax. There is already a provision in the Companies Law, we just picked up a consequential amendment for this law. We had no feedback that there was an issue with it until very recently but we had a very constructive call yesterday with 2 members of the Law Society subgroup that had issues with it. We have discussed it and we can see that even though some transactions that would be in scope have been taken out by exclusions, some big important transactions, very high-value transactions, might fall foul of this amendment. My recommendation to the Minister on the back of that is that we could see a difference between the land transaction tax and the new enveloped property transactions tax-types of transaction and I would recommend to our Ministers it is for them to decide whether or not we accept the amendment, but certainly a different case was put yesterday that it might have unintended consequences. It is all about timing effectively.

Senator S.W. Pallett:

So you are listening to them and really the amendment will help you through that?

Deputy Director, Domestic Tax Policy:

Absolutely, in my own view. It is not my decision of course but, yes, I found that very helpful to understand the transactions that might have a problem with that amendment. But we did not do it for any other reason than to mirror what already exists in respect of land transaction tax. It was to try and create this level playing field.

Senator S.W. Pallett:

I think you have already answered this, and I am not going to go on, but I presume you agree this will be an additional burden upon companies?

Comptroller of Revenue:

I will hand to the Minister but yes. Purchasers will be paying some extra money and ultimately that probably means that the existing holders of enveloped property will negotiate with the purchaser on price. I think in terms of compliance burdens, I did answer that question earlier in the sense that the land transaction tax process is very simple indeed and very quick and lawyers are very used to it. We are seeking to emulate that for an enveloped property transaction.

Senator S.W. Pallett:

What systems and guidance will be in place to avoid enveloped property transactions taxation being missed by the transferee if Jersey properties held are immaterial to a larger company being purchased?

Comptroller of Revenue:

I think Fiona may be able to speak to the existing due diligence processes that are in place and the various Articles in corporate and other social law that make that quite difficult. I think diligence that has to go hand in hand with any big commercial transaction, in particular, argues against that likelihood but that is an issue we can undoubtedly discuss with the Law Society and others. If they need further guidance from us we would be happy to provide it.

Senator S.W. Pallett:

Maybe if Fiona wants to add briefly to that.

Deputy Director, Domestic Tax Policy:

I will be brief, I promise. There is indeed a duty to deliver a statement and pay the tax. That would ordinarily be on the buyer. You are talking about the transferee if they miss it. I think this is a chain, maybe a global, a huge deal that Jersey is a relatively small part of, and we have introduced some exclusions. We did listen. One of the exclusions that will help this is that any transaction involving shares on a listed recognised stock exchange - most listed companies that are recognised - that is not a relevant transaction.

[12:15]

That takes out some of the very big transactions where Jersey property might be incidental. Similarly we have other exclusions for group relief. If you are restructuring in a group of companies and you change ownership that is not caught. So we have done a number of things technically to reduce the chance of very big transactions missing a liability but we do expect people to undertake due diligence if there is a Jersey entity that has control of a Jersey property. That is a fairly obvious requirement.

Senator S.W. Pallett:

The necessary guidance will be available from the department as well, if necessary, presumably?

Deputy Director, Domestic Tax Policy:

Of course. We are publishing web guidance assuming this goes ahead. We have that ready to go and we have a person who deals with enveloped property transactions tax within the Revenue in terms of administration. But, yes, of course there will be somebody technical that people can speak to as well.

Senator S.W. Pallett:

It appears that Guernsey was used for comparison of similar taxes. Were any other jurisdiction approaches considered in terms of what they do?

Deputy Director, Domestic Tax Policy:

We did look initially back when the policy was first being developed at Australia, which has a slightly different test than most of the more local jurisdictions. We looked at the U.K. (United Kingdom) but that really is quite complicated compared to what we would want to do. Guernsey of course was an obvious comparator. Interestingly, their response to this issue was to introduce an anti-avoidance legislation; something called a document duty. We did not go down that path. We did not consider that this was primarily about avoidance but we did look at the U.K., we did look at Australia particularly, plus some other jurisdictions in between.

Senator S.W. Pallett:

There is some information within the Deloitte report around those analyses, will that be part of what you will release to States Members?

Deputy Director, Domestic Tax Policy:

I will check the detail of that. I am not sure, I will make sure that I do check that. The other thing to clarify of course is we do not have disposal taxes the same way that most other jurisdictions with this type of tax also have disposal tax, whereas we do not have capital gains tax.

Senator S.W. Pallett:

Okay, well if you could check that that would be fantastic. I will hand over to the chair.

Deputy S.M. Ahier:

Minister, why have you lodged an Acte Opératoire giving immediate effect to the legislation?

The Minister for Treasury and Resources:

It is a natural accompaniment to tax legislation; that means it can come into force immediately, otherwise it gets delayed and there is no timescale as to when the law could be enforced. The Acte Opératoire is debated, normally given the go ahead after the agreement of the law or the regulations.

Deputy S.M. Ahier:

We are not aware of any precedent for the use of an Acte Opératoire to introduce a brand new tax; are you aware of one?

The Minister for Treasury and Resources:

Yes, it will be forthcoming. I have done it before, I think on 2 occasions in my time, for want of a better word, as Minister for Treasury and Resources, that the Acte Opératoire comes into effect immediately, with the agreement of the Assembly of course, after the debate has progressed and been agreed.

Deputy S.M. Ahier:

Was that at an end of a Government Plan or was that in mid-term?

Comptroller of Revenue:

Acte Opératoire is routinely used every year for the final law in December. The Minister previously used it last year when she introduced the independent taxation legislation. Acte Opératoire is more susceptible to use for transaction taxes like stamp duty and the proposed enveloped property tax. But it is particularly useful when the Finance Law is so late in the year, as you know it is debated in December. The most important part of the Finance Law is that it perpetuates income tax; without the passage of the annual Finance Law there is no income tax. The Acte Opératoire, I think, was originally designed to ensure the good administration of public finances and that is why it is in the Public Finance Law and described there. I think it was originally based on the U.K.'s Provisional Collection of Taxes Act. But in the U.K. the Chancellor of the Exchequer, for example, would routinely increase duty rates on the impôts, their customs and excise duties, at 6.00 p.m. On the same day he stands up to deliver the Budget speech and their version of the Acte Opératoire would enact that sort of thing. It is not something the Minister has to do but it is something she can do if she wishes tax legislation to come in fairly quickly. The argument for using it on this occasion is that the proposed changes have been very well-socialised with the stakeholder community and that the sooner the tax comes in then the sooner we have created the equity. The Minister has been lobbied on whether she may wish to review the commencement date; that is always open to her but at the moment the Acte Opératoire has been lodged.

Deputy S.M. Ahier:

What consultation had taken place with Her Majesty in Council on the proposed laws and were any issues raised?

Comptroller of Revenue:

I think Fiona wants to come in with this. As a matter of process and procedure, as I understand it, there is nobody from the Law Officers' Department here. The draft law will be submitted to the Privy Council's legal advisers in the Ministry of Justice after it is passed by the States Assembly. The Ministry of Justice would advise the Privy Council and Her Majesty on the matter. I do not think in my memory in Jersey, and probably most people's memories, that the Privy Council has not

supported a tax measure. But if they were to modify a tax measure then the Public Finance Law would require the Government to remediate. If, for example, we had introduced a tax on pear drops and the Queen did not agree with it, any money we had collected would have to be repaid to the people who had paid the tax.

Deputy S.M. Ahier:

Does this allow enough notice to the public ...

Deputy Director, Domestic Tax Policy:

Sorry, Deputy, I had not realised you had started speaking. I was just going to supplement what the Comptroller had said.

Deputy S.M. Ahier:

No, that is fine, I think we will move on because we are a bit pushed for time, thanks. Does this allow enough notice to the public and stakeholders by implementation of the Act?

The Minister for Treasury and Resources:

I think, in addition to my earlier comments, that there has been plenty of notice, plenty of consultation. There may be, in view of this proposition coming forward for debate in the Assembly, some transactions ongoing, in which case we may have to consider, as the Comptroller has said, the Acte Opératoire becoming implemented immediately after the debate, but that is something we have to look at.

Deputy S.M. Ahier:

How can legal advisers prepare themselves properly for the practical implementation of the legislation if the Act is passed and comes into effect after 7 days?

The Minister for Treasury and Resources:

As we said earlier in answer to a question, it has been lodged for 12 weeks, so what we do not need are new transactions being put into the equation, purely because this law is coming in which would be, in some people's view, tax avoidance.

Deputy S.M. Ahier:

Okay, thank you.

Comptroller of Revenue:

Just if I can add to that, the draft law has been with the legal community since certainly June last year in its current form. Of course until the States Assembly decide whether or not to pass it, it

would be reasonable of them not to be doing too much planning. But, as I say, the process we envisage them adopting is very simple. It does not require, I think, computer systems to be changed or the sorts of issues that arose with the G.S.T. legislation where we have given much longer notice. It is simply about completing a form as part of the completion of the transaction and paying some money and getting a receipt. It is not a fiendishly difficult process per se.

Deputy S.M. Ahier:

Okay, thank you. I think we will move on now to Senator Vallois.

Senator T.A. Vallois:

Briefly before I move on to my first question, it is just to follow up to the immediacy of the tax legislation coming through. There was mention before about the need for guidance and the fact that only yesterday there was a discussion around that guidance being adjusted. Apart from the fact that the Comptroller has just stated that it should be a pretty simple process, does the Minister not think that the fact that guidance is still being amended or put together or being considered, that that is a reasonable expectation?

The Minister for Treasury and Resources:

My personal opinion is the fact that this has been on the cards, as I have said, several times during this hearing for 4 years. The very, very late input from some parties into the lodging of the proposition is too late. This has been on the table for 4 years. We have taken a huge amount of notice from what the Scrutiny Panel has said, from what the accountancy firms have said, from what the lawyers have said, all have been taken into account. But their responses, if you like, have been very late in the production.

Senator T.A. Vallois:

Okay, thank you, Minister. I will go on to a little bit of detail, if I may, around the actual charges and the legislation itself. In terms of the inclusion of residential properties within this enveloped property transactions tax, is that needed when land transaction taxes are in place?

The Minister for Treasury and Resources:

I have not got the numbers but the number of residential properties involved in this are very few. It is mainly to deal with commercial properties, which is why there is such a big gap. I think that was referred to by the chair earlier. The residential properties are really not that many involved. I can see Fiona wants to come in, she has probably got more numbers than I have.

Senator T.A. Vallois:

Yes, thank you, Fiona.

Deputy Director, Domestic Tax Policy:

It is not numbers, Senator Vallois. I do not have any more numbers but what I have is land transaction tax that is a particular type of share transfer, it is a particular type of company that has something in its Articles of Association. It is not all enveloped residential properties. You are quite right to say: are there many? There are not many because of a combination of land transaction tax and Jersey's housing requirements and restrictions. But there are some and if we did not have this extended to other types of residential enveloping, there would be a gap, so we do need land transaction tax. The vast majority of enveloping is of commercial property, as you rightly say.

Senator T.A. Vallois:

Okay. In the report to the proposition it outlines: "Where land transaction tax law applies, enveloped property transactions tax will not." Can you confirm that only one charge will apply?

The Minister for Treasury and Resources:

Yes.

Comptroller of Revenue:

Yes. I think we will say that there are very few dwellings ...

Deputy Director, Domestic Tax Policy:

Only one charge will apply.

Comptroller of Revenue:

... covered by E.P.T.T. They tend to be what you might think of as very prestigious properties but, as Fiona says, the combination of other laws and residency rules makes that a very small issue indeed.

[12:30]

Yes, this enveloped property transactions tax is really about commercial property.

Senator T.A. Vallois:

Okay, thank you. In terms, Minister, of the differential between the commercial and the residential properties, are you able to give a reason for that?

Comptroller of Revenue:

The differential that exists in stamp duty and that amendment, all we are doing is mirroring stamp duty. Obviously one of the main issues for the stamp duty review that is proposed for this year, once we have delivered amendment 22 from the C.S.S.P., is to look at those differentials and whether they are right. If the stamp duty review, for example, concluded that those differentials should change, then there would be corresponding amendments of the statutes, including E.P.T.T., assuming it is passed.

Senator T.A. Vallois:

Just to clarify, it is based on stamp duty current positions around the thresholds that is being decided?

Comptroller of Revenue:

Not the thresholds - Fiona will want to come in here - but the thresholds are slightly different and that arises from some of the points that were raised during engagement with the financial community.

Senator T.A. Vallois:

Okay. In terms of those thresholds, it is £700,000 ...

Deputy Director, Domestic Tax Policy:

Yes, that is absolutely ...

Senator T.A. Vallois:

Sorry, there seems to be a problem. I will just finish my question. The threshold of £700,000 for commercial, £500,000 for residential, in terms of the thresholds rising in the future, will it happen and if it does will it be in line with property value average increases?

The Minister for Treasury and Resources:

I do not know whether Fiona wants to answer that one but it is very difficult to forecast valuations of property, as has been seen in the last year. Fiona, do you want to add some more?

Deputy Director, Domestic Tax Policy:

Yes, the legislation allows the Minister by order to amend ...

Senator T.A. Vallois:

Sorry, can we just stop, please? Can we stop, please? Everyone is talking over each other.

Deputy Director, Domestic Tax Policy:

In line with inflation, so the ...

The Minister for Treasury and Resources:

I do not think it is necessarily down to Treasury to determine what those thresholds will be really.

Senator T.A. Vallois:

Right, okay. Sorry, Minister, sorry, I think there may be a problem with Fiona's ...

Deputy Director, Domestic Tax Policy:

There is a power in the law.

Senator T.A. Vallois:

Then we have the Comptroller speaking over us, so we did not really get much of an answer in terms of that. Maybe we will write to you to get an explanation so we can move on.

The Minister for Treasury and Resources:

Can I just see if Fiona is back on again? I do not know. Technology is not like it used to be. No, not here.

Senator T.A. Vallois:

Okay. I will move on to the next part where just to ask why will enveloped property transactions tax be charged where annual rent multiplied by the remaining lease passes the threshold?

The Minister for Treasury and Resources:

I think that is probably a question for the economist or the Comptroller, one of the 2.

Comptroller of Revenue:

It is like stamp duty leases is the basic answer to that question. Yes, wherever possible the provisions in this law have aligned with stamp duty because the objective is obviously to create a level playing field.

Senator T.A. Vallois:

Is there a risk that the many companies who have commercial leases on properties falling in E.P.T.T. scope may become less attractive to investors or for purchase or is it because of the explanation you have just given, Comptroller, meaning that that will not be the case?

Comptroller of Revenue:

We do not believe so. Yes, obviously in creating equity between stamp duty and E.P.T.T. we have created some costs for people who were not facing costs in the past; that is the nature of a new tax.

But we believe what we have achieved by mirroring the Stamp Duty Law is a broadly equivalent playing field. I do not know if Fiona is able to come in. We seem possibly to have 2 volume channels operating in parallel.

Deputy Director, Domestic Tax Policy:

Okay. Can anyone hear me now?

Senator T.A. Vallois:

Yes, we can hear you, Fiona.

Deputy Director, Domestic Tax Policy:

Sorry, Senator Vallois. If I give an example, the leasehold rates are very much lower than freehold. On a £5 million property values freehold the tax will be £209,500, leasehold on a contract lease would be £37,320. That is what Stamp Duty Law currently provides. This is not going to put off anybody investing in leasehold properties in Jersey. It is much lower leasehold than freehold. I hope that helps.

Senator T.A. Vallois:

That is helpful, thank you very much. Are you able to explain the difference of market versus sale price and why the former is used in calculation of charges?

Deputy Director, Domestic Tax Policy:

Fundamentally, it is about the market value of the property, it is more accurate. Sale value can be manipulated and it can take account of things that aren't relevant to the market value. This is a property transactions tax, so the market value of the property would be the standard value to take, otherwise I could sell you my house for £1 and that is the sale value and we do not pay tax on it.

The Minister for Treasury and Resources:

Just to add to that, I think every form that one has to fill in these days is subject to a market valuation, rather than what is achieved as a sale because that is all that one can go on because, as Fiona said, that negotiations can go up or down.

Senator T.A. Vallois:

In terms of the 10 per cent surcharge, can you explain or outline how that will be applied if tax is not paid in time?

Deputy Director, Domestic Tax Policy:

Yet again, Senator Vallois, if it helps, what we have done is mirror what we have for a land transaction tax at the moment. If you are late in paying - and bear in mind in practice the experts tell us this tax is paid on the day of completion - you have 28 days, then there is a surcharge, which would be raised. If there is a very good reason for that and it is in the legislation, the Comptroller has the power not to impose that surcharge. If it is imposed the person is allowed to appeal to the Commissioners of Appeal, the same way they would for any other tax matters. We tried to follow what we had already to make it easier for people to understand and to make it consistent and fair. That is already there, that provision for land transaction tax, so we have sort of copied that.

Senator T.A. Vallois:

Okay, thank you, Fiona. Minister, I will pass back to the chair.

Deputy S.M. Ahier:

Thank you very much, Senator. We will move on to the economic impact. The report to the proposition states: "The economic advice is that moving to a neutral treatment of enveloped properties, broadly equivalent of the stamp duty regime, is unlikely to significantly disrupt the market for either residential or commercial property." Has there been any evidence to the contrary?

The Minister for Treasury and Resources:

Not that I am aware of but on the basis that there have been recent stakeholder communications, then I think it is all a bit late in the day really but the economic impact is expected to be very small.

Deputy S.M. Ahier:

The report identifies the introduction of enveloped property transactions tax may lead to behavioural change which reduces the volume of transactions in the market. Can you please outline these potential changes?

The Minister for Treasury and Resources:

I think the introduction of the law, which, hopefully, will go through on 8th February, will subsequently possibly prevent a huge amount of enveloped properties, certainly residentially, being put through the system. Because, as we have said time and time again, it is not fair that an enveloped property does not attract a tax, whereas an unenveloped property does. That is the whole reason. It is a very complicated law but its duty is to be fair.

Deputy S.M. Ahier:

Will this tax allow a demand for relevant properties?

Comptroller of Revenue:

If I may come in, I suppose the one obvious thing that might happen is if people have been enveloping purely for the tax advantage and there are costs to enveloping, then in future they might choose not to envelope and instead just make a normal transaction and pay stamp duty. That is one that immediately comes to mind of how behaviour could change. I am sure there are others, yes, but that is an obvious example.

Deputy S.M. Ahier:

Will the tax reduce or deter investors and purchasers of companies operating in Jersey?

Comptroller of Revenue:

The economic advice says not and that is pretty much what the economic advice has been all along, both in the written reports and through the Government's economic service in the advice it has given to the R.P.D.B. (Revenue Policy Development Board). No, we do think this is macro-economically negligible change and is unlikely to impact at any degree the future transactions.

Deputy S.M. Ahier:

Will there be an adverse impact upon the reputation of Jersey?

The Minister for Treasury and Resources:

I think Greg wanted to come in there, Steve, if that is okay.

Deputy S.M. Ahier:

That is all right, sure.

Senior Economist, Government of Jersey:

Yes, I think when London Economics said that there may be an impact on transactions it is just the fact that any sort of tax that you are introducing causes some frictions. But they have then later on concluded that they do not think that this particular one would have a big impact. But it comes back to the point that I said earlier around the fundamentals of why people invest in Jersey property, particularly the office market, it is because they have got customers there ready to move in, they have got sort of guaranteed rents for long leaseholds, so all those things still exist. Introducing the tax and levelling the playing field does not reflect the fundamentals of the market.

Deputy S.M. Ahier:

The proposition outlines and it is uncertain how much enveloped property transactions tax will be raised. Can you please outline how the figure of up to £1 million was subsequently identified?

The Minister for Treasury and Resources:

There is a difference in the £1 million that was put out beforehand; again, it is all a forecast. We do not know until the law is introduced as to quite what the revenue will be but it is not a law to be a revenue-raising situation. It is all about fairness and equity. The revenue would be helpful at the moment and the first estimate of £1 million has increased on subsequent analysis but, again, as I think the Comptroller said at the beginning, is somewhere between £2 million and £5 million. But, as agreed and publicly announced, £1 million will go to the Housing Development Fund. I do not know if the Comptroller has got more to add to that.

Comptroller of Revenue:

I suppose the other point is that the enveloped property tax, if it is passed, will protect the stamp duty receipts. If the tax does not exist it does, potentially, create an incentive to envelope property in the future before you sell it.

[12:45]

Yes, it is very difficult to forecast future revenue. It might deliver a very small amount but then you might see stamp duty increase consequentially. But as I said earlier in the hearing, there are perfectly good legitimate business reasons to envelope property. But, equally, one does not wish to create an incentive to envelope property purely to avoid stamp duty.

Deputy S.M. Ahier:

Minister, you just mentioned the London Economics report before suggesting that the potential revenue range may be £2 million to £5 million. Why was this figure not included in the proposition?

The Minister for Treasury and Resources:

Largely because it has only just been established, which we have made very public of course, that it could be an increase from £1 million. All these forecasts, as you will know, Chair, from COVID to anything else, are forecasts because we do not know how many enveloped properties there are; some are declared, some are not. Until we know from the register we will not know what the revenue income will be.

Deputy S.M. Ahier:

Will the full amount, whether it be £1 million or £5 million, be transferred into the Housing Development Fund or will it only be up to £1 million?

The Minister for Treasury and Resources:

Inasmuch as we said that up to £1 million would be transferred into the Housing Development Fund and that still stands.

Deputy S.M. Ahier:

What will happen to the excess or any excess over the £1 million?

The Minister for Treasury and Resources:

We do not know that there is going to be that sort of excess, it is just a forecast. We put it out into the public domain on the basis that if it is over £1 million, then we needed to make it public that there is that possibility but we will not know; it is just a forecast.

Deputy S.M. Ahier:

What will that money be used for?

The Minister for Treasury and Resources:

If there is an increase in revenue, which, as I say, we do not know that it is going to be over the £1 million, then it will go into the general reserve, which is in constant demand for everything; COVID-related, demands from various departments, there is a constant demand. It is not going to be put aside or not used.

Deputy S.M. Ahier:

The Government Plan indicated that future changes would be for rebalancing measures, yet the proposition indicates this is to secure funding for the Housing Development Fund, and this is not mentioned in the Government Plan. Could you please explain?

The Minister for Treasury and Resources:

The plan was if £1 million of revenue, which is what was forecast, is received it will go into the Housing Development Fund, and housing is a big issue at the moment. I would have thought that was probably a good way to use what is only a forecast of £1 million worth of revenue.

Deputy S.M. Ahier:

Thank you, Minister. I will pass over to Senator Pallett now.

Senator S.W. Pallett:

I am going to move on to administration and I apologise for the length of this question. The Comptroller will have the power under the draft law to assess the enveloped property transactions tax charge if a statement is not provided or if the statement provided contains information which is false or misleading. The Comptroller also has the power to make an assessment or additional assessment if a main purpose of the transaction or transactions is to avoid or reduce the tax liability. What safeguards will be in place to ensure the Comptroller does not unduly impose a charge?

The Minister for Treasury and Resources:

I think that is a very good question, Senator. I will hand over to the Comptroller to defend his own quarter.

Comptroller of Revenue:

Fiona will no doubt be able to elaborate but I think the first part of the response is probably that these mirror the powers that exist in the Land Transactions Tax Law, which I administer. They also reflect the powers available to the Judicial Greffier who administers the Stamp Duty Law, so, again, it is about parity and equality. Any decision of the Comptroller is appealable to the Commissioners of Appeal and from there to the Royal Court. As Fiona mentioned earlier, because these transactions are very likely to be administered by a legal professional on the day of completion of the transaction and, as you will probably know from your own experience of buying a house, they gather all the money together and make sure that any lawful levies and charges are paid. The circumstances in which people can avoid the tax, I would have thought are going to be as rare as hen's teeth but I will hand over to Fiona.

Deputy Director, Domestic Tax Policy:

Thank you, Senator Pallett. Can you hear me because I know I had a time delay?

Senator S.W. Pallett:

Yes, I can hear you well, yes.

Deputy Director, Domestic Tax Policy:

As the Comptroller has just said, one of the things that the panel, I think, is looking at is have we got enough here to prevent avoidance? There is a provision. The Comptroller is able to undertake compliance activities and if he thinks somebody has tried to avoid the tax he has a power basically to issue an assessment against them. If he does that Article 19 of the draft law gives the details of a right of appeal and it is basically what would happen in another tax appeal. That is what we have tried to do, make it simple, make it easily understood by tax agents and professionals. If you got one of these assessments, because the Comptroller does need to be able to issue an assessment if somebody deliberately tries to avoid tax ... there are criminal offences but if it was not criminal but he decides that somebody is trying to avoid it, he can issue an assessment, they can appeal it, all within the powers that he would ordinarily have for other tax matters.

Senator S.W. Pallett:

You mentioned criminal: at what point would the Comptroller consider it to be criminal? I presume he would have that conversation with the Attorney General, would he?

Deputy Director, Domestic Tax Policy:

Absolutely. I am sure the Comptroller will say that he would definitely be taking advice early on.

Comptroller of Revenue:

Yes. As you know, a great deal of our older tax laws rely very heavily on criminal sanctions and one of the pieces of work we have been doing over the last few years is creating more civil sanctions and civil penalties. Because in common with all tax administrations our general policy is to deal with the vast majority of matters civilly. If we thought there was a case that was so egregious that it ought to be investigated criminally, we would certainly discuss that with the Attorney General's officers and, ultimately, it would be investigated and a file would be presented to the Attorney General. But in the vast majority of tax cases, even if evasion is fairly clear, they are normally dealt with civilly and civil penalties would be levied.

Senator S.W. Pallett:

When you say civil penalties would be levied, by who; by yourself?

Comptroller of Revenue:

Yes. The laws allow the Comptroller to levy civil penalties for certain types of default. The most up to date of those were contained in the Revenue Administration Law 2019, which updates the 1961 law, which, as I say, is largely criminal. They all have rights of appeal, they are all human rights applied, so the rights of appeal are from ... first of all, any decision we take within the office is usually subject to an internal review. We then can pass cases to the Commissioners of Appeal and, ultimately, the taxpayer can go to the Royal Court; that is in addition as well to judicial review. Any administrative decision of that nature can be taken to judicial review if a taxpayer wishes to go down that route.

Senator S.W. Pallett:

But if you were taking a civil sanction, would that be in conjunction with or a discussion with the Attorney General?

Deputy Director, Domestic Tax Policy:

Law officers.

Senator S.W. Pallett:

With the law officers.

Comptroller of Revenue:

Yes. In Jersey constitutionally only the Attorney General can prosecute people. I am not a prosecuting authority.

Deputy Director, Domestic Tax Policy:

But for civil penalties, Comptroller, we would be engaging our lawyers and law officers, would we not, to find out whether Article 17 penalties provision in the law applied?

Comptroller of Revenue:

Yes. As I say, we are not a prosecuting authority, so if we were to undertake a criminal investigation the case would go to the Attorney General. But the reality is that we consult the law officers and their officers right from the beginning of such a process.

Senator S.W. Pallett:

Yes, it is just to understand at what point the seriousness of the issue is dealt with. Okay, that is fine. We will move on, I think we have got that. Why is the enveloped property transactions tax to be administered by the Comptroller, as opposed to the Judicial Greffier, which you have already mentioned, as is the case with stamp duty?

Comptroller of Revenue:

I think that is, of course, like land transaction tax mirrored on it and that is administered by Revenue Jersey. In reality, as you will recall discussions on its operating model, the reason Revenue Jersey was named Revenue Jersey was that under the OneGov initiatives the long-term intention is that the majority of the Government revenue schemes are managed by Revenue Jersey. Some of the Judicial Greffier administers stamp duty, although I advise Ministers on stamp duty policy for is because he stamps documents, so the Registrar is the person who stamps the documents and is the most obvious person able to take the duty of the stamp. That is why there is that division of labour. But, generally speaking, the new tax is wherever possible we will try to administer within Revenue Jersey and, hopefully, receive revenue economy scaled from that.

Senator S.W. Pallett:

I suppose if I was playing devil's advocate you could turn that round and say, why would Revenue Jersey not administer the stamp duty if it was just a case of stamping a piece of paper?

Comptroller of Revenue:

I am not terribly au fait with the stamping process. I recall many decades ago in the United Kingdom that lawyers did have to attend the commissioners in the Land Revenue to have their documents stamped. If you ever go to the vaults in Manchester you will find an enormous machine that was

used to reply. It is an argument that can run either way and that when we do the stamp duty review that will probably be an issue for houses.

Senator S.W. Pallett:

Okay, maybe something to consider in the future. Will E.P.T.T. create ...

The Minister for Treasury and Resources:

Sorry, Senator, to interrupt but I have another meeting in 3 minutes.

Senator S.W. Pallett:

Sorry, Minister, go ahead, yes.

The Minister for Treasury and Resources:

I understand the chair is saying that he will come back to us with written questions that you have not been able to produce but I do have to go in 3 minutes.

Senator S.W. Pallett:

Okay, I have got one more question in this section and there is just one more section that we may be sending some questions on. Will E.P.T.T. create additional pressure for Revenue Jersey, who are already under pressure from other taxation changes?

The Minister for Treasury and Resources:

I think I can answer that one. That has been an ongoing question from the panel and we have addressed the lack of resources, which were largely due to a combination - and I am sure the Comptroller or Fiona can say it better than I - but due to the move of premises, the changeover of the computer system, the COVID situation, huge demands on sort of conversations over the phone and emails, as opposed to face-to-face relationship, was a problem and that issue was addressed. Now that we have moved hugely into external taxation situations, we need external tax advisers. Those are very difficult to find and difficult to recruit. We are on the case, as you might say, in trying to recruit new people to tax. But, yes, it is appreciated that they need the help of more resources.

Senator S.W. Pallett:

Okay. Final question from me and it follows on very closely to that, and we note in the Acte Opératoire, are all the administrative processes and staff resources in place now? You just mentioned that there may be some extra staff required. If not, when will they be?

The Minister for Treasury and Resources:

Sorry, are you referring to the Acte Opératoire?

[13:00]

Senator S.W. Pallett:

Yes. It is really around, are all the administrative processes in place if that takes place?

Comptroller of Revenue:

Yes, all practices are ready to go. It is just saying we are anticipating fewer than 100, possibly 50 transactions per year. In terms of the pressure on Revenue Jersey the Minister has been very good in terms of additional resources. But having said that, the processes of course in terms of it is intended it will largely be administered by lawyers at the time of transaction as part of the due diligence they do. It will put a small burden on our cashiers, not a very great one. The burden is after the fact. We do collate information about the transactions and we do pass it over if it is needed but we are not anticipating this being a burden in the future.

Senator S.W. Pallett:

Okay, thank you. Yes, I will hand quickly back to the chair.

Deputy S.M. Ahier:

Thank you, Senator. Is the Minister still with us? Yes, Minister. Just finally before we leave, in correspondence with the panel you advise that: "The proposition cannot be called in by the panel during the Assembly debate as it formed part of the Government Plan and is, therefore, exempt under Standing Order 72(10)." Why were you so determined to hamper Scrutiny's ability to fully review this legislation?

The Minister for Treasury and Resources:

I think, Chair, in answer to your question that Scrutiny have had full time to review the proposition. We are awaiting your report on it. When it comes to tax regulation or legislation then there is no wherewithal by law to call it in. That is why. That is what we have been informed by the Greffe and agreed by the Bailiff.

Deputy S.M. Ahier:

I think we will leave it there. Thanks very much all for your attendance today and I call the hearing to a close. Thank you, all.

[13:02]