STATES OF JERSEY

PROPOSED GOVERNMENT PLAN 2023-2026 (P.97/2022): TWENTY-FIFTH AMENDMENT

EXEMPTING PROPERTY DEVELOPERS FROM STAMP DUTY HIGHER RATE

Lodged au Greffe on 28th November 2022
by the Council of Ministers

STATES GREFFE

PROPOSED GOVERNMENT PLAN 2023-2026 (P.97/2022): TWENTY-FIFTH AMENDMENT

1 PAGE 2, PARAGRAPH (a) –

After the words "Article 9(2)(a) of the Law" insert the words –
", except that in Summary Table 1 –

i. total States income from Stamp Duty and Land Transfer Tax shall be amended in accordance with the following table, with sum total rows updated accordingly:

	2023 Estimate	2024 Estimate	2025 Estimate	2026 Estimate
Stamp Duty	51,000	51,376	53,442	56,187
Land Transfer Tax	6,887	7,155	7,397	7,718

ii. the total income arising from Future Tax Measures shall be reduced in each of the years 2024-2026 by £3,063,000, with sum total rows updated accordingly;

iii. reference to "Land Transfer Tax (LTT)" shall be amended to "Land Transaction Tax (LTT)"

2 PAGE 2, PARAGRAPH (i) –

After the words "as set out at Appendix 3 to the Report" insert the words –
", except that –
(i) after the words "and Enveloped Property Transactions Tax ('EPTT')." on page 33, there shall be inserted the words "To support the Island's housing needs, Ministers are also proposing an exemption to the higher rate for property developers who purchase and develop residential property for resale, in the course of their trade."

COUNCIL OF MINISTERS

Note: After this amendment, the proposition would read as follows –

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

to receive the Government Plan 2023–2026 specified in Article 9(1) of the Public Finances (Jersey) Law 2019 ("the Law") and specifically –
(a) to approve the estimate of total States income to be paid into the Consolidated Fund in 2023 as set out in Appendix 2 – Summary Table 1 to the Report, which is inclusive of the proposed taxation and impôts duties

changes outlined in the Government Plan, in line with Article 9(2)(a) of the Law, except that in Summary Table 1 –

i. total States income from Stamp Duty and Land Transfer Tax shall be amended in accordance with the following table, with sum total rows updated accordingly:

	2023 Estimate	2024 Estimate	2025 Estimate	2026 Estimate
Stamp Duty	51,000	51,376	53,442	56,187
Land Transfer Tax	6,887	7,155	7,397	7,718

ii. the total income arising from Future Tax Measures shall be reduced in each of the years 2024-2026 by £3,063,000, with sum total rows updated accordingly;

iii. reference to “Land Transfer Tax (LTT)” shall be amended to “Land Transaction Tax (LTT)”

(b) to approve the proposed Changes to Approval for financing/borrowing for 2023, as shown in Appendix 2 – Summary Table 2 to the Report, which may be obtained by the Minister for Treasury and Resources, as and when required, in line with Article 9(2)(c) of the Law, of up to those revised approvals;

(c) to approve the transfers from one States fund to another for 2023 of up to and including the amounts set in Appendix 2 – Summary Table 3 in line with Article 9(2)(b) of the Law;

(d) to approve each major project that is to be started or continued in 2023 and the total cost of each such project and any amendments to the proposed total cost of a major project under a previously approved Government Plan, in line with Article 9(2)(d), (e) and (f) of the Law and as set out in Appendix 2 - Summary Table 4 to the Report;

(e) to approve the proposed amount to be appropriated from the Consolidated Fund for 2023, for each Head of Expenditure, being gross expenditure less estimated income (if any), in line with Articles 9(2)(g), 10(1) and 10(2) of the Law, and set out in Appendix 2 – Summary Tables 5(i) and (ii) of the Report;

(f) to approve the estimated income, being estimated gross income less expenditure, that each States trading operation will pay into its trading fund in 2023 in line with Article 9(2)(h) of the Law and set out in Appendix 2 – Summary Table 6 to the Report;

(g) to approve the proposed amount to be appropriated from each States trading operation’s trading fund for 2023 for each head of expenditure in line with

Article 9(2)(i) of the Law and set out in Appendix 2 – Summary Table 7 to the Report;

(h) to approve the estimated income and expenditure proposals for the Climate Emergency Fund for 2023 as set out in Appendix 2 – Summary Table 8 to the Report; and

(i) to approve, in accordance with Article 9(1) of the Law, the Government Plan 2023-2026, as set out at Appendix 3 to the Report, ", except that –

after the words "and Enveloped Property Transactions Tax ('EPTT')." on page 33, there shall be inserted the words "To support the Island's housing needs, Ministers are also proposing an exemption to the higher rate for property developers who purchase and develop residential property for resale, in the course of their trade."

REPORT

Summary

In this two-part amendment to the proposed Government Plan 2023-26, Ministers are:

1. Proposing to support the Island's housing needs through an exemption to the higher rate of Stamp Duty on second homes, holiday homes and buy-to-let properties, for property developers who purchase and develop residential property for resale, in the course of their trade; and

2. Updating the revenue forecast projection in respect of the higher rate of Stamp Duty and Land Transaction Tax to reflect work carried out since the lodging of the proposed Government Plan.

Although the two measures are closely related, this report will consider each matter separately.

1. Exempting property developers from the higher rate of Stamp Duty, etc.

Background

Following the States' adoption of an amendment to Government Plan 2022-25 from the Corporate Services Scrutiny Panel, proposals have been developed to charge higher rates of Stamp Duty on the purchase of properties that are acquired for any purpose other than to be used as a person's main residence. This includes buy-to-let properties, second homes, and holiday homes. The higher rate of 3 percentage points above the normal rate, for which legislative provisions are included in the Draft Finance (2023 Budget) (Jersey) Law 202-, would also be applied to relevant transactions subject to Land Transactions Tax ('LTT') and Enveloped Property Transactions Tax ('EPTT') from 1 January 2023, if the Budget is adopted by the States.

Impact on property developers

As originally intended, the draft law would subject property developers to the higher rate of Stamp Duty on any dwelling (residential property) purchased that is not intended for use as their main residence. The legislation was designed intentionally to have a wide scope and to include a broad number of scenarios where residential property was purchased for use other than as a main residence. The aim was to deliver the higher rate within the existing legislation and, as far as possible, not to add further complexity or administrative burden for users or government.

However, Ministers are concerned that property developers may be dissuaded from buying dwellings that are in need of renovation for resale, which will continue to play an important part in solving Jersey's housing challenges. Discouraging those developers from purchasing dilapidated properties may restrict the supply of renovated housing for resale.

An exemption for property developers

In order to qualify for the exemption, this amendment would create an obligation for property developers to make a legal declaration at the point of purchase to confirm that the property was being purchased as part of the stock of trade of a property development business. By acquiring the property as part of the stock of trade, any profits or gains arising from the future disposal of the property would be chargeable to tax under Article 51(1)(b) of the Income Tax (Jersey) Law 1961.

The exemption would be an exemption only from the higher rate of Stamp Duty. Developers would still be obliged to pay Stamp Duty at the normal (existing) rates. Any intentional misdeclarations would be an offence.

A corresponding amendment will be made to the Draft Finance (2023 Budget) (Jersey) Law 202-.

2. Revising the revenue forecast

Background

The revenue forecast for the higher rates of Stamp Duty, LTT and EPTT was projected to be £1,597,000 for 2023. The forecast was derived from a tool prepared by external economists and refined by officers from Revenue Jersey and the Economics Unit.

The model uses several assumptions, one of which is the Fiscal Policy Panel (FPP) forecast for housing transaction growth for the period 2022 to 2027 as outlined in the Panel's March 2022 report. The forecast for housing transaction growth in 2023 has not been updated in the most recent FPP forecast published in November 2022.

Another assumption used was that each landlord owns, as a median, 2 properties as buy-to-let investments. This assumption was based on[1] an assessment of the private rented sector and its role in meeting housing needs in the UK. In the absence of any assessment of the Jersey rental sector, UK rental sector analysis was used.

Revising the revenue forecast projection

Following the lodging of the proposed Government Plan, further review of the forecasting tool has been undertaken. It was noted that the model used an outdated schedule of Stamp Duty and LTT rates for residential properties. The additional rate had also only been applied to the variable element of each Stamp Duty and LTT band, ignoring the fixed element of the duty.

The tool was updated to reflect the most recent rates of Stamp Duty and LTT, and to compute both the variable and fixed elements of the higher rate of tax. Further adjustments, confirmed with Revenue Jersey and the Economics Unit, have been made to better reflect Jersey-specific aspects of the housing market.

The median properties per landlord was reduced from 2 to 1.5, based on anecdotal data to reflect Jersey's constrained housing supply in comparison with the UK.

A downward adjustment of 20% has been applied to the revenue forecast to recognise the high level of uncertainty as to property transaction volumes and property price growth in 2023. The FPP has not reviewed its property market assumptions for 2023

[1] Challenges and opportunities for the private rented sector, a report for National Residential Landlords Association; Capital Economics, Andrew Evans and Moneli Hall-Harris; February 2022

due to a lack of sufficient data and evidence. As such, this downward adjustment has been made using the professional judgment of officers.

Finally, property transaction data for 2020 and 2021 were replaced with averages of 2017-19 to correct for the effect of the Covid-19 pandemic on the property market.

After updates to the forecasting tool outlined above, the additional revenue for 2023 from the higher tax for additional properties is now forecast to be £4,660,000. This is around £3m higher than originally forecast.

Financial and manpower implications

On its own, the cost of the property developer exclusion cannot be quantified with the data available. The financial implications of excluding property developers are thought to be minimal based on anecdotal data.

The revised financial implications of the forecast adjustment will result in an increase in revenue of approximately £3m for 2023.

The new Stamp Duty rate for additional properties formed part of the package of tax measures to raise £10 million in additional tax revenue from 2024 onwards. The increase to income as a result of this amendment, therefore, results in an adjustment to the forecast of future tax measures for 2024-2026, with total income remaining the same.

Due to the one-off impact on total income in 2023, the closing balance on the consolidated fund will increase by approximately £3m higher in each year of the plan.

There are no manpower implications expected as a result of these amendments.