

STATES OF JERSEY



PERSONAL TAX REFORMS (P.119/2019): COMMENTS

Presented to the States on 31st January 2020
by the Corporate Services Scrutiny Panel

STATES GREFFE

COMMENTS

Background

1. The proposition Personal Tax Reforms ([P.119/2019](#)) was lodged on 22nd November 2019, and sets out the Government's tax system reform plans.
2. This review was initiated in December 2019 and will conclude with the publication of this Comments Paper.
3. A further review may be initiated should draft legislation be lodged in mid-2020.

Introduction

4. The proposition sets out the Government's tax system reform plans for 2020, together with indicative plans for further stages of reform.

5. *Stage 1:*

Under the current tax system, married couples are required to file all tax receipts under the husband's name. A wife's income is considered to be the husband's income, unless one of the parties elects to file their tax return on an independent basis.

The Personal Tax Reforms aim to rectify 'married man's taxation' through a reform of the [Income Tax \(Jersey\) Law 1961](#), with regard to the taxation of married couples and couples in civil partnership in order to create joint and several responsibility for married couples and couples in civil partnerships from the 2021 tax year of assessment. Couples may then elect to have individual control over their taxes, while still being taxed as a couple overall (as opposed to electing to be taxed on an individual basis, which any person is currently able to do).

The reforms aim to provide equal rights of access to tax information, and create joint and several liability for the payment of outstanding taxes, except for where couples have opted for individual assessment.

6. *Stage 2:*

The proposition's report highlights the need for a staged approach to changes and the need for future changes to avoid married couples paying more tax through individual taxation. This would impact low income earners the most, with higher earners potentially paying less tax overall.

The concept of "grandfathering" under any future changes is also discussed to mitigate the financial and administrative effects of these changes for existing married couples and civil partners.

The Review

7. This review focusses on Stage 1 of the reforms, but is cognisant of the fact that the approval of Stage 1 reforms will necessarily lead to Stage 2 reforms.
8. As time was limited, the review consisted of a public hearing with the Minister for Treasury and Resources and a call for responses from a targeted group of stakeholders.¹
9. A number of concerns were addressed during the hearing with the Minister.²
10. The purpose of this proposition was questioned, as it is not accompanied by any draft legislation. The Minister noted that this proposition was aimed at gaining the endorsement of the Assembly to move forward with legislative change and that it would, in fact, obligate the Minister to bring the changes to the Assembly.

The Minister for Treasury and Resources –

“What we wanted was to present the proposition because what we realised quite quickly is we could not do the whole thing in one go. It is going to be over stages until 2022”³.

11. In relation to the Panel’s concern over the lack of detail currently available on the mechanics of the reforms, the Deputy Comptroller of Revenue acknowledged during the Minister’s public hearing that they currently aim to “make sure whatever way we do it” works with the new computer system and achieves their aims “before we get into the detail of law drafting”⁴.
12. The Minister acknowledged the potential for low income earners to be worse off under the proposed changes and committed to ensuring that this factor would be mitigated, but that it was not yet determined exactly how.
13. The Minister for Treasury and Resources –

“It will be mitigated. We will have to compensate in some way for those who would be ... I think the sort of winners and losers comparison came into the equation, so compensate for those who potentially might have to pay more tax because of the allowances being removed, but the whole idea is to be far more equal across the board so that unmarried couples and married couples are far more evenly dealt with than they are at present, but so that it leaves nobody negatively impacted. That takes quite a lot of working out”⁵.

14. The reasoning behind the staged approach was addressed by the Minister, with the key factor being the perceived need to fix the inequality under the current

¹ [Letter to stakeholders](#)

² [Public Hearing with the Minister for Treasury and Resources](#)

³ [Public Hearing with the Minister for Treasury and Resources, p.3](#)

⁴ [Public Hearing with the Minister for Treasury and Resources, p.4](#)

⁵ [Public Hearing with the Minister for Treasury and Resources, pp.6-7](#)

regime as an immediate priority, with the move to individual taxation a longer-term goal.

15. The Minister for Treasury and Resources –

“We would do the married man’s taxation first, which was what was the promise. Then the rest of it will have to be done in stages once we have done a further consultation because it is so complicated... The married man’s taxation proposition we want to get agreed by the Assembly before we propose the legislation”⁶.

16. The Panel also questioned the Minister on how changes to the tax system may impact children. The Minister responded that the changes to the tax system were being considered alongside the work of the Early Years Policy Development Board.⁷

17. The Deputy Comptroller of Revenue elaborated on several areas where this work may cross over –

“...the child allowance and the additional child allowance for an unmarried families and tax relief for ... childcare tax relief for professional costs of having your children minded. So we are working in a parallel stream really and trying to develop proposals for the taxation of the couple, but in the modelling for doing that, trying to take into account whether and to what extent childcare costs go or childcare relief should continue to be given through the tax system. So the Early Years Board is looking at the minute at areas around N.E.F. (Nursery Education Fund) funding and the scope of that funding and the children that it might be targeted at and who might receive it. So there is a programme of work about developing that and we need to make sure that anything that we do in any move to independent taxation does not in any way create a barrier to what they do working. So we will be considering whether ... I suppose always bearing in mind that tax relief is only available for taxpayers as well, so if you are not in the tax system then you do not get the benefit of the relief, so we are working kind of hand in glove with them at the minute when their proposals are finalised to make sure that we model the kind of family groups so that when you take account of ... and there is an interaction with benefits here as well, so when you take account of what they want to do on children and childcare and social welfare benefits and the new tax proposals that they are joined up and there are no surprises or unforeseen consequences in what we are doing.”⁸

18. The Panel Chair wrote to stakeholders to seek their views on the proposed changes.

19. While only 2 responses were received, these were from significant stakeholders making considered points.

⁶ [Public Hearing with the Minister for Treasury and Resources, p.3](#)

⁷ [Public Hearing with the Minister for Treasury and Resources, p.16](#)

⁸ [Public Hearing with the Minister for Treasury and Resources, pp.16-17](#)

20. In summary, these stakeholders were supportive of the need for equality in the tax system, but expressed significant concerns regarding different elements of Stage 1 of the reforms.
21. Citizens Advice Jersey expressed “major concern”⁹ about the effect the reforms could have for married couples with a joint income between £30,000 and £50,000, particularly where there is only one earner above the tax exemption threshold.
22. Based on data provided by the Tax Policy Unit in P.119/2019, the highest levels of additional tax under an independent taxation system would be paid by couples with a joint income of £30,000 to £50,000, with the additional tax due becoming £0 if a couple has a joint income of around £110,000 or over.¹⁰
23. The potential impact on children was highlighted in the submission made by Citizens Advice, who noted that, if the tax liability for a married couple with children and claiming childcare relief was increased through these reforms, it could “affect their ability to pay their childcare costs which would be of concern.”¹¹
24. The Citizens Advice submission further noted a concern that, in certain circumstances, higher earners “appear to be better off under these proposals.”¹² However, they concede that ‘grandfathering’ provisions may be the best way to deal with this issue.
25. Citizens Advice is positive about the reforms proposed in relation to dealing with gender inequality in the tax system. They express that the measures “should end gender inequality in Jersey’s income tax system”, while noting that the introduction of independent taxation “should be the goal.”¹³
26. Citizens Advice also calls for the household income proposal to be “completely dropped”, arguing that most people will “find it confusing as it is unfamiliar” and that it is “too easy to cheat and pretend you are a household unit.”¹⁴
27. The Jersey Chamber of Commerce (Chamber) do not support this proposition and would advise people to be taxed independently if it goes ahead.
28. They expressed a specific concern that joint and several liability is a high-risk and backward step as it will “...make the spouse/civil partner liable for the debt of the other party.”¹⁵

⁹ [Submission – Jersey Citizens Advice Bureau, p.2](#)

¹⁰ [P.119/2019, pp.14-15](#)

¹¹ [Submission – Jersey Citizens Advice Bureau, p.2](#)

¹² [Submission – Jersey Citizens Advice Bureau, p.2](#)

¹³ [Submission – Jersey Citizens Advice Bureau, p.2](#)

¹⁴ [Submission – Jersey Citizens Advice Bureau, pp.2-3](#)

¹⁵ [Submission – Jersey Chamber of Commerce, p.2](#)

29. They believe that this proposal is “totally unjustifiable” and “contrary to virtually every aspect of the report and Annex A which accompanied the proposition.”¹⁶
30. They argue that the proposal is incomplete, since it does not provide any guidance to the spouse/civil partner as to what happens should the husband or first mentioned civil partner agree to sign but then fail to sign the return.
31. The submission also notes that this places responsibility for the spouse/civil partner to agree the content of the return because the proposition implies that all the relevant parts of the Income Tax Law would be joint, thereby resulting in fines and penalties outside of the control of one of the parties.
32. This would be of particular concern if one of the spouses absconded, leaving the other spouse with the full tax liability that they had not, in fact, incurred though their own income.
33. Chamber expressed in a private meeting with the Panel that this is a regressive and dangerous step that runs counter to the principles of independent taxation that Jersey is supposed to be moving towards.
34. Chamber also claim that this step is unnecessary as the Comptroller of Revenue already has the power, under Article 42 of the Income Tax Law, to collect the relevant amount due if the married couple/civil partner were treated as separate persons for Jersey tax purposes.
35. Chamber expressed to the Panel in their private meeting that taxes should be simple, fair, broad and applied consistently, with the benefits system used for compensating those that may be worse off after changes to the tax system.
36. Chamber believes that the Minister should aim to educate the population on the ability to elect for individual assessment under the current system as a first step and move straight to independent taxation, rather than putting in place an interim measure that only increases discrimination and creates inherent risks.
37. Their submission also requests further clarity from the Minister for Treasury and Resources regarding how current discrimination in the Income Tax Law will be dealt with (they draw attention to a figure of 3,150 married couples¹⁷ who they claim are being overcharged by an average of £1,000 a year¹⁸), stating that the Personal Tax Reforms report suggests that this discrimination “will not only be addressed but this discrimination will be extended to compensate those that have not been previously discriminated against.”¹⁹
38. Further consultation is also expected, owing to the complexity of the process.²⁰ The Comptroller justifies the need for further work given that, if Independent

¹⁶ [Submission – Jersey Chamber of Commerce, p.2](#)

¹⁷ “2 income married couple currently paying at standard rate benefit from a move to independent taxation if either or both become marginal or exempt” - [P.119/2019, Annex A, Table 2, p.11](#)

¹⁸ Calculated by a representative from Jersey Chamber of Commerce

¹⁹ [Submission – Jersey Chamber of Commerce, p.3](#)

²⁰ [Public Hearing with the Minister for Treasury and Resources, p.3](#)

Taxation were introduced immediately, “it would generate £10 million from low income couples”²¹, acknowledging that this was not a desirable outcome.

39. The Minister for Treasury and Resources acknowledged this concern and affirmed her intention that the move to independent taxation would remain “tax neutral so that people do not lose and the Exchequer do not obviously benefit to that extent”, labelling such outcomes as “unacceptable.”²²
40. Tax Policy Unit data made available in Annex A of P.119/2019 indicates that 8,300 married couples would pay additional tax of approximately £13 million, with 3,150 couples paying less tax totalling £3 million, leading to the £10 million annual gain in revenue as described by the Comptroller.²³
41. This derives from current assumptions that concerns such as child allowances and mortgage interest relief is split 50:50 between couples, which would become obsolete if independent taxation was introduced immediately.

Conclusions

42. The Panel is supportive of the principle of gender equality in the tax system.
43. The Panel feels that the proposition would have been stronger had it accompanied draft legislation, as this would have dealt with some of the uncertainty detailed above.
44. There remains a tension between the need to move quickly to gender equality in tax legislation and the wider reform agenda for individual taxation.
45. The Panel is particularly concerned about the potential impact on low income families and children as a result of this proposition.
46. The Panel believes that the issue of gender inequality in the tax system should be dealt with at the same time as the move to independent taxation, saving resources of Officers, Council of Ministers, Scrutiny, and the Assembly.
47. Should the Assembly vote in favour of this proposition, it is likely that a second review will need to be undertaken once the draft legislation is lodged to ensure that it meets the principles agreed by the Assembly and the expectations of the Panel in regards to the issues raised in this paper.

²¹ [Public Hearing with the Minister for Treasury and Resources, p.6](#)

²² [Public Hearing with the Minister for Treasury and Resources, p.6](#)

²³ [P.119/2019, p.11](#)