Prior Year Basis Tax Reform Review

Corporate Services Scrutiny Panel Report

30th October 2020

S.R.7/2020

States of Jersey
States Assembly

États de Jersey
Assemblée des États

Contents

1. Chair's Foreword

Such is the level of public interest in this issue that we began to receive submissions from members of the public before the Corporate Services Scrutiny Panel (CSSP) had launched its review. All of the letters shared serious concerns about the proposals and the impact they could have upon the lives and livelihoods of many Jersey taxpayers. Those submissions continued to arrive throughout the review and 5,664 people signed a petition to support the motion that the tax should be written off if this change goes ahead.

Within this report, the Panel have tried to convey to the Minister for Treasury and Resources and her team the real-life stories that we were hearing, and we have endeavoured to emphasis the concerns that were being expressed by many members of our community.

The desire within Government to push on and introduce this measure became clear when they changed tack and moved the argument from the initial suggestion that it was an attempt to offer assistance to people who had experienced financial hardship (as a result of the response to the COVID-19 pandemic), to the description of this proposal as a neat method for paying back the debt accrued by their response to the pandemic.

Such changes have caused the public to question the motivation of the Government and has further eroded trust in it.

As we prepared to complete our review the Minister for Treasury and Resources announced on the 29 October 2020 another change of tack; following a series of focus groups she has now understood the impact the payment plans may have on pensioners and families in particular and is now proposing to offer prior year tax payers payment options.

Whilst we are somewhat relieved to hear that the Minister for Treasury and Resources has now listened to some of the financial pressures that the measures will have on groups of islanders, it is frustrating that she did not take into account our scrutiny panel members observations earlier in this process. We would like to take this opportunity to remind Ministers' that Scrutiny is here to offer a different perspective, to be a critical friend and to act as a conduit of views from the people. The process exists not to hamper Ministerial Government, but to assist them in producing improvements to legislation and policy that in turn better serves the public we all represent.

The time lost by the Minister for Treasury and Resources through a persistent reluctance to listen to Scrutiny has resulted in the late filing of refinements to a complex policy change. These refinements do not offer any insight into the impact they will have on revenue, nor can they explain whether the prolonged payment period will collect enough revenue to repay the COVID-19 debt, which was the declared intention.

Jersey is unusual in the twenty first century to operate a prior year tax system. Whilst it is generally acknowledged that finding a solution to this anomaly is welcome, making such a change in a very short time period is fraught with issues, both for the authority and for taxpayers.

This report sets out the complexities of this proposal. Through seeking the views of an expert in this field, Rebecca Benneyworth, the Panel hopes that this report will provide a useful guide to members as they approach the debate on 3 November 2020.

May I take this opportunity to extend sincere thanks both to Ms Benneyworth and our Committee and Panel Officers for their work in producing this thorough report.

Senator Kristina Moore

Chair of the Corporate Services Scrutiny Panel

2. Executive Summary

The Prior Year Basis Tax Reform Review was established by the Corporate Services Scrutiny Panel (the Panel) to scrutinise proposals made by the Minister for Treasury and Resources, in relation to, the move for Prior Year Basis taxpayers onto a Current Year Basis system through P.118/2020: Draft Income Tax (Amendment No 46) (Jersey) Law 202-. The Panel were keen to gain a greater understanding of the implications of the proposals to taxpayers and public finances.

The Panel report outlines the background and timeline of Government decisions leading to the lodging by the Minister for Treasury and Resources of the Prior Year Tax Basis tax reform proposition. The report then examines the intention of the proposition and Government consultation. The next chapter considers the impact on prior year basis taxpayers of changes outlined in the proposition and proposals put forward by Government. The final section of the report considers the consequences across Government due to the proposition.

The Panel wrote, on several occasions, to the Minister for Treasury and Resources and completed a public hearing with the Minister and Government Officers to obtain further information on the views and policy position on this issue. Many of the findings and recommendations which the Panel has made in the report are directly related to these meetings and information provided.

Alongside this, the Panel members engaged with the public on social media and were able to receive a range of comments and written submissions from Islanders regarding their views on the proposed changes. Evidence that the Panel received has been published on the Scrutiny website.

The Panel's research has suggested that many islanders paying their tax liability on Prior Year Basis may be detrimentally impacted by the forced payment of the 2019 liability over a time period that they had not taken into account whilst planning their long-term finances. This has implications for a wide range of demographics including those with children, those seeking to pay a mortgage, those looking to retire and current pensioners.

There are also procedural and manpower implications to consider if the proposals are agreed and, the future introduction of independent taxation could present a technical challenge. The proposition states Spouse A will carry the 2019 tax liability and it is unclear how this will be split when independent taxation comes into force or how the 2019 tax liability would be split if a couple divorce prior to independent taxation being implemented.

Furthermore, Revenue Jersey has been under pressure for a number of years, unless training and technical systems are updated flawlessly then there will likely be further delays to administration of the island's tax system; although an increase in the number of returns filled online may help to alleviate this.

The updated report published by the Minister for Treasury and Resources on the 30 October 2020 does address certain concerns raised in the Panels' report regarding the framework to pay the tax liability. The Minister for Treasury and Resources should share the information from the focus groups with the States Assembly to substantiate the latest report.

The Panel has therefore made a number of recommendations which the Minister for Treasury and Resources should consider. The Minister should ensure that there are no negative implications for two-thirds of islanders due to the proposition and that the consequences for Government will be strategically addressed.

3. Findings and Recommendations

Findings

Key Finding 1

The Amendment to the Income Tax Law 1961 (the Amendment), if adopted by the States Assembly on the 3 November 2020, will enable the reconfiguration of the payment on account dates and the I.T.I.S effective rate for Prior Year Basis Taxpayers (PYB taxpayers) and suspend their 2019 tax liability. The Amendment, if adopted, will also transfer the payments made towards 2019 tax liability by PYB taxpayers against their 2020 liability and allow for the creation of Regulations by the States Assembly that would set out the payment terms for the 2019 liability, The Regulations would need to be agreed by the States Assembly by the 31 March 2021.

Key Finding 2

The principle that the Amendment could be considered without Regulations is difficult to understand given the significant impact for two-thirds of taxpayers.

Key Finding 3

The Minister for Treasury and Resources has confirmed that the Amendment is intended to act as a fiscal stimulus measure for islanders who have suffered throughout the COVID-19 pandemic. However, the proposed Government Plan 2021-24 (P130/2020) appears to contradict this intention by indicating that the Amendment will raise revenue to cover COVID-19 pandemic costs.

Key Finding 4

The updated report published by the Minister for Treasury and Resources on the 30 October 2020 does address certain concerns raised in the Panel's report regarding the framework to pay the tax liability. However, the report did not include the detail of the focus group information to consolidate decision making and it did not address a number of the findings laid out in the Panel report including:

- The split of the 2019 debt between married couples and civil partners on the introduction of independent taxation or on divorce;
- The impact on lending decisions by mortgage lenders and the potential impact of this debt on mortgage lending to affected taxpayers;
- The changes in circumstances of an individual in relation to payment structure over the term of the agreement;
- The impact of other taxation and social security measures;
- Consequences from a public finance, manpower, systems and economic perspective.

Key Finding 5

The Government's public consultation on the Amendment did not meet its own Codes of Practice.

Key Finding 6

The Government's survey evidence to date would suggest that PYB taxpayers who have suffered a reduction in income due to the pandemic could be in the minority.

Key Finding 7

The most substantial decrease in earnings due to the pandemic appears to have been in hotels, restaurants and bars (decrease of 10.2%) and agriculture (decrease of 11.5%).

As the hospitality sector employs younger workers and seasonal staff, who are likely to be taxed on a current year basis (CYB), this Amendment does not offer a direct fiscal stimulus benefit.

Key Finding 8

For some PYB taxpayers the payment will come many years earlier than they had planned. It is likely that the proposed payment of this additional liability for these PYB taxpayers will coincide with other significant commitments (supporting family commitments and paying mortgages) and is highly likely to be when monthly outgoings are tight against income and savings are low.

Key Finding 9

Some retired PYB taxpayers already have established payment arrangements in place with Revenue Jersey to settle final prior year basis tax payment in a structured format.

Key Finding 10

Some retired PYB taxpayers will only be able to pay their final prior year basis tax payment from their estate.

Key Finding 11

Some PYB taxpayers are proactively making plans to repay the final prior year basis tax liability prior to retirement based around their other commitments.

Key Finding 12

The Fiscal Stimulus measure would appear to be most beneficial to payment on account (self-employed) taxpayers who may have struggled during the pandemic. These taxpayers will not be required to make the November 2020 payment on account as this will be deferred if the proposition is adopted.

To ensure the Amendment is a success for payment on account (self-employed) taxpayers to CYB status it is pivotal that they submit tax returns on time and Revenue Jersey process them quickly and accurately.

Key Finding 13

I.T.I.S Taxpayers are unlikely to see a marked benefit of the tax reform as they will continue to pay tax each month and need to wait for assessment in 2021.

Key Finding 14

Moving to CYB will reduce tax owed by those who leave the island. There will be residual tax liability under CYB for those historic PYB taxpayers who leave the island permanently, although it will be smaller than experienced under PYB.

Key Finding 15

There may be an impact on the borrowing capability of PYB taxpayers if they have an outstanding 2019 tax liability.

Key Finding 16

A discount for early settlement of the 2019 liability to PYB taxpayers could reduce Government borrowing which could be beneficial.

Key Finding 17

Introducing the Amendment before the introduction of independent taxation could present a technical challenge. The current proposition indicates that Spouse A will carry the 2019 tax liability and it is unclear how this will be split when independent taxation comes into force or how the 2019 tax liability would be split if a couple divorce prior to independent taxation being implemented.

Key Finding 18

Removal of mortgage interest relief from 2025 could increase the tax burden on many Prior Year Basis (PYB) homeowners at the same time as their 2019 liability becomes payable.

Key Finding 19

Possible increases to Social Security and Long-Term Care (LTC) supplementation payments being consider by Government would reduce income for PYB taxpayers and cause further pressure to already stretched PYB taxpayer finances during the 2019 tax liability payment period.

Key Finding 20

The Government Plan 2020-23 indicates that the priority was to modernise the Islands personal income tax system and would commence with independent taxation.

Key Finding 21

Tax policy principles in the Government Plan confirm that changes should be fair, sustainable, support broader Government policy and be effective and efficient.

Key Finding 22

Revenue Jersey is under pressure, as evidenced through delayed turnaround times of current assessments and delayed answers to taxpayer queries. The Amendment will require the Revenue Jersey team to implement further changes to systems and procedures to ensure success during a pandemic crisis.

Key Finding 23

There has been a 31% uptake in online filing of tax returns in Jersey, this is well behind the UK rate of 93.5% and this will affect the ability of Revenue Jersey to turn around tax returns which could cause delays.

Key Finding 24

There could be economic impacts to consider in terms of a reduction in spend from PYB taxpayers in the longer term which would result in changes to the housing market, disposable income and pension savings.

Key Finding 25

If the Minister does not make this proposition, then I.T.I.S taxpayers who have seen their income drop in 2020 may see their effective rates rise in 2021.

Recommendations

Recommendation 1

The Minister for Treasury and Resources must provide the full Regulations to the States Assembly prior to the Amendment to the Income Tax Law 1961 being considered.

Recommendation 2

The report published by the Minister for Treasury and Resources on the 30 October 2020 does address some of the recommendations put forward by the Panel. However, the report does not provide an answer to a number of the other recommendations laid out in the Panel report including:

- The split of the 2019 debt between married couples and civil partners on the introduction of independent taxation or on divorce;
- The impact on lending decisions by mortgage lenders and the potential impact of this debt on mortgage lending to affected taxpayers;
- The changes in circumstances of an individual in relation to payment structure over the term of the agreement;
- The impact of other taxation and social security measures;
- Consequences from a public finance, manpower, systems and economic perspective.

The Minister for Treasury and Resources should back up her latest report by sharing the focus group information with the States Assembly in order that informed decisions can be reached in relation to the Regulations.

Recommendation 3

A longer and broader consultation period should be undertaken by Government especially given that the proposed Amendment will affect two-thirds of taxpayers. This would allow for more statistically significant findings and deeper qualitative understanding to be completed.

Recommendation 4

The Minister for Treasury and Resources should provide evidence on the number of PYB taxpayers to benefit from this fiscal stimulus measure.

Recommendation 5

The Regulations in relation to payment of the 2019 liability should make provision for PYB taxpayers who have already carried out longer term financial planning, and as far as possible allow those taxpayers to make payment consistent with the plans they have in place.

Recommendation 6

Revenue Jersey should maintain established payment on account agreements with retired taxpayers in relation to their final prior year basis tax payment. The agreement terms should not be changed unless agreed between the retired taxpayer and Revenue Jersey. The retired payment on account taxpayer should be able to take advantage of the fiscal stimulus break, if adopted by the States Assembly, in November 2020 as required.

Recommendation 7

The Minister for Treasury and Resources should carefully consider the Regulations for retired taxpayers who had intended to cover their outstanding tax liability from their estate. Regulations should not require retired taxpayers to sell primary assets.

Recommendation 8

The Minister for Treasury and Resources should recognise the impact of payment plans on an individual taxpayer's personal financial commitments and deliver Regulations which enable them to repay the liability whilst still being able to maintain personal commitments. Specific consideration should be given to supporting taxpayers with children, caring commitments to elderly relatives, and mortgages.

Recommendation 9

If the Amendment is adopted, the Minister for Treasury and Resources must ensure that Revenue Jersey implement suitable systems which enable payment of account (self-employed) taxpayers to be advised of their tax liabilities quickly and accurately.

Recommendation 10

To be fair to all taxpayers if the proposed Amendment takes place, specific fiscal stimulus must be targeted to all taxpayers.

Recommendation 11

The Minister for Treasury and Resources should include in the Regulations the terms for residual tax liabilities for PYB taxpayers who leave the island permanently. Special consideration should be given to the 2019 tax liability payment in the Regulations.

Recommendation 12

Further analysis on the borrowing impact of the 2019 tax liability for PYB taxpayers is needed by the Minister for Treasury and Resources, including full consultation with the lending industry. The Regulations should include appropriate steps to be taken by Government to minimise any impact on mortgages and other loans to PYB taxpayers.

Recommendation 13

The Minister for Treasury and Resources needs to ensure that Spouse A is not disproportionately liable for the 2019 liability in the event of a divorce and in relation to the establishment of independent taxation. Regulations must provide for an equitable split of the liability.

Recommendation 14

The Minister for Treasury and Resources should consider a discount for early settlement of the 2019 liability to assist in reducing borrowing costs for Government which may benefit the island debt.

Recommendation 15

The Minister for Treasury and Resources should ensure that the removal of mortgage relief from 2025 does not adversely affect Prior Year Basis homeowners who have an outstanding

2019 tax liability. The Regulations should include appropriate steps to be taken by Government to relieve financial stress in this circumstance.

Recommendation 16

The Chief Minister should ensure that taxation and Social Security strategy align to the Council of Minister's Common Strategic Priorities especially in relation to putting children first and supporting Islander's wellbeing.

Recommendation 17

The Minister for Treasury and Resources should clarify the number of PYB taxpayers with children affected by this change and consider the impact on those taxpayers' ability to support their children through to graduation from university.

Recommendation 18

Prior to the Amendment being debated, the Minister for Treasury and Resources should confirm to the States Assembly how many current year basis taxpayers have been affected by the pandemic and how this change is fair and equitable to the taxpayers who will receive no benefit from this fiscal stimulus measure.

Recommendation 19

The Minister for Treasury and Resources must ensure that Revenue Jersey is properly resourced and adequately trained to implement this Amendment to ensure that employee welfare is a priority. A suitable strategy which includes measures to monitor staff wellbeing should be shared with the Corporate Services Scrutiny Panel for consideration.

Recommendation 20

The Minister for Treasury and Resources should provide a strategy to the States Assembly confirming how an increased take up for online filing of tax returns will be achieved.

Recommendation 21

The Minister for Treasury and Resources should provide clarification on the advice which has been received from economic advisors in relation to the longer-term impact on the economy of this Amendment prior to it being debated.

4. Introduction

1. The Corporate Services Scrutiny Panel (the Panel) monitors the policy and actions of Government, specifically Ministers, relevant to its remit. A review of Prior Year Basis Tax Reform, launched by the Panel on 11 September 2020, was considered by the Panel to be a matter of public interest as per the Codes of Practice for Scrutiny Panels.[1]

Background and Context

2. Prior to the introduction of the Income Tax Instalment Scheme (I.T.I.S) in January 2006, all personal taxpayers[2] in Jersey received a tax assessment towards the end of each year based on their previous year's income. This had to be paid off in one lump sum. After I.T.I.S was introduced employed individuals had monthly deductions made from their wages.

3. The lump sum payment regime remained for self-employed people or pensioners and are known in the tax system as "Payment on Account (POA) taxpayers". To be a POA taxpayer, employment income must comprise 25% or less of a person's total income.

4. The only modification made in respect of taxpayers with little or no employment income was that they were required to make a payment on account representing 40% or 50% of the total tax bill – towards their previous year's liability by 31 May and a balance for the remaining tax was required to be paid by 30 November each year.

5. Alongside the introduction of I.T.I.S, the concept of the Current-Year Basis (CYB) of payment was created in law. The majority of taxpayers who registered with the Comptroller on or after 1 January 2006 were defined as CYB taxpayers. This means that their I.T.I.S deductions would be credited to the current year's tax liability, rather than the previous year.

6. Individuals employed before 2006 were classified as Prior-Year Basis taxpayers (PYB taxpayers), along with those who made payments on account. Employed PYB taxpayers make monthly payments in the current year to pay off their previous year's tax liability.

7. The Government Plan 2020- 2023 P.71/2019 (the Government Plan) was debated and approved by the States Assembly on 12 November 2019. The Government Plan committed the Minister for Treasury and Resources to look for options to bring all non-corporate taxpayers onto a CYB status for paying income tax – essentially paying tax as money is earned.

8. It was envisaged within the Government Plan that a review of PYB taxation would be combined with awaiting changes to the existing taxation system such as independent taxation and would be rolled out during the life of the Government Plan 2020-23.

9. Around two-thirds of taxpayers currently pay their tax for the previous year in the current year. In 2017 – 31,000 households (13,580 married; 17,420 single) were PYB taxpayers and paid 75% of personal income tax paid (£316 million).

[1] Corporate Services Scrutiny Panel - Terms of Reference
[2] The term taxpayer includes single people (even if co-habiting); married people (where, in most cases, "Spouse A" – the husband or older same-sex spouse) is still responsible for filing tax returns and paying taxes on behalf of the couple); and couples in civil partnerships.

10. As part of Government thinking on the Coronavirus pandemic (the pandemic) fiscal stimulus packages - to repair Jersey's Economy and restore islanders livelihoods - the Minister for Treasury and Resources (the Minister) recommended in July 2020 that the taxation review should be accelerated to abolish the prior year basis method of paying personal income tax and provide a short-term cash boost to those most financially affected by the Government's lockdown measures[3].

11. On the 31 July 2020, the Government of Jersey, under the leadership of the Minister for Treasury and Resources decided to undertake a public consultation to ascertain if there would be sufficient support politically and from Islanders to a Prior Year Basis Tax Reform. A letter with an accompanying leaflet was sent from the Minister for Treasury and Resources to every prior year basis taxpayer which outlined the prior year basis tax reform proposition.

    The letter was sent in error by Revenue Jersey to a number of deceased islanders and the Panel were concerned to hear that this had taken place.

    Included in leaflet was the 2020 timetable for the Prior Year Basis Tax Reform

August	Customer feedback survey opens
September	Customer feedback survey closes on 2 September
October	Law debated in the States Assembly
November	Customer focus groups
December	Report on customer view reviewed

12. In addition, repayment options being considered by the Minister for Treasury and Resources were included in the leaflet, as follows:

    - Repayment of the full bill amount as one payment when the repayment scheme starts
    - Repayment of the amount with a monthly direct debit over a 5-year period
    - Repayment of the amount with a direct debit over a 10-year period
    - If the monthly amount repayable over 10 years is unaffordable, then subject to an affordability test and regular reviews, smaller repayments equivalent to a longer repayment period would be permitted.

13. The Minister advised that repayment options would offer flexibility for taxpayers.

14. The leaflet also confirmed that during 2022, all former PYB taxpayers would be asked to choose from a range of repayment plan options to repay their 2019 tax bill. Taxpayers would then begin paying their 2019 bill from January 2023 over a manageable number of years.

15. The Minister for Treasury and Resources confirmed in the letter that the Government were not in a position to write off the 2019 tax liability for PYB taxpayers, particularly in light of the additional pandemic related costs the Government has had to meet. In addition, the Minister advised that such a move would not be considered fair to former PYB taxpayers who have already paid off their PYB tax liability or to a CYB taxpayer.

[3] Draft Income tax (Amendment No.46) (Jersey) Law 202-

16. A public consultation taxpayer survey was undertaken from the 3 August 2020 until 2 September 2020. Taxpayers were asked to provide feedback via an online format or a paper copy. Translations of the survey were available at Parish Halls and the Jersey Library.

17. The Proposition to make an Amendment to the Income Tax (Jersey) Law 1961 was lodged by the Minister for Treasury and Resources on 22nd September 2020.

18. The Government Plan 2021-24 was lodged on the 12 October 2020. The Government Plan confirmed that the payment of the 2019 prior year basis tax liability would be ringfenced to pay the costs of the pandemic.

19. On 28 October 2020, the Minister for Treasury and Resources advised the Panel that she had been considering feedback, including the views expressed in the States Assembly in-committee debate and the top-level findings of the focus groups commissioned by Government, and had decided to release a report to address the concerns raised by outlining payment options. On the 29 October 2020 the Minister for Treasury and Resources published the report in relation to the proposal for draft Regulations which set the terms for paying the 2019 tax liability of prior year basis (PYB) taxpayers:

- PYB taxpayers could choose to sign up to a 20-year payment plan, starting in 2022, but with nothing to pay until 2025;
- Regular payments would be expected on at least an annual basis and provision would be made for monthly payments, either through I.T.I.S or a Direct Debit scheme;
- Customers could overpay if they wish to clear their liability more quickly and they could apply for a ‘payment holiday’ of up to a year if their financial circumstances change during the payment period, without the need for an affordability test;
- Alternatively, PYB taxpayers could use existing arrangements, or put new financial arrangements in place, to pay the liability when they reach States Pension Age. If choosing this option, they would be asked to provide evidence of the arrangements in place. The full 2019 tax bill would need to be paid within 12 months of reaching States Pension Age.

Report Layout

20. The Panel report firstly provides the background and timeline of Government decisions leading to the lodging by the Minister for Treasury and Resources of the Prior Year Tax Basis tax reform proposal. The report then examines the intention of the proposition and Government consultation. The next chapter considers the impact on prior year basis taxpayers of changes outlined in the proposition and proposals put forward by Government. The final section of the report considers the consequences across Government due to the proposition.

Methodology

21. Since September 2020, the Panel have gathered evidence in several ways including:

- public hearings with the Chief Minister, Minister for Treasury & Resources, Treasurer of the States, Assistant Ministers, relevant government officers and Mr Ben Shenton;

- written views from relevant stakeholders (all submissions were published on the Corporate Services Scrutiny review section of the website).
- private briefings from relevant Ministers and officers;
- documentation provided to the Panel, upon request, by Ministers and Government officers in relation to the proposition;
- documentation in the public domain and other countries in relation to taxation.

Transcripts for the public hearings can be accessed via the States Assembly website.

Webcasts for the public hearings can be accessed via the States Assembly webcast site.

Advisor Appointment

22. Following a full tender process, the Panel engaged Rebecca Benneyworth to provide expert technical assistance during the review.

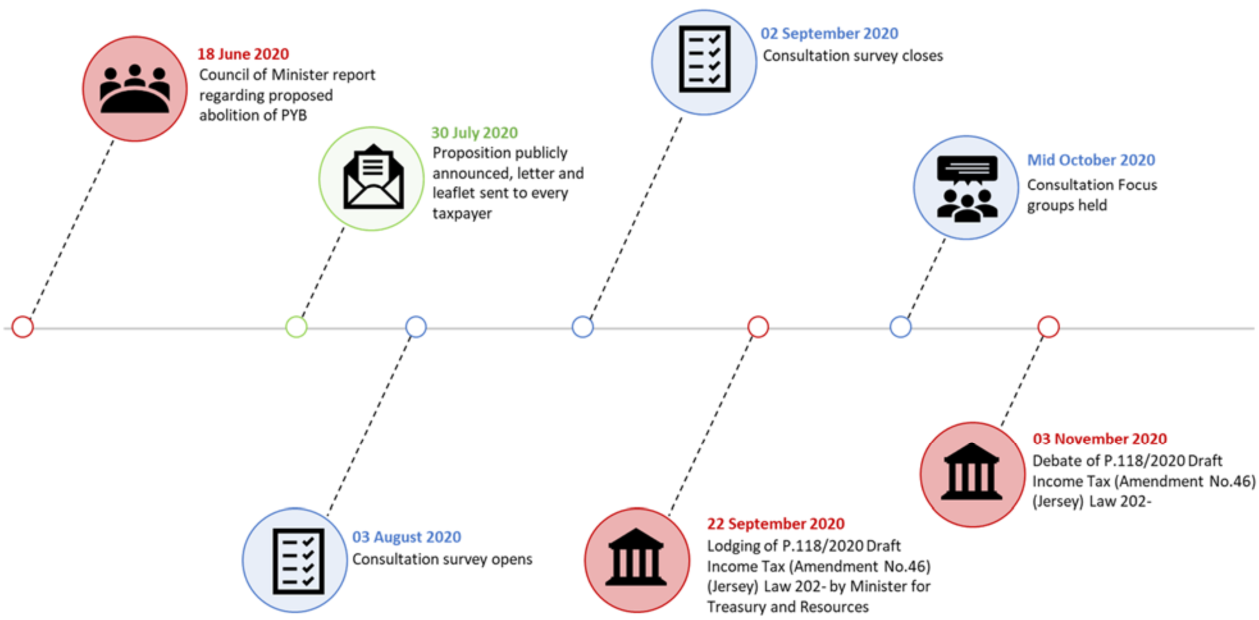
23. The advisor was engaged to:

- act as a sounding board on the PYB taxation reform proposal relevant to the Panel's work;
- expose the Panel to the full range of views available relating to the Panels' work;
- study the evidence gathered by the Panel and advise on quality, limitations and appropriate use of research carried out by, or on behalf of the Panel;
- brief the Panel in advance of the Public Hearings;
- advise on specific issues and problems, as requested, by the Panel relating to its work;
- provide guidance to the Panel on the preparation of its report and any recommendations arising from the review.

Conflict of Interest

24. Connétable Karen Shenton-Stone declared an interest, in that Mr. Ben Shenton, who was a witness at an evidence session held by the Panel, is her brother.

Figure 1 - Timeline of Key decisions leading to the lodging of the Prior Year Basis Tax Reform proposition



5. The Proposition

25. The Proposition - P.118/2020: Draft Income Tax (Amendment No 46) (Jersey) Law 202- (the Amendment) is split into two parts:

Stage 1

26. The Proposition to amend the Income Tax (Jersey) Law 1961 was lodged by the Minister for Treasury and Resources on 22 September 2020.

27. The draft Law contained the legislative measures required to remove the PYB of paying personal income tax and moving all taxpayers on to a current year basis (the 'CYB') from 2020.

28. The proposal report (the Proposal Report) indicated that the Amendment Law needs to be realised before the 16 November 2020 to enable the 30 November 2020 payment to be deferred.

29. In order to provide some assurance to the States Assembly about payment options the Minister committed to publish the draft Regulations before the amendment to the law is debated on 3 November 2020.

30. In addition, the ITL Amendment Law contains a separate safeguard to ensure that a move to CYB does not come into effect without Regulations on the payment of the 2019 liability being passed.

31. Human Rights notes on the Draft Income Tax (Amendment No.46) (Jersey) Law 202- were provided by the Law Officers' department as an appendix to the report. The draft Law, in amending a scheme of taxation provided for in the 1961 Law, has the potential to engage Article 1 of the First Protocol to the ECHR, which provides certain protections for the property of the individual, however, the second paragraph to that protocol provides that the right to property does not in any way impair the right of the States to secure payment of taxes.

32. The Proposition report laid out a perceived range of short- and longer-term benefits of moving to CYB which will be considered in this report.

Stage Two

33. The establishment of the Regulations which would set out the 2019 liability payment terms. The Regulations are required to be made by the States Assembly by 31 March 2021.

34. The principle that the Amendment could be considered by the States Assembly without the Regulations that would impact two thirds of taxpayers was difficult for the Panel Advisor to reconcile in her report[4].The Panel advisor was concerned that:

"By allowing for the Regulations on payment to be made separately to the proposal as it stands leaves an empty space where the most crucial element of the reform sit – how and when taxpayers will be required to make good the additional liability placed on them."

[4] Rebecca Benneyworth Report - the implications of the proposal to move Prior Year Basis Jersey Taxpayers onto a Current Year Basis of Taxation

35. In the Panel public hearing on the 16 October 2020 the Assistant Minister for Treasury and Resources when asked about the Regulations status confirmed:

> *"We want to listen to what your review says, what Islanders have to say about it, but we will not be crystallising a debt at the point that if the States approve this proposal the debt is crystallised at the end of that framework period."*

Key Finding 1

The Amendment to the Income Tax Law 1961 (the Amendment), if adopted by the States Assembly on the 3 November 2020, will enable the reconfiguration of the payment on account dates and the I.T.I.S effective rate for Prior Year Basis Taxpayers (PYB taxpayers) and suspend their 2019 tax liability. The Amendment, if adopted, will also transfer the payments made towards 2019 tax ability by PYB taxpayers against their 2020 liability and allow for the creation of Regulations by the States Assembly that would set out the payment terms for the 2019 liability, The Regulations would need to be agreed by the States Assembly by the 31 March 2021.

Key Finding 2

The principle that the Amendment could be considered without Regulations is difficult to understand given the significant impact for two-thirds of taxpayers.

Key Finding 3

The Minister for Treasury and Resources has confirmed that the Amendment is intended to act as a fiscal stimulus measure for islanders who have suffered throughout the COVID-19 pandemic. However, the proposed Government Plan 2021-24 (P130/2020) appears to contradict this intention by indicating that the Amendment will raise revenue to cover COVID-19 pandemic costs.

Key Finding 4

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Recommendation 1

The Minister for Treasury and Resources must provide the full Regulations to the States Assembly prior to the Amendment to the Income Tax Law 1961 being considered.

Recommendation 2

The report published by the Minister for Treasury and Resources on the 30 October 2020 does address some of the recommendations put forward by the Panel. However, the report does not provide an answer to a number of the other recommendations laid out in the Panel report including:

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- The changes in circumstances of an individual in relation to payment structure over the term of the agreement;
- The impact of other taxation and social security measures;
- Consequences from a public finance, manpower, systems and economic perspective.

The Minister for Treasury and Resources should back up her latest report by sharing the focus group information with the States Assembly in order that informed decisions can be reached in relation to the Regulations.

Petition

36. A petition was launched on 31 July 2020 by a member of the public, Mr Ben Shenton, calling for a write off of income tax liability for prior year basis taxpayers if moved to current year basis. As of 23 October 2020, this petition had received 5,665 signatures.

37. The Panel invited Mr Shenton to a public hearing to discuss the petition and relevant matters; this was held 1 October 2020.

38. In the public hearing, Mr Shenton highlighted a key reason for launching his petition was, in his view, the misleading manner in which the proposition was being communicated:

    "I am a member of the Chartered Institute of Securities and Investment and you have to take an ethics qualification to get your fellow status. Certainly, if my firm operated in such a misleading manner over investments as the Income Tax Department were operating in the sale of this proposal to the public, I would have certainly been either heavily fined and/or certainly been sanctioned over it. So, I saw the best way of dealing with this was through the petition route."

39. Mr Shenton went on to argue that if there were mixed motives of introducing the reforms that the status quo should continue:

    "It is saying if you want to change it to current year because it is so efficient and international standards and best practice, then write off the prior year. But if you do not want to change it to current year then leave it as it is. I do not think any of the taxpayers, which is a significant number, have ever asked you or asked the government to move them on to current year, I do not think anyone would have asked them to say: "I would like to pay 2 years' tax at once."

40. Mr Shenton suggested that the financial impact on taxpayers would likely be negative, whereas the impact on public finances would be minimal:

"Everyone got a leaflet, and, for example, it says that if you pay on account it will not really affect you. Well, it will affect you if you are a pensioner paying on account. You could end up with a much higher tax bill just as your care fees start kicking in because, as we all know, you have got to pay your first, around about, £50,000 in care bills before the long-term care commitment falls in."

"The actual impact on the government finances will not be great in terms of the one hit because we are still bringing in the tax revenue. Everyone is still paying I.T.I.S. (Income Tax Instalment System). Everyone will carry on paying I.T.I.S. By writing it off all you are doing is basically saying that the money that you may get in the future will be written off but that depends on how desperate you are to move to a current year basis. If you are desperate to move to a current year basis you may say we will write that money off but you are not going to affect the tax take for this year, you are not going to affect the tax take for next year apart from a very small amount. So basically, a lot of people if they stay taxpayers until they die, they settle up out of their estates after they die, so that is when they catch up basically. That is a very good time to catch up because when you are dead you do not need much money. I mean they could have brought a proposition that we are going to write off 2019 but it will be payable from your estate when you die on the basis that is when those people settle"

41. A public comment by the Minister to the petition was presented on 26 August 2020 reaffirming the Minister for Treasury and Resources' position that the Government was not in a position to write off the liability, and that doing so would be unfair to former Prior Year Basis taxpayers who have already paid off their liability and Current Year Basis taxpayers.

42. An in-committee debate held in the States Assembly on 20 October 2020 contained many of the points and arguments that are reflected within this report.

Government Consultation

PYB Tax Reform Survey

41. As previously mentioned, a public consultation taxpayer survey was undertaken from the 3 August 2020 until 2 September 2020 in relation to the proposal. Taxpayers were asked to provide feedback via an online format or a paper copy. Translations of the survey were available at Parish Halls and the Jersey Library.

Figure 2 - Public Consultation – Government Survey

Prior Year Basis Taxpayer – Questions

Are you familiar with the proposed changes to the tax status of Islanders who pay their tax based on previous-year earnings?

- o Yes – take me to the survey
- o No – tell me more

Your Circumstances

You should have received a letter from the Treasury and Resources Minister confirming whether you are PYB or Current Year Basis (CYB)

Which of these situations applies to you?

- o I pay tax based in my current year's income
- o I pay tax based on my previous year's income
- o I am unaware of my tax position

Have you experienced a reduction in your income this year either as a result of coronavirus or other circumstances?

- o Yes
- o No
- o Would prefer not to say

Prior Year Basis (PYB)

Do you think the Law Amendment should be made?

- o Yes
- o No
- o Unsure/don't mind

Payment Plan Options

Please outline the following payment terms in order based on your preference (1-6)

- o Require an affordability test
- o 10 years of quarterly payments
- o 10 years of monthly payments
- o 5 years of monthly payments
- o 5 years of quarterly payments
- o One lump sum payment by January 2023

Do you think people should be offered a financial incentive for paying by lump sum?

- o Yes
- o No
- o Unsure

Do you think people who take longer than 10 years to pay should pay interest?

- o Yes

- o No
- o Unsure

Do you have any comments/suggestions about the PYB payment options?
[Open text field]

Further opportunity for discussion

Would you like to participate in a focus group or workshop to help us design the PYB payment customer experience?

- o Yes
- o No

PYB Tax Reform Survey Findings Report

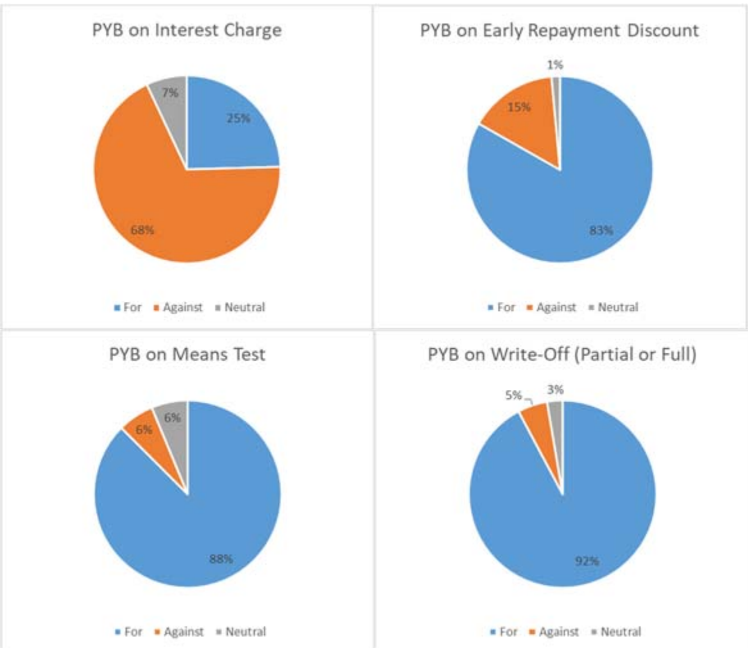
42. In total 1,791 PYB taxpayers responded to the survey. 37 additional islanders were not aware of their tax status and 312 were CYB taxpayers.

43. 609 (35%) PYB taxpayers who took part in the survey confirmed they had been adversely affected financially by COVID-19. 79 (25%) CYB taxpayers who took part in the survey confirmed that have been adversely affected financially by COVID-19.

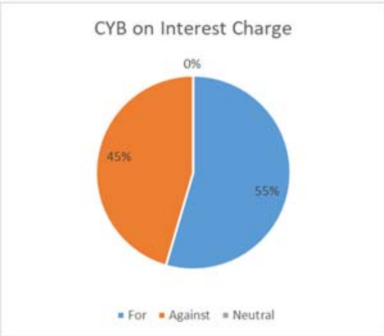
44. 965 (53%) PYB taxpayers responded in favour of the Amendment. 254 (81%) CYB taxpayers responded in favour of the Amendment.

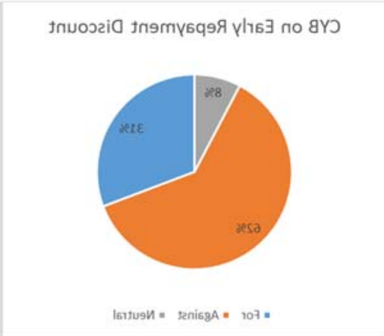
45. 71% of PYB taxpayers responded with a request for a 5-10-year payment commitment.

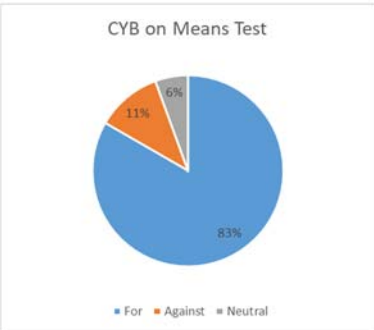
46. PYB Sentiment:
    - Early Repayment Discount - majority support (83% for)
    - Interest Charge - majority oppose (68% against)
    - Write-Off (Partial or Full) - near unanimous support (92%)
    - Means Test - vast majority support (88% for)

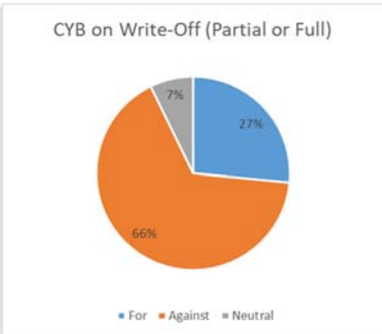


47. CYB Sentiment
- Early Repayment Discount - majority oppose (62% against)
- Interest Charge – 55% for, 45% against
- Write-Off (Partial or Full) - majority oppose (66% against)
- Means test - vast majority oppose (83% against)









48. There were more than 1,400 free text comments:

49. Five most mentioned PYB topics were:

- Write-Off (partial or Full) - 544 mentions
- Early Repayment Discount - 169 mentions
- Remain on PYB/Pay at Retirement - 127 mentions
- Miscellaneous comments - 97 mentions
- Disagrees with Premise (Not Stimulus) -95 mentions

50. Five most mentioned CYB topics were:

- Write-Off (Partial or Full) - 85 mentions
- Requests More Info/Figures - 35 mentions
- Mentions Policy for CYB Taxpayers - 26 mentions
- Agrees with Move to CYB - 18 mentions
- Miscellaneous - 14 mentions

51. Examples of questions and topics raised in free text:

Means Test

"I agree that people who wish to take longer than 10 years should be required to meet affordability criteria."

"I believe this should be based on the current year income affordability test."

"There needs to be some working examples on how the affordability test would be worked out."

Income reduction during repayment

"If people retire or have no job in 2023 how are they expected to pay their 2019 tax bill?"

Remain on PYB/Pay at Retirement

"This is entirely the wrong time to introduce such a radical restructure of the tax system."

"Why not let PYB die a natural death?"

"I totally oppose this suggestion to change the Tax system. it has worked perfectly well previously and see no benefit for the tax-payer in these changes."

Give Choice to Remain on PYB

"There must be an opt out option and allow those who have planned their futures based on how the currently work to continue to do so."

Larger One-Off Payments

"I would like to be able to pay more now and then if I could afford it, to get it paid off quicker."

Unfair having to pay back earlier

"I think it's very unfair that those on PYB are expected to pay back a year's tax bill before they would normally need to."

Requests More Info/Figures

"Insufficient information provided in order for decision to be made."

Proposal is Unaffordable

"Financially will be very hard to meet these criteria as already paying over 12k a year. "People has commitments, and, on my case, I support my mother in Madeira and every month is around 400 to 500 pounds. She is 78 and with a lot of health problems."

"I'm on income support and this money can be the difference between eating or not. I cannot afford to pay anymore out. I physically don't have the money to stretch anymore on bills. We already going without."

Disagrees with Premise (Not Stimulus)

"This is being sold as a way of freeing up cash now to help with the burden of the current pandemic, when in reality you are putting more financial pressure on islanders to pay off a significant amount of money in a short period."

"Government are issuing a £100 voucher to boost the economy next month. What effect on the economy will having each tax-payer paying an extra £?? Per month for 5 to 10 years, meaning each individual will have less spare income in their picket"

Add to I.T.I.S Rate

"Would like it repaid through my I.T.I.S payments so it's taken off of me before I even see the money."

"Increase a person's I.T.I.S rate by between 1 to 5% a year in order to repay the tax over an agreed number of years (up to 10)"

Mentions Policy for CYB Taxpayers

"As a CYB, I am finding it very unfair that PYB are being allowed any relief. What is going to be done for CYB? I have paid mine and is currently up to date. Why should I suffer, and others don't?"

Mentions policy for Pensioners

"What about the people who are retiring before 2023 when payment is due for 2023, how do you expect pensioners to pay the current tax and outstanding tax for 2023!"

"Retired people with no income other than pension / property should be allowed to have the balance cleared from their estate, rather than have the pressure in their final years to pay this amount over which they have no control."

Issue of Those Leaving Jersey

"During the period of payback, a substantial number of taxpayers will be leaving the island as part of the normal churn of people coming to live here. What steps will Revenue be taking to ensure that their PYB and CYB tax bills are paid in full before they leave? At present a substantial number default each year."

52. Given the short timeframe, respondents were self-selected rather than being demographically selected. Conclusions drawn from the survey were acknowledged to relate only to survey participants and cannot be relied upon to be representative of the wider population.

53. The Panel was not provided with the raw data from the survey.

Focus Groups

54. The Proposition report detailed that customer focus groups would be completed in November to help inform the work to finalise the payment plan Regulations.

55. The Minister for Treasury and Resources advised the Panel in a public hearing on 16 October 2020 that the customer focus groups were being completed that month.

56. The Panel were advised in a letter from the Minister for Treasury and Resources that the focus group discussion points would include:
    - Regulations
    - Payment Scheme Provisions

- Customer Journey
- Possible Income and Payment Scenarios

57. The Panel and the Minister for Treasury and Resources have not received the focus group reports prior to the release of this report and are unable to analyse the outcome.

Public Consultation – Codes of Practice

58. It is confirmed on the gov.je website that all significant States of Jersey consultations should aim to follow the approved codes of practice. The codes of practice state that:

    - Consultation is based on the principle that people affected by a decision should be involved in the decision-making process. It is an exchange of views, which aims to identify issues, develop or change policies, test proposals or evaluate provision.
    - Consultation should only happen if change is possible. Public participation includes the expectation that people's contribution will influence the outcome, so only consult if there is scope for change.
    - Match the scale and type of consultation to its potential impact. In some cases, there may be no need to consult, depending on the issue, and whether interested groups have already been engaged in the policy-making process. The emphasis is on understanding the effects of a proposal and focusing on real engagement with key groups rather than following a set process.
    - Given enough time and relevant information to engage meaningfully. People need to be able to give intelligent consideration to the proposals. Significant public consultations should normally last for at least eight weeks (excluding major holiday periods) and twelve weeks where appropriate.
    - Engage early giving people more opportunity to influence the outcome. Be forthcoming with information unless there's a compelling reason not to. Be open about areas where decisions have effectively been taken already.
    - Use accessible methods, formats and words that are suitable for the people whose views you want. Take account of ethnic composition, language, disabilities, literacy levels, and cultural norms.
    - Objectively analysis. Information and views gathered during consultation must be assessed objectively.
    - Publish the data and the outcome. Publish data from the consultation online as soon as possible. Within a reasonable timeframe, give respondents clear feedback on the consultation outcome and how the consultative process affected the decision.

59. In answers to survey questions raised at the Corporate Services Scrutiny Panel public hearing on the 16 October 2020 the Minister for Treasury and Resources advised:

    "We did a month's worth of consultation. We had feedback from the survey, which I think the Scrutiny Panel has had access to. We are running focus groups. I do not think more consultation is required."

Key Finding 5

The Government's public consultation on the Amendment did not meet its own Codes of Practice.

Recommendation 3

A longer and broader consultation period should be undertaken by Government especially given that the proposed Amendment will affect two-thirds of taxpayers. This would allow for more statistically significant findings and deeper qualitative understanding to be completed.

6. Impact for Prior Year Basis Taxpayers

Affordability Testing

60. The Proposition report states:

"In 2020, many Jersey household incomes have been badly affected by the coronavirus pandemic"

61. In the Panel's Public Hearing on 16th October 2020 the Panel asked the Deputy Comptroller of Revenue to clarify how many taxpayers have been directly affected by lockdown measures. The Deputy Comptroller of Revenue responded:

"…that is a very difficult question to answer because we do not have any tax returns from prior year basis taxpayers for 2020. So the best indication we have on that is the reflection in the survey of the third the Senator mentioned earlier; a third of prior year basis taxpayers who responded to the survey are in financial difficulties, albeit that that was only 2,300 who completed the survey."

62. The Panel advisor in her report suggests that the PYB taxpayers who have suffered a reduction in income are in the minority:

"Respondents to the Government survey[5] associated with the proposed changes (albeit only a small sample of taxpayers) indicated that only 32.66% overall had experienced a reduction in their income, and when replies only by confirmed PYB taxpayers are taken into account, only 34.4% said that their income had reduced. Some caution is needed: the response rate was very low indeed – only 3.6% of all Island taxpayers responded to the survey, and only 4.4% of PYB taxpayers – those directly affected by the proposals.

In addition, reviewing the most recent Index of Average Earnings Report[6] the overall position in Jersey in June 2020 was that average earnings were up by 1.1% against June 2019. By June 2020 most businesses were again operational following the COVID measures introduced in March 2020. Looking in more detail at the data in the report, it is clear that the headline figure masks some wide variations in average earnings.

Average earnings in the public sector during the period June 2019 to June 2020 increased by 3.3%. In the private sectors all sectors reported increases in excess of inflation with the exception of electricity gas and water (0% increase against inflation of 0.5%), Hotels, restaurants and bars (decrease of 10.2%) and agriculture (decrease of 11.5%). The hospitality sector will mainly employ younger workers, who are therefore likely to be taxed on a CYB and for whom this change does not offer any additional support."

Key Finding 6

The Government's survey evidence to date would suggest that PYB taxpayers who have suffered a reduction in income due to the pandemic could be in the minority.

[5] Prior Year Basis (PYB) Tax Reform Public Survey Report dated September 2020 and published by the Government of Jersey at https://www.gov.je/SiteCollectionDocuments/Tax%20and%20your%20money/R%20PYB%20Tax%20Reform%20Survey%20Findings%20Report%20-%20FINAL.pdf

[6] Index of Average Earnings June 2020 published by Statistics Jersey

Key Finding 7

The most substantial decrease in earnings due to the pandemic appears to have been in hotels, restaurants and bars (decrease of 10.2%) and agriculture (decrease of 11.5%).

As the hospitality sector employs younger workers and seasonal staff, who are likely to be taxed on a current year basis (CYB) this Amendment does not offer a direct fiscal stimulus benefit.

Recommendation 4

The Minister for Treasury and Resources should provide evidence on the number of PYB taxpayers to benefit from this fiscal stimulus measure.

Demographics

63. Figure 3 below (provided by Revenue Jersey to the Panel) confirms the age range of those PYB affected and the estimated tax liability for 2019 in relation to PYB taxpayers.

64. From the data provided in columns 1 to 4, the Panel's Advisor has made the calculation in column 5 'the average accelerated tax to pay' based on the total estimated 2019 liability shown in column 4 and the number of PYB taxpayers in the second column.

Figure 3 - Public Consultation – Government Survey

Age range	Number of PYB taxpayers	Proportion of taxpayers in that age range	Estimated 2019 liability £'000		Average additional tax to pay £
20-29	109	9.7%	429		3,935.78
30-39	3,094	55.0%	23,430		7,572.72
40-49	6,574	77.0%	75,240		11,445.09
50-59	8,439	86.0%	106,920		12,669.75
60-69	6,350	96.0%	69,630		10,965.35
70-79	3,760	100.0%	33,000		8,776.60
80-89	2,059	100.0%	16,170		7,853.33
90-99	606	100.0%	4,950		8,168.32
100+	28	100.0%	99		3,535.71
unknown	81		132		1,629.63

65. The Panel Advisor having considered this data in her report [7]highlights that if those in the 40-49 planned for additional tax they would probably be expecting to commence paying additional tax from age 60. So, the extra £11,445 that they will have to pay under the proposals will fall ten years earlier than they had planned for. It is likely that

[7] Rebecca Benneyworth – The Implications of the Proposal to a move Prior Year Basis Jersey Taxpayers on to a Current Year Basis of Taxation

payment of this additional liability coincides with supporting children while at school or university."

66. The Panel Advisor in her report also considered the scenario of a family with teenage children and a mortgage, who earn a reasonable wage, but have very significant outgoings, in paying their mortgage and supporting their children, who are imminently to attend university and confirms*:*

"If we assume that they are typical taxpayers in the 40-49 age range but are not in the range of "top earners" so life is a day to day struggle financially. They are trying to put some money aside to support their elder child's university education, but some months this is not possible. The failure of a major domestic appliance such as a washing machine represents a real 'nightmare event'.

Using the average potential 2019 tax liability calculated but applying an adjustment factor to exclude the highest earning households who distort the average it is possible to estimate the likely tax liability falling on the household. The adjustment factor is derived from the calculation of Median Equivalised Household income last performed by Statistics Jersey in 2014/15[8]*. This is published by household type. It is reasonable to assume that the spread of income between the mean (arithmetic average) and the median (mid-point on the distribution of incomes) has not altered materially.*

The mean household income before housing costs in 2014/15 was £860. using the amount before housing costs as that is more likely to be representative of the taxable income. The median equivalised weekly household income for a couple with at least one dependent child is £720, so the liability calculated above for this age range - £11,445 – adjusted for these (i.e. divided by £860 and multiplied by £720) gives is £9,582, which is a good approximation for the liability in respect of 2019 tax. This equates over ten years to £958, or £80 per month. There is little doubt that this amount would place enormous financial pressure on a couple in this position."

67. Several submissions made to the Panel supports this concern:

"Our concerns on this area are those of the consequences that could occur to the disposable incomes that parents will have to cover maintenance (and depending on the U.K. fees too) shortfalls."[9]

"We would request that there be no change and that we continue on a prior year basis. Adding further tax payments at any stage over the next 10-15 years will compromise our quality of life and support of our children."[10]

"I have been working full time since 1998 and have always paid my tax demand in arrears and never faulted. My salary has gone up over time through changes in job and promotions.

I am 40 years old with 2 children and separated from my spouse 7 years ago. I own a home and have a mortgage of 26 years left. I don't have any loans and stick to a budget each month which is tight and is getting tighter. I contribute 10% of my income into a private pension.

[8] Included in Earnings and income statistics published online at https://www.gov.je/Government/JerseyInFigures/EmploymentEarnings/Pages/EarningsIncomeStatistics.aspx#anchor-6 using data produced by Statistics Jersey
[9] Email submission to the Panel dated 17 September 2020
[10] Email submission to the Panel dated 12 September 2020

I have always been under the impression that my tax liability will be a burden when I choose to retire. I have also factored that into my chosen retirement age and pension provisions when that time comes. When I am of retirement age I will no longer be paying a mortgage and my children would have left school and therefore my disposable income will be far higher.

At this present moment in time, as a middle earner with maximum outgoings I simply can't afford the extra £80-£160 per month for a 5-10-year period AT THIS TIME. I choose not to have any loans to this point.

Given the age group of earners who this will impact I suspect that I am not the only one in this financial position but the majority of this group in fact will be in the same boat."[11]

I am happy to pay my tax arrears -under the legacy terms I signed up to which was to pay the last year's tax when I retire. I will then have a healthy pension pot or accumulated savings which I would have accounted for as part of my final years earnings tax liability."

Key Finding 8

For some PYB taxpayers the payment will come many years earlier than they had planned. It is likely that the proposed payment of this additional liability for these PYB taxpayers will coincide with other significant commitments (supporting family commitments and paying mortgages) and is highly likely to be when monthly outgoings are tight against income and savings are low.

Recommendation 5

The Regulations in relation to payment of the 2019 liability should make provision for PYB taxpayers who have already carried out longer term financial planning, and as far as possible allow those taxpayers to make payment consistent with the plans they have in place.

Payment on Account Taxpayers

Pensioners

68. The Panel asked several questions about the effect of the proposed PYB changes to Pensioners at the public hearing with the Minister for Treasury and Resources on the 16 October 2020. The Deputy Comptroller of Revenue confirmed to the Corporate Panel that:

"…the biggest part of the debt on retirement is the last year of income where in your first year of retirement you are catching up on that from a lower income. So, the normal position is that people would be given roughly 2 years to pay that and many of them have already paid it in advance. Some people, a small number, do approach the Comptroller for payment arrangements but over the course of retirement most people have paid off that big sum. They will of course always have some prior year liability because pensioners are on prior year basis itself, but they do not have that big lump sum from the last year of income. Very few are still owing that at the time of death."

69. Written submissions sent to the Panel advised:

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[11] Email submission to the Panel dated 14 September 2020

"Without doubt, the proposed changes will negatively impact our future lifestyle and enjoyment of retirement. Our financial planning is based on PYB tax. Spending on what we term luxuries, meals out, golf, yoga etc. will have to change. The extra tax burden during the catchup period will have to come from our non-essential spend. After paying PYB for 45 years, I am naturally angry with the proposed change and its likely impact on our retirement."[12]

"As it stands, I will pay income tax until death (if pensions warrant it) with my estate paying the additional year"

70. The Panel advisor reports[13] highlights that the removal of the November 2020 payment on account would provide pensioners with some financial relief. However, the resulting crystallisation of the 2019 tax liability as a consequence of the change imposes additional tax liabilities for many years on those on largely fixed incomes. No suggestion as to how these taxpayers will meet those liabilities has been put forward, and it is likely that taxpayers in this position will be forced to sell assets (including income bearing assets intended to support them during their retirement) to meet the liability."

71. Other written submissions received from current PYB taxpayers confirm their plans in relation to pension payments:

"We are aware of the "bump" in liability that is generated by one's last year of working, whilst in one's first year of retirement. Personally, we are preparing to save a little in our last 20 years of working to flatten this "bump" out."

"I manage my household finances and plan for the future as do many others. My mortgage ends 4 years before my official retirement age. I had planned that this 4-year period is where I would start to overpay my income tax to clear the difference between tax payable on my salary and my pension. Many seem to think you have to pay off a whole year from nothing, you don't, it is only the difference you need to make up to avoid a high I.T.I.S rate the year after retirement."

Key Finding 9

Some retired PYB taxpayers already have established payment arrangements in place with Revenue Jersey to settle final prior year basis tax payment in a structured format.

Key Finding 10

Some retired PYB taxpayers will only be able to pay their final prior year basis tax payment from their estate.

Key Finding 11

Some PYB taxpayers are proactively making plans to repay the final prior year basis tax liability prior to retirement based around their other commitments.

[12] Email submission to the Panel dated 28 September 2020
[13] Rebecca Benneyworth – The implications of the Proposal to move prior year basis jersey taxpayers on to a current year basis of taxation

Recommendation 6

Revenue Jersey should maintain established payment on account agreements with retired taxpayers in relation to their final prior year basis tax payment. The agreement terms should not be changed unless agreed between the retired taxpayer and Revenue Jersey. The retired payment on account taxpayer should be able to take advantage of the fiscal stimulus break, if adopted by the States Assembly, in November 2020 as required.

Recommendation 7

The Minister for Treasury and Resources should carefully consider the Regulations for retired taxpayers who had intended to cover their outstanding tax liability from their estate. Regulations should not require retired taxpayers to sell primary assets.

Recommendation 8

The Minister for Treasury and Resources should recognise the impact of payment plans on an individual taxpayers' personal financial commitments and deliver Regulations which enable them to repay the liability whilst still being able to maintain personal commitments. Specific consideration should be given to supporting taxpayers with children, caring commitments to elderly relatives, and mortgages.

Self Employed

72. When considering the effect of the proposition for the Self Employed the Proposition Report confirms that:

> *"Self-employed people who have faced a down-turn in business during 2020 and who may still be in a recovering position through 2021. Without this proposal, many of these people could be faced with a potentially large 2019 balancing payment in November 2020."*

73. The Panel advisor agrees in her report when looking solely at the proposal to cancel the November tax payments due for payment by self-employed PYB taxpayers, this is undoubtedly a fiscal stimulus measure. The advisor notes that it is impossible to consider that aspect of the proposals alone. The proposals involve 'freezing' the 2019 tax liability for PYB taxpayers and collecting this by a method yet to be specified, but likely to involve payments over a five to ten-year period.

74. The following illustrations, prepared by the Panel Advisor, are intended to aid understanding of the practical effect of the change on self-employed taxpayers and their tax payments.

75. In most cases illustrating the impact of the change on a particular set of circumstances by bar charts showing the tax payments under PYB and CYB in different colours.

Illustration 1
Prepared by the Panel Advisor the following three diagrams have been prepared to illustrate the impact for PYB self-employed taxpayers of the transition to the CYB. With income that is broadly level, there is no real change in the tax payments, apart from the omission of the November 2020 payment.

Figure 4 - Current tax payment dates for PYB self-employed taxpayer

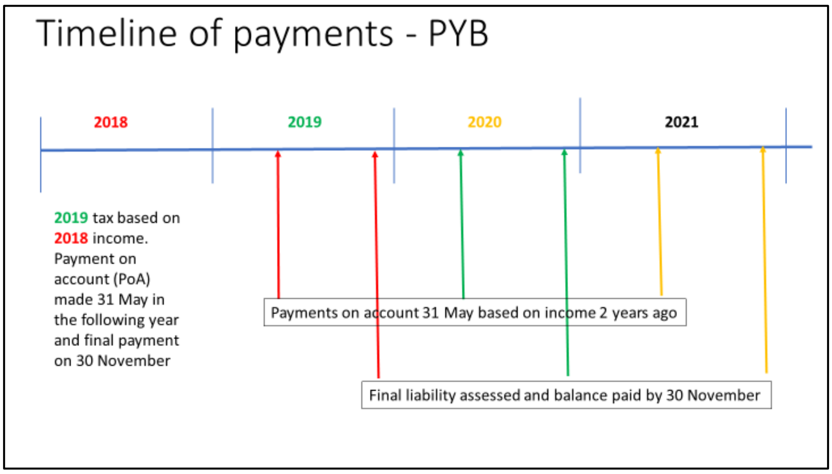


Figure 5 - Tax payment dates for PYB self-employed taxpayers during transition to CYB

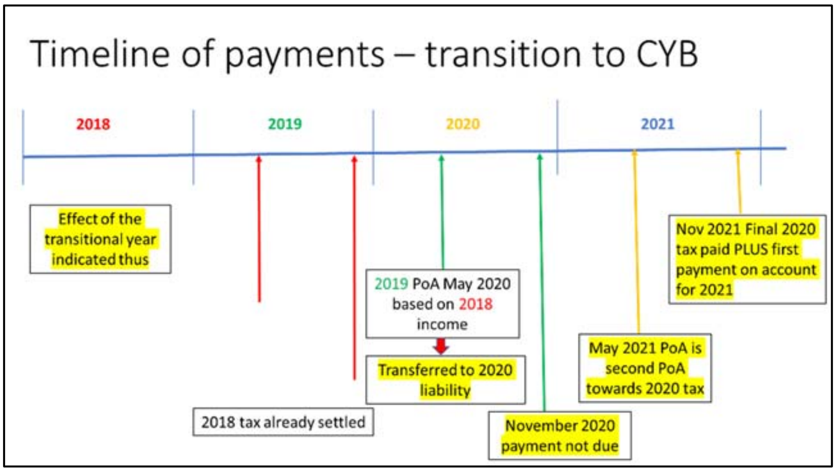


Figure 6 - Tax payment dates for new CYB self-employed taxpayer after change

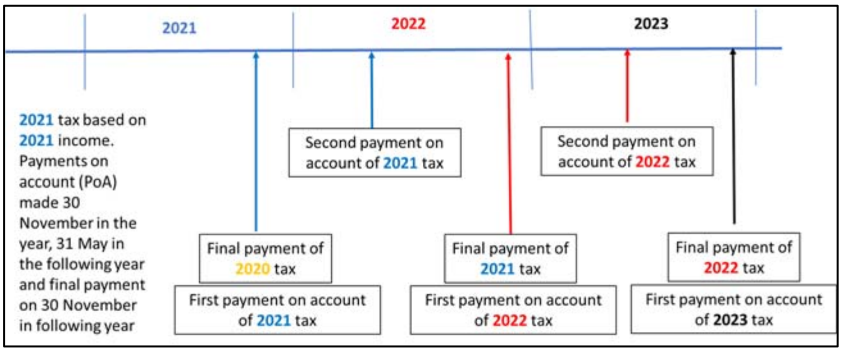


Illustration 2
Numerical tax payments to show the effect on a self-employed individual, Peter, of the changes. I have included several scenarios to illustrate how the change will affect him and his tax payments.

Scenario 1

Peter's income for the last few years is such that his tax payments do not vary and amount to £4,000 a year. During the transition to CYB, this will be his experience.

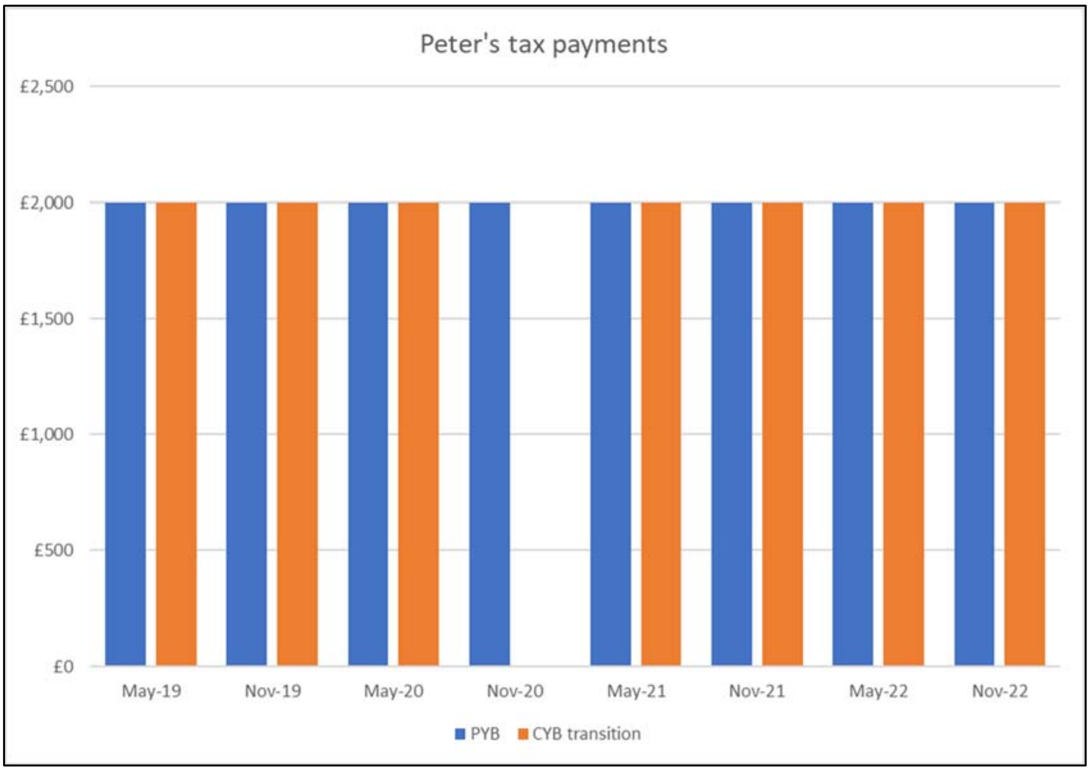
Under PYB Peter has paid:

- £2,000 in May 2019 against his 2018 liability
- £2,000 in November 2019 against his 2018 liability
- £2,000 in May 2020 against his 2019 liability – now to be reallocated to 2020

During the transition he will pay:

- £0 in November 2020
- £2,000 in May 2021 (second Payment on Account for 2020)
- £2,000 in November 2021 – his first Payment on Account against his 2021 liability

Figure 7A - Peter's tax payments comparing PYB with transition to CYB Assuming steady income



Peter will continue to make Payment on Account and final payments in May and November and will see no change to these regular payments until he starts to pay off his 2019 liability. If spread over 5 years this will increase his regular payments to £2,400 each time. If spread over 10 years, the payments will be £2,200 each.

Scenario 2 – Rising income

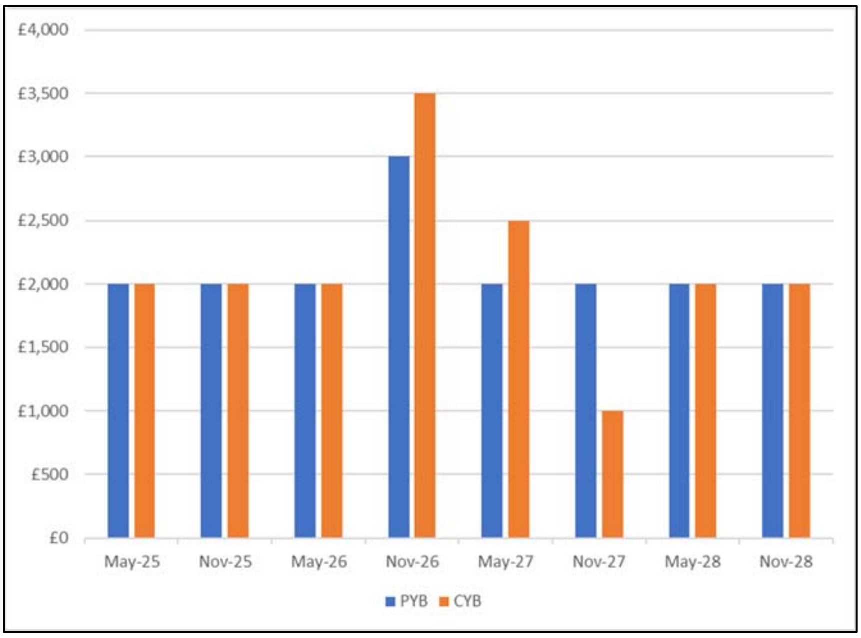
Because the Payment of Account are based on the previous year's income, when income rises this pushed a disproportionate rise into the November payments, partly to make up the shortfall for the current year, but also due to a higher payment on account for the following tax year.

Peter's income rises, such that his tax liability in 2025 increases to £5,000. Assume that his income in the surrounding years produces a £4,000 tax liability.

Under PYB he would have paid £2,000 in May 2026 as his first payment on account, followed by £3,000 in November 2026 to finalise his liability.

Under CYB he will have paid £2,000 in November 2025, a further £2,000 in May 2026 and then be due to pay £1,000 final payment the following November, plus a payment on account of £2,500, bringing the payment due in November 2026 to £3,500.

Figure 7B - Peter's tax payments comparing PYB with CYB assuming increased income



This is a particular issue in the UK, where a self-employed taxpayer pays tax on a CYB. Their experience of the tax increases when their income rises can prove very challenging to meet, and they need plenty of advance notice to plan for these tax payments.

If a self-employed taxpayer has had a better year than the previous year it is important to prioritise their tax return so that they can get a final tax figure as soon as possible – ideally in April or May (the first two months of the following tax year) so that they have maximum time to plan for the payment due the following January.

The pattern of tax payment in relation to the tax year is similar in Jersey to that in the UK, so this does emphasise that assessments need to be completed as quickly as possible when returns have been filed in order for the system to work as intended. Assessments completed in November leave less than a month for self-employed taxpayers to assemble the necessary payment. A consequence of the move to the

CYB is that the November payment can be significantly higher than under PYB when income increases."

Scenario 3 - When income reduces

Under the CYB the impact of a reduction in income shows earlier in the tax payments. However, the early recognition of the reduction depends on the taxpayer or his/her agent filing the tax return early to obtain the benefit more quickly or applying for a reduction in payments on account as provided for by the Draft Amendment[14].

This is also the experience in the UK where fluctuating income (a marked feature of self-employment) makes it very difficult for those with low incomes to plan for their tax payments unless their self-assessments are completed well in advance. A year with very little income followed by a return to success will require payment of 1½ years tax on one date (November after the year of return to normal) which taxpayers are unlikely to be able to fund in a short time frame.

Peter (above) has very low income in 2025, so owes no tax for that year. In both the preceding and the following tax year his liability is £4,000.

Under the PYB Peter will pay tax in 2025 of £2,000 in May followed by £2,000 in November in respect of his Year 2024 liability. This characterises the difficulty with the PYB in that taxpayers who see a drop in income but do not benefit from the drop in tax payments until later. If he manages to file his return for year 2025 early in 2026 he will pay no tax in year 2026. If filed after the May payment is due, he will make a payment and then potentially receive a refund when his assessment for year 2025 is complete (although refunds are not automatic). In 2027 he will pay zero in May (if he has filed his 2026 return, otherwise possibly £2,000) and either £2,000 or £4,000 in November depending on his May payment.

Under CYB rules Peter will pay £2,000 of tax in November of 2025 towards his 2025 tax bill, a further £2,000 in May of year 2026 unless he has filed his return early in which case he will be refunded £2,000. By November of year 2026 he will have had any amounts paid for 2026 refunded (assuming that refund are automatic). He will make no payment in May 2027, but then will have to find £6,000 in November 2027 being a final payment for 2026 of £4,000 and a payment on account for year 2027 of £2,000.

[14] Draft Income Tax (Amendment No. 46) (Jersey) Law 202- Article 3 inserting new Article 41AA into Income Tax (Jersey) Law 1961

Figure 7C - Peter's tax payments comparing PYB with CYB assuming decreased income and tax return filed late in permitted period

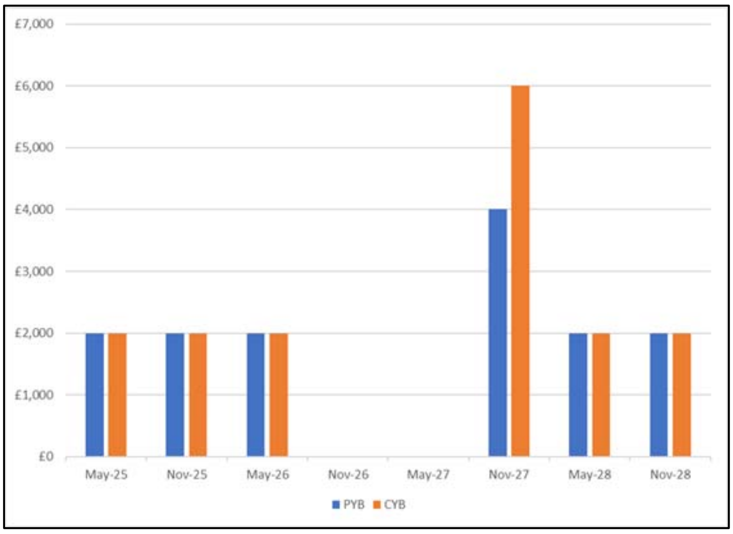
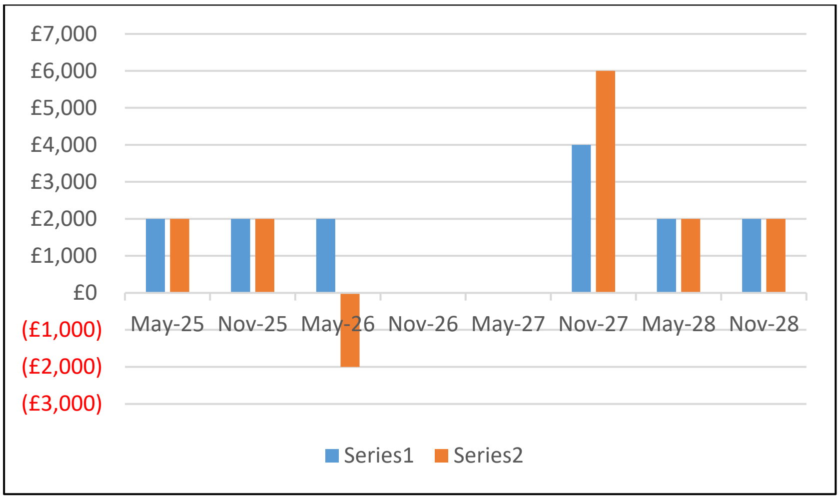


Figure 7D - Peter's tax payments comparing PYB with CYB assuming decreased income and tax return filed early in permitted period



For most PYB taxpayers it is fair to observe that although they will pay tax on the same amount of income throughout their lives, freezing and collecting 2019 liabilities puts them under a great deal more financial pressure that allowing the natural decline in income (and outgoings) to give rise to a much less onerous 'catch up' payment.

Example.

Julian is self-employed. His income in 2019 was significant and gave rise to a tax liability of £20,000. He is 10 years from retirement and will reduce his hours and work rate gradually over the ten years to bring his income (and his tax liability) down by 10% a year, at which point he will draw his pension.

So, his tax liability on a PYB will arise as follows:

Tax year	Income for	Tax liability
2020	2019	£20,000
2021	2020	£18,000
2022	2021	£16,000
2023	2022	£14,000
2024	2023	£12,000
2025	2024	£10,000
2026	2025	£8,000
2027	2026	£6,000
2028	2027	£4,000
2029	2028	£2,000

His actual 'lump' tax payment on retirement is quite modest, as he has been reducing income over the period up to retirement. Freezing his 2019 liability and requiring him to pay it off over a period of time will be unlikely to be attractive to him, as he has already made plans to finance his final tax liability.

Key Finding 12

The Fiscal Stimulus measure would appear to be most beneficial to payment on account (self-employed) taxpayers who may have struggled during the pandemic. These taxpayers will not be required to make the November 2020 payment on account as this will be deferred if the proposition is adopted.

Taxing Self-employed taxpayers on a CYB basis is simpler and generally easier for them than on PYB.

To ensure the Amendment is a success for payment on account (self-employed) taxpayers to CYB status it is pivotal that they submit tax returns on time and Revenue Jersey process them quickly and accurately.

Recommendation 9

If the Amendment is adopted, the Minister for Treasury and Resources must ensure that Revenue Jersey implement suitable systems which enable payment of account (self-employed) taxpayers to be advised of their tax liabilities quickly and accurately.

Income Tax Instalment Scheme Taxpayer (I.T.I.S)

76. The other group of PYB taxpayers affected by the proposition are those islanders who are classified as PYB Income Tax Instalment Scheme Taxpayers.

    The Proposition report advises:

    ““Employed people whose income has reduced during 2020 and who may still be in a recovering position through 2021. Their I.T.I.S deductions may now not be paying off their 2019 tax bill, so they are accumulating debt to pay off later. A larger tax bill and higher I.T.I.S effective rate in 2021 can be avoided if PYB taxpayers are switched to CYB for the 2020 year of assessment.”

77. The Panel Advisor in their report on this aspect has indicated to the Panel that this aspect of the proposition fails to recognise that the proposed changes will accrue a much larger debt in respect of 2019 than the benefit due to diminished income (if indeed it has reduced). Those people will be faced with a debt equal to their full 2019 liability, rather than part of it as is the case now. The Panel advisor confirmed that for this or this group of taxpayers it would be difficult to see the benefit of the change.

78. Later, in the Panel Advisor report it was reconfirmed to the Panel that:

    “taxpayers paying under I.T.I.S will not see a marked benefit, or fiscal stimulus of the change as they will continue to pay tax each month. They cannot benefit from their I.T.I.S rate being reduced to reflect their (possibly) reduced 2020 income unless and until Revenue Jersey is aware of the level of that income. So, any perceived benefit is not automatic as the rates will only be adjusted when information (or a tax return) is delivered to the tax authority.”

79. The Proposition Report confirms:

    “All taxpayers’ 2020 tax liabilities would be finalised in 2021 following receipt of the 2020 tax return. It will be advantageous to taxpayers to file online where they can to accelerate this process”

80. The Panel Advisor has highlighted the I.T.I.S taxpayers’ journey through the following diagrams

Figure 8 - I.T.I.S taxpayer’s tax payments under PYB

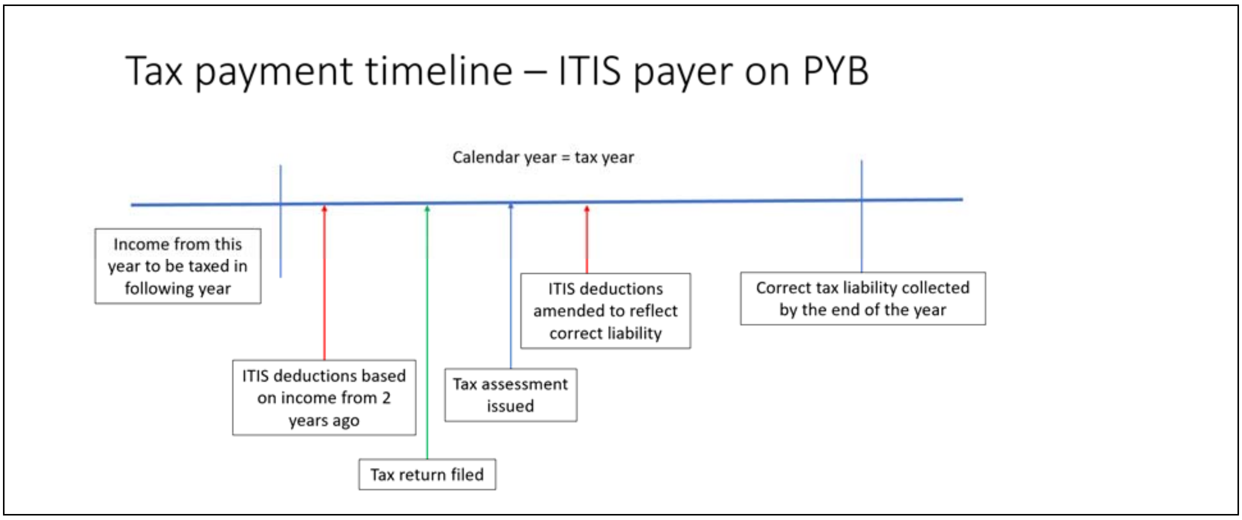
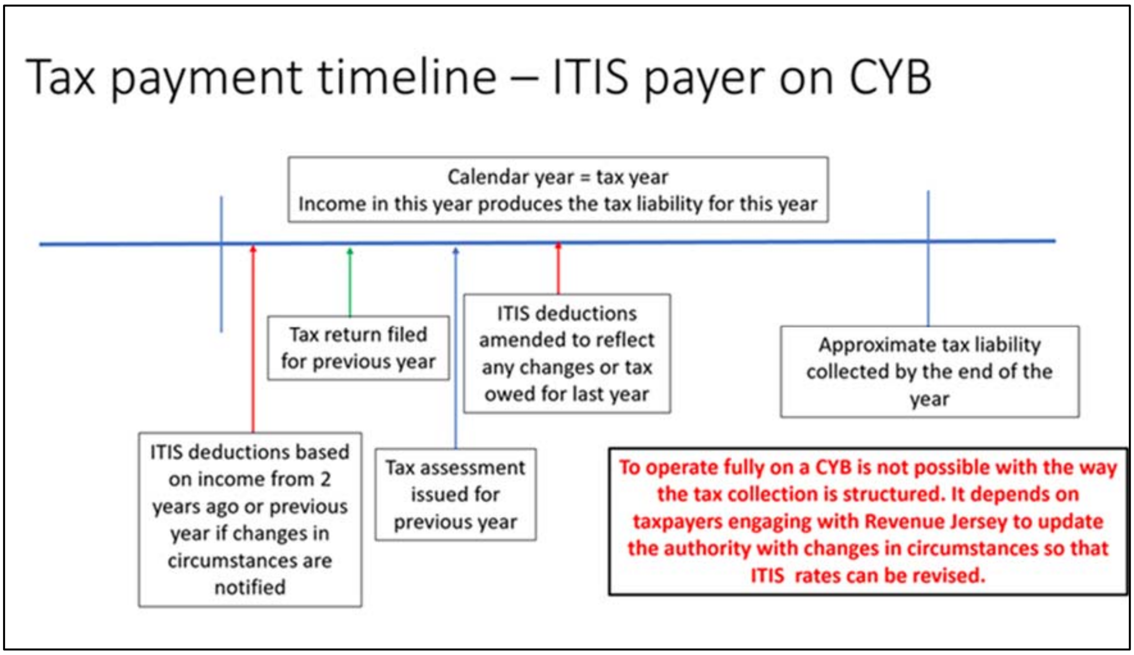


Figure 9 - I.T.I.S taxpayer's tax payments under CYB



Key Finding 13

I.T.I.S Taxpayers are unlikely to see a marked benefit of the tax reform as they will continue to pay tax each month and need to wait for assessment in 2021.

Recommendation 10

To be fair to all taxpayers if the proposed Amendment takes place, specific fiscal stimulus must be targeted to all taxpayers.

PYB Taxpayer – leaves Jersey

81. The Panel were keen to understand from the Minister for Treasury and Resources at the public hearing on the 16 October 2020 what happens when a PYB taxpayer leaves Jersey and has an outstanding tax liability. The Comptroller of Revenue confirmed:

"When an individual leaves Jersey for a jurisdiction where people immediately start paying taxes on a current year basis (such as the UK). They may often be asked to pay 2 year's taxes in one year and may default on the payments due to Jersey."

82. The Panel Advisor through their report confirmed that pursuing taxpayers who have left the island and had an outstanding tax liability under PYB would represent an administrative cost, and that it would be possible that the eventual tax liability could be difficult to collect. However, with the current proposals for CYB tax payments, there would still be a residual tax liability when a person leaves Jersey permanently, albeit a smaller one than experienced under PYB. The Panel advisor provided the following example in relation to the taxpayer who leaves the island:

Example
John, who is self-employed, leaves Jersey in August 2022 and does not intend to return. His annual tax liability has been £6,000 for many years. His income in 2022 to his date of departure produces a liability of £4,000.
Under the PYB, at the point of departure, John would owe tax for the balance of 2021 (due in November 2022) of £3,000 and for 2022 of £4,000. Revenue Jersey would then be left trying to collect £7,000 after John has left the Island.
Under the CYB, John would have paid all of his 2021 tax by May 2021, and thus would only owe his tax for 2022, an amount of £4,000.

Key Finding 14

Moving to CYB will reduce tax owned by those who leave the island. There will be residual tax liability under CYB for those historic PYB taxpayers who leave the island permanently, although it will be smaller than experienced under PYB.

Recommendation 11

The Minister for Treasury and Resources should consider Regulation terms for the residual tax liability for PYB taxpayers who leave the island permanently. Special consideration should be given to the 2019 tax liability payment in the Regulations.

Borrowing

83. The Panel were keen to understand if there were any issues likely in relation to borrowing for Prior Year Basis taxpayers due to the proposition. At the public hearing with the Minister for Treasury and Resources on the 16 October 2020, the Panel was advised by the Deputy Comptroller of Revenue that Government had:

"sought a general statement or guidance from mortgage lenders and understandably they were not in a position to do that because I suppose their lending policies are confidential and there are competitive issues in divulging that. So we have had one or 2 direct responses from individual mortgage lenders who have said that … they have answered the question in terms of they will use their normal procedures for income and expenditure judgments to kind of assess mortgages in the same way. So, I think again it is about making sure for people that the additional expenditures are managed in such a way, so they do not impact negatively on applications for mortgages. It is quite a difficult question for them to answer, I think."

84. The Panel advisor when reflecting on the above information provided by the Deputy Comptroller of Revenue confirmed to the Panel:

"Where lenders follow internationally accepted rules on affordability developed after the 2008 subprime mortgage collapse, this involved taking into account not only the gross income of the borrower(s) but also the regular outgoings from the household in an "affordability test". In the UK this results in many applicants being refused a mortgage for which the repayments are lower than the rental payments they are

currently making, as lenders are required to take very risk averse decisions based on the affordability test.

Assuming that broadly the same basis applies to lending decision in Jersey it is likely that lending decisions will be affected. It is possible that once the 2019 liabilities are known and the payment arrangements finalised, lenders will take these into account in their affordability tests even before repayments start. This will inevitably result in lower mortgage offers than can be made without this additional debt and may lead to families being unable to secure their first start on the housing ladder."

Key Finding 15

There may be an impact on the borrowing capability of PYB taxpayers if they have an outstanding 2019 tax liability.

Recommendation 12

Further analysis on the borrowing impact of the 2019 tax liability for PYB taxpayers is needed by the Minister for Treasury and Resources, including full consultation with the lending industry. The Regulations should include appropriate steps to be taken by Government to minimise any impact on mortgages and other loans to PYB taxpayers.

Married Couples – Tax Liability

85. When considering the Proposition the Panel were concerned that as this PYB reform Proposition had come before the independent taxation review this would mean that in most cases, Spouse A – the husband or older same-sex spouse is still responsible for filing tax returns and paying taxes on behalf of the couple; and couples in civil partnerships and is therefore liable for the tax liability.

86. The Panel advisor confirmed to the Panel that given that the payment terms for 2019 tax will provide for payment over an extended period of time, Spouse A would primarily be liable for the payment of the debt, the Panel Advisor also advised that due to the likelihood that couples will separate and divorce during the payment period this was a high issue which leaves Spouse A with this liability after the couple have gone their separate ways which could be perceived as unfair and may exacerbate the difficulties suffered by a family, including children in relation to a divorce.

87. The Panel Advisor recommended to the Panel that legislation requires that before a decree absolute of a marriage/civil partnership is final the presiding judge/magistrate must ensure that the 2019 tax liability has been resolved equitably, and that any ruling made by the judge be binding on the Comptroller of Revenue."

Recommendation 13

The Minister for Treasury and Resources needs to ensure that Spouse A is not disproportionately liable for the 2019 liability in the event of a divorce and in relation to the establishment of independent taxation. Regulations must provide for an equitable split of the liability.

Discounting the liability for early settlement

88. The Panel received written submission which indicated that

"some sort of discount would *encourage people to pay off the owed tax as quickly as possible. Maybe a sliding scale relating to how quickly the liability is cleared. Without this wealthy individual … will simply leave their money invested and gaining interest rather than paying off their liability"*[15]

89. The Panel Advisor also advised the Panel in her report that it would be sensible to give the option of a discount at Government cost of capital rates for early settlement of the 2019 liability, recognising that early settlement could reduce Government borrowings accordingly. The amount to be settled can be calculated on a discounted cash flow basis using an appropriate rate. Otherwise PYB taxpayers have no real incentive to settle early, which would not only benefit Government revenues but potentially significantly reduce the cost of collection of the 2019.

Key Finding 16

A discount for early settlement of the 2019 liability to PYB taxpayers could reduce Government borrowing which could be beneficial.

Recommendation 14

The Minister for Treasury and Resources should consider a discount for early settlement of the 2019 liability to assist in reducing borrowing costs for Government which may benefit the island debt.

Independent taxation in 2022

90. From 2023 (for tax year of assessment 2022 upwards), independent taxation is expected to be introduced in Jersey.

91. On the 22 September 2019 Minister for Treasury and Resources said:[16]

"Due to the impact that any sudden changes could have on Islanders, a gradual approach towards independent taxation will ensure that we do not impose any unnecessary hardship on taxpayers."

92. At a public hearing on the 14 January 2020 the Minister for Treasury and Resources said:

"It will affect around 8,300 married couple and civil partnerships in Jersey, who would have to pay up to £2,300 a year more in tax per couple" and that "many of these couples (are) single-income households in the lower income brackets."

93. At the Corporate Services Scrutiny Panel public hearing on the 16 October 2020 the Minister for Treasury and Resources confirmed:

"Independent taxation but that has always been on the cards. It has been delayed by a year because of doing the P.Y.B., C.Y.B. (current year basis), there is not the

[15] Email submission to the Panel 15 Sept 2020
[16] https://www.gov.je/News/2019/Pages/IndependentTaxProgress.aspx

resources or the time or the wherewithal to do both of them at the same stage, but we are going through that."

94. The Panel Advisor highlighted in her report that this represents a major change in the tax system and will result in many more taxpayers being added to the current population of taxpayers with consequent increases in tax administration costs and demand for already scarce resources.

95. Introducing a Current Year Basis (CYB) of taxation before the introduction of independent taxation presents a technical challenge. The current proposals are that one spouse (Spouse A – the husband or the older partner in a same-sex couple) will carry the liability for the 2019 tax debt.

96. On the introduction of independent taxation, it would be necessary to allocate the 2019 debt between the couple, but the various ways of doing so are open to challenges of unfairness by couples. Questions raised include:
    - Should it be based on the relative amount's of 2019 income?
    - Which partner should benefit from the exemptions?
    - Should it be based on the income levels when independent taxation is introduced?
    - Is an equal split fair to both?

97. In addition, the advisor was concerned that there is a real risk that each and every couple's personal circumstances will have to be considered individually to arrive at an allocation and it is possible that Revenue Jersey has the resources to undertake such an exercise.

98. Progressing the strand of modernisation of the tax system by changing the PYB basis of taxation first will make subsequent changes, and in particular the move to independent taxation of married couples and civil partners, much more difficult to implement. Various aspects under which the tax burden will increase will coincide with the planned period for recovering the 2019 tax debt from PYB taxpayers.

Key Finding 17

Introducing the Amendment before the introduction of independent taxation could present a technical challenge. The current proposition indicates that Spouse A will carry the 2019 tax liability and it is unclear how this will be split when independent taxation comes into force or how the 2019 tax liability would be split if a couple divorce prior to independent taxation being implemented.

Abolition of mortgage relief in 2025

99. From the year of assessment 2017 the interest cap is reducing by £1,500 per annum until the interest relief is remove from the year of assessment 2026.

Year	Maximum interest relief available
2017	£13,500
2018	312,000
2019	£10,500
2020	£9,000
2021	£7,500
2022	£6,000
2023	£4,500
2024	£3,000
2025	£1,500
2026	NIL

100. The Panel Advisor has confirmed "The proposal to remove mortgage interest relief from 2025 which will undoubtedly increase the tax burden on many homeowners."

Key Finding 18

Removal of mortgage interest relief from 2025 could increase the tax burden on many Prior Year Basis (PYB) homeowners at the same time as their 2019 liability becomes payable.

Recommendation 15

The Minister for Treasury and Resources should ensure that the removal of mortgage relief from 2025 does not adversely affect Prior Year Basis homeowners who have an outstanding 2019 tax liability. The Regulations should include appropriate steps to be taken by Government to relieve financial stress in this circumstance.

Social Security – Long Term Care (LTC) payments

101. The Assistant Minister for Treasury and Resources stated at the Panel public hearing on the 16 October 2020:

"there are the Social Security matters, which do not fall under Treasury's remit but if we are to make changes to the supplementation that will have knock-on effects to contribution rates of social security."

When asked by the Chair to clarify the amount the Panel were advised by the Assistant Minister for Treasury and Resources:

"I do not think we have any indication yet. It would depend on how much we wish to vary the taxpayer's contribution to the supplementation grant."

Key Finding 19

Possible increases to Social Security and Long-Term Care (LTC) supplementation payments being consider by Government would reduce income for PYB taxpayers and cause further pressure to already stretched PYB taxpayer finances during the 2019 tax liability payment period.

Recommendation 16

The Chief Minister should ensure that taxation and Social Security strategy align to the Council of Minister's Common Strategic Priorities especially in relation to putting children first and supporting Islander's wellbeing.

7. Consequences across Government

Common Strategic Priorities

102. The Common Strategic Policy sets out Ministers high-level ambitions for Jersey and contains five strategic priorities where Ministers will focus their efforts during this Ministerial cycle. Two areas of the Common Strategic policy focus on putting children first and Islander's wellbeing and the Panel looked at these in relation to the proposition. The common strategic policies state that Ministers ambition is to:

Put children first
Protect and support children, improve their educational outcomes and involve and engage children in decisions that affect their everyday lives.

Improve Islander's wellbeing and mental and physical health
Support Islanders to live healthier, active, longer lives, improve the quality of and access to mental health services, and patients, families and carers at the heart of Jersey's health and care system.

103. The Panel asked the Minister for Treasury and Resources at a public hearing on the 16 October 2020 to clarify how the Proposition aligned to the Government's strategic priority to improve Islanders' well-being and mental health. The Minister for Treasury and Resources answered:

"If I may turn that question on its head completely; it is not exposing two-thirds of Islanders to increased debt. The liability of paying your previous year's tax is there anyway. it is not something we have just introduced. You owe that amount of money to the Government coffers. So people would have to do it anyway and the reason we brought it forward by only a year is to help people, not to hinder, who may have had a drop in income in 2020 - and there is quite a considerable amount that have - as opposed to 2019. So, they would be paying 2019 tax liabilities that would be higher than what they would be expected to pay in 2021 for 2020. So, it is in order to help people who have suffered, and I think there are quite a few who have, from the pandemic."

104. When then asked by the Panel what consideration had been given in this Proposition as to how this could disproportionately affect families with children and, therefore, not comply with the Government's strategic priority of putting children first, the Minister for Treasury and Resources replied:

"most of the P.Y.B. taxpayers are not in that bracket because C.Y.B. was introduced in 2006, so 14 years ago. So most of the younger generation - being careful about age discrimination here - will be on current year basis tax anyway. So, it is the older ones in the 40 to 49 and 50 to 59 who will be affected by this."

The Panel Chair (Senator K.L. Moore) then highlighted:

"we have had a number of submissions from families whose children are about to go to university in the very period when they will be requested to pay the tax. That additional liability at an expensive point in their lives and they still have mortgages to pay as well as their child going to university, or maybe more than one child, is causing financial stress and concern about this proposal."

The Minister for Treasury and Resources responded:

"I understand that, but what we have to get clear here is this is not an additional tax. It is a liability that people have from a prior year and if you are looking at current year basis taxpayers they would be paying that anyway. So, people with children and mortgages will be paying that out of their earnings currently."

Government Plan

105. When considering the proposal in relation to the Government Plan the Panel looked to the Tax Policy principles which state that taxation should be:

Fair & Sustainable

- Taxation must be necessary, justifiable and sustainable
- Taxes should be low, broad, simple and fair
- Everyone should make an appropriate contribution to the cost of providing services, while those on the lowest income should be protected

Support broader Government policy

- Taxes must be internationally competitive
- Taxation should support economic, environmental and social policy

Efficient and effective

- Taxes should be easy to implement, administer and comply with, at a reasonable cost
- No individual tax measure will meet all these principles but overall, the Island's tax regime should represent a suitable balance of them.

106. In the Government Plan 2020-23 it also states that the tax priority is to modernise the islands personal income tax system, in particular to address the historical imbalance that exists in the tax treatment of married women and people in same sex relationships.

107. It also mentions that Government will consider the options to bring all taxpayers into a current year basis.

Key Finding 20

The Government Plan 2020-23 indicates that the priority was to modernise the islands personal income tax system, and this would commence with independent taxation.

Key Finding 21

Tax policy principles in the Government Plan confirm that changes should be fair, sustainable, support broader Government policy and be effective and efficient.

Recommendation 17

The Minister for Treasury and Resources should clarify the number of PYB taxpayers with children affected by this change and consider the impact on those taxpayers' ability to support their children through to graduation from university.

Recommendation 18

Prior to the Amendment being debated, the Minister for Treasury and Resources should confirm to the States Assembly how many current year basis taxpayers have been affected by the pandemic and how this change is fair and equitable to the taxpayers who will receive no benefit from this fiscal stimulus measure.

COVID-19 – Fiscal Stimulus

108. The Proposition Report confirms that the PYB review was accelerated in the light of the coronavirus (COVID-19) pandemic, in order to provide a short-term cash boost to those most financially affected by the Government's lockdown measures.

109. The Comptroller for Revenue is quoted[17] as stating that the value of the stimulus in the current year will be between £18 million and £20 million.

110. The Panel adviser confirms in her report that based on the responses to the Government Survey, it is likely that around £10 million of that benefit will be bestowed on taxpayers who have seen no reduction in their income as a result of the pandemic. In addition, taxpayers currently taxed on a current year basis will not receive any support from this measure.

111. In contrast, when payments start, the anticipated sum drawn back from affected taxpayers will be in the order of £330 million which, if spread over ten years, will cost those taxpayers £33 million a year, significantly more than the amount of relief given in the current year. It is fair to say that taxpayers' personal finances may be in a better state by the time payments start, but it is difficult to see how, taken as a package the proposal can be seen as either a fiscal stimulus or relief for taxpayers.

112. The proposal's aim for the change to act as a fiscal stimulus to support PYB taxpayers affected by the pandemic does not stand up to detailed analysis.

Manpower and Systems

113. The Panel on conducting its review looked to consider the implications on manpower and systems due to the proposed changes in tax reform. A written Submission to the Panel highlighted:

> *"Revenue Jersey are already involved in a huge change program (the new online computer system) and suffering staffing issues. To take on another major project like prior year basis whilst Covid-19 is and will be affecting operations for at least another 12-18 months looks extremely unwise."*[18]

> *"to that end I tried to phone the department but after 15 mins on hold I decided life's too short so I would e mail them which is what they want. I duly mailed them and immediately received a computer generated message explaining*

[17] https://www.bailiwickexpress.com/jsy/news/plans-scrap-prior-year-tax-paying-system/#.X4v9atBKjD4
[18] Written response to the Panel 14 September 2020

what a tough time they were having due to coronavirus, after a month had elapsed I mailed them again to remind them that I hadn't had a reply ,I received another computer message, 11 weeks from my original email I still have not had a reply …"[19]

114. The Panel Advisor when reflecting on this aspect with the Panel has confirmed that the move from a PYB to a CYB makes the work of Revenue Jersey no different in that assessments have to be raised and issued each year, and where payments are not made according to the due date the arrears chased. This will happen each tax year, irrespective of the basis of taxation. However, to the extent that Revenue Jersey has a backlog of assessments to raise, (Current estimates at 21,000) the transition to the current year basis will put additional pressure on the Department to get up to date, although as noted below, there will be a little 'breathing space' as a result of not needing to finalise 2019 assessments immediately. Compliance work is also unaffected, as that activity is independent of the basis on which income is taxed.

115. The Panel Advisor then goes on to explain in their report that to a certain extent, deferring the 2019 liability will release pressure on the department as it allows for the outstanding returns for that year to be "shelved" pending informing taxpayers of their deferred liability, so in one sense the proposed changes takes the pressure off the Department. But it is essential that all assessments are resolved as quickly as possible so that taxpayers can get up to date. But to look in more depth, the timing of the returns and assessment process needs to be considered in detail to establish whether the change is sustainable in the context of current output of the Revenue Department.

116. The point of a CYB is to enable taxpayers to be up to date with their tax affairs. If assessments are delayed, then the system defaults to a PYB in the absence of assessments being raised as early in the year as possible. The ability of Revenue Jersey to raise assessments very quickly in the first half of 2021 is crucial to the success of the change.

117. The current backlog of assessments relating to 2019 is 21,000 (as at 18 September 2020)[20]. By the end of October 2016, 59,721 assessments had been raised, against "just under" 40,000 by 18 September 2020. It is clear that the Department will have an enormous struggle to complete all of the assessments as promised by Christmas. Deferring the 2019 liability to an as yet unspecified date allows these uncompleted tax assessments to be put aside until the 2019 tax goes into collection. But of course, if resources remain limited, this is only storing up the problem for the future.

118. The Panel Advisor concludes:

"The impact of the change to a CYB has minimal practical impact on the work of the tax authority. However, if the CYB is to work as intended, the speed of turning around assessments is a crucial aspect of this."

"That careful consideration and evaluation is undertaken of the ability of Revenue Jersey to issue assessments within the required time period commensurate with all CYB taxpayers being able to settle their known liabilities at the appropriate due date"

[19] Email to the Panel on 18 August 2020
[20] Written response to Panel by the Minister for Treasury and Resources dated 7 October 2020

Key Finding 22

Revenue Jersey is under pressure, as evidenced through delayed turnaround times of current assessments and delayed answers to taxpayer queries. The Amendment will require the Revenue Jersey team to implement further changes to systems and procedures to ensure success during a pandemic crisis.

Recommendation 19

The Minister for Treasury and Resources must ensure that Revenue Jersey is properly resourced and adequately trained to implement this Amendment to ensure that employee welfare is a priority. A suitable strategy which includes measures to monitor staff wellbeing should be shared with the Corporate Services Scrutiny Panel for consideration.

Preparation for the switch to CYB in the UK

119. The Panel Advisor in her report confirms that the proposals for the change to the system of assessing profits on a preceding year basis in the UK were included in a consultation document in August 1991, which was at the start of the Inland Revenue's 'Change programme', which although nominally intended to last until 2002 seems to be a permanent feature of the UK tax administration system. The document was entitled 'A simpler system for taxing the self-employed', carrying the theme that CYB would be simpler than PYB.

120. The Panel advisor then goes on to explain that this was followed in 1992 by a second consultation which went further. It was entitled 'A simpler system for assessing personal tax' and included proposed changes to introduce self-assessment for many taxpayers, making the project much larger than had originally been intended, but offering the then Inland Revenue an escape from the annual task of raising assessments (whether estimated in the absence of a return or final based on the return submitted).

121. Indeed, it was widely regarded at the time that the move to the CYB for the self-employed could only be achieved by introducing self-assessment alongside the change, so that the system effectively operated out with the tax authority who were then charged with compliance work on returns submitted and investigating those in the hidden economy. The term still used is 'file now, check later'. The burden of entering data from self-assessment returns into the computer system reduced as more taxpayers took to submitting online.

122. The Panel Advisor stated in her report that in the UK for income tax a self-assessment is a declaration of taxable income together with claims for deductions and reliefs, and not a calculated tax figure. Those who submit online using HMRC's provided software or third-party commercial software have a tax figure generated as part of preparing the return. Those who submit on paper are only guaranteed to be advised of their tax liability in time to pay if the return is submitted by 31 October. There is a penalty for submitting paper returns after this date unless it is a special case that HMRC's computer systems cannot deal with.

123. The Panel advisor also confirmed in her report that by 1994 the move had commenced by requiring all newly self-employed individuals to pay tax on the CYB. The move for established self-employed people came through (as planned) in 1996/97 when self-assessment commenced. The Inland Revenue produced an audio tape and a 10-

minute video to introduce the new system to the public. The Panel Advisor personally spent around 3 years teaching accountants from all over the UK how the new system would work in advance of the commencement. 1996/97 was the transitional year for established self-employed taxpayers where profits were averaged so that one year fell out of charge to tax, depending on the accounting date.

124. It also appears in the Panel Advisor report that during the development of the self-assessment system an independent board chaired by Lord (Patrick) Carter developed the 'Carter Principle' which established that HMRC should never roll out new computer systems unless they had been tested successfully for at least 6 months.[21]

125. The Panel advisor also confirmed that HMRC now takes a much longer view in rolling out new systems, with the Making Tax Digital project under way in the UK which started work in the summer of 2015, publicly announced in December 2015 and for which the first phase went live in April 2019. Additional phases will commence in 2022 and 2023 with the final phase in around 2025. Time has been spent analysing 'lessons learned' from the first phase to inform the next stages of implementation. The Panel's Advisor serves as an independent adviser on the main project board, ensuring that the needs of individual taxpayers, the self-employed, small businesses and small firms of accountants are properly considered in the development of systems.

126. In summary the Panel Advisor confirmed that the move to the current year basis in the UK is widely recognised as a simplifying measure. The proposals were put forward as "simpler and fairer". It is suspected that not many commentators in the UK would regard them as particularly fairer than what went before, but it would be hard to find anyone to argue with the statement that it was a major simplification.

Online filing

127. The Panel Advisor in her review is keen to encourage online filing as a key aspect of improving tax administration. The Panel Advisor confirmed there are mentions of this in the information provided, but it is an important aspect of the CYB as it allows timely information on their liabilities to be provided to taxpayers with reduced manpower. In the UK this has taken many years. Online filing was open to individuals in 2002 for the first time. Before that, professional accountants and tax advisers were able to file their clients return online from 1998 by enrolling in a specially commissioned private network known as the Electronic Lodgement Service.

128. In 2002 76,287[22] UK individuals filed their 2000/01 returns online, out of 9 million. A further 343,009 were filed online by accountants, bringing the percentage filed online to 4.66%. There was clearly work to be done to meet the 2005 target of 50% of returns filed online. In addition, in January 2002 as the filing deadline approached, the servers struggled to cope with the number of returns being filed and rejected returns as it had reached capacity. In more modern times, HMRC has backup servers available to cover failures in IT, which is a very expensive measure, but the Department has struggled to convince taxpayers to file earlier in the year, despite significant advertising campaigns.

[21] Annex A to report on online filing published with Budget 2007 papers by HM Treasury https://www.legislation.gov.uk/ukia/2007/37/pdfs/ukia_20070037_en.pdf Para A22
[22] BBC News article 3 February 2003 http://news.bbc.co.uk/1/hi/business/2721743.stm

129. In 2003 324,710[23] UK individuals filed their 2001/02 return online by the due date, with a further 364,625 filed by accountants, bringing the percentage filed online to 7.66%. By 2007, when online filing had reached around one third of returns, it was proposed that the period for filing returns on paper be reduced to seven months[23], bringing it forward to 31 October. This was intended to push taxpayers who leave returns until the last minute into filing online.

Table – Recent online filing of tax returns in the UK

Tax Year	Due date	% Filed online
2014/15	31 Jan 2016	89.00%
2015/16	31 Jan 2017	88.6%
2016/17	31 Jan 2018	92.8%
2017/18	31 Jan 2019	93.5%
2018/19	31 Jan 2020	93.95%

Online filing in Jersey

130. The current rate of online filing in Jersey is 31%. For the benefits of certainty regarding the tax position and for the workload on Revenue Jersey (which is clearly under severe strain) to reduce, the Panel Advisor would recommend that there is need for a major push for online filing of returns. Setting an earlier due date for returns filed on paper was successful in the UK, and this may well be worth considering.

Key Finding 23

There has been a 31% uptake in online filing of tax returns in Jersey, this is well behind the UK rate of 93.5% and this will affect the ability of Revenue Jersey to turn around tax returns which could cause delays.

Recommendation 20

The Minister for Treasury and Resources should provide a strategy to the States Assembly confirming how an increased take up for online filing of tax returns will be achieved.

Anticipated changes to implement the proposals

131. The Panel Advisor provided the following example of a project plan to highlight the possible implementation programme for Revenue Jersey.

Figure 10 – Example Project Plan for implementing PYB Taxpayer

Change required	Comments
Freeze and isolate all 2019 liabilities and remove from taxpayer accounts on the IT system.	This may require new 'from scratch' programming as this will not have been anticipated in the building of the tax delivery architecture. It will need to automatically distinguish between CYB and PYB taxpayers.

[23] Report on online filing published with 2007 Budget papers by HM Treasury https://www.legislation.gov.uk/ukia/2007/37/pdfs/ukia_20070037_en.pdf

Ensure that all 2018 assessments have been finalised and are in collection.	This is probably a manual requirement with associated resource issues.
Reallocate payments (both I.T.I.S and Payment on Account) from 2019 and apply to 2020 liabilities.	This will require new systems to be written and tested as it is very unlikely that moving payments in bulk would have been anticipated when the system was developed. The new system will need to distinguish between CYB and PYB taxpayers in order to treat payments separately.
Notify Payment on Account taxpayers that there is no liability to pay in November 2020 and that their next payment will be due in May 2021.	There will be resource implications of this, including additional taxpayer contact.
Once agreed and legislated for, create the liability structure for payment of the 2019 liabilities and notify to taxpayers (in the meantime complete all remaining assessments for 2019)	This may entail a great deal of contact time with taxpayers, whether on the telephone, in person or in writing and email. There are resource implications in ‘catching up’ the 2019 assessments incomplete as at 2020.
The mechanism for dealing with affordability tests will need to be developed alongside the payment plan.	Depending on how this is structured, it may require annual contact from those taxpayers likely to be affected by affordability issues. It is not expected that the award of an extended period to pay would be based on a single year’s income, but rather that it would be revisited regularly to ensure fairness to all taxpayers.
From 1 January 2021 make rapid progress on 2020 assessments.	For Payment on Account taxpayers it should be possible for all returns delivered by 31 March to be dealt with in time to revise the Payment on Account due on 31 May. Taxpayers in this position will then know what their tax payments will be on both 31 May and 30 November. This could act as an incentive to file early.
Carry out a wide publicity campaign explaining why, under the new CYB, it will be important to file tax returns as early as possible, and online wherever possible	This will need to be repeated for several years (such a campaign is still running in the UK some 23 years after the start of self-assessment). If this is successful, it will place even more pressure on Revenue Jersey to deliver when taxpayers have played their part.

8. Economy

Anticipated impact on the Jersey economy

132. The Panel advisor highlighted in her report that "It is without question that withdrawing £330m from taxpayers' disposable incomes, whether over a 5-year period or a 10-year period will impact the economy."

133. The Panel advisor then highlighted some of the sectors on which she considers will most likely be impacted:

Housing market

134. Lending decisions could be affected. It is possible that once the 2019 liabilities are known and the payment arrangements finalised, lenders could take these into account in their affordability tests even before payments start. This could inevitably result in lower mortgage offers than can be made without this additional debt and may lead to families being unable to secure their first start on the housing ladder.

135. Whether it leads to a fall in house prices will depend on how many islanders are affected, but it will undoubtedly affect the ability of islanders to enter the housing market if there is no overall downward price adjustment.

Restaurants and leisure activities

136. With reduced disposable income the Panel advisor felt it was likely that discretionary spending will be reduced, with the expenditure being diverted to repay the tax debt for 2019. Although the payment period is proposed to be delayed until recovery from the pandemic is well under way, this sector has been particularly hard hit by the pandemic and will suffer a further and possibly prolonged downturn as a result of the tax debt created by the proposals.

Private education

137. The Panel also felt that parents who are just about meeting the cost of private education may feel that their only option to repay the tax debt would be to take children out of private schools and return them to the state sector. This would cause hardship and disruption to the children affected, and also a contraction in the sector.

Pension saving

138. The Panel Advisor also felt in her report that some taxpayers will regard saving for a private pension as an element of discretionary spending and therefore cease their pension savings in order to repay the tax debt. This would have financial consequences far into the future.

139. The Panel Advisor concluded that It was not clear that in putting forward the proposal due consideration has been given to the potential impact on the wider Jersey economy of the payment proposals.

140. When the Panel asked about the economic advice which had been received by treasury in relation to the impact of the payment will have on the local economy at the public hearing on the 16th October 2020. The Treasurer of the States replied:

"We have been working with the chief economic adviser. We have not gone to an outside organisation to ask for economic advice."

141. The Deputy Comptroller of Revenue then advised the Panel:

"That if the Minister did not make this proposition then it would have an impact on people immediately. If their incomes are dropping and their I.T.I.S. effective rates are going to go up next year, that is an immediate downside. That is also part of the equation that we are trying to take into consideration. The hope is that by the time people start to repay the debt the economy will be in a better position for them."

Key Finding 24

There could be economic impacts to consider in terms of a reduction in spend from PYB taxpayers in the longer term which would result in changes to the housing market, disposable income and pension savings.

Key Finding 25

If the Minister does not make this proposition, then I.T.I.S taxpayers who have seen their income drop in 2020 may see their effective rates rise in 2021

Recommendation 21

The Minister for Treasury and Resources should provide clarification on the advice which has been received from economic advisors in relation to the longer-term impact on the economy of this Amendment prior to it being debated.

9. Conclusion

142. The Prior Year Tax Basis tax reform has been mooted for a number of years. The Minister for Treasury and Resources has accelerated their proposed introduction at a time that the Assembly has been asked to make many important decisions in a short space of time.

143. The tax reform runs the risk of detrimentally impacting many islanders by the forced payment of the 2019 liability over a time period that they had not taken into account whilst planning their long-term finances.

144. There are implications to manpower and procedures of Revenue Jersey, which may lead to of lesser quality of service and administration unless training and technical systems are updated flawlessly.

145. Although the updated report published by the Minister for Treasury and Resources on the 29 October 2020 does consider certain concerns raised in this report the Panel's recommendations remain pertinent and will help to ensure that the reform is successful should proposition P.118/2020 be accepted by the assembly.

10. Appendix

Corporate Services Scrutiny Panel Members

Senator Kristina Moore – Chair

Deputy Steve Ahier – Vice Chair

Deputy Jess Perchard

Connétable Karen Shenton-Stone

Connétable Richard Vibert

Advisor
Rebecca Benneyworth – MBE BSc FCA

Qualified accountant after studying Mathematics at university. Main businesses (for the last 30 years) is as a lecturer, writer and consultant on a variety of taxes. Lecturing extensively throughout the UK, to accountants, business people and also to HMRC and HM Treasury. Has own accountancy practice based in Gloucestershire, with a variety of small business and personal tax clients. During the last two years this has become a 100% digital practice. This direct practical exposure to businesses and taxpayers is essential to my variety of roles as it gives me a clear understanding of the needs of taxpayers and the impact of the tax system on them.

Served as Chair of the Tax Faculty of the ICAEW, and now serve on the Tax Faculty Board. ICAEW council member for the West of England, sitting on the ICAEW Technical Strategy Board for 4 years (two of them as deputy Chair) and was awarded an MBE for services to the tax profession in 2012.

Experience with Government and Tax authorities

Involved in the transition to Self-Assessment in the UK, and the related move from the preceding year basis to the current year basis in 1996 to 1998, lecturing to accountants throughout the UK on the changes and how to action them with their clients.

Presented a number of training sessions for HMRC and HM Treasury explaining the impact of recent tax changes on businesses and the likely practical outcomes. Frequently attend meetings with policy makers in HMRC and HM Treasury to assist with gaining insight into how proposals might work in practice and met with Ministers periodically on important tax issues. Given evidence in person to committees of both the House of Commons and the House of Lords, predominantly on the subject of the proposals for Making Tax Digital and the potential impact on businesses.

Chair of the HMRC Digital Advisory Group, providing help and support to HMRC in understanding the challenges that Making Tax Digital presents to small businesses and their advisers. My group worked closely with HMRC in the run up to the publication of the consultation documents in 2015 and made a formal response to the consultations. Also sit on the HMRC Making Tax Digital Programme Board as an external adviser.

Member of the Admin Burdens Advisory Board, an independent advisory group to HMRC monitoring the burdens the tax system imposes on small businesses, meeting quarterly to examine HMRC systems and practices and making recommendations on these, ultimately reporting to the Minister.

Involved in consultations led by the Office for Tax Simplification and attended a variety of workshops and meetings on tax simplification.

Editor of Tax Adviser magazine (the journal of the Chartered Institute of Taxation) for two years. Published guides on the Construction Industry Tax deduction scheme, small business tax issues and a variety of other topics. Editor of Tolley's Taxwise, a comprehensive guide to all aspects of tax computations in the UK and have served in other editorial posts and contributed to a wide range of tax publications.

Advisors Report

Rebecca's report can be found on the review's page on the States Assembly website.

Terms of Reference

1. To conduct detailed scrutiny of the proposals set out in the Council of Minister's propositions lodged by the Minister of Treasury and Resources:

    a) To assess overall appropriateness and deliverability against strategic priorities.
    b) To consider any disparities between the Minister's statement within the Government Plan 2020 – 2023 versus the proposals.
    c) To ensure the proposals meet the criteria as set out in the Government Plan 2020-2023.

2. To consider the implications of the proposals on public finances:

    a) How possible deficits could affect the State's Finances.
    b) To review the impact, if any, of late tax returns and their effect, if any, on the CYB income process.
    c) To review the States costings [when available] and to consider the fiscal soundness of the proposals and their potential impacts on the lack of revenue.

3. To consider fairness and transparency:

    a) To consider the consultation process and information provided to taxpayers.
    b) To ensure the proposals simplify the tax system and make it fair and equitable.
    c) To analyse how the payment of tax arrears will affect the taxpayer and ensure the impact of the proposals on the taxpayer have been fully taken into account.
    d) To ensure the views of key stakeholders are captured and taken into account during the review.

4. To consider payment of 2019 PYB Income tax:

    a) To analyse payment terms and what "possible" interest free means.
    b) To review what minimal interest means and how this will be calculated.
    c) To consider any potential economic impact of the payment proposals.

5. To consider administration and process:

    a) To review if the Minister has taken other changes to the tax system into account which may affect household income (Independent taxation in 2022, abolition of mortgage relief in 2025).
    b) To have a clear understanding of the proposed changes to the Departmental systems and any contingency plans the Department has in place, should there be any delays or unexpected complications.

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