STATES OF JERSEY

GOODS AND SERVICES TAX: EXEMPTION OR ZERO-RATING FOR FOODSTUFFS AND DOMESTIC ENERGY

Lodged au Greffe on 17th June 2008
by the Deputy of Grouville

STATES GREFFE

PROPOSITION

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

(a) to refer to their Act dated 13th May 2005 in which they approved the introduction of a broad-based Goods and Services Tax (GST) at a rate of 3% fixed for 3 years and to their Act dated 18th April 2007 in which they approved the Draft Goods and Services Tax (Jersey) Law 200-, and to agree to vary those decisions in order to exempt or zero rate the following items –

(i) foodstuffs in line with United Kingdom Value Added Tax arrangements as set out in the Appendix; and

(ii) domestic energy,

and to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation to give effect to the decision; and

(b) to request the Minister for Treasury and Resources to bring forward for approval progressive taxation measures to restore the revenue foregone under paragraph (a).

DEPUTY OF GROUVILLE

REPORT

The Goods and Services Tax has now been introduced; after a great deal of debate, GST is now in place. So why revisit the subject of exemptions now?

I have always supported exempting a range of essential items from GST. However, the Assembly did not support those proposals, which originally included such items as medical products and services, children's clothing, education fees, child care costs and books and newspapers.

Since the Assembly made those decisions however, the world's economy is in a very different state to that which it was – even 6 months ago.

Oil prices – and consequently all energy costs – have sky-rocketed.

And because the production of food is energy-intensive, the cost of food has likewise risen dramatically.

Because of the dramatic increases in energy and food costs, I believe it would be quite wrong, indeed foolhardy, to maintain a tax on food and domestic energy consumption. I am limiting the proposed exemptions or zero-ratings to these 2 commodities because people have to eat– and they have to heat their homes.

There can be no arguing other than that people must avoid hypothermia and malnutrition.

It is difficult to overstate the disturbing scale of the increase in oil prices. In around 6 years, crude oil has increased in price from around US$20 per barrel – to a recent peak of over US$135 per barrel.

Oil prices have fallen away a little from this peak. At the time of writing this report, the price of Brent crude is US$126.16 per barrel. I don't believe either that high oil prices are a mere spike or in some kind of economic bubble.

The experts don't think so either. One such expert is Argun Murti of Goldman Sachs, as quoted by the BBC on 7th May, his opinion reads as follows –

> ***"Price of crude oil could soar to $200 a barrel in as little as six months, as supply continues to struggle to meet demand" a report has warned."***
>
> ***"Goldman Sachs energy strategist Argun Murti made the warning as benchmark US light crude passed the $123 mark for the first time."***
>
> ***"Surging demand was increasingly likely to create a "super-spike" past $200 in six months-to-two years' time, he said. Oil prices have now risen by 25% in the last four months and 400% since 2001."***

When the above-quoted story was published, oil hitting a price of US$123 per barrel was considered to be a seismic event. Yet a matter of weeks later, oil prices exceeded $135 per barrel. Although there has been a slight drop from that price-point – and there will, undoubtedly, continue to be fluctuations – the medium and long-term trend is set.

Oil has seen a 25% increase in cost in a 4 month period– and a 400% increase over 7 years.

This market data of recent times reveals the price of oil has fluctuated – hitting highs, then declining somewhat – but the overall trend in oil costs are set to rise and keep on rising.

And the dramatically increasing price of oil is hitting the production of food. On 29th May 2008, the BBC reported on food costs and I reproduce 2 quotes from that article here–

> ***"In its annual Outlook report, the FAO (the UN Food and Agriculture Organisation) predicted beef and pork prices might be 20% higher by 2017, wheat could be up to 60% more expensive and the cost***

of vegetable oils might rise by 80%. World prices for wheat, maize and oilseed crops doubled between 2005 and 2007, and while the FAO expects these prices to fall, the decline may be slower than after previous spikes.”

> ***“As well as key factors such as weather, supply and demand and energy costs, speculators are also to blame for making commodity prices more volatile, the FAO says.”***

But these views of the UN Food and Agriculture Organisation are regarded with great scepticism by some commentators. The same BBC article went on to say –

> ***“But even then, its (the FAO’s) outlook may be too conservative”, says BBC international development correspondent David Loyn, “since predicting future oil prices is a near-impossible task.”***
>
> ***“One key assumption made is that crude oil prices will peak at $104 a barrel by 2017” says our correspondent. But as he points out, the price is already well above that, and some reputable analysts are now predicting oil will go to $200 a barrel.***
>
> ***And he added that while there may be a drop in food prices in coming years, “there is a sting in the tail”.***
>
> ***“Prices will level off at a far higher average level than seen before the crisis erupted” he said. “The long era of cheap food is over.”***

“The long era of cheap food is over”.

The fact of huge increases in energy and food costs, places, in my opinion, a very different complexion on the issue of whether we should tax food and domestic energy. Whilst it may have seemed to some that not exempting these items would make GST a more “efficient” tax – we now face dramatically altered circumstances. And only people with their heads in the sand would stick with a decision which was no longer compatible with a significantly different set of issues.

When originally writing this report and proposition, the food exemption or zero-rating I proposed was for basic foodstuffs. However, since lodging the first version, I have spoken with major food retailers who have explained that they would find it complex and challenging to work with an exemption that only encompassed basic foodstuffs. It would also appear that the Treasury has difficulty in alighting on a ready workable set of definitions.

It is plain that if we are to exempt food – by far the simplest and least bureaucratic method would be to use the definitions already established in the United Kingdom VAT system. Whilst it will be claimed that VAT is an unusual and complex system, the fact remains that the definitions have been established and refined in the UK.

It is also plain that food retailers in Jersey could use, with minimal difficulty, the business systems and coding which handle VAT food exemptions, as these are already established in till and stock systems.

I have deliberately not included all energy costs as we need to actively look to ‘greener’ measures for other energy consumption. I have therefore just limited the proposition to domestic energy.

Foodstuffs and domestic energy are inescapable purchases. The cost of these 2 commodities is rising astronomically. The question we should ask ourselves as a responsible Government is should we, the States of Jersey, still be adding a new taxation burden on top of these huge price-rises, and thus be making an already deeply difficult situation even worse for ordinary people? The answer to that question has got to be ‘no’.

Part (b) of the proposition requests that the Minster for Treasury and Resources bring forward for approval alternative, progressive, tax measures in order to recover the revenues forgone. Any number of taxes could fulfil this role, for example, land value tax, wind-fall taxes on commercial property speculation or recovering the lost revenue by reducing Social Security supplementation by the same amount, and recovering this loss by closing social security avoidance loopholes.

Financial and manpower implications

There will be some additional administrative costs – but as was demonstrated convincingly by Scrutiny, claims of excessive administration cost associated with exemptions or zero-rating were grossly over-stated.

There will also obviously be the taxation revenue loss incurred through exempting these 2 items. But this might encourage Treasury and Resources to look more vigorously at more progressive taxation measures to make up the lost revenue.

The figures quoted here for lost tax-revenue were produced in 2006 – these being the most recent the Treasury were able to produce at short-notice. Obviously, inflation will have increased these figures somewhat – but they serve as an indicative.

Foodstuffs:

Taxation forgone per annum: £2.9 million.

Domestic energy:

Taxation foregone per annum: £1 million.

The 2 exemptions would, therefore, have an approximate tax cost of£3.9 million.

APPENDIX

UK VAT Exemptions

Group 1 – Food

The supply of anything comprised in the general items set out below, except –

(a) a supply in the course of catering; and

(b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

General items

Item No.

1. Food of a kind used for human consumption.

2. Animal feeding stuffs.

3. Seeds or other means of propagation of plants comprised in item 1 or 2.

4. Live animals of a kind generally used as, or yielding or producing, food for human consumption.

Excepted items

Item No.

1. Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products, and prepared mixes and powders for making such products.

2. Confectionery, not including cakes or biscuits other than biscuits wholly or partly covered with chocolate or some product similar in taste and appearance.

3. Beverages chargeable with any duty of excise specifically charged on spirits, beer, wine or made-wine and preparations thereof.

4. Other beverages (including fruit juices and bottled waters) and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.

5. Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs, and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.

6. Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.

7. Goods described in items 1, 2 and 3 of the general items which are canned, bottled, packaged or prepared for use –

    (a) in the domestic brewing of any beer;

    (b) in the domestic making of any cider or perry;

(c) in the domestic production of any wine or made-wine.

Items overriding the exceptions

Item No.

1. Yoghurt unsuitable for immediate consumption when frozen.

2. Drained cherries.

3. Candied peels.

4. Tea, maté, herbal teas and similar products, and preparations and extracts thereof.

5. Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof.

6. Milk and preparations and extracts thereof.

7. Preparations and extracts of meat, yeast or egg.

Notes:

(1) "Food" includes drink.

(2) "Animal" includes bird, fish, crustacean and mollusc.

(3) A supply of anything in the course of catering includes –
(a) any supply of it for consumption on the premises on which it is supplied; and
(b) any supply of hot food for consumption off those premises;
and for the purposes of paragraph (b) above "hot food" means food which, or any part of which –
(i) has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature; and
(ii) is at the time of the supply above that temperature.

(4) Item 1 of the items overriding the exceptions relates to item 1 of the excepted items.

(5) Items 2 and 3 of the items overriding the exceptions relate to item 2 of the excepted items; and for the purposes of item 2 of the excepted items "confectionery" includes chocolates, sweets and biscuits; drained, glacé or crystallised fruits; and any item of sweetened prepared food which is normally eaten with the fingers.

(6) Items 4 to 6 of the items overriding the exceptions relate to item 4 of the excepted items.

(7) Any supply described in this Group shall include a supply of services described in paragraph 1(1) of Schedule 4.

Amendments to Group 1:

The Finance Act 1999 section 14 stated that Group 1, in respect of preparations of meat, yeast or egg, shall be deemed to have and to always have had effect as if for Items "4 to 6" in Note (6) there were substituted "Items 4 to 7" (effective from 27 July 1999).