

# STATES OF JERSEY



Jersey

## **DRAFT TAXATION (ENVELOPED PROPERTY TRANSACTIONS) (JERSEY) LAW 202- (P.119/2021): SECOND AMENDMENT**

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**Lodged au Greffe on 25th January 2022  
by the Corporate Services Scrutiny Panel  
Earliest date for debate: 8th February 2022**

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**STATES GREFFE**



DRAFT TAXATION (ENVELOPED PROPERTY TRANSACTIONS) (JERSEY)  
LAW 202- (P.119/2021): SECOND AMENDMENT

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**1 PAGE 19, ARTICLE 1 –**

In Article 1(1), in the definition “enveloped property”, after “means land in Jersey” insert “used for domestic purposes”.

**2 PAGE 20, ARTICLE 3 –**

For Article 3(1)(c) substitute –

“(c) the entity, or any entity over which it has control (a “controlled entity”), is the beneficial owner of enveloped property the market value of which exceeds £500,000.”.

**3 PAGE 21, ARTICLE 5 –**

In the heading of Article 5 and in Article 5(1)(a) and (2), delete “enveloped”.

**4 PAGE 22, ARTICLE 7 –**

For Article 7(1) to (4), substitute –

“(1) The tax chargeable and due in respect of a relevant transaction is £80 plus –

- (a) for each enveloped property which has a market value exceeding £500,000 and is not held under a contract lease, the amount determined by the table in Schedule 2; and
- (b) for each enveloped property which has a market value exceeding £500,000 and is held under a contract lease, £3,500 plus 75p for each £100 or part of £100 by which the market value exceeds £500,000.”.

and renumber the remaining paragraphs accordingly.

**5 PAGE 29, ARTICLE 20 –**

Delete Article 20 and renumber the subsequent Articles accordingly.

**6 PAGE 34, SCHEDULE 2 –**

In Schedule 2 –

- (a) in the Schedule sub-heading, after “variable element of tax”, insert “for enveloped property not held under a contract lease”;
- (b) delete Table A and its headings;

- (c) delete the heading and sub-heading to Table B;
- (d) delete Table C and its headings.

## CORPORATE SERVICES SCRUTINY PANEL

## REPORT

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### Introduction

1. The Corporate Services Scrutiny Panel (the Panel) has lodged this Amendment following submissions made to its [Enveloped Property Transactions Taxation Review \(the Review\)](#) by key stakeholders which raise extreme concern on the potential legislative and economic impact of [P.119/2021 Draft Taxation \(Enveloped Property Transactions\) \(Jersey\) Law 202-](#) (the Draft Law).
2. The Panel believes that the Minister for Treasury and Resources (the Minister) has done little to alleviate the concerns that have been expressed to her by those taking part in consultation on the Draft Law. The Panel further suggests that the Minister has not provided the Assembly, or the Scrutiny function, sufficient time to contemplate the Draft Law and Addendums.
3. The Panel highlights the Acte Opérateur (P.119/2021 Add.(2)) would enable Enveloped Property Transaction Tax (EPTT) to be charged immediately should the Assembly adopt the Draft Law. The Panel is of the opinion that introduction of new taxation should receive ample consideration. Although the Minister is of the opinion that EPTT is simply a method of reducing the avoidance of paying Stamp Duty or Land Transition Tax (LTT), it will introduce a new charge for those purchasing companies which own property in the Island.
4. This amendment, if adopted by the Assembly, will remove property used for non-domestic purposes (commercial properties) from the scope of EPTT. This means that the tax will only be charged on the transfer of a significant interest in an entity that owns domestic property valued at over £500,000. This has consequential impact upon the Draft Law's changes to the Stamp Duties and Fees (Jersey) Law 1998 and Taxation (Land Transactions) (Jersey) Law 2009. This amendment will also mean that the Draft Law's changes to Companies (Jersey) Law 1991 (the Companies Law) wouldn't apply in respect of the transfer of shares in a company that owns only non-domestic property.

### Submissions to the Panel

5. The Panel has received comments from key stakeholders that express severe concern with the introduction of EPTT on commercial properties through the Draft Law.
6. Primarily these concerns relate to the Minister's perception of what constitutes tax avoidance, a key argument for the introduction of EPTT, and the Draft Law's inadvertent impact upon transactions that are genuine in nature. The Panel believes that there has not been enough evidence of the necessity of the Draft Law, nor its consequences upon the Island.
7. It has been highlighted to the Panel that EPTT is not a suitable way of creating a level playing field between the owners of residential properties which are held by companies or other enveloping structures and those that hold their properties directly and are currently obliged to pay Stamp duty or LTT. However, the Draft

Law will also introduce a new tax upon transactions that also include commercial property, including properties which are leased.

8. An example has been given that if an international fiduciary services group with a leased Jersey office was sold, it would be subject to EPTT should the lease meet the £700,000 threshold. There is a risk that those purchasing would therefore be deterred from the transaction.
9. It has been suggested that it is hard to contend that any of these transactions are cases of stamp duty or LTT avoidance which should be tackled by way of imposing an equivalent tax. Applying EPTT may load such transactions with extra costs and compliance obligations, however small or large the Jersey property element is in the context of the overall transaction and however remote the Jersey element is from the change of corporate ownership e.g. in the case of large multinational companies. This may have adverse impact upon Jersey's reputation and economy.

#### **Reason for amendment**

10. The Panel has agreed that in light of such information it would appear that the Draft Law would not be in keeping with the mantra of keeping taxation simple and fair.
11. The Panel is scheduled to hold a public hearing with the Minister to discuss these points and has requested further clarification throughout the Review. However, the public release of further information has been somewhat delayed, with Economic Impact Analysis only being published through addendum ([P.119/2021 Add.](#)) on the 21st January 2022. Furthermore, the public hearing will only be carried out on the 27th January 2022, seven days prior to the debate and well past the deadline for amendment to the Draft Law.
12. In a letter to the Panel the Minister has indicated that in her understanding Standing Order 72(10) limits its ability to call the Proposition in for further review. The Panel is awaiting further clarification on this point from the Bailiff and has identified that this Amendment is needed to ensure that the Panel's concerns in relation to the Draft Law can be debated by the Assembly.

#### **Conclusion**

13. The Panel has lodged this amendment as there remains much uncertainty and questions regarding the implication of the Draft Law and its practical and economic impact. Key Stakeholders have raised significant concerns regarding the introduction of taxation upon transactions including commercial properties. The Panel believes that should this amendment be adopted the Minister can bring forward a separate Proposition to implement those changes following further analysis and enablement of scrutiny.

#### **Financial and Manpower Implications**

There are no financial and manpower implications arising from this Amendment.