STATES OF JERSEY

REVIEW OF PERSONAL TAX (STAGE 1) – DATA ANALYSIS

Presented to the States on 27th March 2017
by the Minister for Treasury and Resources

STATES GREFFE

Foreword by Senator Alan Maclean, Minister for Treasury and Resources

The Council of Ministers undertook to commission a review of certain aspects of Jersey's personal tax system in the autumn of 2016.

The review was overseen by a political oversight group which I chaired and which included Deputy Andrew Lewis, Deputy Judy Martin; Deputy Eddie Noel; and Deputy Susie Pinel. I am grateful for their support and invaluable guidance to the work of the review team which consisted of tax officials, the economic adviser and external advisers.

The purpose of this review was not to evaluate existing tax policy and recommend change – that will come later in a second stage of review activity (and much groundwork is already under way - for example, to evaluate the case for modernising the way we tax household income and extending the scope of corporate taxation).

Rather this review was intended to provide a body of data and information that tells us where the tax-policy changes implemented by the States Assembly (over the period 2006 to 2015) have taken us. This is the period over which changes were made to our corporate tax system to ensure that Jersey's economy remained successful and living standards high, which required a greater focus on personal taxation to afford the important public services required by Islanders.

This Report provides a comprehensive data base which will help in establishing a platform of common and shared understanding of our personal tax system, which the Council of Ministers can rely upon when considering future tax-policy proposals. This will be especially important in assisting continuing evaluation of a potential move to Independent Taxation.

Senator Alan Maclean

Minister for Treasury and Resources

REVIEW OF PERSONAL TAX

STAGE 1 – DATA ANALYSIS

EXECUTIVE SUMMARY

The Review of Personal Tax was commissioned by the Council of Ministers in September 2016. It has been undertaken by Jersey's Civil Service, supported by external economists; and was steered by a group of five Assembly Members (including three Ministers).

The Review has not primarily included appraisal or evaluation of tax policies (except with regard to proposals for new sanctions and penalties to modernise tax law and improve taxpayer compliance).

The Review Team was largely tasked with collating data – with the aim of creating an agreed and readily accessible body of information for policy makers and legislators; the media; and the general public.

The Review Report is presented in four parts.

- Part 1 is a report from external economists (Oxera) describing the impact on seven Jersey household types of the main changes in tax and contributions over the period 2006 to 2015.
- Part 2 examines changes in the number and type of personal income-taxpayers since 2007.
- Part 3 discusses the merits and demerits of "profit retention" within company structures. It goes on to seek to establish the extent to which Jersey-resident individuals who own "0%" companies (that is, companies liable to corporate income tax at the standard rate of 0%) may be retaining profits in those companies and consequently deferring the payment of personal income tax (until such time as those profits are distributed).
- Part 4 contains a final draft of a Consultation Paper to be issued by the Taxes Office proposing the modernisation of a large part of Jersey's tax law relating to tax-compliance matters covering both individual and business taxpayers.

The remainder of this Executive Summary highlights key points from each part.

Part 1 : Assessing the distributional impact of key changes in taxes and contributions between 2006 and 2015

The report by independent economic consultants Oxera looks at the key tax and contribution changes between 2006 and 2015 and their impact at different levels of household income. This is the first time such analysis has been conducted for the whole of this period and Oxera summarise the findings in their executive summary. This new and detailed information should be informative for all States members as we discuss our approach to tax and contribution policy in coming years.

Part 2 : Changes in the Number and Type of Jersey's Personal Income Taxpayers

This paper analyses Taxes Office produced data regarding the number and type of personal income taxpayers over the period from 2007 to 2015. It identifies the "Taxpayer Base" (broadly equating to everyone issued with a personal tax return); and then analyses that population between: (i) "Personal Taxpayers" (those who actually pay personal income tax); and (ii) "Personal Non-Taxpayers" (those who have been issued with a tax return but do not have a positive tax liability based on their income compared to the allowances, reliefs and deductions they are entitled to).

The paper further analyses the population of "Personal Taxpayers" into: (i) "Standard Rate Taxpayers"; and (ii) "Marginal Rate Taxpayers".

<u>Personal Taxpayer Base</u>

Over the relevant period the "Personal Taxpayer Base" increased by around 1,100 from 60,400 in 2007 to 61,500 in 2015. The paper concludes that the "Personal Taxpayer Base" is broadly driven by two factors: (i) changes in the Island's resident population; and (ii) decisions taken by the Taxes Office regarding who should, and who should not, be issued with a tax return.

This paper does *not* attempt to reconcile the "Personal Taxpayer Base" to the Island's resident population per the Statistics Unit; this is the subject of a separate exercise.

The paper identifies that the Taxes Office routinely seeks to reduce the number of tax returns it issues in cases where it is highly unlikely that the recipient of the return will have a positive income tax liability. A specific, one off exercise was undertaken by Taxes Office staff to close c.700 "Non Productive Cases" in 2014, reducing the "Personal Taxpayer Base" by c.700 in 2014 and later years.

<u>Split between "Personal Taxpayers" and "Personal Non-Taxpayers"</u>

Over the relevant period the proportion of "Personal Non-Taxpayers" has grown slightly. In 2007 "Personal Non-Taxpayers" comprised 22.2% of the "Personal Taxpayer Base", by 2015 this had grown to 24.1%.

The paper concludes that the split of the "Personal Taxpayer Base" between the "Personal Taxpayers" and "Personal Non-Taxpayers" is broadly driven by the following two factors: (i) changes in tax rules – in particular changes in income tax exemption thresholds; and (ii) decisions taken by the Taxes Office regarding who to, and who not to, issue tax returns to.

The paper identifies that over the relevant period the majority of tax rule changes agreed by the States Assembly should have had little or no impact on the split of the "Personal Taxpayer Base" between the two categories. However where rule changes have impacted on the split, they have tended to increase the proportion of "Personal Non-Taxpayers".

It is likely that the one off exercise undertaken by Taxes Office staff in 2014 to close “Non Productive Cases” was a contributory factor in the reduction of the proportion of “Personal Non-Taxpayers” from 27.2% in 2013 to 24.7% in 2014.

Split between “Standard Rate Taxpayers” and “Marginal Rate Taxpayers”

Over the relevant period the proportion of “Marginal Rates Taxpayers” has grown from 68.3% in 2007 to 88.0% in 2015. The paper identifies that the split between “Standard Rate Taxpayers” and “Marginal Rate Taxpayers” is broadly driven by changes in tax rules. Over the relevant period the vast majority of tax rule changes agreed by the States Assembly have tended to increase the proportion of “Marginal Rate Taxpayers”.

The marked increases in the proportion of “Marginal Rate Taxpayers” in 2008, 2009, 2010 and 2011 were most likely a result of the “20-means-20” policy. The marked increase in the proportion of “Marginal Rate Taxpayers” in 2014 was most likely a result of the reduction in the marginal tax rate from 27% to 26%.

Part 3 : Profit Retention in Companies Liable to Tax at the Standard Rate (0%)

Paper outlining legal and policy considerations around the (dis)incentivisation of profit retention

The existence of “0% Companies” in together with a 20% rate of personal income tax creates two broad incentives amongst Jersey resident individuals:

- Incentive 1: there is an incentive to incorporate trading and investment activities, provided the individual is in a financial situation to distribute less than the annual trading profits/investment income accruing in the company
- Incentive 2: for those whose trading/investment activities have been incorporated, provided that they are in a financial situation to do so, there is an incentive to distribute less than the annual trading profits/investment income accruing in the company

From the introduction of “0% Companies” in 2008/09 until 31 December 2011 these incentives were reduced through the application of the “deemed dividend” and “full attribution” rules. In 2010 these rules were found to be harmful by the EU under the Code of Conduct for Business Taxation and, under the good neighbour policy, a decision was taken that the rules should be repealed. They were repealed with effect from 31 December 2011.

With effect from 1 January 2013 rules have been introduced which: (i) broaden the definition of “distribution”; and (ii) ensure that the distributions made by “0% Companies” are matched first and foremost against any profits arising in the company and subject to tax at 0% . These rules seek to prevent “0% Companies” from being used for the avoidance or inappropriate deferral of Jersey income tax by Jersey resident individual shareholders; but they only apply where a distribution has actually been made.

International comparison indicates:

- Jersey is not unusual in maintaining a standard corporate tax rate that is lower than the top rate of personal income tax; this is the positon in most OECD countries. The largest differential in the OECD between the standard rate of corporate income tax and the top rate of personal income tax is 33% in Slovenia.
- There is no globally accepted approach as to whether tax systems should encourage the retention of profits within companies or alternatively encourage the distribution of profits to shareholders. Different jurisdictions have adopted different approaches at different times depending on the specific policy considerations applicable at that time. Different jurisdictions may also adopt a different approach to trading companies than they adopt to investment companies; particularly closely-controlled investment companies.
- Despite a larger differential in the UK than Jersey between the top rate of personal income tax and the standard corporate income tax rate, since 1 April 2015 there are no anti-avoidance rules operating in the UK to prevent the retention of profits in companies.

The high-level advice from leading economic institutes to policy makers is that corporate income taxes are harmful to economic growth and hence corporate income tax rates should generally be reduced. However this advice is qualified by the need to maintain the integrity of the overall tax system and avoid creating the opportunity for individuals to avoid personal income.

Policy makers need to balance competing objectives when setting corporate tax rates. In determining the Island's standard corporate income tax rate, policy makers have been strongly influenced by the need for the corporate income tax regime to support the Island's economy. In order to support the Island's economy, Jersey needs to offer tax neutral corporate vehicles in an internationally compliant manner. The zero/ten regime delivers that offering in a simple, transparent way and has been found to be internationally compliant.

When the "deemed dividend" and "full attribution" rules were found to be "harmful" by the EU, policy makers determined that maintaining the zero/ten regime without the "deemed dividend" and "full attribution" rules was the best course of action irrespective of the challenge to the integrity of the overall tax system this created,

Both Guernsey and the Isle of Man have adopted similar policy responses on the introduction of zero/ten, initially implementing measures that sought to maintain the integrity of the overall tax system but removing, and not directly replacing, them when those measures were subsequently found to be "harmful".

Scope for estimating the quantum of profits retained within “0% companies” and owned by Jersey resident individual (natural person) shareholders

In order to produce an estimate of the quantum of profits retained within 0% companies ultimately owned by Jersey resident individual shareholders (“Relevant Companies”) two pieces of information are required:

- The amount, or a reasonable estimate of the amount, of profits accruing in “Relevant Companies” for each year of assessment; and
- The amount, or a reasonable estimate of the amount, of distributions made by “Relevant Companies” from the profits identified in the bullet point above where the recipient is subject to Jersey personal income tax

In terms of the first piece of information (the amount of profits accruing in “Relevant Companies”) the paper concludes that:

- The Taxes Office does not hold *complete* data on the amount of profits accruing in “Relevant Companies” since the 2008 year of assessment;
- In light of the period of time that has elapsed, it is considered that this 2008 profits data is too out of date to be used in this context;
- The profits data the Taxes Office does hold on “Relevant Companies” for subsequent years of assessment is incomplete and is not held in a format that is easily retrievable or analysable; and
- The “deemed distribution”/”full attribution” data held by the Taxes Office in relation to the years in which those rules were in operation is an unreliable estimate for the profits accruing in “Relevant Companies”, is increasingly out of date and is not held in a format that is easily retrievable or analysable

Therefore the first piece of information required to estimate the quantum of profits retained within “Relevant Companies” is not currently available and, as such, a reasonable estimate of profit retention cannot be completed at this time.

However the paper goes on to note that the Taxes Office amended the corporate income tax return for the 2015 year of assessment (and all subsequent years of assessment) such that “Relevant Companies” are now required to declare their taxable profits on an annual basis.

The corporate income tax returns for the 2015 year of assessment were due on or before 31 December 2016. Work is ongoing to verify and cleanse the profit data received through the 2015 corporate income tax returns by the end of March 2017, whereupon work on producing an estimate of profit retention will recommence.

Part 4 : Proposals to Modernise Aspects of Jersey's Tax Law to Improve Voluntary Compliance

The Taxes Office will be consulting over the next three months on its proposals to modernise Jersey's tax law with regard to sanctions and penalties – to improve voluntary compliance with tax obligations.

Subject to the outcome of consultation, refined proposals will then be put to the Minister for Treasury & Resources for his consideration and in time for inclusion, where appropriate, in his Budget 2018 proposals. The draft law would then be debated by the States Assembly towards the end of 2017 as part of the Budget 2018 debates.

An important aspect of the proposed changes is to substitute criminal sanctions with civil ones which will make the tax system less expensive to run; easier to administer; and will reduce pressures on the time of criminal investigators and the Courts.

Penalties addressed in the proposals include those relating to failure to file tax returns; late filing of returns; late payment of taxes; and mis-declaration, for example of income earned.

Proposals are based on international best practice and include, for example, differentiated penalties according to the behaviours exhibited by taxpayers. So, for example, where it was clear that a taxpayer had deliberately hidden income from the Taxes Office the taxpayer would receive a greater penalty than someone who had accidentally forgotten to declare income.

It is proposed that penalties would increase for those who persistently failed to comply with their various tax obligations.

The changes being consulted upon include – for the first time – the introduction of interest being charged on overdue and outstanding tax debts.

Assessing the distributional impact of key changes in taxes and contributions between 2006 and 2015

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Contents

Executive summary

Over the last decade, the Government of Jersey has made a number of changes to the personal income tax and social security system, and introduced both a Goods and Services Tax (GST) and a contribution to help meet the costs of funding long-term care (LTC) in Jersey. It would now like to look back over these changes and assess how these changes have had an impact on the distribution of income in Jersey, both individually and in aggregate.

The impacts of the individual changes made vary in their scale and scope; some raise the tax bill and some reduce it, and some do both, depending on the income level of the household in question. As such, it is difficult to digest the various changes into an overall picture. Nonetheless, some high-level observations can be made.

First, income tax. Three key changes to the income tax system are helpfully viewed together. '20 means 20', a package of reforms which (as the name suggests) seeks to simplify the tax system such that standard rate tax payers pay 20% income tax (or close to that amount) (both marginally[1] and on average); an increase in the exemptions (tax-free amounts of income) available to marginal rate tax payers and a reduction in the marginal tax rate (from 27% to 26%). The first increases the tax payable by those at the upper end of the income scale; the latter two reduce the tax paid at low to middle income levels and all three increase the number of households whose tax calculation is based on the marginal rate calculation. The broad effect of these changes is to reduce the tax paid by low to middle income earners, and increase the tax payable by higher income earners.

However, this simplification needs elaboration. Three household characteristics will have a particular effect on the overall impact of these changes. First, the number of children in a household (and whether any are pre-school age or in higher education); second, whether a household has a mortgage; and third the level of pension contributions a household makes. All of these characteristics alter the impact of the changes made since 2006. Mortgage interest tax relief is no longer available at the standard rate, which increases, in particular, the tax payable for higher earners with a large mortgage.

In contrast, households with children—especially those with children of pre-school age or in higher education—experience a significant uplift in the relief potentially available to them. For all other than the highest earners, pension relief available on contributions is more generous, which benefits in particular those making significant pension contributions.

Employees' social security contributions also increased over this period (as the Standard Earnings Limit (SEL) increased each year in line with average earnings), but only for people earning above the Standard Earnings Limit (SEL), which was c.£38,000 in 2006. Anyone earning below this level is unaffected by this change.

As noted, the two new policies that have been introduced over this period are the GST and the LTC contribution. The LTC contribution is calculated based on taxable income under the income tax system and therefore reflects the household characteristics captured by the income tax system. As such, it is a

[1] In economic terms, the marginal rate of taxation is the tax rate that an individual would pay on an additional £1 of income. As such, the marginal tax rate is effectively the tax percentage on the last £1 earned. This is distinct from the marginal rate tax calculation used within the Jersey tax system.

relatively progressive tax (i.e. more is paid by higher earners), albeit this is partially offset by the fact that the marginal rate[2] of LTC contribution payable is nil for very high income levels.

GST is a tax on expenditure, rather than on income. We assume that, even at very low levels of income, some income is spent on GST (in contrast to income tax, but similar to social security). The tax is not dependent on household characteristics and so tax paid as a percentage of disposable income (which is not modelled in this report) may vary significantly across household types.

Both the LTC contribution and GST have the effect of increasing the actual tax/contribution rate paid by households at most income levels. As we assume that expenditure on GST (as a percentage of income) reduces as income increases, the impact of these two taxes in combination is likely to fall as a share of income as income levels rise. However, as noted above, these changes were introduced over a period of wider policy reform, which partially offsets this effect.

Further detail on all of these high-level observations is presented in the report.

[2] In this context marginal rate refers to the rate if tax on the last pound earned, rather than the marginal rate tax system

1 Introduction

1.1 Overview

Over the last decade, the Government of Jersey has made a number of changes to the personal income tax and social security system and introduced both a Goods and Services Tax (GST) and a contribution to help meet the costs of long-term care (LTC) in Jersey.

Oxera has been asked to model the changes made between 2006 and 2015 and present our findings graphically, considering the impact on seven different illustrative households and across a wide range of household income levels.

One of the key changes over this period was the implementation of '20 means 20'. Under this policy, most people at the higher end of the income scale will now pay tax at (or close to) 20%. This is because most tax allowances (amounts that are deducted from income to determine the level of income that will be subject to tax) have now been withdrawn for these income levels. '20 means 20' has resulted in a higher effective rate for standard rate tax payers; however, the precise level of income at which tax becomes payable at this rate and how close to an effective tax rate of 20% is payable will depend on household circumstances, and, critically, the remaining allowances the household can claim. Child allowances, single parent allowances[3] and tax relief on pension contributions still apply.

Aside from '20 means 20', there have been a number of other changes to the personal income tax system over this period. In particular, the marginal tax rate payable at lower levels of income was reduced from 27% to 26%, marginal rate tax exemptions (which work in the same way as tax allowances) were increased, as were child allowances (in particular for children in higher education). In addition, a new 'enhanced' childcare cost tax allowance was introduced, which increases the tax relief available in relation to childcare costs for pre-school children.

The tax relief available for pension contributions also changed significantly over the period. The impact of the change was to increase the maximum pension contribution tax relief available to those on low and middle incomes and decrease it for the highest earners.

Changes were also made to mortgage interest tax relief (MITR). MITR is now available only to households at the low to medium end of the income scale (i.e. marginal rate tax payers) and is subject to an annual cap of £15,000.

Finally, tax relief on private medical insurance and life assurance premiums has now been withdrawn entirely (although our understanding is that the take-up of this relief was limited when it was available).

Aside from changes to the personal income tax regime, other aspects of the taxes and contributions regime in Jersey also changed between 2006 and 2015. In particular, the cap on the income up to which 6% social security contributions are payable increased by c.£10,000 (as the Standard Earnings Limit (SEL) increased each year in line with average earnings), and a contribution to help fund the cost of LTC in Jersey was introduced (at a maximum of 0.5% of income in 2015, subsequently increased to 1% in 2016). Finally, a GST, applicable to

[3] Also known as the 'Additional Personal Allowance'.

purchases of qualifying goods and services, was introduced. GST was originally set at 3% in 2008 and rose to 5% in 2011.

Table 1.1 lists these key changes to taxes and contributions in Jersey over the period 2006 to 2015.

Table 1.1 Summary of key changes

- Introduction of **'20 means 20'**
- Decrease in the **marginal tax rate**
- Increase in **marginal rate exemptions**
- Increase in **child allowances**
- Introduction of **enhanced childcare** tax exemptions
- Withdrawal of **private medical** and **life assurance** relief
- Changes to **mortgage interest** tax relief
- Changes to **pension contribution** tax relief
- Annual increases to the **Social Security standard earnings limit**
- Introduction of a **long-term care** contribution
- Introduction of a **Goods and Services Tax**

The analysis presented in this report reflects Oxera's understanding of Jersey's tax system based on correspondence with the Government of Jersey and information publicly available through the States of Jersey tax website.

1.2 Approach

Illustrative households

To assess the impact of these changes, we have considered how they might affect seven different illustrative households.[4] Modelling the impact on different household types is important as a given change may affect only a subset of households (e.g. changes to childcare relief), or may affect some households more than others (e.g. changes to the tax relief available in relation to mortgage interest payments).

Households have been defined so as to capture those characteristics of a household that most influence the amount of tax payable—for example, the number of people in the household, the age of household members and whether they have a mortgage. The seven illustrative households used for this analysis are summarised in more detail provided in Appendix A1.

[4] These illustrative households were agreed with the Government of Jersey, to be representative of a variety of household circumstances

Figure 1.1 Overview of illustrative households

H1	H2	H3	H4	H5	H6	H7
Single	Single	Married	Married	Married	Married	Single
	1 child		2 children	2 children (one in higher education)	pensioners	pensioner
No mortgage	£200k mortgage	£300k mortgage	£300k mortgage	£100k mortgage	No mortgage	No mortgage

Note: Images sourced from www.freepik.com.

For ease of interpretation, in some cases the changes to taxes and contributions are presented for a sub-set of households only. In some cases, this is because a change is relevant only to a particular type of household (e.g. one with children); elsewhere it is because it is clearer to see the impact of a change if only the households affected least and most by a change are presented. This also avoids trying to present too many pieces of information in one figure.

Key metrics

To assess the impact of these changes on the seven households, we focus on two key metrics. First, the ‘effective tax rate’ paid before and after a given change/set of changes. The effective tax rate is the total amount of tax payable, expressed as a percentage of total household income (i.e. the overall average tax rate). Second, we present the ‘change in tax paid’, in some cases in both in monetary and percentage terms before and after a change.

The effective tax rate is a helpful distributional metric as it enables a comparison to be made at a snapshot in time, across income levels and across household types. It will show, for example, how the portion of income spent on tax varies between the lowest and highest earners in society. This can then be compared with overall policy objectives.

Change in tax paid is helpful for illustrating the impact of a specific change. It will show how a given change is affecting different households at different income levels. It is therefore a useful way to see whether the distributional impact of a change contributes to moving the distribution of income closer to policy objectives.

Assumptions

As with any simplified modelling exercise, in deriving the results presented in this report, we have made a number of assumptions, as set out below.

1. All income is earned

We have assumed that all income is earned—as opposed to income from returns on financial investments, for example. As the treatment of unearned income can be slightly different in some cases, all income is assumed to be earned, to avoid unnecessary complexity.

2. Income is split equally between a married couple/civil partnership

Personal income tax in Jersey is based predominantly on household income (rather than individual income). Therefore, in most cases, how that income is split between individual earners is not relevant. However, this is not always the case, for example:

- entitlement to tax relief on childcare depends on a minimum level of income for the lower earner in a married couple or civil partnership;
- Social Security contributions are based on individual incomes and so the split of income is important as it affects whether the cap on the total contribution (the Standard Earnings Limit, SEL) is applicable;
- for the LTC contribution, there is a cap on the maximum amount payable, which depends on individual, not household, income.

3. Expenditure assumptions

In addition, we have made a number of assumptions about the level of household expenditure on items which attract tax relief.

A summary of the key assumptions we have made for these (unless otherwise stated) is shown in Table 1.2.

Table 1.2 Summary of expenditure assumptions

Expenditure assumptions
Pension contribution: 2.4% (of income) (0% for pensioners)
Interest rate on a mortgage: 5%
Childcare costs: £3,000 (per child, per year)
No life assurance or private medical insurance contributions

Note: These assumptions are based on expenditure figures from the States of Jersey's expenditure distribution survey, as well as additional detailed expenditure information provided by the Government of Jersey.

Source: States of Jersey (2015), 'Jersey Household Spending 2014/15'.[5]

Presentation of changes

To illustrate the impact of individual changes to taxes and contributions, we have used 2006 as a base. This means that (unless otherwise stated), we are presenting what the impact would have been if a change had been implemented in 2006. This is to ensure that we isolate the impact of the tax change and that this is not combined with other changes, such as the impact of inflation between 2006 and 2015.

This produces a different result than if 2015 was used as a base. In that case, we would compare tax paid in 2015 (a product of the 2015 taxes and contributions regime in 2015) to what it would have been if the specific aspect of interest changed back to what it was in 2006. Where we consider that the two approaches are both helpful, these have both been presented (as indicated by x-axis labels of '2006' or '2015' household income). In general, 2006 is used as it allows for a more intuitive output (i.e. chronological).

[5] https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20Spending%20survey%20report%202015%2020160526%20SU.pdf, accessed 16 March 2017.

For example, to illustrate the impact of the change to the marginal tax rate from 27% to 26%, we compare the tax payable in 2006 to what the tax payable would have been if the marginal rate was 26%.

In some cases, tax payable is related to expenditure (as well as income). For example, tax relief depends on level of expenditure on childcare. In recognition of the fact that underlying expenditure levels are unknown and may change over time, and that household circumstances may vary from the illustrative households used, where appropriate we illustrate the impact of a change in tax policy at more than one expenditure level.

Goods and Services Tax

GST is slightly different to the other taxes and contributions presented in this report, in that it is not a tax on income. Rather, it depends on expenditure, and, in particular, expenditure on qualifying goods and services.

While this does not fit neatly with the other changes presented here, the Government of Jersey recognises that it is a key change to the taxes and contributions in Jersey over the last decade, and is therefore keen to include it in any distributional analysis of the overall changes.

Therefore, to incorporate this into our analysis, we have used data from the Jersey Household Spending survey[6] to make an assumption about the relationship between expenditure on GST and household income. This is explained in more detail in section 5, Goods and Services Tax .

1.3 Structure of this report

The analysis in this report examines in turn each of the key changes to taxes and contributions between 2006 and 2015 (summarised in Table 1.1).

Section 2 focuses on income tax. In particular, it explains how tax paid is determined in Jersey, and addresses each of the changes to income tax in turn.

Section 3 then explains how Social Security contributions are determined and how the changes to the SEL affect the amount payable by income level.

Section 4 explains the new LTC contribution and the contribution amounts at different levels of household income.

Section 5 explains the GST and, in particular, the assumptions we have made about expenditure subject to this contribution at different levels of income.

Finally, section 6 brings together all of the taxes and contributions to illustrate the overall impact by household type and income level.

[6] Ibid.

2 Income tax

2.1 Introducing income tax in Jersey

There are two important points to highlight about the personal income tax system in Jersey. First, income tax is generally based on household (in the context of married couples), rather than individual, income. Second, income tax payable is equal to the lower of two amounts calculated: one based on the ‘standard rate’ of tax and one based on the ‘marginal rate’ of tax (with different tax allowances and exemptions available under each). The marginal rate calculation generally applies at low and medium levels of household income, and results in a lower effective tax rate, while the standard rate generally applies at medium to high incomes.[7] A recap of the households is presented below.

Figure 2.1 Overview of illustrative households

H1	H2	H3	H4	H5	H6	H7
Single	Single	Married	Married	Married	Married	Single
	1 child		2 children	2 children (one in higher education)	pensioners	pensioner
No mortgage	£200k mortgage	£300k mortgage	£300k mortgage	£100k mortgage	No mortgage	No mortgage

Note: Images sourced from www.freepik.com.

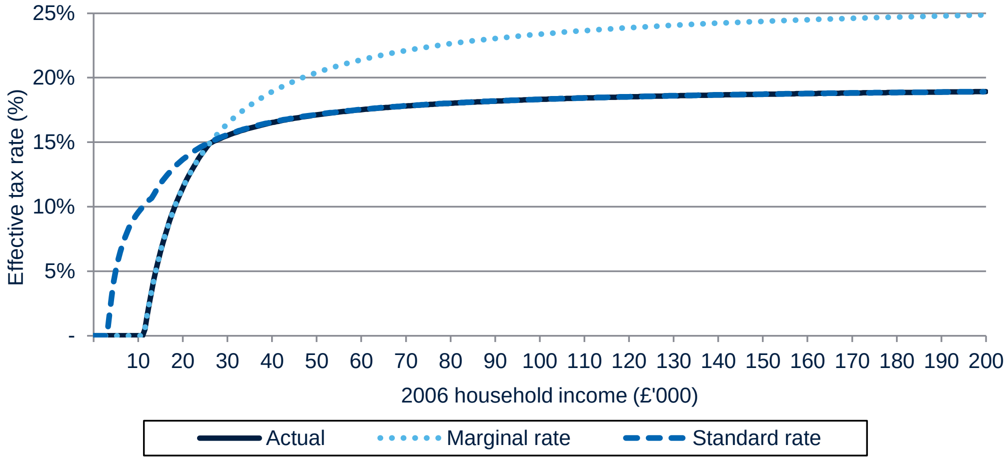
The **marginal rate** calculation allows for significant exemptions which ensure that the lowest income earners pay no tax. Once an income level exceeds the permitted exemptions, tax is charged at the marginal rate (27% in 2006 and 26% in 2015).

Under the **standard rate** regime, tax is charged at 20%, with fewer tax-free ‘allowances’. Between 2006 and 2015 these allowances were reduced significantly as part of the implementation of ‘20 means 20’. By 2015, only child allowances, single parent allowances and tax relief on pension contributions remained available under the standard rate tax calculation.

Figure 2.2 below illustrates how income tax payable changes by income level under this regime. Using Household 1 (H1) in 2006 as an example, the figure shows the effective tax rate as determined based on each of the two methods (the standard and marginal rate methods) and the actual effective tax rate (the lower of the two at a given income level).

[7] Although this depends on the composition of the household. In 2015, for some households, tax is payable at the marginal rate up to over £200,000 (e.g. H4 in this report).

Figure 2.2 H1: 2006



Source: Oxera analysis.

2.1.1 20 means 20?

Between 2006 and 2015, a number of factors changed in relation to the way income tax is determined. In particular, as part of the move to '20 means 20', the allowances available under the standard rate calculation were reduced.

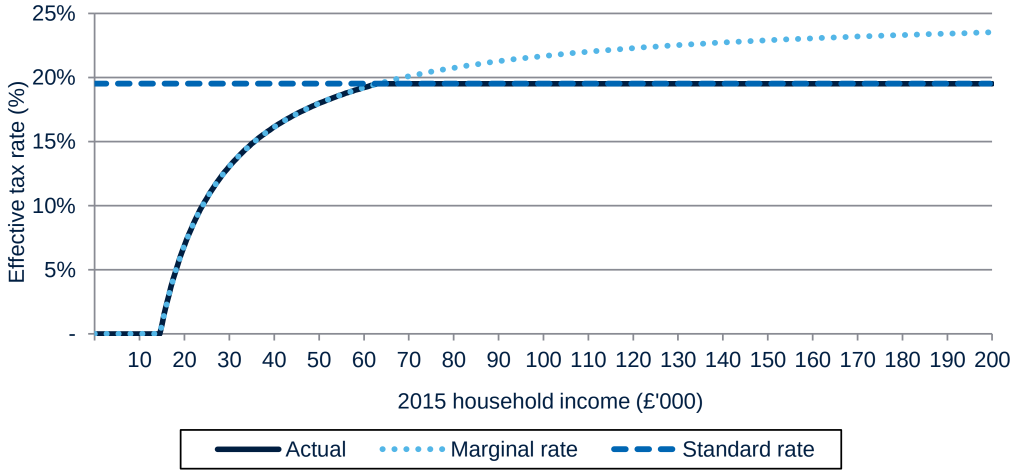
However, as illustrated below, 20 still does not quite mean 20 in 2015, except for households which do not have any children and do not contribute to a pension (or whose income is too high to be entitled to relief for pension contributions). Using H1 as an example, Figure 2.3 below shows tax payable in 2015.

The main observation to make about this figure is that the effective tax rate is slightly lower than 20% at levels of household income for which tax is calculated using the standard rate. This is because H1 is able to claim tax relief in relation to the pension contributions it makes (we have assumed that all non-pensioner households pay 2.4%[8] of their income into a pension).

By paying 2.4% of household income into a pension, the taxable income of that household is reduced by 2.4%. The tax saving is then 20% of that 2.4%, being 0.48%. Therefore, in Figure 2.3 below, the effective tax rate for levels of income at which the standard rate applies is c.0.5% below 20%, at c.19.5%.

[8] Based on the average pension contribution in the 2014/15 household expenditure survey. This average includes those who do not have expenditure on pension contributions.

Figure 2.3 H1: 2015 (impact of tax relief on pension contributions)



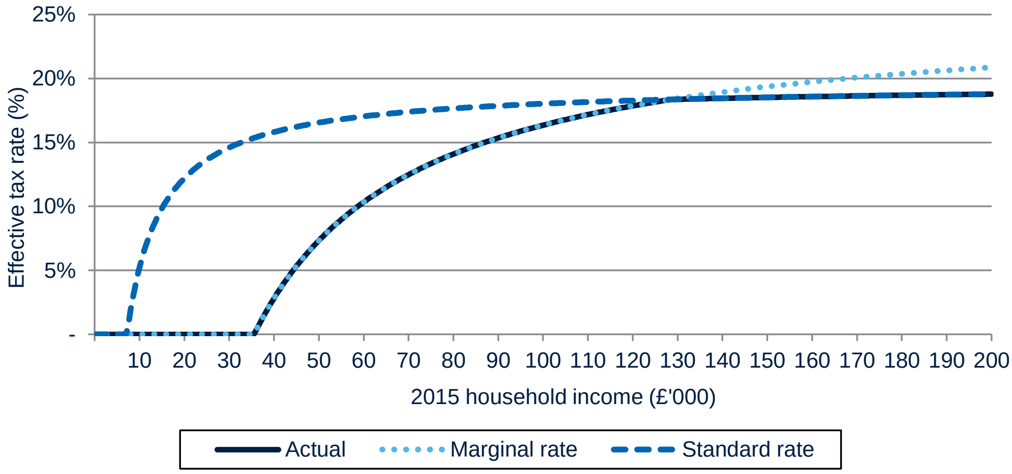
Source: Oxera analysis.

In addition to pension contributions, child allowances and the single parent allowance also mean that the effective tax rate under the standard rate regime is not always 20%.

Figure 2.4 below illustrates this using H2 (single adult, one child) as an example. In 2015, H2 is entitled to a child allowance of £3,000 and a single parent allowance of £4,500 under the standard rate calculation. As a result of this tax-free amount, no income tax is payable at income levels below the level of the allowances, above which the rate rises quickly to near 19.5% (not 20%, due to the tax relief on pension contributions described above).

These fixed allowances mean that the effective tax rate tends towards c.19.5% (as in Figure 2.3 above) but never reaches it. The fixed tax-free allowance becomes a smaller proportion of income as income increases, and so the effective tax rate increases as income grows.

Figure 2.4 H2: 2015 (impact of standard rate allowances)

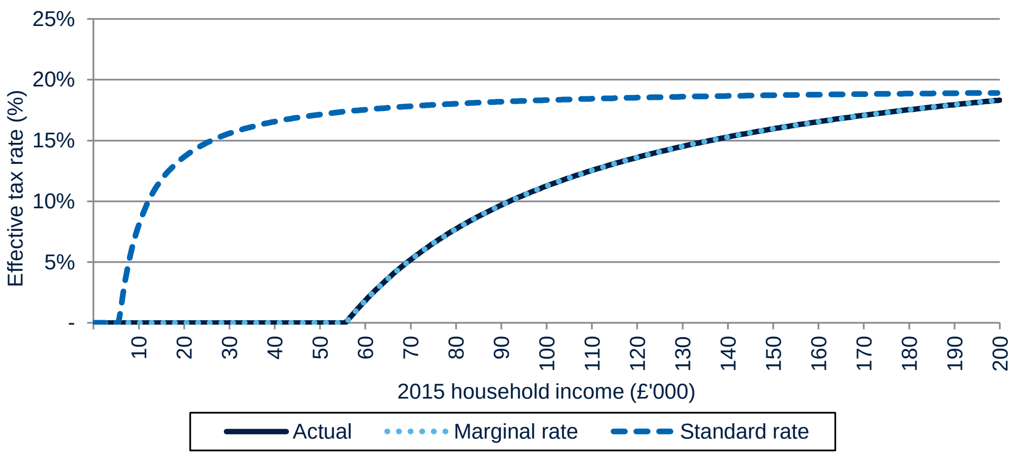


Source: Oxera analysis.

As noted above, the exemptions available under the marginal rate calculation are higher in 2015 than in 2006. This is particularly pronounced for households with children. The specific impact of the changes to the level of exemptions will be considered in further detail later in this report, but it is helpful to understand the general impact of this on the effective tax rate across income levels.

In the case of H4 (married couple, two children, £300,000 mortgage), exemptions under the marginal rate regime are high enough that income tax is paid at the marginal rate for all household incomes below c.£200,000. This is illustrated in Figure 2.5.

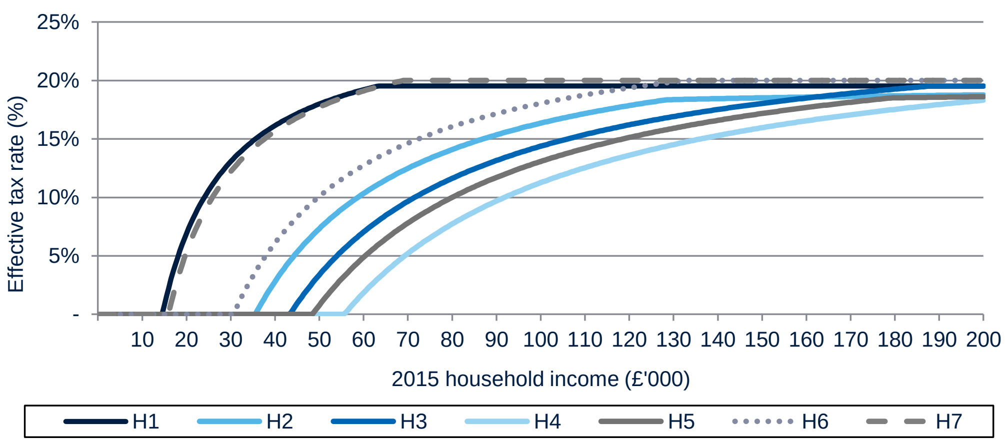
Figure 2.5 H4: 2015 (impact of marginal rate exemptions)



Source: Oxera analysis.

To summarise the effect of the 2015 income tax regime on different households, Figure 2.6 shows the effective tax rate by income level for each of the seven households considered in this report.

Figure 2.6 All households—effective income tax rate in 2015



Source: Oxera analysis.

We now move on to consider the impact of individual changes to the personal income tax regime in Jersey between 2006 and 2015.

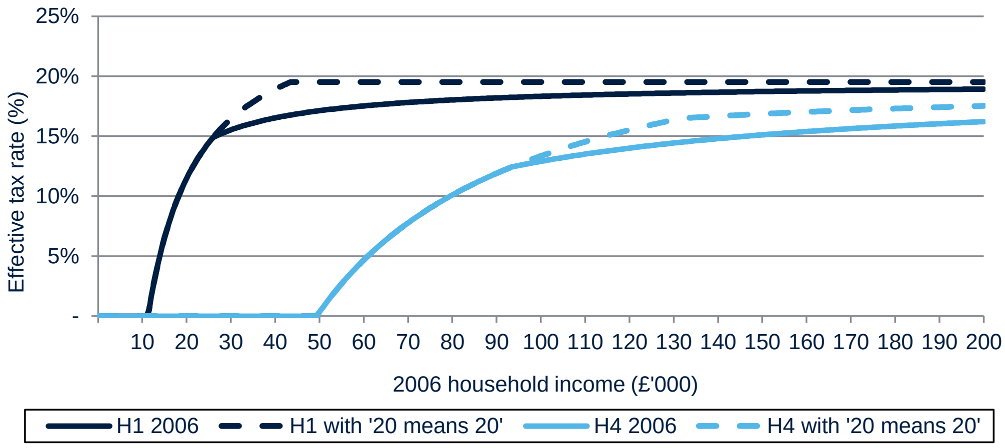
2.2 Impact of '20 means 20'

The introduction of '20 means 20' entailed the removal of most tax allowances previously available under the standard rate tax calculation, including single and married person allowances, wife's earned income allowance, and mortgage interest tax relief (MITR). The impact of this policy change in isolation was to increase the tax payable for those previously paying tax at the standard rate.

Given the significance of the withdrawal of MITR at the standard rate, this is analysed separately in section 2.8 below and not included in the analysis in this section of the report. Similarly, the impacts of the removal of private medical insurance and life assurance have been analysed separately.

Figure 2.7 shows the impact of ‘20 means 20’, by comparing the effective tax rate in 2006 to the effective tax rate that would have applied in 2006 had ‘20 means 20’ been implemented then. This approach is explained in more detail in ‘Presentation of changes’ in section 1.2 above.

Figure 2.7 H1 and H4: impact of ‘20 means 20’ on effective tax rate



Source: Oxera analysis.

No change is visible at lower levels of income (the income levels to which the marginal tax rate applied before the implementation of ‘20 means 20’), as these income levels are unaffected by the change to standard rate allowances.

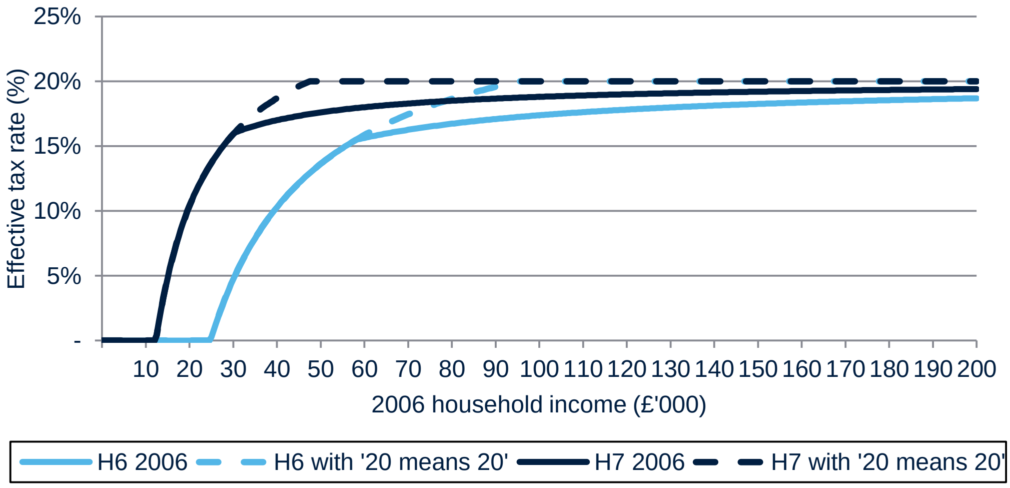
However, under ‘20 means 20’, marginal rate tax is applicable up to a higher income level than before (for H1 up to c.£40,000, whereas previously this was c.£30,000, visible in the kink in Figure 2.7). This is because under ‘20 means 20’, tax-free allowances available under the standard rate tax calculation are lower than before, which increases the tax payable based on the standard rate calculation. Therefore, at any given level of household income, it is more likely that the marginal rate calculation will produce a lower tax bill.

In Figure 2.7, H4 is further to the right than H1 because it is entitled to more exemptions under the marginal rate calculation—specifically, a married couple/civil partnership exemption (versus a single person exemption), child allowances for two children and MITR on a £300,000 mortgage.

Under the standard rate calculation, post ‘20 means 20’, the effective tax rate at £200,000 is slightly lower for H4 than for H1 because of the residual impact of child allowances available to H4 at the standard rate. The gap between the two households decreases as income levels increase since the value of the allowances as a proportion of total household income reduces as income increases (reducing the impact of the fixed tax-free amount).

Figure 2.8 shows the impact on the effective tax rate for the two pensioner households. There are no children in either household, and we have assumed that they no longer make pension contributions. As such, in these two cases (and for any other household that does not make pension contributions or have any children), the 20% standard rate actually does mean 20%.

Figure 2.8 H6 and H7 (pensioners): impact of '20 means 20' on effective tax rate



Source: Oxera analysis.

Figure 2.9 and Figure 2.10 below show the impact of '20 means 20' on tax payable. They illustrate the difference between the personal income tax payable in 2006 and the tax that would have been payable in 2006 had '20 means 20' been in place in 2006 (all else equal).

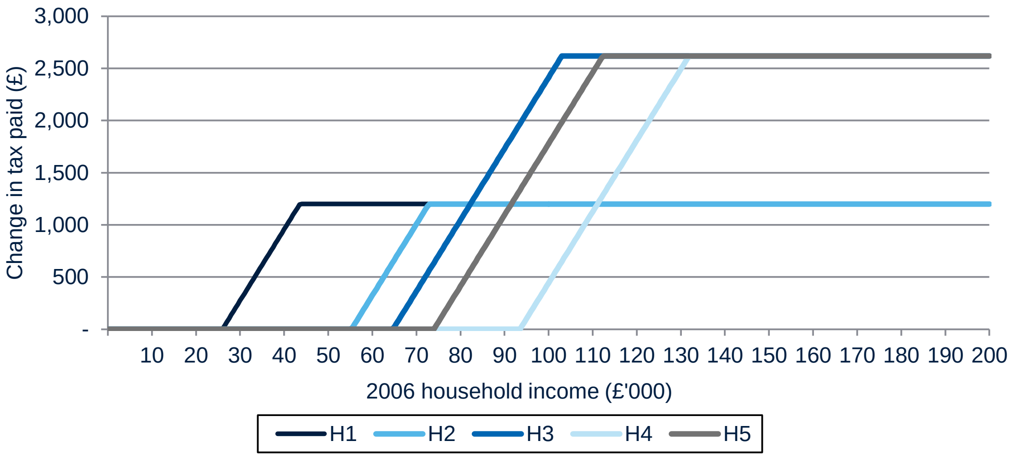
There are only two levels of impact: one for single households (H1, H2 and H7), and one for married households (H3–H6). This is because the allowances which were withdrawn were based only on whether a household was entitled to single or married couple's allowances. MITR was also withdrawn at the standard rate as part of '20 means 20'; however, given the potential significance of this change, it is considered separately in section 2.8 below.

In Figure 2.9, H1 and H2 were previously entitled to a single person allowance (£2,600) and an earned income allowance (£3,400), totalling £6,000 under the standard rate calculation. The rate of tax which is now paid on this amount is 20%; therefore, the maximum additional tax paid is £1,200.

Similarly, H3, H4 and H5 were previously entitled to a married couple's allowance (£5,200), an earned income allowance (£3,400) and a wife's earned income allowance (£4,500), totalling £13,100. At 20% standard rate tax, the maximum additional tax paid is £2,620.

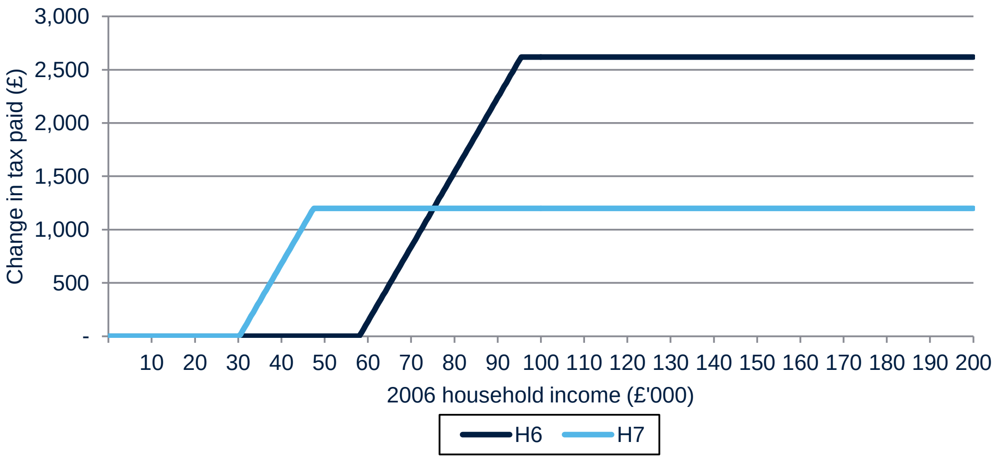
The upward-sloping line, before the maximum is reached, relates to income levels at which tax was previously paid at the standard rate, but post '20 means 20' is paid at the marginal rate. The impact for households at these income levels is some increase in tax, but not the maximum level since the loss of allowance they would have experienced at the standard rate is partially offset by the fact that, post '20 means 20', they pay less tax under the marginal rate calculation.

Figure 2.9 H1–5: impact of ‘20 means 20’ on tax paid



Source: Oxera analysis.

Figure 2.10 H6 and H7 (pensioners): impact of ‘20 means 20’ on tax paid



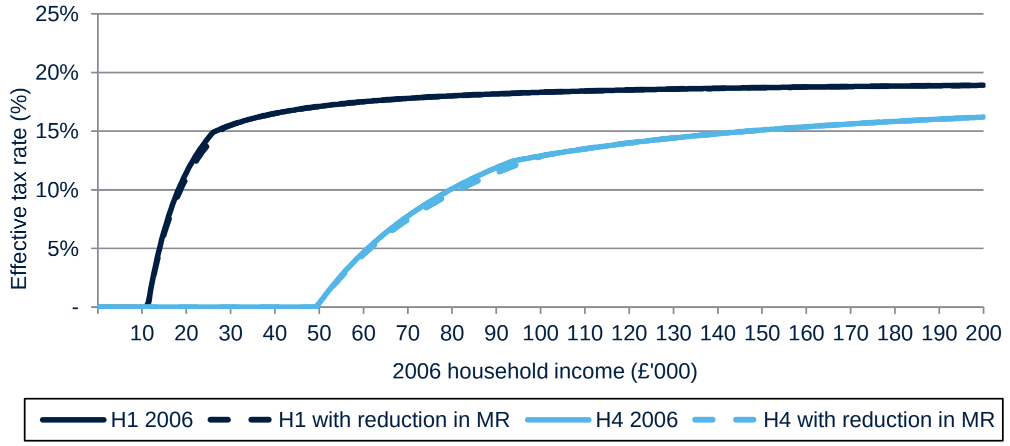
Source: Oxera analysis.

2.3 Decrease in the marginal tax rate from 27% to 26%

In Budget 2014, the rate of tax applied under the marginal calculation was reduced from 27% to 26%. The impact of this change is to reduce the tax paid by households paying tax at the marginal rate (i.e. at levels of income above the total exemptions available, but below the point at which the standard rate calculation produces a lower tax bill). As such, it also benefits households at the margin who previously paid tax at the standard rate but now pay tax based on the marginal rate (as this now produces the lower tax figure).

Figure 2.11 below compares, for H1 and H4, the effective tax rate in 2006 to the effective tax rate that would have applied in 2006 had the marginal rate been 26%, rather than 27%.

Figure 2.11 H1 and H4: impact of marginal rate change on effective income tax rate (relative to 2006 levels)

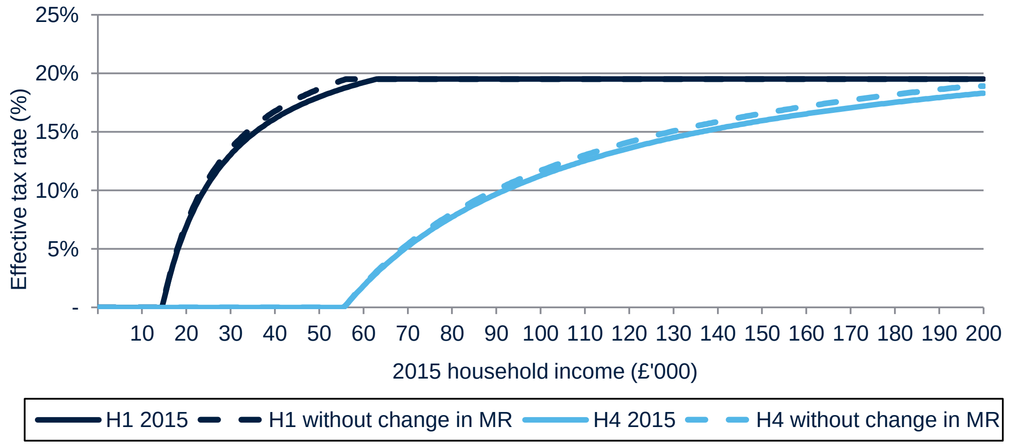


Note: 'MR' is shorthand for 'marginal rate'.

Source: Oxera analysis.

By way of comparison, it is also beneficial to illustrate the difference between the effective tax rate in 2015 and what the effective tax would have been in 2015 had the marginal rate remained at 27%. This is presented in Figure 2.12.

Figure 2.12 H1 and H4: impact of marginal rate change on effective income tax rate (relative to 2015 levels)



Note: 'MR' is shorthand for 'marginal rate'.

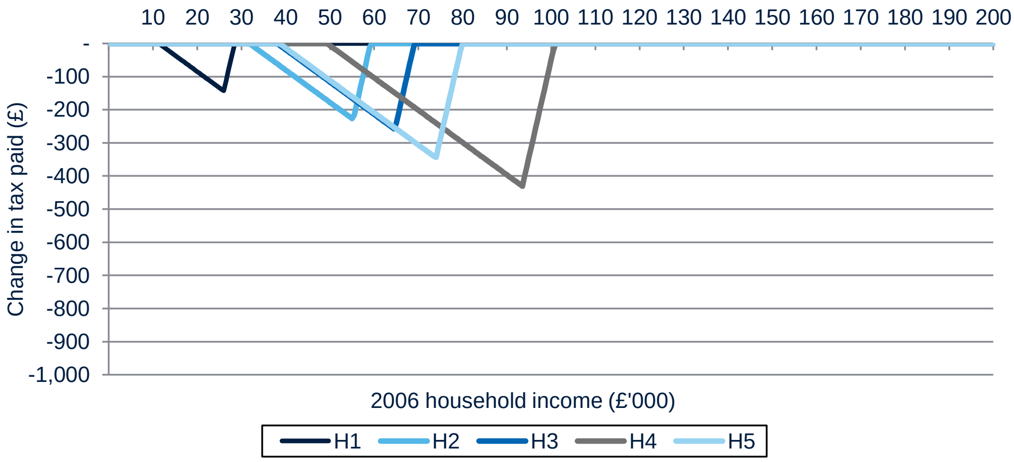
Source: Oxera analysis.

As the impact of the change in the marginal rate is difficult to see in Figure 2.11 and Figure 2.12, it is helpful to examine the difference in tax payable as a result of this change.

Figure 2.13 below shows, for H1 to H5, the difference in tax payable between 2006 and what tax would have been payable in 2006 had the marginal rate been 26%, rather than 27%.

Tax payable is reduced by this change for any household paying tax at the marginal rate. For this reason, the change in tax payable is represented by a negative figure on the y-axis.

Figure 2.13 H1–5: impact of marginal rate change on tax paid (2006 base)



Source: Oxera analysis.

When comparing the difference in tax payable in 2006 and the tax that would have been paid in 2006 had the marginal rate been 26%, Figure 2.13 shows that there is no change for households at the lowest levels of household income (<£10,000). This is because no household pays income tax at all on this income (as entitlement to exemptions exceeds household income), and so a change in the tax rate makes no difference.

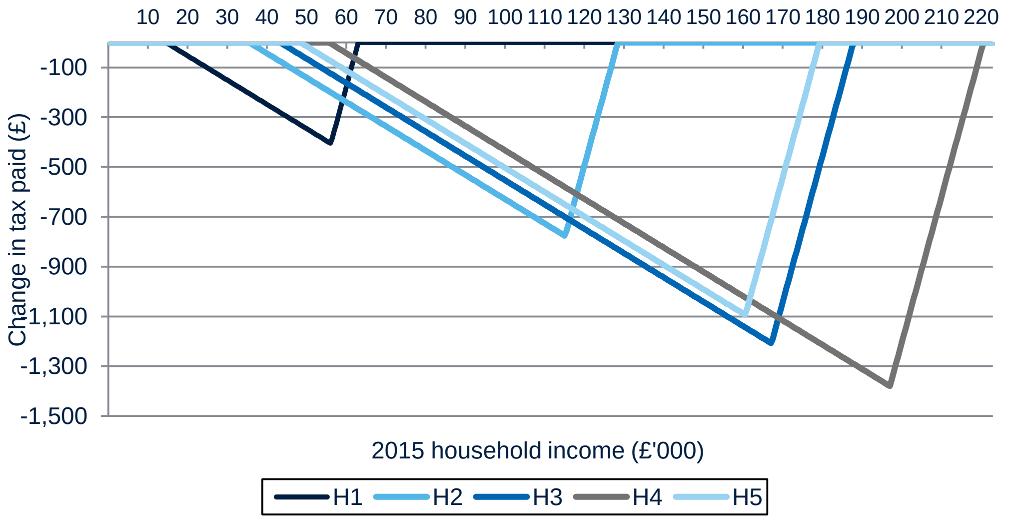
Similarly, there is no change for any household at the highest levels of income (>c.£100,000). This is because above c.£100,000 all of the illustrative households are paying tax at the standard rate, and so a change to the marginal rate does not impact tax payable.

Between these two levels, there is a tax reduction over a portion of household income levels for each illustrative household. The precise impact of the change in marginal rate depends primarily on the level of exemptions a household can claim under the marginal rate calculation (which determines the income level at which the change begins to have an impact on tax payable). For this reason, the household that observes an impact at the lowest level of income is the one entitled to the lowest level of exemption (H1, single person, no mortgage).

A further consideration is the level of allowances available to a household at the standard rate. In Figure 2.13 above, H3 and H5 are entitled to similar levels of exemptions at the marginal rate. However, at the standard rate, H3 is entitled to a higher level of MITR, which means that the switch to the standard rate occurs at a lower level of income. While MITR relief is not available at the standard rate in 2015, for the purposes of this comparative analysis we are using 2006 as a base (as explained in section 1.2) and varying only the one component being analysed (in this case, the marginal tax rate).

The income range over which this change is beneficial is much wider when 2015 is used as a base. This is because more people (household income levels) pay tax at the marginal rate in 2015 and so a change in the marginal rate affects more people. Figure 2.14 below shows the same graph as Figure 2.13 but using 2015 as a base.

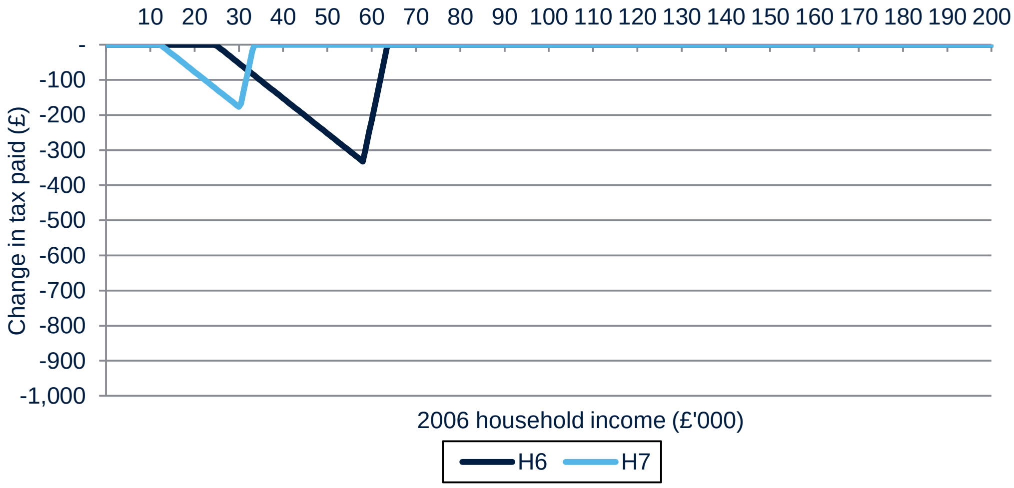
Figure 2.14 H1–5: impact of marginal rate change on tax paid (2015 base)



Source: Oxera analysis.

The same two graphs showing change in tax paid are presented below for the two pensioner households, H6 and H7.

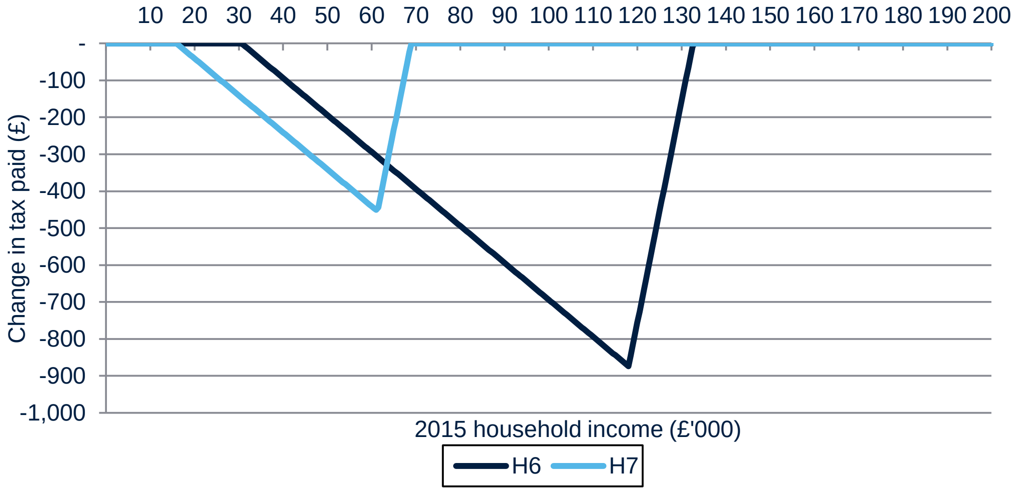
Figure 2.15 H6 and H7 (pensioners): impact of marginal rate change on tax paid



Source: Oxera analysis.

H6 is entitled to almost double the exemptions that H7 is entitled to (a married couple/civil partnership allowance versus a single person allowance). Therefore, the impact of the reduction in the marginal rate is observed at a higher level of income for H6.

Figure 2.16 H6 and H7: impact of marginal rate change on tax paid (2015 base)



Source: Oxera analysis.

2.4 Increase in marginal rate exemptions

The following increases to tax exemptions available under the marginal rate tax calculation have been introduced since 2006:

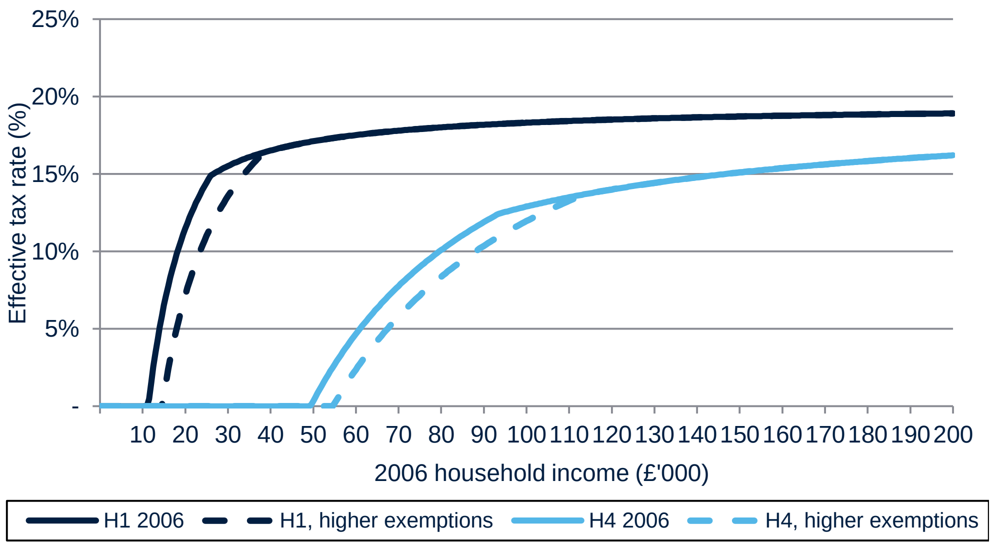
- single person: £11,020 to £14,200;
- married couple/civil partnership: £17,680 to £22,800;
- single person (over 65[9]): £12,300 to £15,900;
- married couple/civil partnership (over 65): £20,250 to £26,100.

In addition, exemptions relating to pension contributions,[10] childcare and child allowances have been increased, but these are assessed separately later in this report.

Figure 2.17 and Figure 2.18 show the impact on the effective tax rate of the increase in exemptions available under the marginal rate calculation (two non-pensioner households and two pensioner households).

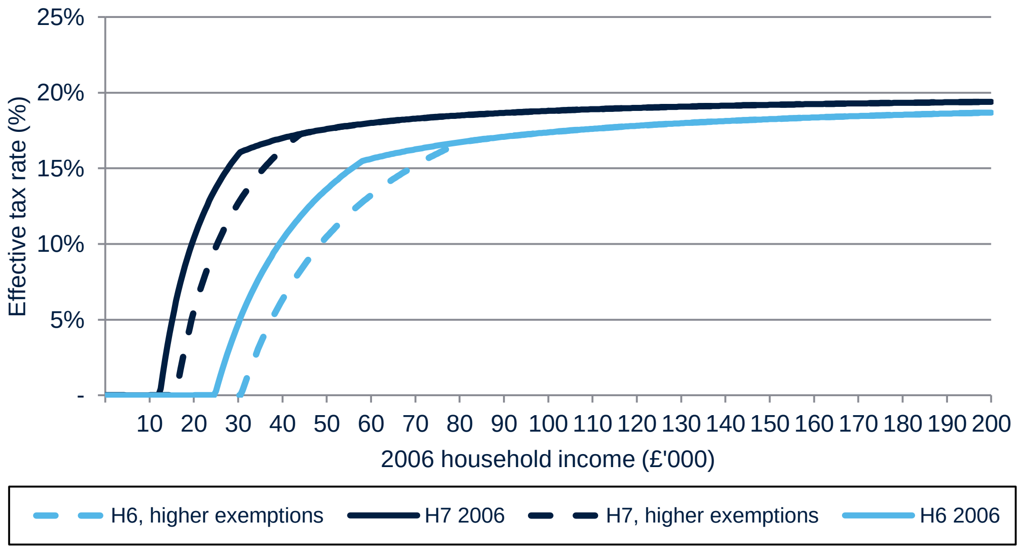
[9] 65 is applicable in 2015; the comparable figure for 2006 was 63. We do not consider in this report the impact of this change—it is assumed that both pensioner households are aged over 65, and therefore entitled to the age-enhanced exemption in both years.
[10] At most levels of income at which tax is payable at the marginal rate.

Figure 2.17 H1 and H4: impact of change in marginal rate exemptions on effective tax rate



Source: Oxera analysis.

Figure 2.18 H6 and H7: impact of change in marginal rate exemptions on effective tax rate

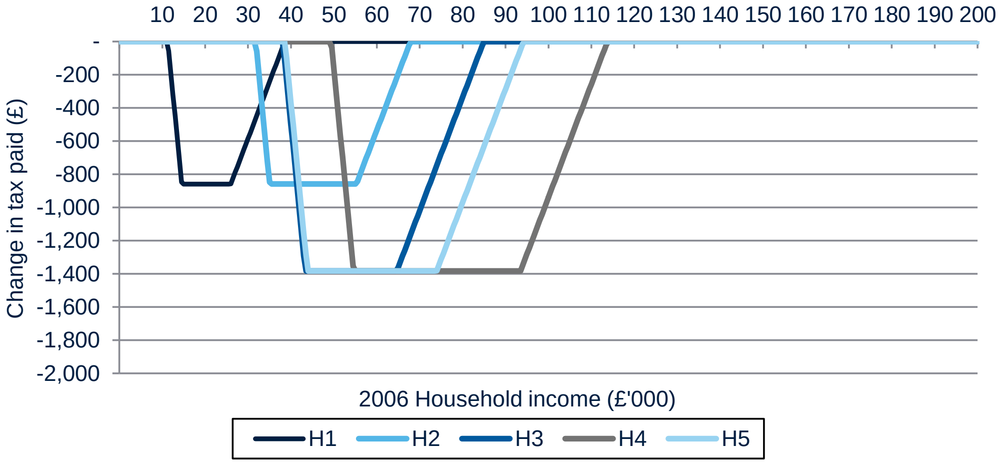


Source: Oxera analysis.

The primary impact, visible in both figures, is that the income level at which income tax becomes payable has increased for all households. The secondary impact is then that the income level at which the income tax switches to being calculated under the standard rate is higher after the change.

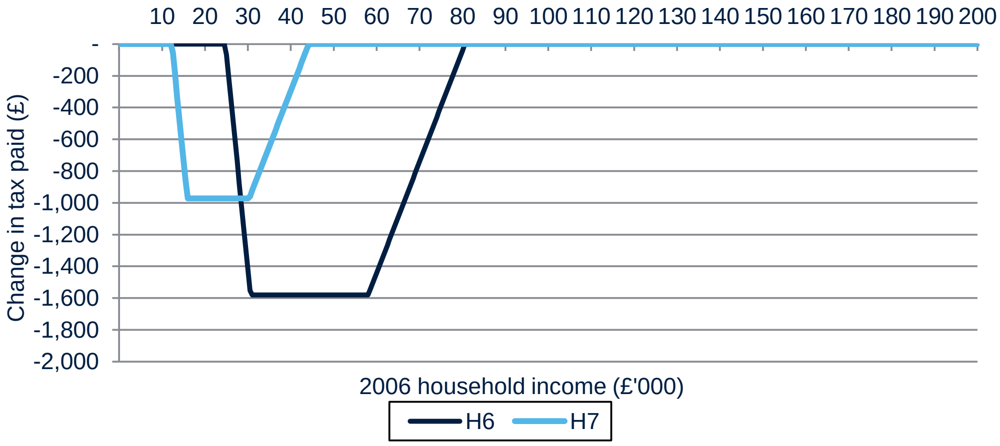
Figure 2.19 and Figure 2.20 show the impact on tax payable of the increase in marginal rate exemptions, for all households.

Figure 2.19 H1–5: impact of change in marginal rate exemptions on tax paid



Source: Oxera analysis.

Figure 2.20 H6 and H7 (pensioners): impact of change in marginal rate exemptions on tax paid



Source: Oxera analysis.

In each figure, there are two maximum levels of change in tax paid. These relate to the single or married status of a household (as it is this that affects the amount by which the household's entitlement to the exemption has changed).

While, for any given household, the increase in exemptions is independent of household income, the ability to use that increase in available exemptions does vary depending on household income.

For example, for household incomes below £10,000, the increase in exemptions has no value, as the existing exemptions (2006) are already greater than household income and so there is no taxable income remaining against which the exemption can be offset.

Therefore, the reduction in tax payable arises from the point at which household income increases above the level of exemptions available to a household in 2006. In Figure 2.19, this point is at a household income level of just over £10,000.

The maximum value of the exemption is equal to the increase in exemption multiplied by the marginal rate (which is 27% for the purposes of this graph, as we are comparing 2006 with a scenario based on 2006 but with the higher level of exemptions).

For example, the increase in exemptions available to H1 (and any other single, under 65 household) is £3,180 (£14,200 less £11,020). The value of this increase is £858.60 (£3,180 * 27%). For this reason, in Figure 2.19, the reduction in tax payable reaches a maximum at this level (represented by the flat part of the line at c.£860).

The change in tax payable reduces back to zero once household income reaches the level at which tax is paid based on the standard rate (as the changes to exemptions only affect tax paid at the marginal rate).

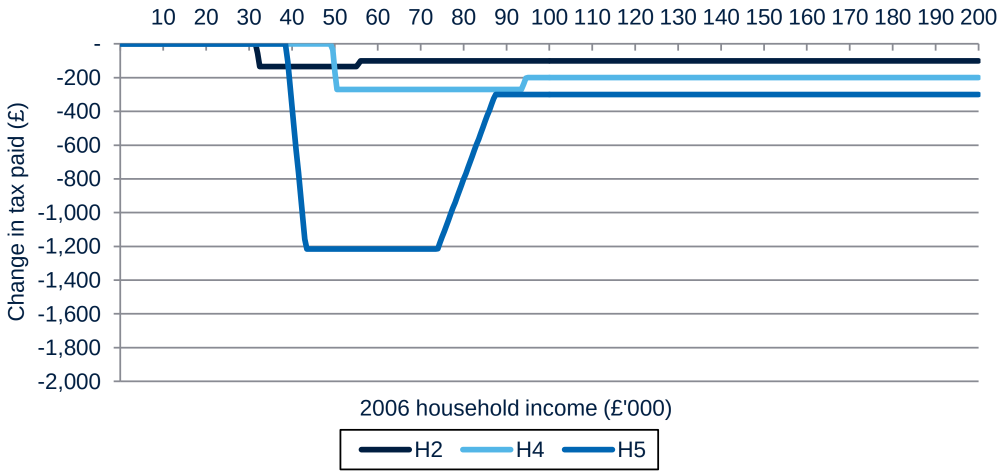
2.5 Increase in child allowances

Between 2006 and 2015, child allowances increased under both the standard and marginal rate calculations. The standard child allowance rose from £2,500 per child to £3,000 per child. The allowance for a child in higher education rose from £5,000 to £6,000 under the standard rate calculation, and to £9,000 under the marginal rate calculation.

Figure 2.21 shows the impact on tax paid for households with children. Beyond the initial level of exemptions, the impact is felt across the income spectrum, but is more significant under the marginal rate regime (the hump in each line).

The impact on H5 is highest as it has two children, one of which is in higher education. The household therefore benefits from the significant increase in exemption available under the marginal rate calculation for a child in higher education.

Figure 2.21 H2, 4 and 5: impact of change in child allowances on tax paid



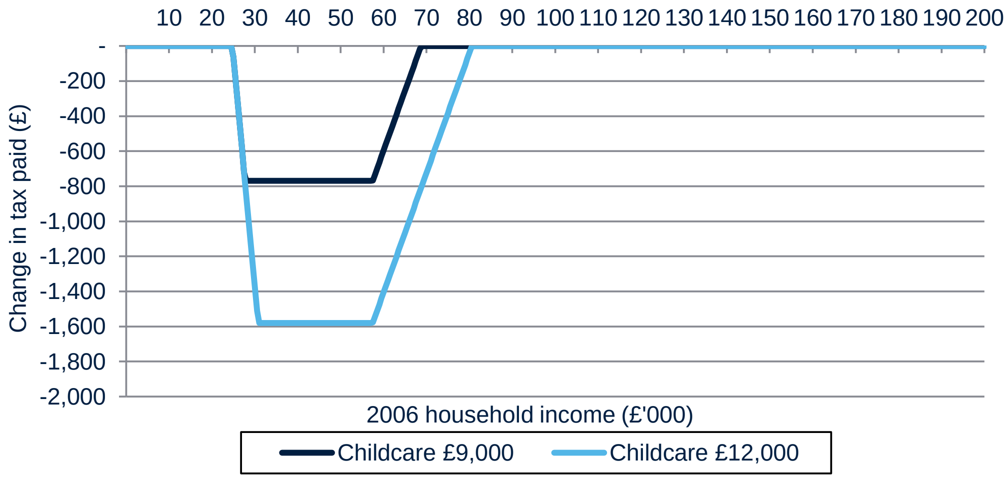
Source: Oxera analysis.

2.6 Introduction of enhanced childcare relief

Relief is also available for the cost of childcare. While the level of relief has not changed for school-age children, a new higher rate has been introduced for pre-school children. This 'enhanced' childcare relief means that for pre-school children, the tax relief available for expenditure on childcare is higher. The maximum exemption available in 2015 is £12,000, compared with £6,150 in 2006.

The impact of this change depends on how much a household spends on childcare. Figure 2.22 illustrates the tax reduction for two single-child households, one which spends £9,000 per annum on childcare for a pre-school child and one which spends £12,000. There will be no impact for a household which spends less than or equal to £6,150 per annum (per child) on childcare.

Figure 2.22 Impact of introducing an enhanced childcare allowance on tax paid



Source: Oxera analysis.

As stated in Table 1.2, it has generally been assumed that all households with children pay £3,000 per child per year for childcare. At this level of expenditure, the enhanced childcare tax relief would not have any impact. Therefore it does not change the shape of the aggregate charts in either section 2.10 or section 6.

2.7 Withdrawal of life assurance and private medical insurance relief

A further change between 2006 and 2015 was the withdrawal of the tax relief available for payments made towards life assurance (LA) and private medical insurance (PMI) policies. The impact of this change depends on the level of payments being made.

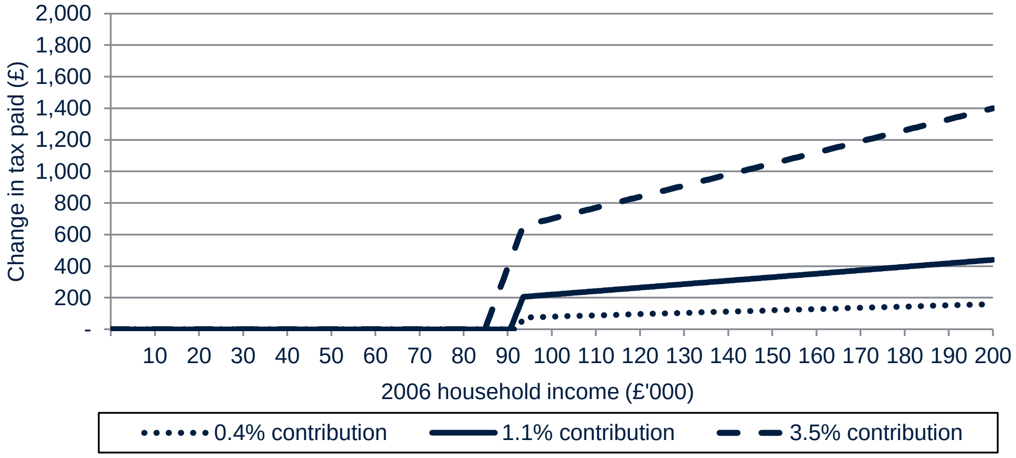
Figure 2.23 and Figure 2.24 show the impact of each of these changes in turn at three different levels of payment (as a percentage of income), using H4 as an illustrative example.

The example payments used are based on two sources of data from the Government of Jersey and serve to illustrate the potential impact of the tax at three different levels of payment. Information from the 2014/15 Household Expenditure Survey shows that the average expenditure on PMI and LA for those who have these policies is 1.8% and 1.1% of household income respectively. As actual payments will vary from the average, Figure 2.23 and Figure 2.24 show the impact of this change on three different payment levels, including the average, but also including two different assumptions.[11]

[11] A lower assumption, also based on the Household Expenditure Survey but the average of both those who do spend on these insurance products and those who do not—to account for the fact that the majority of taxpayers did not claim each relief in 2006.
A higher assumption—taken from Taxes Office data showing the average amount of relief claimed, as a proportion of mean household income.

Both reliefs were available under the standard rate calculation only. The levels of income over which this change has no impact are those for which tax is payable under the marginal rate calculation.

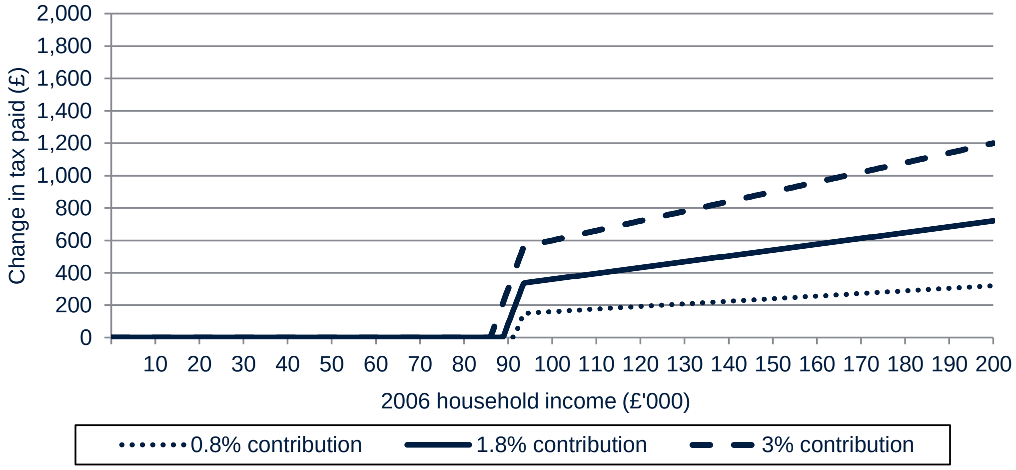
Figure 2.23 H4: impact of removing life assurance relief on tax paid



Source: Oxera analysis.

We note that there were some restrictions in place in relation to this relief, relating to the value of the sum assured and the level of contribution as a percentage of income. Neither restriction is relevant for the levels of payment modelled here.

Figure 2.24 H4: impact of removing private medical insurance relief on tax paid



Source: Oxera analysis.

In accordance with Table 1.2, it has generally been assumed that households did not have any expenditure on PMI or LA, as only a minority of households were claiming these reliefs. Therefore it does not change the shape of the aggregate charts in either section 2.10 or section 6.

2.8 Reduction in mortgage interest tax relief

While the majority of changes to MITR were introduced as part of the wider implementation of '20 means 20' changes (as described in section 2.2),[12] given

[12] The £15k cap on MITR was not introduced as part of '20 means 20'.

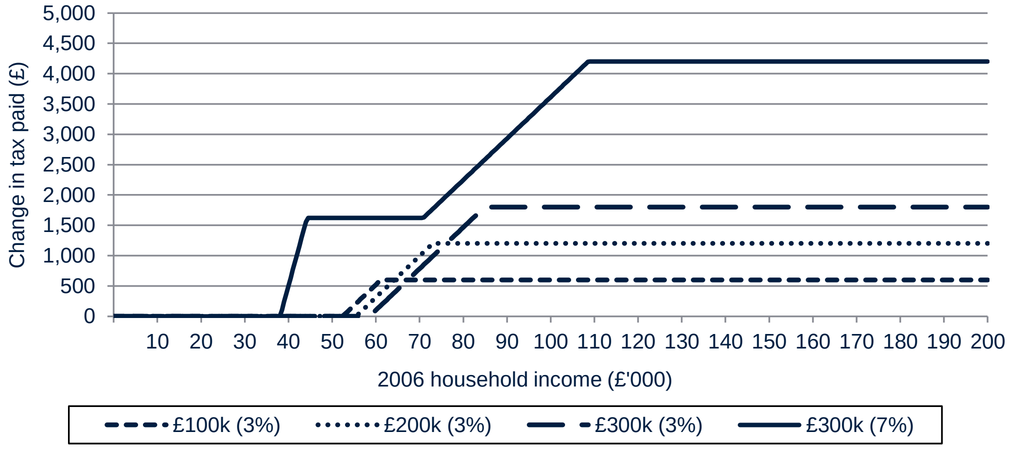
the significance of this component of the change, we have assessed this aspect of the policy separately.

This section assesses how MITR varies depending on the specific assumptions made (e.g. in relation to the prevailing interest rate and mortgage level), enabling us to isolate the impact of the MITR change. Between 2006 and 2015, MITR was withdrawn at the standard rate. In addition, a cap on total relief available was introduced at £15,000.

The impact of this change depends on the interest rate and the outstanding mortgage. The amount of relief available to standard rate taxpayers in 2006 was determined as follows: mortgage amount (capped at £300,000) * interest rate * 20%. The total amount of relief available is independent of income, but the *impact* of this change on tax paid is income-dependent. This is because the value of relief is dependent on the availability of taxable income against which the mortgage interest relief can be offset, which in turn has implications for whether a household pays tax under the marginal or standard rate.

Figure 2.25 shows the impact of this change on tax payable based on three different levels of mortgage and two different levels of interest rate (shown in brackets in the legend).

Figure 2.25 H3: impact of changes to mortgage relief on tax paid



Source: Oxera analysis.

At the marginal rate, income tax payable is affected only where the total interest paid is above £15,000 per annum. Figure 2.25 includes an example in which the mortgage level is £300,000 and the interest rate is 7%, in which case interest payable is £21,000. In this case, the cap introduced reduces the tax relief available under the marginal rate (by [£21,000 - £15,000] * 27% = £1,620). This is illustrated by the kink (relative to the other lines shown) in the line representing a £300,000 mortgage at 7%.

For levels of annual interest below the £15,000 cap, the impact is only on households paying tax under the standard rate (as for the £300,000 mortgage at 7% shown in Figure 2.25).

2.9 Change in pension contribution tax relief

Since 2006, the pension relief available has changed significantly. Particularly for lower levels of income, the pension relief available is significantly higher in 2015 than in 2006. However, for those at the highest levels of income, pension relief has been reduced significantly.

Pension relief (the maximum value of tax-deductible income) available in 2015 is determined based on the lower of the following three figures:

- total pension contribution;
- £50,000 less any ‘excess’ (defined below);
- relevant earnings less any ‘excess’.

The ‘excess’ referred to above is the amount by which an individual’s income exceeds £150,000. This is illustrated by the example presented in Box 2.1.

Box 2.1 Pension contribution example

An individual has a salary of £160,000

Pension contribution: £50,000

To calculate the pension relief available:

Total income: £160,000

Excess (£160,000 - £150,000) = £10,000

Pension relief is the lower of:

- £50,000 (actual pension contributions)
- £40,000 (£50,000 less excess £10,000)
- £150,000 (relevant earnings £160,000 less excess £10,000)

Pension relief = £40,000

Source: Oxera analysis based on an example provided on the States of Jersey website.[13]

Previously, pension contributions tax relief was capped as a percentage of income, which increased across three age brackets. This cap applied on earnings up to £100,000, above which no additional relief could be claimed. This is shown in Table 2.2.

Table 2.2 Summary of previous pension relief rules

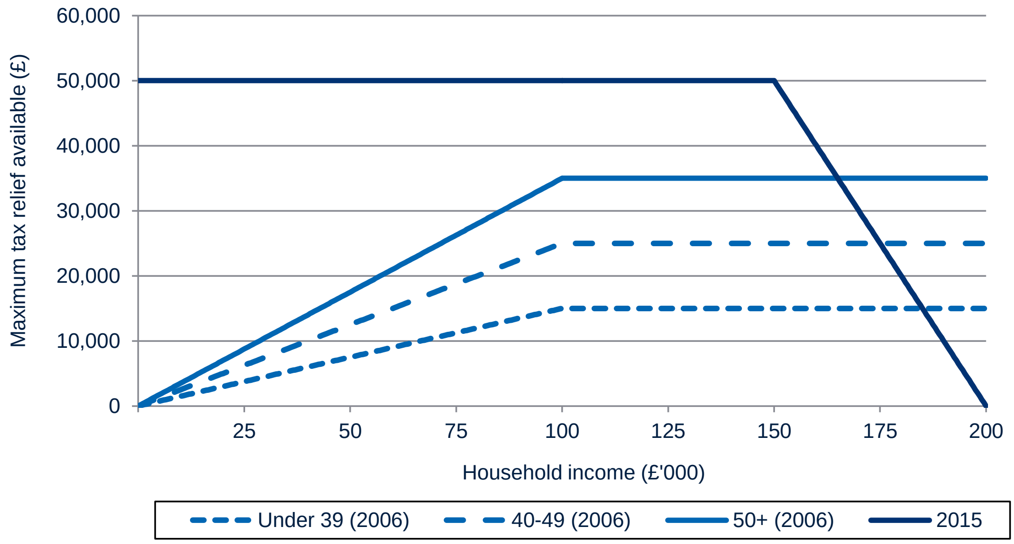
Age	Maximum relief
Up to 39	15% of earnings; maximum of £15,000
40–49	25% of earnings; maximum of £25,000
50+	35% of earnings; maximum of £35,000

Source: Government of Jersey.

Figure 2.26 below shows how the change in policy has altered the maximum amount of tax relief available on pension contributions for each age group above. The 2015 policy does not distinguish by age and so is represented by one line.

[13] https://www.gov.je/TaxesMoney/IncomeTax/Individuals/AllowancesReliefs/Pages/DeductionsForPensionContributions.aspx#anchor-0, accessed 16 March 2017.

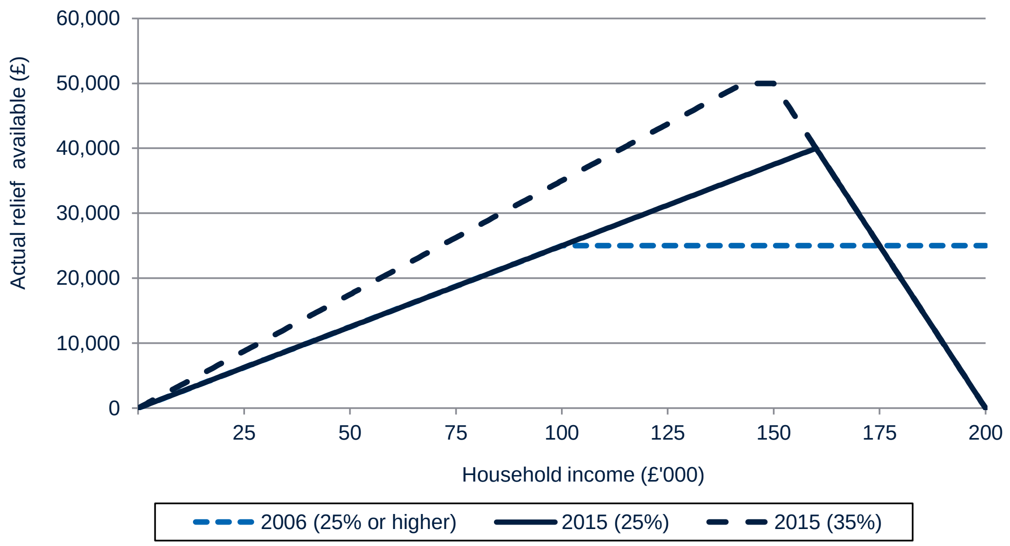
Figure 2.26 Maximum pension tax relief available by age group



Source: Oxera analysis.

While Figure 2.26 illustrates the maximum relief available, in reality individuals may make much lower contributions into their pensions. To illustrate the impact at different levels of contribution, Figure 2.27 below shows the actual tax relief available for an individual in the 40–49 age bracket at two levels of pension contribution: 25% of income and 35% of income. While these levels of contribution are much higher than the average level of contribution, they enable the difference between the 2006 and 2015 policy to be clearly illustrated.

Figure 2.27 Actual tax relief on pension contributions (individual aged 40–49)

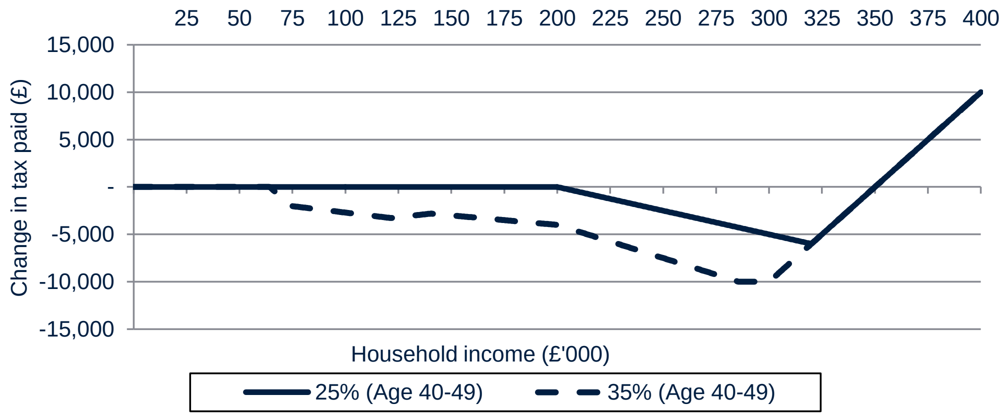


Source: Oxera analysis.

As Figure 2.27 illustrates, the 2015 policy provides the same or higher level of relief for individuals earning up to £175,000. Beyond that point, the 2015 regime provides a lower level of relief.

Putting this change in the context of the wider income tax regime, Figure 2.28 shows the impact of this change on tax paid for these same two levels of contribution (expressed as a percentage of household income), using H4 (a two-person household) as an illustrative example.

Figure 2.28 H4: impact of change in pension contributions tax relief on tax paid



Source: Oxera analysis.

The adults in the household are aged between 40 and 49. The percentages illustrated are significantly higher than the actual contribution average of 2.4% (used elsewhere in this report). However, their use enables us to demonstrate the impact of this policy change, which is more visible in the case of higher pension contributions.

This is a significant change and, as shown in the graph, the reduction in tax payable for a couple aged between 40 and 49 could be up to £10,000 at a household income level of £300,000. However, for household incomes above £350,000, the impact is an increase in tax payable, equal to £5,000 at a household income of £400,000. The shape of the 35% line can be explained by the following:

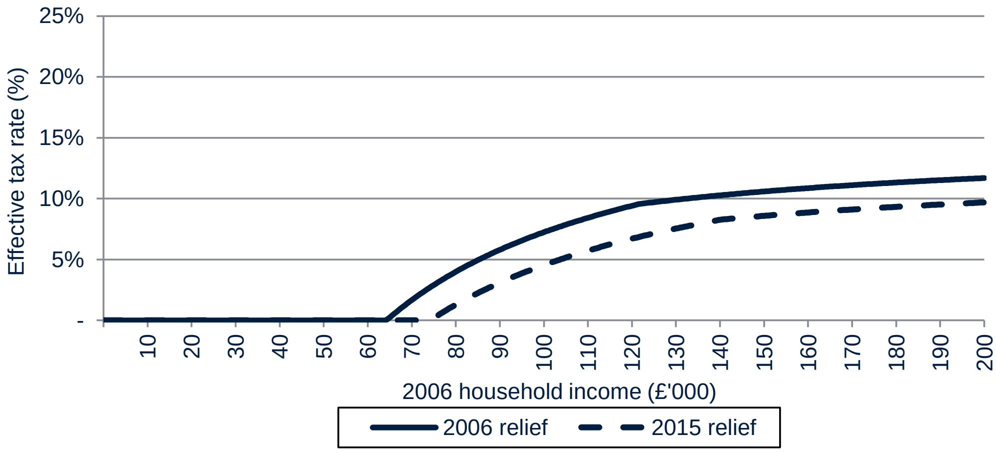
1. the impact of higher pension contribution relief in 2015 on the level of income reached before income tax is payable at the marginal rate;
2. the difference between relief at 25% (2006) and 35% (2015) (at marginal rate);
3. the change in the income level at which the standard rate is applicable;
4. the difference between relief at 25% (2006) and 35% (2015) (at standard rate);
5. the impact of a cap of £25,000 (2006);
6. the impact of a cap at £50,000 (2015);
7. the impact of the 'excess' as individual incomes increase above £150,000 each.

Unlike most of the other charts presented in this report, the x-axis in Figure 2.28 goes up to £400,000, to allow the impact of the cap on the tax relief to be illustrated. The combined impact of the changes in pension contribution rules means that those on very high incomes are worse off, and those on middle to high incomes are better off only if they have very high contribution rates—

therefore, it provides more flexibility to this group of people, which can benefit from tax relief on higher levels of pension contribution.

Figure 2.29 demonstrates the effective income tax rate paid by H4 in 2006, before and after the pension changes, assuming a 35% level of pension contribution. The impact of the change is to reduce the effective income tax payable by around 2%. This is because, in 2006, relief was available only on pension contributions up to 25% of income. In 2015, this cap was removed and replaced with an absolute cap of £50,000 (one of the conditions in Box 2.1 above[14]). Before the £50,000 cap is reached (beyond the £200,000 shown here for a two-person household), the difference in contributions which will attract relief is 10% of income (35% less the 25% cap applicable in 2006). At a standard rate of 20%, this is equivalent to a reduction in the effective rate of 2% (20% of 10%).

Figure 2.29 H4: effective income tax rate (35% pension contribution)

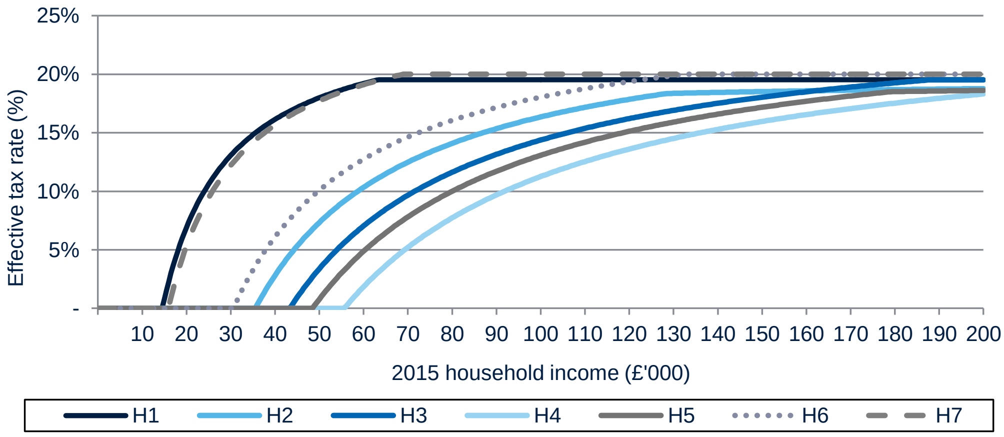


Source: Oxera analysis.

2.10 Income tax summary: 2006 versus 2015

To summarise the changes to income tax, Figure 2.30 shows the effective tax rate by income level for each of the seven households considered in this report.

Figure 2.30 All households: effective income tax rate in 2015

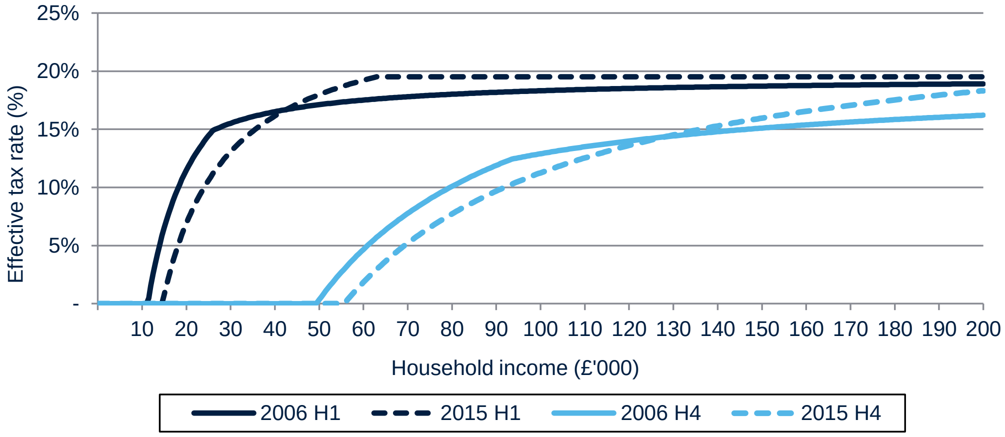


Source: Oxera analysis.

[14] Less any excess, which applies only to individual income over £150,000.

Figure 2.31 shows the effective rates in 2006 and 2015 for the two extreme households, H1 and H4, illustrating the cumulative effect of the changes.

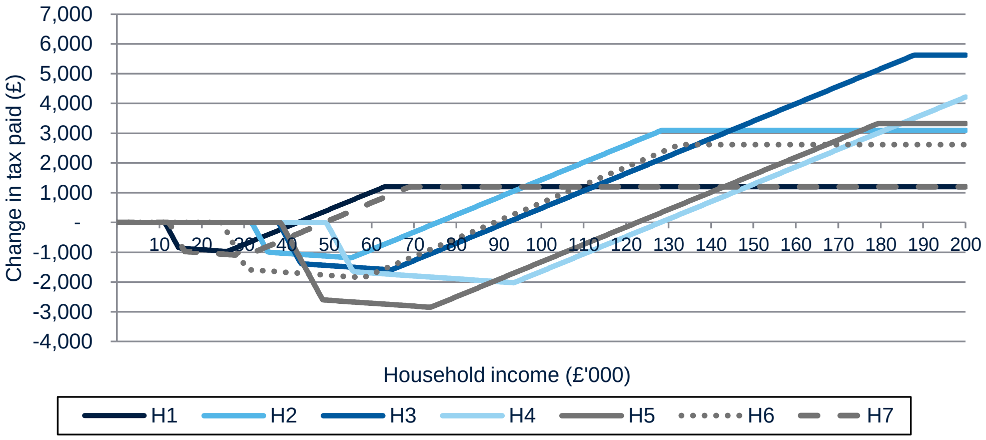
Figure 2.31 H1 and H4: effective income tax rate in 2006 and 2015



Source: Oxera analysis.

Figure 2.32 shows, for the same seven households, the change in income tax payable between 2006 and 2015.

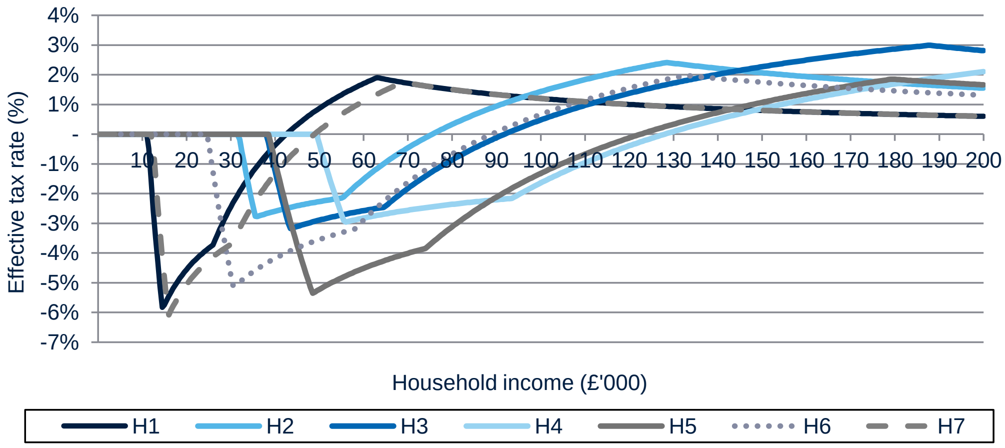
Figure 2.32 All households: change in income tax paid, 2006–15



Source: Oxera analysis.

Figure 2.33 below demonstrates the change in the effective rate between 2006 and 2015.

Figure 2.33 All households: change in effective rate, 2006–15



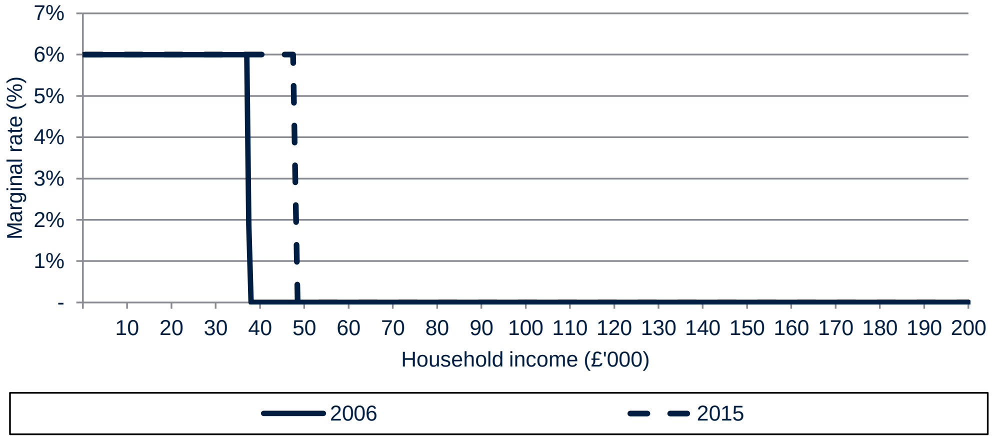
Source: Oxera analysis.

3 Social Security

Social Security contributions are payable by employees on all income earned up to a certain level: the Standard Earnings Limit (SEL). The SEL increased between 2006 and 2015 from £37,656 to £48,240 as the SEL increased each year in line with average earnings.

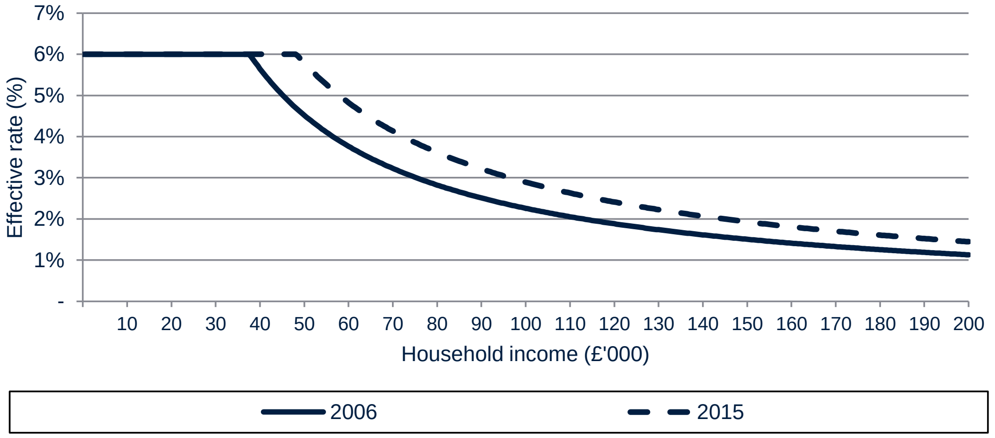
This change is illustrated in Figure 3.1, which shows the marginal rate of contribution across a range of income levels for a single-person household. This same pattern arises for a two-person household, but the switch from 6% to 0% marginal rate will arise at double the income level shown below (i.e. each adult in the household pays 6% up to the SEL).

Figure 3.1 Social Security contributions: marginal rate



Source: Oxera analysis.

Figure 3.2 Social Security contributions: effective rate



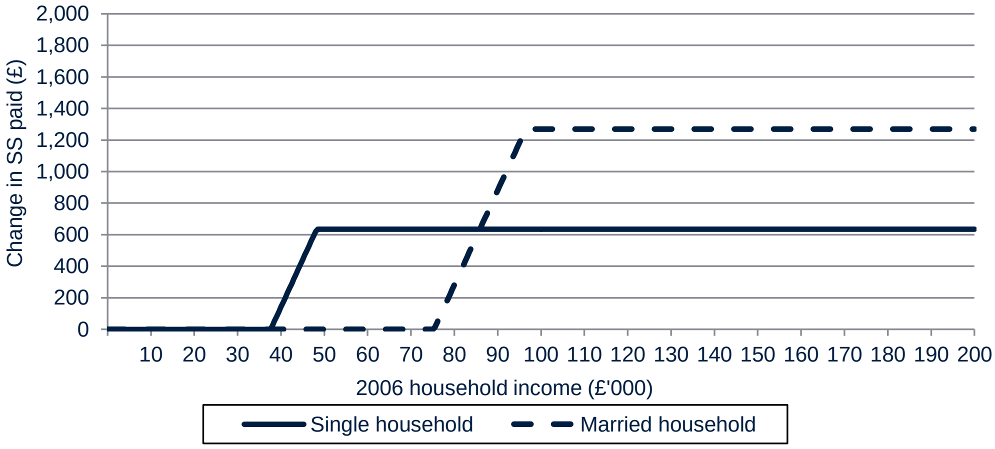
Source: Oxera analysis.

As shown in Figure 3.1 and Source: Oxera analysis.

Figure 3.2, in 2006 the effective rate was 6% up to earnings of £37,656, after which the marginal rate reduces to nil, and hence the effective rate begins to fall as no additional contributions are made on additional income. The same pattern arises in 2015, but the drop-off occurs at a higher level of income, the new SEL of £48,240. At £200,000 income, the effective rate is between 1% and 2% in both years.

Figure 3.3 below shows how this change translates into a change in Social Security payable for a single and married household.

Figure 3.3 Increase in Standard Earnings Limit: change in Social Security paid



Source: Oxera analysis.

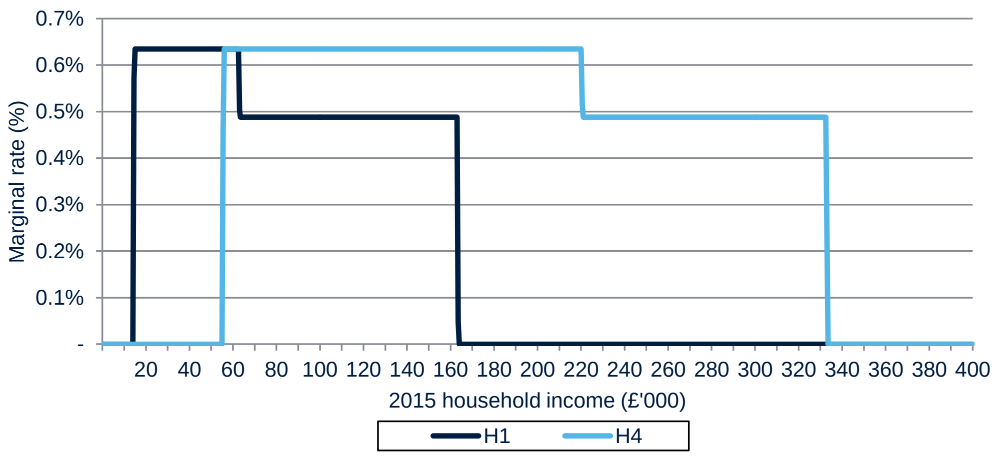
4 Long-term care contribution

Since 2006 the Government of Jersey has introduced a tax payer contribution intended to help fund long-term care in Jersey.

In 2015 this contribution was set at a maximum of 0.5% of income for households paying tax at the standard rate, and 0.65% for those paying at the marginal rate. Contributions are payable at 0.65/0.5% on all taxable income (i.e. over and above available exemptions) below an individual's 'Upper Earnings Limit' (UEL) of £159,624.

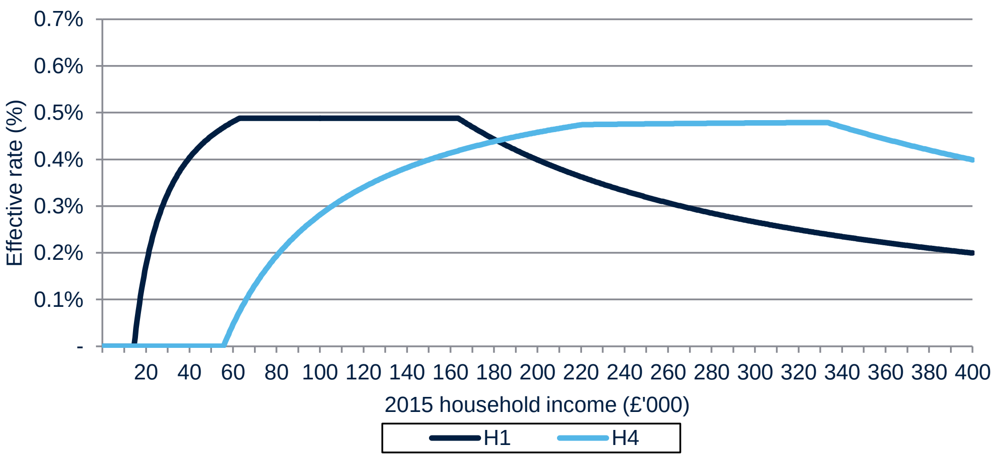
Figure 4.1 and Figure 4.2 show the marginal and effective rates of LTC contribution for a single person household (H1) and a married household (H4).

Figure 4.1 H1 and H4: marginal LTC contribution rate in 2015



Source: Oxera analysis.

Figure 4.2 H1 and H4: effective LTC contribution rate in 2015



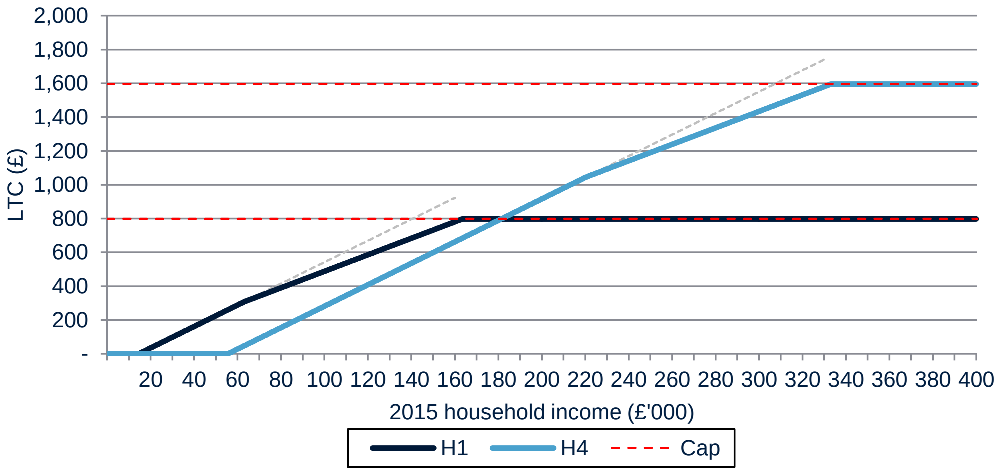
Source: Oxera analysis.

In all cases, the amount of LTC contribution depends on the underlying income tax payable by a household (and by an individual for the highest levels of income). Therefore, the effective rate is influenced by the level of exemptions and allowances that household is entitled to. This is why the effective rate differs by household.

Figure 4.3 below shows how much LTC contribution is payable for H1 and H4. The dotted red lines show the cap on contributions (£798 per person) and the dotted grey lines help to identify the change in the gradient of the lines in the figure (reflecting a move from marginal to standard rate tax).

The cap on contributions of £798 per person is based on 0.5% of the UEL of £159,624. However, both households are entitled to some tax-free income at the standard rate. In this case, both households are entitled to tax relief on pension contributions (which we have assumed are 2.4% of income) and H4 is additionally entitled to child allowances. Because of this, the LTC contribution cap of £798 per person is not reached until an income level of c.£163,000 for H1 and £333,500 for H4.[15]

Figure 4.3 H1 and H4: LTC contribution paid in 2015



Source: Oxera analysis.

[15] Further illustrations of how the LTC contribution was calculated in 2015 can be found on the States of Jersey website: https://www.gov.je/SiteCollectionDocuments/Tax%20and%20your%20money/ID%20LTCContributionDetailCalculation%2020151127%20jc3.pdf, accessed 16 March 2017.

5 Goods and Services Tax

A Goods and Services Tax (GST) was introduced in 2008, initially at 3% of qualifying expenditure, but later increased to 5%. At the time the tax was introduced, other changes were made to reduce its impact on those at the lower end of the income scale.

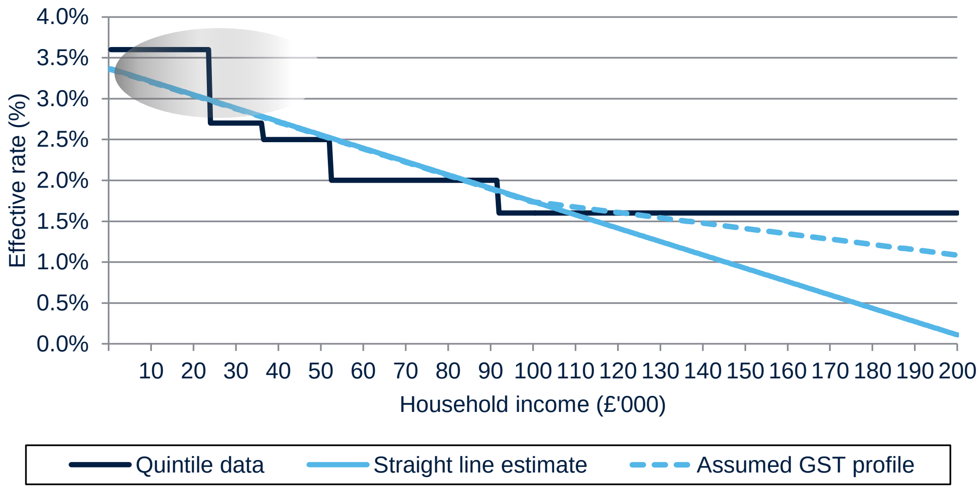
Income support was introduced in 2008 and to offset the additional cost of this tax the components of income support subject to GST were increased by 3% when GST came into force later that year. They were increased further when GST rose from 3% to 5%. In addition, a food costs bonus was introduced to ensure that those at the lower end of the income scale who were not eligible for income support and who did not pay income tax would be compensated for an estimate of the amount of GST payable on food. The food costs bonus increased again when GST rose from 3% to 5%.

This report does not explicitly consider either income support payments or the food costs bonus, but the charts in this section and section 6 note that the cost of GST will be offset to some degree by these receipts for households at the lower end of the income scale.

To analyse the distributional impact of this tax, we have made assumptions about the portion of household income that is spent on GST. These assumptions are based on data provided by the Government of Jersey about the portion of income spent on GST by income quintile.

The black line in Figure 5.1 shows the quintile data provided to Oxera. It illustrates that households in the lowest 20% income quintile spend c.3.6% of their income on GST. The households in the highest income quintile spend on average c.1.6% of their income on GST.

Figure 5.1 GST as a proportion of income

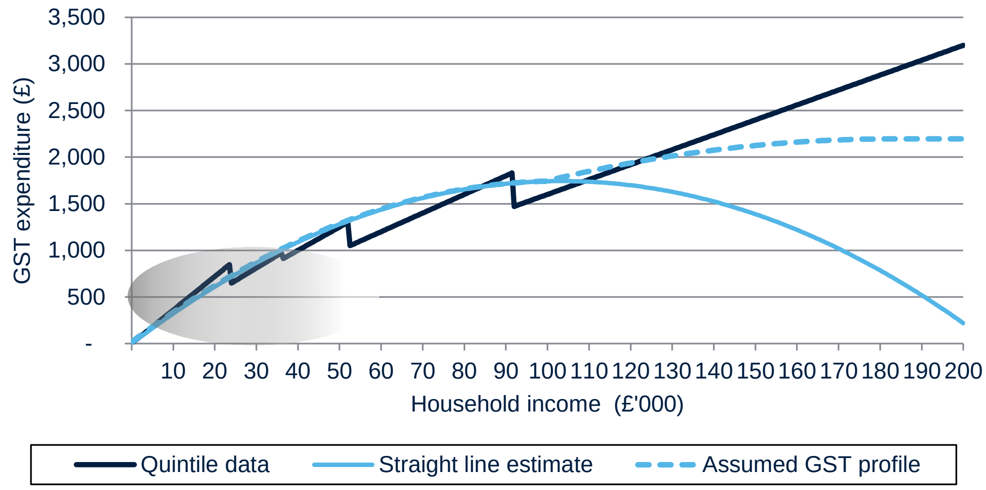


Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be offset (in full or in part) by income support and/or food costs bonus receipts.

Source: Oxera analysis.

However, in reality, the average percentage of income spent on GST is likely to reduce continuously as income increases (generally the propensity to spend, as opposed to save, reduces as income increases). As such, using this 'stepped' data for modelling purposes might produce slightly distorted results. We have therefore used the quintile data to estimate an underlying linear relationship between household income and the proportion of income spent on GST (based on a line of best fit[16]). However, when we tested what this implied for the actual expenditure on GST, we observed that, beyond a certain income level (c.£103,000), actual expenditure on GST appeared to decrease as income increased.[17] This is shown in Figure 5.2 below.

Figure 5.2 Actual expenditure on GST by income level (£)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be offset (in full or in part) by income support and/or food costs bonus receipts.

Source: Oxera analysis.

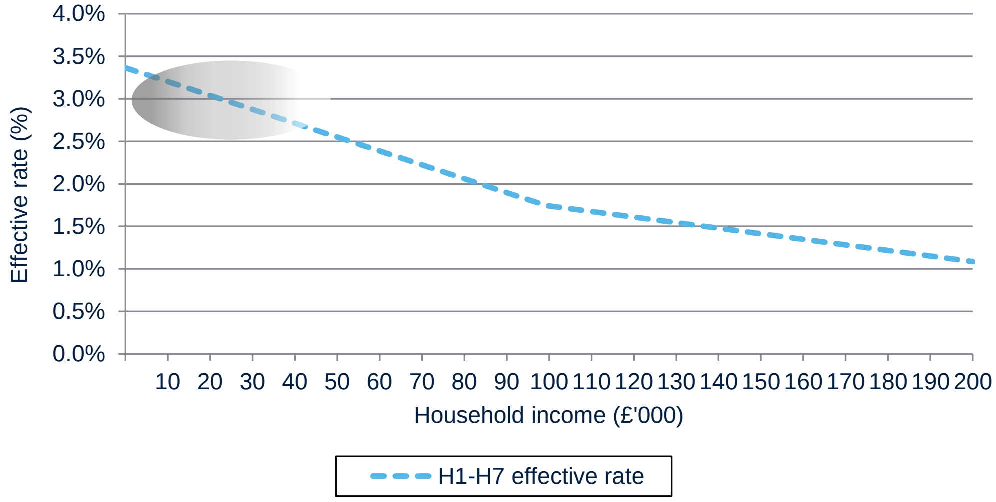
We do not consider a declining profile of expenditure on GST (as suggested by the light blue line in Figure 5.2, beyond c.£103,000) to be a realistic assumption. Therefore, we made an adjustment to the linear relationship beyond this point.

Specifically, we have assumed that the slope of the line in Figure 5.1 reduces slightly beyond £103,000.[18] For income levels up to £200,000, this profile implies that absolute expenditure on GST increases as income rises.

While the specific nature of the relationship at higher levels of income is difficult to estimate, we consider this a more realistic approach than using either the quintile data or line of best fit in isolation. The dotted line in Figure 5.1 and Figure 5.2 above illustrates our overall assumption about the relationship between household income and spending on GST. Figure 5.3 shows how the effective rate paid by all household types on GST varies by income.

[16] Derived based on a 'least squares' estimate.
[17] This is because, as income increases, a lower percentage of *total* (rather than marginal) income is assumed to be spent on GST. Beyond a certain point (at high levels of income), the reduction in GST paid on current income is greater than the additional amount of GST assumed to be spent on GST as a result of incremental income.
[18] Specifically, the slope of the new line is 40% of that for the line of best fit.

Figure 5.3 Impact of GST change on effective tax rate



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be offset (in full or in part) by income support and/or food costs bonus receipts.

Source: Oxera analysis.

6 Combining taxes and contributions: income tax, Social Security, LTC contribution and GST

We now consider all of the taxes and contributions together: income tax, Social Security, LTC contribution and GST. Income tax in 2015 includes ‘20 means 20’ (including the changes to MITR), lower marginal rate tax, higher exemption thresholds, an increase in child allowances, and the change in relief for pension contributions. It does not include the impact of the removal of relief for PMI and LA premiums (because only a minority of taxpayers were claiming each of these in 2006), or the introduction of enhanced childcare (because it is assumed that childcare costs are £3,000 per child, in line with the average).

A recap of the household characteristics is presented in the Figure 6.1.

Figure 6.1 Overview of illustrative households

H1	H2	H3	H4	H5	H6	H7
Single	Single	Married	Married	Married	Married	Single
	1 child		2 children	2 children (one in higher education)	pensioners	pensioner
No mortgage	£200k mortgage	£300k mortgage	£300k mortgage	£100k mortgage	No mortgage	No mortgage

Note: Images sourced from www.freepik.com.

Figure 6.2 to Figure 6.8 below compare the taxes and contributions in 2015 to that of 2006 for each household. The principal features of these graphs are explained below.

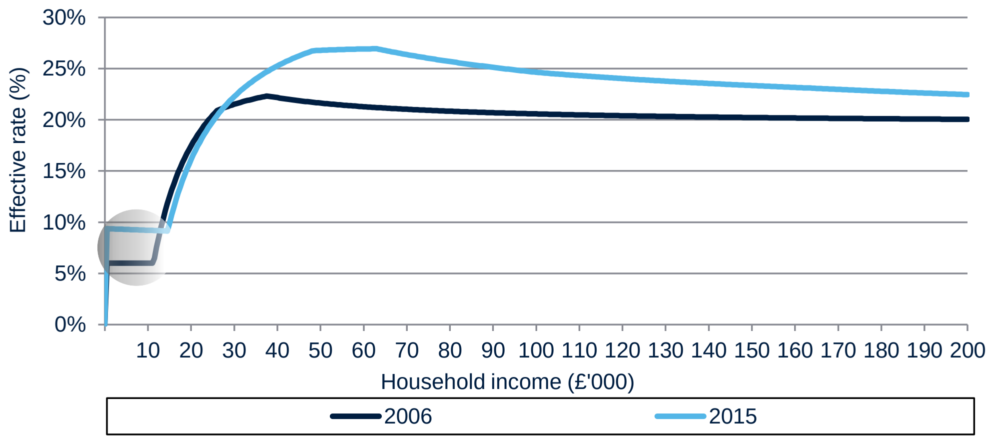
In each case the level of effective tax at the lowest end of the income range increased between 2006 and 2015. This is principally due to the introduction of GST, which is assumed to account for approximately 3.5% of income at the lower end of the income spectrum.

The second feature of the graphs is the fact that the flat part of the chart (for example, up to about £15,000 in Figure 6.2) is generally longer in 2015. This is a result of the higher exemptions available at the marginal rate in 2015, and is most prominent in Figure 6.6 because H5 benefits in particular from the substantial increase in child allowances for a child in higher education (which increased from £5,000 to £9,000 for marginal rate tax payers). As a result of this, some marginal rate tax payers pay a lower effective rate of taxes and contributions in 2015 than in 2006, at the same level of income.

Beyond the point at which exemptions exceed income (i.e. where the lines begin to climb), the figures below show a slightly steeper line for 2015 than 2006. This is because of the introduction of the GST and LTC contribution, which in 2015 is at a marginal rate 0.65% of income at this point in the figures. However, the impact of GST and the LTC contribution is partially offset by the reduction in the marginal rate of income tax from 27% to 26% as well as the increase in exemptions, as discussed in the next paragraph.

The upwards slopes of the lines for each household vary—in general, the higher the level of exemptions applicable (shown by the length of the flat part of the chart), the more slowly the line will rise. This is because additional tax paid at the marginal rate as income rises is a smaller portion of total income, the higher the level of exemptions.

Figure 6.2 H1: effective rate (all taxes and contributions)

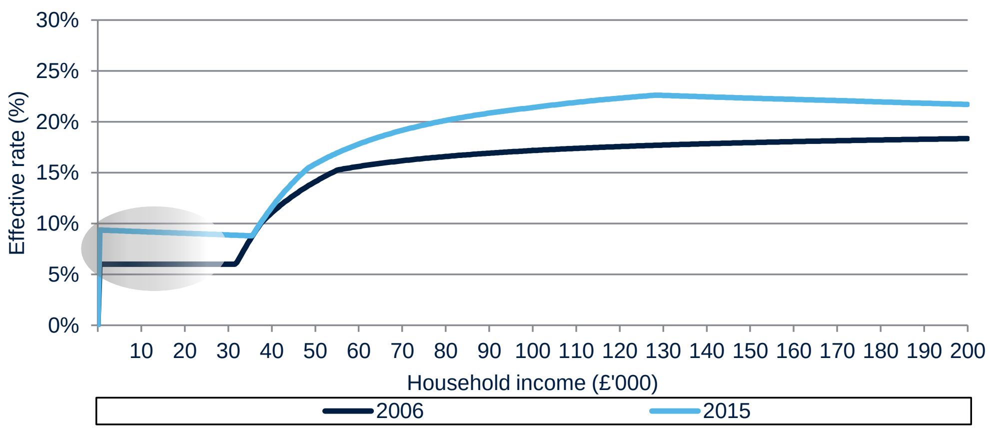


Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be offset (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

Each of the lines for 2015 in the figures below also show subtle 'kinks'. These relate to the switch from marginal to standard rate tax and the SEL on Social Security payments. The cap on Social Security payments and the LTC contribution, and the reducing profile of GST as a percentage of income, together lead the effective tax rate to reduce slightly at the highest levels of income. This is most pronounced for H1, as shown in Figure 6.2.

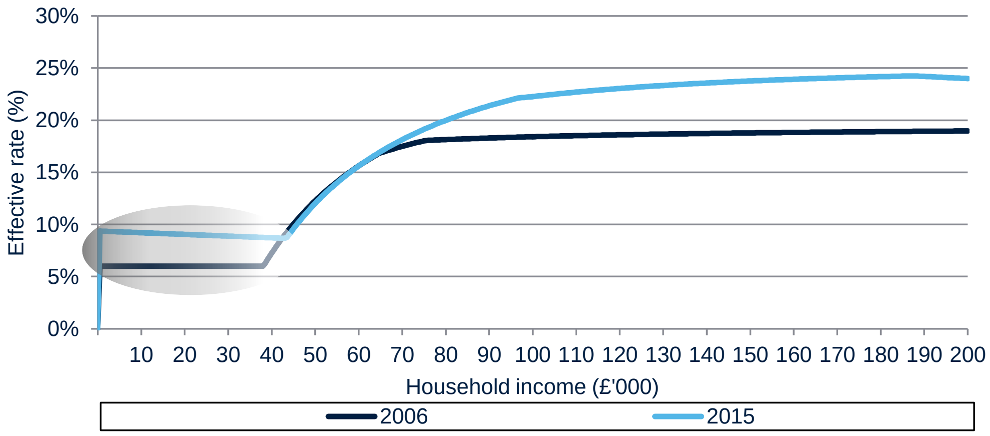
Figure 6.3 H2: effective rate (all taxes and contributions)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

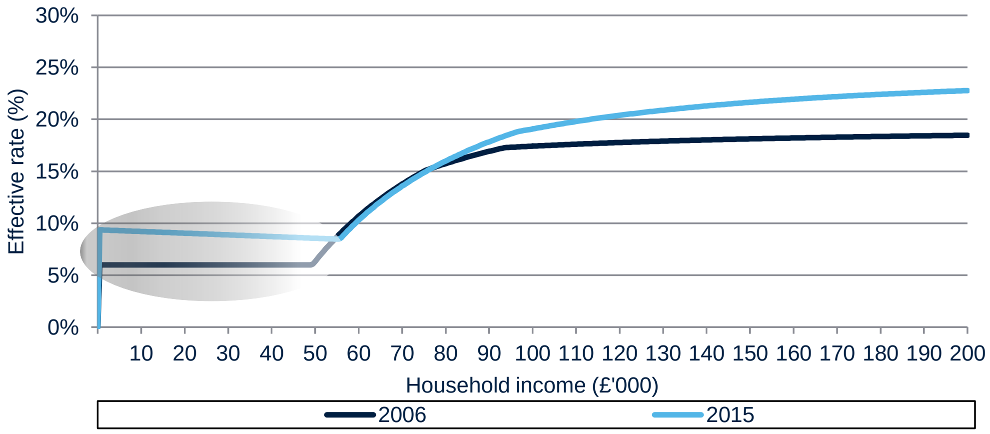
Figure 6.4 H3 effective rate (all taxes and contributions)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

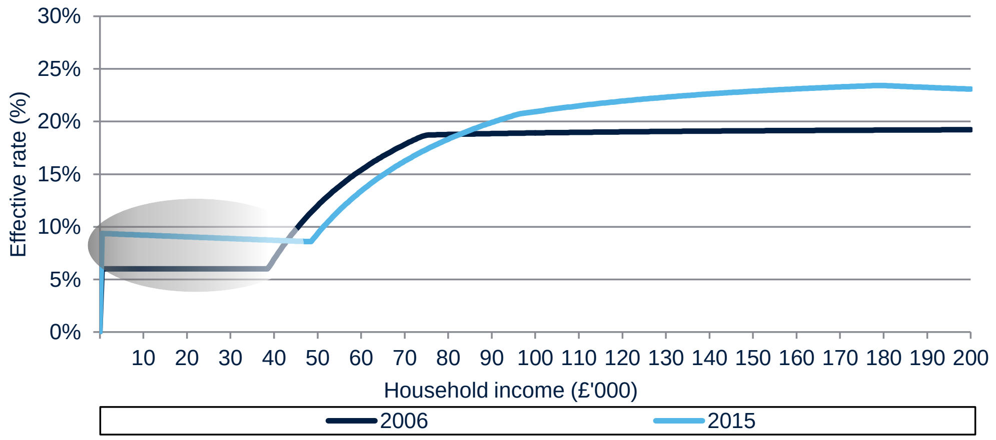
Figure 6.5 H4: effective rate (all taxes and contributions)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

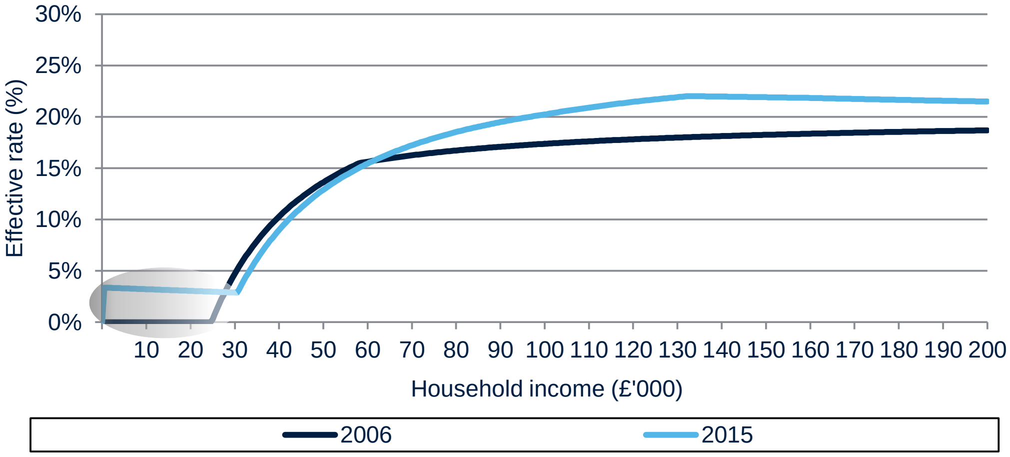
Figure 6.6 H5: effective rate (all taxes and contributions)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 ‘Goods and Services Tax’).

Source: Oxera analysis.

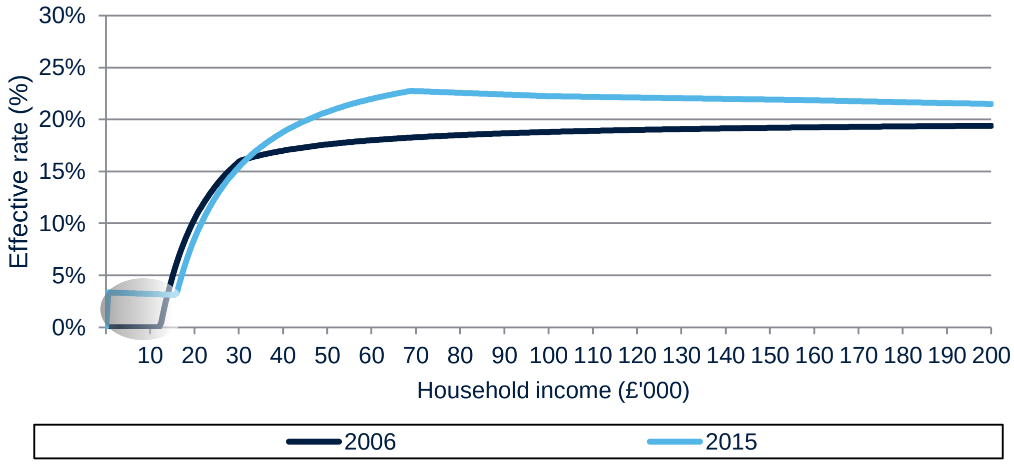
Figure 6.7 H6: effective rate (all taxes and contributions)



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 ‘Goods and Services Tax’).

Source: Oxera analysis.

Figure 6.8 H7: effective rate (all taxes and contributions)

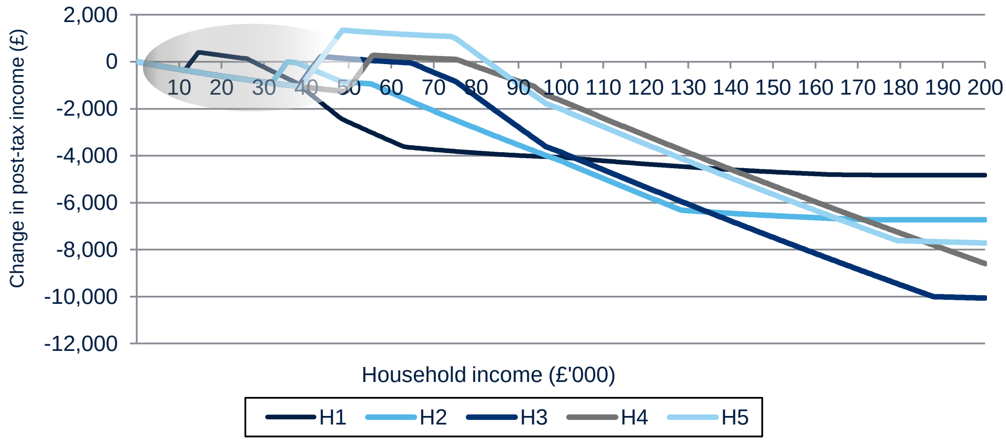


Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

Figure 6.9 to Figure 6.12 show the change in post-tax income between 2006 and 2015, as well as the changes in the effective rate over this period.

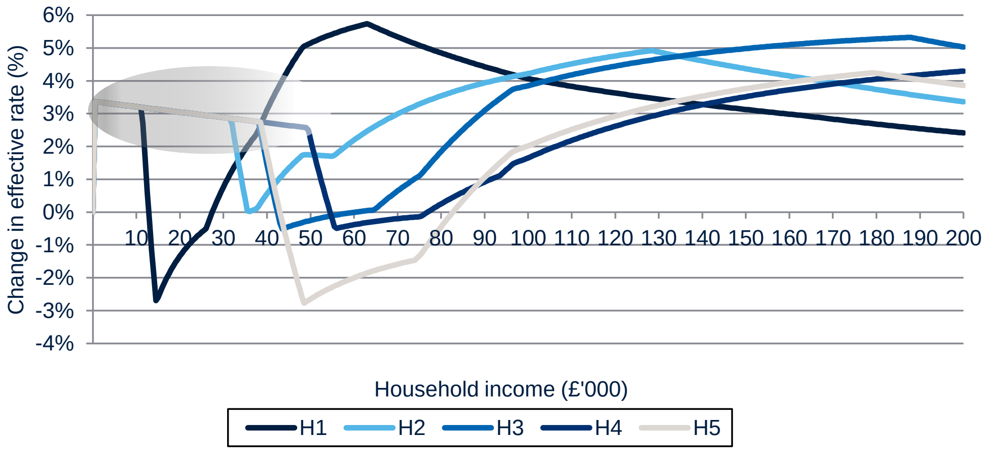
Figure 6.9 H1–5: change in post-tax and contribution income



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

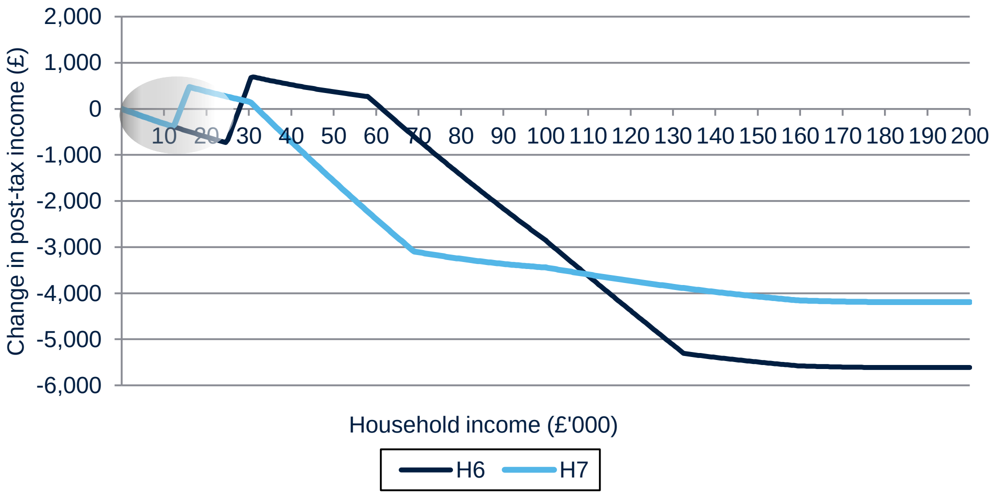
Figure 6.10 H1–5: change in effective rate, 2006–15



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

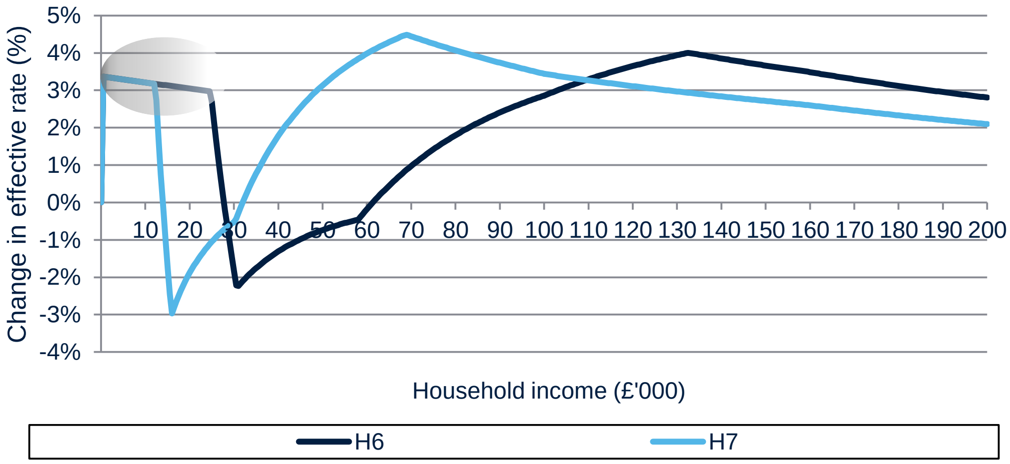
Figure 6.11 H6 and H7: change in post-tax and contribution income



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food costs bonus receipts (see section 5 'Goods and Services Tax').

Source: Oxera analysis.

Figure 6.12 H6 and H7: change in effective rate, 2006–15



Note: The shaded area indicates that GST paid for households at the lower end of the income scale will be reduced (in full or in part) by income support and/or food cost bonus receipts (see section 5 ‘Goods and Services Tax’).

Source: Oxera analysis.

As these figures illustrate, the overall impact of the changes to the taxes and contributions regime appears to have been an increase in taxes and contributions for households with an income over c.£100,000. The absolute value of additional tax paid generally increases with income level (which would be expected).

Below income levels of c.£100,000, there are some households, at some income levels, that would have seen a marginal reduction in their tax bill over this period, assuming their income did not change—for example, H5 with household income of between £40,000 and £90,000.

However, it is important to note the limitations of this comparison. As described in section 1.2 above, this report does not consider inflation, and so the results of this comparison between 2006 and 2015 should be treated with caution. What this chart really shows is what taxes and contributions payable in 2006 would have been if the tax rules were what they were in 2015 or vice versa.

7 Conclusions

As set out in this report, over the last decade the Government of Jersey has made a number of changes to the personal income tax and Social Security system, and introduced both a GST and a contribution to help meet the costs of long-term care in Jersey.

The impacts of the individual changes made vary in their scale and scope; some raise the tax bill and some reduce it, and some do both, depending on the income level of the household in question. As such, it is difficult to digest the various changes into an overall picture. Nonetheless, some high-level observations can be made.

First, income tax. Three key changes to the income tax system are helpfully viewed together: the introduction of '20 means 20', an increase in the exemptions available to marginal rate tax payers and a reduction in the marginal tax rate from 27% to 26%. The broad effect of these changes is to reduce the tax paid by low to middle income earners, and increase the tax payable by higher income earners.

However, three household characteristics will have a particular effect on the overall impact of these changes. First, the number of children in a household (and whether any are pre-school age or in higher education), Second, whether a household has a mortgage, and, third, the level of pension contributions a household makes. All of these characteristics alter the impact of the changes made since 2006. Changes to MITR, in particular, have increased the tax payable for higher earners with a large mortgage.

In contrast, households with children—especially those with children of pre-school age or in higher education—experience a significant uplift in the relief potentially available to them. For all other than the highest earners, pension relief available on contributions is more generous, which benefits in particular those making significant pension contributions.

Employees' social security contributions also increased over this period (as the Standard Earnings Limit (SEL) increased each year in line with average earnings), but only for individuals earning above the SEL, which was c.£38,000 in 2006. Those earning below this level are unaffected by this change.

A LTC contribution was also introduced over this period to contribute to the cost of long-term care in Jersey. As this is calculated based on taxable income under the income tax system and is able to reflect the household characteristics that are captured by the income tax system, it is a relatively progressive tax), albeit this is partially offset by the fact that the marginal rate[19] of LTC contribution payable is nil for very high income levels.

In contrast to the other taxes and contributions described in this report, GST is a tax on expenditure, rather than income. The tax is not dependent on household characteristics and so tax paid as a percentage of disposable income (which is not modelled in this report) may vary significantly across household types

Both the LTC contribution and GST have the effect of increasing the effective tax/contribution rate paid by households at most income levels. As we assume expenditure on GST (as a percentage of income) reduces as income increases, the impact of these two taxes in combination is likely to fall as a share of income

[19] In this context marginal rate refers to the rate if tax on the last pound earned, rather than the marginal rate tax system

as income levels rise. However, as noted above, these changes were introduced over a period of wider policy reform, which partially offsets this effect.

A1 Illustrative households

Table A1.1 Household characteristics

Characteristic	Options	Household 1	Household 2	Household 3	Household 4	Household 5	Household 6	Household 7
Marital status	Single/Married	Single	Single	Married	Married	Married	Married	Single
Adult age 1	<39/40–49/50+	<39	<39	<39	40-49	50+	50+	50+
Adult age 2	<39/40–49/50+			<39	40-49	50+	50+	
Pensioner?	Yes/No	No	No	No	No	No	Yes	Yes
At least one over 65?	Yes/No	No	No	No	No	No	Yes	Yes
Children?	Yes/No	No	Yes	No	Yes	Yes	No	No
No. of children in higher education	0–9	0	0	0	0	1	0	0
No. of children post age 4	0–9	0	1	0	2	1	0	0
No. of children pre age 4	0–9	0	0	0	0	0	0	0
Mortgage?	Yes/No	No	Yes	Yes	Yes	Yes	No	No
Outstanding mortgage	£0–£300,000	0	£200,000	£300,000	£300,000	£100,000	0	0
Medical insurance	Yes/No	No	No	No	No	No	No	No
Life assurance	Yes/No	No	No	No	No	No	No	No

Note: As agreed with the Government of Jersey.

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Review of Personal Tax
Work stream 2 – analysis of number and type of personal income taxpayers 2007-2015 (“the relevant period”)

1. Executive summary

1.1. The definitions used by the Taxes Office when producing taxpayer data are critical to understanding the analysis provided in this paper. Full definitions are provided within this paper.

1.2. Over the relevant period the number in the “Personal Taxpayer Base” has increased by c.1,100 from 60,400 in 2007 to 61,500 in 2015. Over the relevant period the number in the “Personal Taxpayer Base” has varied between 59,900 (in 2009 and 2014) and 61,500 (in 2015).

1.3. The number of taxpayers in the “Personal Taxpayer Base” is broadly driven by two factors: (i) changes in the Island’s resident population; and (ii) decisions taken by the Taxes Office regarding who should, and who should not, be issued with a tax return.

1.4. A separate exercise is being undertaken to help reconcile the “Personal Taxpayer Base” per the Taxes Office to the Island’s resident population per the Statistics Unit.

1.5. As part of its continuing efficiency processes the Taxes Office seeks to reduce the number of tax returns it issues in cases where it is highly unlikely that the recipient of the return will have a positive income tax liability.

1.6. A specific, one off exercise was undertaken by Taxes Office staff to close “Non Productive Cases” in 2014. This exercise resulted in c.700 “Non Productive Cases” being closed. This exercise would therefore have reduced the “Personal Taxpayer Base” by c.700 in 2014 and later years.

1.7. Over the relevant period the proportion of “Personal Non-Taxpayers” has grown slightly. In 2007 “Personal Non-Taxpayers” comprised 22.2% of the “Personal Taxpayer Base”, by 2015 this had grown to 24.1%.

1.8. The split of the “Personal Taxpayer Base” between the “Personal Taxpayers” and “Personal Non-Taxpayers” is broadly driven by the following two factors: (i) changes in tax rules – in particular changes in income tax exemption thresholds; and (ii) decisions taken by the Taxes Office regarding who to, and who not to, issue tax returns to.

1.9. Over the relevant period the majority of tax rule changes agreed by the States Assembly should have had little or no impact on the split of the “Personal Taxpayer Base” between the two categories. However where rule changes have impacted on the split, they have tended to increase the proportion of “Personal Non-Taxpayers”.

1.10. The proportion of “Personal Non-Taxpayers” reduced from 27.2% in 2013 to 24.7% in 2014, it is likely that the one off exercise undertaken by Taxes Office staff to close “Non Productive Cases” was a contributory factor in this reduction.

1.11. Over the relevant period the proportion of “Marginal Rates Taxpayers” has grown from 68.3% in 2007 to 88.0% in 2015.

1.12. The split of “Personal Taxpayers” between “Standard Rate Taxpayers” and “Marginal Rate Taxpayers” is broadly driven by changes in tax rules. Over the relevant period the vast majority of tax rule changes agreed by the States Assembly have tended to increase the proportion of “Marginal Rate Taxpayers”.

1.13. The marked increases in the proportion of “Marginal Rate Taxpayers” in 2008, 2009, 2010 and 2011 were most likely a result of the “20-means-20” policy. As a result of the “20-means-20” policy a greater proportion of “Personal Taxpayers” found that the marginal rate calculation (which was not changed by the “20-means-20” policy) produced the lower tax liability under the Island’s dual calculation approach.

1.14. Most “Personal Taxpayers” who were impacted by “20-means-20” have seen that impact limited by the existence of the marginal rate calculation. At some point during the phase out period these “Personal Taxpayers” found that the marginal rate calculation resulted in the lower tax liability; once this point was reached they were not impacted further by the “20-means-20” policy. These “Personal Taxpayers” transferred from being “Standard Rate Taxpayers” to “Marginal Rate Taxpayers” as a direct result of the “20-means-20” policy and paid more income tax.

1.15. The marked increase in the proportion of “Marginal Rate Taxpayers” in 2014 was most likely a result of the reduction in the marginal tax rate from 27% to 26%. As a consequence of the reduction in the marginal tax rate a number of “Standard Rate Taxpayers” found that the marginal rate calculation produced the lower tax liability under the Island’s dual calculation approach. These “Personal Taxpayers” transferred from being “Standard Rate Taxpayers” to “Marginal Rate Taxpayers” as a direct result of the reduction in the marginal tax rate.

2. Findings: Taxes Office definitions

2.1. The definitions used by the Taxes Office when producing taxpayer data are critical to understanding the analysis provided in this paper.

2.2. A graphical representation of these definitions is provided in Appendix A; this graphical representation aims to aid understanding of how these definitions interrelate.

2.3. The **"Personal Taxpayer Base"** is the summation of the number of "Personal Taxpayers" and the number of "Personal Non-Taxpayers".

2.4. A **"Personal Taxpayer"** is an individual/married couple/civil partnership that pays personal income tax, based on their own liability, in Jersey, for the particular year. A "Personal Taxpayer" whose liability is less than £50 for a particular is year is counted as a "Personal Non-Taxpayer". "Personal Taxpayers" includes:

- Single individuals (<u>counted as one personal taxpayer</u>)
- Married couples/civil partnerships (<u>counted as one personal taxpayer</u> as they do not have separate tax liabilities).
- Married couples/civil partners that have elected for separate assessment (<u>counted as two personal taxpayers</u> as they have separate tax liabilities).

2.5. A **"Personal Non-Taxpayer"** is an individual/married couple/civil partnership who has been issued with an income tax return and does not have a positive income tax liability for the tax year, based on the income, allowances, reliefs and deductions for the year.

2.6. The population of "Personal Non-Taxpayers" therefore does <u>not</u> include individuals/ married couples/civil partnerships that have not been issued with an income tax return, such as students that register for holiday job purposes only and therefore have an income well below the exemption threshold and other members of the Island's resident population who have not been issued with an income tax return because their income has consistently been below the exemption threshold and their specific circumstances dictate that it is unlikely they will pay tax in the future.

2.7. Consistent with "Personal Taxpayers", "Personal Non-Taxpayers" includes:

- Single individuals (<u>counted as one personal non-taxpayer</u>)
- Married couples/civil partnerships (<u>counted as one personal non-taxpayer</u> as they do not have separate tax liabilities).
- Married couples/civil partners that have elected for separate assessment (<u>counted as two personal non-taxpayers</u> as they have separate tax liabilities).

2.8. The population of "Personal Taxpayers" can be broken down into two groups: "Standard Rate Taxpayers" and "Marginal Rate Taxpayers".

2.9. A **"Standard Rate Taxpayer"** is a "Personal Taxpayer" whose income tax liability is calculated by reference to the standard rate calculation (i.e. the taxpayer pays less tax under the standard rate calculation than under the marginal rate calculation).

2.10. A **"Marginal Rate Taxpayer"** is a "Personal Taxpayer" whose income tax liability is calculated by reference to the marginal rate calculation (i.e. the taxpayer pays less tax under the marginal rate calculation than under the standard rate calculation).

3. Findings: Analysis of available data – "Personal Taxpayer Base"

3.1. Data relating to the "Personal Taxpayer Base" over the "relevant period"[1] is provided in Appendix B.

3.2. Over the relevant period the number in the "Personal Taxpayer Base" has increased by c.1,100 from 60,400 in 2007 to 61,500 in 2015. Over the relevant period the number in the "Personal Taxpayer Base" has varied between 59,900 (in 2009 and 2014) and 61,500 (in 2015).

3.3. The number of taxpayers in the "Personal Taxpayer Base" is broadly driven by two factors: (i) changes in the Island's resident population; and (ii) decisions taken by the Taxes Office regarding who should, and who should not, be issued with a tax returns.

3.4. A separate exercise is being undertaken to reconcile the "Personal Taxpayer Base" per the Taxes Office to the Island's resident population per the Statistics Unit. Therefore this paper has been limited to including the following high level comments on some of the factors that will necessarily result in the "Personal Taxpayer Base" being smaller than the Island's resident population:

- children are counted for population statistics purposes, but are usually excluded from the "Personal Taxpayer Base"; and
- married couples, and those in civil partnerships, are counted as two people for statistical purposes, but are deemed to be one taxpayer under the Income Tax Law and hence counted as one in the "Personal Taxpayer Base"

3.5. It costs the public money to print tax returns and have them posted; it also costs the public for the completed tax returns to be processed and the resulting notice of assessment issued and posted. As part of continuing efficiency processes the Taxes Office therefore seeks to reduce the number of tax returns it issues in cases where it is highly unlikely that the recipient of the return will have a positive income tax liability[2].

3.6. As tax returns are processed by Taxes Office staff they seek to close what are internally labelled as "Non Productive Cases", especially in those cases where there is a good degree of certainty that no future tax liability will arise (e.g. a pensioner with minimal fixed income and no significant assets). The amount of time dedicated to this task in any one year depends on the competing demands on Taxes Office staff.

3.7. A specific, one off exercise was undertaken by Taxes Office staff to close "Non Productive Cases" in 2014. This exercise resulted in c.700 "Non Productive Cases" being closed. This exercise would therefore have reduced the "Personal Taxpayer Base" by c.700 in 2014 and later years.

[1] For the purposes of this paper the "relevant period" is from year of assessment 2007 up to and including year of assessment 2015.
[2] This has the additional benefit of reducing the administrative burden falling on those taxpayers who are highly unlikely to have a positive income tax liability (i.e. they do not need to complete an income tax return).

4. Findings: Analysis of available data – proportion of "Personal Taxpayers" vs "Personal Non-Taxpayers"

4.1. Data relating to the proportion of "Personal Taxpayers" vs "Personal Non-Taxpayers" over the "relevant period" is provided in Appendix C.

4.2. Over the relevant period the proportion of "Personal Non-Taxpayers" has grown slightly. In 2007 "Personal Non-Taxpayers" comprised 22.2% of the "Personal Taxpayer Base", by 2015 this had grown to 24.1%.

4.3. The split of the "Personal Taxpayer Base" between the two categories is broadly driven by the following factors: (i) changes in tax rules[3] – in particular changes in income tax exemption thresholds; and (ii) decisions taken by the Taxes Office regarding who to, and who not to, issue tax returns to.[4]

4.4. Over the relevant period[5] the majority of rule changes in the personal income tax system should have had little or no impact on the split of the "Personal Taxpayer Base" between the two categories.

4.5. However where rule changes have impacted on the split, they have tended to increase the proportion of "Personal Non-Taxpayers". This is demonstrated in the following table:

Rule changes – likely to <u>increase</u> proportion of "Personal Non-Taxpayers"	**Rule changes – likely to <u>decrease</u> proportion of "Personal Non-Taxpayers"**
<u>2008:</u> 6.5% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	<u>2010:</u> freeze income tax exemption thresholds
<u>2008:</u> increase in child allowance in both the marginal and standard rate calculations	<u>2014:</u> 1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)
<u>2009:</u> 5.0% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	<u>2015:</u> 1.7% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)
<u>2012:</u> 4.5% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	<u>2015:</u> Introduce cap of £15,000 on the amount of mortgage interest deductible in the year
<u>2012:</u> increased child care tax relief available in respect of pre-school age children	
<u>2013:</u> 3.0% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	

[3] A summary of the significant changes to the personal income tax system during the relevant period is provided in Appendix D.
[4] For these purposes it has been assumed that newly registered taxpayers broadly split between "Personal Taxpayers" and "Personal Non-Taxpayers" in the same proportion as the existing "Personal Taxpayer Base".
[5] Similar analysis of the changes made to the personal income tax system after the relevant period have been included in Appendix F for completeness.

2014: increase in allowance for children in higher education in the marginal rate calculation	

4.6. Therefore over the relevant period, all other things being equal, the tax rule changes agreed by the States Assembly should result in the proportion of “Personal Non-Taxpayers” increasing. This is consistent with the data provided in Appendix C.

4.7. In particular, all other things being equal, based on the tax rule changes agreed by the States Assembly the proportion of “Personal Non-Taxpayers” should increase in every year with the exception of 2010, 2014 and 2015. This is consistent with the data provided in Appendix C.

4.8. As noted above, as part of its continuing efficiency processes the Taxes Office seeks to reduce the number of tax returns it issues in cases where it is highly unlikely that the recipient will have a positive income tax liability (labelled by the Taxes Office as “Non Productive Cases”).

4.9. All other things being equal, the closure of “Non Productive Cases” should result in a decrease in the proportion of “Personal Non-Taxpayers”.

4.10. As noted above, a one off exercise was undertaken by Taxes Office staff to close “Non Productive Cases” in 2014. This exercise resulted in c.700 “Non Productive Cases” being closed. As outlined in the data provided in Appendix C, the proportion of “Personal Non-Taxpayers” reduced from 27.2% in 2013 to 24.7% in 2014, it is likely that the one off exercise undertaken by Taxes Office staff was a contributory factor in this reduction.

5. Findings: Analysis of available data – proportion of “Standard Rate Taxpayers” vs “Marginal Rate Taxpayers”

5.1. Data relating to the proportion of “Standard Rate Taxpayers” vs “Marginal Rate Taxpayers” over the “relevant period” is provided in Appendix E.

5.2. Over the relevant period the proportion of “Marginal Rates Taxpayers” has grown from 68.3% in 2007 to 88.0% in 2015.

5.3. The proportion of “Marginal Rate Taxpayers” increased markedly in the years 2008, 2009, 2010, 2011 and 2014.

5.4. The split of “Personal Taxpayers” between the two categories is broadly driven by changes in tax rules.

5.5. Over the relevant period[6] the vast majority of tax rule changes agreed by the States Assembly have tended to increase the proportion of “Marginal Rate Taxpayers”. This is demonstrated in the following table:

Rule changes – likely to <u>increase</u> proportion of “Marginal Rate Taxpayers”	**Rule changes – likely to <u>decrease</u> proportion of “Marginal Rate Taxpayers”**
<u>2008:</u> 6.5% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	<u>2010:</u> Freeze income tax exemption thresholds
<u>2008:</u> Reduction of personal allowance in standard rate calculation (“20-means-20” measure)	<u>2012:</u> Reduction of tax relief available for pension contributions for those with income above £150,000
<u>2008:</u> Reduction of wife’s earned income allowance in standard rate calculation (“20-means-20” measure)	<u>2014:</u> 1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)
<u>2008:</u> Reduction of mortgage interest tax relief in the standard rate calculation (“20-means-20” measure)	<u>2015:</u> 1.7% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)
<u>2008:</u> Reduction of relief for private medical insurance premiums in the standard rate calculation (“20-means-20” measure).	<u>2015:</u> Introduce cap of £15,000 on the amount of mortgage interest deductible in the year
<u>2009:</u> 5.0% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	
<u>2009:</u> Reduction of personal allowance in standard rate calculation (“20-means-20” measure)	
<u>2009:</u> Reduction of wife’s earned income allowance in standard rate calculation (“20-means-20” measure)	

[6] Similar analysis of the changes made to the personal income tax system after the relevant period have been included in Appendix F for completeness.

2009: Reduction of mortgage interest tax relief in the standard rate calculation ("20-means-20" measure)	
2009: Reduction of relief for private medical insurance premiums in the standard rate calculation ("20-means-20" measure).	
2009: Increase the maximum amount of relief available for pension contributions to £50,000	
2010: Reduction of personal allowance in standard rate calculation ("20-means-20" measure)	
2010: Reduction of wife's earned income allowance in standard rate calculation ("20-means-20" measure)	
2010: Reduction of mortgage interest tax relief in the standard rate calculation ("20-means-20" measure)	
2010: Reduction of relief for private medical insurance premiums in the standard rate calculation ("20-means-20" measure).	
2011: Reduction of personal allowance in standard rate calculation ("20-means-20" measure)	
2011: Reduction of wife's earned income allowance in standard rate calculation ("20-means-20" measure)	
2011: Reduction of mortgage interest tax relief in the standard rate calculation ("20-means-20" measure)	
2011: Reduction of relief for private medical insurance premiums in the standard rate calculation ("20-means-20" measure).	
2012: 4.5% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	
2012: Increased child care tax relief available in respect of pre-school age children	
2013: 3.0% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	
2013: Removal of remaining tax relief for life insurance premiums in the standard rate calculation	
2014: Decrease in the marginal tax rate to 26%	

2014: Increase in allowance for children in higher education in the marginal rate calculation	

5.6. The marked increases in the proportion of "Marginal Rate Taxpayers" in 2008, 2009, 2010 and 2011 was most likely a result of the "20-means-20" policy. Under the "20-means-20" policy allowances and reliefs were phased out from the standard rate calculation over a five year period from 2007 to 2011.

5.7. The impact of this change to the standard rate calculation was that a greater proportion of "Personal Taxpayers" found that the marginal rate calculation (which was not changed by the "20-means-20" policy) produced the lower tax liability under the Island's dual calculation approach.

5.8. For the avoidance of doubt, the majority of "Personal Taxpayers" were not impacted by the "20-means-20" policy. Prior to the implementation of "20-means-20" they were taxed by reference to the marginal rate calculation (i.e. the marginal rate calculation produced the lower tax liability) and they have continued to be taxed by reference to the marginal rate calculation. These "Personal Taxpayers" were not impacted by the "20-means-20" policy.

5.9. The minority of "Personal Taxpayers" who were impacted have seen their effective tax rate (i.e. income tax liability *divided by* taxable income[7]) increase, consistent with the stated aim of the "20-means-20" policy.

5.10. However the majority of "Personal Taxpayers" who were impacted by "20-means-20" have seen that impact limited by the existence of the marginal rate calculation. At some point during the phase out period these "Personal Taxpayers" found that the marginal rate calculation resulted in the lower tax liability; once this point was reached they were not impacted further by the "20-means-20" policy.

5.11. These "Personal Taxpayers" transferred from being "Standard Rate Taxpayers" to "Marginal Rate Taxpayers" as a direct result of the "20-means-20" policy and paid more income tax[8].

5.12. The marked increase in the proportion of "Marginal Rate Taxpayers" in 2014 was most likely a result of the reduction in the marginal tax rate from 27% to 26%.

5.13. The reduction in the marginal tax rate reduced the income tax payable by all "Marginal Rate Taxpayers".

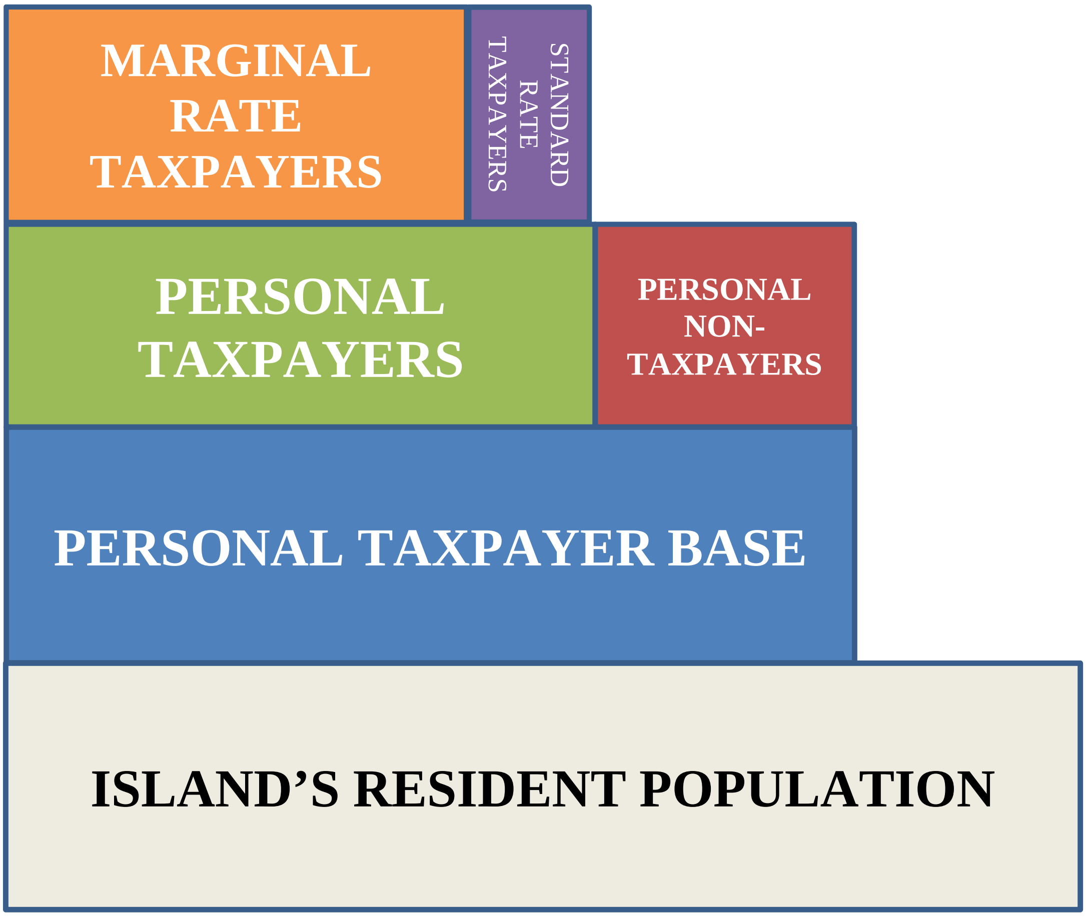
5.14. For a number of "Standard Rate Taxpayers" they found that the reduction in the marginal tax rate meant that the marginal rate calculation produced the lower tax liability under the Island's dual calculation approach.

5.15. These "Personal Taxpayers" transferred from being "Standard Rate Taxpayers" to "Marginal Rate Taxpayers" as a direct result of the reduction in the marginal tax rate.

[7] For the avoidance of doubt, this is not the same as a taxpayer's "ITIS effective rate". It is not unusual for a taxpayer's "effective rate" to differ to some degree from their "ITIS effective rate".

[8] Graphs which help to explain this analysis are provided in Appendix G. An estimate of the number of "Personal Taxpayers" who converted from being a "Standard Rate Taxpayer" to a "Marginal Rate Taxpayer" as a direct consequence of "20-means-20" has been provided in Appendix H.

Appendix A
Graphical representation of Taxes Office definitions



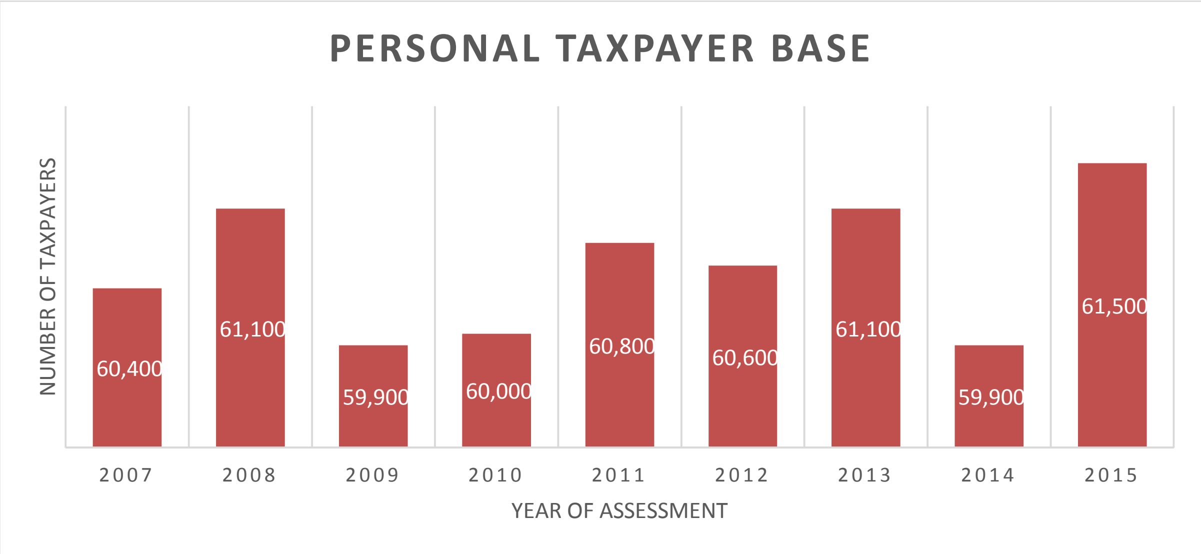
Appendix B
Data relating to “Personal Taxpayer Base”

Table 1 – “Personal Taxpayer Base”: 2007-2015

YOA	2007	2008	2009	2010	2011	2012	2013	2014	2015
Personal non-taxpayers	13,400	13,600	14,000	14,000	14,300	15,400	16,600	14,800	14,800
Personal taxpayers	47,000	47,500	45,900	46,000	46,500	45,200	44,500	45,100	46,700
Personal taxpayer base	**60,400**	**61,100**	**59,900**	**60,000**	**60,800**	**60,600**	**61,100**	**59,900**	**61,500**

Source: Taxes Office records

Graph 1 – “Personal Taxpayer Base”: 2007-2015



Source: Taxes Office records

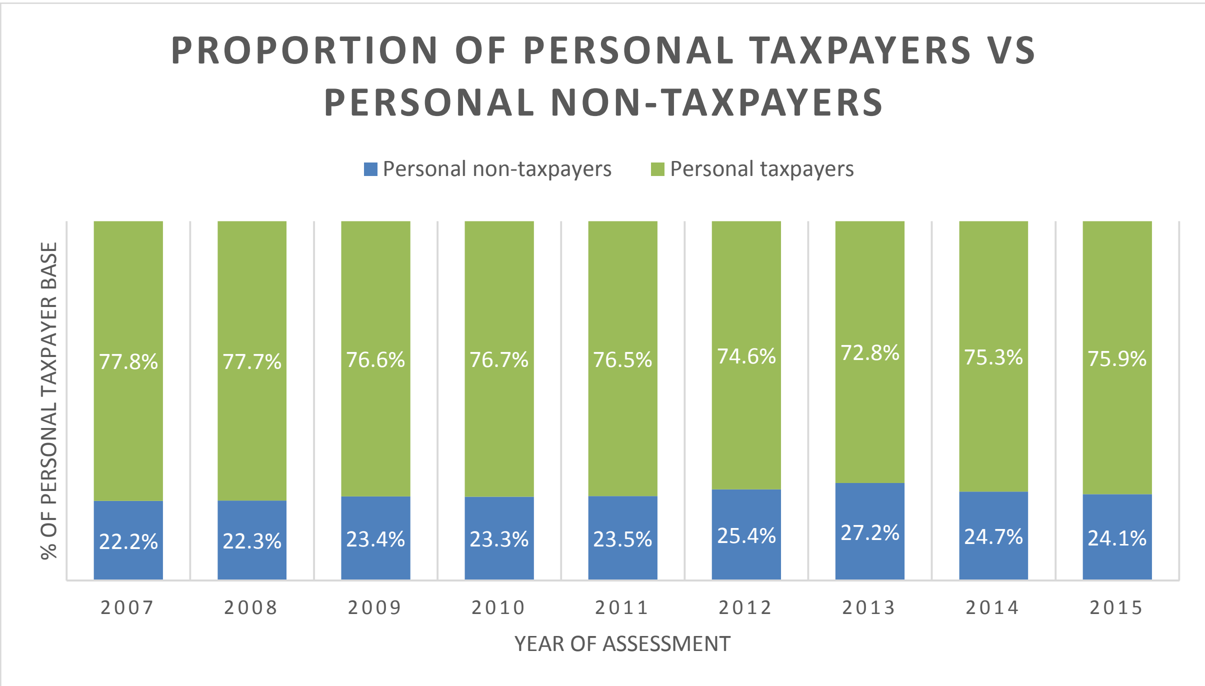
Appendix C
Proportion of “Personal Taxpayers” vs “Personal Non-Taxpayers”

Table 2 – Analysis of “Personal Taxpayer Base”: 2007-2015

YOA	2007	2008	2009	2010	2011	2012	2013	2014	2015
Personal non-taxpayers	13,400	13,600	14,000	14,000	14,300	15,400	16,600	14,800	14,800
Personal taxpayers	47,000	47,500	45,900	46,000	46,500	45,200	44,500	45,100	46,700
Personal taxpayer base	**60,400**	**61,100**	**59,900**	**60,000**	**60,800**	**60,600**	**61,100**	**59,900**	**61,500**

Source: Taxes Office records

Graph 2 – Proportion of “Personal Taxpayers” vs “Personal Non-Taxpayers”: 2007-2015



Source: Taxes Office records

Appendix D
Significant changes in personal income tax system by year of assessment

Year of Assessment 2008

Change in personal income tax system	Impact on type of taxpayers
6.5% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of personal allowance in standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of wife’s earned income allowance in standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of mortgage interest tax relief in the standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of relief for private medical insurance premiums in the standard rate calculation (“20-means-20” measure).	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Increase in child allowance in both the marginal and standard rate calculations	Exempt taxpayers ↑ Marginal rate and standard rate taxpayers ↓ (split between marginal and standard rate taxpayers unclear)

Year of assessment 2008 was the second year of “20-means-20” which involved the phasing out of allowances in the standard rate calculation – in this year the allowances which were phased out under “20-means-20” were reduced by a further 20% (in YOA 2008 cumulatively 40% of the allowances had been phased out).

Year of Assessment 2009

Change in personal income tax system	Impact on type of taxpayers
5.0% increase in income tax exemption thresholds (above increases in both inflation and average earnings)	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of personal allowance in standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of wife’s earned income allowance in standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of mortgage interest tax relief in the standard rate calculation (“20-means-20” measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of relief for private medical insurance premiums in the standard rate calculation (“20-means-20” measure).	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Increase the maximum amount of relief available for pension contributions to £50,000	Marginal rate taxpayers ↑ Standard rate taxpayers ↓

	(unlikely to have an impact on those lower down the income distribution who are unlikely to make additional pension contributions as a result of this change)

Year of assessment 2009 was the third year of "20-means-20" which involved the phasing out of allowances in the standard rate calculation – in this year the allowances which were phased out under "20-means-20" were reduced by a further 20% (in YOA 2009 cumulatively 60% of the allowances had been phased out).

Year of Assessment 2010

Change in personal income tax system	**Impact on type of taxpayers**
Freeze income tax exemption thresholds	Exempt taxpayers ↓ Marginal rate taxpayers ↑ Standard rate taxpayers ↑
Reduction of personal allowance in standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of wife's earned income allowance in standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of mortgage interest tax relief in the standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of relief for private medical insurance premiums in the standard rate calculation ("20-means-20" measure).	Marginal rate taxpayers ↑ Standard rate taxpayers ↓

Year of assessment 2010 was the fourth year of "20-means-20" which involved the phasing out of allowances in the standard rate calculation – in this year the allowances which were phased out under "20-means-20" were reduced by a further 20% (in YOA 2010 cumulatively 80% of the allowances had been phased out).

Year of Assessment 2011

Change in personal income tax system	**Impact on type of taxpayers**
1.1% increase in income tax exemption thresholds (consistent with increase in average earnings)	Broadly neutral impact
Reduction of personal allowance in standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of wife's earned income allowance in standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of mortgage interest tax relief in the standard rate calculation ("20-means-20" measure)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓

Reduction of relief for private medical insurance premiums in the standard rate calculation ("20-means-20" measure).	Marginal rate taxpayers ↑ Standard rate taxpayers ↓

Year of assessment 2011 was the fifth and final year of "20-means-20" which involved the phasing out of allowances in the standard rate calculation – in this year the allowances which were phased out under "20-means-20" were reduced by a further 20% (in YOA 2011 cumulatively 100% of the allowances had been phased out).

Year of Assessment 2012

Change in personal income tax system	Impact on type of taxpayers
4.5% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Increased child care tax relief available in respect of pre-school age children	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduction of tax relief available for pension contributions for those with income above £150,000	Marginal rate taxpayers ↓ Standard rate taxpayers ↑

Year of Assessment 2013

Change in personal income tax system	Impact on type of taxpayers
3.0% increase in income tax exemption thresholds (consistent with increase in inflation but above increase in average earnings)	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Removal of remaining tax relief for life insurance premiums in the standard rate calculation	Marginal rate taxpayers ↑ Standard rate taxpayers ↓

Year of Assessment 2014

Change in personal income tax system	Impact on type of taxpayers
1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)	Exempt taxpayers ↓ Marginal rate and standard rate taxpayers ↑ (split between marginal and standard rate taxpayers unclear)
Decrease in the marginal tax rate to 26%	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Increase in allowance for children in higher education in the marginal rate calculation	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓

Year of Assessment 2015

Change in personal income tax system	**Impact on type of taxpayers**
1.7% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)	Exempt taxpayers ↓ Marginal rate and standard rate taxpayers ↑ (split between marginal and standard rate taxpayers unclear)
Introduce cap of £15,000 on the amount of mortgage interest deductible in the year	Exempt taxpayers ↓ Marginal rate taxpayers ↓ Standard rate taxpayers ↑

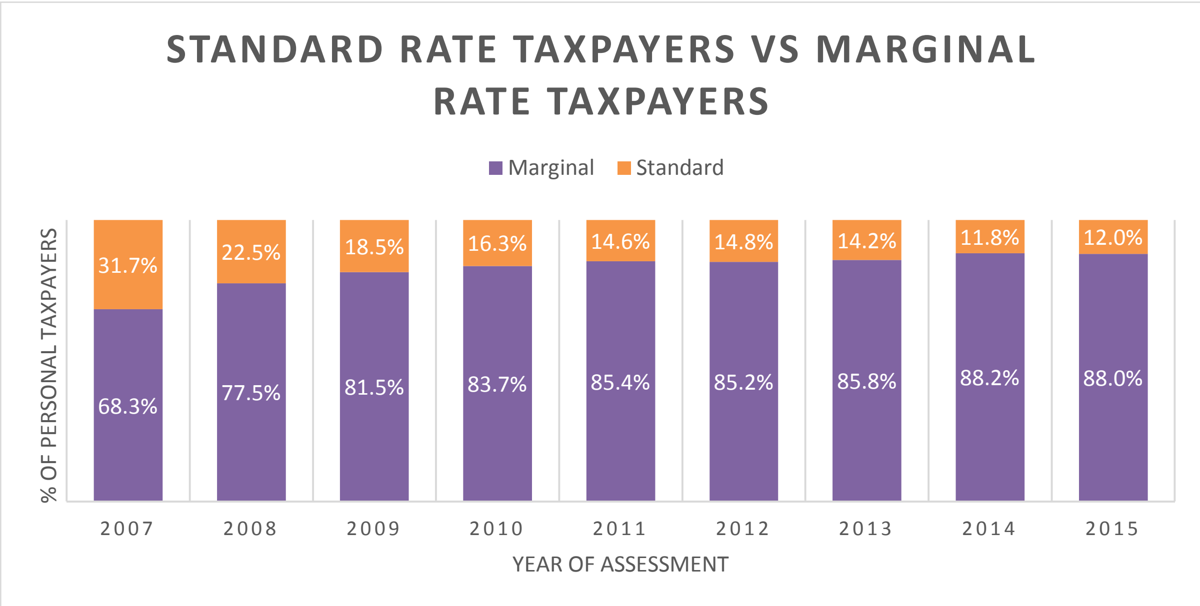
Appendix E
Proportion of "Standard Rate Taxpayers" vs "Marginal Rate Taxpayers"

Table 3 – Analysis of "Personal Taxpayers": 2007-2015

YOA	2007	2008	2009	2010	2011	2012	2013	2014	2015
Marginal Rate Taxpayers	32,100	36,800	37,400	38,500	39,700	38,500	38,200	39,800	41,100
Standard Rate Taxpayers	14,900	10,700	8,500	7,500	6,800	6,700	6,300	5,300	5,600
Personal Taxpayers	**47,000**	**47,500**	**45,900**	**46,000**	**46,500**	**45,200**	**44,500**	**45,100**	**46,700**

Source: Taxes Office records

Graph 3 – Proportion of "Standard Rate Taxpayers" vs "Marginal Rate Taxpayers": 2007-2015



Source: Taxes Office records

Appendix F
Significant changes in personal income tax system in Years of Assessment 2015 – 2017

Year of Assessment 2016

Change in personal income tax system	**Impact on type of taxpayers**
0.9% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)	Exempt taxpayers ↓ Marginal rate and standard rate taxpayers ↑ (split between marginal and standard rate taxpayers unclear)
Reduction of child allowance and additional personal allowances in the standard rate calculation (1st year of 3 year phase out period)	Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Increased child care tax relief available in respect of pre-school age children	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduce the BIK exemption from £1,000 to £250	Exempt taxpayers ↓ Marginal rate taxpayers ↓ Standard rate taxpayers ↑

Year of Assessment 2017

Change in personal income tax system	**Impact on type of taxpayers**
1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)	Exempt taxpayers ↓ Marginal rate and standard rate taxpayers ↑ (split between marginal and standard rate taxpayers unclear)
Increase the second earner’s allowance to £5,000	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓
Reduce the cap on the amount of mortgage interest deductible in the year to £13,500	Exempt taxpayers ↓ Marginal rate taxpayers ↓ Standard rate taxpayers ↑
Increased child care tax relief available in respect of pre-school age children	Exempt taxpayers ↑ Marginal rate taxpayers ↑ Standard rate taxpayers ↓

These changes have been analysed in a consistent manner to that shown in paragraph 4.5 below:

Rule changes – likely to <u>increase</u> proportion of “Personal Non-Taxpayers”	**Rule changes – likely to <u>decrease</u> proportion of “Personal Non-Taxpayers”**
<u>2016:</u> Increased child care tax relief available in respect of pre-school age children	<u>2016:</u> 0..9% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)
<u>2017;</u> Increase the second earner’s allowance to £5,000	<u>2016:</u> Reduce the BIK exemption from £1,000 to £250

2017: Increased child care tax relief available in respect of pre-school age children	2017: 1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)
	2017: Reduce the cap on the amount of mortgage interest deductible in the year to £13,500

These changes have been analysed in a consistent manner to that shown in paragraph 5.5 below:

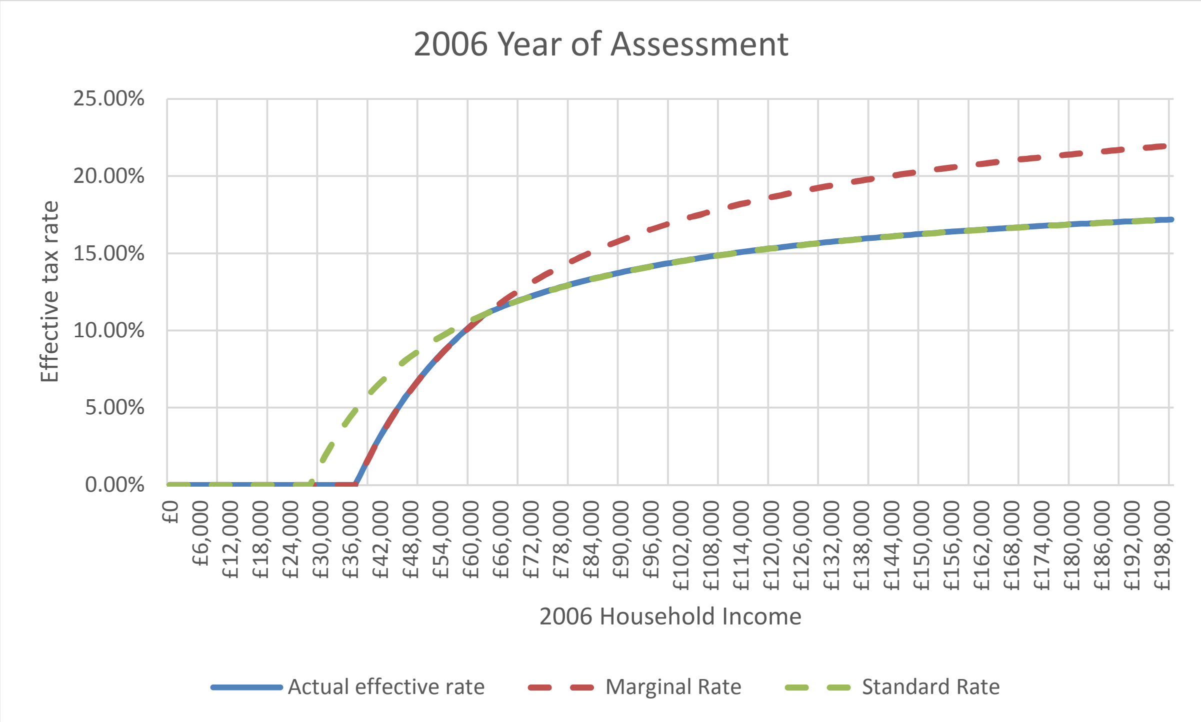
Rule changes – likely to increase proportion of “Marginal Rate Taxpayers”	**Rule changes – likely to decrease proportion of “Marginal Rate Taxpayers”**
2016: Reduction of child allowance and additional personal allowances in the standard rate calculation (1st year of 3 year phase out period)	2016: 0.9% increase in income tax exemption thresholds (consistent with increase in inflation but below the increase in average earnings)
2016: Increased child care tax relief available in respect of pre-school age children	2016: Reduce the BIK exemption from £1,000 to £250
2017: Increase the second earner’s allowance to £5,000	2017: 1.5% increase in income tax exemption thresholds (consistent with inflation but below the increase in average earnings)
2017: Increased child care tax relief available in respect of pre-school age children	2017: Reduce the cap on the amount of mortgage interest deductible in the year to £13,500

Appendix G

Graphs to help explain impact of "20-means-20" on proportion of "Standard Rate Taxpayers" vs "Marginal Rate Taxpayers"

Details of the Household: Married, no children, both working (pay split equally), all income is earnings, £300,000 of mortgage debt with 5% interest rate[9]

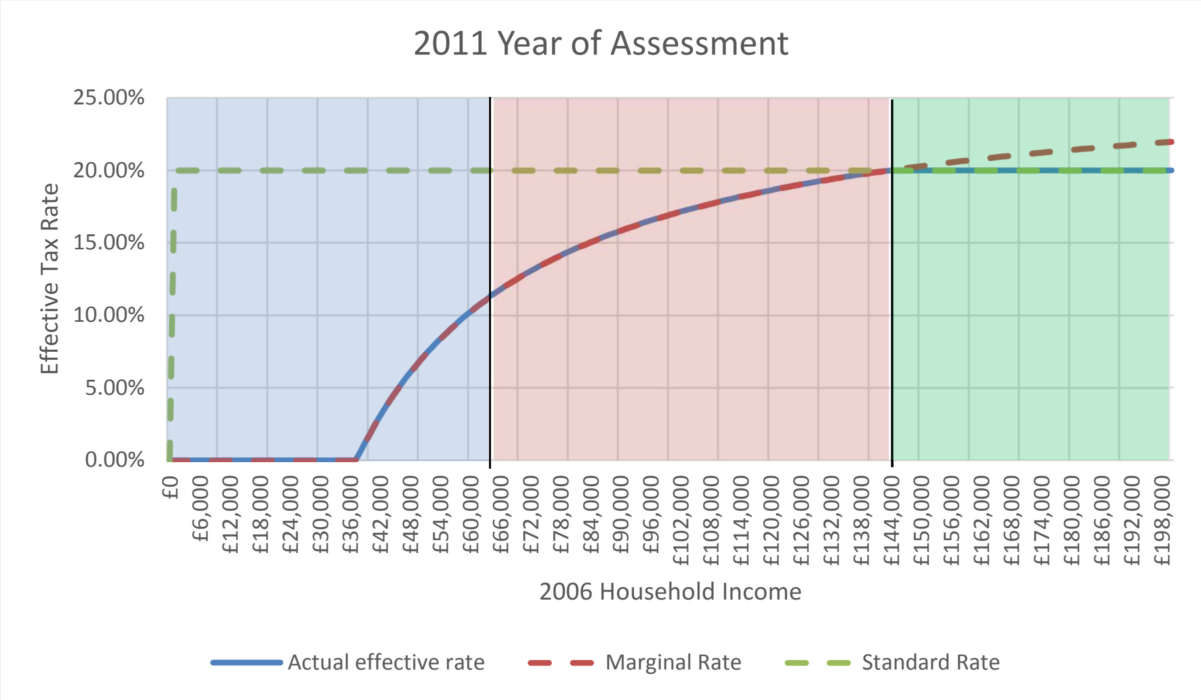
Graph 4 – Year of Assessment 2006 (pre "20-means-20") effective tax rate: marginal rate, standard rate and actual effective tax rate



Source: Tax Policy Unit analysis

[9] Broadly consistent with Household 3 included within the Oxera Report "Assessing the distributional impact of key changes in taxes and contributions between 2006 and 2015" with the exception of pension contributions.

<u>Graph 5 – Year of Assessment 2011 (completion of “20-means-20”)[10] effective tax rate: marginal rate, standard rate and actual effective tax rate</u>



Source: Tax Policy Unit analysis

Explanation of graphs:

- For income levels below c.£63,000 (*the blue zone*) this household was not impacted by “20-means-20” (i.e. it did not increase their income tax liability).

- For example, at a household income level of £50,000:
  - In 2006 the household’s income tax liability was calculated by reference to the marginal rate calculation and resulted in an effective tax rate of 6.92%
  - In 2011 the household’s income tax liability was unchanged, still calculated by reference to the marginal rate calculation and resulting in an effective tax rate of 6.92%

- For income levels between c.£63,000 and c.£143,000 (*the pink zone*) this household was impacted by “20-means-20” (i.e. it did increase their income tax liability). At these income levels the household “converted” from being having its tax liability calculated by reference to the standard rate calculation to having its tax liability calculated by reference to the marginal rate calculation and paid more tax.

- For example, at a household income level of £100,000:
  - In 2006 the household’s income tax liability was calculated by reference to the standard rate calculation and resulted in an effective tax rate of 14.38%
  - In 2011 the household’s income tax liability was calculated by reference to the marginal rate calculation and resulted in an effective tax rate of 16.96%

[10] Adopting the same approach as Oxera, to aid comparability the exemption thresholds and household income have remained at 2006 levels in this graph – this helps to identify the specific impact of “20-means-20”.

- For income levels above c.£143,000 (*the green zone*) this household was impacted by "20-means-20" (i.e. it did increase their income tax liability). At these income levels the household had its tax liability calculated by reference to the standard rate calculation throughout and paid more tax.

- For example, at a household income level of £150,000:
    - In 2006 the household's income tax liability was calculated by reference to the standard rate calculation and resulted in an effective tax rate of 16.25%
    - In 2011 the household's income tax liability was calculated by reference to the standard rate calculation and resulted in an effective tax rate of 20.00%

Appendix H
Estimate of number of "Personal Taxpayers" who converted from being a "Standard Rate Taxpayer" to "Marginal Rate Taxpayer" as a consequence of "20-means-20"

An estimate of the number of "Personal Taxpayers" who converted from being a "Standard Rate Taxpayer" to a "Marginal Rate Taxpayer" as a direct consequence of "20-means-20" has been sought utilising the following methodology:

- Identify all "Standard Rate Taxpayers" in year of assessment 2006 (i.e. pre-"20-means-20");
- Complete the dual calculation approach on their 2006 taxable income but apply the 2011 rules (i.e. post-"20-means-20") regarding the allowances available in the standard rate calculation (i.e. leaving all other parts of the calculation based on the 2006 rules); and
- Determine the number of "Standard Rate Taxpayers" who convert to being a "Marginal Rate Taxpayer" as a consequence of this change in the calculation.

Under this methodology it is estimated that approximately 10,000 taxpayers converted from being a "Standard Rate Taxpayer" to a "Marginal Rate Taxpayer" as a direct consequence of "20-means-20".

The production of a similar estimate based on the reverse methodology (i.e. identify all "Marginal Rate Taxpayers" in year of assessment 2011 and apply the 2006 rules (i.e. pre-"20-means-20") regarding the allowances available in the standard rate calculation to determine the number of "Marginal Rate Taxpayers" who convert to being a "Standard Rate Taxpayer" as a consequence of this change in the calculation) would be a useful check of the above estimate; however it is not possible to produce this further estimate with the modelling tools currently available to the Taxes Office.

Review of Personal Tax
Work stream 3 – paper outlining legal and policy considerations around the (dis)incentivisation of profit retention

Background

1. The majority of Jersey resident companies are subject to corporate income tax at 0% (**"0% Companies"**).

2. The existence of "0% Companies" together with a 20% rate of personal income tax creates two broad incentives amongst Jersey resident individuals:

   - Incentive 1: there is an incentive to incorporate trading and investment activities, provided the individual is in a financial situation to distribute less than the annual trading profits/investment income accruing in the company

   - Incentive 2: for those whose trading/investment activities have been incorporated, provided that they are in a financial situation to do so, there is an incentive to distribute less than the annual trading profits/investment income accruing in the company

3. From the introduction of "0% Companies" until 31 December 2011 these incentives were reduced through the application of the "deemed dividend" and "full attribution" rules.

4. The "deemed dividend" rules applied in the context of trading companies[1]. Broadly they meant that any Jersey resident individual shareholder would be treated (deemed) as having received a dividend of 60% of their share of the taxable profits of the 0% trading company, on which they would pay income tax personally. The amount deemed could be reduced by paying actual, taxable dividends to the shareholder within a specified time period.

5. As a consequence of the "deemed dividend" rules "0% Companies" could be used to defer 60% of trading profits for a short-period (depending on factors such as company accounting dates) and a maximum of 40% of taxable profits for a longer-period of time. For the avoidance of doubt, under the "deemed dividend" rules tax could only ever be deferred to a later date; as any untaxed profits would eventually be taxable on the earliest of one of a number of "trigger events".

6. The "full attribution" rules applied in the context of investment holding companies[2]. Broadly they meant that where a Jersey resident individual held shares in a 0% investment company, for tax purposes the individual was treated as receiving their share of the income arising in the company directly. For example, Mr X owned 100% of the shares in Jersey Co Ltd (an investment company); Jersey Co Ltd owns shares in ABC Plc on which a dividend is paid. Under the full attribution rules Mr X had to include that ABC Plc dividend income in his personal tax return and pay tax on it as if it had arisen to him directly.

7. As a consequence of the "full attribution" rules an individual could only defer investment income for a short-period (depending on factors such as company accounting dates).

[1] The term "trading company" is defined in paragraph 2 to Schedule A1 of the Income Tax (Jersey) Law 1961.
[2] Defined as companies other than "trading companies" and collective investment funds. The full attribution rules also specifically applied to personal services companies.

8. In 2010 these rules (both the “deemed dividend” and “full attribution” rules) were found to be harmful by the EU under the Code of Conduct for Business Taxation and, under the good neighbour policy, a decision was taken that the rules should be repealed. They were repealed with effect from 31 December 2011.

9. With effect from 1 January 2013 rules have been introduced which: (i) broaden the definition of “distribution”; and (ii) ensure that the distributions made by “0% Companies” are matched first and foremost against any profits arising in the company and subject to tax at 0%[3]. These rules seek to prevent “0% Companies” from being used for the avoidance or inappropriate deferral of Jersey income tax by Jersey resident individual shareholders[4].

10. However Jersey resident individual shareholders in “0% Companies” are only subject tax when they receive a distribution. Where no distribution is made, there is no taxable amount for the Jersey resident individual shareholder to declare on their personal income tax return.

11. Therefore the two incentives outlined in paragraph 2 above continue to exist as at the date of this paper.

12. Both the incentives identified above primarily result in deferral of tax (i.e. the individual does not pay tax on the trading profits/investment income in the year they accrue, but in a later year when they are distributed). However it is acknowledged that:

    - the period of this deferral is uncertain and will be determined in each case by the financial position and choices made by the “0% Company”/Jersey resident individual shareholder; and

    - if distributions are deferred until a Year of Assessment in which the individual recipient is not subject to income tax in Jersey (e.g. they have emigrated from the Island), Jersey tax on those trading profits/investment income will not be payable

International comparison

13. Jersey is not unusual in maintaining a corporate income tax rate which is lower than the rate of personal income tax. Appendix A compares the top rate of personal income tax with the standard rate of corporate income tax for each of the OECD countries. This analysis shows that in all but 4 OECD countries[5] the standard corporate income tax rate is lower than the top rate of personal income tax[6] – hence the tax systems in the remaining 31 OECD countries *prima facie* create the same incentives as are created in Jersey.

14. The largest differential between the top rate of personal income tax and the standard corporate income tax rate is 33% in Slovenia.

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[3] Under this matching concept any distribution is treated first and foremost as having been made out of any profits subject to tax at 0% in the company. Therefore, to the extent that such profits exist, distributions will be fully taxable on any Jersey resident individual recipient.

[4] Furthermore the intermediary services vehicle (“ISV”) rules were introduced with effect from 1 January 2013 to prevent any tax advantage accruing through the use of personal services companies. Up to 31 December 2011 such arrangements had been taxed under the “full attribution” rules.

[5] Per the analysis in Appendix A the Czech Republic, Spain and Switzerland have a higher standard rate of corporate income tax than the top rate of personal income tax, whilst in Estonia the standard rate of corporate income tax and the top rate of personal income tax are the same.

[6] It is further noted that the analysis in Appendix A only captures the central/federal personal tax rates charged; the highest personal tax rate actually suffered may be increased by state/local personal income taxes.

15. Another 5 countries (including the UK[7]) have larger differentials between the top rate of personal income tax and the standard corporate income tax rate than the 20% differential existing in Jersey.

UK differential and anti-avoidance legislation

16. From 1922 onwards the UK has maintained some form of anti-avoidance legislation designed to prevent shareholders from obtaining a tax advantage through the retention of profits in a closely-controlled company[8] rather than distributing those profits.

17. From 1965 to 1989 that legislation took the form of apportionment to shareholders of a shortfall in distributions (e.g. similar in nature to the "deemed dividend"/"full attribution" rules applicable previously in Jersey). The impact of that legislation was significantly reduced in 1980 with the exclusion of trading income from apportionment. The apportionment provisions were then abolished altogether in 1989.

18. In place of the apportionment provisions, much more limited anti-avoidance legislation targeting "close investment-holding companies" was introduced.

19. There is no requirement for close investment-holding companies to distribute all or any of their income and the only consequence where a company is a close investment-holding company is that the small profits rate of corporation tax is not available to such a company; furthermore from 1 April 2015 this restriction is academic as there is only one rate of UK corporation tax for all companies.

20. Hence despite the significant differential between the top rate of personal income tax and the standard corporate income tax rate in the UK, since 2015 there is no anti-avoidance legislation that applies to prevent the retention of profits in closely-controlled companies.

Tax incentives offered in other jurisdictions

21. A number of jurisdictions offer specific tax incentives in order to encourage companies to reinvest profits rather than distribute them to their shareholders (i.e. they actively encourage the retention of profits within corporate structures). This is ordinarily achieved in one of two ways:

    - The tax liability of the company itself is reduced by allowing a deduction for the amount reinvested (or a proportion thereof) from the profits otherwise taxable[9]; or

    - The shareholder, or parent company, is given a refund of the tax paid by the local enterprise up to a stated proportion of the amount reinvested; allowing the refunded tax to be reinvested either in the original company that made the profits or in some other qualifying company[10]

22. These incentives are ordinarily available in the context of trading companies, rather than investment companies.

[7] The UK has already announced its intention to reduce the standard rate of UK corporate income tax to 17% by 1st April 2020.
[8] A company held by a small number of shareholders.
[9] Offered for example in Malaysia and Romania.
[10] As have been offered for example in China.

23. Other jurisdictions have at times used "split-rate systems" to incentivise the retention or the distribution of profits by companies. In a split-rate system different corporate income tax rates are applied depending on whether profits are retained or distributed.

24. A split-rate system was utilised by the UK in the period immediately after World War II to encourage the formation of capital within the corporate sector and restrain personal consumption by disincentivising distributions by charging a significantly higher tax rate on distributed profits than on retained profits. France utilised a split-rate system for a similar purpose between 1989 and 1991.

25. Conversely a split-rate system was utilised by Germany until relatively recently which sought to encourage the distribution of profits through charging a lower corporate income tax rate on distributed profits than on retained profits.

26. Malta has a unique tax system. Companies in Malta are subject to corporate income tax at 35%. However Malta offers (subject to certain conditions) tax refunds on distributed profits which have suffered tax in Malta. In order to qualify for a refund, the profits must be distributed either to non-resident shareholders or to a Maltese holding company wholly owned by non-residents.

27. The rates of the tax refund are: 6/7 of the Maltese tax paid on the distributed profits (effective tax rate in Malta is only 5% in this case); 5/7 of the Maltese tax paid when the dividend is distributed from passive interest or royalties; 2/3 of the Maltese tax paid when the distributed dividend is derived from foreign sourced income that was relieved from double taxation. In the context of non-resident shareholders the Maltese tax system therefore incentives the distribution of profits.

Interaction of corporate income tax and personal income tax

28. Depending on the taxation of distributions from companies (in particular whether a tax credit is available to the individual recipient for the underlying corporate income tax paid by the company) a jurisdiction's overall tax system may discourage: (i) the incorporation of activities, and (ii) the distribution of corporate profits, because the final overall effective tax rate suffered by the individual recipient may be higher than if they had carried on those activities personally (i.e. not through a corporate structure). This is the case in a number of jurisdictions which operate what is known as a "classical tax system" which gives no credit for the underlying corporate income tax paid.

29. The United States and the Netherlands have a "classical tax system" in which dividend income is taxed at the shareholder's full marginal personal tax rate. Other countries, including Australia, have an 'imputation system', in which there is an explicit tax credit against personal income tax on dividend income in recognition of tax paid on the underlying profits at the corporate level. Many EU countries, including the UK, tax dividend income at lower personal tax rates than other sources of income.

Conclusion

30. This international comparison indicates:

- Jersey, in common with most OECD jurisdictions, maintains a standard corporate tax rate that is lower than the top rate of personal income tax.

- There is no globally accepted approach as to whether tax systems should encourage the retention of profits within companies or alternatively encourage the distribution of profits to shareholders. Different jurisdictions have adopted different approaches at different times depending on the specific policy considerations applicable at that time. Different jurisdictions may also adopt a different approach to trading companies than they adopt to investment companies; particularly closely-controlled investment companies.

- Despite the larger differential in the UK between the top rate of personal income tax and the standard corporate income tax rate, since 1 April 2015 there are no anti-avoidance rules operating in the UK to prevent the retention of profits in companies.

Policy considerations

Non-Jersey specific considerations

31. In determining a jurisdiction's corporate income tax rate, policy makers are balancing a number of competing objectives including (but not limited to):

    - raising the required amount of revenue to fund the provision of public services in the jurisdiction;

    - raising that required amount of revenue from the available taxation sources in the jurisdiction;

    - supporting the economy; and

    - maintaining the integrity of the overall tax system (i.e. not providing opportunities for taxpayers to reduce their liabilities)

32. When determining corporate income tax rates the high-level advice from global institutions/leading economic institutes to policy makers is that corporate income taxes are harmful to economic growth.

33. For example the OECD have stated: "Corporate income taxes are the most harmful for growth as they discourage the activities of firms that are most important for growth: investment in capital and productivity improvements. In addition, most corporate tax systems have a large number of provisions that create tax advantages for specific activities, typically drawing resources away from the sectors in which they can make the greatest contribution to growth."[11]

34. The European Commission have recently stated: "Literature suggests that corporate and personal income tax have a strong negative impact on growth while consumption taxes, in particular recurrent taxes on immovable property, are found to be less harmful to growth."[12]

[11] See http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-policy-reform-and-economic-growth/growth-oriented-tax-policy-reform-recommendations_9789264091085-3-en#page8

[12] See Tax Policies in the European Union - 2016 Survey (https://ec.europa.eu/taxation_customs/business/company-tax/tax-good-governance/eu-semester/tax-policies-european-union-2016-survey_en)

35. Whilst a report of the Institute of Fiscal Studies has stated: "There are two key results in the economic literature on taxation in small open economies that may be helpful in understanding recent developments in corporate income taxation, as the world economy in general, and financial markets in particular, have become more integrated. The first states that source-based taxes on income from capital levied by a small open economy are not borne by the owners of capital, but are fully shifted onto relatively immobile workers. The second states that it is inefficient to impose source-based taxes on income from capital in small open economies."[13]

36. The Institute of Fiscal Studies report concludes: "…it is clear that there is a powerful force towards lower corporate tax rates applying in open economies that is not present in closed economies, and it is no surprise that corporate tax rates should have fallen as economies have become more open to trade and capital flows, and as capital markets have become more integrated. There is a coherent argument that countries will do better by complying with these forces than by trying to resist them."

37. Consistent with this conclusion over the recent past corporate income tax rates across the globe have generally reduced. Appendix B outlines analysis showing the standard corporate tax rates in the OECD countries in 2000, 2008 and 2015. Of the 34 OECD countries listed[14], 1 country had the same corporate income tax rate in 2000 and 2015; 2 countries had increased their corporate income tax rate between 2000 and 2015 and the remaining 31 countries had reduced their corporate income tax rate.

38. It is also of note that the period covered by the analysis included the financial crisis and the pressure on public finances that the crisis caused in many OECD countries.

39. However the advice to cut corporate income tax rates is caveated by the need to maintain the integrity of the overall tax system.

40. For example the OECD have stated: "However, lowering the corporate tax rate substantially below the top personal income tax rate can jeopardize the integrity of the tax system as high-income individuals will attempt to shelter their savings within corporations."[15]

41. The authors of the Mirrlees Review stated: "More generally, the form and structure of the corporate income tax should be consistent with the form and structure of the personal income tax, and with policy choices for the taxation of savings in particular. The system as a whole should not present individuals with glaring opportunities to avoid taxation of their income from savings simply by holding their wealth in corporate form, nor should it penalize individuals who choose to save and invest through direct holdings of company shares."[16]

42. We can find no evidence in the literature reviewed of a recommended or ideal corporate distribution ratio (i.e. the amount of corporate profits that should be distributed to

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[13] See Corporate Income Taxes and Investment: A Comparative Study (https://www.ifs.org.uk/docs/bertlesmann.pdf)

[14] This analysis was produced by the OECD in advance of Latvia becoming a full member of the OECD, explaining why the analysis in Appendix A covers 35 countries whilst the analysis in Appendix B only covers 34 countries.

[15] See http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-policy-reform-and-economic-growth/growth-oriented-tax-policy-reform-recommendations_9789264091085-3-en#page8

[16] See Taxing Corporate Income Chapter 17 of Tax by Design (final report from the Mirrlees Review) (https://www.ifs.org.uk/uploads/mirrleesreview/design/ch17.pdf)

shareholders on an annual basis); the literature reviewed is silent on this issue. Correspondingly, as noted above in the international comparison section of this paper, different jurisdictions have incentivised the distribution or the retention of corporate profits at different points in time.

Jersey specific considerations

43. In determining the Island's standard corporate income tax rate, policy makers have been strongly influenced by the need for the corporate income tax regime to support the Island's economy.

44. In order to support the Island's economy, Jersey needs to offer tax neutral corporate vehicles in an internationally compliant manner. The zero/ten regime delivers that offering in a simple, transparent way and has been found to be internationally compliant.

45. Jersey's corporate tax regime prior to the zero/ten regime, broadly consisting of taxable companies where there was local ownership and exempt companies where there was non-local ownership (positively discriminating in favour of non-residents), although better at maintaining the integrity of the domestic tax system was found to be "harmful" by the EU. The implications for the Island of maintaining a "harmful" regime were such that policy makers determined that a change to the zero/ten regime was in the best interests of the Island.

46. On the introduction of the zero/ten regime policy makers were aware of both the change in the burden of taxation (i.e. the shift from corporate taxation to personal taxation) and the challenge it would pose to the integrity of the overall tax system. To help address the challenge to the integrity of the overall tax system the "deemed dividend" and "full attribution" rules were introduced in partnership with the zero/ten regime.

47. However when these rules were subsequently found to be "harmful" by the EU, policy makers determined that maintaining the zero/ten regime without the "deemed dividend" and "full attribution" rules was the best course of action irrespective of the challenge to the integrity of the overall tax system this created.

48. Subsequent to the removal of the "deemed dividend" and "full attribution" rules, policy makers have introduced the "distribution rules" to minimise the opportunity for avoidance and inappropriate deferral on personal income tax.

49. In determining whether any further steps can be taken to improve the integrity of the overall tax system, policy makers are acutely aware of the need to maintain the availability of tax neutral corporate vehicles in an internationally compliant manner.

50. It is of note that both Guernsey and the Isle of Man have adopted similar policy responses, initially implementing measures that sought to maintain the integrity of the overall tax system but removing, and not directly replacing, them when those measures were subsequently found to be "harmful".

Legal considerations

51. Under Art 134A of the Income Tax (Jersey) Law 1961[17] the Comptroller of Taxes has the power to make assessments/additional assessments he considers appropriate to prevent the avoidance or reduction of Jersey income tax.

52. Although each case depends on its own facts (and hence this cannot be treated as a form of general clearance) the Comptroller of Taxes would not ordinarily seek to raise an assessment/additional assessment under Art 134A where a Jersey resident individual incorporates a Jersey resident company; nor where a Jersey resident company defers the distribution of profits to a Jersey resident individual shareholder.

[17] Article 134A has been reproduced in Appendix C.

Appendix A
Comparison of corporate income tax rates and personal income tax rates – OECD countries

Table 1 – personal and corporate tax rates in OECD countries[18]

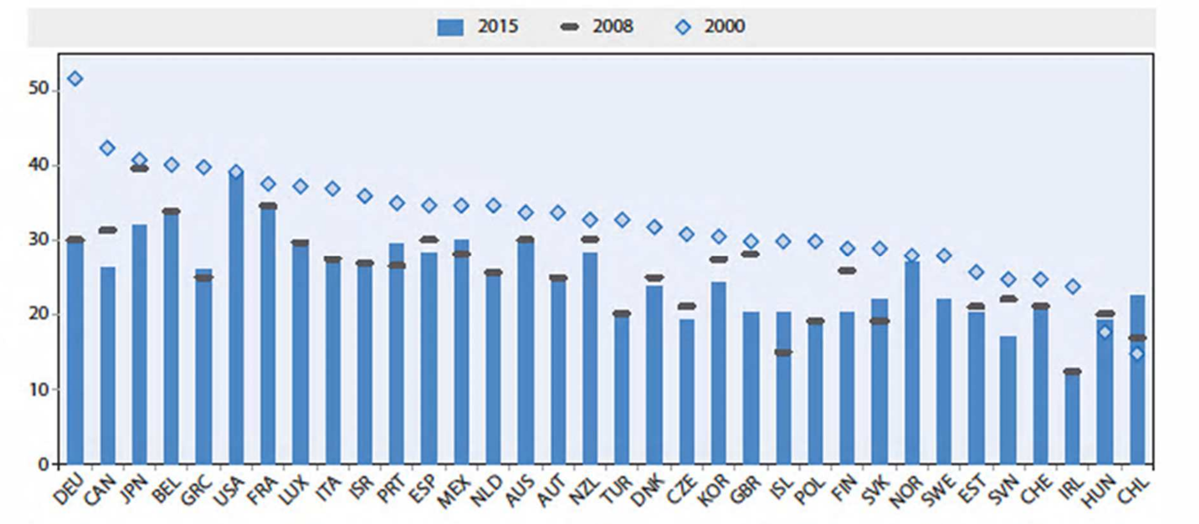
Country	Top rate personal income tax	Standard corporate income tax rate	Differential
Australia	45.00%	30.00%	15.00%
Austria	50.00%	25.00%	25.00%
Belgium	50.00%	33.99%	16.01%
Canada	29.00%	26.80%	2.20%
Chile	40.00%	24.00%	16.00%
Czech Republic	15.00%	19.00%	(4.00%)
Denmark	23.08%	22.00%	1.08%
Estonia	20.00%	20.00%	Nil
Finland	31.75%	20.00%	11.75%
France	45.00%	34.43%	10.57%
Germany	45.00%	30.18%	14.82%
Greece	42.00%	29.00%	13.00%
Hungary	16.00%	19.00%	3.00%
Iceland	31.80%	20.00%	11.80%
Ireland	40.00%	12.50%	27.50%
Israel	50.00%	25.00%	25.00%
Italy	43.00%	31.29%	11.71%
Japan	45.00%	29.97%	15.03%
Korea	38.00%	24.20%	13.80%
Latvia	23.00%	15.00%	8.00%
Luxembourg	40.00%	29.22%	10.78%
Mexico	35.00%	30.00%	5.00%
Netherlands	52.00%	25.00%	27.00%
New Zealand	33.00%	28.00%	5.00%
Norway	25.15%	25.00%	0.15%
Poland	32.00%	19.00%	13.00%
Portugal	48.00%	29.50%	18.50%
Slovak Republic	25.00%	22.00%	3.00%
Slovenia	50.00%	17.00%	33.00%
Spain	22.50%	25.00%	(2.50%)
Sweden	25.00%	22.00%	3.00%
Switzerland	13.20%	21.15%	(7.95%)
Turkey	35.00%	20.00%	15.00%
United Kingdom	45.00%	20.00%	25.00%
United States	39.60%	38.92%	0.68%

Source: OECD.Stats: Personal tax rates extracted from Table I.1. Central government personal income tax rates and thresholds; Corporate tax rates extracted from Table II.1 Corporate income tax rates (extracted February 2017)

[18] Only includes central/federal tax rates; the tax rate actually suffered may be increased by state/local personal/corporate income taxes.

Appendix B
Trends in global corporate tax rates – OECD analysis

<u>Graph 1 – OECD corporate income tax rates (%) since 2000</u>



Source: Tax Policy Reforms in the OECD 2016 [19]

[19] See: http://www.oecd-ilibrary.org/taxation/tax-policy-reform-in-the-oecd-2016_9789264260399-en

Appendix C
Article 134A of the Income Tax (Jersey) Law 1961

134A Power of Comptroller to make assessment to prevent avoidance of income tax[634]

(1) If the Comptroller is of the opinion that the main purpose, or one of the main purposes, of a transaction, or a combination or series of transactions, is the avoidance, or reduction, of the liability of any person to income tax, the Comptroller may, subject as hereinafter provided, make such assessment or additional assessment on that person as the Comptroller considers appropriate to counteract such avoidance or reduction of liability:

Provided that no assessment or additional assessment shall be made under this Article if the person shows to the satisfaction of the Comptroller either –

(a) that the purpose of avoiding or reducing liability to income tax was not the main purpose or one of the main purposes for which the transaction, or the combination or series of transactions was effected; or

(b) that the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions and was not designed for the purpose of avoiding or reducing liability to income tax.[635]

(2) The provisions of this Law shall apply to any assessment or additional assessment made under this Article as if it had been made in pursuance of Part 5.

(3) Without prejudice to the generality of paragraph (2), any person who is aggrieved by any assessment or additional assessment made on the person under this Article shall be entitled to appeal to the Commissioners on the ground that –

(a) the avoidance, or reduction, of the liability of that person to income tax was not the main purpose, or one of the main purposes, of the transaction, or the combination or series of transactions;

(b) the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions and was not designed for the purpose of avoiding or reducing liability to income tax; or

(c) that the person has been overcharged by the assessment or additional assessment,

and all the provisions of this Law relating to appeals against any assessment shall apply to any appeal made under this Article

Review of Personal Tax
Work stream 3 – scope for estimating the quantum of profits retained within “0% companies” and owned by Jersey resident individual (natural person) shareholders

Introduction

1. In order to produce an estimate of the quantum of profits retained within 0% companies ultimately owned by Jersey resident individual shareholders (**“Relevant Companies”**) two pieces of information are required:

    - The amount, or a reasonable estimate of the amount, of profits accruing in “Relevant Companies” for each year of assessment; and

    - The amount, or a reasonable estimate of the amount, of distributions made by “Relevant Companies” from the profits identified above where the recipient is subject to Jersey personal income tax[1]

Information piece one: amount of profits accruing in “Relevant Companies”

2. 2008 is the last year of assessment for which the Taxes Office systematically collected accounts and tax computations from all Jersey resident companies.

3. In subsequent years of assessment the Taxes Office has continued to systematically collect accounts and tax computations from all Jersey resident companies with a positive tax liability in their own name (i.e. companies subject to a positive rate of tax either on all of their profits – i.e. utility companies and financial services companies – or on a particular stream of their profits – e.g. property Jersey rental companies).

4. In subsequent years of assessment the Taxes Office has not systematically collected accounts and tax computations from “Relevant Companies” (with the exception of those “Relevant Companies” which are subject to a positive rate of tax on a stream of their profits). This is because these companies could not have a positive tax liability in their own name; being subject to tax at 0% on all of their profits.

5. In subsequent years of assessment the Taxes Office has received, either voluntarily provided or in response to specific requests made by the Taxes Office, accounts and tax computations from a number of “Relevant Companies”. The Taxes Office has utilised these documents to check the declarations made on the individual shareholder’s personal tax return.

6. Where the Taxes Office has received documents in this way (i.e. as outlined in paragraph 5), the amount of profits accruing in the company has not been captured within the Taxes Office’s IT systems. The documents received are only available on the relevant paper files.

7. Therefore 2008 is the last year of assessment for which the Taxes Office holds complete[2] and retrievable data regarding the amount of profits accruing in “Relevant Companies”.

[1] E.g. a distribution to an intermediate holding company would need to be excluded.
[2] As at that time.

8. In light of the period of time that has elapsed since 2008, the value of this data in estimating the amount of profits accruing in "Relevant Companies" in recent years is very limited; particularly because:

    - 2008 predated the impact of the financial crisis, which had an impact on both corporate profits and investment returns;

    - Due to the transition of companies to a current year basis of assessment, the assessable profits of many companies for the 2008 year of assessment were calculated by reference to an average of the profits accruing in the financial periods ending in 2007 and 2008; and

    - This data takes no account of what has happened to the population of "Relevant Companies" in the intervening period (e.g. new "Relevant Companies" established; existing "Relevant Companies" liquidated)

9. It is therefore not considered appropriate to use the 2008 year of assessment profits data for the "Relevant Companies" in existence at that time to estimate the amount of profits accruing in "Relevant Companies" in much later years of assessment.

10. From the 2009 year of assessment to the 2011 year of assessment Jersey applied a set of rules known as the deemed distribution/full attribution rules. Under these rules some or all of the profits of "Relevant Companies" could be deemed to arise on the Jersey resident individual shareholder(s) ("a deemed distribution").

11. As the deemed distribution was *prima facie* based on the amount of profits accruing in the "Relevant Company" there is the potential that the amount deemed on the Jersey resident individual shareholder(s) could be utilised to estimate the amount of profits accruing in the "Relevant Company".

12. However the rules for calculating the amount deemed to arise on a Jersey resident individual shareholder were complicated, including:

    - Different rules were applied in the context of trading companies, where a maximum of 60% of the profits could be deemed to arise on the Jersey resident individual shareholder(s), to investment companies, where the maximum was 100% of the profits;

    - The amount deemed to arise could be altered by any cash dividends paid within a certain specified period;

    - In the final year of the rules more than 12 months of profits could be included in the deeming calculation[3]; and

    - Where there was more than one ultimate individual beneficial shareholder, the profits would be apportioned amongst those shareholders[4]

[3] Broadly depending on what accounting reference date within the year the company had adopted.
[4] Non-resident individual shareholders were not subject to Jersey tax under the deemed distribution/full attribution rules.

13. Therefore in the majority of cases it is unlikely that the deemed distribution shown in the personal tax return of a Jersey resident individual shareholder would be *equal* to the profits accruing in the underlying “Relevant Company”.

14. Furthermore when processing the personal tax returns of those taxpayers with deemed distributions and/or cash dividends from Jersey resident companies, the name of the company was not captured within the Taxes Office’s IT system[5].

15. Therefore to attempt to produce some analysis of the profits accruing in “Relevant Companies” from the deemed distributions shown in the personal tax return of a Jersey resident individual shareholders would require a significant manual process, requiring the retrieval and analysis of the paper files for all such shareholders.

16. In light of the fact that the deemed distributions shown in the personal tax returns of Jersey resident individual shareholders are likely to be an unreliable estimate of the profits accruing in the underlying “Relevant Companies” and the period of time that has elapsed since 2011; undertaking such an exercise does not represent a good use of limited Taxes Office resources.

17. In summary, the Taxes Office does not hold complete data on the amount of profits accruing in “Relevant Companies” since the 2008 year of assessment. In light of the period of time that has elapsed, it is considered that the 2008 data is too out of date to be used in this context. The profits data the Taxes Office does hold on “Relevant Companies” for subsequent years of assessment is incomplete and is not held in a format that is easily retrievable or analysable. The deemed distribution data held by the Taxes Office is an unreliable estimate for profits accruing in “Relevant companies”, is increasingly out of date and is not held in a format that is easily retrievable or analysable.

18. Therefore the first piece of information required to estimate the quantum of profits retained within “Relevant Companies” is not available and, as such, an estimate cannot be completed at this time.

<u>Next steps</u>

19. The Taxes Office amended the corporate income tax return for the 2015 year of assessment (and all subsequent years of assessment) such that “Relevant Companies” are required to declare their taxable profits[6].

20. Since the 2014 year of assessment companies have been obliged to file their corporate income tax return online, making data retrieval more straightforward.

21. Corporate income tax returns for the 2015 year of assessment were due on or before 31 December 2016.

22. Therefore complete[7], current and accurate data regarding the amount of profits accruing in “Relevant Companies” should have been verified and then produced in a format that could be subject to further analysis by the end of Q1 2017.

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[5] The name of the company paying distributions to Jersey resident individual shareholders has been captured from the 2013 year of assessment onwards.
[6] Even though these profits are subject to tax at 0% on the company.
[7] Subject to “Relevant Companies” complying with their filing obligations.

23. It is therefore proposed that all activities, with the exception of the retrieval and analysis of data relating to the distributions made by “Relevant Companies” to Jersey resident individual shareholders (i.e. information piece two), are paused until such time as this data becomes available.

Tax compliance framework

Proposed legal and policy changes 2017-2019

A consultation document outlining the Taxes Office's proposals to Ministers for changes to the legal framework, to improve voluntary compliance with the taxes laws

Closing date for comments: 16 June 2017

States of Jersey
Taxes Office
2017

Subject of this consultation:	The consultation examines the tax compliance framework, particularly the penalties for error, avoidance, and evasion. It also discusses administrative penalties for failing to file and pay, and covers the introduction of charging late payment interest on tax debts.
Scope of this consultation:	Views are invited on the proposed changes to the tax compliance framework. We would also welcome comments on related matters that are not explicitly covered in this document.
Who should read this:	We would like to hear comments from anyone who is affected by these proposed changes, including individuals, businesses, employers, tax agents and accountants, and representative bodies.
Duration:	The consultation will run for 12 weeks from 27 March 2017 to 16 June 2017.
Lead official:	Tom Queree, Legislation and Policy Manager, Taxes Office
How to respond:	tom.queree@gov.je Taxes Office PO Box 56 The Parade St Helier JE4 8PF Note that it is our intention to be able to publish responses. Please indicate if you do not wish your comments to be published.
After consultation:	A summary of responses will be presented to Ministers to inform the way ahead. The States Assembly will consider draft legislation in 2017, 2018, and 2019.

Contents

1. Introduction

1.1. The Taxes Office is responsible for administering both the Income Tax (Jersey) Law 1961 (the "Income Tax Law") and the Goods and Services Tax (Jersey) Law 2007 (the "GST Law"). The Income Tax Law is especially outdated in its compliance provisions, and the two laws frequently set out different sanctions for the same non-compliant behaviours.

1.2. In order to modernise and harmonise the two laws, the Comptroller of Taxes has advocated a new Taxes Administration Law. The timeline for the new law envisages its introduction in January 2020. This timeline is dependent on the successful implementation of the new taxes IT system, which will allow us to administer our compliance framework much more effectively, and enable us to move more Taxes Office functions online. For example, we expect personal taxpayers to be able to file their tax returns online in 2019 or 2020, followed a year later by corporates. The shift to an online environment will enable us to process and understand data more quickly. An increasing amount of correspondence will also be undertaken online, meaning less paper and faster resolutions to problems for taxpayers.

1.3. There are some compliance measures that do not rely heavily on new technology – particularly consideration of 'behavioural' penalties for providing incorrect information. A behavioural penalty is where the behaviour of the taxpayer will determine the level of penalty available. For example, deliberately avoiding one's obligations will result in a higher penalty than where the behaviour has been careless. The Taxes Office is proposing that Ministers and the States Assembly consider introducing these measures by January 2018, immediately following the closure of the 2017 Taxes Disclosure Opportunity.

1.4. Another key theme of this consultation document is the move away from a reliance on criminal penalties, which are costly to enforce and can only be levied by a court, to a civil penalty regime. The Taxes Office rarely uses its criminal powers – primarily because the process is expensive and time consuming – so the move to civil penalties will allow the Comptroller to administer penalties more efficiently and Jersey to recover the costs of non-compliant taxpayer behaviour.

1.5. This document discusses the broader 'compliance framework', that is, the legal and regulatory framework, in addition to internal policies and processes, in which the Taxes Office conducts its compliance activities. For the avoidance of doubt, references in this document to 'tax' also refer to Long Term Care (LTC) contributions, which the Taxes Office collect on behalf of the Social Security Department. The document makes recommendations and poses questions for further discussion.

1.6. In introducing a civil penalty regime, careful consideration will have to be given to safeguarding the appeal rights of those affected by the penalties. While we seek views on safeguarding in this document, we are also requesting advice from the Law Officers' Department.

1.7. Following the conclusion of this consultation, the Taxes Office will submit its final proposals to the Minister for Treasury and Resources, for consideration for Budgets 2018 and 2019.

2. Incorrect declaration penalties

Background

2.1. Article 137 of the Income Tax Law sets out the penalties for fraudulently or negligently:

(a) Delivering an incorrect statement under Article 16 (i.e. a tax return);
(b) Making an incorrect statement, return or declaration in connection with any claims for any allowance, deduction or relief; and
(c) Delivering incorrect accounts.

2.2. If a person commits an offence under Article 137, they will be liable to a fine, or a fine and imprisonment (where the offence is committed fraudulently). These are criminal penalties, so require a criminal investigation to be carried out by the Taxes Office and/or the Police, and resulting fines can only be levied by a court. But in many cases where a person has made an incorrect statement negligently, it may not be appropriate to prepare a court case: for example, where the costs of preparing a case exceed the potential additional revenue to be gained; or where it is obvious there was no criminal intent.

2.3. It is our proposal to move away from the current reliance on these criminal sanctions. Whilst we intend to undertake an increasing number of compliance interventions in the near future, we do not wish to take up valuable court time when the taxpayer's behaviour does not warrant it. A shift towards a civil penalty regime will allow the Comptroller to levy penalties more quickly and ultimately recover the cost of non-compliant behaviour.

2.4. Currently, where the Taxes Office wishes to impose a penalty for an incorrect declaration, without taking criminal action, it relies on the power contained in Article 137(4), which allows the Comptroller to accept a 'pecuniary settlement' instead of instituting court proceedings. One of the main benefits of using Article 137(4) is that it allows the Taxes Office's compliance team to bring investigations to a swift conclusion.

2.5. The disadvantage of this approach is that any resulting penalty charged on a person are not calculated transparently, because the Taxes Office does not publish its methodology for calculating what is termed 'penalties and interest'. We consider that taxpayers and Taxes Office staff would benefit from clear policies and guidance that set out when and why penalties are chargeable, and how they are calculated.

Behavioural penalties

2.6. Most tax administrations throughout the world charge incorrect return penalties based on the behaviour of the person concerned. Appendix A of this document shows examples of behavioural penalties from a number of jurisdictions. While they differ, the common theme is that the level of penalty is determined by the taxpayer's behaviour. We recommend adopting the international best practice of applying behavioural civil penalties for incorrect declarations made to the Taxes Office, to be in place by January 2018. This will have immediately followed the closure of the 2017 Disclosure Opportunity, which will have given all taxpayers the opportunity to correct previous under-declarations.

2.7. We consider there should be a clear distinction between penalties where a taxpayer's behaviour ranges from carelessness to a deliberate intention to evade tax. There should be no penalties for a taxpayer who has made an innocent error.

2.8. In formulating a behavioural penalty matrix for Jersey to achieve that aim, Table 2.1 provides a transparent framework that clearly delineates defined types of behaviour. The category of negligence has purposefully been avoided, because it can often blur the boundary with deliberate behaviour.

Table 2.1 – Percentage penalties for an incorrect declaration

Behaviour	Standard penalty*	Definition
Innocent error	0%	Reasonable care has been taken
Careless	20%	Not taking the care that a reasonable person in same circumstances would take
Grossly careless	50%	High degree of carelessness and disregard for consequences. More likely than not to result in wrong tax
Deliberate	100%	Intentional disregard for the law; fully aware of tax obligation

*Penalty is a percentage of the potential lost revenue. The potential lost revenue is the additional amount of tax that is due or payable as a result of correcting the inaccuracy.

Question 1: Do you agree with the broad categories of behaviour, and the associated standard penalties? If not, what other categories would be more appropriate? Particular regard should be had to the tables in Appendix A.

2.9. We consider that Comptroller should have the power to increase or decrease the standard penalty. Significant reductions should be available for voluntary disclosures, in order to promote better voluntary compliance. Penalties should also be reduced where good cooperation has been demonstrated by the taxpayer under enquiry, whereas a penalty might be increased if it is a repeat offence.

2.10. Clear internal guidelines for Taxes Office staff would be agreed and published to ensure consistency. The guidelines should provide examples, and set out circumstances under which reductions and increases on the standard penalty would be allowed.

2.11. Table 2.2 expands on Table 2.1. It provides further detail, including penalties for repeat offences of up to 50% more than the standard penalty. It also makes a distinction where a taxpayer has made a voluntary disclosure, in order to incentivise recalcitrant taxpayers to do the right thing. The definition of a voluntary disclosure is when the person making the disclosure has no reason to believe that the Taxes Office has discovered or is about to discover the incorrect statement.

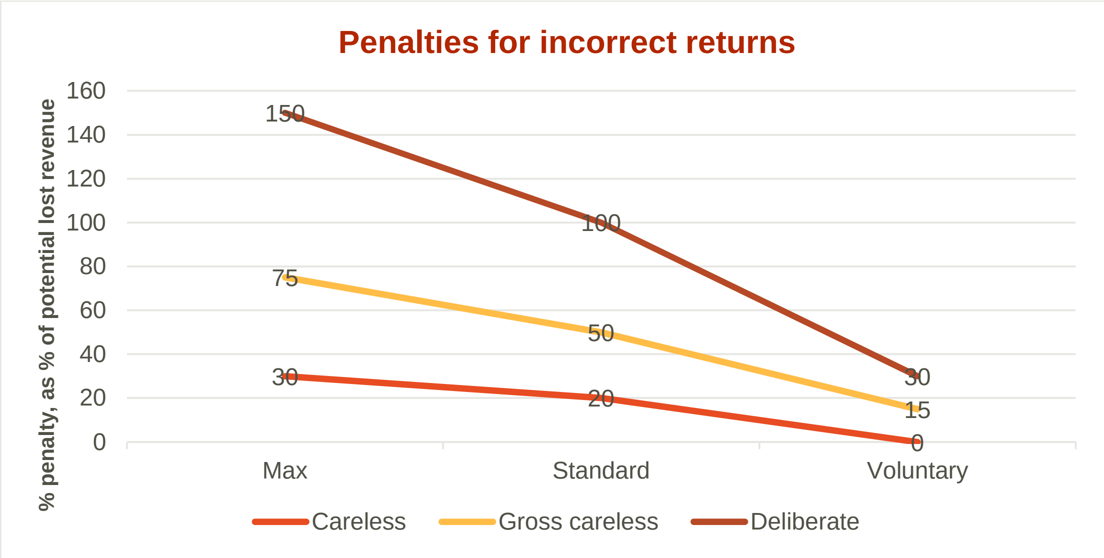
Table 2.2 – Detailed percentage penalties for an incorrect declaration

Behaviour	Standard penalty	Max. penalty	Voluntary disclosure (minimum penalty)
Innocent	0%	0%	0%
Careless	20%	30%	0%
Gross carelessness	50%	75%	15%
Deliberate	100%	150%	30%

*Penalties are a percentage of potential lost revenue. The potential lost revenue is the additional amount of tax that is due or payable as a result of correcting the inaccuracy.

2.12. The graph below (Table 2.3) shows the decrease in the proposed penalties where the defined behaviours are demonstrated.

Table 2.3



Question 2: Do you consider the proposed increases and reductions to the standard penalty to be appropriate? What increases and reductions would you propose instead?

Criminal offences

2.13. Although the majority of cases will be dealt with under the new civil penalty regime, it will be appropriate to continue to take certain cases to court. We envisage that cases where repeated non-compliance has taken place, and in serious cases of tax fraud, we will work collaboratively with the Joint Financial Crimes Unit (JFCU), to investigate criminality.

Definition: Joint Financial Crimes Unit

The main purpose of the Joint Financial Crimes Unit (JFCU) is to combat economic crime, including fraud, money laundering and terrorist financing. Its three functions are:

- The Island's Financial Intelligence Unit (FIU)
- Financial Crime Investigations; and
- Asset Recovery.

Investigations into suspected fraud

2.14. In the UK, in cases where a criminal investigation has not been started, HM Revenue and Customs (HMRC) is able to investigate using the Code of Practice 9 (COP9) investigation of fraud procedure. The recipient of a COP9 notice is given a time-limited opportunity to make a full disclosure. If HMRC does not consider the recipient to have made a full disclosure, they may begin a criminal investigation that could result in prosecution.

2.15. We recommend a Jersey-equivalent to COP9, and do not envisage having to make any changes to the law in order to introduce it.

2.16. To compensate for the shift towards civil penalties and away from criminal (which would naturally fall into the public domain), the Taxes Office is also considering whether to propose to Ministers and the States Assembly the option to deny anonymity in cases where a taxpayer has accepted a civil penalty in respect of very serious tax evasion.

Question 3: In principle, do you support the denial of anonymity in cases where a taxpayer has accepted a civil penalty in respect of very serious tax evasion? Comments are welcomed on the definition of 'very serious tax evasion'.

3. Administrative penalties

3.1. Administrative penalties are different from penalties for making an incorrect declaration. They are aimed at encouraging better compliance in respect of submitting returns and information, and at paying promptly.

3.2. Taxpayers should be discouraged from missing deadlines with penalties that are consistent and easy to understand. Currently there are various provisions across the different tax types that set out different penalties for similar actions. Some are civil penalties administered by the Taxes Office, whereas others are criminal penalties that can only be dealt with by a court.

3.3. Table 3.4 at the end of this section summarises the proposed changes.

Penalty units

3.4. We propose to introduce a fixed 'penalty unit' (PU) that equates to a fixed sum of money. All references in the tax laws would refer to PU, which themselves could be governed by regulations, similar to the criminal Standard Scale of Fines. This would make it quicker and easier to adjust the level of penalties over time, most likely by the Comptroller by Direction, or by Ministerial Order.

3.5. We recommend an initial PU of £50. All further references to fixed penalties in this document will refer to PU.

Question 4: Do you agree that the introduction of a 'penalty unit' is appropriate? We welcome comments on any issues that you envisage with a penalty unit regime.

Failure to register (income tax, ITIS, and GST)

3.6. Although a 'new taxpayer' is required to provide the Comptroller with certain information within one month of commencing employment,[1] there are no specific enforcement provisions contained in the relevant article.

Definition: 'New taxpayer'
A person who first commences employment or becomes a sub-contractor, in Jersey, on or after 1 January 2006; or A person who returns to Jersey and takes up employment on or after 1 January 2015, after having been non-resident in Jersey for at least one year of assessment immediately before returning.

[1] Income Tax Law, Article 41H

3.7. New residents are currently required to register with the Social Security Department, which in turn informs the Taxes Office. Therefore, we do not consider it necessary to introduce either enforcement powers in respect of Article 41H, or a separate registration requirement and associated penalty for failing to register, solely for tax purposes. Instead, we propose to maintain only the requirement for individuals to furnish the Taxes Office with a tax return, when they are chargeable to income tax (see section on failure to file tax returns, below).

Question 5: Do you agree that it is unnecessary to introduce a separate registration requirement and associated penalty, solely for tax purposes?

3.8. We do not consider there to be a significant risk in capturing new business registrations, as there are sufficient reporting mechanisms in place, via the Social Security Department and the Jersey Financial Services Commission.

3.9. With regard to ITIS, an employer (or building contractor) must notify the Comptroller within one month of becoming an employer, or they will have committed an offence and be liable to a level 3 fine (£10,000).[2] We do not consider this to be proportionate to the offence, and propose to introduce a civil penalty of at least 12 PU (£600), for all employers, irrespective of the number of employees it has.

3.10. The GST law provides for a penalty for failing to notify the Comptroller when the £300,000 turnover threshold is reached.[3] The penalty is currently the higher of £200 and 10% of the relevant GST. We recommend increasing the penalty to at least 12 PU (£600), but to maintain the *ad valorem* 10% element.

Question 6: Do you agree that the increase (to £600) of the penalty for failing to register, either as an employer or for GST, is appropriate? If not, what penalty do you consider to be more appropriate?

3.11. Where an individual has a level of income such that the process of issuing a tax return and completing an assessment is considered poor value for money, the Taxes Office will write to the individual informing them their file is being closed and to contact the Taxes Office if their income situation changes (in excess of inflation). Since there is currently no enforcement action available to the Taxes Office, we recommend introducing a legal obligation either (i) to notify the Comptroller of an increase in income, or (ii) furnish a tax return where the income warrants it. We also recommend a tax-geared penalty in the event an individual fails to do so.

Question 7: Do you agree that the legal onus should be on the taxpayer, rather than the Comptroller, to take the appropriate steps when the circumstances alter to the extent that a return is required (for example, after the Comptroller has closed the taxpayer file)?

[2] Income Tax Law, Article 19A
[3] GST Law, Article 73

Failure to file a return

3.12. There are three main types of return that the Taxes Office requires throughout the year: tax returns (personal and corporate income tax); employer ITIS returns; and GST returns. Each will be dealt with in turn below.

Failure to file: Personal tax returns

3.13. Personal income tax returns submitted late attract a one-off penalty of £250.[4] We recommend increasing the initial personal tax return penalty to 6 PU (£300). This increase is in line with inflation (the previous increase being in 2009). We propose to maintain the current abatements available in the Income Tax Law[5] that reduce the penalty under certain circumstances, for example when a person is not ultimately liable to tax.

3.14. A tax-geared penalty for the late delivery of personal tax returns was considered, i.e. the higher the tax liability, the higher the penalty. However, some taxpayers would inevitably be less likely to understand the financial consequences of late submission, so in the interests of simplicity and clarity, we considered an initial fixed penalty to be fairer.

3.15. Once the deadline for submission has passed, there is currently little incentive for a taxpayer to submit the return. In order to drive better compliance, taxpayers who have missed the initial deadline should be incentivised to furnish the return by a daily or monthly charge that increases the longer the failure to deliver the return continues.

3.16. We suggest a monthly penalty of one PU (£50) that begins one month after the original deadline date, for a maximum of 11 months. The maximum penalty would therefore plateau at 17 PU (£850), and from that point would attract interest (see Section 4) and would be subject to legal action.

Question 8: Is an initial penalty of 6 PU (£300), followed by monthly penalties of one PU (£50) per month, an appropriate sanction for late personal income tax returns? If not, what alternatives, such as daily penalties or tax-geared penalties, do you consider to be more appropriate?

3.17. The Income Tax Law allows the Taxes Office to take legal action against a person who has not submitted returns.[6] This is a power that the Taxes Office uses infrequently, with the last case going to court in November 2010.[7] The amount of reminders that were sent to the taxpayer, along with the delay in commencing legal action, was specifically criticised in the judgment in AG v da Silva, which stated: "an excessive number of reminders spread over a long period is doing no one any favours."

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[4] Income Tax Law, Article 17A
[5] Income Tax Law, Article 17A (3) and (4)
[6] Income Tax Law, Article 136
[7] https://www.jerseylaw.je/judgments/unreported/Pages/[2010]JRC216.aspx

3.18. We therefore propose a policy to begin the process of bringing legal action when a person has not submitted an income tax return up to 12 months following the original filing deadline. This would go some way to addressing the concerns raised in the da Silva judgment.

Failure to file: Company income tax returns

3.19. The current penalty for a company filing a late return is the same as for personal income tax returns (£250), but the filing deadline is 31 December in the year following the year of assessment. We propose an initial penalty of 6 PU (£300), followed by monthly penalties of 2 PU (£100), for a maximum of 11 months. We consider the higher monthly penalties for companies, in comparison to individuals, to be proportionate.

3.20. We also recommend mirroring the proposed policy for personal income tax returns, with regard to taking legal action where a return has not been submitted up to 12 months following the original filing deadline.

Question 9: Do you agree that the additional monthly penalties (of £100) for late company income tax returns are appropriate? If not, what further penalties would be more appropriate?

Failure to file: ITIS returns

3.21. An employer has two separate duties in respect of its employees: (1) they must deduct monies from their employees and remit the deductions to the Taxes Office; and (2) they have to submit an ITIS return to the Taxes Office every month, detailing each employee's wage and the ITIS deducted (if any).[8] This sub-section discusses ITIS returns, rather than the remittance of deductions, which is covered later.

3.22. While the failure to remit employees' ITIS deductions is the more serious offence, the failure to submit an ITIS return can still create significant problems. If an employer fails to submit a return, the employee is not allocated the ITIS credit, regardless of whether the employer has actually remitted the monies. This can result in the Taxes Office unnecessarily pursuing payment, or issuing inaccurate balances. It can also cause unnecessary distress to a taxpayer.

3.23. If an employer fails to file an ITIS return, they are subject to the provisions of Article 136, which means a court can impose an unlimited criminal fine, and a further level 2 fine (£1,000) for each day the failure continues.

3.24. The Income Tax Law states that employers must submit ITIS returns by "the time limited by the notice".[9] This limitation is unclear, especially so when employers are filing returns online, and allows the Comptroller to determine the filing deadline at his

[8] Income Tax Law, Article 20
[9] Income Tax Law, Article 20

discretion. We therefore recommend including in the law a clear 15 day deadline for the submission of ITIS returns.

3.25. While the majority of employers demonstrate good compliance, there are a minority who persistently miss deadlines, often failing to submit returns for extended periods of time. Non-compliant employers also create a significant and disproportionate amount of additional work for the Taxes Office. There are no civil penalties available to use in respect of a non-compliant employer.

3.26. We consider that the Taxes Office needs to be able to apply civil penalties to employers who miss the monthly filing deadline, in common with most jurisdictions.

3.27. The first option is to charge a fixed penalty in respect of any employer who fails to file on time, which would bring us into line with Guernsey. If this option is chosen, we recommend a fixed penalty of 6 PU (£300).

3.28. However, employers can vary in size, from sole traders with one or two occasional employees, to multinational companies with many hundreds of staff and dedicated payroll teams. In comparison to a late personal tax return, therefore, the argument for a fixed penalty for a late ITIS return is weaker.

3.29. An alternative option is to break down employers into four categories: micro, small, medium, and large. The number of employees per category is based on the current Labour market statistics, produced by the Statistics Unit.[10] Applying a greater penalty to larger employers is justified because their non-compliance affects more people, and it is reasonable to expect a higher standard from companies that have dedicated payroll teams. An initial penalty would be applied if a return is not submitted on time, in accordance with Table 3.1.

Table 3.1 – Initial penalties for employers filing late ITIS returns, by no. of employees

Employer size	No. of employees	Initial penalty
Micro	<5	2 PU (£100)
Small	<20	5 PU (£250)
Medium	<100	10 PU (£500)
Large	100+	20 PU (£1,000)

- Level of penalty to be defined in primary law
- Four categories of employer size to be defined by Ministerial Order

Question 10: In respect of late ITIS returns, is it reasonable to introduce penalties for employers based on the number of employees it has, rather than having a fixed penalty? Is the proposed penalty table (3.1) fair?

3.30. It is not clear whether a geared penalty alone would be sufficient to deal with the majority of non-compliant employers; it could be a first step. There is an option also

[10] https://www.gov.je/Government/JerseyInFigures/EmploymentEarnings/Pages/LabourMarket.aspx

to impose daily or monthly penalties, in line with the proposed penalties for personal income tax returns.

Question 11: Do you agree that it is fair to introduce a daily or monthly penalty in addition to the initial penalty for late ITIS returns? If not, what alternatives do you propose?

3.31. We are considering incentivising compliance by waiving a 'first offence' penalty. If an employer has submitted the previous 12 months' ITIS returns on time, then its first failure thereafter should not attract an initial penalty. The first failure would reset the employer's compliance history 'clock' to zero. A second or further failure within a 12 month period would then attract a penalty.

Question 12: We invite views on the principle of waiving 'first offence' penalties for employers, and whether consideration should be given to a broader implementation of this principle.

3.32. Taking inspiration from the Social Security Department, consideration has also been given to permit the Taxes Office to contact directly the employees of an employer who fails to file ITIS returns on time. Contact could be made after an employer has failed to submit a return for 2 consecutive months. This would have the effect of creating bottom-up pressure on employers.

Question 13: Do you agree that the Taxes Office should be permitted to contact directly employees in cases where an employer has failed to submit ITIS returns? Is a non-compliant period of 2 months appropriate?

Failure to file: GST returns

3.33. GST returns are usually submitted quarterly. If a business submits a GST return late, it is liable to a £50 "surcharge" on the amount of GST it is required to pay in respect of the period to which the return relates.[11]

3.34. Given that businesses are only required to register for GST when their turnover exceeds £300,000, we are of the view that the current £50 surcharge is too low to be an effective disincentive to not filing. The simplest option is to increase the fixed penalty to a figure that is more likely to have a deterrent effect, for example 12 PU (£600). This figure is double the proposed penalty for the late filing of a personal income tax return.

3.35. There is a second option: to differentiate GST late return penalties in relation to the size of the business, in a similar way to the ITIS proposals, above. Rather than penalties being based on number of employees, however, it would be logical to categorise businesses according to turnover, and levy larger penalties on larger non-compliant businesses, as demonstrated in Table 3.2. Research would have to be conducted to determine the appropriate banding of small, medium, and large businesses.

[11] GST Law, Article 74

Table 3.2 – Penalties for GST registered businesses filing late quarterly GST returns

Business size	Turnover (example)	Initial penalty
Small	<£600,000	8 PU (£400)
Medium	<£1,500,000	16 PU (£800)
Large	£1,500,000+	24 PU (£1,200)

Question 14: In respect of late GST returns, do you consider (1) a fixed penalty; or (2) a differentiated penalty based on turnover, to be likely to be more effective and/or proportionate to the non-compliant behaviour?

3.36. As with employer ITIS returns, it is unclear whether a higher initial penalty alone will deter persistent offenders. It is therefore prudent to consider introducing additional monthly penalties in cases of continued non-compliance.

Question 15: In respect of late GST returns, do you agree there should be further monthly penalties, in addition to the initial penalty, when the failure continues? Are there any other options, such as daily penalties, you think we should consider?

3.37. If a company does not file its GST returns on a quarterly basis, we propose to apportion the penalties. For example, a business filing on a monthly basis would receive a penalty of one-third of the quarterly penalty; a business filing on an annual basis would receive a penalty 4 times the quarterly penalty.

Failure to pay

3.38. This section deals with the provisions available to the Taxes Office in the event that a taxpayer fails to make a payment on time. It does not cover the charging of late payment interest, which is included in section 2 of this paper.

Failure to pay: Personal income tax

3.39. Currently, if a personal or corporate taxpayer fails to pay their income tax liability on time they are subject to a late payment surcharge of 10%.[12] This is not applied when an outstanding balance is below £50, or in cases where a taxpayer pays 70% or more of their liability by ITIS.

3.40. With reference to personal income tax, the two main problems with the current arrangements are: (1) only non-ITIS taxpayers (i.e. mainly self-employed and pensioners, both of whom pay their tax by way of two lump sum payments each year) are subject to the surcharge; and (2) the flat 10% penalty is a one-off charge, so like the late filing penalty, there is little incentive for a taxpayer to make the payment once the surcharge deadline has passed.

[12] Income Tax Law, Article 41I

3.41. In order to incentivise taxpayers to pay, we propose to maintain the 10% surcharge and to introduce further 5% surcharges at 3 and 6 months following the original deadline. The 5% surcharges would be based on the balance outstanding at the 3 and 6 month dates, and would also be subject to the £50 *de minimis* rule.

3.42. Where a taxpayer has a 'deferred payment plan' (sometimes known as a 'time to pay' arrangement) that has been agreed by the Taxes Office, the Comptroller will be permitted to waive the 5% surcharges (but not interest charges – see Section 4).

Failure to pay: Corporate income tax

3.43. Although corporate entities are less likely to incur the surcharge, for consistency we propose to mirror the proposed changes to the personal income tax regime, in bringing in further 5% surcharges at 3 and 6 months after the initial deadline.

Question 16: In respect of late personal and corporate income tax payments, do you agree that the proposed additional 5% surcharges will promote better compliance? What alternatives, if any, do you think we should consider?

Failure to pay: Employer ITIS deductions

3.44. Since 2006, employees have been required to hand their effective rate notice to their employer. The employer must deduct the appropriate percentage and remit the monies to the Taxes Office within 15 days of the end of each month.[13] This is how the majority of people in Jersey pay their income tax. Employers who deduct monies from the wages of their employees but do not subsequently remit them to the Taxes Office should be significantly penalised – it is not the employer's money to use.

3.45. The seriousness of this offence is reflected in the current law: a court can impose an unlimited fine.[14] To date, however, the Taxes Office has not taken legal action against an employer for failing to remit the monies deducted from its employees. The main reason for this is the time taken to prepare a case for the Law Officers' Department. Instead, the Taxes Office raises an estimate, based on previous months' ITIS submissions, and obtains a court judgment against the employer for the amount if it is not paid.

3.46. We propose to keep the current 15 day deadline for remitting ITIS deductions, and introduce new civil penalties for employers who fail to do so. We have had to take into consideration the fact that employers who do not remit ITIS are also likely to have not filed an ITIS return. As a result, they are often going to be liable to two separate penalties.

3.47. We consider that the fairest way to impose a late payment penalty (and to be consistent with other late payment penalties) is to charge a certain percentage of the amount due. This means larger employers are likely to face larger penalties if they do

[13] Income Tax Law, Article 41B (5)
[14] Income Tax Law, Article 41B (9)

not remit monies deducted from their employees' salaries. We recommend an initial penalty of 10% of the amount due. For the biggest employers, this could potentially be a significant amount. Our records show that the biggest employers tend to have a good ITIS compliance record and are therefore less likely to be affected.

3.48. ITIS deductions are not, and are at no point, the employer's monies. Therefore we consider the one-off penalty to be insufficient on its own. Deducting money from an employee's wage and not remitting the amount to the Comptroller is a serious offence. We therefore propose to introduce monthly penalties of 5%, commencing one month following the initial deadline date, in respect of ITIS balances that go unpaid. As before, in cases of continued non-compliance a criminal sanction will continue to be a realistic prospect.

Question 17: For employers who continue to fail to remit ITIS deductions, do you consider a monthly 5% penalty to be reasonable? If not, what measure would you propose instead?

Failure to pay: GST

3.49. If a business fails to pay its quarterly GST bill on time, it is subject to a surcharge of 2.5%. The figure used to be 10% – in line with the personal income tax late payment surcharge. However, it was deemed more equitable to create a 2.5% surcharge for each quarter, because a business could suffer four separate surcharges in the course of one year.

3.50. We propose that the initial penalty needs to revert to 10%, and that each penalty should only be charged on the quarter to which it relates.

3.51. In order to harmonise the late payment regime, we propose to mirror the proposed income tax measures (non-payment of ITIS deductions is a more serious offence), to introduce 5% penalties at 3 months and 6 months after the initial payment date.

Pensions schemes

3.52. Occupational pension scheme managers are required to provide information to the Comptroller outside of the requirements to deliver a return under Article 16 of the Income Tax Law. The Income Tax (Jersey Occupational Pension Schemes) (Jersey) Order 2014 sets out the information to be provided, but does not provide a compliance framework through which enforcement action can be undertaken.

Question 18: Is there any reason why the proposed compliance framework and civil penalty regime (see Table 3.4 at the end of this section) cannot be extended to the pension sector?

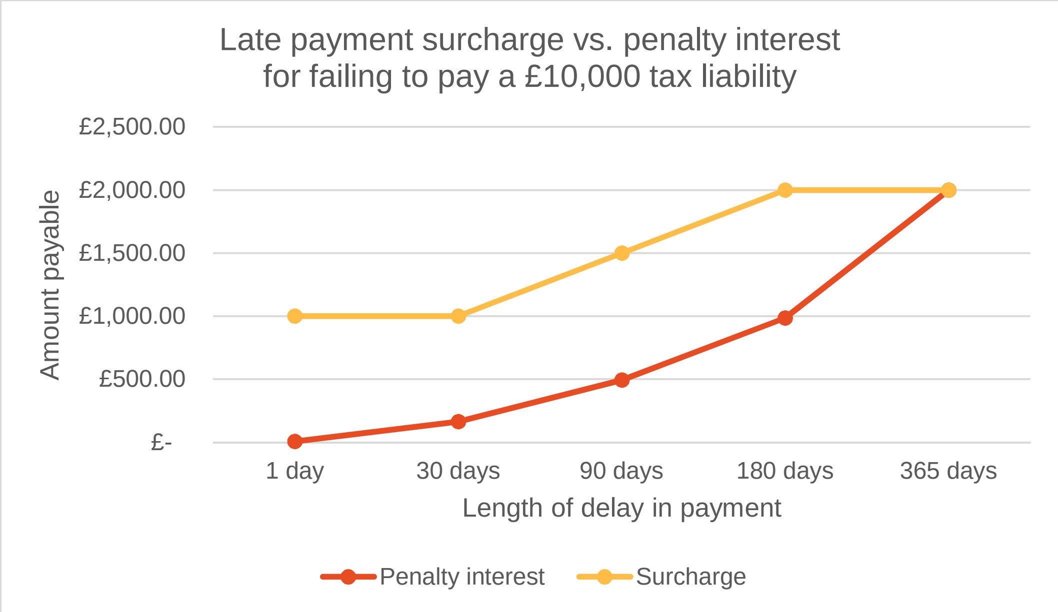
Penalty interest

3.53. As an alternative to a revised the late payment surcharge (see Recommendation R09), consideration can be given to the imposition of 'penalty interest'. This is similar to a proposal made in the HMRC consultation 'Making Tax Digital: Tax Administration'.[15]

3.54. The main appeal of penalty interest is that the penalty payable is more proportionate to the lateness of the action. In other words, for every day that a payment is withheld, the surcharge increases. For the avoidance of doubt, penalty interest would be chargeable in addition to late payment interest (see section 4).

3.55. The graph below (Table 3.3) shows the gradual increase in penalty interest (charged at 20% per annum) over the course of one year, in contrast to the 'stepped' nature of the surcharge, in respect of an unpaid tax liability of £10,000. The disadvantage of penalty interest is that it may not provide a sufficient incentive to make a payment on or before the due date.

Table 3.3



Question 19: Is the charging of late penalty interest a realistic alternative to the surcharge regime? Are there any alternatives we should consider?

[15] Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546001/Making_Tax_Digital-Tax_administration-consultation.pdf

Table 3.4 – Summary of current and proposed administrative sanctions

Failure to register	Current	Proposed
Income tax	None	None
ITIS	Criminal level 3 fine (£10,000)	Maintain criminal sanction; New civil penalty - 12 penalty units (£600)
GST	Higher of £200, and 10% of GST	Maintain criminal sanction; New civil penalty - higher of 12 penalty units (£600), and 10% of GST
Failure to file	**Current**	**Proposed**
Income tax	Criminal sanction; £250 one-off civil penalty	Maintain criminal sanction, but policy to refer more cases to AG; New civil penalty - 6 penalty units (£300) initially; then 1 penalty unit (£50) per month thereafter for max. 11 months
ITIS	Unlimited criminal fine, followed by criminal level 2 fine each day	Maintain criminal sanction; New civil penalty - 6 penalty units (£300) initially, OR initial penalty based on employer size; Potential additional monthly penalties
GST	£50 surcharge	12 penalty units (£600) initially, OR initial penalty based on turnover of business; Potential additional monthly penalties
Failure to pay	**Current**	**Proposed**
Income tax	10% one-off surcharge	10% initially 5% at 3 and 6 months
ITIS	Unlimited criminal fine	10% initially 5% each month thereafter
GST	2.5% surcharge	10% initially 5% at 3 and 6 months

4. Statutory interest

4.1. Interest is not currently charged by the Taxes Office on any outstanding debt, either in respect of income tax or GST. However, a repayment supplement is added to repayments made by the Taxes Office in cases that have been under appeal, at a rate of 0.03% per month.

4.2. The vast majority of jurisdictions charge interest on outstanding tax debts, and add credit interest to repayments. The charging of interest itself should not be considered a penalty, but reflects the time value of money. As a principle, it should not be waived or subject to compromise. This includes cases where a deferred payment arrangement has been reached.

4.3. The purpose of charging interest is to discourage *de facto* ‘borrowing’ from the government, by failing to pay tax, and to encourage the settling of debts in a timely manner.

4.4. We propose to charge daily interest on all outstanding debts, compounded each month, across all tax-types. That means personal income tax (including LTC contributions and any other charges administered by the Taxes Office), corporate income tax, GST, and deductions made by employers under ITIS. We envisage interest charges to commence in January 2019 or 2020, alongside the introduction of online services for personal taxpayers.

4.5. We further propose that all outstanding debt at 31 December 2018 (or 2019) will bear interest from that date.

Question 20: The ‘Long-Term Tax Policy’ document from September 2014[16] proposes a monthly interest charge, compounded if it remains unpaid. Do you consider a daily or monthly interest charge to be more appropriate? (assuming there are no IT considerations)

4.6. We recommend that the rate be linked to a base rate, for example the Bank of England (BoE) official bank rate, plus a certain additional percentage. We envisage the Minister for Treasury and Resources being able to adjust the rate by Order, in accordance with external factors.

4.7. In order to disincentivise individuals and businesses from borrowing from the taxpayer, we have considered the merits of charging an interest rate above the commercial rates offered by the UK clearing banks. The lowest rates currently available in the UK are between 3% (for loans of £15,000+) and 10% (for loans of £1,000-£2,000). With reference to the current UK interest rate on late commercial payments,[17] we tentatively propose to charge interest on outstanding tax debts at a rate of 8% above the BoE base rate.

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[16] http://www.statesassembly.gov.je/AssemblyReports/2014/R.133-2014.pdf

[17] https://www.gov.uk/late-commercial-payments-interest-debt-recovery/charging-interest-commercial-debt

Question 21: We invite comments on the proposed debit interest rate of 8% above the BoE base rate.

4.8. We recommend interest is chargeable from the day following the original due date. We considered a grace period before which interest is charged, but believe a grace period would have the effect of undermining the purpose of the deadline. We also considered a *de minimis* level below which interest would not be charged. However, a *de minimis* would compromise the concept of the time-value of money; it may also encourage a taxpayer with multiple debts to move money across tax types in order to avoid an interest charge.

Question 22: Do you agree that interest should be charged from the day following the original due date? Comments on a grace period and a de minimis *would also be appreciated.*

4.9. A repayment supplement will continue to be added in cases that have been appealed. The current rate of 0.03% per month (equating to 0.36% per annum) appears to us to be about right in the current climate, but in order to align the repayment rate policy with that of the debit interest rate, we propose a daily charge and that it be set at a rate equivalent to the BoE base rate (0.25% at the time of writing).

Question 23: Do you agree that it is fair that the rate of repayment interest is set at the same level as the BoE base rate?

4.10. We have given careful consideration to extending credit interest to cases where a taxpayer has overpaid their tax, and/or when a repayment has been too slow in being processed. However, the current flexibility of ITIS means that many of our taxpayers choose to overpay their tax, and a minority of employers do not meet their obligations in sending ITIS data and the associated remittances, meaning the Taxes Office would have great difficulty in determining whether the overpayment was a result of a Taxes Office miscalculation, and would have trouble identifying when a repayment has been "too slow" in being processed.

4.11. Should ITIS be fundamentally changed in the future to remove those flexibilities, we would seek to pay interest on repayments where appropriate.

Question 24: We welcome comments on the interaction between the charging of debit interest and those individuals who pay tax through ITIS, especially where an employer has not submitted ITIS returns on time.

5. Record keeping and production of documents

5.1. As we move to online filing, we will be asking our taxpayers to provide fewer documents in support of their returns, at the point they submit their return. Instead, through a programme of targeted and random audit, we will ask taxpayers to produce supporting documentation on request. It is therefore important that the record keeping obligations are strong, and that the Taxes Office has the power to enforce the production of documents when necessary.

Record keeping requirements

Record keeping: Businesses

5.2. A person who is required to deliver a return in respect of a business must keep information for a period of 6 years from the end of the year as assessment to which the records relate.[18] No recommendation is made in respect of this obligation.

What business records must be kept?

The Income Tax Law states that business records must be sufficient to:

- Show and explain the transactions of the business during the year of assessment; and
- Give a true and fair view of the financial position of the business at any time during the year of assessment.

5.3. In addition to the Income Tax Law, the Taxation (Accounting Records) (Jersey) Regulations 2013,[19] which apply to businesses and those letting out property, also stipulate a record retention period of 6 years.

Record keeping: Personal income tax

5.4. Article 16B of the Income Tax Law does not currently provide a record-keeping requirement for non-businesses. We consider the law needs to be explicit on what is expected of our personal taxpayers, with regard to what information must be kept and how long records should be kept. In the UK, HMRC requires taxpayers who self-assess to keep records for between 15 and 22 months, depending on when they submit their return. In Guernsey, records must be kept for a minimum of 2 years following the end of the year in which the return is submitted, except for records to be kept in respect of a business or a rental property, which should be kept for 6 years.[20]

[18] Income Tax Law, Article 16B
[19] Available at: https://www.jerseylaw.je/laws/revised/Pages/17.850.05.aspx
[20] The Income Tax (Keeping of Records, etc) Regulations, 2006 (Guernsey)

5.5. We recommend broadly following Guernsey in requiring records to be kept for a minimum period of 2 years from the end of the year as assessment to which the records relate, and 6 years in respect of those taxpayers letting out property. This requirement would also harmonise with the Accounting Records Regulations.

Record keeping: Employer ITIS

5.6. An employer is required to "maintain a record" of the amount of tax deducted from its employees, and the effective rate applied in each case.[21] There are no time periods for which an employer is required to keep that information. We therefore recommend that the law is changed to compel an employer to keep the required information for a period of 6 years. This would also harmonise an employer's record keeping requirements with the requirements of Social Security legislation.[22]

Record keeping: GST

5.7. A business registered for GST must keep documents for a period of 6 years after the supply has been made.[23] There is no proposition to make any change in respect of this requirement, which is consistent with the requirements placed upon businesses in the Income Tax Law and the Accounting Records Regulations.

Question 25: We welcome comments on the proposed record keeping requirements, with respect to income tax, and employer ITIS.

Failing to keep records

5.8. There should be penalties when taxpayers have failed to keep adequate records, in accordance with the obligations set out in legislation. A distinction should be drawn between careless behaviour, which could result in the imposition of a civil penalty, and deliberate behaviour for which a criminal penalty may be more appropriate.

Failing to keep records: Income tax

5.9. Currently, a business that fails to keep records for the requisite 6 year period can face an unlimited court fine.[24] We propose to introduce a new civil penalty for cases in which the taxpayer has demonstrated careless behaviour, and maintain the criminal sanction for deliberate behaviour (for example, destroying documents). We recommend a new civil penalty of 20 PU (£1,000) when a careless failure occurs.

5.10. As already discussed, there is at present no requirement for non-businesses to keep records. In the event that our recommendation for non-businesses to keep records is adopted, we recommend introducing a penalty of 10 PU (£500) when a careless failure occurs, in line with our recommendation in respect of businesses.

[21] Income Tax Law, Article 41B (4)
[22] Social Security (Collection of Class 1 and Class 2 Contributions) (Jersey) Order 2013, Article 7
[23] Goods and Services Tax (Jersey) Regulations 2007, Regulation 18
[24] Income Tax Law, Article 16B

Question 26: Do you agree there should be civil penalties in respect of carelessly failing to keep records, in addition to standard scale criminal fines for more serious offences?

Failing to keep records: Employer ITIS

5.11. Although an employer is required to 'maintain a record' of its employees' ITIS, there are no explicit provisions for failing to do so. A transgression by an employer would not be captured by Articles 136 or 137. Therefore, we consider there should be available a criminal fine on the standard scale that a court can impose, in order to harmonise ITIS with the other areas of the tax framework.

5.12. We also recommend, if desirable (see question 26, above), a civil penalty of 20 PU (£1,000) be put in place for employers who fail to maintain adequate records, in less serious cases.

Question 27: Do you agree there should be both criminal and civil penalties available to the Comptroller, in respect of ITIS non-compliance?

Failing to keep records: GST

5.13. Failing to keep records for the 6 year period can result in an unlimited criminal fine on the standard scale, imposed by a court.

5.14. If the recommendation to introduce civil penalties for failing to keep adequate records in respect of income tax and ITIS is followed, we propose to introduce an equivalent civil penalty for GST-registered businesses who carelessly fail to keep adequate records.

Condition of records

5.15. The tax laws do not currently stipulate in what condition records should be kept. However, the Accounting Records Regulations require records to be furnished 'in legible form'.[25] The Electronic Communications (Jersey) Law 2000 provides requirements for the assurance of the integrity of information held in electronic form, and that the documentation is made "available for inspection in a visible and legible form."[26] We consider that the Income Tax Law and GST Law should oblige record-keepers to keep their records in a condition sufficient to establish tax liabilities according to law.

Powers to request documents

5.16. Under the Income Tax Law, the Comptroller can "serve a notice on any person chargeable to tax […] requiring the person to furnish in support of a" [tax return] "such documents and information as the Comptroller may require."[27] The Comptroller can also serve a notice on a third person, requiring them to produce information in respect

[25] Taxation (Accounting Records) (Jersey) Regulations 2013, Regulation 1
[26] Electronic Communications (Jersey) Law 2000, Article 15
[27] Income Tax Law, Article 16A (1)

of another person chargeable to tax.[28] Strictly, this may impede the Taxes Office when investigating cases where it is unknown as to whether a person is chargeable to tax or note. We consider the scope of these requirements should therefore be widened to include those persons who, in the view of the Comptroller, ‘may be chargeable to tax’.

5.17. There are no specific enforcement provisions within Article 16A, but failing to comply with a notice would result in an offence being committed under Article 136, where a court can levy an unlimited criminal fine, and a level 2 fine (£1,000) for each day the failure continues.

5.18. In an online filing and assessment environment, in order to reduce the costs of compliance, the Taxes Office will not generally expect documents to be appended to electronic tax returns. Therefore, we expect tax officers will need to request supporting documentation more frequently than in the past. Where a taxpayer does not respond to a request for supporting documentation, an Article 16A notice should be issued.

5.19. We consider that in addition to the criminal sanctions available under Article 136, civil penalties should be available when a taxpayer is not compliant with an Article 16A notice. The time given to produce the information would logically depend on the volume and nature of the information requested. A 30 day timeframe is considered reasonable in most circumstances. If a taxpayer does not provide the information within the specified timeframe, we recommend that a penalty of 1 or 2 penalty units (£50-£100) is imposed.

5.20. In the event a taxpayer continues to fail to produce requested documents, we recommend introducing a daily penalty of 1 penalty unit (£50), if the failure continues for a period of, say, up to 60 days following the initial deadline.

5.21. In respect of ITIS, the Comptroller has no power in the Income Tax Law to require production of additional information from an employer. The powers under Article 16A are not broad enough because an employer is not necessarily ‘chargeable to tax’. Therefore, we recommend a new power that allows the Comptroller to serve a notice to require an employer to produce documents or other information, for ITIS compliance purposes. We also recommend introducing civil penalties for an employer who does not comply with the notice, in line with those considered in paragraphs 5.19 and 5.20, above.

5.22. The Comptroller is authorised to call for information for GST purposes, by direction.[29] Failing to comply with a direction can result in an unlimited criminal fine. The Comptroller may also apply for a court to make an order requiring compliance with the direction.[30] In order to ensure consistency across both tax types, we recommend that a civil penalty be available in respect of failing to provide GST information when requested.

[28] Income Tax Law, Article 16A (2)
[29] GST Law, Schedule 8, paragraph 18
[30] GST Law, Schedule 8, paragraph 18

Powers to enter premises

5.23. In respect of income tax and employer ITIS, an authorised person may enter business premises, and take copies of any business document. They may also, by notice, request specified business documents.[31]

5.24. In respect of GST, an authorised person may at a reasonable hour enter "premises used in connection with the carrying on of a business". An officer is then able to examine goods, services, records, devices, equipment, and take samples. An authorised person may also obtain a court warrant in connection with an offence or suspected offence.[32] We propose to bring the powers in the Income Tax Law into line with the wider powers contained in the GST Law.

Question 28: Do you agree the powers to enter premises in the Income Tax Law should be aligned with the powers in the GST Law? We welcome views on other aspects of the access powers not specifically addressed here.

Obstructing officers

5.25. A person who obstructs an officer from carrying out their duties under Article 141B of the Income Tax Law can be liable to 6 months' imprisonment and a fine.[33] The exact same sanction is available in respect of GST.[34] We do not make any recommendations as to the introduction of civil penalties, in addition to the criminal penalties, for obstructing officers.

Altering/destroying documents

5.26. The provisions available in respect of taxpayers who alter, suppress, or destroy documents in respect of income tax[35] and GST[36] appear to relate only to those persons upon whom a notice or direction to produce information has been served. In respect of income tax, for example, the document in question has to have been specified in a notice pursuant to Article 141B. This leaves a gap in both tax laws that means a taxpayer is not guilty of an offence if the altered/destroyed document was not specified in a notice. We recommend this gap is closed.

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[31] Income Tax Law, Article 141B
[32] GST Law, Schedule 8
[33] Income Tax Law, Article 141C
[34] GST Law, Article 90
[35] Income Tax Law, Article 141C
[36] GST Law, Schedule 8, paragraph 6

Table 5.1 – Summary of record-keeping obligations and associated sanctions

Record keeping	Current	Proposed
Income tax	6 years for businesses; No specified time period for non-businesses	No change for businesses; Records must be kept for 2 years in support of return, and 6 years for those with rental income
ITIS	Employers required to 'maintain a record'	A minimum 6 year period
GST	6 years	No change
Failing to keep records		
Income tax	Unlimited criminal fine	Maintain criminal sanctions for deliberate behaviour; New civil penalty for businesses (20 PU - £1,000); New civil penalty for individuals (6 PU - £300)
ITIS	None	Introduce new criminal sanctions for deliberate behaviour; New civil penalty (20 PU - £1,000)
GST	Unlimited criminal fine	Maintain criminal sanctions; New civil penalty (20 PU - £1,000), if introduced in Income Tax Law
Failing to produce documents	**Current**	**Proposed**
Income tax	Unlimited criminal fine; level 2 fine (£1,000) for each day failure continues	Maintain criminal sanctions; New civil penalty (1 or 2 PU - £50 or £100), followed by further daily penalties if non-compliance continues
ITIS	None	New criminal sanctions; New civil penalties
GST	Unlimited criminal fine	Maintain criminal sanctions; New civil penalties, if introduced in Income Tax Law
Obstructing officers	**Current**	**Proposed**
Income tax/ ITIS	Imprisonment of 6 months and an unlimited fine	No change
GST	Imprisonment of 6 months and an unlimited fine	No change
Altering/destroying documents	**Current**	**Proposed**
Income tax/ ITIS	5 years imprisonment and an unlimited fine	Widen to include persons on whom a notice is not served
GST	5 years imprisonment and an unlimited fine	Widen to include persons on whom a notice is not served

6. Filing due dates

6.1. This section deals with filing dates. We do not propose to change the payment dates for either income tax, employer ITIS, or GST.

6.2. With regard to filing deadlines, we propose to maintain the current filing dates for employer ITIS returns and GST returns. However, there are certain changes required for income tax returns to prepare for the availability of personal income tax online filing by January 2019 or 2020, followed a year later by corporates.

6.3. Currently the filing due date for personal tax returns is 6pm on the last Friday in May; this is extended to 6pm on the last Friday in July for taxpayers who are represented by an agent. For companies, the due date for returns is midnight on 31 December.[37]

6.4. We want to encourage as many taxpayers as possible to use our online channels, which should be available by 2020 at the latest. One way of incentivising take up of online filing is to give taxpayers more time to file online, compared to filing on paper. This differentiated approach in filing deadline dates is a common tool used by tax administrations to encourage electronic filing.

6.5. Therefore we propose to make adjustments to income tax filing due dates, as shown in Table 6.1.

Table 6.1 – Current and future filing dates, for paper and online

	Current	Future	
		Paper	Online
Personal			
- **Unrepresented**	6pm last Friday in May	6pm last Friday in May	Midnight 31 July
- **Represented**	6pm last Friday in July	6pm last Friday in May	Midnight 31 July
Companies	Midnight 31 December	6pm last Friday in July	Midnight 31 December

Question 29: Do you agree with the proposed changes to the filing deadlines as shown in Table 6.1? If not, what changes would you propose instead?

[37] Income Tax Law, Article 17A

7. Officers' liability

7.1. In some jurisdictions, where a penalty that is payable by a company arises because of a negligent or deliberate action by an officer of a company, the officer can be personally liable to pay the penalty.

7.2. This power is usually limited to cases where (1) the officer in question gained personally from the wrongdoing, or (2) in cases where the company is likely to become insolvent.

7.3. An officer in this context can be a director, secretary, or manager of the company.

7.4. Areas where this policy could be considered appropriate include:

- incorrect declarations
- failing to pay employee ITIS deductions
- failing to keep accurate records, and
- the enforcement of the repayment of debt (38/52 of countries surveyed by the OECD are able to pursue company debt from company directors)

Question 30: Do you agree officers of a company should sometimes be personally liable for a company's penalty? If so, under what circumstances? If not, why not?

8. Appeal rights

8.1. In moving towards a compliance regime that relies more heavily on the administration of penalties by civil service officers, it is imperative that sufficient safeguards are included in the taxes laws to provide taxpayers with a right of appeal.

Question 31: Where do you consider there should be safeguards in the taxes laws? We would welcome views under what circumstances you consider taxpayers be allowed to appeal penalties and/or decisions made by the Comptroller, and in what form these appeals should take.

9. Summary of recommendations

Ref	Recommendation
R01a	To introduce a civil penalty framework for incorrect declarations, with percentage penalties based on the behaviour demonstrated by the taxpayer
R01b	To provide a penalty matrix as detailed in Table 2.2 in this document
R02	To introduce a policy to commence a civil investigation into suspected fraud, along the lines of HM Revenue & Customs' Code of Practice 9 (COP9)
R03a	To introduce a fixed civil penalty unit regime
R03b	To set an initial penalty unit (PU) value of £50
R04a	To introduce a civil penalty of at least 12 PU (£600) for employers who fail to notify the Comptroller within one month of becoming an employer
R04b	To increase the penalty for failing to register for GST to at least (the higher of) 12 PU (£600) and 10% of the relevant GST
R04c	To introduce an obligation either (i) to notify the Comptroller in the event of an increase in income following the Comptroller's decision to close a file; or (ii) to furnish a tax return where the income warrants it
R04d	To introduce a tax-geared penalty in the event of non-compliance with either of the recommendations made in R04c
R05a	To increase the penalty for the late filing of a personal income tax return to 6 PU (£300), and to introduce a monthly penalty of 1 PU (£50) for continued non-filing, for a maximum of 11 months
R05b	To increase the penalty for the late filing of a corporate tax return to 6 PU (£300), and to introduce a monthly penalty of 2 PU (£100) for continued non-filing, for a maximum of 11 months
R05c	To introduce a policy to begin legal action when a person fails to submit an income tax return up to 12 months following the original filing deadline
R06	To introduce a clear 15 day deadline for employer ITIS returns
R07	To introduce a civil penalty for failing to submit an employer ITIS return on time, either in the format of (i) a fixed penalty of 6 PU (£300), or (ii) a penalty based on number of employees
R08a	To increase the penalty for failing to submit a quarterly GST return either to (i) 12 PU (£600); or (ii) a penalty based on the turnover of the business
R08b	To apportion the quarterly GST penalty for businesses that do not file on a quarterly basis

R09	To introduce surcharges of 5% in income tax cases (personal and corporate) where a balance remains unpaid, at 3 and 6 months following the deadline for payment (in addition to the initial 10% surcharge)
R10a	To introduce new civil penalties for employers who fail to remit ITIS deductions
R10b	To introduce a 10% penalty for employers who fail to remit ITIS deductions
R10c	To introduce monthly penalties of 5% for continued failure to remit ITIS deductions, for a maximum of 11 months
R11a	To increase the penalty for failing to pay GST from 2.5% to 10%
R11b	To introduce penalties of 5% in cases where a GST balance remains unpaid, at 3 and 6 months following the deadline for payment
R12a	To charge daily interest on all outstanding tax debts, chargeable from the day following the payment due date
R12b	To compound interest every month
R12c	To charge interest on all existing debts outstanding at 31 December 2018 (or 2019)
R12d	To charge interest at a set percentage above the Bank of England base rate (tentatively proposed at 8% above BoE)
R12e	To pay daily repayment interest on appeal cases at a rate equivalent to the BoE base rate
R13a	To introduce a time period for how long a person should keep records in support of their tax return
R13b	To introduce a requirement for records to be kept for 2 years, and 6 years in respect of let property
R14	To introduce a 6 year period for which an employer must keep records in respect of its ITIS obligations
R15a	To introduce a civil penalty of 20 PU (£1,000) for businesses that carelessly fail to keep adequate records for the specified time period
R15b	To introduce a civil penalty of 10 PU (£500) for non-businesses who carelessly fail to keep adequate records for the specified time period
R16a	To introduce a criminal offence for employers who fail to keep adequate records for the specified amount of time
R16b	To introduce a civil penalty of 20 PU (£1,000) for employers who carelessly fail to keep adequate records for the specified amount of time

R17	To introduce a civil penalty of 20 PU (£1,000) for GST businesses who carelessly fail to keep adequate records for the specified amount of time
R18	To introduce a requirement for records to be kept in a condition sufficient to establish tax liabilities according to law
R19a	To widen Article 16A of the Income Tax Law to allow a notice to be served on a person who, in the view of the Comptroller, may be liable to tax
R19b	To introduce a civil penalty of 1 or 2 PU (£50-£100) for income tax payers who fail to produce documents within a stated timeframe, when required by notice
R19c	To introduce a daily penalty of 1 penalty unit (£50), if a failure to produce documents continues for period of, say, up to 60 days following the initial deadline
R20a	To introduce a new power to call for information from employers by notice
R20b	To introduce a civil penalty for employers who fail to produce documents when required by notice
R21	To introduce a civil penalty for GST businesses that fail to provide information when required by direction
R22	To align the access powers contained in the Income Tax Law with the powers contained in the GST Law
R23a	To amend the provisions in the Income Tax Law to provide an offence for altering/destroying documents not listed in a notice
R23b	To amend the provisions in the GST Law to provide an offence for altering/destroying documents not listed in a notice
R24a	To amend the tax return filing deadline date to 31 July for all personal tax online filing
R24b	To amend the tax return filing deadline to 6pm on the last Friday in May, for represented personal tax payers filing on paper
R24c	To amend the tax return filing deadline to 6pm on the last Friday in July, for companies filing on paper
R25	To provide adequate safeguards to a taxpayer who does not agree with the decision of the Comptroller (e.g. to issue a penalty)

10. Summary of questions

Ref	Question
Q01	Do you agree with the broad categories of behaviour, and the associated standard penalties? If not, what other categories would be more appropriate? Particular regard should be had to the tables in Appendix A
Q02	Do you consider the proposed increases and reductions to the standard penalty to be appropriate? What increases and reductions would you propose instead?
Q03	In principle, do you support the denial of anonymity in cases where a taxpayer has accepted a civil penalty in respect of very serious tax evasion? Comments are welcomed on the definition of 'very serious tax evasion'.
Q04	Do you agree that the introduction of a 'penalty unit' is appropriate? We welcome comments on any issues that you envisage with a penalty unit regime
Q05	Do you agree that it is unnecessary to introduce a separate registration requirement and associated penalty, solely for tax purposes? With regard to personal income tax registration, are there any risks we have failed to address?
Q06	Do you agree that the increase (to £600) of the penalty for failing to register, either as an employer or for GST, is appropriate? If not, what penalty do you consider to be more appropriate?
Q07	Do you agree that the legal onus should be on the taxpayer, rather than the Comptroller, to take the appropriate steps when the circumstances alter to the extent that a return is required (for example, after the Comptroller has closed the taxpayer file)?
Q08	Is an initial penalty of 6 PU (£300), followed by monthly penalties of one PU (£50) per month, an appropriate sanction for late personal income tax returns? If not, what alternatives, such as daily penalties or tax-geared penalties, do you consider to be more appropriate?
Q09	Do you agree that the additional monthly penalties (of £100) for late company income tax returns are appropriate? If not, what further penalties would be more appropriate?
Q10	In respect of late ITIS returns, is it reasonable to introduce penalties for employers based on the number of employees it has, rather than having a fixed penalty? Is the proposed penalty table (3.1) fair?
Q11	Do you agree that it is fair to introduce a daily or monthly penalty in addition to the initial penalty for late ITIS returns? If not, what alternatives do you propose?
Q12	We invite views on the principle of waiving 'first offence' penalties for employers, and whether consideration should be given to a broader implementation of this principle.
Q13	Do you agree that the Taxes Office should be permitted to contact directly employees in cases where an employer has failed to submit ITIS returns? Is non-compliant period of 2 months appropriate?
Q14	In respect of late GST returns, do you consider (1) a fixed penalty; or (2) a differentiated penalty based on turnover, to be more likely to be more effective and/or proportionate to the non-compliant behaviour?

Q15	In respect of late GST returns, do you agree there should be further monthly penalties, in addition to the initial penalty, when a failure continues? Are there any other options, such as daily penalties, you think we should consider?
Q16	In respect of late personal and corporate income tax payments, do you agree that the proposed additional 5% surcharges will promote better compliance? What alternatives, if any, do you think we should consider?
Q17	For employers who continue to fail to remit ITIS deductions, do you consider a monthly 5% penalty to be reasonable? If not, what measure would you propose instead?
Q18	Is there any reason why the proposed compliance framework and civil penalty regime (see Table 3.4) cannot be extended to the pension sector?
Q19	Is the charging of late penalty interest a realistic alternative to the surcharge regime? Are there any alternatives we should consider?
Q20	The 'Long-Term Tax Policy' document from September 2014 proposes a monthly interest charge, compounded if it remains unpaid. Do you consider a daily or monthly interest charge to be more appropriate? (assuming there are no IT considerations)
Q21	We invite comments on the proposed debit interest rate of 8% above the BoE base rate
Q22	Do you agree that interest should be charged from the day following the original due date? Comments on a grace period and a *de minimis* would also be welcomed
Q23	Do you agree that it is fair that the rate of repayment interest is set at the same level as the BoE base rate?
Q24	We welcome comments on the interaction between the charging of debit interest and those individuals who pay tax through ITIS, especially where an employer has not submitted ITIS returns on time
Q25	We welcome comments on the proposed record keeping requirements, with respect to income tax, and employer ITIS
Q26	Do you agree there should be civil penalties in respect of carelessly failing to keep records, in addition to standard scale criminal fines for more serious offences?
Q27	Do you agree there should be both criminal and civil penalties available to the Comptroller, in respect of ITIS non-compliance?
Q28	Do you agree the powers to enter premises in the Income Tax Law should be aligned with the powers in the GST Law? We welcome views on other aspects of the access powers not specifically addressed here
Q29	Do you agree with the proposed changes to the filing deadlines as shown in Table 6.1? If not, what changes would you propose instead?
Q30	Do you agree officers of a company should sometimes be personally liable for a company's penalty? If so, under what circumstances? If not, why not?
Q31	Where do you consider there should be safeguards in the taxes laws? We would welcome views under what circumstances you consider taxpayers be allowed to appeal penalties and/or decisions made by the Comptroller, and in what form these appeals should take

Appendix A – behavioural penalties in other jurisdictions

Australia

Behaviour	Base amount	Obstruction/knowledge of shortfall/repeat offence
Failure to take reasonable care	25%	45%
Recklessness	50%	70%
Intentional disregard	75%	95%

Australia also has penalties for incorrect statements where no shortfall occurs

Canada

Behaviour	Penalty
Repeated failure to report income*	10% of the current understatement AND 50% of the potential lost revenue (PLR)
False statements/omissions	Greater of CAD100 and 50% of the PLR

*Repeated means 3 years

Isle of Man

Circumstances	Penalty (%)
voluntary disclosure – simple	0
voluntary disclosure – complex	10 – 15
voluntary disclosure – incomplete	15 – 25
investigation – full co-operation	25 – 35
investigation – limited co-operation	35 – 50
investigation – little or no co-operation	up to 100
investigation – fraud	up to 200

New Zealand

Shortfall penalty categories	Standard %
Not taking reasonable care	20%
Unacceptable tax position	20%
Gross carelessness	40%
Adopting an abusive tax position	100%
Evasion	150%

New Zealand allows reductions for voluntary disclosures, and increases penalties by 25% for hiding or destroying information.

Singapore

In cases where the error/omission/discrepancy in the tax return was made **without any intention to evade taxes** , the taxpayer may, under the Income Tax Act :

a. face a penalty up to 200% of the amount of tax undercharged;

b. be fined up to $5,000; and/or

c. be imprisoned up to three years.

In cases where the error/omission/discrepancy in the tax return was made **with intention to evade taxes** , the taxpayer may, under the Income Tax Act:

a. face a penalty up to 400% of the amount of tax undercharged;

b. be fined up to $50,000; and/or

c. be imprisoned up to five years.

South Africa

1	2	3	4	5	6
Item	*Behaviour*	*Standard case*	*If obstructive, or if it is a 'repeat case'*	*Voluntary disclosure after notification of audit or investigation*	*Voluntary disclosure before notification of audit or investigation*
(i)	'Substantial understatement'	10%	20%	5%	0%
(ii)	Reasonable care not taken in completing return	25%	50%	15%	0%
(iii)	No reasonable grounds for 'tax position' taken	50%	75%	25%	0%
(iv)	Gross negligence	100%	125%	50%	5%
(v)	Intentional tax evasion	150%	200%	75%	10%

UK

Behaviour	Max*	Prompted (min)	Unprompted (min)
Careless	30%	15%	0%
Deliberate but not concealed	70%	35%	20%
Deliberate and concealed	100%	50%	30%

*There are higher penalties for certain offshore matters

USA

Behaviour	Penalty
Substantial understatement*	20%
Negligence and disregard of the rules and regulations	20%
Civil fraud	75%

*The understatement is substantial if it is more than the larger of 10 percent of the correct tax or $5,000 for individuals