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Dear Simon

Review of the 2019 Draft Budget Statement

Further to your request for comments on the 2019 Draft Budget statement I think the initial reaction to the 2019 draft budget must be one of slight disappointment.

It is stated within the Draft Budget Statement ("DBS") that "it is known that not all the savings and efficiencies of the current MTFP have been delivered" but there is little further comment surrounding when (or if) these savings and efficiencies will materialise. The position is further confused by a further statement by the Minister that she "looks forward to announcing efficiencies and savings." The document does not make any attempt to determine when any of these savings will materialise (if at all) or the quantum of such savings. It is also noted that the 2018 income is £30m higher than predicted and 2019 £36m higher. If one looks at previous budgets it would appear that the forecasts are either continually pessimistic (as we seem to be annually surprised by the surpluses) or that the accuracy of underlying data needs to be reviewed or expanded.

One may suggest that scrutiny ask the Income Forecasting Group ("IFG") whether they are satisfied with the data that they have access to. At the recent presentation by the Fiscal Policy Panel ("FPP") the panel suggested that although the results were in line with expectations the underlying assumptions used were not proved to be correct. One would again question whether their role and the parameters that they have set (or been set) are wholly appropriate for an island economy and whether any changes are required to make forecasting more relevant to Jersey.

Given the previous commitment to finding savings before any tax raising measures are introduced (no matter how small) and the quality of the underlying data, one must query whether any of the revenue raising measures suggested are therefore appropriate at this time. It is therefore difficult to accept any projected deficits (and therefore support any revenue raising measures whatsoever) without some further detail and confirmation.

In relation to the specific tax provisions, at first sight the tax measures within the proposed budget appear somewhat innocuous and given the short tenure of the current Minister for Treasury and Resources this is probably understandable. However the underlying problems within the Jersey tax system are well documented and the numerous previous statements and policy initiatives around the suitability of the current tax law for modern business, independent taxation, tax policy etc. have not been addressed. The measures proposed for 2019 simply continue to build on the known deficiencies, tinker with poorly drafted legislation, revenue raise with no real attention being given to the current complexity of the law (it is now nearly 60 years old with its roots going back several decades before that) and promise further consultations (personal taxation / stamp duty November 2018 et alia.) will be held but there would appear to be no definitive timeline for change, which is urgently required.

Income Tax

The increase in the exemption limits are welcomed though it has to be understood by all, that public services (especially in relation to health and education) will continue to increase at a greater rate than inflation. It is hoped that the savings promised will help in this regard but one believes that it can no longer be prudent to expect allowances to increase annually. However one must always ensure that it is beneficial to work (if one is able) rather than rely on the State wherever possible. It being noted however that we have virtual full employment.

In relation to personal taxation, it is noted that another consultation will be published and though this is welcomed one can only hope that within this consultation there are some firm proposals (for example independent taxation) and some definitive dates for change. As noted below there is not a level playing field for tax or long term care between all current taxpayers and in certain instances it can be detrimental to be either single or married. Anomalies of this type should be removed as a matter of urgency.

It is disappointing that there is little detail within the DBS itself as one is being expected to make revenue raising decisions based on bland statements that the Minister will consult. Although these new initiatives are welcomed one would have expected considerably more detail concerning the scope of the consultations and a proposed time frame for implementation. There have been numerous reports in the past that have promised much and delivered little. Independent taxation being a simple case in point. The UK introduced independent taxation in 1990 and Jersey commenced the process in 2002. A commitment was given in 2012 for a feasibility report (produced October 2013) but still no concrete proposals have materialised.

The proposals surrounding granting additional relief to non-resident pensioners seem particularly one sided in that persons resident in Jersey suffering overseas tax on their pensions will not, in all cases, receive similar benefits to those proposed for non-residents. The underlying principle appears to be that the non-resident will not pay tax in Jersey for future services they may not receive but on the reverse they will have received tax relief in Jersey for their contributions to their respective schemes when they were resident here and enjoying the benefits of the island. This is in contrast to the position of a previous non-resident in that they will continue to be taxed on the net receipt (in additional to overseas taxes already paid) even though they will not have received any Jersey tax relief for contributions made.

This amendment also highlights the anomaly within the Jersey Tax Law that non-finance related businesses that trade from Jersey do not always enjoy relief for foreign taxes that they have necessarily suffered. Companies operating with the Finance Industry receive statutory relief under Part 14A of the Income Tax (Jersey) Law 1961, as amended, whereas non-Finance related companies do not. This is particularly odd given the frequent statements that Jersey wishes to broaden its economy and one struggles to understand how such restrictive measures dovetail in to the Proposed Common Strategic Policy especially the stated desire of creating a sustainable, vibrant economy and skilled local workforce for the future.

The remaining income tax measures contained within the draft finance (2019 Budget) (Jersey) Law 201- are noted and do not require separate comment.

GST

It is noted that the de-minimus level will continue to be reviewed in the light of possible EU changes and Brexit. One would hope that given the IT spend of the States to date, that it would be possible to enable straight through processing of virtually all imported goods so that should the de-minimus be lowered that there would be no delay in goods reaching consumers (though it being acknowledged that GST would be payable). The comments are noted that a feasibility study surrounding GST and digital services will be undertaken in 2019 and the outcome will be read with interest.

Stamp Duty

The proposals surrounding the stamp duty changes seem to be very simplistic and though offering relief at the lower end it would appear that they are more aimed at revenue raising. The proposals could simply drive a divide between the various housing levels and it is difficult to see how the proposals will improve supply at the lower end of the market.

It is surprising that instead of simply hiking the existing rates that further work was not undertaken to ascertain whether other measures may have been more appropriate – for example should there be an additional stamp duty charge for buy to let properties / second properties / non-resident investors etc. For the avoidance of doubt this type of duty should not extend to developers as they would be subject to tax on the gain on any development whilst capital gains on the sale of second investment properties are not currently subject to any Jersey tax charges for the vendor.

The consultation concerning enveloped properties is welcomed.

The Revenue Administration Law

One would take issue with the sentence that "we are making good progress with modernising Jersey's tax system." As stated above the Law is now over 60 years old and is simply not fit for purpose. The draft Revenue Administration Law ("RAL") simply looks to increase the powers of the Comptroller with no safeguards whatsoever for the taxpayer. It is disappointing that a paper on Tax policy was produced in 2014 but other than seek to increase the Comptroller's powers most of the other matters seem to have been ignored. It is noted that Scrutiny are seeking to put the debate in relation to the RAL back. I would strongly support this approach as the RAL and overall tax policy needs to be reviewed in depth.

Although little issue is taken with most of the proposals laid out within the draft, the RAL should only form a small and single part of a more detailed plan and without a clear and firm timeline to the implementation of the remaining parts one would not support the Law being approved. As simple examples: there is no assessing window to provide certainty for taxpayers that their affairs have been agreed; there is no agreed Taxpayers Charter listing the rights and obligations of Revenue Jersey towards taxpayers; there are no proposed changes to ensure that the Commissioners of Appeal offer a completely independent appeals system; there is no provision for the awarding of costs where the Comptroller has acted poorly (although the comments around the Ombudsman are noted and one would hope that their powers would be extended to the tax system); the interest / penalty regime proposed offers no incentive for Revenue Jersey to deal with repayment cases quickly and efficiently; and there are no proposals to remove the many instances of "in the Comptrollers opinion" within the Tax Law which cannot be part of a modern tax system.

A modern tax system should be clear and easy to understand but internal guidance and Commissioners decisions which would help ease administration still remain unpublished.

The foreword to the draft Law touches on the above in that it is acknowledged that the approach was only "broadly supported" by the legal and tax agent community and that the consultation response shaped some of the proposals but implying that most points made remain unaddressed. It is suggested that without specific concrete proposals to deal with the above, that the RAL be rejected as a piece of standalone legislation. As stated previously, the RAL only deals with administration and the comments above only refer to the administration of the Tax Laws. The RAL does not deal with the technical issues that persist within a 60 year old Law and repeat the earlier request that from a technical perspective the Jersey Tax Law is not fit for purpose.

On page 47 of the DBL there is a reference to the RAL being the first tranche and therefore I am unable to see why the Minister cannot commit to a firm deadline for the introduction of both taxpayer safeguards and the required technical changes.

Economic substance

One must applaud the efforts of the States, its civil servants and co-opted members in reaching potential agreement in relation to the challenges posed by the European Union's Code of Conduct Group within the short time frame laid down. Although I await for the detailed guidance to be published, the draft law is welcomed.

Impots

The proposals concerning impot duties appear to be in line with current expectations in that they are linked to usage and the impact on the environment / public services and have little further comment.

General

As a final note one would suggest that some of the comparatives and statements used in the DBS are a little misleading or overly simplistic. As a few simple examples: on page 8 the document suggests that married / co-habiting person enjoy tax equality whilst on page 21 it accepts that this is not the case (also there are LTC consequences); the table on the top of page 20 suggests that Jersey residents enjoy substantial tax advantages over their Guernsey / UK and Isle of Man counterparts when looking at the level of personal allowances but fails to mention the rate of tax above these levels; and the suggestion that exempting GST on regulatory domiciliary care will provide a benefit to the care home providers is similarly misplaced. If the services had been zero rated then maybe there would have been a savings that could have been passed on (page 11).

Summary

The overall revenue raising proposals would appear to be relatively neutral for Jersey and follow the tried and tested route of increasing allowances whilst increasing duty and charges. I would question the accuracy of some of the underlying data and would strongly urge Scrutiny to engage with the IFG and FPP. The measures aimed at keeping the island tax neutral in relation to international business is welcomed as is the work performed in relation to the substance rules. I would suggest that further work needs to be carried out in relation to domestic tax rules as they remain cumbersome and out of date. A complete Tax Law re-write would be welcomed. Finally I would request that should the RAL be approved, its implementation is deferred until suitable safeguards can be implemented for taxpayers as a matter of urgency.

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Thank you for providing the opportunity to provide comments. Should you wish to further discuss any of the points raised please do not hesitate to contact me.

Yours sincerely
For Grant Thornton Limited

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