STATES OF JERSEY

LONG-TERM CARE SCHEME (P.99/2013): AMENDMENT (P.99/2013 Amd.) – COMMENTS

Presented to the States on 5th December 2013
by the Minister for Social Security

STATES GREFFE

COMMENTS

Summary

- The proposed changes to Social Security legislation to create an LTC contribution liability are straightforward.

- Using existing income tax rules to determine liability creates a simple and effective collection mechanism for the LTC contribution.

- Using existing income tax rules to determine liability creates a broadly progressive LTC contribution scheme.

- Work is already being undertaken to improve the income tax system, and the Minister for Treasury and Resources has committed to publishing a long-term tax policy programme in 2014.

- The proposed Social Security Regulations will automatically reflect future amendments in the income tax system as it is modernised and simplified.

- A standalone system for LTC contributions based on a sliding rate of liability, as proposed by Deputy J.H. Young of St. Brelade, will be complex to develop and administer.

- LTC benefits will not start to be paid until LTC contribution Regulations have been approved. Designing a standalone system is likely to lead to a delay in the implementation of the LTC benefit.

- A sliding scale applied to the low levels of contribution required under the LTC scheme will lead to large numbers of very small adjustments which will be cumbersome and costly to administer.

- Once the project to modernise and simplify the income tax system has been delivered, it will be difficult to justify the retention of a separate, standalone scheme for LTC contributions.

Members are strongly urged to reject this amendment.

Fairness and complexity

Deputy Young suggests that his proposal would create a fairer LTC contribution liability. This is a matter of judgement, as it could also be argued that the existing income tax system provides a fair level of support through its use of allowances and thresholds.

The decision, confirmed in June 2013, to set the LTC contribution liability in line with income tax liability, has created a broadly progressive contribution system. By contrast, the original suggestion in 2011 was for a flat rate LTC contribution rate for all working-age adults, which would have collected proportionately more contribution income from lower-paid workers, and proportionately less contribution income from higher-paid workers. The change has led to a fairer contribution system, compared to the 2011 proposals.

In all the systems considered, including that put forward by Deputy Young, there is an upper level to the contribution liability, and for very high-income individuals there is a fixed maximum liability.

The fairness of a particular system can be subject to many views. However, the complexity of this proposal is difficult to deny. The concept of a sliding scale of liability will create a substantially more complex system compared to the existing marginal and full rate system. The notion of £10K bands of gross income each with differing rates is daunting – this would lead to a significant increase in the number of individuals moving between bands, leading to additional changes in ITIS rates; and would further complicate the end-of-year LTC liability validation. The treatment of couples is not clear – would a couple with a single income of £80,000 pay at a different rate compared to a similar couple who earned £40,000 each? Implementing a sliding scale leading up to a maximum liability of 1% will result in very low levels of liability for most taxpayers, with large numbers of very small adjustments needed as individuals move between bands.

Requiring liability to be levied against gross income, regardless of allowances and thresholds, will lead to a significant number of individuals who are assessed with a zero rate income tax liability, but who will be liable for a small LTC contribution. The administration costs associated with collecting these small sums will be disproportionate compared to their value.

The addition of a third method of assessing liability against income would also add to the overall complexity for the taxpayer. A typical worker would be subject to one system for his social security contributions, a second system for his income tax and a third system for his LTC contributions.

Design and implementation

Deputy Young has not specified the design of his alternative system. This would take time to develop, and would then need to be approved through a new set of Regulations. Given that the amendment suggests a completely new method of raising contributions, it would be appropriate to undertake public consultation and to provide time for the relevant Scrutiny Panel to undertake a review before any firm decisions were taken.

The existing development of the income tax IT systems would need to be replaced with a completely new, and much more complicated, solution. Completing this work in advance of the issue of ITIS effective rate notices in November 2014 will divert resources from other improvements planned for Income Tax.

The Taxes Office and the Social Security Department would need to work together to –

- understand exactly what the policy intention is;
- model a number of options to identify the appropriate yield;
- design the details of viable options;
- undertake consultation;
- support a Scrutiny review;
- draft the enabling legislation;

- isolate or remove the current LTC changes that have been made to the Taxes Office IT system;
- agree a new set of changes to the Taxes Office IT system;
- develop the IT system at additional cost;
- test the system;
- train staff;
- prepare and deliver a different education/communication programme;

all within a window of 10 months in order to issue ITIS effective rate notices by November 2014 – this would be exceedingly challenging.

The strong likelihood that these actions would not be completed to this timetable jeopardises the introduction of the LTC benefit in July 2014. The Appointed Day Act for the LTC scheme will not be debated until the Regulations setting up the LTC contribution liability have been approved and the LTC Fund is shown to be viable.

Deputy Young explains in his report that the two Departments believe that the ongoing administration of his proposed scheme alongside the existing income tax system would create the need for substantial additional resources. Deputy Young does not provide any evidence to support his view that these resources would not be needed.

Legislation

Deputy Young's amendment seeks to de-couple the calculation of long-term care liability from the current income tax system, and to create a new set of contribution rules to be used solely for LTC purposes.

The criticisms he puts forward in respect of the current system of allowances and marginal rate deductions relate to the entire income tax system. As Deputy Young acknowledges, as part of the Minister for Treasury and Resources' commitment to introduce independent taxation, work has already begun to look at how the income tax system could be modernised and simplified. The proposed use of the income tax rules to set the LTC contribution liability in the Social Security Law will not cause any delay in the work being undertaken by the Treasury.

Contrary to Deputy Young's assertion, the proposed Social Security legislation does not "perpetuate the two-tier tax system and enshrine it in complex new legislation…". The LTC contribution liability is created in the proposed Schedule 1C of the Social Security Law (see pages 18–19 of P.138/2013). In less than 2 pages of Regulations, the basis of the LTC liability is defined, an income limit is set and the percentage rate itself is established. Most of the detail contained in these Social Security Regulations relates to use of the ITIS payment system to collect the LTC contributions. These amendments will be needed regardless of the way in which the LTC liability is calculated. Under the proposed Social Security Regulations, any changes in the use of allowances, thresholds or marginal deductions within the income tax system which come out of the work being undertaken by the Treasury will be automatically reflected in the LTC liability.

Proposal of the Minister for Social Security

The proposed solution is extremely simple to administer – as far as possible, liability for LTC contributions is directly proportional to liability for income tax, up to a maximum amount. This should make it easier for staff to explain and customers to understand. Individuals who pay income tax will also have a liability to LTC contributions. Those who do not pay tax will not need to pay LTC. Any changes to the income tax system are automatically reflected in the LTC liability. For example, the Budget proposal to reduce the marginal rate from 27% to 26% will impact on LTC liabilities without requiring any amendment to the proposed Social Security Regulations.

As noted above, the fairness of the LTC contribution has been carefully reviewed over the last 2 years, and this has led to the current proposal to align the LTC contribution with the existing progressive income tax system to create a broadly progressive LTC liability.

Conclusion

The modernisation and simplification of the income tax system is an important project and should be dealt with properly. Proper research is needed, rather than a hastily assembled scheme seeking to meet an unrealistic timetable.

If the LTC contribution liability is introduced using a sliding scale, it is possible that this will be replaced within a relatively short period by a new LTC contribution based on the revised income tax system, once the modernisation and simplification project is complete. Further investment will then be needed to replace a system that has only been used for a few years.

In 2016, the LTC liability will be set at one-twentieth of the income tax liability of a household. Whichever system is adopted for calculating LTC liability, the amounts collected per taxpayer will be small compared to their ongoing income tax liability.

Whether or not Deputy Young's criticisms of the current income tax system are valid, there is no justification for seeking to create a new, standalone system in respect of long-term care contributions whilst significant work is already been undertaken on the income tax system.

Deputy Young's support for the long-term-care scheme is welcomed. However, Members are strongly urged to reject this amendment.