

STATES OF JERSEY



EXPENDITURE PROPOSALS FOR 2012 AND 2013 AND DRAFT BUDGET STATEMENT 2011 (P.157/2010) – FIFTH AMENDMENT (P.157/2010 Amd.(5)) – COMMENTS

**Presented to the States on 6th December 2010
by the Council of Ministers**

STATES GREFFE

COMMENTS

The Council of Ministers strongly opposes this amendment.

Senator Breckon estimates this would raise approximately £5 million of revenue a year from 2011 (decreasing the deficit by the same).

Summary

The Council of Ministers opposes this amendment for the following reasons –

1. The amendment would have a significantly detrimental impact on Jersey's finance industry, as non-Jersey domiciled individuals¹ would withdraw their bank deposits and other Jersey-based investments from the Island in order to avoid a significant charge on death. In particular, the banking, funds and trust industries would be worst affected.
2. Because the estates of non-Jersey domiciled investors make up two-thirds of all estates administered in Jersey, the withdrawal of their investments from the Island would reduce the amount of Stamp Duty on Probate collected, probably below the level currently collected.

Comment

Senator Breckon proposes that the rates of probate duty should be increased on a scale of rates up to a maximum of 5%.

The current arrangements for Stamp Duty on Probate were established in the 2005 Budget, whereby the previous cap of £100,000 on personal estates over £13,360,000 was removed. The current rates are such that all personal estates above £100,000 are now subject to a rate of duty of 0.75% with no cap.

Senator Breckon's proposals are to significantly increase these rates, as shown below –

Net value of personal estate (£)	Current Stamp Duty (%)	Proposed Stamp Duty (%)
Not to exceed 10,000	Nil	Nil
10,001 to 100,000	0.5%	1%
100,001 to 500,000	0.75%	1.5%
500,001 to 1,000,000	0.75%	2%
1,000,001 to 5,000,000	0.75%	3%
5,000,001 to 10,000,000	0.75%	4%
To exceed £10,000,001	0.75%	5%

¹ Non-Jersey domiciled individuals are individuals not born in Jersey. Residence is not relevant for this purpose although in most cases a non-Jersey resident will also be a non-Jersey domicile. All Jersey born people are subject to Probate Duty on their worldwide assets. Non-Jersey domiciles are subject to Probate Duty on their Jersey based assets.

Increases in the Stamp Duty on Probate apply to all individuals who have assets that are located in Jersey. This includes all moveable assets, such as cash deposits in bank accounts, shares in Jersey companies, investment in Jersey funds, cars, jewellery and life assurance policies. It also applies to assets owned by Jersey individuals regardless of where those assets are located.

The effect of this proposal would be to increase the rate of Probate Duty by more than five times.

Because of the impact on non-Jersey domiciles, the amendment would have a serious effect on Jersey's finance industry. Within days of this amendment having been lodged, very strong representations had been made to the Minister for Treasury and Resources from Jersey Finance Limited and a number of the representative bodies for different sectors of the finance industry.

They are concerned that, because this measure does not distinguish between Jersey domiciles and non-domiciles, wealthy individuals will withdraw their assets from Jersey immediately in order to avoid the risk of an unexpected bill.

This would affect not only the banking and trust sectors, but also the funds industry. Advisers would recommend that their clients avoid investing in structures that involved a Jersey bank account, company or fund because of the risk of a significant charge on death.

Finally, it should be noted that Guernsey charges probate duty at 0.35%, compared with Jersey's rates of up to 0.75%. The Isle of Man charges only a nominal sum, regardless of the value of the estate. There is evidence that some of the major clearing banks already advise their foreign clients to open new accounts in the Isle of Man instead of Jersey. As these banks have operations in all 3 Crown Dependencies, it is relatively straightforward for them to transfer business away from Jersey in this way.

Two-thirds of the estates that were processed in Jersey last year belonged to non-domiciles. Introducing a measure that would deter these individuals from investing here would have a negative effect on Jersey's finance industry, but also would lead to a serious reduction in the amount of Stamp Duty on Probate collected here.

Financial implications

Senator Breckon suggests that figures in excess of the £5 million of additional revenue he has included in his report could be collected through increasing Stamp Duty rates. This takes no account of the real possibility that significant estates owned by non-Jersey domiciled investors will be withdrawn from the Island as a result of the proposed increases and must therefore be considered as at best only indicative. The figures suggested in the table in the Senator's report would simply not be achieved as the assets on which such a charge would apply would be moved out of the Island.

In addition, accountants and tax advisors have contacted the Minister for Treasury and Resources in recent days to advise him that probate duty in its current form can be avoided relatively easily, by both Jersey and non-Jersey domiciles. The easiest way for non-domiciles to avoid probate duty is of course for them to remove their investments from the Island. For Jersey-born people there are structures that can be put in place to mitigate the charge. While rates are relatively low, there is little incentive even for Jersey domiciles to do this, but if they increase by the dramatic factors proposed by

Senator Breckon, there is little doubt that there would be a new incentive to avoid the duty. While it would of course be possible to bring in anti-avoidance measure to counter this for Jersey-domiciled individuals, this represents a relatively small proportion of the total moveable assets held in Jersey.

The following table illustrates the significant increase in duty that would apply to all levels of personal estates if the amendment were approved –

Net value of personal estate	Current Stamp Duty	Proposed Stamp Duty	Increase in Stamp Duty
£1,000	Nil	Nil	£0
£100,000	£500	£1,000	£500
£500,000	£3,500	£7,500	£4,000
£1,000,000	£7,250	£20,000	£12,750
£5,000,000	£37,250	£150,000	£112,750
£10,000,000	£74,750	£400,000	£325,250
£15,000,000	£112,250	£750,000	£637,750