JERSEY HOSPICE CARE

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Dear Sirs

Goods and Sales Tax [GST]: The draft law and regulations

I make this submission in my capacity as Chairman of Jersey Hospice Care (JHC) specifically on behalf of JHC but I believe that much of what I say will apply to most charities especially those delivering medical and social care.

I fully acknowledge the enormity and difficulty of the task facing the Island in light of the EU ruling on harmful tax practices, as it struggles to embrace new fiscal measures to balance the Island's budget. I accept that these measures including GST will affect some of us more punatively than others. However, this is not the issue here. The issue, which is of real concern, is that both the draft law and the regulations, as currently drafted, contain no exemption for charities.

Introduction

JHC has provided 25 years of service to the island delivering skilled palliative care to those suffering cancer and motor neurone disease, at home and in the community, as well as at Clarkson House, in nursing homes and at the hospitals of Jersey. JHC is an independent hospice that receives no direct grant aid from the States of Jersey although I acknowledge that we do receive tax rebates on qualifying lump sum donations.

We employ 64 staff. Our expenditure for 2005 was £1,990,715 and our expenditure budget for this year is £1.95 million. In 2005 we generated less than 13% of the income needed to meet our expenditure. The balance of our income is raised entirely by the public of the island.

A copy of our annual report and financial statements for 2005 is enclosed.

Concerns about imposition of GST

As mentioned in my opening remarks, it concerns me that there is no blanket exemption for charities in any form i.e. excluded from registration regardless of the goods and services sales threshold (mooted at £300,000), or due to zero rated or exempt sales. The draft law states that there may be statutory provisions for "some sort of relief" for amongst others, charities. Whilst it may be comforting to read in the draft law that charities may be considered a special case, in truth, this reference is so tenuous as to be almost meaningless. Given the degree of uncertainty surrounding the implications for charities, early clarification of your current thinking is not only desirable but essential.

Impact of input tax on Jersey charities

The ideal would be for all Jersey charities approved by the Comptroller of Income Tax to be exempted by statute from GST (just as we are in Jersey from UK VAT).

If Jersey Hospice Care is included within the proposed GST framework we would be required to:

[a] incur the input tax with attendant cash flow implications.

[b] account for it. Such an exercise would require amendment to existing accounting systems, increased working hours/recruitment of additional personnel, staff training and as a direct consequence, increased costs.

[c] prepare quarterly returns to recover the input tax which would have the same disadvantages as [b].

Impact of output tax on Jersey charities

Furthermore, those charities registered for GST would have to go through a similar process for output tax as for input tax. Subject to clarification of the points raised below, it is surely the case that the number of charities with sales of more than £300,000 is minimal and will generate little in the way of tax. However, what is indisputable is that registration will burden charities with unreasonable administration both in terms of time and manpower, resources which are already in short supply and at the same time increase cash outflows.

On the subject of output tax there are several issues specific to JHC which are causing considerable concern as they would have a negative impact.

[a] JHC receives donations and legacies etcetera to help fund its activities. Many charities are in this position. It is assumed that, as for UK VAT, such income will be exempt from GST since it is neither goods nor services? In 2005 we received £631,082 in donations and £725,275 in legacies. GST of 3% would generate input tax of £18,932 and £21,758 respectively. If not zero rated I envisage a situation where donors would simply reduce their contributions.

It is difficult to comprehend how the tax would work. Donations and legacies are voluntary payments. Would the payer add 3% to the payment and if registered claim the input tax back? Would the payee treat this as output tax on receipt of the income and account to the Comptroller of Income Tax? Or would such items be considered free services, in which case would this affect both the payer and payee or just the payee, as the draft law implies? Clarification on this point would be welcome.

[b] It is stated that free services provided for private use are to be considered a supply of services (Para 2 of Section 3 of the draft regulations). I am not at all clear on the implications of this. Is it intended to apply to charities and if so will JHC be accountable for GST on the notional value of any goods such as medicines and dressings as well as any healthcare provided by our staff?
Whilst reasonably confident that this is not the intention, since it would represent a tax on the dying, it is essential that we have clarification on this point.

Unlike our sister charity, Family Nursing and Home Care, we make no charge whatsoever for our services. Consequently the output tax on free services would have to be absorbed by JHC as the morality of pursuing the surviving relatives for such a debt would be questionable and abhorrent. In any event, we would find it difficult to arrive at an accurate value for such a supply.

[c] JHC has a wholly owned trading subsidiary, Feature Limited. The company assigns all its income to JHC which in turn bears all the company's expenses. As the company's net income is utilised by JHC for charitable purposes this is not subject to income tax.

Feature Limited has two sources of income. Rent from residential property (which is zero rated) and sales of goods. The goods are primarily second hand and donated. The exception is items such as Christmas cards bought for re-sale.

Assuming that no exemption/zero rating is forthcoming for charities then without a statutory concession for charities, GST will be paid on goods purchased for resale and will be received on the sale of those goods. Besides the obvious administrative consequences [already detailed], there is the very real risk that this could prejudice sales of such goods.

The position relating to second hand goods per Part 11 of the draft law is less clear and of more concern since any output tax will increase the sale price of those goods. Whilst 3% is not in itself a significant sum nevertheless it should be recognised that the majority of our customers have limited disposable income and the imposition of GST could have a detrimental impact on our sales. Absorbing the output tax into the sale price in order to stabilise our prices post GST could potentially lead to a greater loss of income.

In 2005 gross sales revenue from our two shops amounted to £404,609. The GST thereon equating to £12,138 would be borne by those least able to afford it, in essence a tax on the poor.

[d] JHC receives significant financial support from many charities that raise funds on our behalf or donate sums for a specific purpose or project. For example sister charities such as the Motor Neurone Disease and Lymphoedema Associations have supported JHC staff training whilst the Freemasons of Jersey have funded the salaries of specific nursing staff.

If there is no statutory exemption for charities and no exemption/zero rating of goods/services these donations would be subject to output and input tax by the sister charity and then output tax again on receipt of the donation by JHC. Depending upon the outgoings of these sister charities they might be compelled to reduce their donations to JHC in order to compensate for the additional outlay of managing GST. This is not a prospect that I welcome.

Financial hardship is common for those suffering in the terminal stages of a long illness. The support of charities such as Jersey Cancer Relief who provide financial assistance to individuals at this time is crucial. The imposition of GST on this support seems heartless. Indeed, the lack of exemption from GST for medicines, medical supplies and medical services adds an extra burden to patients and in the case of the dying, callous. Although this is not a cost borne by JHC the application of GST makes it more likely that the help of other charities will be required to help meet the cost of medical and nursing services. This financial assistance will in turn be taxed if no exemption applies.

Whilst it is acknowledged in the draft law that creating an income support scheme is a better approach than creating too many exemptions it would in my view be much more logical and equitable all round to exclude charities, whether trading or not, from the GST framework. Charities save the States vast sums of money so why penalise them in this manner? As previously stated JHC has an expenditure budget for this year of just under £2,000,000 and in 2004 incurred its first operating deficit. Whilst 2005 ended with a significant surplus, the management accounts reveal that we have incurred a substantial deficit for the year to date. We do not need to dent our cash flows further with input tax or the consequent costs of administering the scheme for what might, subject to concessions, contribute very little direct additional tax to the Treasury and perhaps an overall deficit if the imposition of GST on charities results in an unforeseen increase in income support.

Whilst not an issue for JHC, those charities with "turnover" of less than £300,000 will not need to register and as such may be prohibited from obtaining relief in respect of input tax as the law is currently drafted. This would be penalising the smaller charity unfairly.

At present the Comptroller of Income Tax supports local charities through tax relief on Lump Sum Donations. From JHC's point of view this is a valuable additional source of income. It seems paradoxical to contemplate charging one tax and exempting another on the same sum.

To summarise, at a time when the UK Treasury has recognised the importance and value of the charity sector, it is a sad indictment of Jersey's Government that health charities such as JHC, which rely entirely on the goodwill and generosity of the public of our island, should be contemplating an erosion of its income and an increased administrative burden over which it will have little control. It is likely that the imposition of GST will result in an estimated reduction in income and increased administrative expenditure of over £50,000 per annum equivalent to the salary of two nurses.

I consider that all locally registered charities which have been approved as such by the Comptroller of Income Tax, should be excluded from GST by Statute.

In any event, I believe that the application of GST to medicines and medical services represents a tax on ill health, disability and infirmity. It targets a socially and financially disadvantaged group. There is a compelling case to remove medicines, medical and nursing services from the GST framework and I think it indefensible to reject this on the grounds that the objective is to contain the number of exemptions from GST.

I have previously made representations to the Scrutiny Panel both in person and in writing. I am forwarding a copy of this submission to the Chairman, Deputy Patrick Ryan and to the Minister for Treasury and Resources, Senator Terry Le Sueur.

I await the outcome of your consideration of all the representations ahead of the States debate in November and confirm that both Ian Richardson, our Honorary Treasurer, and I are willing to meet with yourselves should you believe that this would be of assistance to you in your deliberations.

Yours faithfully

Dr Gari Purcell-Jones
Chairman, Jersey Hospice Care

Cc Deputy P Ryan
Treasury and Resources Minister
Senator T Le Sueur