

STATES OF JERSEY

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DRAFT BUDGET STATEMENT 2009 (P.158/2008): THIRD AMENDMENT

**Lodged au Greffe on 18th November 2008
by the Deputy of St. Ouen**

STATES GREFFE

DRAFT BUDGET STATEMENT 2009 (P.158/2008): THIRD AMENDMENT

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After the words “as set out in the Budget Statement” insert the words –

“except that the full higher rate personal allowance in respect of children in higher education shall be given for the full year of assessment in which a child leaves higher education irrespective of any income earned by the child after graduation”.

DEPUTY OF ST. OUEN

REPORT

Concerns have been raised that there is an anomaly in the Income Tax (Jersey) Law 1961 that requires a change in the wording of the Law.

Parents receive a higher rate allowance which was recently increased from £5,000 to £6,000 for their children attending university. However, the Income Tax Department removes this allowance if the graduate earns over £7,000 in the tax year after graduating, which is invariably the case.

This, in my view, directly contradicts standard tax practice and gives government 2 bites of the cherry, by reducing a tax allowance and at the same time reaping a benefit by taxing post-graduate income for a brief period.

The practice of removing a student allowance because of post-graduate earnings has the effect of penalizing parents who nowadays face much higher expenditure to send their children to university and could be considered discriminatory.

If my amendment is successful I would propose that the Law is amended to remove this anomaly. I have in mind an amendment to the Income Tax (Jersey) Law 1961 – Article 95(3) – by inserting 3 extra words as follows “in the case of a deduction referred to in paragraph (1)(b), by £3 for every £2 of the excess excluding postgraduate income”.

The purpose of the child allowance under Jersey legislation is to help alleviate the burden on parents in paying for educational expenses. Article 95 is designed to alleviate the burden of taxation on a parent who has to pay for the maintenance of a child, and to recognise that, if a child has money of its own, the need to lessen the burden is correspondingly diminished.

Any income the child may have can only be relevant for the purposes of paragraph (3) to the extent that it is directly linked in time with the period of higher education and available to help defray the expense of maintaining the child.

The current method of administration of the allowance clearly discriminates against families of graduates who return to the Island to take up post-graduate employment as compared to graduates remaining in the UK or working abroad. Income of the latter may not be disclosed or used to eliminate the child allowance.

In this case the Comptroller of Income Tax may have no way of finding out what the post-graduate income was, if any.

While the student is at university, he or she does not complete an income tax return and his or her income is not subject to tax. I would suggest that it is unfair in the year of graduation, both to regard the graduate as a child so as to remove the child allowance for the father, while at the same time, regarding the graduate as an adult taxpayer and taxing the very income that has been used to remove the higher education allowance.

Separate assessment is a long-established principle of taxation theory and practice. It therefore follows that this principle should be consistently applied to the parent/child situation where the child has flown the nest and become an independent adult.

The recent proposal to increase higher education allowances for the assessment year 2008 reinforces the view that the present level of child allowance is inadequate.

Combined with the related problems of the Education Department's policy on parental contributions and university top-up fees, not to mention, ‘20 means 20’, ITIS and GST, the cost for parents wanting to provide the best start for their offspring is becoming increasingly difficult.

The States have an opportunity to, in some small measure, address this issue and do something practical to help.

Until the 1990s a standard allowance for children in education was granted. In 1994 a higher rate allowance was granted in addition for children in higher education and aged over 17 years in the year of assessment, which is now £6,000 and is reduced by £3 for each £2 that the child's income exceeded the sum of £3,000.

The formula is –

Child's income > £3,000 x 3/2

Thus, if the child has an income of £7,000, this is £4,000 above the exemption limit of £3,000. To multiply this by 3 gives the sum of £12,000. To divide this by 2 gives the sum of £6,000, thus extinguishing the child allowance of £6,000 altogether. It would be quite common for a graduate to start work in the September after graduating at a salary of £21,000 per year, thus earning £7,000 for the last 4 months of the tax year. It is important to note that

such income is defined in the Law as the income of a “child who was receiving full-time education” and should not therefore extend to income received after such full-time education has ceased.

It follows that any income earned by the child in post-graduate employment should be disregarded for this purpose and not used to reduce or extinguish the allowance.

I therefore propose that the full higher rate personal allowance in respect of children in higher education shall be given in the full year of assessment in which a child leaves higher education irrespective of any income earned by the child following graduation.

Financial and manpower implications

The effect of this proposal will not impact on the total income tax revenue as set out in the Draft Budget Statement 2009, however the income of the States will be reduced by an estimated £400,000 for the 2009 year of assessment and beyond. There are no additional manpower requirements; indeed one would expect some minor savings to be derived from the changes proposed.