

STATES OF JERSEY



DRAFT BUDGET STATEMENT 2013 (P.102/2012): COMMENTS

**Presented to the States on 3rd December 2012
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction

1. *Draft Budget Statement 2013* (P.102/2012) contains the proposals of the Minister for Treasury and Resources in respect of Income Tax, the Goods and Services Tax (GST), Impôts and Stamp Duty. It is also through the Budget Statement that the details of the capital programme for 2013 will be approved. Furthermore, the Budget Statement describes a number of reviews which the Minister has either begun or will undertake.
2. On 14th November 2012, the Corporate Services Scrutiny Panel held a public hearing with the Minister. The purpose of the hearing was to question him on the rationale and the potential impact of the budget proposals. Following the public hearing, we sought confirmation from the Minister on certain matters and we received background documentation as a result that we also took into consideration. We also examined the provisions of the *Public Finances (Jersey) Law 2005*. We have presented these comments in order that Members have supporting information available to them for the debate and that they are made aware of the significant matters that arose during the public hearing (the full transcript of which is available at www.scrutiny.gov.je).

The Public Finances Law

3. The Minister for Treasury and Resources must lodge a draft budget under Article 10 of the *Public Finances (Jersey) Law 2005*. We have set out below the requirements of the Law and how the Draft Budget Statement 2013 matches those requirements. Article 10(3) of the Law states that the draft budget must seek States approval of the following –
 - (a) An amount of income intended to be raised through taxation. For 2013, the figure is £614,829,000.
 - (b) A maximum amount (if any) that the States may borrow during the year. The Minister has not proposed any borrowing at this time for 2013.
 - (c) The amount (if any) of growth expenditure that may be appropriated and the specified heads of expenditure to which that amount will be appropriated. No growth allocation for 2013 was approved in the Medium Term Financial Plan (MTFP) and, consequently, there are no proposals relating to growth allocations in the draft Budget Statement.¹
 - (d) For each capital project of a States-funded body to be started (or continued) in the budget year, a capital head of expenditure (the aggregate of the projects must not exceed the total agreed for capital expenditure for that financial year in the MTFP). A total capital allocation of £56,127,000 million (of which £12,566,000 would need

¹ Following adoption of the Panel's amendment to the MTFP (notwithstanding its amendment by the Council of Ministers), there will be proposals for the allocation of growth in the 2014 Budget Statement.

to be withdrawn from the Consolidated Fund) was agreed for 2013 in the MTFP and the draft Budget Statement reflects that figure. The capital programme described in the Budget for 2013 matches the indicative programme that was described in the MTFP for the year.

- (e) For each States Trading Operation, details of each capital project scheduled to start in the next financial year. The projects described in the draft Budget Statement amount to expenditure of £3,148,000.
- (f) Amounts (if any) to be transferred between the Consolidated Fund and the Strategic Reserve, or Stabilisation Fund, or other Special Fund. No such transfers have been proposed by the Minister. The recommendations of the Fiscal Policy Panel (FPP) were that there should be no transfers to the Stabilisation Fund in 2013 and that there should be no transfers in or out of the Strategic Reserve at this stage.

4. The Law also sets requirements as to the content of the report accompanying the draft budget. The report must provide the following information –

- (a) Estimates of the amounts to be received in the year from each taxation source and from other income. These are contained in Summary Table A of the draft Budget Statement and are described on pages 21 to 35 of the Statement.
- (b) A summary of what has happened in respect of growth expenditure. As we have already set out, there is no growth allocation for 2013.
- (c) A summary of amounts (aside from growth) authorised by the States to be withdrawn from the Consolidated Fund during the year and all the money to be paid into the Fund. This is shown in Summary Table E.
- (d) The nature and cost of each capital project to be started or continued in the year. These are set out in Summary Tables B, C and D.
- (e) Estimates of the balance of the Consolidated Fund at the beginning of the year and (if the budget were to be approved) at the end of the year. This is set out in Summary Table E. Under the ‘central scenario’, it is envisaged that the Consolidated Fund will have a balance of £19,717,000 at the end of 2013.
- (f) The comments of the Comptroller and Auditor General (if any) on estimates for capital projects in respect of the States Assembly. As there are no capital projects in respect of the Assembly, this provision does not apply.
- (g) Any such other information which the Minister believes should be made available to the States. In this regard, the Statement describes a number of ongoing and future reviews which are to be undertaken.

5. Under Article 14 of the Law, the Minister is able to lodge ‘taxation drafts’ (i.e. draft legislation) that are necessary to implement proposals contained in the draft budget. These can seek the variation of a tax, the imposition of a new tax, the renewal of a tax or the abolition of a tax. Alongside the 2013 Budget Statement, the Minister for Treasury and Resources has therefore lodged –

- (a) *Draft Finance (2013 Budget) (Jersey) Law 201- (P.103/2012)*
- (b) *Draft Income Tax (Amendment No. 41) (Jersey) Law 201- (P.104/2012)*
- (c) *Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law 201- (P.105/2012)*
- (d) *Draft Income Tax (Amendment No. 41) (Jersey) Law 201- (P.104/2012): amendment (P.104/2012 Amd.)*

P.103/2012 would itself amend the *Customs and Excise (Jersey) Law 1999*, the *Stamp Duties and Fees (Jersey) Law 1998* and (similarly to P.104/2012) the *Income Tax (Jersey) Law 1961*.

Compliance and anti-avoidance measures

6. There is an emphasis in the draft Budget Statement on anti-tax-avoidance measures. The Minister indicated to us that he would have preferred “*to have deemed distribution because it was nice and simple but we have lost it. It has created the advantage of a level playing field [...]*.” He undertook to provide a briefing to all States Members on the anti-avoidance measures, which took place on 30th November 2012.
7. The draft Budget Statement indicates that there are some persistent offenders amongst employers who do not comply with ITIS requirements. We questioned the Minister on this matter and were advised that, “*this is probably not a tax loss from these wayward employers. It is a timing issue about the collecting of it, the only way that the tax would be lost if those employers went bankrupt.*” We were also informed that the collection rate for tax is 99.6% and that, over the last 4 years, between £1.5 million and £2 million had been written off in tax. The Minister spoke of his desire to keep the taxation system simple in order that compliance could more readily be achieved.

Income Tax – exemption thresholds

8. In terms of Income Tax, the Minister has proposed to increase exemption thresholds by 3%. We were advised that this rate of increase had been chosen as reasonable, taking into account expected inflation rates. The Minister acknowledged that the proposals therefore effectively included an attempt to predict inflation rates for the following year. We were also advised that “*the reason we increased the exemptions and allowances is because people’s income is increasing so you need to take that into account as well.*” and “*we are trying to keep them in broadly the same position so they are paying broadly the same amount of tax.*” We asked how many people were likely to be affected by these proposals. We were advised to the following effect –

“Figures show that the current tax base for individuals (that includes taxpayers and non-taxpayers) is 68,236.

For 2012 the figures can be broken down as:

- Individuals paying at 20% – 8,565*
- Individuals paying at the marginal rate – 40,168*
- Exempt/non liable individuals – 19,503*

By increasing the exemption limits by 3% it is projected that the figures for 2013 will be:

- Individuals paying at 20% – 8,116*
- Individuals paying at the marginal rate – 39,917*
- Exempt/non liable individuals – 20,203.*

Therefore the result of the proposed increase would be:

- 449 individuals will move from the 20% bracket to the marginal bracket*
- 700 individuals will move from the marginal bracket to the exempt bracket.*

The net overall result being that in the marginal bracket there are 251 less individuals (i.e. 700 moving from marginal rate to exempt less the 449 moving from 20% rate to the marginal rate.”

Tax increases

9. We took the opportunity to question the Minister on his longer-term plans in relation to tax. As was noted in the Scrutiny Report on the MTFP (S.R.18/2012), the Council of Ministers has indicated that there are no plans to increase taxes. Given that the Minister has subsequently been quoted about there being no plans for ‘significant’ increases in taxes, we asked him to clarify the position. His advice was as follows –

“I mean what I say and I say what I mean, and if the language is slightly different it is still the same thing. There are no plans to increase taxes significantly or introduce new taxes in the next three years. I am not playing with words, it is the same message. We have been very clear, we will look at duties, we have discussed that, we will look at increasing allowances in line with inflation and earnings, that is just normal administrative tweaks that we do. We do not plan to change GST in the lifetime of this Assembly, and I hope for longer than that. We will maintain the 20 per cent rate of tax, we will maintain the 27 per cent marginal rate and we will retain Zero/Ten.”

The Minister subsequently advised that he would also act if he found an avoidance issue that needed to be addressed.

Property taxation

10. The Minister has undertaken to review property taxation to assess existing circumstances and to consider whether or not property taxes could be used as a way forward. We were informed that this will involve consultation with

Guernsey and the Isle of Man. The Minister further advised that “*we are going to look at the competitive position of corporate business rates and look at whether or not they are at the right level, whether or not they are working across all the different property tenures and 80 per cent of property in Jersey that is rateable.*” We would highlight that the Minister will also need to consult the Comité des Connétables during his work on the subject.

11. He subsequently stated that “*we are wanting to make sure that the interest offsets that people are claiming are designed for what they are intended to do which was to offset the purchase price of those offices as opposed to actually avoiding tax. [...] We are also going to look at mortgage interest relief to make sure that that issue is achieving the policy objectives that are set.*” The Minister advised us that the review of property taxation would possibly take a year (with an interim report to be produced) although further work beyond that timescale would potentially be required.

Impôts

12. The Minister has proposed above-inflation increases to the Impôts on alcohol, tobacco and fuel.
13. At our public hearing, the Minister referred to the six-monthly report he had published earlier this year on States income and expenditure. The report showed that income from Impôts was down on what had been expected in the 2012 Budget (by £2.95 million). This was acknowledged by the Minister, who stated that income had turned out to be lower than expected because “*the Budget in 2012 was predicated on higher levels of activity in the Island.*” We therefore challenged the Minister on why Impôts should be increased at a time when the revenue from those duties had been decreasing. We were advised that “*we are maintaining the value of the revenue that we are getting*” and that there was confidence that the anticipated income from Impôts duties would be achieved.
14. The downgrading of income from Impôts in 2012 had been accommodated within the indicative figures included in the MTFP. However, the MTFP assumed increases in Impôts in 2013 in line with inflation whilst figures in the draft Budget assume above-inflation increases. This difference between the MTFP and Budget can be seen in Figure 5.6 of the draft Budget Statement: the MTFP forecast that revenue from Impôts would be £52.939 million in 2013; the budget proposals are that £55.574 million will be raised. In this regard, we have noted that the MTFP included within its indicative figures for States income a sum of £7.6 million that would be generated through “*measures tightening compliance on tax collection and reducing avoidance.*” The MTFP explained that “*work has begun on additional measures to tighten compliance and reduce avoidance and it is expected that these measures when taken together with increased levels of tax being generated from settlement in 2012 and generous allowances for covering bad debts will generate additional revenue of £7.6 million per annum.*” It was not explicitly apparent at the time that some of that income would come from increases in Impôts. However, in its description of the financial implications of the Budget proposals, the draft Budget Statement appears to confirm that £2.635 million of that sum would indeed come from the Minister’s proposals in respect of Impôts. It would be

the remaining £4.965 million that would come from measures in respect of tightening tax compliance et al.

15. We sought to understand how the Minister had come to his conclusions and made his proposals in respect of Impôts. We were advised of the consultation he had undertaken. He had ‘formally’ consulted the Ministers for Economic Development; Health and Social Services; and Home Affairs. In terms of that consultation, the Minister advised us that *“there is some creative and constructive tension [in those discussions].”* He advised us that he had not consulted the industry in the same, formal way although he did receive representations from them.
16. Our questions on this matter raised two issues. Firstly, are these proposals likely to be subject to the law of diminishing returns, in that revenue from Impôts has been decreasing and yet duties have been increased? In that regard, we have included at the end of our comments some tables showing what has happened in respect of duties over recent years. Secondly, there was the question of whether the proposals amounted to social engineering in endeavouring to influence people’s behaviour in respect of drinking, smoking and driving.
17. We questioned the Minister on whether the Impôts proposals amounted to social engineering. The Minister acknowledged that social engineering in some areas was impossible to do (e.g. taxes on fatty foods), but that in relation to tobacco (where there was an extant policy), it was possible. He advised us of his acceptance *“that it is social engineering [...] but we are a servant of other departments and we will do what the States want. We do obviously want to raise the revenue because we obviously have to fund other departments.”* He also stated that *“Treasury is in a very difficult position here because the Health Department for better or for worse [...] want to create a disincentive for people to smoke because of the very severe consequences on people’s health.”* Similarly in relation to alcohol duty, the Minister advised us that the increase in Impôts on alcohol was *“to protect revenues, keep revenues to pay for health services and to create some disincentive for people; alcohol has a very damaging effect on society.”*
18. In terms of fuel duty, the consumption of fuel had decreased, we were advised, due to the *“massive increase in much more fuel efficient vehicles.”* The Minister undertook to *“take stock again of what is proposed and I would resist no increase [in Impôts on fuel]. Whether or not the 3p is right, I will consult with ministerial colleagues and I signal the fact that I will use the ability to make a late amendment to try and find an acceptable way forward for fuel duty.”* The draft Budget Statement also proposes an increase in Vehicle Emissions Duty (VED). We understand that the measure was initially introduced to encourage the greater use of fuel-efficient cars which, in itself, would impact upon revenue from the Impôts on fuel. Increasing VED could appear to be an attempt to reclaim that ‘lost’ revenue.
19. Two consequent issues arose during our discussions with the Minister on Impôts. The first related to the overall price of alcohol, tobacco and fuel in Jersey, about which there was a good deal of discussion and upon which the media subsequently reported. The second related to the knock-on effects of increasing Impôts on Customs and Immigration.

20. In respect of the former issue, the Minister advised us that *“if you take out duty and tax, the net price of a packet of cigarettes in Jersey is inexplicably high and I have repeatedly questioned why the Channel Island health warning cost so much. I have asked the JCRA on a number of occasions to get to the bottom of this.”* He subsequently made similar comments in respect of alcohol, tobacco and fuel prices generally and advised that he did not understand why, disregarding duties and taxation, prices in Jersey were so high. He suggested that the reason was *“because for years the States did not put any duty because they thought they were doing consumers a favour and actually retailers increased their margins, and we have been clawing that back.”* He also subsequently stated that *“the benevolence of States Members in not putting duty increases does not translate through to lower prices for consumers in Jersey.”* In our discussions, he expressed his view that the cost of doing business in Jersey was low in many ways and the explanation of the price differential was therefore not the fact that it was expensive to do business in Jersey. We were advised that the policy of increasing duties in order to reduce the margins between prices had begun to work, as the difference between UK prices and Jersey prices (disregarding duties) had decreased.
21. Given the Minister had mentioned his efforts to have the Jersey Competition Regulatory Authority (JCRA) look into the matter, we asked the Channel Islands Competition and Regulatory Authorities (CICRA) what action had been taken in these areas. Unfortunately, we did not receive CICRA’s advice in time to accommodate it within our comments, but we hope to be able to inform Members of the advice received during the debate.
22. In terms of tobacco duty, the Minister advised that he did not wish to push the duty up so high that it started to cause knock-on problems for Customs and Immigration. There had been an increase in 2011 of the number of people bringing cigarettes into the Island in excess of their statutory allowance. There had been over 500 instances of such an occurrence, with over 200,000 cigarettes being seized. Indeed, we were advised that *“the tobacco industry did some research on duty free importation and their assessment is that 30 per cent of tobacco that is smoked in Jersey comes from duty free.”*

Given what had happened in 2011, Customs and Immigration had undertaken a campaign, writing to the relevant parties and explaining that action would be taken. This had not caused resource problems for Customs and Immigration and had been a successful initiative. As a consequence, we were advised that in 2012, to date some 150,000 cigarettes had been seized. Customs and Immigration had no intelligence on cigarettes without the CI health warning being sold in public houses or restaurants, although there had been a couple of instances in shops.

Probate cap

23. The draft Budget Statement includes a proposal to re-introduce the probate cap, a measure which was removed in 2005. We were advised that *“we lifted the cap because it was originally designed to raise revenue and that means that effectively you pay a probate fee on an unlimited amount of wills that are registered in Jersey.”* The Minister had received evidence from the Jersey Bankers Association and Jersey Finance that removal of the cap had led to

people not using Jersey for deposits because “*other places do not have this probate cap.*” He had further consulted the Minister for Economic Development and decided that it would be in Jersey’s economic interests to reintroduce the cap.

Stamp Duty

24. There is a proposal to introduce fees for contested Petty Debts court proceedings in respect of Stamp Duty where the claim is in excess of £3,000. We sought clarification on the impact of these measures. The Minister advised us that the amounts raised from this measure would be “*small in the overall budget terms but they are quite important to the Judicial Greffe to meet their CSR and the Judicial Greffe has served us very well in relation to this.*” It would seem that duties are therefore being increased as means of achieving savings. We subsequently received a briefing note from the Judicial Greffe on this subject in which we were advised that the measure, based upon court data in recent years, could be expected to raise approximately £3,000 per annum.

Capital Programme

25. The draft Budget Statement proposes the 2013 Capital Programme in detail and it amounts to a total of £56.1 million. That total is in line with the sum agreed in the MTFP. Similarly, the indicative programme provided in the MTFP for 2013 remains unchanged as presented for formal approval in the Budget Statement. We were advised that changes for the programmes in 2014 and 2015 would be expected.
26. We were conscious of the findings of the Fiscal Policy Panel (FPP) in its report published in October 2012 and, in particular, the FPP’s comments about the desirability of bringing forward capital spending, if possible. Given that total capital spending for 2013 appeared to be limited to the envelope agreed in the MTFP for that year, we questioned the Minister on the issue of flexibility. The Minister advised that “*we have committed to report on a review of the capital programme and how we see the capital programme assisting or boosting or needing to do more in relation to economic activity by the end of the first quarter.*” Furthermore, the Minister would try to ensure that the money allocated to Departments was spent in 2013.
27. We were informed that there would in fact be more to spend in 2013 than the £56.1 million agreed in the MTFP and presented in the draft Budget Statement. For example, funding of £27 million was allocated by the States in 2011 to fund social housing schemes.² Furthermore, there are schemes for which funding has been approved in the past, but which have yet to be started. We asked the Minister for a figure of how much capital expenditure could therefore be available in 2013. We were informed that the capital monitoring report for the third quarter of 2012 identified an under-spend of £79.1 million for the year that would subsequently be available in 2013. Added to the £56.1 million agreed in the MTFP for 2013, the total available during the year would therefore be £135.2 million. In addition, the States Trading Operations are estimated to have £27.8 million available from current projects. Added to

² The MTFP assumed that this funding would in due course be repaid by the Department of Housing.

the £3.1 million agreed for 2013 in the MTFP, the Trading Operations have a total of £30.9 million available for capital projects in 2013.

28. There was discussion at our public hearing about the new hospital, and the Minister advised that he was looking to bring the construction of the hospital forward earlier than previously planned. In that regard, the Minister advised that *“we are looking at using the States very strong financial position in order to get credit to do that earlier”* and indicated that a debt would be incurred in order that the project could be brought forward. He stated that funding of the new hospital would be dependent upon 3 things: economic growth and securing new businesses; departmental savings in order to transfer money from the efficiencies found; and the contribution that Islanders pay and the Health Insurance Fund. A Paper is expected early in the New Year that will explore the options for financing the new hospital.
29. In terms of the capital programme, we would highlight the findings of the FPP: *“the reliance on one-off receipts to fund capital expenditure in 2012 and 2013 is justified by the need to deliver additional fiscal stimulus in the light of the weakening economy although there is little indication in the MTFP that this has been achieved by a discretionary stimulus which meets the 3Ts (timely, targeted and temporary).”* The Minister advised us, however, that he remained *“confident that the fiscal stimulus that we have directed towards capital being targeted, timely and temporary has worked.”* The Panel is concerned that there has been no economic analysis of the previous fiscal stimulus although, at our hearing, the Minister indicated he would be prepared to ask the Economic Advisor to produce such a report.

11(8) requests

30. During our work, we noted that the Minister recently made the Ministerial Order, *Public Finances (Transitional Arrangements) (Amendment) (Jersey) Order 2012*, which will effectively allow him to bring a ‘11(8) request’ to the States Assembly until the end of June 2013. Article 11(8) of the Public Finances Law, as it stood previously, allowed the Minister to seek States approval for expenditure outside of the Annual Business Plan debate. We had understood that the new financial planning process introduced with the MTFP would mean there was no longer a need for such requests, either for capital or revenue expenditure. At a separate hearing recently, the Chief Minister advised us that there were no plans for further 11(8) requests to be made.

Dwelling Houses Loan Fund

31. At our public hearing, the Minister announced to us the implementation of a trial scheme in which the Dwelling Houses Loan Fund (DHLF) would be used to provide assistance to first-time buyers. We understand that States approval is required for the trial scheme to be implemented.
32. We were advised that approximately £6 million remains in the DHLF and that the scheme would see £3 million of that used ‘as soon as possible’. The maximum amount that could be loaned would be 15% of the purchase price of a property that itself could be up to approximately 90% of the average price for that particular property type. Further details will no doubt become apparent from the Minister in due course. However, the example we were

given is that someone (if they were eligible for the scheme) who was looking to buy a three-bedroom house for which the average price was £400,000 would be able to borrow £54,000.

33. We understand that the funding will need to be used in the short term as *“it will not have the effect of fiscal stimulus [as] described if we are too slow about it so.”* It seems that the Minister considers this measure to fall into the fiscal stimulus category. In that regard, we would raise again the findings of the Fiscal Policy Panel in its October report regarding the fiscal stimulus projects of the recent past and the need to ensure that the funding is put towards schemes which are timely, targeted and temporary.
34. We also questioned the Minister over whether this measure could potentially create a ‘bubble’ in the housing market. The Minister himself described the market as *“stagnating”*, but he stated that he did not wish the scheme to start or support a bubble in the housing market in any way. Rather, the scheme *“is genuinely designed to assist those people who, with a little bit of help from the States, could get into home ownership and who will not be penalised or find it impossible to get on to the housing ladder because of the tighter lending criteria that the banks are now applying.”* The Minister was due to consult the Jersey Bankers Association about the scheme.
35. The Minister stated that the measure would boost the number of transactions and thereby assist the market in that way without boosting prices. He acknowledged that the measure would not be a *“silver bullet”*, however, for the difficulties facing the housing market (and people’s efforts to get on the housing ladder) and that other measures would be required. We look forward to seeing more details about the scheme in due course and, in particular, whether the Minister has confirmed that local mortgage providers will accept a scheme under which potential borrowers would be subject to a second charge (i.e. as well as mortgage repayments, any beneficiary from the scheme would have repayments to make to the States).

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were forwarded to the States Greffe later than noon on Friday 30th November 2012 as the Panel was awaiting receipt of relevant information and advice. The Panel also agreed to await the briefing provided by the Minister for Treasury and Resources in the morning of 30th November 2012 in the event that matters raised at the briefing would need to be addressed in the Panel’s comments.

TABLES

In paragraph 16, we commented on the proposals in relation to Impôts duties. As part of our research, we have looked at what has happened in respect of Impôts over the recent past, and present below the results of that research in relation to the consumption of tobacco and fuel and the Impôts raised in those areas. We have also included a table that shows what has happened over recent years in respect of Impôts duties overall and which suggests that, despite the increases in Impôts that there have been, the rate of growth in income appears to be levelling off.



