

STATES OF JERSEY



DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017 – 2019 (P.68/2016) – FIFTH AMENDMENT

Lodged au Greffe on 13th September 2016
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017 – 2019
(P.68/2016) – FIFTH AMENDMENT

1 PAGE 3, NEW PARAGRAPH –

After paragraph (c) insert new paragraph as follows –

“(d) to withhold consent to the application of resources for work on the development of ‘user pays’ charges in relation to domestic liquid waste and domestic solid waste, any such consent requiring separate authorisation by the Assembly;”;

and re-designate paragraph (d) as paragraph (e).

2 PAGE 3, NEW PARAGRAPH –

After the final paragraph insert a new paragraph as follows and designate accordingly –

“(x) to agree the principle that any new commercial liquid and any commercial solid waste charges shall include provision whereby a business operating in Jersey, or by election the beneficial owner of such business, shall be entitled to claim relief from effective double taxation in Jersey on the money expended on such charges. This relief being achieved either through direct credit or enhanced allowances against the tax payable on the profits from which the charge is paid.”.

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

For me, income tax is used to fund services provided by the Government.

In my view, there is no more basic service than the treatment and disposal of waste, whether it be solid, or liquid (basically human waste in the form of sewage).

This is therefore already paid for by taxpayers.

My amendment deals both with commercial waste and domestic waste.

One of the comments made in the Medium Term Financial Plan to justify the waste charge being applied to commercial users states "...There is a gross unfairness at the heart of the system as businesses and their customers do not pay and the services they use are subsidised by taxpaying residents...".

Business would argue that this is not strictly true.

I will refer to the examples previously provided to States Members at the workshop that was held at Jersey Hospice in June of this year. Those examples focussed predominantly on different sizes of offices, hotels and restaurants to indicate the potential impact of the various charges.

Therefore if, for example, a hotelier had previously decided to absorb GST when it was introduced into its prices, then that hotelier would take the view that they were already paying taxation and were therefore already contributing to services they use.

However, to return specifically to income tax. Where one has a locally-owned business, even if that business was itself paying no tax whatsoever, it is generally very likely that the local owner of that business will be paying taxation on the business profits that he or she receives from that business, by way (for example) of dividend.

The point I am making here is that the statement that businesses do not pay is far less straightforward than it may appear.

Also, the distinction being made by the Council of Ministers in the MTFP for the waste charge is between domestic and commercial. 'Commercial' is not just a definition that is restricted to companies. For example, it might apply to a sole trader – a non-incorporated body who therefore is very likely to be paying taxation (including income tax).

The same applies just as strongly to domestic users. With certain exceptions, domestic users will either be on income support, or taxpayers. I am concentrating most substantially on the latter, i.e. if one is a taxpayer, then one already pays for certain services, including the treatment and disposal of waste.

At the workshop held by the Infrastructure Department, States Members made a variety of points. Firstly, the point was made that domestic users should not be subject to this charge. Period.

A further point was also made, namely that where a commercial user was a taxpayer, that user should not have to pay twice for the service, i.e. this was paid by income tax, provided the entity did contribute in some shape or form by way of taxation.

Therefore I am somewhat dismayed to read the following in the MTFP –

“...Detailed proposals for the introduction of charges will be debated by the States in the coming year. It is proposed initially to introduce charges for commercial operators...”¹

If the detailed proposals are ‘initially’ to introduce charges for commercial operators, then it seems very clear that within the near future – perhaps even in the next MTFP – charges will be introduced for domestic users.

When pressed, Senator A.J.H. Maclean refused to be drawn on whether the charge could be increased – “...I was making no predictions as to what may or may not happen beyond 2019...”²

Taking all of the above into account, this amendment seeks to achieve 2 things (with separate votes on each part):

Part 1: makes it very difficult for the Department to introduce a waste charge for domestic users. Before any work can even commence on considering that matter, it would have to be brought back to the Assembly.

Part 2: Consistent with the exchange with the Chief Minister on 8th July 2016 (see transcript below), and the statements made at the workshop held for States Members, this second part of the amendment basically seeks to ensure (in principle) that businesses that do have a local tax liability (or their owners, if they have a local tax liability) do not pay twice in respect of waste. It outlines 2 possibilities, one being a straight offset of the amount paid for any waste charge, against any actual tax payable in respect of the relevant tax liability. In the alternative, it offers a slightly more technical option. These are both in the hands of the Minister as to which is the most feasible.

The result of this second part would (in effect) be to partially resolve the issue of non-local companies not contributing to the services used/supplied locally by the government.

It is important to stress that it is not the intention to reduce the yield of taxation raised by this charge. All I seek to do is redirect it to those who do not contribute to the costs of that type of service because they do not pay taxation. Therefore, if the entity or the owner already pays local tax, effectively the waste charge would be offset against that liability. If that entity (or beneficial owner) does NOT have a tax liability, in essence there will be nothing to offset it against, and therefore they will be incurring the waste charge without any offset being available.

I have included in 2 Appendices excerpts from Hearings with both the Chief Minister and the Minister for Treasury and Resources which are relevant to this matter. It would seem from the transcript that the Chief Minister is open to the principle I am outlining in the second part of this amendment.

¹ [P.68/2016 Add.](#) [Draft Medium Term Financial Plan Addition for 2017 – 2019 (P.68/2016): addendum (Annex to the MTFP Addition)]

² Corporate Services Scrutiny Panel Hearing – 2nd September 2016

To summarise: To me, one of the fundamental principles around our taxation system is not being charged twice. For me, income tax is what I am charged to pay for services provided by the government. To me, there is no service more basic than the disposal of waste – whether it is liquid or solid. The arguments that other jurisdictions charge for this seem purely to justify raising more money off us, and even worse, to charge us twice for the provision of that very basic service. If we have got to that level of debate, then we need to have some very full and serious discussions about the ability of the Council of Ministers to control its costs and spending habits. However, I DO agree that if someone is not contributing to the use of those services, then some form of collection mechanism should be found to charge those entities that use such a service ‘for free’. The mechanism I am suggesting (in principle) seeks to achieve just that.

Financial and manpower implications

There are no manpower implications arising from this amendment.

Provided the waste charge is amended to take account of the impact of this amendment, there need not be any additional financial impact on the States arising from this amendment.

Re-issue Note

This amendment is re-issued in order to separate the paragraphs and to set out the proposals more clearly.

**TRANSCRIPT OF CORPORATE SERVICES SCRUTINY PANEL HEARING
WITH THE CHIEF MINISTER (8TH JULY 2016)**

“The Connétable of St. John:

Now the waste charge is likely to impact on small businesses. What justification do you have in introducing this charge, particularly in the current climate?

The Chief Minister:

The current climate that these businesses do not pay tax?

The Connétable of St. John:

No, the small local businesses, not the big businesses.

The Chief Minister:

Unless you are in financial services or a utility or in property development, which is taxed in a different way, then you are not paying tax.

Deputy J.A.N. Le Fondré:

Can I just comment here? If you are a sole trader operating a business you will be paying tax, Minister, I believe, for example.

The Chief Minister:

Not corporation tax, which is what we are talking about.

Deputy J.A.N. Le Fondré:

As a sole trader you will be paying tax.

The Chief Minister:

You will be paying income tax.

.....

The Chief Minister:

Income tax not corporation tax. Anyway that is a simple narrow point but it bears repeating because it seems to be – and I am not sure whether this particular panel has taken this view – that Government gets criticised over Zero/Ten and not finding a mechanism of extracting more value out of businesses, and then when we come up with a proposal that does we get criticised for doing so. So I think it does bear repeating.

The Connétable of St. John:

When I say “small business” I do need to be a little clearer. I am thinking of the sole traders because most of the sole traders are not in the position of declaring ... with the Zero/Ten of not paying tax. They pay it through their personal income.

The Chief Minister:

So they are paying income tax. Of course it will depend whether they have got ... when you are talking about liquid waste it will depend if they have got premises or not. It will depend what business they are in, if we are talking about solid waste. So there is not a straightforward all sole traders will be suffering either of the particular elements of the charge.

.....

Deputy J.A.N. Le Fondré:

... You have made reference to public consultation, what happens on the basis that – what you have just said – if the £11 million changes basically that has to be funded from somewhere else. So in other words, how meaningful is that consultation going to be? For example, the tourism industry if they come back and say: “It is going to cause us major problems and you need to rethink.” There has also been the observation about – and this was a fact that came up in the States Members workshop – that not taxing people twice for the same service. So if you have a business that is paying tax locally then effectively this is a double charge. I believe you have made reference in the past that there may be a possibility to mitigate that because if that happens the £11 million yield reduces. So what happens there?

The Chief Minister:

There are 2 things. Obviously the consultation will go forward. We have already had some suggestions along the lines that you have just outlined and we would have to consider if there was a mechanism that would be able to deliver that, but at the same time we would also have to consider, as you rightly say, if the money raised was less than is currently inscribed then we would have to think of other ways or develop other ways of delivering that shortfall.

Deputy J.A.N. Le Fondré:

Thank you.”

APPENDIX 2

TRANSCRIPT OF CORPORATE SERVICES SCRUTINY PANEL HEARING WITH THE MINISTER FOR TREASURY AND RESOURCES (2ND SEPTEMBER 2016)

“Deputy J.A.N. Le Fondré:

Now the other point you made, Minister, is that it was targeted and specific. I am going to refer to this as a tax I am afraid. Is the general principle not that taxation, and we can use that as a charge or not, is meant to be low, broad and fair, whereas here it is targeting quite specific industries?

The Minister for Treasury and Resources:

I would suggest that our tax system, when compared to just about anywhere else in the world, is very broad and simple.

Treasurer:

Waste charges already exist elsewhere.

Deputy J.A.N. Le Fondré:

So does inheritance tax and capital gains tax, to name a few, so does that mean we are going to be introducing those systems because other countries have?

Treasurer:

But you were comparing to others.

Deputy J.A.N. Le Fondré:

You have just said that other jurisdictions have a waste charge and that is the justification for bringing this here. Does that mean therefore you are also supporting other taxes, which other jurisdictions have?

The Minister for Treasury and Resources:

Of course not, and you know that.

Deputy J.A.N. Le Fondré:

Well in which case, exactly, so therefore the argument surely that other jurisdictions have is not relevant to Jersey because we have a different profile.

Treasurer:

I do not think we raised the comparison.

The Connétable of St. John:

Just taking a completely different angle on this, significant argument has been put forward on the environmental impact of putting houses on to mains drains, the reduction in nitrates on the Island, which is a significant problem. How is this, and what studies have been done, that introducing a waste charge is going to result in people reverting back to their old soakaways, particularly in the Parish of St. John, which my predecessor

was very keen to get on to mains drains, if they now block their mains drains and go back on to soakaways, how is this going to impact nitrates on the Island?

The Minister for Treasury and Resources:

That is a purely hypothetical question and I cannot provide ...

The Connétable of St. John:

It is a very realistic question because that was one of the arguments put forward behind having drains in the first place.

Assistant Minister:

I think it is going to water consumption, the easiest way to measure the amount of water going through a system is by the water drawn. How they dispose of that will be a matter for the individual but they will pay on the amount of water drawn.

Deputy J.A.N. Le Fondré:

So even somebody not using the service, they are going to be charged for it?

Assistant Minister:

Essentially, yes. If we look at it very simplistically, yes, it could well be.

The Connétable of St. John:

So people are going to be charged for something they are not going to get, simply for the sake of simplicity?

Assistant Minister:

I cannot give a straight answer to that, but one could draw that conclusion, yes.”