

# STATES OF JERSEY



## DRAFT BUDGET STATEMENT 2018 (P.90/2017): SEVENTH AMENDMENT

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Lodged au Greffe on 15th November 2017  
by Senator P.F.C. Ozouf

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STATES GREFFE

**PAGE 2, NEW PARAGRAPH (e) –**

After paragraph (d) insert the following new paragraph –

- “(e) to request the Minister for Treasury and Resources to: (i) review the principle that income tax is not expected to be due on profits arising from mutuals or similar organisations which compete with other traders who are or will be subject to Corporation Tax on their trading profits; and (ii) to bring forward legislation no later than the time of the 2019 Budget to provide for the taxation of profits (or rebates, discounts, or other equivalent terms used by mutuals) which arise from mutual trading (other than by not-for-profit or religious entities set up for charitable purposes) in the 2019 year of assessment, to ensure that such entities are ordinarily subject to income tax, whatever their legal status.”.

SENATOR P.F.C. OZOUF

## REPORT

This proposal aims to provide for equality of treatment in taxation for mutuals who trade and compete with other traders who will be subject to tax.

The provides for a level playing-field.

Tax authorities in the UK summarise the concept succinctly as follows: “Mutual trading is an important concept because a mutual trader is not liable to tax on any profits arising from their mutual trade”.

This is as a result of the principle that ‘a person cannot trade with themselves’.

There is a section of the guidance that discusses the essential requirements for a trade to be mutual and the case law from which those requirements are derived.

The accompanying UK guidance is outlined here: <https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim24000>

As Jersey tax law is built on the same structures as UK tax law, the tax treatment of mutual traders is *prima facie* the same in Jersey; this treatment being determined by reference to the UK case law noted in the guidance.

Due to the existence of the 0% tax rate the Taxes Office has not, for a period of time, had to specifically consider whether particular entities fulfil the requirements to be a mutual trader (or whether all of their profits sit within the scope of the exemption).

If changes in the corporate income tax regime proposed in the Budget are adopted by the Assembly, this might be an opportune moment to consider which entities are indeed mutual traders in accordance with the requirements.

### **Financial and manpower implications**

This is a piece of work that should fall within the existing work programme of the Tax Policy Unit, and therefore is not expected to have any significant resource requirements. To the extent that legislation would be brought forward to tax mutual traders, then any costs would be outweighed by the revenue raised.