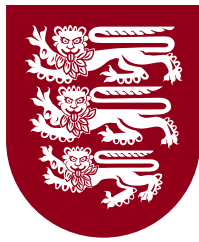


STATES OF JERSEY



Jersey

DRAFT INCOME TAX (HIGH VALUE RESIDENTS – AMENDMENT) (JERSEY) LAW 202-

**Lodged au Greffe on 16th May 2023
by the Minister for Treasury and Resources
Earliest date for debate: 4th July 2023**

STATES GREFFE



Jersey

DRAFT INCOME TAX (HIGH VALUE RESIDENTS – AMENDMENT) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources, the provisions of the Draft Income Tax (High Value Residents – Amendment) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter**
Minister for Treasury and Resources

Dated: 12th May 2023

REPORT

Jersey has attracted wealthy immigrants for decades, who have significantly contributed to our Island.

The number of permissions granted have always been limited and restricted; and the Island has long pursued a strategy of securing a limited number of these wealth generators each year, applying fiscal requirements above those of competitor jurisdictions and high levels of due diligence.

Since 1970, housing permission has been required providing limited access to our housing market, and since 2005, tax requirements for the group have been enshrined in legislation.

As such, the legislative framework now consists of two distinct, but interrelating, elements: (i) the granting of housing rights to an individual under the relevant Control of Housing and Work legislation; and (ii) the tax regimes which govern minimum tax payments and access to preferential tax rates as specified in the Income Tax legislation for those to whom housing rights have been granted.

The current tax requirements (version 4) include a 20% tax rate for the first £850,000 of income, subject to a minimum annual tax contribution of £170,000, with tax charged at 1% on all income, other than Schedule A income, above the minimum.¹

While the direct tax requirements imposed by Jersey (and our due diligence requirements) exceed those of our competitor jurisdictions, our reputation as a well-regulated, competitively taxed jurisdiction with excellent lifestyle benefits has ensured that Jersey has remained competitive as successive versions of the tax regimes have been developed.

Table: Number of successful applications and new 2(1)(e)s arriving in Jersey for the last 18 years²:

Year	Applications approved (5-year rolling average in brackets)	Arrivals (net change in numbers in brackets, i.e., arrivals less departures and deaths)
2005	5	5
2006	8	9
2007	13	8
2008	7	7
2009	8	5
2010	7	10
2011	9	8
2012	12	8

¹ Income is taxable under Schedule A if it arises from rents or receipts from land in Jersey, property development, or mining and quarrying. Schedule A income is taxed at 20%.

² Prior to 2012, the relevant provision in the Housing Regulation was Regulation 1(1)(k); replaced in the Control of Housing and Work Law by Regulation 2(1)(e).

2013	14 (10)	10
2014	20 (12)	16
2015	20 (15)	22
2016	17 (17)	14 (11)
2017	35 (21)	20 (19)
2018	15 (23)	29 (22)
2019	21 (22)	12 (9)
2020	20 (22)	15 (4)
2021	23 (23)	28 (17)
2022	10 (18)	11 (5)

Notes:

1. Government policy for the number of housing consents granted has varied over time, having initially been set at 15 per year in 1974. While this was reduced in the 1980s, it was relaxed again in the 1990s. The objective to grant 15 consents per year was restated in 2005 and has remained in place since.
2. The minimum tax expectation from these individuals has varied over time, from £3,000 per year in the 1970s to £200,000 in the late 1990s. In 2005, when tax requirements were incorporated into legislation, a minimum expectation of £100,000 was established, and since that time it has been gradually increased – to £125,000 in 2010, to £145,000 in 2018, and £170,000 in December 2023.

2022 – 2023 Review

In the [2023-2026 Government Plan](#), Ministers signalled that they would review the 2(1)(e) initiative with a view to refreshing it for new entrants.

Specifically, the Ministerial Plans, published in October 2022, included, in the Chief Minister’s Plan, a commitment to “enhance the economic and social benefits to the Island from a fewer number of 2(1)(e) applicants, while valuing our high value resident community”. This was outlined in context of the rolling average number of applications exceeding the long-term aspiration of 15 applications per year in recent years, in particular, the period 2017 – 2021.

This work was led by the Chief Minister, as Chair of the Housing and Work Advisory Group, which includes the following:

- Chief Minister (Chair)
- Minister for Economic Development, Tourism, Sport and Culture
- Minister for Home Affairs
- Minister for Social Security
- Minister for Housing and Communities

In undertaking the work, the Group conferred with the Minister for Treasury and Resources, and the Minister for External Relations.

The Housing and Work Advisory Group also sought the agreement of the Council of Ministers, and were supported by officials from the Cabinet Office, Department for the Economy, and Revenue Jersey.

The Group considered a range of information, including application volumes, wealth levels, and property purchase prices and the impact of 2(1)(e)s on the housing market.

The issues considered by the Group included the following (other matters were raised but these were the main areas of focus):

- The minimum income and annual tax contribution for new applicants.
- Ability to enhance benefits for local charities and our wider community.
- The minimum purchase price of a property for 2(1)(e) residents.
- The 1% tax rate for new applicants.
- Minimum asset expectations for new applicants.
- How policy supports sustainable economic development.
- Approach to implementation.

Views were also sought from a number of stakeholders, including professional advisors, estate agents, and recent 2(1)(e) applicants. While it is acknowledged that this is not a representative cross-section, this provided expert insight, which aided the making of decisions about how additional value could be promoted while Jersey remains competitive and welcoming. In total, 19 responses were received, most of which responded in detail to the above points, and those respondents are thanked.

The Housing and Work Advisory Group considered these matters and tabled a range of policy decisions for the Council of Ministers on 28 March 2023. This included the following which were agreed:

Areas for Change	
Minimum Tax Requirement	<p>It was agreed to propose to the Assembly an increase the minimum annual tax required from £170,000 (itself an increase from £145,000 in the 2023 Government Plan) to £250,000 per annum. This would apply to new applications in a new version 5 of the tax regime.</p> <p>This is just less than a 50% increase on the current requirement.</p> <p>While this requirement is higher than many competitor jurisdictions, Ministers believe that Jersey’s wider offering remains attractive to secure the long-standing aspiration of 15 approved applications per year.</p> <p>There are wider benefits of living in the Island, including the safety of Jersey, the quality of our environment and culture, and our connectivity to the United Kingdom. Indeed, relocation decisions are driven by lifestyle choices as much as fiscal benefit. We will continue to welcome wealth generators to Jersey.</p>
Minimum property price	<p>It was agreed to increase the minimum property price to £3.5m for houses and £1.75m for apartments (with flexibility around developments costs). This is an increase from £1.75m for houses in published policy.</p> <p>This decision was taken to maintain the policy principle that a property available for a 2(1)(e) to purchase for their</p>

	<p>occupation should be well outside the market available to the significant majority of Jersey residents.</p> <p>Not all 2(1)(e) residents require a large property, and increasing the limit further may encourage the development of larger houses, so £3.5m was considered a reasonable level, without providing perverse incentives to develop large properties.</p> <p>Note: 2(1)(e) individuals are restricted in the property they can purchase, only being able to purchase one property as their principal place of residence. The above minimum property price applies to that purchase. They can also, in the same way as anyone else without qualifications, purchase shares in share transfer properties, or property development companies, as share transactions are not controlled by the Control of Housing and Work Law. Licensing rules for new businesses apply to 2(1)(e)s as they do for everyone else.</p>
Minimum Asset threshold *	<p>It was agreed to maintain a £10m minimum net asset expectation (excluding principal place of residence) with some flexibility around compelling cases of economic benefit.</p> <p>The minimum asset expectation provides assurance that liabilities can continue to be paid if income in any one year is insufficient, as well as ensuring that a level of investable assets exists.</p> <p>It was felt important that a limit was not set so high as to exclude younger more economically active entrepreneurs earlier in their careers.</p> <p>This requirement is not currently included in policy, although it has been the underlying expectations when considering applications for a number of years.</p>

**These requirements are imposed by policy and the permissions issued to applicants, applying conditions under the Control of Housing and Work Law.*

The current policy can be found at in paragraphs 115 – 122 of [r.60-2019.pdf \(gov.je\)](#) and will be updated to reflect the above.

In addition to proposing the above changes, the Housing and Work Advisory Group requested officials to continue work in the following areas:

Areas for ongoing development	
Community and Charitable activities	While recognising the significant contribution already made to our community, Ministers were focused on enhancing community and charitable value, and while not wishing to make donations and involvement compulsory, wished to see pathways developed for charitable giving.
Relocation of entrepreneurs	Ongoing consideration needs to be given to supporting the relocation of entrepreneurs and professionals who strongly support sustainable economic growth, alongside the

	development of economic and inward investment strategies.
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Significant consideration was also given to the retention of a preferential tax rate of 1%. Notably, all other residents are subject to 20% tax on all their income, and there are a number of individuals in Jersey who are not 2(1)(e)s whose tax liabilities exceed £250,000 per year.

At the same time, stability in the Island’s fiscal offering is important, and as a jurisdiction we need to remain competitive, welcoming to wealth generators, and to continue to maintain our international reputation, including in industry, for stability. Ministers therefore believed it would not be appropriate to change the 1% rate, which was been in place since 2005, while at the same time making changes to secure an overall increase in the tax requirements from new 2(1)(e) residents.

Should the legislation be approved, the proposed new tax regime – version 5 – come into force on 14 July 2023. The choice of start date is to ensure that the new tax regime starts as soon as possible whilst also allowing sufficient time for Ministers to make decisions on applications already in the pipeline.

All applicants who are granted Entitled status under Regulation 2(1)(e) of the [Control of Housing and Work \(Residential and Employment Status\) Regulations](#) on or after 14 July 2023 will be taxed subject to the provisions of version 5 of the regime. The tax rate will be set at 20% for the first £1,250,000 of income, subject to a minimum annual income tax contribution of £250,000. Tax will also be charged at 1% on all income, other than Schedule A income, above the minimum.

All new applicants who are approved prior to 14 July 2023 and arrive before 31 December 2023 will be taxed subject to the provisions of version 4 of the regime. The requirements of version 4 include a 20% tax rate for the first £850,000 of income, subject to a minimum annual tax contribution of £170,000, with tax charged at 1% on all income, other than Schedule A income, above the minimum.

The minimum tax requirements under version 5 will be revalorised in 2028, at the same time, and on the same basis, as the minimum tax requirements for version 4 are next revalorised.

Financial implications

The revisions in the proposed changes will have a positive financial additional contribution of £1.2m per annum.

Human Rights Notes

There is no Human Rights Note appended because the Law Officers’ Department indicated that the amendment does not give rise to any human rights issues.

APPENDIX 1 TO REPORT

CHILDREN'S RIGHTS IMPACT ASSESSMENT

Impact Assessment by: Revenue Jersey

Date: 18 April 2023

Date to be reviewed: N/A

Reviewed by: N/A

STAGE 1: SCREENING

Question 1: Name the measure / proposal and briefly describe its overall aim

Prospective High Value Residents (HVRs) make applications to Ministers setting out that they meet the required conditions to be approved under the HVR scheme. This includes demonstrating that they have sufficient capital assets and income and confirming that they will purchase a high value main residence in Jersey. There is a tax regime for HVRs within the wider HVR scheme. The minimum annual tax contribution for those within the current version of the HVR tax regime – regime 4 – was increased following a statutory review with effect from 1 January 2023.

At the same time, in the 2023-2026 Government Plan, Ministers signalled that they were reviewing the HVR scheme with a view to refreshing the scheme for new entrants. Following further consideration and engagement with stakeholders, Ministers propose a new version of the regime. As part of the new HVR scheme, the proposed new tax regime – version 5 – will include a higher minimum annual contribution. It will come into force on 14 July 2023.

The proposition to which this Children's Rights Impact Assessment (CRIA) relates contains draft legislation to create version 5 of the HVR tax regime. All applicants who are granted Entitled status under Regulation 2(1)(e) on or after 14 July 2023 will fall within version 5 of the tax regime. The tax rate will be set at 20% for the first £1,250,000 of income, subject to a minimum annual income tax contribution of £250,000. Tax will also be charged at 1% on all income, other than Schedule A income, above the minimum.¹ Schedule A income will be taxed at 20%.

All applicants who were approved prior to 14 July 2023 and arrive before 31 December 2023 will be taxed subject to the provisions of version 4 of the regime. The requirements of version 4 include a 20% tax rate for the first £850,00 of income, subject to a minimum annual tax contribution of £170,000, with tax charged at 1% on all income, other than Schedule A income, above the minimum. Schedule A income is taxed at 20%.

As stated, the minimum tax contribution for HVRs under version 4 of the HVR tax regime was increased from 1 January 2023. The CRIA for this measure, available [here](#), stated that the measure would not have an impact on children and young people. The same is true of this proposition to introduce version 5 of the tax regime.

Question 2: What children's rights does it impact upon?

The proposed measures do not impact upon any children's rights as set out in the Convention on the Rights of the Child.

Question 3: What children and young people will be affected?

No children or young people will be affected.

Question 4: What is the likely impact of the proposal / measure on children?

The proposition does not impact upon any children's rights as set out by the Convention on the Rights of the Child.

Question 5: Is a full child rights impact assessment required? Explain your reasons

A full impact assessment is not required. Although the proposition implements a minimum annual tax contribution for new HVRs, this does not in itself cause any impact on children or young people.

EXPLANATORY NOTE

This Law, if passed, will amend Article 135A of the Income Tax (Jersey) Law 1961 (“the 1961 Law”) which applies to people who have been granted Entitled status under Regulation 2(1)(e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 (“high value residents”).

The amendments provide for a new version of the tax regime to apply to people who are granted Entitled status under Regulation 2(1)(e) on or after 14th July 2023, or who are granted that status before 14th July 2023 and become chargeable to tax under the 1961 Law on or after 1st January 2024.

The Income Tax (Prescribed Limit and Rate) (Jersey) Regulations 2013 prescribe the rate at which tax is charged under the tax regime and the limit above which a high value resident’s income is chargeable at that rate. The Law amends these Regulations to prescribe a limit of £1,250,000 and a rate of 1 pence in the pound for the new version.

The Law comes into force on 14th July 2023.



Jersey

DRAFT INCOME TAX (HIGH VALUE RESIDENTS – AMENDMENT) (JERSEY) LAW 202-

A **LAW** to amend Article 135A of the [Income Tax \(Jersey\) Law 1961](#) and the [Income Tax \(Prescribed Limit and Rate\) \(Jersey\) Regulations 2013](#).

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

1 [Income Tax \(Jersey\) Law 1961](#) amended

- (1) This Article amends Article 135A (Persons granted 1(1)(k) housing consent or Entitled status under Regulation 2(1)(e)) of the [Income Tax \(Jersey\) Law 1961](#).
- (2) In paragraph (2A) –
 - (a) for sub-paragraph (a) there is substituted –

“(a) the Regulation 2(1)(e) status is granted on or after 1st January 2018 and before 14th July 2023, and the person to whom it is granted has become a person on whom tax is chargeable under this Law on or before 31st December 2023;”;
 - (b) in sub-paragraph (b)(ii) after “1st January 2019” there is inserted “and on or before 31st December 2023”.
- (3) After paragraph (2B) there is inserted –

“(2C) Paragraph (3B) applies where –

 - (a) the Regulation 2(1)(e) status is granted on or after 14th July 2023; or
 - (b) the Regulation 2(1)(e) status is granted before 14th July 2023, and the person to whom it is granted –
 - (i) is not, at that date, but
 - (ii) becomes, on or after 1st January 2024, a person on whom tax is chargeable under this Law.”.
- (4) After paragraph (3A) there is inserted –

“(3B) Where this paragraph applies –

- (a) if, for a year of assessment, so much of the high value resident’s income as is chargeable to tax under Schedule D exceeds the prescribed limit for that year of assessment, the amount of that excess is (despite the rate of tax required by Article 1 to be charged for that year of assessment) charged to tax at the prescribed rate; but
- (b) if, for a year of assessment, the aggregate of a high value resident’s income chargeable to tax under Schedule A and Schedule D (the “actual income”) does not exceed the prescribed limit for that year of assessment –
 - (i) the high value resident is deemed to have received such further amount of income chargeable to tax under Schedule D (the “deemed income”) as would (without deduction of any allowances, exemptions or reliefs due under this Law to that person) in addition to the resident’s actual income, be equal to that prescribed limit, and
 - (ii) the aggregate amount of the actual income and the deemed income is charged to tax at the rate required by Article 1 to be charged for that year of assessment.”.

(5) In paragraph (4) for “and (3A)(a)” there is substituted “, (3A)(a) and (3B)(a)”.

(6) In paragraph (12) –

- (a) for “paragraphs (3), (3A) and (5)” there is substituted “paragraphs (3), (3A), (3B) and (5)”;
- (b) in sub-paragraph (a) for “and (3A)” there is substituted “, (3A) and (3B)”.

2 [Income Tax \(Prescribed Limit and Rate\) \(Jersey\) Regulations 2013](#) amended

(1) This Article amends the [Income Tax \(Prescribed Limit and Rate\) \(Jersey\) Regulations 2013](#).

(2) In Regulation 2 after paragraph (3A) there is inserted –

“(3B) The limit prescribed for the purposes of Article 135A(3B)(a) and (b) is £1,250,000.”.

(3) In Regulation 3(1) for “and (3A)(a)” there is substituted “, (3A)(a) and (3B)(a)”.

3 Citation and commencement

This Law may be cited as the Income Tax (High Value Residents – Amendment) (Jersey) Law 202- and comes into force on 14th July 2023.