

# STATES OF JERSEY



## DRAFT TAXATION (LAND TRANSACTIONS) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 30th September 2009  
by the Minister for Treasury and Resources

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STATES GREFFE





Jersey

## **DRAFT TAXATION (LAND TRANSACTIONS) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 200-**

### **REPORT**

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These Draft Regulations deal with how refinancing will work under LTT. They have been drafted so that refinancing works in exactly the same way as intended under the Stamp Duties and Fees (Jersey) Law 1998.

#### **Background**

The Draft Regulations are the next step in implementing LTT – a tax on ‘share transfer’ transactions which confer rights of occupation of land in Jersey.

The tax payable will be equal to that which would have been payable under the Stamp Duties and Fees (Jersey) Law 1998 for registered transactions and includes all relevant discounts (e.g. those for first-time buyers).

At the moment freehold purchasers are required to pay Stamp Duty under the Stamp Duties and Fees (Jersey) Law 1998 where as those purchasing property by share transfer pay no such charge. In the latter case the owner of the property (i.e. the company in which the shares are purchased in consideration of the right to occupy that property) has not changed – hence there is no requirement to register the transaction in the Royal Court or pay the associated Stamp Duty.

The Draft Taxation (Land Transactions) (Jersey) Law 200- (P.185/2007) was approved by the States on 17th June 2008. It followed the 2005 States decision to approve the Deputy of St. Martin’s proposition (P.211/2004) charging the (then) Finance and Economics Committee to prepare the necessary legislation, for consideration by the States, to introduce stamp duty on share transfer transactions involving immoveable residential and commercial property in Jersey.

#### **Financial and manpower implications**

It is expected that LTT will raise in the region of £1 million to £2 million a year. Only a broad estimate is possible given the data available on share transfer transactions. There are no other financial implications.

There are no additional manpower implications as a result of this decision because the administration of LTT will be absorbed by the current manpower resources in the Treasury department.

## Explanatory Note

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These Regulations amend the Schedule to the Taxation (Land Transactions) (Jersey) Law 2009 (“Law”) to reflect recent changes to the legislation on stamp duty so that land transaction tax (“LTT”) is charged on a broadly equivalent basis to stamp duty.

*Regulation 1* is an interpretation provision.

*Regulation 2* adds a definition to the Schedule to the Law.

*Regulation 3* sets out the basis for charging LTT where there has been refinancing of borrowing secured by a security agreement in respect of dwelling accommodation. £50 is payable for refinancing of an amount equal to or less than the original borrowing. LTT is charged on any excess borrowing according to the value of the excess.

*Regulation 4* amends the basis on which LTT is charged in relation to a purchase of dwelling accommodation by a first time buyer. £50 is payable in respect of a transaction worth up to £300,000 or for the first £300,000 of a transaction. LTT is then charged according the value of the transaction that exceeds £300,000 up to a value of £400,000.

*Regulation 5* amends the basis on which LTT is charged in relation to a security interest taken out by a first time buyer at the time of purchase of dwelling accommodation. £50 is payable where the amount secured by the security agreement does not exceed £300,000 or for the first £300,000 where the amount secured is up to £400,000. LTT is then charged according the amount between £300,000 and £400,000 secured by the security agreement.

*Regulation 6* amends the Schedule to the Stamp Duties and Fees (Jersey) Law 1998 to correct the inadvertent inclusion of one of the cases in item 1 of the Schedule so that the flat rate £50 is not payable twice in respect of refinancing of mortgages.

*Regulation 7* sets out the title of the Regulations and provides that they will come into force on the same date as the Law.



Jersey

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(AMENDMENT OF LAW) (JERSEY)  
REGULATIONS 200-**

**Arrangement**

**Regulation**

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Jersey

## **DRAFT TAXATION (LAND TRANSACTIONS) (AMENDMENT OF LAW) (JERSEY) REGULATIONS 200-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 6 of the Taxation (Land Transactions) (Jersey) Law 2009<sup>1</sup> and Article 3 of the Stamp Duties and Fees (Jersey) Law 1998<sup>2</sup>, have made the following Regulations –

### **1 Interpretation**

In these Regulations “Law” means the Taxation (Land Transactions) (Jersey) Law 2009<sup>3</sup>.

### **2 Paragraph 1 of the Schedule substituted**

For paragraph 1 of the Schedule to the Law there shall be substituted the following paragraph –

#### **“1 Interpretation of Schedule**

In this Schedule –

‘amount secured’ means the amount advanced by a secured party, such amount being secured by a transaction to which Article 3(1)(c) applies;

‘gross value’, in relation to land, means its market value.”.

### **3 Paragraph 3A of the Schedule inserted**

After paragraph 3 of the Schedule there shall be inserted the following paragraph –

**“3A Further amounts secured by a transaction to which Article 3(1)(c) applies**

- (1) This paragraph applies where there is a transaction to which Article 3(1)(c) applies and the conditions specified in sub-paragraph (2) are met.
- (2) Those conditions are that –
  - (a) some or all of the amount secured by that transaction remains unpaid at the time a new amount is secured (the first amount being referred to as the ‘original amount’ and the second amount as the ‘new amount’);
  - (b) the original and new amount apply to a dwelling that is owned by a company and occupied by a person (the ‘occupier’) as his or her sole place of residence in Jersey, such person being entitled to occupy that dwelling by virtue of owning shares in that company;
  - (c) the new amount and the original amount relate to the same dwelling;
  - (d) the occupier referred to in clause (b) is –
    - (i) the borrower of the original amount and the new amount; and
    - (ii) a person to whom any of Regulations 1(1)(a) to (j) and (n)(ii) and (iii) of the Housing (General Provisions) (Jersey) Regulations 1970<sup>4</sup> apply;
  - (e) the effect of borrowing the new amount is to extinguish the borrower’s debt in respect of the original amount;
  - (f) LTT in respect of the original amount has been paid under paragraph 3.
- (3) LTT shall be charged on the value of the transaction described in sub-paragraph (1) in respect of the new amount at the rate of –
  - (a) where the new amount is less than or equal to the unpaid amount, £50;
  - (b) where the new amount is greater than the unpaid amount –
    - (i) for the portion of the amount that is equal to the unpaid amount, £50, and
    - (ii) for the portion of the amount that is greater than the unpaid amount, 50p for each £100 or part of £100, subject to a minimum of £5.”.

**4 Paragraph 4 of the Schedule amended**

For paragraph 4(3) of the Schedule to the Law there shall be substituted the following sub-paragraph –

- “(3) The rate of LTT applicable to a transaction to which this paragraph applies is £50, plus –
- (a) where the value of the transaction does not exceed £300,000, nil;



- (b) where the value of the transaction exceeds £300,000 but does not exceed £400,000, nil in respect of the first £300,000, plus £1 for each £100 or part of £100 in excess thereof.”.

## 5 Paragraph 5 of the Schedule substituted

For paragraph 5 there shall be substituted the following paragraph –

### “5 First time buyers: security interests

- (1) This paragraph applies to a transaction described in Article 3(1)(c) which relates to a transaction described in Article 3(1)(a) which is charged with LTT under paragraph 4, where both transactions relate to the same shares and take place on the same day.
- (2) The rate of LTT applicable to a transaction to which this paragraph applies is £50 plus –
  - (a) where the amount secured by the security agreement does not exceed £300,000, nil;
  - (b) where the amount secured by the security agreement exceeds £300,000 but does not exceed £400,000, nil in respect of the first £300,000 plus 25p for each £100 or part of £100 in excess thereof, subject to a minimum of £25.”.

## 6 Schedule to Stamp Duties and Fees (Jersey) Law 1998 amended

In item 1(d) in Part 1 the Schedule to the Stamp Duties and Fees (Jersey) Law 1998<sup>5</sup> after the words “in all cases under this item,” there shall be inserted the words “except paragraph (ba)”.

## 7 Citation and commencement

- (1) These Regulations may be cited as the Taxation (Land Transactions) (Amendment of Law) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on the same date as the Taxation (Land Transactions) (Jersey) Law 2009.

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- <sup>1</sup> *L.10/2009*
  - <sup>2</sup> *chapter 24.960*
  - <sup>3</sup> *L.10/2009*
  - <sup>4</sup> *chapter 18.315.50*
  - <sup>5</sup> *chapter 24.960*