

STATES OF JERSEY



DRAFT FINANCE (2015 BUDGET) (JERSEY) LAW 201-

Lodged au Greffe on 8th August 2014
by the Minister for Treasury and Resources

STATES GREFFE



Jersey

DRAFT FINANCE (2015 BUDGET) (JERSEY) LAW 201-

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 Finance (2015 Budget) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator P.F.C. Ozouf**

Minister for Treasury and Resources

Dated: 7th August 2014

REPORT

This draft Law gives effect to proposals described in the Draft Budget Statement 2015 (*see* P.129/2014).

Financial and manpower implications

The financial and manpower implications are clearly identified in Part 7 of the Draft Budget Statement 2015.

Human Rights

The notes on the human rights aspects of the draft Law in the Appendix have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice. The Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues.

Human Rights Notes on the Draft Finance (2015 Budget) (Jersey) Law 201-

These Notes have been prepared in respect of the Draft Finance (2015 Budget) (Jersey) Law 201- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The only issues that need to be addressed for human rights purposes arise from the reduction of periods for making claims under Article 83 of the Goods and Services Law. The effect of these changes is to: (a) reduce the general period for making claims for refunds of GST from 6 years to 5 years; and (b) abolish the extended period for making claims so that, where the payment was made by mistake, the time for making a refund claim runs from when the mistake was or should have been discovered.

In the Law Officers’ view, if the legislature ensures that in reducing the time available no-one loses an effective opportunity to make a claim, the reduction of a period for making claims does not infringe property rights under Article 1 Protocol 1. A person who thought they had a year to claim, should not discover that they must make it tomorrow. This problem is avoided by having transitional provisions such as are contained in the draft Law. The problem has often been considered in the European Law context, and the Court of Justice of the European Union has held that, where the normal limitation period is measured in several years, a transitional period of 6 months will ensure that there is no loss of rights to make a claim (see *Grundig Italiana*). This will be a persuasive precedent as to the application of the European Convention, particularly given that the European Court of Human Rights tends to defer to European Union law. The draft Law allows the present regime to continue until 1st July 2015. It follows that anyone who might adversely be affected by the reduction in the time limit will have at least until the expiry of that transitional period to make a claim – and so their property rights will be unaffected as they will still have an effective right to enforce their claim.

The changes will give also any person aware of a mistake claim an adequate transitional period. It is true that those who are unaware of their claims might discover a claim too late to make adequate use of their rights. In that way, this change will remove existing (albeit unknown) rights to make claims. However, this position is no different to that of any individual in any regime which does not provide for an extended time period to make claims based on mistake – and there is no suggestion of any human rights principle that such generous provision should be made. The draft Law thus provides a “fair balance” between public and private interest by abolishing a lengthy extended time limit for making refund claims, the conditions for which involved difficult to adjudicate questions of fact, such as when a mistake could have been discovered with due diligence. A “fair balance” between public and private interest is what is required to be proportionate under the European Court of Human Rights case-law on Article 1 of Protocol 1 to the Convention, and the draft Law plainly achieves that.

For these reasons, the draft Law is plainly compatible with the Human Rights (Jersey) Law 2000.

Explanatory Note

This draft Law makes changes to the income tax, stamp duty and land transaction tax and goods and services tax legislation in line with proposals submitted as part of the 2015 Budget.

Article 1 sets the standard rate of income tax for 2015 at 20 pence in the pound.

Articles 2 to 6 amend the Income Tax (Jersey) Law 1961. *Article 2* provides that persons who return to Jersey after an absence of a complete tax year or longer will, when returning to employment or working as a sub-contractor, pay tax by way of ITIS on a current year basis rather than the previous year basis.

Article 3 caps mortgage interest relief on the only or main residence of persons taxed at the marginal rate at £15,000 for 2015 and future years and makes minor drafting improvements to the provision providing for a cap on the amount of the loan.

Article 4 increases the exemption thresholds for income tax.

Article 5 provides that for 2015 and subsequent years a credit is allowed to individuals taxed at the marginal rate equal to either the income tax payable on foreign income at the marginal rate or the amount of foreign tax paid, whichever is the lower.

Article 6 amends the exception from the requirement to pay income tax at the standard rate that applies to profits on the supply of hydrocarbon oil. It is in future to be limited to those who sell fuel to the public for motor vehicles or boats through a retail outlet instead of to all end users.

Articles 7 to 10 are concerned with the increase in excise duty proposed by the Budget, namely on alcohol (*Article 7*), tobacco (*Article 8*), hydrocarbon oil (*Article 9*) and motor vehicles (*Article 10*).

Articles 11 and 12 relate to stamp duty and land transaction tax (LTT). *Article 11* reduces the stamp duty and LTT on debts secured on residential property valued at £400,000 or less. *Article 12* increases those duties in respect of property transactions valued at over £1,000,000.

Article 13 provides that the nominal rate of stamp duty applicable in the case of a disposition by will of immovable property to a charity or similar body applies only to that body, so that if the disposition is made also to other devisees they are liable to the usual rate of duty.

Article 14 substitutes a new Article 83 of the Goods and Services Tax (Jersey) Law 2007. The effect is to reduce the period within which a person may claim a refund of amounts incorrectly accounted for as output tax from 6 years to 5 years and for the time to run from when the return was due rather than when payment was made to the Comptroller. The provision enabling time to run from when the mistake was discovered, or could with reasonable diligence be discovered, is removed. The changes take effect from 1st July 2015.

Article 15 names the Law and provides for it to come into force on 1st January 2015.



Jersey

DRAFT FINANCE (2015 BUDGET) (JERSEY) LAW 201-

Arrangement

Article

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Jersey

DRAFT FINANCE (2015 BUDGET) (JERSEY) LAW 201-

A LAW to set the rate of income tax for 2015 and to amend the Income Tax (Jersey) Law 1961, the Customs and Excise (Jersey) Law 1999, the Goods and Services Tax (Jersey) Law 2007, the Stamp Duties and Fees (Jersey) Law 1998 and the Taxation (Land Transactions) (Jersey) Law 2009

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Standard rate of income tax for 2015

There shall be levied and charged in Jersey for the year 2015, in accordance with and subject to the provisions of the Income Tax (Jersey) Law 1961¹, income tax at the standard rate of 20 pence in the pound.

2 Income tax: Arrangements for returning tax payers

In Article 41H(1) of the Income Tax (Jersey) Law 1961² –

- (a) at the end of sub-paragraph (b) there shall be deleted the word “or”;
- (b) at the end of sub-paragraph (c) there shall be inserted the word “or” and the following sub-paragraph –

“(d) who returns to Jersey on or after 1st January 2015 after having been non-resident in Jersey for at least one year of assessment immediately prior to so returning, and thereafter in Jersey commences employment or becomes a sub-contractor.”.

3 Income tax: cap on relief for interest payments in respect of only or main residence

- (1) Article 90AA of the Income Tax (Jersey) Law 1961 is amended as follows.
- (2) For paragraph (5) there shall be substituted the following paragraph –
 - “(5) Interest payable in relation to a dwelling-house is eligible for a marginal income deduction under paragraph (2) up to the following limits –
 - (a) that portion of the total amount of the loans to which that interest relates that does not exceed £300,000;
 - (b) for the year of assessment 2015 and ensuing years, that portion of the total interest payable that does not exceed £15,000.”.
- (3) In paragraph (6) after the words “the deduction” there shall be inserted the words “(taking account of the restrictions imposed by paragraph (5))”.

4 Income tax: exemption thresholds

- (1) In Article 92A of the Income Tax (Jersey) Law 1961 –
 - (a) in paragraph (2)(i), for the amount “£25,700” there shall be substituted the amount “£26,100”;
 - (b) in paragraph (2)(ii), for the amount “£22,400” there shall be substituted the amount “£22,800”;
 - (c) in paragraph (2A)(i), for the amount “£25,700” there shall be substituted the amount “£26,100”;
 - (d) in paragraph (2A)(ii), for the amount “£22,400” there shall be substituted the amount “£22,800”;
 - (e) in paragraph (6)(a), for the amount “£15,600” there shall be substituted the amount “£15,900”;
 - (f) in paragraph (6)(b), for the amount “£14,000” there shall be substituted the amount “£14,200”.
- (2) This Article shall have effect for the year of assessment 2015 and ensuing years.

5 Income Tax: marginal rate and double taxation

After Article 92C(2) of the Income Tax (Jersey) Law 1961 there shall be added the following paragraphs –

“(3) For the year of assessment 2015 and ensuing years, a credit is allowable against the income tax payable by virtue of the application of paragraphs (1) and (2).

(4) The amount of the credit is the lower of –

(a) the result of the calculation $\frac{A}{B} \times C$

Where –

A = the income tax payable after the application of paragraphs (1) and (2)

B = the person's total income

C = the income liable to foreign tax,

or

(b) the amount of foreign tax paid.

(5) In calculating the amount of credit under paragraph (4) Article 112 has effect subject to the following modifications –

(a) as if the reference to credit were a reference to the credit calculated under paragraph (4) of this Article;

(b) as if the reference in paragraph (2) to income tax chargeable were a reference to income tax payable;

(c) as if paragraph (3) were omitted;

(d) as if the reference in paragraph (5) to paragraph (3) were a reference to paragraph (4) of this Article; and

(e) as if for the words “the rate mentioned in paragraph (3) of this Article” in paragraph (7) there were substituted the words “the amount of credit calculated under Article 92C(4).”.

(6) In paragraph (4) ‘foreign tax’ and ‘income tax’ have the same meaning as in Article 112(1).”.

6 Income tax: supply of hydrocarbon oil to retail outlets

(1) In Article 123CAA of the Income Tax (Jersey) Law 1961 –

(a) in paragraph (2)(b) for the words “to end-users” there shall be substituted the words “by means of a retail outlet”;

(b) after paragraph (3) there shall be added the following paragraph –

“(4) In this Article ‘retail outlet’ means a facility from which hydrocarbon oil is sold directly to the public solely for use as fuel in motor vehicles or boats.”.

(2) This Article shall have effect for the year of assessment 2015 and ensuing years.

7 Excise duty: alcohol

In Part 2 of Schedule 1 to the Customs and Excise (Jersey) Law 1999³ for paragraphs 1 to 5 there shall be substituted the following paragraphs –

“1 Spirits

There shall be charged –

(a) on all spirits, produced by a small independent distiller of spirits, which are imported into or produced or manufactured in Jersey, excise duty at the rate of £16.23 per litre of alcohol; and

- (b) on all other spirits imported into or produced or manufactured in Jersey, excise duty at the rate of £32.43 per litre of alcohol.

2 Wines

There shall be charged, on all wines imported into or produced or manufactured in Jersey, excise duty at the following rates –

<i>Strength of wines</i>	<i>Rate per hectolitre</i>
Wines exceeding 1.2% volume but not exceeding 5.5% volume	£73.74
Wines exceeding 5.5% volume but not exceeding 15% volume	£193.52
Wines exceeding 15% volume but not exceeding 22% volume	£237.15
	<i>Rate per litre of alcohol</i>
Wines exceeding 22% volume	£32.43

3 Beer

There shall be charged –

- (a) on all beer, produced by a small independent brewer, which is imported into or produced or manufactured in Jersey, excise duty at the rate of –
- (i) £14.92 per hectolitre of beer exceeding 1.2% volume but not exceeding 2.8% volume,
 - (ii) £29.83 per hectolitre of beer exceeding 2.8% volume but not exceeding 4.9% volume, and
 - (iii) £50.61 per hectolitre of beer exceeding 4.9% volume; and
- (b) on all other beer imported into or produced or manufactured in Jersey, excise duty at the rate of –
- (i) £29.83 per hectolitre of beer exceeding 1.2% volume but not exceeding 2.8% volume,
 - (ii) £59.67 per hectolitre of beer exceeding 2.8% volume but not exceeding 4.9% volume, and
 - (iii) £101.20 per hectolitre of beer exceeding 4.9% volume.

4 Cider

There shall be charged –

- (a) on all cider, produced by a small independent cider-maker, which is imported into or produced or manufactured in Jersey, excise duty at the rate of –

- (i) £14.92 per hectolitre of cider exceeding 1.2% volume but not exceeding 2.8% volume,
 - (ii) £29.83 per hectolitre of cider exceeding 2.8% volume but not exceeding 4.9% volume, and
 - (iii) £50.61 per hectolitre of cider exceeding 4.9% volume; and
- (b) on all other cider, imported into or produced or manufactured in Jersey, excise duty at the rate of –
- (i) £29.83 per hectolitre of cider exceeding 1.2% volume but not exceeding 2.8% volume,
 - (ii) £59.67 per hectolitre of cider exceeding 2.8% volume but not exceeding 4.9% volume, and
 - (iii) £101.20 per hectolitre of cider exceeding 4.9% volume.

5 Other alcoholic beverages

There shall be charged, on all alcoholic beverages imported into or produced or manufactured in Jersey (other than wines, beer or cider) exceeding 1.2% volume but not exceeding 5.5% volume, excise duty at the rate of £32.43 per litre of alcohol.”.

8 Excise duty: tobacco

In paragraph 6 of Part 2 of Schedule 1 to the Customs and Excise (Jersey) Law 1999, for the table there shall be substituted the following table –

<i>“Type of tobacco</i>	<i>Rate of excise duty per kilogramme</i>
(a) unprocessed tobacco	£263.26
(b) cigars	£284.85
(c) cigarettes	£356.19
(d) hand-rolling tobacco	£302.76
(e) processed tobacco other than types (b) to (d)	£275.69”.

9 Excise duty: hydrocarbon oil

In paragraph 7(1) of Part 2 of Schedule 1 to the Customs and Excise (Jersey) Law 1999, for clauses (a) to (d) there shall be substituted the following clauses –

- “(a) on higher octane ultra low sulphur petrol £46.32 per hectolitre
- (b) on all other ultra low sulphur petrol £44.53 per hectolitre
- (c) on ultra low sulphur diesel £44.53 per hectolitre

- (d) on all other types of hydrocarbon oil £48.13 per hectolitre.”.

10 Excise duty: motor vehicles

In paragraph 8 of Part 2 of Schedule 1 to the Customs and Excise (Jersey) Law 1999 –

- (a) after sub-paragraph (3), for Table 1 there shall be substituted the following table –

“TABLE 1 LPVs FIRST REGISTERED ON OR AFTER 1st MARCH 2001				
1 CO ₂ mass emission figure	2 LPV first registered in Jersey	3 LPV first registered outside Jersey 1 year or less ago	4 LPV first registered outside Jersey more than 1 but 2 years or less ago	5 LPV first registered outside Jersey more than 2 years ago
120g or less	£0	£0	£0	£0
More than 120g but not more than 150g	£47	£47	£28	£23
More than 150g but not more than 165g	£141	£141	£94	£70
More than 165g but not more than 185g	£212	£212	£135	£107
More than 185g but not more than 225g	£354	£354	£230	£177
More than 225g but not more than 250g	£707	£707	£461	£354
More than 250g but not more than 300g	£1,178	£1,178	£766	£589
More than 300g	£1,473	£1,473	£960	£735.”;

- (b) after sub-paragraph (4), for Table 2 there shall be substituted the following table –

“TABLE 2 ALL OTHER MOTOR VEHICLES				
1 Cylinder capacity of engine	2 Vehicle first registered in Jersey	3 Vehicle first registered outside Jersey 1 year or less ago	4 Vehicle first registered outside Jersey more than 1 but 2 years or less ago	5 Vehicle first registered outside Jersey more than 2 years ago
1000cc or less	£0	£0	£0	£0
More than 1000cc but not more than 1400cc	£177	£177	£118	£88
More than 1400cc but not more than 1800cc	£295	£295	£194	£147
More than 1800cc but not more than 2000cc	£447	£447	£289	£225
More than 2000cc but not more than 2500cc	£589	£589	£382	£295
More than 2500cc but not more than 3000cc	£883	£883	£578	£442
More than 3000cc but not more than 3500cc	£1,178	£1,178	£766	£589
More than 3500cc	£1,473	£1,473	£960	£735.”.

11 Stamp duty and land transactions tax: secured debts

- (1) In Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998⁴ after item 1(a) there shall be inserted the following item –

Item	Stamp Duty, by Figure or Rate	Chargeable Document	Designated Officer
“(aa) Where – (i) the borrowing relates to a contract of purchase, or a contract of lease or transfer of lease, of land on which a dwelling is, or is to be, constructed for occupation by the purchaser, (ii) the borrowing and the contract relate to the same			

	Item	Stamp Duty, by Figure or Rate	Chargeable Document	Designated Officer
	property, (iii) the acknowledgement and the contract were registered in the Public Registry and passed before the Royal Court on the same day, and (iv) where the gross value of the property or, where the dwelling has not been constructed, the notional gross value of the property once the dwelling has been constructed, calculated on the basis of market values obtaining at the time of the sale, is £400,000 or less–			
	(i) where the amount secured does not exceed £300,000	NIL	<i>Billet</i>	Greffier
	(ii) where the amount secured 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	<i>Billet</i>	Greffier”.

- (2) After paragraph 3A of the Schedule to the Taxation (Land Transactions) (Jersey) Law 2009⁵ there shall be inserted the following paragraph –

“3B Lower value residential property: security interests

- (1) This paragraph applies to a transaction described in Article 3(1)(c) that relates to –
- (a) a transaction described in Article 3(1)(a) in respect of land on which a dwelling is, or is to be, constructed for occupation by the occupier; and
 - (b) the gross value of the property or, where the dwelling has not been constructed, the notional gross value of the property once the dwelling has been constructed, calculated on the basis of market values obtaining at the time of the sale, is £400,000 or less; and
 - (c) 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 £80 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.”.

12 Stamp duty and land transactions tax: increase for higher value properties

- (1) The text set out in paragraph (2) shall be substituted for each of the following provisions in Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998 –
- (a) item 13(a)(vi) to (viii);
 - (b) item 13(c)(vi) to (viii);
 - (c) item 13(h)(vi) to (viii);
 - (d) item 13(j)(vi) to (viii);
 - (e) item 13(k)(vi) to (viii);
 - (f) item 13(l)(2)(vi) to (viii);
 - (g) item 13(n)(vi) to (viii).
- (2) The substituted text is –

“(vi) exceeds £1,000,000 but does not exceed £1,500,000	£22,000 in respect of the first £1,000,000 plus £4 for each £100 or part of £100 in excess thereof	Contract	Greffier
(vii) exceeds £1,500,000 but does not exceed £2,000,000	£42,000 in respect of the first £1,500,000 plus £5 for each £100 or part of £100 in excess thereof	Contract	Greffier
(viii) exceeds £2,000,000 but does not exceed £3,000,000	£67,000 in respect of the first £2,000,000 plus £6 for each £100 or part of £100 in excess thereof	Contract	Greffier
(ix) exceeds £3,000,000	£127,000 in respect of the	Contract	Greffier”.

		first £3,000,000 plus £7 for each £100 or part in excess thereof		
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- (3) In Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998 for item 46(1)(f) to (h) there shall be substituted the following –

	“(f) exceeds £1,000,000 but does not exceed £1,500,000	£22,000 in respect of the first £1,000,000 plus £4 for each £100 or part of £100 in excess thereof	Application	Greffier
	(g) exceeds £1,500,000 but does not exceed £2,000,000	£42,000 in respect of the first £1,500,000 plus £5 for each £100 or part of £100 in excess thereof	Application	Greffier
	(h) exceeds £2,000,000 but does not exceed £3,000,000	£67,000 in respect of the first £2,000,000 plus £6 for each £100 or part of £100 in excess thereof	Application	Greffier
	(i) exceeds £3,000,000	£127,000 in respect of the first £3,000,000 plus £7 for each £100 or part in excess thereof	Application	Greffier”.

- (4) For paragraph 2(1)(f) to (h) of the Schedule to the Taxation (Land Transactions) (Jersey) Law 2009 there shall be substituted the following clauses –

“(f) exceeds £1,000,000 but does not exceed £1,500,000 –	£22,000 in respect of the first £1,000,000 plus £4 for each £100 or part of £100 in excess thereof;
(g) exceeds £1,500,000 but does not exceed £2,000,000 –	£42,000 in respect of the first £1,500,000 plus £5 for each £100 or part of £100 in excess thereof;
(h) exceeds £2,000,000 but does not exceed £3,000,000 –	£67,000 in respect of the first £2,000,000 plus £6 for each £100

	or part of £100 in excess thereof;
(i) exceeds £3,000,000	£127,000 in respect of the first £3,000,000 plus £7 for each £100 or part in excess thereof.”

13 Stamp duty: immovable property devised to charity and other devisees

In Part 1 of the Schedule to the Stamp Duties and Fees (Jersey) Law 1998 for proviso (AA) to item 46 there shall be substituted the following proviso –

“(AA)where the testator devises immovable property, whether as sole devisee or jointly with others –

- (a) to a corporation, association or trust, or a non-profit organization, described in Article 115(a), (aa) or (ab) of the Income Tax (Jersey) Law 1961; and
- (b) that body produces to the Greffier a letter from the Comptroller of Taxes confirming that the body qualifies for exemption under one of those provisions,

the only fee payable by the body shall be the fee payable under paragraph (2)(a) or, as the case may be, (2)(b) (but any other devisees shall be liable to pay the fees required by this item based on the net value of that part of the property not devised to the body);”.

14 GST: Refunds

For Article 83 of the Goods and Services Tax (Jersey) Law 2007⁶ there shall be substituted, with effect from 1st July 2015, the following Article –

“83 Refund of excess amounts accounted for as output tax

- (1) If a person has accounted for an amount as output tax to the Comptroller that exceeds the amount actually due to the Comptroller, the Comptroller shall, on a claim by the person made within a period of 5 years from the date on which the return for the tax period became due, be liable to refund the excess amount to the person.
- (2) Despite any other law, the Comptroller shall not be liable to refund the excess amount except as required under this Article.
- (3) The Comptroller shall not in any case be liable to refund the amount to the extent that the refund would unjustly enrich the claimant.”.

15 Citation and commencement

This Law may be cited as the Finance (2015 Budget) (Jersey) Law 201- and shall come into force on 1st January 2015.

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- 1* chapter 24.750
 - 2* chapter 24.750
 - 3* chapter 24.660
 - 4* chapter 24.960
 - 5* chapter 24.980
 - 6* chapter 24.700