

STATES OF JERSEY



JERSEY INFRASTRUCTURE LEVY: APPROVAL IN PRINCIPLE (P.100/2017) – AMENDMENT (P.100/2017 Amd.) – COMMENTS

**Presented to the States on 8th December 2017
by the Minister for the Environment**

STATES GREFFE

COMMENTS

Summary

Members are strongly recommended to oppose this amendment.

The amendment is broken into 2 parts.

[1 PAGE 2, PARAGRAPH (a) –

After the word “Jersey,” insert the words “which will incentivise sustainable development predominantly on brown field sites and discourage the development of green field sites.”.]

The purpose of this part of the amendment is to use differential levy rates to disincentivise developments in sensitive areas by having higher levy rates, and conversely to encourage development in the less sensitive areas (built-up areas) by having relatively lower rates.

This idea was first put forward under the proposer’s own report co-authored with Senator I.J. Gorst, entitled “Environmental Strategy Levy – a consultation paper” (12th May 2007). According to the authors, the aim of this levy was to “to modify behaviour, rather than purely to raise revenue”.

The principle of this approach is supported, and the potential use of differential levy rates in different parts of the Island was explored as part of the research and analysis of viability in Jersey.

The outcome of the viability work, however, was that there was no evidence to support the introduction of different levy rates in different parts of the Island. The work found that, whilst there might be some small variation in value between parishes, this was not sufficient to justify differential rates. It was found that the key factor to influence value, in the residential market for example, was the specific range of features of the accommodation, rather than its location in a particular parish. On this basis, the evidence supported the use of a standard levy rate across the Island.

This simpler approach also means that the application of the levy is easier to understand, to apply and to administer.

The proposal to introduce an infrastructure levy in Jersey is not designed to influence behaviour; in a way that environmental taxes might be used, for example, to encourage people to drive more fuel-efficient cars. The ‘behaviour’ of the development industry is already well-regulated and managed through the existing planning policy framework provided by the Revised 2014 Island Plan, which serves to ensure the delivery of environmental objectives.

Similarly, the proposer suggests that the use of differential levy rates might be used to encourage the provision of homes with more space. The levy is also not designed to have this effect, and there is no evidence to support its use in this way.

The best way of ensuring that dwellings are of sufficient size is through the application of planning guidance, which set out the need for development proposals to comply with minimum space standards. Such guidance already exists, and is the subject of review, to ensure that new homes meet current and future needs and expectations.

This amendment cannot be supported, as it is unnecessary; not evidenced; and, if supported, would lead to a more complicated and costly levy proposal.

[2 PAGE 2, NEW PARAGRAPH –

In paragraph (a), after the words “in principle,” insert the words “and subject to the provisions of paragraph (c),” and after paragraph (b) insert the following new paragraph –

“paragraphs (a) and (b) shall be void and have no effect until the Minister for the Environment and the Minister for Treasury and Resources have conducted and published an appraisal of the net funds estimated to be raised annually by the introduction of the Infrastructure Levy and the net funds estimated to be raised annually by the introduction of a Stamp Duty anti-avoidance provision and proposals on Stamp Duty – enveloped property, as set out on pages 12 and 31 of the Draft Budget Statement 2018 (P.90/2017), in the same time period, and that appraisal has shown that the proposed Infrastructure Levy is estimated to yield at least 10% more revenue than the proposals to reform Stamp Duty”.]

The second part of the proposer’s amendment relates to the review of the existing tax system to identify if equivalent monies could be raised and used as an alternative to the proposed levy.

This cannot be accepted for a number of fundamental reasons.

Firstly, any review of a tax measure is an entirely separate exercise, which would need to be carried out by the Treasury.

With regard to the specific point raised by the proposer on potential stamp duty avoidance, the Treasury are currently reviewing the applicable tax treatment where shares in Jersey property-owning companies (rather than the properties themselves) are transferred in such a way that the transaction is liable to neither stamp duty nor land transaction tax.

If this review ultimately leads to additional revenues, then they will rightly benefit the general taxpayer, and cannot be relied upon to provide consistent and long-term development-related community infrastructure funding.

Secondly, a full review of property tax was recently completed. Although many of the high-level ideas outlined in the Green Paper have not been progressed (e.g. an overhaul of the rates system), the idea of capturing some of the value from development gains did garner some support from the Public.

This is the basis for proposing the Jersey Infrastructure Levy (“JIL”).

The proposer also considers that the proposed levy is in effect a Capital Gains Tax.

The definition of a Capital Gains Tax is: a tax on the profit when you sell (or ‘dispose of’) something (an ‘asset’) that has increased in value.

The JIL is not a Capital Gains Tax – it is not a tax calculated on, or by reference to, the profits made on a particular transaction. The JIL is instead a charge based upon the size of a development, and so is best described as an impact levy.

The JIL is designed to be a simple, broad and viable levy that will be charged at the same flat rate for all developments, regardless of the profit made by the developers on any given scheme.

The levy will be very simple to calculate and administer, given that it is based upon the size of a development – information that is already required and provided through the planning application process.

The JIL will deliver sustainable long-term income to mitigate against the impact of developments, and should not be part of a wider, and potentially more complicated review of the tax system.

I therefore urge members to reject this amendment.