

STATES OF JERSEY



DRAFT INCOME TAX (AMENDMENT – STAGE 2 OF INDEPENDENT TAXATION) (JERSEY) LAW 202- (P.6/2024): COMMENTS

**Presented to the States on 10th April 2024
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction

1. The proposition - *Draft Income Tax (Amendment – Stage 2 of Independent Taxation) (Jersey) Law 202- [P.6/2024]* - (hereafter the “draft Law”) proposes the further legislative changes required for the implementation of the second stage of Independent Taxation, which will conclude the transition to Independent Taxation for people who are married or in a civil partnership by amending the [Income Tax \(Jersey Law\) 1961](#) (hereafter the “Income Tax Law”).
2. The draft Law was lodged on 16th January 2024 for earliest debate by the States Assembly (hereafter the “Assembly”) on 27th February 2024. On request from the Chair of the Corporate Services Scrutiny Panel (hereafter the “Panel”), the Minister for Treasury and Resources (hereafter the “Minister”) agreed to defer the debate on the proposition to 16th April 2024, to provide the Panel with the time required to continue its scrutiny of the proposals.
3. The draft Law proposes Independent Taxation for all Islanders. In addition, it allows the option of joint filing (yet still Independent Taxation) for married and civil partnered couples who currently file one joint tax return. Moreover, the provision of the ‘Compensatory Allowance¹,’ seeks to ensure that no couples will be financially disadvantaged by the move to Independent Taxation.
4. Should the draft Law be adopted by the Assembly, the following notable changes will come into effect for the personal tax system, thereby achieving Independent Taxation for all Islanders from 1st January 2026:
 - Couples who were married and resident in Jersey before 2022 can choose to file one joint tax return if they have historically filed one return.
 - Both spouses will elect to file jointly; however, either spouse can revoke the election without the other’s permission.
 - The couple will nominate a ‘responsible spouse’ to file the joint return on behalf of the couple. The ‘responsible spouse’ will be liable for any associated penalties.
 - Two independent tax assessments will be received, despite filing one tax return, as the couple will be assessed and taxed independently on their own income and allowances.
 - Two tax assessments will require two separate payments to be made. However, authority can be granted for a nominated individual to discuss and pay any liabilities on behalf of the taxpayer.
 - Changes to the tax rules will be made in respect of pensioners receiving social security pension with an uplift (known as the ‘red card’).

¹ Compensatory Allowance - The exact amount of the allowance will depend on the couple’s joint income and will be calculated each year by reference to the couple’s personal circumstances. The Compensatory Allowance would always be awarded to the higher earner because the increase in tax would always fall on the higher earner alone. The lower earner in the couple would be exempt from tax, with their income being below the threshold. The allowance will reduce overtime as the single person’s tax threshold increases.

5. It is the Panel's understanding that, should the Assembly adopt the draft Law, the changes will be initiated as follows:
 - The Income Tax Law will recognise Independent Taxation as the default position from 1st January 2025, with a Schedule to maintain married couples' taxation for the year of assessment 2024.
 - Mandatory Independent Taxation will be introduced for all couples from the year of assessment 2026 along with the provision of the Compensatory Allowance as appropriate.

Background

6. The previous Assembly adopted legislation that enabled elements of the draft Law to come into force through the adoption of *Personal Tax Reforms* [P.119/2019]. The draft Law follows the adoption of the *Draft Income Tax (Amendment – Stage 1 of Independent Taxation) (Jersey) Law 202-* [P.78/2021], which was adopted by the Assembly in September 2021. The Panel that served from 2018 - 2022 reviewed and presented [Comments](#) on the proposals for the first stage of Independent Taxation.
7. The draft Law encompasses revised proposals, following the Assembly's decision on 5th July 2023 to adopt Part B of [P.32/2023] - *Removal of Compulsory Independent Taxation for Existing Married Couples and Civil Partnerships* - which requested the Minister to take the necessary steps to ensure that joint taxation remained available for married couples and civil partners who could currently complete one tax return (this was understood by the Minister to mean an option for joint filing). This resulted in the withdrawal of the original proposals P.41/2023 (lodged on 6th June 2023) and the revised proposals were lodged to take into account the Assembly's decision on P.32/2023.
8. On 13th February 2024 a backbench Amendment was lodged to the draft Law [P.6/2024Amd.], which proposes to remove Article 3 from the draft Law thereby removing the option for joint filing. The Amendment proposes to achieve what it calls *true* independent taxation and therefore compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
9. The explanatory note to the draft Law explains that - *Article 3 inserts new Articles 16AA and 16AB into the Income Tax Law. These Articles allow people who were in legal relationships and resident in Jersey before the 2022 year of assessment ("qualifying partners") to elect to file joint returns. Qualifying partners may nominate a "responsible partner", who will be responsible for filing the return on behalf of the couple. The joint return will be used to assess each qualifying partner for tax independently.*
10. Therefore, it is the Panel's understanding that Articles 16AA and 16AB would be removed, should P.6/2024Amd. be adopted by the Assembly. The draft Law would then revert to a position like that reflected in the initial proposals (P.41/2023) because the option for joint filing for spouses and civil partners

(Article 16AA) and the election process - to make and revoke a decision - to file jointly (Article 16AB) would be removed.

Rationale for and progress of personal tax reforms

Discriminatory components

11. It is noted that in respect of the current tax system, that for married couples the husband has legal responsibility for the couple's tax affairs and that the wife only receives the effective Income Tax Instalment Scheme (ITIS) rate. Moreover, for civil partners, the older partner has legal responsibility. Therefore, the current taxation system could be perceived as discriminatory as the wife's income is considered that of her husbands in accordance with the Income Tax Law.
12. Furthermore, although married couples can claim the Married Couples Allowance, cohabiting couples cannot. Therefore, it is noted that for cohabiting couples who are not married, the Second Earners Allowance was introduced, which acts to remove this discriminatory element for cohabiting couples who are not married.

Ratification of CEDAW

13. The Panel observed that the United Kingdom's (UK's) ratification of CEDAW has been extended to Jersey. CEDAW includes commitments to *eliminate discrimination against women*. For the purposes of the draft Law, this includes the elimination of discrimination in all matters relating to economic and social life (Article 13 of CEDAW) and marriage and family relations (Article 16 of CEDAW). The content of the specific Articles of CEDAW can be found [here](#).
14. It is the Panel's understanding that when CEDAW was extended to Jersey, it was necessary for the UK to enter certain reservations in respect of Jersey's compliance. The purpose of some of these reservations was to allow Jersey to continue to apply legislation that was not compatible with CEDAW pending its repeal. The text of these reservations can be found [here](#). A reservation was entered in respect of income tax, which is expressed to relate to Article 13 of CEDAW, but is also relevant to Article 16. So far as Articles 13 and 16 of CEDAW are relevant to the draft Law, they provide that:

“Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;*
- (b) The right to bank loans, mortgages and other forms of financial credit;*
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.”*

“Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

.....
(c) The same rights and responsibilities during marriage and at its dissolution;

.....
(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
.....”

15. The Panel notes that the Income Tax Reservation entered by the UK in respect of Jersey states that:

“The Bailiwick of Jersey reserves the right, notwithstanding the obligations undertaken in Article 13, or any other relevant article of the Convention, to continue to apply income tax legislation, pending proposed changes to these arrangements, which:

Deems for income tax purposes the income of a married person living with their spouse in a year, or part of a year, of assessment to be the spouse’s income and not that of the married person (subject to the right of either the married person or spouse to elect for separate assessment); and

Requires tax in respect of such income of such a married person to be assessed on their spouse (subject to the right of either the married person or their spouse to apply for separate assessment) and consequently if no such application is made restricts to the spouse the right to appeal against any such assessment and to be heard or to be represented at the hearing of any such appeal.”

Scrutiny of the proposals

16. From 2019 to date, extensive scrutiny of the legislative changes for taxation reform has been undertaken including for *Personal Tax Reforms*, the *First Stage of Independent Taxation* and now the final proposals (the draft Law) for the *Second Stage of Independent Taxation*.
17. Considering the importance of this workstream and its impact on Islanders, the Panel that served from 2022 to January 2024 (hereafter the “former Panel”), launched the [review](#) of the draft Law on 9th June 2023 – this was in respect of the initial proposals for the second stage of Independent Taxation (P.41/2023). The former Panel received a private briefing on those proposals and sought views from targeted stakeholders as well as members of the public over a two-week period between 12th and 23rd June 2023. These can be viewed [here](#). The former Panel also explored the proposals during a public quarterly hearing² on 28th April 2023 through questioning, which was informed by Islanders’ views,

² [Transcript – Quarterly Public Hearing with the Minister for Treasury and Resources \(Pg 9-17\)](#)

in particular regarding the mandatory aspect of the proposals (i.e. at this stage the proposals did not include an option for joint filing).

18. In March 2024, the Panel agreed to continue scrutiny of this workstream by reviewing the draft Law (the revised proposals). Considering that these proposals provide for both Independent Taxation for all couples as well as the option for joint filing under certain circumstances, the Panel sought to understand whether the proposed changes affected any of the previous feedback received by the former Panel and whether stakeholders had any further views to share on the draft Law, particularly in respect of the revisions (i.e. the option for joint filing and any unintended consequences thereof particularly in respect of Jersey's obligation to comply with CEDAW and in circumstances of potential coercive and controlling behaviour.)
19. The Panel received a private briefing on the draft Law on 5th March 2024 and wrote to targeted stakeholders on 13th March 2024 to request further feedback. The further submissions received can be viewed [here](#).
20. Considering the proposed Amendment [[P.6/2024 Amd.](#)] to the draft Law to remove Article 3, which asserts that its purpose is to achieve *true* Independent Taxation and compliance with CEDAW, the Panel also sought advice from the Law Officers' Department. The Panel endeavoured to clarify the following areas:
 - Whether the draft Law achieves true compliance with CEDAW.
 - The impact of retaining or removing Article 3 of the draft Law on Jersey's commitments to CEDAW compliance.
21. The Panel also [wrote](#) to the Minister seeking clarity on particular concerns raised within the submissions received. The response can be found [here](#).

Observations of the Panel that served from 2018-2022: [[P.78/2021 Com.](#)]

22. The [review](#) on the *first stage of the Independent Taxation* proposals concluded support for the move to Independent Taxation and noted that it was an essential change to end an outdated and discriminatory taxation system. In 2021 it was observed that, although many Islanders welcomed the introduction of Independent Taxation, in particular noting how it would help to provide some protection against financial abuse and control from one partner who is domestically abusive towards the other, there were a number of Islanders – including pensioners and those on lower incomes – who had expressed considerable concern that Independent Taxation would see them pay more and that it would be financially damaging for them. Furthermore, a number of submissions at that time included requests for Independent Taxation not to be mandatory, in order to prevent certain couples from paying more tax or facing additional administrative burdens.
23. Also, several key concerns regarding the implementation of Independent Taxation, which would need addressing ahead of default implementation for all Islanders were raised at that time. The following observations were made:

Communication: The impact of independent taxation on Islanders was not appropriately communicated and there was a failure to adequately ease the concerns of Islanders, particularly those on lower incomes. In 2021, the Minister at that time was urged to take action to address Islanders' concerns.

Administrative complexities: Independent taxation would inevitably result in an increase in the administrative costs to be incurred by Revenue Jersey. In 2021 it was suggested that the Minister at that time should review the resources to ensure that it would be able to sustain the additional work that would be required.

Child Tax Allowance: A clear understanding of the Child Tax Allowance following the introduction of Independent Taxation was required in order to ensure that the transition to Independent Taxation would not disrupt or not negatively impact those in receipt of this allowance.

Concern for lower income earners: Lower income earners should not be made to potentially subsidise those on significantly higher incomes as a result of Independent Taxation. In 2021, it was recommended that further clarity be provided on how any tax benefits obtained from those on higher incomes would be mitigated during the second stage of Independent Taxation to eliminate any disparity.

Observations of the former Panel: [P.41/2023]

24. In light of the observations made by the Panel that served from 2018-2022 on the *first Stage of Independent Taxation* as well as the former Panel's consideration of the proposals brought by [P.41/2023](#) for the *second stage of Independent Taxation*, the former Panel sought to understand what progress had been made since the adoption of [P.78/2021](#), also in respect of actions taken to alleviate the concerns raised at that stage.
25. As such, the former Panel wrote to several targeted stakeholders requesting their views on the draft Law and on specific aspects of the proposals for the *second stage of Independent Taxation* including:
 - The practicalities and feasibility of the implementation.
 - The engagement and consultation process to date for raising awareness of the changes and the impacts thereof.
 - The impact of the proposals on specific groups as well as children and young people.
 - Whether any potential unintended consequences of the proposals could be identified.
 - The effectiveness and viability of the Compensatory Allowance to effectively fulfil its aims.
26. The former Panel received [submissions](#) from stakeholders and [comments](#) from members of the public expressing their views and made the following observations:

Impact on charities

27. [Citizens Advice Jersey \(CAJ\)](#) shared several key concerns with the former Panel regarding the impact of the proposed changes on the charity and its ability to support Islanders as a result. The charity anticipated an increase in demand from Islanders who would be seeking support for the understanding, drafting and filing of their returns. Subsequent to the concerns raised by CAJ regarding the impact of the proposed changes on the charity, the former Panel [wrote](#) to the Minister on 28th June 2023 to highlight the charity's concerns, which primarily related to its ability to sustain support for Islanders on the Government led directive should it not receive any form of additional Government financial support. The Panel received a [response](#) from the Assistant Minister on 3rd July 2023. Although surprised by the concerns raised by CAJ, the Assistant Minister provided assurance within the response that Revenue Jersey was committed to ensuring the required resource and funding was in place to ensure that any burden of the transition to Independent Taxation would not impact heavily on CAJ.

Mandatory Independent Taxation

28. In [comments](#) received by the former Panel from members of the public, concern was raised on the mandatory approach and it was questioned whether the proposals should remain optional. Moreover, although the concept of Independent Taxation was favourable to many, it was felt that the proposals were poorly thought out and posed detrimental consequences as a result.
29. The former Panel explored the mandatory element of the proposals during the briefing, observing concerns of the public in that regard and also highlighted concerns raised with them by some older couples who were not supportive of the compulsory nature of the proposals and questioned why the proposed changes should be mandatory.

Administrative concerns

30. The former Panel explored the implications and cost of running two tax systems, as was presently being conducted as a result of the Independent Taxation pilot scheme, and whether this was a viable option to continue in light of feedback received for an optional approach. It was explained that as contracts and future digital and tax strategies were coming up for review, for an accurate costing to be obtained for such proposals, enquiries and assessments would need to be undertaken. Therefore, at that time the cost of running two tax systems was not clear.
31. [Grant Thornton](#) within its submission raised concern regarding the increased administrative burden and numerous administrative issues, consequences and uncertainty that the proposed changes would bring without achieving any tax benefit. Furthermore, that unintended liabilities may be created for one of the partners through error and that would result in increased appeals. Grant Thornton accepted that if a new tax system were being designed then each person would be taxed independently. However, felt that the proposals would only create additional complexity and unwanted administration for thousands

of people for at least the next ten years whilst not achieving the aims of being a truly independent system.

Compensatory Allowance

32. The former Panel explored the purpose and aims of the Compensatory Allowance. It was the former Panel's understanding that the Compensatory Allowance was intended to ensure that those impacted by the proposals, estimated to be 7,300 taxpayers, would not be financially disadvantaged by the proposed changes.
33. Noting that in order to receive the Compensatory Allowance, it would need to be claimed by the higher earner and, therefore, the partner would be required to share their financial details with the higher earner in order to benefit, the Panel raised concern that the process could be perceived as intrusive by some couples and questioned the reality of the *independence* of the system considering that financial details were still required to be shared. Notwithstanding this concern, the former Panel understood that the process would be a requirement in order for Revenue Jersey to assess the level of allowance in respect of each individual's income, noting that each person's financial position and circumstances would be assessed independently for Independent Taxation to be achieved.
34. The former Panel explored the revenues from a transition to Independent Taxation and understood that if the Compensatory Allowance were not applied, the Department for Treasury and Exchequer would benefit from increased revenue to an estimated amount of £10 million. However, it was emphasised to the former Panel that the principle of the proposed changes was not to derive revenue. Therefore, the Compensatory Allowance was being introduced to alleviate any unintended impact, particularly as it would be lower income households who would be impacted by the proposals.
35. Within a submission received from [Grant Thornton](#), concern was also raised that the Compensatory Allowance mechanism creates an additional two-tier system (in addition to the two-calculation tax system already in place) depending on the date of marriage or arrival in the Island.
36. Concern was also raised within the submission received from the acting [Children's Commissioner for Jersey](#) (CCJ) in respect of the changing economic circumstances since being consulted on the draft Law in 2021 and 2022 and the financial and housing crisis that Islanders are facing. Therefore, the CCJ questioned whether an ongoing review of the requirement for the Compensatory Allowance should be considered as a result.
37. [Comments](#) received by the former Panel from members of the public, in the main, highlighted the justification and necessity to move away from the current system in which women are treated in a discriminatory manner, however, also highlighted the concern over whether the proposed Compensatory Allowance mechanism may prove insufficient.

Domestic abuse concerns

38. The former Panel explored whether consideration had been given to any potential social implications of the proposed changes, in particular regarding circumstances of domestic abuse relating to coercive or controlling behaviours. The former Panel was informed that consideration of the concerns took place internally within Government as well as in consultation with the Jersey Women's Refuge (now Freeda). The view was that Independent Taxation would be beneficial as each individual would have their own identity for taxation purposes.
39. In a submission received from the acting [Children's Commissioner for Jersey \(CCJ\)](#) it was confirmed to the former Panel that the CCJ welcomed the proposed changes particularly regarding the possibility of financial control that the current system for married couples was open to, which could also impact children.

Communications

40. As part of the evidence gathered the former Panel observed that members of the public remain unaware of the proposed changes, the impact thereof on them and also questioned how their concerns would be addressed. It was the former Panel's view that the communications undertaken to date had not provided the appropriate clarity needed by all Islanders.
41. In comments received from members of the public it was noted that although consultation had taken place on the first and second stages of the draft Laws, it was felt that Revenue Jersey had not dealt with the concerns or feedback raised with them through the consultation processes.
42. The former Panel explored this further and understood that support would be provided for those Islanders who would require assistance should the proposed changes be implemented. Moreover, that a further communications campaign would consider any issues and the means to appropriately reassure Islanders and address their concerns.
43. The former Panel emphasised the requirement to communicate the proposed changes to Islanders in an appropriate and sensitive manner.
44. In light of this area of concern, the former Panel also questioned whether adequate resourcing would be available at the time of implementation to ensure that necessary and timely support was available to those that required it.

Scrutiny by the Panel: [P.6/2024]

45. Having considered the evidence gathered to date and the revisions to the proposals, the Panel sought to understand whether the revised proposals affected any of the previous feedback received by the former Panel and stakeholders' views to share on the draft Law in its revised form. As such the Panel requested feedback from the same stakeholders that submitted feedback on the initial proposals and from further targeted stakeholders to understand the

current viewpoints in respect of the draft Law, particularly regarding the following:

- Adequate alignment of the proposals to realistically meet its aims.
 - Any areas of unintended taxation related risks, weakness, consequences, irregularities and gaps which may have been overlooked.
 - The legislative approach and whether the implementation of the proposals is practicably feasible.
 - The impact, both negative and positive of the proposals.
 - The consultation process.
 - The impact of the proposals on pensioners.
 - The impact of the proposals on coercive and controlling behaviour.
46. The Panel received [submissions](#) from stakeholders expressing their views, their full submissions can be found here:
- [Citizens Advice Jersey](#)
 - [Age Concern Jersey](#)
 - [Grant Thornton](#)
 - [Jersey Domestic and Sexual Abuse Support](#)
 - [Violence Against Women and Girls Taskforce](#)

The Panel's observations

47. Considering the extensive scrutiny of the developing proposals since 2021 to arrive at the draft Law, which proposes the final steps to Independent Taxation for all Islanders, the Panel considered the evidence gathered since the initial stages of this process. Therefore, the Panel concluded the following observations in respect of the key areas that were highlighted to date, in addition to any further reflections through its scrutiny of the draft Law.

Impact on Charities

48. It is the Panel's understanding that the initial concerns raised by CAJ with the former Panel would be alleviated by the draft Law, which provides the ability for joint filing under certain conditions. This was confirmed within the further submission received by CAJ:

In our previous submission, last year, in respect of P.41/2023, we did flag up the issue that the introduction of independent taxation would likely lead to an increase in demand for our charity as we expected that it would lead to a significantly higher demand for help to complete tax returns from islanders who had so far relied on their spouses and civil partners to complete this task. However, if the proposals in P.6/2024 are approved the expected increase in demand for our services may not be as high in 2026 as we previously expected if some couples decide to continue with one joint submission.³

³ [Submission - CAJ](#)

Mandatory Independent Taxation

49. The Panel observed the concerns raised to date in respect of the mandatory approach to Independent Taxation, however, noted that the draft Law which now provides the ability for joint filing for certain couples would alleviate this concern for many of those Islanders, in particular the more senior age group. In submissions received views were expressed in favour of the ability to file jointly, despite still being assessed independently, as this would allow couples who previously administered their tax affairs in that way the option to continue accordingly, should they elect. The following feedback was received in respect of this:

Age Concern:

To explain independent taxation to someone who has had little or no exposure to tax returns during their long lifetime could be very difficult. Age Concern Jersey would be against compulsory independent taxation as it would do more harm than good, and create an unacceptable administrative burden on those in later life who would struggle with the requirements.⁴

Citizens Advice Jersey:

In terms of the revised proposition, albeit that all parties will be assessed independently from the tax year of 2026, in principle, we see no major problems in the proposal to allow couples who were married or in a civil partnership since 2022, to submit a joint tax return if desired, if they currently could complete one tax return. The proposition allows flexibility and choice for eligible couples so that if one person in the couple is more comfortable with the tax return process or if the one individual is dependant on the other for this task, then the practice can continue as it may well have been the case for many years.⁵

50. The Panel explored the joint filing process during its briefing and understands that in the summer of 2026 spouses would need to elect to file their return jointly and would be asked to nominate the ‘responsible spouse’ at that time. Subsequently from January 2027, the responsible spouse would be required to file the joint return.

51. As part of the process, the Panel was informed that both incomes would need to be declared as well as an indication of how joint allowances, including the Child Allowances, should be split between spouses. Furthermore, in order to ensure Independent Taxation, when Revenue Jersey received the joint return, it would split out the information provided to calculate the taxation independently and that each spouse would receive their own assessment detailing their own income and allowances.

52. The Minister informed the Panel that concern had been raised in respect of receiving two assessments despite filing jointly as that would be too onerous for some Islanders, in particular pensioners. However, reasons provided for the

⁴ [Submission – Age Concern](#)

⁵ [Submission - CAJ](#)

approach included: it would allow transparency with regard to the amount that each spouse owed, fiscal separation would ensure that tax debts could not build up with one partner unaware, it would be too costly and complex to maintain a system which could provide joint filing and a single combined assessment, and the separation (independent element) was required in order for Jersey to meet its CEDAW compliance requirements for Independent Taxation.

53. It was understood that the Compensatory Allowance would be awarded automatically, should that be due, which would result in each spouse receiving an assessment that better reflects their individual circumstances.
54. Alternatively, where elections to file jointly were not made, separate filing would be the default position for all couples. It was highlighted that filing separately would require a different process to be used when calculating the Compensatory Allowance, as both sets of information would need to be received and then used (with express permission received by both individuals to conform to data protection rules) to calculate the Allowance.
55. The Panel noted that Independent Taxation was the default position for all couples who were married or entered a civil partnership from 2022, therefore no changes would be made for those couples.

Administrative concerns

56. The Panel noted the estimated administrative cost of up to £3 million to implement Independent Taxation conveyed by the proposals. The Panel highlights concern, however, should costs rise as a result of any unintended consequences and whether capacity would be available to address any potential increases. Concerns were raised in submissions received regarding the potential administrative burden, which is likely to impact resourcing. One such example is outlined below:

Age Concern:

Many of our members have never had to be involved in the completion and filing of the tax return, and some got quite angry when told that in later life this new task to contend with would be necessary. The presumption was that once again the government was doing what was best for them and not the people they serve.

Some members are computer literate, but many are not. Few could use Yoti without assistance and many are very nervous about submitting data over the Internet. Indeed we try and teach our membership to be very careful with personal data as they are highly vulnerable to scams.

Correspondence with our members would need to continue in paper form and an easily accessible tax advice desk would be required. It is assumed that the people that would receive a tax return for the first time in their lives would need it in paper format to do a paper return. There is a cost to this exercise that could outweigh the benefits.⁶

⁶ [Submission – Age Concern](#)

57. The Panel is cognisant that some Islanders would need additional support and the potential impact on resourcing should be carefully considered by Government to ensure a smooth transition. The Panel suggests the use of in-person pop-up sessions in appropriate locations to better target and meet the needs of those Islanders requiring support. This should also be communicated in an appropriately targeted way to ensure the uptake of the support offered.

Data protection concerns

58. Noting that financial data would need to be shared and combined to calculate the Compensatory Allowance for couples, the Panel sought to understand the implications in respect of Government's compliance with data protection rules. The Panel [wrote](#) to the Minister seeking clarity in that regard and the [response](#) confirmed the following:

As part of the development of this policy, a Data Protection Impact Assessment (DPIA) was undertaken. That process concluded that, overall, the move to a system where an individual is solely responsible for their own tax affairs reduces the need for spouses/partners to access each other's personal data. The Assessment acknowledged that, even with an option for joint filing, the information required will be the same as the information that is currently required for the married tax return. One of the benefits of Independent Taxation is that each spouse/partner would receive their own tax assessment regardless of their method of filing – providing greater visibility for everyone.

Compensatory Allowance

59. The Panel observed continued uncertainty within submissions in respect of understanding the potential revenues to Government from the transition to Independent Taxation. The Panel agrees that the proposals were clear in that the new regime would incur a loss of £4 million by the Exchequer. Therefore, it believes the £9.5 million revenue was mistakenly alluded to within some [submissions](#) (which would be the case in the absence of the provision of the Compensatory Allowance). The Panel considers that uncertainty is resultant of insufficient communications by Government on the proposals and the impacts thereof. One example of this is the view below:

Age Concern:

Given that the changes will result in an additional £9,500,000 in Government revenue from those that will be worse off, an explanation of the change, clearing detailing the effect on the individual, will be a necessity. This would need to be explained and set out in a manner that is easily understood.⁷

60. The Panel recalled that the previous proposals suggested that the Compensatory Allowance would be reviewed at around the eight-year mark and that the Allowance would remain in place for ten years. The Panel sought to understand the current position in that regard, recognising the concerns raised and explored whether the Compensatory Allowance had an end date. The Panel understands

⁷ [Submission – Age Concern](#)

that the Allowance would not automatically fall away and would need to be removed through a decision made by the Assembly following a proposition being brought by the Minister. Therefore, it would not have an end date but would diminish over time relative to increasing incomes.

61. During the briefing, the Minister informed the Panel that the Compensatory Allowance would not be available until all Islanders were on the new system for Independent Taxation from January 2026. Therefore, the Minister recommended, should a couple be worse off by electing for Independent Taxation prior to 2026, to refrain from electing until the Allowance was available. The Panel raised concerns that this would require some spouses to remain a 'chattel,' against their wishes in order to not be disadvantaged. It was noted, however, in such circumstances, that couples could opt for separate assessments, which were available. The Panel was informed that if both spouses were earning more than the tax threshold, they would not be worse off through early election of Independent Taxation. Therefore, in that case, the Panel raised concern that a view could be taken that it was discriminatory to enable certain spouses to elect early and others not.
62. Noting concerns raised within a submission⁸ received, the Panel wrote to the Minister questioning the impact of the Compensatory Allowance on high-value residents. The Minister responded as follows:

*The Compensatory Allowance is designed to protect lower- and middle-income households who benefit from Marginal Relief (i.e. they do not pay tax at the standard rate). The only scenario in which the Allowance would apply to HVRs is where one spouse/partner has income below the single person's threshold (currently £20,000). High value residents (HVRs) are not scoped out of the relevant article in law (new Article 99 of the Income Tax (Jersey) Law). However, I consider it highly unlikely that HVR households would qualify for the Allowance because their income levels are generally too high to benefit from Marginal Relief.*⁹

Child Allowances

63. Noting that a couple would need to specify how the Child Allowances should be split between them, the Panel explored this further during its briefing and questioned the practicalities of implementing the Allowance and any potential impact on couples. It was explained that the couple would need to indicate how they wanted the Child Allowances to be split between them as that would need to be determined by the couple in respect of their circumstances and caring arrangements.
64. The Panel raised concern regarding a situation where the couple did not agree on the split. It was noted that tax allowances were challenging to administer, however, that it was more challenging to deal with in respect of separated couples.

⁸ [Submission – Grant Thornton](#)

⁹ [Letter - Minister for Treasury and Resources](#)

65. The Panel endeavoured to understand what tax related allowances would continue subsequent to the transition to default Independent Taxation in 2026. It was noted that the change would remove the ‘married man’s’ allowance and, by the time Independent Taxation was implemented for all, that the Mortgage Interest Relief Allowance would also be removed. Therefore, it was confirmed that only Child Allowances would remain at that stage.
66. The Panel recalled it was mentioned that other jurisdictions were removing allowances in favour of providing benefits through Social Security systems instead and asked whether that was being considered for Jersey. It was noted that there was no desire currently to remove the Child Allowances from the tax system.

Domestic abuse concerns

67. The Panel noted that both the reports accompanying the draft Law and the Amendment referred to concerns presented by coercive and controlling behaviour, a form of domestic abuse.
68. During the briefing, the Panel heard that the proposals would reduce the opportunities for coercive control. The Panel explored this further and understands that situations would present where the implications of an abusive relationship could not be completely prevented. The below examples were discussed:

The Panel asked, should a spouse be unaware of particular income that they were entitled to under the current system (for example, an income they were entitled to, however, it had been hidden from or not disclosed to them previously), whether the new system would ensure that any income entitled to that spouse would be disclosed within their assessment. It was noted that each spouse would not have visibility of the other’s tax affairs, therefore, only if the income were accurately declared within the joint return in respect of that spouse, would it reflect accurately on their assessment. However, if it were declared in a manner to deceive, that would be an offence under the proposals. The Panel highlighted, therefore, that implications of an abusive relationship could not be completely prevented.

The Panel raised concern with regard to abusive relationships where a spouse was not willing to disclose their income (keep it a secret from an abusive spouse) and whether that would constitute an offence in those circumstances. It was explained that it would be an offence to choose not to disclose the income, however, under such circumstances, discussions would take place with the spouse to understand the underlying cause and it would be resolved in that way. Moreover, any correspondence would go directly to the spouse (not to the abusive spouse).

69. The Panel received significant feedback from stakeholders in respect of this area of concern. With some stakeholders holding the view that the absence of joint filing would not prevent such behaviour and that other avenues should be used to address these concerns as shown below.

Age Concern:

In terms of coercion and control the issuing of separate tax forms is unlikely to achieve anything. If they are really interested in helping those in this type of relationship there are numerous better options available to assist the victims. A controlling bully can have as much undue influence over two tax forms as it can over one.¹⁰

CAJ acknowledged the concerns of coercive behaviour, however, believes that the proposals offer proportionate protections:

We note from other submissions that there are concerns about protection of individuals who may be controlled by their spouse or civil partner. This is understandable but we do feel that the proposals offer proportionate protections. Namely, it is proposed that both individuals in a couple need to elect to submit a joint tax return independently, presumably in some form of declaration. Also, it is proposed that the election can be withdrawn by either individual without the other's permission. Of course, any individual who feels pressured to agree to such an arrangement against his or her will can be encouraged to seek advice from agencies such as ours.¹¹

70. Jersey Domestic and Sexual Abuse Support¹² raised questions in respect of whether due regard had been given to the safeguarding process with regard to coercive control. In particular, referring to the aspect of the proposals referencing that *'Both spouses would need to elect to file jointly, however, either spouse would be able to revoke the election without the other's permission.'* The Panel raised these queries with the Minister and received the following response, which can also be found [here](#):

1. *Are both spouses contacted individually with regard to electing to file jointly?*

The Minister confirmed: *in accordance with the legislation, both spouses must sign for a valid election. The Comptroller (Revenue Jersey) is required to inform both spouses in writing whether the application has been approved or denied.*

2. *Presumably the fact that this had been revoked by one party would be made clear to the other by way of formal notification to ensure that no liabilities were incurred?*

The Minister confirmed: *when an election is revoked, Revenue Jersey is obligated to inform both spouses. The notifications sent to both spouses will indicate when the election was revoked and the date from which they need to file separate tax returns. During the period the election was active, only the responsible spouse would be subject to any penalties for late filing.*

¹⁰ [Submission – Age Concern](#)

¹¹ [Submission – Citizens Advice](#)

¹² [Submission – Jersey Domestic and Sexual Abuse Support](#)

3. *Has due regard been given to the safeguarding process around any notification of this?*

The Minister confirmed: *Revenue Jersey is impelled to notify both spouses. There is no alternative as both spouses need to be aware of their future filing obligations.*

4. *If the 'responsible spouse' was not the person revoking the joint return, they could be liable for associated penalties.*

The Minister confirmed: *in relation to the joint return, the responsible spouse will only be liable for penalties for late filing. As mentioned above, if the election is revoked, Revenue Jersey will separately contact both spouses and inform them of the date from which they need to submit their own tax returns.*

5. *What safeguards are in place to prevent this?*

The Minister confirmed: *even where a couple chooses joint filing, each individual will receive their own tax assessment detailing their own tax liability. They will be individually responsible for all other penalties relating to their tax assessment (e.g. the late payment surcharge).¹³*

71. The [Violence Against Women and Girls Taskforce](#) emphasised its agreement with the Amendment to the Draft Law, highlighting the requirement for *fully independent tax returns for married couples, with no option to complete a joint return.*¹⁴ The Taskforce raised several areas for supporting this approach including to:

- Remove a tool for perpetrators of economic abuse and coercive control.
- Enable gender equality an important cultural change.
- Enable importance of encouraging financial literacy.
- Enable fairer taxation system for men by removing the 'married man's tax.'
- Improve Jersey's international reputation.

Further detail on these can be found [here](#)

Communications

72. The Panel observed continuous concerns regarding the communications of the draft Law and the impact of the proposals on Islanders throughout the process, with the concerns being raised from the onset of the process for personal tax reforms. The Panel noted that although concern in respect of the communications were highlighted to Government at multiple stages, they continue to persist despite the consultations and communications that have taken place. It is the Panel's view that the Government's communications have not been as targeted as required to provide the clarity needed and have not delivered the required detail to members of the public and in an appropriate and easy to digest manner.

¹³ [Letter – Minister for Treasury and Resources](#)

¹⁴ [Submission – Violence Against Women and Girls Taskforce](#)

73. The Panel [wrote](#) to the Minister to seek clarification on the intention to implement a further communications campaign and received confirmation that further communications would be delivered closer to the time of implementation, should the draft Law be adopted by the Assembly. The Minister confirmed the following in the response to the Panel:

If the draft law is adopted by the States, the next phase of work will begin. This will include IT system developments and consideration of future communications to prepare islanders for the mandatory phase which would commence in the 2026 year of assessment (i.e. in respect of which tax returns will be completed and filed in 2027).

Revenue Jersey is always improving its activities based on feedback from customers and pilot projects. Our findings suggest that communication and customer support are most effective and appreciated when provided close to the time of the actual change. If these are provided either before the law is voted on, or years before the customer is affected, they can be dismissed as 'too distant in the future' or cause unnecessary and prolonged anxiety, especially among our older customers.

Nevertheless, we are already in the process of drafting essential customer messages and have conducted customer focus groups to guide our work. We have a specialised team for customer experience and change engagement that will devise and implement multi-channel communications and support. That said, until the legislation is approved by the States it is too early to consider the full specifics of a communications campaign.¹⁵

74. The Panel is of the view that the Government has been complacent in respect of appropriately communicating the draft Law and its impacts to the public to date. Therefore, emphasises that further appropriately targeted and supported communications and messaging, aligned to the specific needs of Islanders, is required.

CEDAW Compliance

75. The Panel understands that the draft Law achieves compliance with CEDAW and that there is no distinction between compliance and *true* compliance for this purpose. In particular, that retaining Article 3 and the option to choose to file a joint tax return would not prevent Jersey from seeking the removal of the income tax reservation concerning its CEDAW compliance if the draft Law were passed. This is because the draft Law would still require that where a joint return was filed, each spouse or civil partner's income tax must be assessed separately. Therefore, the income of one spouse or civil partner would not be treated as the income of the other, and any individual would be able to engage with the tax authorities and appeal the outcome of their assessment.

76. Therefore, the Panel understands that whether Article 3 was retained or removed (as proposed by the Amendment) it would not impact upon the draft Law's compliance with CEDAW and no difference would be reflected in respect of Jersey's commitment to CEDAW. In either case, if the draft Law was

¹⁵ [Letter – Minister for Treasury and Resources](#)

adopted, then the Income Tax Reservation would be entirely redundant from 2026, which would enable Jersey to seek its removal on the basis that Jersey's Income Tax Law is compliant with CEDAW.

Conclusion

77. The Panel is appreciative of the briefing received on the draft Law and being provided with responses to its written questions in a timely manner to help inform its review. In addition, for all engagement from members of the public and stakeholders throughout the review.
78. It is the Panel's view that modernisation of personal taxation in Jersey is long overdue and that the draft Law will achieve Independent Taxation for all Islanders from 2026, with individual assessments being more reflective of each person's personal circumstances. In addition, that the Compensatory Allowance will ensure that no Islander is financially disadvantaged by the transition.
79. The Panel acknowledges that some Islanders have a view that Allowances are not fairly distributed and only provided to those Islanders who were in receipt of them prior to a change. It is the Panel's view that, although this may be perceived as unfair, it is a necessary requirement for legislative advancements to be made.
80. The Panel acknowledges the significant concerns in respect of domestic abuse through coercive and controlling behaviour and that steps should be taken to prevent these instances within policy and legislation. Including to provide consistency in the messaging relayed by Government by demonstrating this through actions taken and to encourage the culture change that is required. The Panel notes that the draft Law gives due regard to the concerns and has endeavoured to put in place safeguards to prevent occurrences of coercive control, whilst also having to fulfil the Assembly's decision to ensure a joint tax filing option is available under specified circumstances. The Panel emphasises that implications of an abusive relationship cannot be completely prevented.
81. It is the Panel's understanding that, should the Amendment to the draft Law be adopted by the Assembly, it would not delay the implementation timeline for Independent Taxation in any way.
82. The Panel reiterates its view on the importance of Government delivering a further targeted communications campaign and targeted support on the proposals of the draft Law and its implementation. The Panel emphasises that all Government communications must be clearly delivered to Islanders in an easily facilitated form dependent on identified need. As such, the Panel makes the following recommendation and requests a formal written response from the Minister to its recommendation. Going forward, the Panel also intends to keep abreast of the Independent Taxation workstream through public quarterly hearings with the Minister.

RECOMMENDATION: The Minister for Treasury and Resources must ensure that certainty and clarity is provided to the public through communications that are targeted and aligned to Islanders' specific needs. The communications must be delivered with immediacy and in an easy to digest and supported manner.