

19-21 Broad Street | St Helier
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Senator Kristina Moore
Chair
Corporate Services Scrutiny Panel
Via e-mail

23 October 2020

Dear Senator Moore,

Prior year basis (PYB) tax reform

Further information request

I am writing in response to your letter, sent by email, dated 19 October 2020.

In respect of your request for further information, I am pleased to inform you of the following.

1. Draft Regulations in relation to payment terms for the 2019 liability

I have asked officers to re-draft the current version of the draft Regulations to take greater account of the findings of the Survey and the representations I have since received from States Members (including CSSP members) inside and outside the In-Committee debate we held on 20 October. We are also beginning to get a sense of views from the focus groups. All this is persuading me of the need for greater flexibility in the payment terms we would offer in the event that the Assembly supports P.118/2020.

I should be obliged therefore, for your patience, while further work is done on payment terms over the next few days. If law drafters are not able to work at the necessary speed, I will provide a note to States Members setting out my thinking on payment terms.

I want to assure you that I am minded to provide a good deal of flexibility to islanders in how they settle the 2019 PYB tax liability which would be frozen if my Proposition is adopted.

2. Summary findings of the focus groups

The final focus group discussion was held on 21 October 2020 and we will not receive the report for some days yet. The independent facilitators of the focus groups provided Treasury officials with a short presentation of the emerging themes on 22 October 2020, but at this point no report has been produced. My own personal sense of key issues arising are that we need to think harder about the way ahead in these areas:-

The groups told us they recognise that PYB is bizarre and outdated and do see the advantage of change - but not if it comes with payment terms of 5 to 10 years and regular payments being mandatory.

1. There are varied and individual circumstances to be considered, 'not just those with lower 2019 income'. Groups wanted flexibility and personal choice, to pay over a longer term, make payments when affordable, according to different life events and personal circumstances.
2. Concerns from some as to the perception that payment plan options force people into 'debt'... another liability to meet on a monthly basis, for some at the wrong time in their lives, through no fault or choice of their own.
3. They recognise the obligation to pay the tax but want more choice on how to do that.
4. Some group members said that - whether in 30's or 50's – they had financial plans already in place to deal with this at retirement.
5. Affordability testing to allow for example 3 month payment breaks is perhaps not needed - you can have a mortgage payment holiday without going through all this, and it would be a challenge to define what is core vs lifestyle costs.

As I say above, I want to be as flexible as possible in offering payment terms for the 2019 PYB tax liability. If we are to minimise the additional work burdens on Revenue Jersey however, we cannot offer “bespoke deals” to everyone and we must have some standard payment options which we will expect the majority of Islanders to adopt.

3. The IT implementation project plan

I enclose two slides showing the current PYB-CYB implementation plan, which is broader than the IT-only implementation plan. You will note that work is ongoing across Government departments and organisations to help ensure that, if adopted, the proposition is successfully realised.

You also asked about standing debt policy and it is important to say that we will not be treating the frozen PYB liability in the same way as an “ordinary” tax debt.

Tax debt policy is largely laid to the discretion of the Comptroller of Revenue in Jersey's tax law (a similar arrangement to that in most Commonwealth jurisdictions) but the Treasurer of the States also has an important role as all debts to the States are ultimately pursued in his name. The Government's debt teams were merged in the Treasury in 2018.

“Ordinary” personal-income-tax debt policy is underpinned by a good deal of (largely UK) case law which is generally observed by our judiciary and which effectively would usually oblige the Comptroller to aim to collect unpaid overdue taxes within a year or so on average. The law assumes that – as income taxes are always based on earned income - it is the taxpayer's duty to ensure provision is made to pay them. Clearly PYB abolition is an exceptional circumstance and special rules will be needed

Normally, for “ordinary” tax debts, the Comptroller can permit [“time to pay” arrangements](#) – usually of up to a year – provided he is satisfied that the taxpayer can meet those staged payments while also keeping up with ongoing tax and other commitments. Debt policies are stricter where the taxes are owed by employers who have withheld income tax from employees' salaries (under our

ITIS arrangements) or businesses that have collected GST from their customers to remit to Government.

When people leave Jersey owing taxes we normally seek full payment before they leave (if we know of their imminent departure). We do pursue them overseas and will often seek to agree a time to pay arrangement of one year if they cannot pay in full. Where they are in a jurisdiction (such as the UK) where they pay as they earn (as is usual internationally), it is the Comptroller's policy normally to allow up to two years to repay Jersey taxes. Where people default, the Treasury's debt-management team have contracts in place with Bailiffs overseas to pursue tax debts for us. Under the new [UK/Jersey Double Taxation Agreement](#), the Comptroller can also ask HMRC to collect larger tax debts on our behalf.

It follows from this that it is in the best interests of taxpayers and indeed Government to pass my Proposition P.118/2020 as it will create some very generous time to pay arrangements which are not currently lawfully available to the Comptroller to allow if he were forced to make bespoke time to pay arrangements with the thousands of Islanders who may seek such an arrangement. Bespoke arrangements with individual taxpayers would inevitably slow down the operation of the tax system.

Yours sincerely

A handwritten signature in black ink that reads "Susie Pinel". The signature is written in a cursive, flowing style.

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Enc.