

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

16 February 2021

Dear Senator Moore,

Revenue Administration Measures : draft Taxation (Amendment) Law 202-

You have previously enquired about when I propose to bring back to the Assembly the various revenue-administration measures which you asked me not to propose during the passage of the Finance (Budget 2020) Law 2019, in December 2019.

1. We discussed these measures with the Panel on several occasions in 2019 and early in 2020; and have made substantive changes to the civil-information powers to address the concerns expressed to you by two of the Panel's tax-agent witnesses.
2. Sadly, Covid – and the accelerated work on abolition of PYB - then further delayed our work on these matters; and it was not appropriate to bring the measures to the Assembly sooner while it was so busy dealing with emergency measures.
3. I am now able to bring a new draft Tax (Amendment) Law to the Assembly. I aim to lodge this by 9 March with a view to debating it later in April (once we have made the PYB regulations).
4. To recap, the most salient and substantive measures encompassed by this draft law remain those measures not proposed in the 2019 Finance Law:-
 - Limitations on the Comptroller's powers to amend assessments – something you asked us to provide in response to evidence from tax-agent witnesses.
 - Enhancing the Comptroller's ability to manage appeals to the Commissioners of Appeal, in particular to stop frivolous appeals. The Comptroller's decisions not to admit appeals are themselves appealable.
 - Empowering the Commissioners of Appeal to publish (anonymised) their determinations where appropriate.
 - Creating a power to enable Revenue Jersey to compel a taxpayer to produce information where they refuse to co-operate with a tax enquiry. At your request, we have provided rights of appeal against both the issue of the Notice; and against the financial penalty for failing to comply with the Notice. I recognise that this provides a taxpayer who is determined not to co-operate with Revenue Jersey over 200 days to prevaricate and I will be asking the Comptroller to review this provision in several years' time to assess its effectiveness.
5. We have now also taken steps to address a number of minor - but important - technical remediations, principally to the 1961 Income Tax Law.

6. As we have signalled before, the 1961 law is outdated in many places and recent work has in some regards shown it to be deficient, in particular in respect of the Comptroller's powers to tackle serious non-compliance.

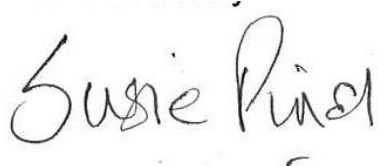
7. Contrary to the view often expressed in some quarters, the Comptroller is somewhat toothless in the face of serious and wilful non-compliance. And previous Bailiffs and Law Officers have expressed concerns about the practical barriers to bringing a successful prosecution where appropriate for well over a decade. While most people think the law is effective – and comply voluntarily in any case – the reality is that the Comptroller (with the Attorney General) in practice cannot take some cases into court where patently they should be able to do so.

8. Putting it simply, the 1961 law in various places either does not create a clear obligation to do something (eg file a return or provide information); and/or does not create a clear "offence" for failing to meet the obligation; and/or does not clearly create a sanction for the offence.

9. We have addressed a good number of these defects in this draft law in respect of the Comptroller's information powers (which is where the review undertaken was focussed) and are currently socialising the remediating draft articles with the tax-agent community.

10. I hope you find this helpful. I will send you a draft of the law and Report shortly.

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.