



JERSEY FINANCE

Representing The International Finance Centre

The GST Consultation Team
Income Tax Office
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31 August 2006

Dear Sirs

Jersey's Goods and Services Tax (GST) Discussion Paper dated 28th March 2006
GST Financial Services Discussion Paper dated 19th May 2006

I am writing in response to the above public consultation documents issued by the Treasury and Resources Department.

1. Status of this response

This response reflects the views of the Fiscal Strategy Group ("FSG") established by Jersey Finance Limited for the purposes of responding to the States of Jersey's fiscal strategy proposals. FSG's terms of reference, which include details of its current membership, are enclosed at appendix 1.

In preparing this submission, FSG has consulted widely with the Trade Association Members of Jersey Finance Limited, as listed at appendix 2. A number of these Trade Associations, including the Jersey Taxation Society, the Jersey Society of Chartered and Certified Accountants, the Law Society of Jersey, the Jersey Bankers' Association and the Jersey Funds Association have specifically agreed to feed into the FSG consultation process, and only submit separate responses to the extent that they disagree with, or wish to add to, FSG's stated position.

In accordance with the agreed Finance Industry consultation process, Jersey Finance also notified all of its Members that the above consultation papers had been issued for public comment. In addition to an e-mail communication to our Members, we included a link to the consultation papers on the States of Jersey website, and invited our Members to provide responses either directly to you, through their respective Trade Associations or through FSG. We circulated a draft copy of our response to all Jersey Finance members and invited comments. We also held an open meeting to which all Jersey Finance Members were invited, and at which members of FSG presented the key GST design proposals and the Group's proposed response.

2. Structure of this response

Our key observations and recommendations on the GST proposals are set out at section 3 below. Our specific comments in response to the GST consultation paper dated 28th March 2006 (on the draft primary law) are set out at section 4. Other specific comments in relation to the paper dated 19th May 2006 on Financial Services are set out at section 5.



3. Key Observations and Recommendations

3.1 The objectives of a GST regime in respect of Jersey's Financial Services Industry

In order to place the remainder of this submission into context, it is perhaps worth briefly recapping the history of the GST project so far, with specific focus on the treatment of the financial services industry.

The original design criteria for the GST system included the following requirements:

- *Not create an inordinate administrative burden for business*
- *Not create an uncompetitive environment for the Island's critical industries, in particular it must not harm the competitive position of the Island's finance industry*

However, in addition to the formal design criteria, one of the key proposals put forward by the (then) President of Finance & Economics at the conclusion of the initial GST consultation process in December 2004, was that the financial services industry should be required to make a direct contribution of between £5-10 million (11-22%) towards the total required GST yield (£45 million). This in spite of the fact that GST is first and foremost designed to be a consumption tax on individuals, *not* an additional business tax, and that, under the agreed "0/10" strategy, the industry would continue to pay the vast majority of direct corporate tax revenues in support of Jersey's economy.

To achieve this political objective, it was proposed that financial services businesses should be expected to bear some direct GST cost themselves, in the form of irrecoverable 'sticking tax' suffered on their domestic purchase of goods and services. This was different to the treatment proposed for the Island's other key economic sectors, where the nature of the system is such that any GST cost suffered by such businesses will generally be fully recoverable.

Whilst the proposed financial burden of £5-10m at first sight appears to conflict with the above design criteria (clearly, any additional cost on doing business will have some impact on the industry's competitiveness), the most viable alternative approach would have been to "zero rate" the export of financial services and allow financial services businesses (FSBs) to recover any input tax suffered to the extent that this related to the delivery of exported / zero rated financial services. For many FSBs with very little domestic business, this alternative approach would probably have resulted in very high (almost 100%) recovery of input tax suffered, but would also have meant that all FSBs would have been required to maintain complex administration systems in order to distinguish not only between international and domestic customers, but also between zero-rated, exempt, and standard rated products and services. From the States of Jersey's perspective, the alternative approach would probably also have meant that Jersey would not secure the £5-10 million direct contribution it is looking for from the financial services industry.

The suggested 'compromise solution' – namely, a simplified administration system but with some GST cost payable directly by financial services businesses, was therefore accepted as a potential "win-win" situation, and it was considered that a proportionate, but not excessive, direct GST burden levied on the Industry would be a reasonable price to pay for a highly simplified administration system.



We believe that the proposals now outlined in the two new consultation papers do go a long way to meeting the original objectives outlined above, and towards the creation of a “win-win” situation for both Jersey’s economy and the Industry which provides the most significant contribution towards it. However, there are still a number of elements in the latest proposals which, we believe, could potentially unduly complicate the position in respect of the financial services industry.

We are also concerned that the economic impact of the current proposals has not been adequately modelled. Specifically, in our view there is a significant possibility that the proposals as currently presented could yield considerably in excess of the Minister’s £5-10 million ‘target’ yield from the financial services industry. Indeed, we are aware of individual institutions that have estimated their direct GST liability (in the form of irrecoverable ‘sticking tax’) to be potentially as high as £2m under the current proposals. Moreover, whilst we accept that the level of data available to support meaningful estimates of the expected ISS fee income is limited, we conservatively estimate that the proposed ISS ‘exemption fee’ will itself yield in excess of £5 million per annum (based on an assumption that at least 100,000 ‘corporate vehicles’ will seek to obtain ISS status). We would therefore strongly urge the GST implementation team to perform and publish further research and economic modelling before finalising the detailed proposals.

We believe that the revised proposals outlined in this submission would still allow the Minister for Treasury and Resources to achieve his political aim of passing £5-10m of the GST burden from the ordinary consumer back onto financial services businesses, whilst at the same time:

- ***simplifying the position further for financial services providers operating in the Island; and***
- ***continuing to shield the financial services industry’s international clients from any material GST impact.***

However, as noted above it is not within the remit of the Jersey Finance Fiscal Strategy Group to assess the economic impact of either the Treasury and Resources proposals, or any of the alternative proposals put forward as part of this submission; any such economic modelling that may be required as a result of this submission remains the responsibility of the States of Jersey.

3.2 The need for GST grouping / intragroup exemptions

We firmly believe that GST grouping provisions are necessary, under which intragroup supplies (including supplies from fellow group companies based outside the Island) would not be subject to GST. This is essential to preserve Jersey’s competitiveness as an international banking centre, given that for many local banking operations significant, high value intragroup supplies are regularly provided from centralised off-island group functions (IT, HR, back office processing etc.) under formal outsourcing arrangements.

We would also strongly recommend that the grouping provisions should be applied to different types of legal entity and arrangement within the same group (i.e. both companies and partnerships). This is because, for example, there are many group structures which include both companies and partnerships that pay management and service charges to a service company in the group. In such cases a requirement to charge GST on intragroup supplies would be extremely detrimental.



In the event that grouping provisions are included, however, clarification will be needed as to how these provisions will interact with the Presumptive Scheme. For example, if one group entity is operating under the Presumptive Scheme, but the other members of the group are not, would there be any restriction on the recovery of GST cost post grouping? Our preference would be for the grouping provisions to allow 'Presumptive Scheme entities' to participate in grouping arrangements, but we accept that this would add additional complexity and that further detailed analysis and consideration will be needed.

3.3 Application of Presumptive Scheme to banking sector

We broadly agree with the proposed Presumptive Scheme for banks, subject to the following comments.

We believe that the Regulations should make clear that the Presumptive Scheme is an elective regime – i.e. any bank that wishes to do so (for example a bank making wholly international supplies) should be permitted to operate a bespoke recovery method which may result in a higher rate of recovery than the percentage prescribed by statute. The additional 'cost' to the bank of adopting this approach will of course be the requirement to operate complex administration systems in order to distinguish between international and domestic supplies of taxable and non-taxable products and services. In practice, therefore, we would expect most banks to elect for the Presumptive Scheme.

We also understand that the proposed recovery rate of 75% is supposed to approximate to the split between domestic and international customers for an 'average' Jersey bank. In practice, however, we would expect that the vast majority of banks operating in the Island will have a higher proportion of international customers. Further research will be needed in order to determine the appropriate percentage rate to be applied (and the economic impact this will have in terms of GST yield from financial services businesses).

In our view the proposed 10% threshold test described in the Discussion Paper could create significant difficulties, particularly for banks operating in the local intermediary market. In many such cases, intermediary trust company businesses (TCBs) may operate bank accounts on behalf of their underlying clients without necessarily disclosing details of the underlying principals to the accepting bank. Accordingly, for many banks, the geographical location of TCB-referred customers will be determined according to the domicile of the legal 'vehicle' in which the name of the account is established (for example, a Jersey trustee or company). Such banks may not be able readily to ascertain whether such vehicles have ISS status, unless this information is specifically provided by the referring TCB. Whilst it is expected that such information will in future be provided automatically under the proposed revised anti-money laundering (AML) framework (expected H2 2007), such disclosure would not be the norm under the current AML framework for local intermediary business.

We therefore believe that the Presumptive Scheme should be available to all deposit-takers without the need to satisfy the 10% 'threshold test' proposed in the discussion paper.



We accept, however, that the position is more complicated in the case of a “multi service provider” – i.e. a deposit-taking institution that also carries on other financial services activities ***within the same legal entity*** (for example, investment business or trust company business)¹. We note the proposals under section 8.3 of the paper that, where a range of regulated activities is carried on within the same legal entity, a multi-service provider may still qualify for the Presumptive Scheme “*where, in aggregate, these activities satisfy the [10% threshold] test*”. Where such activities do not satisfy the eligibility test for the presumptive scheme, however, it is proposed that multi-service providers should be required to disaggregate separate activities and apply GST to chargeable services as applicable.

As noted above, the application of the 10% threshold test and requirement to disaggregate supplies is potentially complex, and we do not therefore support the application of the 10% threshold test to multi-service providers. We do however accept that, in the absence of some form of threshold test, multi service groups might be encouraged to deliver different types of regulated financial service (e.g. trust and company and/or investment services) from the same legal entity in order to bring all such services within the scope of the Presumptive Scheme, although in practice, we would not expect banking groups to adopt this model, for the following reasons:

- it would be unlikely to deliver any significant GST savings to the financial institution. Indeed, as noted above the ‘cost’ of electing into the Presumptive Scheme will be to incur a higher proportion of irrecoverable sticking tax than would actually be suffered by an institution operating on a full/partial recovery basis;
- it would likely conflict with groups’ corporate governance / regulatory compliance standards, which would generally encourage the segregation of different business streams within separate legal entities.

However, any multi service provider that does qualify for the Presumptive Scheme would not then be expected to distinguish between customers belonging in Jersey and overseas (including ISS) customers. This would place all customers receiving TCB / investment business services from such a provider at an advantage when compared to Jersey customers of a ‘stand alone’ TCB / investment business, and could, in theory, encourage such customers to transfer their business. This is because a multi-service provider would not be expected to distinguish between Jersey and non-Jersey customers and hence:

- would not be expected to apply GST on chargeable services supplied to Jersey customers;
- would not need to obtain ISS status for underlying ‘corporate vehicles’ that they administer.

Further consideration / analysis of the impact of this may be required. We are aware that a number of respondents believe it is wrong in principle to have an ‘uneven playing field’ within the TCB and IB sectors, and that all operators should be required to apply the same GST treatment to all customers. We have considerable sympathy with this view, but believe that the practical implications of requiring multi service providers to apply the proposed 10% threshold test and to disaggregate their non-banking supplies would be unduly complex and detrimental to Jersey’s overall competitive position as an international finance centre. We would also note that the proposals already provide for a

¹ Where non-banking financial services are delivered from separate legal entities (for example a TCB subsidiary), then the non-banking subsidiaries would not qualify for the Presumptive Scheme and would be treated for GST purposes in the same way as any ‘stand alone’ entity.



difference in treatment between the banking and other sectors by virtue of the Presumptive Scheme, and in our view this difference is entirely warranted. Whilst the availability of the Presumptive Scheme to multi-service providers but not to stand alone financial services businesses will to a certain extent also create an 'uneven playing field' within the TCB and investment business sectors, we are not convinced that difference in treatment would be sufficient in itself to influence significantly a customer's choice of service provider.

However, if an additional safeguard to counter this possibility is believed to be necessary, then further consideration should be given to a different form of threshold test; for example, one that is based on the split of an entity's business activities rather than on the split between 'Jersey' vs. 'non-Jersey' customers. Whilst this form of threshold test would also potentially increase complexity (for example, there would need to be a detailed definition of what constitutes banking activities and what does not, as well as certainty of treatment for businesses that are close to and/or exceed the prescribed threshold) we believe that it would be easier to apply than a threshold test which is based on the profile of the underlying customer base. Such a test would also ensure that the Presumptive Scheme is only available to providers whose principal business is mainstream deposit-taking / banking, and would therefore go some way to addressing the 'level playing field' issue described above.

3.4 "Use and enjoyment" vs "place of supply"

Following the recent publication of a number of papers within the EU regarding the issues arising with adopting a place of supply as the key overriding principle, we believe that place of supply should be determined, for all services, according to the "use and enjoyment" principle (i.e. based on where the customer belongs). This is particularly important given the international nature of Jersey's financial services industry and the emergence of new e-commerce business and activities in the Island.

The "use and enjoyment" principle derives from the basic premise that GST is a consumption tax and the aim is to tax the Jersey consumer. The key paper we refer to is 'VAT - The Place of Supply of Services to Non-Taxable Persons'

The EU paper notes that there are already many modifications in force regarding the place of supply of services to taxable persons, generally businesses, by generally making those services taxable in the Member State where the customer is established and simultaneously extending the scope of the reverse charge mechanism. However, it is not possible for non-VAT registered persons such as individuals to implement a reverse charge mechanism and consequently a distortion arises between Business to Business supplies and Business to Consumer. This distortion can be seen because generally the service is taxed where the supplier is established (for example, a supply of telecommunications services from somewhere other than Jersey would generally be zero-rated, however, the individual receiving the service is not going to pay local GST. Therefore, the supplier of the service should theoretically be registered for GST in Jersey so that they are able to charge GST to the local individual).

The rapid growth in globalisation, deregulation and technological advances have all combined to create an enormous change in the volume and pattern of trade in services between and within territories. This has resulted in many deficiencies in the basic place of supply rules becoming apparent and the e-commerce directive (Directive 2000/38/EC) went some way to addressing this by having electronic services taxed at the place of consumption. The EU now considers that this should be extended to other services where practically possible. For example a UK-based satellite broadcasting company, under use and enjoyment provisions, would be required to register for Jersey GST and charge GST on supplies made to Jersey individual consumers.



In our view, it would appear logical to follow the lead taken by the EU and anticipate the potential complexity which would arise not only from a system at odds with other jurisdictions but which is not equipped to reflect the reality of international business today.

3.5 Vehicles with International Services Status (ISS)

3.5.1 Corporates

We accept the concept of an annual £50 GST “exemption fee” for **any entity which has a separate legal capacity** (both Jersey- and foreign domiciled) which are administered in Jersey but which qualify for and seek ISS status.

We note and support the proposed simplified self-certification process for ‘corporate vehicles’ administered by a regulated trust company business (TCB) seeking ISS status. We suggest that process should allow the regulated TCB to file with the Comptroller a single annual return as at 1 January each year which identifies the number of corporate vehicles for which ISS status is being sought, but which does not require the disclosure of the names of individual ‘vehicles’. The return would be accompanied by the aggregate ISS exempt fee payable (i.e. [xxx] * £50).

For simplicity, we also suggest that there should be no ‘interim filing’ requirement in the case of new ISS ‘vehicles’ established in the period between annual returns, or refund mechanism for ‘vehicles’ which are dissolved or struck off during the period. Rather (as noted above), the annual return as at 1 January each year will give a simple ‘snapshot’ of the position as at that date. However, we recognise that this approach could potentially create legal uncertainty for ‘vehicles’ established during the interim period, and hence there will be a need for provision which provides statutory certainty of a qualifying entity’s ISS status notwithstanding the fact that the vehicle will potentially not become liable for its first ISS fee until some months after it has been established.

3.5.2 Trusts and legal arrangements generally

We also accept that there will need to be some form of mechanism for **confirming the ISS status of other non-corporate ‘vehicles’** (i.e. trusts and other legal arrangements which do not give rise to separate legal personality and which under general GST principles would otherwise ‘belong’ in Jersey). However, we are concerned at the proposal to attach a £50 exemption fee to these types of arrangement, and we understand that many trust practitioners in the Island share this concern. Whilst the £50 fee might not in itself appear excessive, there is serious concern that its application to trusts would breach a fundamental and long-established principle that non-resident trusts are not subject to any form of taxation or charge in Jersey. The imposition of an annual GST exemption fee on such trusts would place Jersey out of line with its key competitor trust jurisdictions and could easily be presented externally to existing and potential investors as a strong reason not to use Jersey as a fiduciary administration centre.

We therefore strongly recommend that, whilst the ISS principles and mechanism should apply equally to trusts and other legal arrangements, there should be no annual ISS “exemption fee” payable² for all forms of trust.

Clearly, the removal or reduction of the ISS exemption fee for trusts from £50 to £0 will adversely impact the overall GST yield. As noted under 3.1 above, however, it is the view of FSG that the total expected GST yield from the financial services industry (both in

² A possible alternative, which may merit further consideration, would be to set the fee at £0, with a statutory guarantee provision that this amount will not be increased in the future. This approach could be preferable if it is considered to provide greater legal certainty as to the GST status of the trust / arrangement. Further consultation with the legal profession will be needed on this point.



terms of 'sticking tax' and ISS fees collected) may have been significantly underestimated in the modelling performed to date. We accept the difficulty in producing a reliable estimate given the absence of certain key data (most notably, the number of foreign-incorporated companies administered in the Island that will seek ISS status), but notwithstanding this, we would strongly encourage further research and modelling to be performed by the GST implementation team in order to quantify the expected yield and assess the impact of the above proposal in relation to the ISS treatment of trusts.

3.5.3 **Other comments**

With regard to the definition of ISS, we would wish the legislation to reflect that an entity would not be precluded from applying for IS status where there is 'incidental' use of services supplied to or administered by the 'corporate vehicle' in Jersey.

Whilst there is general 'in principle' support for a simplified ISS process, care will need to be taken to ensure that the detailed legislation and/or regulations provide sufficient legal certainty as to an entity's IS status. As noted under 3.5.1, particular consideration will need to be given to the period between the date of establishment/incorporation, and the date of the first ISS filing (the following 1 January). More generally, it will be imperative – particularly in relation to high value and/or complex corporate and institutional transactions - that lawyers and other advisors are able to provide clear advice and 'clean' opinions as to an entity's GST status, and this ability may be hindered in the absence of a formal ISS certification process.

Whilst we would expect the simplified self-certification process for 'obtaining' IS status to be relied upon in the majority of cases, we believe that further consideration will need to be given to a more formal registration / certification process (as an elective regime) in cases where formal confirmation of the entity's GST status is fundamental to the structuring of a particular transaction.

There will also need to be similar exemptions included as contained in the current concessions for exempt companies to ensure that, for example, less than 10% by Jersey residents in an entity does not prejudice its rights to IS status. The fact that Jersey residents may benefit from an entity as a result of its shares being wholly-owned by the trustees of a charitable trust which is established solely to provide charitable benefits in Jersey must also be excluded, so that special purpose vehicles are entitled to IS status.

Finally, as a quid pro quo for operating a simplified administration system in respect of ISS vehicles, we accept that the Regulations will need to include sufficient 'bite' in the case of TCBs who make false applications for ISS status on behalf of underlying clients, or who certify to a supplier that a vehicle has obtained ISS status when it has not. However, to distinguish between TCBs who make a genuine mistake and those who deliberately evade their obligations, the Regulations should state that only a person who knowingly or recklessly fails to comply with any requirement imposed by those Regulations shall be guilty of an offence.

3.6 Consistency with Jersey's existing tax legislation (Compliance and Enforcement provisions)

One of the fundamental principles underpinning Jersey's existing tax regime is *simplicity*. This is manifest in the existing income tax code and related Concession and Practice issued by the Comptroller, and is one of the key reasons why Jersey has developed successfully as an international finance centre over the past four decades.

Whilst we accept that the implementation of the agreed States' Fiscal Strategy will inevitably lead to some additional complexity in the Island's tax code, we believe that every effort should be made to minimize this effect and to keep the overall regime as simple as possible.



The principle of simplicity, however, appears to have been subjugated in the GST design criteria to the requirement that the GST legislation should “*meet recognised best practice for such taxes*”. In our view, this has led to the creation of unnecessarily complex draft primary legislation which has been modelled, to a considerable extent, on existing UK VAT legislation.

We have particular concern with Parts 13 (Failure to Comply), 15 (Appeals), 16 (Offences), and 17 (Miscellaneous) of the draft Law, where in our view the provisions are particularly out of step with the ‘equivalent’ provisions under the existing income tax code.

In order to minimise the cost of collection, and to minimise the administrative burden for all business sectors, we believe that significant elements of the above Parts could be removed and replaced with a much simplified set of general anti-avoidance, enforcement and appeals procedures. Some detailed comments and examples are provided at section 4 below, but these are not exhaustive.

In summary, we believe that the ultimate objective of the GST law should be to replicate the existing approach and procedures available to the Comptroller in the event of non-compliance under the income tax code. These are based on principle not prescription, with the Comptroller having sufficient powers to ensure compliance with the Law, whilst at the same time having discretion to exercise those powers in a pragmatic and flexible way. In our view such an approach could significantly reduce the cost of administering the legislation (which we note was originally forecast to be approximately 1% of the yield – i.e. approx. £450-500k per annum), without materially weakening the Comptroller’s ability to enforce compliance where necessary.

3.7 Treatment of other (non-banking) Financial Services Providers

We note and support the proposals to introduce a simplified scheme for other financial services providers (i.e. Trust Company Businesses, Investment Businesses etc.) - such scheme providing for a “fair and reasonable GST estimate” –, by reference, for example, to the split of a TCB’s turnover between ISS and domestic business. We believe that the proposals as outlined should be workable in practice.

The Presumptive Scheme for banks is also used to determine the GST treatment of the bank’s underlying customers. That is, where a bank opts into the ‘presumptive scheme’, then it will not be required to ascertain the GST status of each customer, nor will it be required to charge GST on any taxable supplies to (the small proportion of) customers belonging in Jersey.

As noted above, we support this approach for the banking sector, on the basis that it would cause significant practical difficulties if banks were required to ascertain the GST status of individual customers. However, we agree that this ‘concession’ should not also be given to other sectors. Rather, other financial services businesses should be required to determine or ascertain the GST status of each customer and (assuming the services provided are within the scope of GST) charge GST on such services supplied to customers who belong in Jersey and/or ‘vehicles’ which do not have ISS status.

3.8 Treatment of States of Jersey

We believe that the ‘grouping’ principles established above should apply equally to the States of Jersey i.e. the States should be treated as a single body for GST purposes (noting however that different provisions may be necessary in respect of the Parishes).

3.9 Timing of supply / bad debt relief

We believe that the timing of supply should generally be based on the invoice date, and not the date on which the payment is received from the debtor. We believe this second approach would create undue complexity.



3.10 Administration of GST Returns

It is currently indicated that the quarterly returns will be submitted on calendar quarters, i.e. April, July, October and January. We believe that taxpayers should be given the option of choosing the quarterly return periods most convenient to them so that, for example, busy periods, such as year end and six monthly reporting can take place without the added concern of GST reporting. An example would be quarterly reporting in March, June, September and December.

3.11 Transitional rules

We would welcome the early publication of transitional rules, particularly in the area of long-term contracts (e.g. construction / leasing of commercial property).

4. Specific / detailed comments on draft primary legislation

Ref	Comment
Article 8(2)	We suggest that "as determined under this Law" is added to the end of 8(2)(a) and (b).
Art 9(2)	Will the register of registered persons be a public register?
Art 10(4)	We presume that the planned Limited Trading Partnerships (LTPs) will be treated like common law partnerships / LPs (but not LLPs)?
Art 32(3)	We would welcome further clarification as to the intended purpose of Article 32(3): <i>"However, if goods or services are supplied to a body corporate, or goods are imported by a body corporate, and the goods or services are used or are to be used in connection with the provision of accommodation, they shall not be treated for the purposes of this Part as used or to be used for the purposes of any business carried on by the body corporate in the proportion that the accommodation is used or to be used for domestic purposes by a director of the body corporate, or a person connected with a director of the body corporate."</i>
Art 37	Why, under Article 37(2), do taxable persons importing goods for private purposes have the ability to make a separate claim for the repayment of GST paid or payable?
Article 83	<i>We are concerned that the powers to obtain information under this provision are unreasonably wide and could potentially be open to abuse (for example, to obtain confidential information relating to the affairs of a financial institution's underlying clients). We therefore suggest that it is deleted (as part of the overall reform of the investigation / enforcement provisions suggested above).</i>
Article 41(2)	<i>"The States may by Regulations make provision concerning matters of time in respect of GST invoices, including the time when a GST invoice is to be taken to be issued."</i> Is this necessary, given Article 27 ("When GST invoice issued")? Or would it be preferable to take the detail of Article 27 out of the primary law and leave 41(2) to apply?



<i>Ref</i>	<i>Comment</i>
Article 43(1)	Would a more sensible de minimis for trivial amounts be £10 (or £100)?
Schedule 4 Art 16 / 17	We would ask for clarification of the need for special provisions for gaming machines / "certain aircraft"? Has a cost / benefit analysis been performed? What situation is Article 17 trying to address?

5. Other specific comments Financial Services Discussion Paper

<i>Ref</i>	<i>Comment</i>
7.3	<p><u>International Services Status</u></p> <p>What happens when a supplier who makes 100% supplies to non-residents and qualifies for all the other ISS criteria decides not to register as an ISS? Would the entity's supplies still be treated as zero rated?</p> <p>What happens when an entity loses its ISS status – can it lose that status retrospectively? What takes place where a mistake has been made and ISS registration was incorrectly granted?</p> <p>It may be desirable to build in some leniency in registration requirements. It could, for example, be required that no more than 5% of services are provided to a person who belongs in Jersey etc in order for the entity to qualify for ISS treatment</p>
7.7	<p><u>ISS – Modus Operandi and fee</u></p> <p>It is proposed that applications by TCBs for ISS status on behalf of their underlying clients will be made in bulk, with no requirement to identify the 'vehicle' for which ISS is claimed nor demonstrate entitlement. The consultation paper infers that reliance is to be placed on the regulated status of TCBs – such that a "fit and proper" person (as assessed by the Commission) will make an accurate application. The paper goes on to state that the Comptroller will have powers to investigate abuse. It would therefore seem that the Commission will need a formal gateway to pass information to the Comptroller – if, for example, it becomes aware during the course of an onsite compliance visit that the TCB has potentially acted recklessly or negligently in claiming ISS status.</p>



Thank you for giving us the opportunity to comment on the GST proposals. We would be pleased for representatives from the working party to meet with the GST Consultation Team and/or States of Jersey officials directly to discuss any of the above matters.

Yours sincerely

David Wild
Technical Director
Secretary, Fiscal Strategy Group

Enc.

C.C.:

Chairman and Members of the Fiscal Strategy Group
Chairman, Corporate Services Scrutiny Panel
Chairman and Directors of Jersey Finance Limited
All Jersey Finance Members (via website)



Appendix 1 – FSG Terms of Reference (adopted 7 May 2006)

Status

The Fiscal Strategy Group (FSG) is a Sub-Committee of Jersey Finance Limited and has been established to represent and promote the interests of the Finance Industry on fiscal strategy matters. Whilst the FSG is made up of representatives from across the Industry, it is not an elected body and, therefore, in formulating its views and recommendations, it will need to consult extensively with the Member firms of Jersey Finance and the Trade Associations.

Membership and quorum

The Chairman and members of the FSG will be appointed at the discretion of the Jersey Finance Board. Participation in the Group is voluntary and on an unremunerated basis. A minimum of any five members is required at a meeting for the Group to be quorate. The use of alternates is permitted.

In determining the composition of the Group, the Jersey Finance Board will be mindful of the need to reflect a broad cross-section of the Industry, and will seek to ensure that all key Industry sectors are at all times represented. However, it is also recognised that the Group will need to include tax professionals with sufficient expertise to deal with complex fiscal matters.

In identifying appropriate members, the Board may take into consideration the views of the Trade Association Members of Jersey Finance. However, it should be noted that all members of the working party are acting in a personal capacity and do not represent the views of their respective firms or of any body of which they may be a member.

Whilst the FSG will at all times seek to achieve a consensus position on matters under consideration, it is recognised that this may not always be possible and that individual members of the Group may have dissenting views.

Purpose

The primary purpose of the FSG is to consider and report upon the technical and commercial implications for Jersey's Finance Industry arising out of the States' fiscal policies.

In determining its position on key fiscal strategy issues, the FSG will consult widely with Jersey Finance Member firms and the Trade Associations. It will also work closely with the States and other relevant stakeholders as required.

Confidentiality

Given the focus of the FSG's remit, it may be asked to consider information of a confidential nature. All members of the Group will be expected to apply the highest professional standards and judgement in the handling of such information.



Key Objectives

- To study all key fiscal policy issues and assess / report on their potential impact on Jersey's Financial Services Industry.
- To consider any significant tax developments in selected key competitor jurisdictions (whether identified by members of the Group or others) and inform the Finance Industry and/or the States of any important changes – especially where tax changes in a competitor jurisdiction may affect Jersey's market position³.
- To support the Market Access Group (MAG) in formulating its proposals/recommendations in relation to the States' international tax negotiations (e.g. Tax Information Exchange Agreements).

Operating parameters

The FSG will operate on the following basis:-

- The FSG is a technical group with no decision-making capability. However, it may be used as a mechanism for consultation and technical discussion with other parties, including the States of Jersey, and it is intended that the FSG should be recognised by all interested parties as the primary Industry forum for dealing with fiscal strategy issues.
- The purpose of the FSG, as a technical group, is to study and report on fiscal matters affecting the Finance Industry in Jersey, with a view to preserving and enhancing the long-term competitiveness of the Industry in the provision of international financial services.
- The FSG is mindful that its work and any recommendations it puts forward should take place in the context of what it understands to be in the best economic interests of the Island.

However, it is not within the remit of the FSG to:-

- Support or advise the States (or its appointed representatives) on matters of fiscal policy development. This remains entirely the responsibility of the States of Jersey.
- Determine whether the States' fiscal policies (or any findings of the FSG if adopted by the States) would satisfy Jersey's international commitments on taxation.
- Model the economic impact of its findings and/or recommendations. This will need to be subject to a supplementary process led by the States.
- Engage in any PR or publicity initiative designed to gain acceptance of the States' fiscal policies.

³ In fulfilling this objective it should be noted that neither the Group, nor its individual members, have responsibility for proactively monitoring and reporting on international fiscal developments.



Meetings

It is envisaged that the the FSG will meet at least bi-monthly and meetings will be chaired by the appointed Chairman.

Formal minutes will not be prepared unless agreed on a meeting-by-meeting basis. However, the Secretary will note and control any specific action points arising from each meeting.

Duration

The FSG will be established in January 2006 and will continue in existence until such time as it is disbanded by the Board of Jersey Finance.

Reporting Line and deliverables

The FSG will report to the Board of Jersey Finance through its Secretary. From time to time, the FSG Chairman, or other representatives, may be asked to attend Jersey Finance Board meetings for more comprehensive feedback and discussion.

Jersey Finance Limited will provide its Members with periodic updates on the activities of the FSG through its regular communications channels. However, given that the work undertaken by the FSG may be commercially sensitive, such updates may be general in nature as required.

From time to time the FSG may produce formal deliverables – for example, responses to public consultation documents or other reports. It is envisaged that such documents, once agreed by the Group and the Board of Jersey Finance as a formal deliverable, will be made available to all Jersey Finance Members, as well as to other relevant bodies including the consultation sponsor and (where applicable) relevant Scrutiny Panel.



Appendix – Composition of Fiscal Strategy Group as at May 2006

Member	Contact
Geoffrey Grime (Chairman)	geoffrey.grime@jerseymail.co.uk
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Clive Spears	clivespears78@hotmail.com
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Appendix 2 – Trade Association Members of Jersey Finance Limited

ASSOCIATION
Association of Private Client Investment Managers & Stockbrokers – Jersey branch
Association of English Solicitors in Jersey
Jersey Association of Trust Companies
Jersey Bankers Association
Jersey Funds Association
Jersey Society of Chartered and Certified Accountants
Jersey Taxation Society
Law Society of Jersey
Personal Finance Society – Jersey branch