



Chartered
Institute of
Taxation

Excellence in Taxation

States Greffe
Scrutiny
Morier House
St Helier
Jersey
JE1 1DD

14 January 2019

Dear Sirs

Draft Revenue Administration Law

Introduction

The Chartered Institute of Tax is the leading body in the UK for taxation professionals dealing with all aspects of taxation. Our primary purpose is to promote education in taxation. One of our key aims is to achieve a more efficient and less complex tax system for all. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are an entirely apolitical organization.

For further information on The Chartered Institute of Taxation, please refer to Appendix I.

Interested stakeholders views sought for scrutiny review

We understand that interested stakeholders views are sought on the draft Revenue Administration Law which is due to be debated by the States Assembly on 29th January 2019 and the Chartered Institute of Tax have been invited to make a submission to the work of the Corporate Services Scrutiny Panel.

I would refer to our consultation response on this topic submitted to the Taxes Office on 16 June 2017 and would echo the fact that we welcome the clarity provided by the implementation of a law

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relating to the administration of taxes. However, there are a couple of matters which are not addressed in the draft law, on which we would suggest consideration as follows:

1. Whilst we generally agree with categories of behavior in respect of the quantum of penalties which may be levied, we believe that some definitions or guidance around 'careless' and 'deliberate' would be useful for the taxpayer and reduce any uncertainty. It is also not considered clear if there is a possibility that an error can be anything other than careless or deliberate (there was a previous proposed category of innocent).

We would also like to understand how consistency of categorisation will be achieved when deciding whether a taxpayers activity has been 'careless' or 'deliberate'. For example, will the assessment officers be given clear guidance as to what type of behavior should be attributed to each category, or will every categorisation decision be taken by the same member of the taxes office (a dedicated behavior analysis officer).

2. It is noted that there are sometimes discussions on a taxpayers affairs which can be protracted for reasons which are not always apparent. It is also noted that in the UK, where a similar penalty regime is in place, there is an ability for the taxpayer to raise a complaint to the parliamentary ombudsmen in the case that they are subject to an enquiry or penalty discussions (amongst other matters) and the anticipated outcome is unfair. In such a circumstance, there can be professional costs unnecessarily incurred and the remedy can be the recovery of professional costs incurred for the taxpayer, in addition to potential resolution of the matter, without the need for Court hearings. In order to promote fairness, we would query whether a similar measure should be available to taxpayers in Jersey?

We note that as presently drafted, there is only an ability to appeal to the Commissioners.

The content of our letter (and our previous consultation response) should not be released into the public domain without our advance express permission.

If you have any queries, please contact the Chair of the Jersey Branch of The Chartered Institute of Tax.

Yours faithfully

The Chartered Institute of Tax, Jersey Branch

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Appendix I

The Chartered Institute of Taxation

The Chartered Institute of Taxation ('CIOT') is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives; we are politically neutral in our work.

The CIOT's 17,000 members have the practising title of '*Chartered Tax Adviser*' and the designatory letters '*CTA*', to represent the leading tax qualification.