

Corporate Services Scrutiny Panel
Hearing with John Shenton, Director of Grant Thornton - Revenue Administration Law
Question Plan

Witness: John Shenton, Director of Grant Thornton

Date: Thursday 30th January

Time: 13.30 – 14.00

Room: Le Capelain Room

[BACKGROUND INFO]

The [Draft Revenue Administration \(Jersey\) Law 201- \(P.122/2018\)](#) was lodged on the 22nd October 2018 by Deputy S.J. Pinel, Minister for Treasury & Resources. It is scheduled for debate in the States Assembly on 26th February 2019.

John Shenton provided written evidence to the Panel in a [letter of 14th January](#).

3 other submissions were made to the panel's review:

[PWC](#)

[EY](#)

[Chartered Institute of Taxation](#)

The Comptroller of taxes submitted [further evidence to the Panel on 28th January](#).

Question areas:

1. **Overview**
2. **Right of appeal**
3. **Interest on late payment of tax**
4. **Lack of detail**
5. **Other points**
6. **Consultation and closing question**

1. Overview

[BACKGROUND INFO]

John Shenton evidence:

"we are disappointed that the draft RAL simply looks to increase the powers of the Comptroller with no safeguards whatsoever for the taxpayer or any reform of the Jersey tax system..."

"In the introduction to the proposed RAL it promises that this is the first tranche of new law but does not expand on when taxpayers may expect to receive further tranches or what these tranches may actually contain"

"The Tax Law is now nearly 60 years old...and is simply no longer fit for purpose."

1. You state in your submission that the current tax law is no longer fit for purpose. Can you explain why?
 - a. In light of this, what were you hoping for from a new tax law?
 - b. Why do you consider that the draft Revenue Administration Law does not deliver what is required and what approach would you have liked to see the Minister take?

2. Right of appeal

[BACKGROUND INFO]

"Still no statutory right for a taxpayer to appeal to the Commissioners should the Taxes Office simply go "fishing" without raising an assessment"

Extract from the Law

26 Duty to produce records

The Comptroller may by notice served on any individual to whom this Part applies require the individual to furnish, by such a date or within such a period as may be specified in the notice, such records or part of those records as the Comptroller may require for the purpose of ascertaining whether or not the requirements imposed by Articles 24 and 25 are fulfilled.

2. You highlighted that the draft law gives the potential for the taxes Office to go "fishing" with no right of appeal. What sort of appeal process would you like to see?
 - a. The Comptroller of Taxes has said to us that allowing appeals could lead to obstructive or richer taxpayers delaying or frustrating investigations. Is this a valid concern in your experience?
 - b. Is there a compromise position that could be arrived at, such as greater oversight of notices to produce records prior to them being issued?
3. Do you have any concerns about the wording of this part of the law (Article 26) which is cast widely, rather than only providing a power to serve notice for documents for cases where fraud or negligence is suspected?

3. Interest on late payment of tax

[BACKGROUND INFO]

John Shenton did not refer to interest rates in his submission. However EY highlighted a concern:

EY Submission - "I support the introduction of interest on late paid and overpaid tax and I have no concerns with this being determined by the Minister, provided the interest rates are commercial. In the consultation, there was reference to a rate of 8% above the BoE base rate on late paid tax and a rate equal to the BoE base rate for overpaid tax.

EY Submission (cont) ...if the Minister specifies rates at this level, I am concerned about the high rate for late paid tax as well as the significant difference between the rate applied to late paid and overpaid taxes. I would therefore prefer the law to stipulate either a percentage above BoE base rate or a cap on the rate of interest that can be charged, as well as a closer alignment of the rates on late paid and overpaid taxes.

4. One submission we received highlighted the lack of a cap on the interest that can be charged for late payment of tax. We understand that the consultation document indicated a rate of 8%. Do you have a view on this?
 - a. (depending on answer) Do you have a view as to whether a cap should be included in the law itself, or left to a Ministerial Order?
 - b. The potential for a big difference between the interest charged for late payment and the interest paid on overpaid taxes was also raised with us. What do you think about this?

4. Lack of Detail

[BACKGROUND INFO]

“It is also noted that in the draft RAL many terms are undefined at present, with no guidance being issued as a foreword to the Law. We would request a firm commitment to publish the general definition of such words as “carelessly”, “Deliberately”, “discovery”, among others, before any such Law was introduced so the taxpayer is certain of his position... we are disappointed that these notes do not presently accompany the proposition.”

Comptroller of taxes: “We absolutely concur with CIOT [Chartered Institute of Taxation] that guidance – for the use of both tax officers and taxpayers – needs to be put in place before the new behaviour-based penalties are used - and that work is under way. “

5. You have raised a concern that guidance on some of the terms on the law, such as “careless” and “deliberate” has not been published. The Comptroller has committed to publish guidance before the new penalties are used. Is this sufficient?

5. Other points

[BACKGROUND INFO]

John Shenton calls for:

- Judgements of the Commissioners of Appeal to be published
- A Taxpayers charter to be implemented
- A statutory enquiry window (see below response from the Comptroller)
- The Comptroller of Taxes: *“Mrs Martin’s views on introducing a clear tax enquiry window are shared by me and we expect the Minister will support a new measure to limit the number of*

years for which tax assessments can be made retrospectively. We will be reviewing international best practice and providing further advice to the Minister in this regard"

6. Why do you consider that the judgements of the Commissioners of Appeal should be published?
7. What would be the benefits of a taxpayers charter being introduced?
8. What would you expect a statutory enquiry window to look like?
 - a. Is this common in other jurisdictions?
 - b. Is a commitment by the Comptroller to look at this sufficient?

6 Consultation and closing question

[BACKGROUND INFO]

"...we would strongly recommend that the RAL is rejected unless and until firm proposals accompany the RAL that deal with the safeguarding of taxpayers and the re-writing of the Income Tax (Jersey) Law 1961, as amended, ("Tax Law") to bring the whole Jersey tax system up to date."

9. What consultation has the taxes office undertaken with you and other members of the tax industry?
10. Can you expand on your statement that the draft law should be rejected?
 - a. We have been told that this law is a necessary first step in tax reform and will pave the way for online filing next year. Is this a valid reason for progressing it?
 - b. You have called for a "complete overhaul" of Jersey's tax system". Would you accept a delay to online filing and the other administrative improvements in this law in exchange for that piece of work?
11. Are there any other points about the draft law that we haven't covered and you would like to raise?