THE STATES OF DELIBERATION
of the
ISALND OF GUERNSEY

25 January 2023

Proposition No. P.2022/112

Policy & Resources Committee

THE TAX REVIEW PHASE 2

AMENDMENT

Proposed by: Deputy C N K Parkinson
Seconded by: Deputy L J McKenna

To delete propositions 2 to 6 and substitute therefor:

2. To agree that the States will address the current and future fiscal deficits of the States of Guernsey by a two-phase reform:

A) In Phase 1 to design a new Corporate Income Tax ('CIT'), on a territorial basis with a general rate of 10% to 15% to raise a minimum of £20m per annum, and that a States' Investigation & Advisory Committee ('SI&AC') shall be established with the Constitution and Mandate set out below which shall report back to the States of Deliberation no later than the end of the current States term.

- **Title** **Corporate Income Tax Investigation & Advisory Committee**

- **Constitution**

Two Members who shall be members of the Policy & Resources Committee (one of whom shall be President) and
Two Members (upon establishment of the Committee to be Deputy Charles Parkinson and Deputy Gavin St Pier) who shall be Members of the States and
One voting member who shall not be a Member of the States who shall be elected by the other members of the SI&AC but who shall be an independent international tax consultant who does not have a client or customer relationship (at the time of his or her election and whilst he or she is a member of the Committee) with a company liable or potentially liable to tax in Guernsey on its profits.

- **Mandate**

To develop proposals for and define the detailed features of a new tax (to be known as Corporate Income Tax or CIT) to be levied at a rate of 10% to 15% on a territorial basis on the profits of Guernsey registered companies and other companies doing business on Guernsey.

To engage and consult with those companies whose profits will or may be subject to CIT, representative bodies of such companies, the other Crown Dependencies, relevant international bodies and any other persons, bodies or organisations that the Committee thinks fit for the purpose of discharging its mandate.

And in particular to consider:

a) The source rules for categories of income, including but not limited to:
   i) Banking income
   ii) Insurance income
   iii) Franchise income
   iv) Income from intellectual property

b) The desirability of a new 'Participation Exemption' in the Guernsey tax system

c) Any necessary amendments to Guernsey's Unilateral Double Tax Relief provisions

d) Any Economic Substance Test which may be necessary or desirable

e) The rates of Guernsey withholding tax on dividends, interest and royalties paid by Guernsey residents to non-Guernsey residents,

f) If appropriate, other ideas and opportunities as they arise in relation to corporate tax that would improve the net financial position or sustainability of the States of Guernsey in the longer-term,

g) How better to understand the scale of accumulated untaxed, undistributed profits in Guernsey-resident companies since the introduction of Zero-10 in 2008 and the abolition of the deemed distribution regime in 2012, and if appropriate, having regard to compliance with international standards, to consider:
   i) The viability of extending section 67 of the Income Tax Law to provide appropriate anti-avoidance legislation, particularly in respect of closely held investment holding companies.
   ii) Incentivising earlier taxable distributions.
   iii) Any other mechanisms to increase revenues from this source of profits,

h) Recommending such consequential changes to the current Income Tax Laws as may be necessary or desirable

And to report back to the States by the end of the current States' term with proposals and recommendations.

AND:

B) To direct the Policy & Resources Committee to:

i. Prepare the States of Guernsey Annual Budgets for 2024 and 2025 to include no real-terms growth in revenue expenditure, excepting the budget of the Committee for Health & Social Care; and

ii. Include proposals within the Government Work Plan 2023 to reprioritise initiatives for which funding has not yet been released to the extent necessary to limit the additional expenditure to deliver these initiatives over the remainder of this term to a maximum of £5.7m, being 1% of the 2023 General Revenue budget

AND:

C) In Phase 2, following at least two full years of operation of the new CIT to direct the Policy & Resources Committee to review the effect on Guernsey's public finances of the implementation of Phase 1, and report back to the States with any recommendations for further measures, if any, needed to address any remaining fiscal deficit, before 31 December 2029.

3. To authorise the Policy & Resources Committee to make such funding available from the Budget Reserve as is necessary in order to enable the CITI&AC to carry out its mandate.

Rule 4(1) Information

a) The proposition contributes to the States' objectives and policy plans by delivering on the action in the Government Work Plan to "Agree a sustainable taxation policy".

b) In preparing the proposition, consultation has been undertaken with the Policy & Resources Committee.

c) The proposition has been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.

d) It has been estimated that the cost of Phase 1 is likely to be approximately £4m which is within the amount allowed by the Policy & Resources Committee within its policy letter.

Explanatory Note

The new Corporate Income Tax system will:

a) Raise a sum of not less than £20m a year for the States of Guernsey
b) Restore equity between participants in the Guernsey domestic economy

c) Be compliant with the principles of fair tax competition as articulated by the OECD and EU
d) Improve Guernsey's international reputation by eliminating the zero-rate of income tax which currently applies to most Guernsey companies
e) Be highly competitive among offshore finance centres.

It will therefore provide a strong and stable platform on which to build the island's economic future and stimulate economic growth. In applying a corporate income tax operated on internationally accepted principles, and with a positive tax rate, the new Corporate Income Tax system will greatly reduce the international hostility towards Guernsey as a territory with a 'low or zero rate of tax'.

The new Corporate Income Tax system will ensure that the burden of funding the public services of the island is shared fairly among all of the participants in Guernsey's domestic economy. In doing so, some of the fiscal pressure on the population of resident individuals will be alleviated, making Guernsey a more attractive place to live and work for the young people of the island and for those contemplating taking up employment on Guernsey.

It is expected that 'exempt companies', such as approved collective investment vehicles, will remain exempt. It is also expected that capital gains will continue to be tax-free in Guernsey.

Some forms of income will be subject to CIT at higher rates, e.g., rental income from Guernsey properties. The opportunity may be taken to 'tilt' the residential property market in favour of owner-occupiers by raising the rate of tax (from the current 20%) on rental income derived from Guernsey residential properties.

The precise amount of additional revenue that will be generated by the new Corporate Income Tax system will depend on the resolution of technical questions, e.g., around the definitions of 'Guernsey source' income, which will be addressed in the course of developing the Phase 1 proposals. These in turn will depend on consultations with industry participants and the other Crown Dependencies. The amount of additional revenue that will be raised could potentially be very substantial.

Therefore, the amount of additional revenue that will in fact be raised will depend on as yet unknown variables. The amendment stipulates that the effects of the implementation of the new Corporate Income Tax will be assessed before the States is asked to consider what, if any, further measures need to be taken to redress Guernsey's public finances. This decision will be taken before 31 December 2029.

EFFECT ON GUERNSEY'S COMPETITIVENESS

Under OECD rules, groups with a turnover exceeding 750 million Euros will be subject to a minimum effective tax rate of 15%, almost everywhere in the world, from 2024. Collective investment vehicles will generally remain exempt from tax, as they will in Guernsey. In these areas, Guernsey's new Corporate Income Tax system will put the island on a level with other jurisdictions.

Regulated financial services companies already pay tax at 10% on their taxable income. Depending on the rate of the new CIT, they may pay the same rate of tax or a rate as high as 15%.

Non-financial services companies engaged in Guernsey's domestic economy will generally pay tax at 10% to 15% instead of 0%. Some non-financial services companies (e..g., companies engaged in the cultivation of cannabis, companies in receipt of rental income from Guernsey property, and some utilitie3s) already pay tax at 20% and may remain liable to tax at rates higher than the standard rate of CIT). These businesses are immobile and will not relocate to other jurisdictions.