

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

25th January 2023

Proposition No P.2022/112

Policy & Resources Committee

The Tax Review: Phase 2

AMENDMENT

Proposed by: Deputy H J R Soulsby MBE

Seconded by: Deputy G A St Pier

To delete all the propositions and substitute therefor:

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- 1) To agree that the longer-term financial position of the States of Guernsey is unsustainable and effective measures must be implemented in a staged approach; and to agree that the work associated with this issue is a very high priority for government and resources need to be re-prioritised accordingly.
- 2)
 - a) To agree that the States must determine the role and size of government to establish the revenues needed to fund the services that are required by the community; and in order to do so, to agree that a States' Investigation & Advisory Committee (SIAC1) be established with terms of reference as set out in the Report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current term with proposals and recommendations; and to agree that SIAC1 should comprise:
 - i) Five members elected by the States at the February 2023 States' meeting; and
 - ii) Two Non-States' Members nominated by SIAC1 and approved by the States.

And that SIAC1 shall elect one of the States' Members to act as chair.

- b) To agree that a States' Investigation & Advisory Committee (SIAC2) be established with the overriding objective of investigating changes to the corporate tax system, with terms of reference as set out in the Report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current term with proposals and recommendations; and that SIAC2 should comprise:
 - i) Five members elected by the States at the February 2023 States' meeting; and

- ii) Two Non-States' Members nominated by SIAC2 and approved by the States.

And that SIAC2 shall elect one of the States' Members to act as chair.

- c) Pursuant to Proposition 1, to direct the Policy & Resources Committee to reprioritise and make the necessary funding and resources available to SIAC1 and SIAC2 to discharge their mandates.

AND ONLY IF PROPOSITION 2 IS APPROVED:

- 3) To agree that, before increasing revenues, it is essential to control expenditure and deliver savings; and, accordingly, each committee's baseline general revenue cash limits for 2024 should be subject to a 1% real terms reduction, excepting the budget of the Committee *for* Health & Social Care, and to direct the Policy & Resources Committee to reflect this when preparing the 2024 Budget Report.
- 4) To agree that the total general revenue budget for 2025 should be subject to a further 1% real terms reduction and to direct the Policy & Resources Committee, after consultation with SIAC1, to make recommendations in the 2025 Budget Report to achieve that outcome.
- 5) To agree that, bearing in mind the islands' capacity to deliver infrastructure projects, Principle 6 of the Fiscal Policy Framework should be amended to state, '*Capital expenditure over any States term should be maintained at a level which reflects the need for long- and medium-term investment in infrastructure and direct capital expenditure by the States should average no less than 1.5% of GDP per year averaged over a four year period.*'
- 6) To direct the Policy & Resources Committee to introduce a new 'Community & Infrastructure Contribution' from corporate entities as set out in the report entitled, 'A Fairer Alternative' attached to this amendment, to raise up to £10m annually by 2025.
- 7) To approve the development and implementation of the following changes no later than the end of the current States' term:
 - a) A restructure of the Social Security Contributions system, as outlined in section 8 of the policy letter, save for a reduction in the employer contribution rate to 7% in respect of any employee over the retirement age for States Pension purposes.
 - b) That for Income Tax and Social Security Contribution purposes, the totality of each individual's allowances and withdrawable deductions are reduced at a ratio of £1 of allowances and withdrawable deductions for every £5 that that individual's calculated income is above £80,000 (such limit being pro-rated in the year of arrival or departure, based on the proportion of time spent in Guernsey in the relevant year).

- 8) To direct the Policy & Resources Committee to review the structure, application, and rates of TRP on non-domestic, non-public parking areas and to include appropriate propositions in the 2024 Budget Report to raise a minimum of £500,000 per annum.
- 9) To direct the States' Trading and Supervisory Board, having regard to comparable systems internationally, and in accordance with the Scope 3 element of the States' net zero target, to investigate the potential to implement an emissions levy on visiting cruise ships sufficient to raise a minimum of £500,000 per annum and report back in sufficient time to inform any recommendations in the 2024 Budget Report.
- 10) To direct the Policy & Resources Committee, to investigate the options to ensure that high net worth individuals make a minimum tax contribution.
- 11) To direct the Policy & Resources Committee, in the absence of GST, to investigate options to ensure an alternative contribution is made from visitors to raise up to £2m annually and to report back in sufficient time to inform any recommendations in the 2025 Budget report.
- 12) To direct the Policy & Resources Committee to investigate the potential to raise capital for eligible projects through the issue of a sustainable bond and to report back by the end of the current States' term.
- 13) To direct the Policy & Resources Committee to investigate the viability of investing the States' reserves in local projects that align with, and are in support of, States' policies as set out in the report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current States' term.
- 14) To note that the Committee *for* Employment & Social Security is investigating what further measures will be required in the coming years to ensure the sustainability of the Long Term Care Insurance Fund and the Guernsey Insurance Fund and will be reporting back by the end of the current States' term.
- 15) To direct the Policy & Resources Committee to provide an estimate of the structural deficit, if any, in future annual budget reports.
- 16) To direct the Policy & Resources Committee to report back on the impact of the measures arising from the above propositions by June 2026 and, if required, set out any measures necessary to address the sustainability of the financial position.
- 17) To agree in principle that the public servants pension scheme should be closed to all new entrants with effect from 1 January 2025 and direct the Policy & Resources Committee to deliver an appropriate alternative.

- 18) To agree, that to better enable commissioning of services, legislation should be introduced in relation to the Transfer of Undertakings (Protection of Employment) in respect of the public sector and to direct the Policy & Resources Committee and the Committee *for* Employment & Social Security by 1 January 2024 to bring to the States proposals for such legislation.
- 19) To direct the Policy & Resources Committee to prioritise the actions arising from the above propositions in the Government Work Plan.
- 20) To direct the preparation of such legislation as may be necessary to give effect to the above decisions.”

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 propositions, consultation has been undertaken with officers of 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 is proposed that the funding for the work required to bring the propositions in this amendment into effect will be obtained by the Policy & Resources Committee through prioritising work in the Government Work Plan and it has been estimated that the costs will be well within the amount calculated would be required by the Policy & Resources Committee to bring into effect the propositions within its policy letter.

Explanatory Note

(The explanatory note gives the rationale and objectives of each of the proposed new propositions.)

- 1) *To agree that the longer-term financial position of the States of Guernsey is unsustainable and effective measures must be implemented in a staged approach; and to agree that the work associated with this issue is a very high priority for government and resources need to be re-prioritised accordingly.*

Proposition 1 acknowledges that the longer-term financial position of the States must be addressed in a staged approach. Later propositions provide for these stages as follows:

- a) Actions to be taken between now and the end of this political term:
 - i) determination of the role and size of government (Proposition 2(a))
 - ii) comprehensive review of corporate tax system (Proposition 2(b))
 - iii) 1% real terms reduction in expenditure (Proposition 3 and 4)
 - iv) raise additional revenues (Propositions 6, 7, 8 and 9)
 - v) close public service pension scheme to new entrants (Proposition 17)
 - vi) facilitate 'transfer of undertakings'-type legislation for public sector (Proposition 18)
 - vii) re-prioritise Government Work Plan (Proposition 19)
 - b) Impact assessment of measures taken this term to be presented to the next States no later than June 2026 to enable further measures, if required, to be taken in a timely manner by the next States.
- 2)
- a) *To agree that the States must determine the role and size of government to establish the revenues needed to fund the services that are required by the community; and in order to do so, to agree that a States' Investigation & Advisory Committee (SIAC1) be established with terms of reference as set out in the Report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current term with proposals and recommendations; and to agree that SIAC1 should comprise:*
 - i) *Five members elected by the States at the February 2023 States' meeting:*
and
 - ii) *Two Non-States' Members nominated by SIAC1 and approved by the States.*

And that SIAC1 shall elect one of the States' Members to act as chair.

Proposition 2a) acknowledges that the States must determine the role and size of government to establish the revenues needed to fund the services that are required by the community; and to do so, establishes a Special Investigation & Advisory Committee (SIAC1) with the following mandate:

- i) To identify the provision and cost of services funded by the States through its committees and, subject to ii), to identify which services should continue to be provided by the States, which services should be commissioned to a third party, and which services should be changed or ceased;
- ii) To actively consult and seek the views of the community through participatory dialogue that enables and ensures effective and meaningful public involvement in the process set out at i);
- iii) To identify and review planned expenditure identified as non-recurring or one-off, with particular regard to COVID recovery related expenditure, to ensure that it does not become embedded as recurring annual expenditure;
- iv) In order to enable better understanding and planning for the long-term capital requirements to be funded from general revenue, to review the existing capital portfolio to assess which projects should be continued on what timelines and how each should be financed, including consideration of alternative financing sources (e.g. borrowing, sustainability bonds, joint ventures etc);
- v) To consider, if appropriate, other ideas and opportunities as they arise in relation to expenditure that would improve the net financial position or sustainability of the States of Guernsey in the longer-term; and
- vi) To report back by the end of the current States' term with proposals and recommendations.

2)

b) To agree that a States' Investigation & Advisory Committee (SIAC2) be established with the overriding objective of investigating changes to the corporate tax system, with terms of reference as set out in the Report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current term with proposals and recommendations; and that SIAC2 should comprise:

- i) Five members elected by the States at the February 2023 States' meeting; and*
- ii) Two Non-States' Members nominated by SIAC2 and approved by the States.*

And that SIAC2 shall elect one of the States' Members to act as chair.

- c) *Pursuant to Proposition 1, to direct the Policy & Resources Committee to reprioritise and make the necessary funding and resources available to SIAC1 and SIAC2 to discharge their mandates.*

Proposition 2b) is focussed on establishing a thorough investigation of the corporate tax regime through a Special Investigation & Advisory Committee (SIAC2) with the following mandate:

- i. To engage with industry, Jersey, and the Isle of Man to develop proposals for raising further revenues from the corporate sector without negatively impacting Guernsey's competitive position or compliance with international standards; this work to include consideration of the following:
 - a. The viability of amending the Zero-10 corporate tax regime by extending its scope or raising the non-general rate of tax from 10% to 12.5% or 15%;
 - b. An alternative corporate tax regime using a territorial basis with a general rate of 15% to include consideration of:
 - i. The source rules for particular categories of income, including but not limited to:
 1. Banking income;
 2. Insurance income;
 3. Franchise income;
 4. Income from intellectual property.
 - ii. The desirability of a new 'Participation Exemption' in the Guernsey tax system;
 - iii. Any necessary amendments to Guernsey's Unilateral Double Tax Relief provisions;
 - iv. Any Economic Substance Test which may be necessary or desirable; and
 - v. The rates of Guernsey withholding tax on dividends, interest and royalties paid by Guernsey residents to non-Guernsey residents.
 - c. An alternative corporate vehicle or other appropriate form of entity or taxing structure which will be subject to income tax at 15% or such other rate or basis as the review may determine.
- ii. To engage with the fund sector to explore the viability of the adoption of a system of taxation similar to Luxembourg's 'taxe d'abonnement.'
- iii. To consider, if appropriate, other ideas and opportunities as they arise in relation to tax that would improve the net financial position or sustainability of the States of Guernsey in the longer-term.
- iv. To report back by the end of the current States' term with proposals and recommendations.

- v. To better 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 include consideration of:
 - 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.

3) *To agree that, before increasing revenues, it is essential to control expenditure and deliver savings; and, accordingly, each committee's baseline general revenue cash limits for 2024 should be subject to a 1% real terms reduction, excepting the budget of the Committee for Health & Social Care, and to direct the Policy & Resources Committee to reflect this when preparing the 2024 Budget Report.*

Proposition 3 is seeking to take immediate action to contain expenditure by imposing a 1% real terms reduction in spending in 2024 across all committees other than Health & Social Care. The rationale was that there is insufficient time to undertake a more targeted approach for the 2024 Budget, given the timing of the budgetary processes which ensures most of the spending decisions are locked in by the summer.

4) *To agree that the total general revenue budget for 2025 should be subject to a further 1% real terms reduction and to direct the Policy & Resources Committee, after consultation with SIAC1, to make recommendations in the 2025 Budget Report to achieve that outcome.*

Proposition 4 takes a slightly different approach for 2025 whilst still ensuring a 1% real terms reduction in spending. PRC will make recommendations to the States on where the reductions are most appropriate, having consulted with the Special Investigation & Advisory Committee on spending which will by then have had an opportunity to consider this matter in discharging its mandate under Proposition 2a)

5) *To agree that, bearing in mind the islands' capacity to deliver infrastructure projects, Principle 6 of the Fiscal Policy Framework should be amended to state, 'Capital expenditure over any States term should be maintained at a level which reflects the need for long- and medium-term investment in infrastructure and direct capital expenditure by the States should average no less than 1.5% of GDP per year averaged over a four year period.'*

Proposition 5 amends the Fiscal Policy Framework to align it with the Policy & Resources Committee's original recommendation to the States in 2020. The reduction of targeting capital expenditure from 2% of GDP to 1.5% of GDP, reduces the structural deficit by £19m. The rationale for doing so is set out in paragraphs 5.25-5.29 of the policy letter P2019/142 [The Review of the Fiscal Policy Framework and Fiscal Pressures - States of Guernsey \(gov.gg\)](https://www.guernsey.gov.gg). This is not about restricting capital projects but acknowledging the fact that the current principle is likely to be unachievable on a consistent basis taking into account the islands' capacity to undertake a finite number of projects a year. It should also be noted that Principle 6 only relates to direct capital expenditure and not that of underlying entities such as Guernsey Electricity.

6) *To direct the Policy & Resources Committee to introduce a new 'Community & Infrastructure Contribution' from corporate entities as set out in the report entitled, 'A Fairer Alternative' attached to this amendment, to raise up to £10m annually by 2025.*

Proposition 6 seeks to raise additional revenue from the corporate sector as envisaged in the EY report.

7) *To approve the development and implementation of the following changes no later than the end of the current States' term:*

a) *A restructure of the Social Security Contributions system, as outlined in section 8 of the policy letter, save for a reduction in the employer contribution rate to 7% in respect of any employee over the retirement age for States Pension purposes.*

b) *That for Income Tax and Social Security Contribution purposes, the totality of each individual's allowances and withdrawable deductions are reduced at a ratio of £1 of allowances and withdrawable deductions for every £5 that that individual's calculated income is above £80,000 (such limit being pro-rated in the year of arrival or departure, based on the proportion of time spent in Guernsey in the relevant year).*

Proposition 7 approves the Social Security changes with two alterations. Firstly, a 1% reduction (to 7%) in employers' contributions in respect of any employee over States Pension age to support employment of those in this age bracket and help grow the economy. Secondly, to raise additional revenue, it aligns the level at which personal tax and social security allowances start to be withdrawn at £80,000.

8) *To direct the Policy & Resources Committee to review the structure, application, and rates of TRP on non-domestic, non-public parking areas and to include appropriate propositions in the 2024 Budget Report to raise a minimum of £500,000 per annum.*

Proposition 8 provides for an immediate revenue raising measure (£500k) in relation to non-domestic, non-public parking.

9) *To direct the States' Trading and Supervisory Board, having regard to comparable systems internationally, and in accordance with the Scope 3 element of the States' net zero target, to investigate the potential to implement an emissions levy on visiting cruise ships sufficient to raise a minimum of £500,000 per annum and report back in sufficient time to inform any recommendations in the 2024 Budget Report.*

Proposition 9 provides for an immediate revenue raising measure (£500k) in relation to an emissions levy on visiting cruise ships.

10) *To direct the Policy & Resources Committee to investigate the options to ensure that high net worth individuals make a minimum tax contribution.*

Proposition 10 directs PRC to look at whether there could or should be a minimum tax contribution from high net worth individuals (for whom there are provisions for maximum tax contribution).

11) *To direct the Policy & Resources Committee, in the absence of GST, to investigate options to ensure an alternative contribution is made from visitors to raise up to £2m annually and to report back in sufficient time to inform any recommendations in the 2025 Budget report.*

Proposition 11 seeks to direct PRC, in the absence of a GST which was estimated would raise revenue from visitors, to investigate whether a levy could be introduced as is seen in other jurisdictions.

12) *To direct the Policy & Resources Committee to investigate the potential to raise capital for eligible projects through the issue of a sustainable bond and to report back by the end of the current States' term.*

Proposition 12 seeks to direct PRC to look at whether capital could be raised through the issue of a sustainable bond, such as has been done by the Isle of Man.

13) *To direct the Policy & Resources Committee to investigate the viability of investing the States' reserves in local projects that align with, and are in support of, States' policies as set out in the report entitled, 'A Fairer Alternative' attached to this amendment and to report back by the end of the current States' term.*

Proposition 13 seeks to direct PRC to look at whether it is possible to use all or any of the States' reserves in local sustainable projects as an alternative to the need to raise additional funds through general revenue.

14) *To note that the Committee for Employment & Social Security is investigating further measures that will be required in the coming years to ensure the sustainability of the Long Term Care Insurance Fund and the Guernsey Insurance Fund and will be reporting back by the end of the current States' term.*

Proposition 14 is intended to highlight the fact that the long-term sustainability of the social security funds are still in question and that work needs to be done by ESS to ameliorate the situation.

15) To direct the Policy & Resources Committee to provide an estimate of the structural deficit, if any, in future annual budget reports.

Proposition 15 ensures there is a timely mechanism in the annual budgets for tracking future estimates of any structural deficit in order that appropriate steps can be taken.

16) To direct the Policy & Resources Committee to report back on the impact of the measures arising from the above propositions by June 2026 and, if required, set out any measures necessary to address the sustainability of the financial position.

Proposition 16 provides a requirement for PRC early in the new term of government to report back on the impact of measures taken during the remainder of this term in order that any further steps can be taken, as appropriate.

17) To agree in principle that the public servants pension scheme should be closed to all new entrants with effect from 1 January 2025 and direct the Policy & Resources Committee to deliver an appropriate alternative.

Proposition 17 provides for the effective closure of the public servants' pension scheme to new employees from 1 January 2025. This is a step that has been suggested by many people over the years but has never been actioned for a variety of reasons.

18) To agree, that to better enable commissioning of services, legislation should be introduced in relation to the Transfer of Undertakings (Protection of Employment) in respect of the public sector and to direct the Policy & Resources Committee and the Committee for Employment & Social Security by 1 January 2024 to bring to the States proposals for such legislation.

Proposition 18 recognises that to transform the public service, it may be necessary to transfer employees out of it. To do so, in the past, has required bespoke legislation (eg for the transfer of staff to Guernsey Post, Guernsey Electricity and Agilisys.) The proposition directs the preparation of appropriate UK-style Transfer of Undertakings legislation which would better enable future transfers of staff from the public sector, if appropriate.

19) To direct the Policy & Resources Committee to prioritise the actions arising from the above propositions in the Government Work Plan.

Proposition 19 provides for the re-prioritisation of the Government Work Plan having regard to Proposition 1 deeming this work to be the highest priority.