FITZROY TAX SERVICES

Briefing note

Guernsey's 2019 Budget

Tuesday 9th October 2018 saw the publication of Guernsey's 2019 Budget, intended to be responsible, fair, realistic and progressive. Following on from last year's Budget, Policy & Resources committee again considers their Budget for 2019 to be fully balanced.

Whilst the headlines have been grabbed by measures which were also announced in terms of reforming the Civil Service and saving costs, which many would say is long overdue, there were a number of budgetary measures designed to increase revenue for the States, a number of which are of significant interest from a tax perspective.

Personal taxation

There have been notable adjustments, specifically for those considered most able to pay, at the upper end of the taxpayer pool.

These include a further change to the withdrawal of personal allowances (known as 'WOPA') for higher earners. 2019 will see the third year of this regime, and allowances have once again been reduced. In previous years, the earnings limit where the reduction began was tied to the social security upper earnings limit. This meant, for 2018, that allowances were reduced where income was in excess of £142,896, at £1 of allowances for every £3 of income. From 2019, this limit will be reduced to £100,000, albeit that allowances will be removed at a ratio of £1 for every £5 earned. It is estimated by the committee that this will impact a further 1,050 taxpayers.

Guernsey's two main "tax caps" have been updated, apparently to maintain their real value, as their last update was in 2012. The non-Guernsey income tax cap has been increased to £130,000 from £110,000, while the worldwide income cap has been increased to £260,000 from £220,000. In addition, there have been slight 'tweaks' in the way in which the cap is administered, including them being adjusted in years of arrival or departure, in line with periods spent in the Island.

The "Standard Charge", Guernsey's version of the UK's 'non-dom' regime, remains as it has been for the last few years, which reflects a commitment not to raise the fee payable to benefit from the regime within five years of the last increase.

There has also been an adjustment to the "open market tax cap", which was designed to encourage more high net wealth individuals to the Island. Whereas previously the Guernsey property had to be purchased by the individual within six months before, or after, their move to the Island, in order to qualify for this cap, the period of purchase has now been extended to twelve months. It is also extended to individuals resident in Guernsey.

And finally, in terms of caps, the 'Alderney tax cap' (£50,000 per annum) has been extended to 2025.

For those taxpayers at the other end of the spectrum, the personal allowance has been increased for the under-65s, from £10,500 to £11,000.

Duties

Tobacco duty continues to rise in line with the Tobacco Control Strategy, the increase being 5%. And alcohol duties are also increased by 5%.

Finally, as a result of declining fuel consumption (down from 34m litres in 2008 to 30m litres in 2018), fuel duty will increase above inflation by 3.1p to 70.1p/l, a rise of 4.6%.

Company taxation

This year's budget includes a number of changes to company taxation, some of which will be significant for the companies affected by them.

These include the extension of the 10% company intermediate rate to income generated from operating an investment exchange, and businesses providing compliance services (corporate governance, risk management and regulatory compliance). This is the latest in a series of extensions to the 10% rate, which now covers a significantly broader range of businesses than simply those with certain banking activities, for whom the rate was originally introduced in 2008.

A further change affects companies that are 'dual resident' (resident in Guernsey and another jurisdiction for tax purposes), and where their residence is determined as being in the other country which has a tax rate above 10% by virtue of a 'tiebreaker clause' in a double tax treaty. In this case, the company will be formally considered to be non-Guernsey resident for Guernsey domestic purposes. This will alleviate negative tax consequences in the UK arising from a company being considered a 'dual-resident investment company', such as limiting access to loss relief, which in turn should not discourage shareholders affected by this from moving to the Island.

Hand in hand with the above measure is the welcome clarification that where a company is incorporated or 'controlled' in Guernsey, but pays UK tax, the credit will be given for that UK tax paid on any distributions to Guernsey resident beneficial members. Whilst this has long been the case, it has been the view of the Income Tax Office that from November 2015 where there was a unilateral change in interpretation by HMRC of the UK/Guernsey double tax treaty residence 'tiebreaker' provision, that this 'flow through' treatment is no longer available. Whilst we consider the Tax Office analysis to be flawed, this welcome change removes any doubt over the matter.

There is also a note that as a result of the recent consultation on company substance (arising from the EU Code of Conduct Group (Business Taxation) report concerning harmful tax practices and tax transparency), Guernsey may move to a 'management and control' based test of residence (in addition to incorporation) , rather than the current test which is based on beneficial ownership. However, this is not proposed as a formal legislative amendment in this year's Budget.

However, proposals are included to introduce a substance requirement into domestic law. These provisions require a company to be able to demonstrate, if required to do so, that;

- it is directed and managed in Guernsey;
- the core income generating activities ("CIGA") are undertaken in Guernsey;
- there are adequate and appropriately skilled employees in Guernsey; and
- it has adequate annual expenditure and physical presence in Guernsey to reflect the amount of profits accounted here.

The types of activities that these rules are intended to impact include banking, insurance, fund management, financing and leasing, shipping, intellectual property and headquarter/holding companies that generate income from any of these key activities. These activities are consistent with those identified by the EU Code of Conduct Group.

Of particular focus are companies with 'high risk' IP activities, which are broadly companies which hold IP which they have not developed (or are not developing), and where the income stream generated is disproportionate to the level of activity carried on locally. For these companies there will be a rebuttable presumption that they do not have sufficient substance. We can provide you with more details on the application of the new substance provisions if you wish.

Document duty and TRP

The most significant increases in the tax base are derived from document duty and TRP.

One measure which will help first time buyers is the removal of document duty on bonds registered at the Greffe. At present, the main source of revenue from this measure is the 0.5% charged on the registration of a mortgage charge against a property. To offset the reduction in revenue which this brings, the document duty rates on property conveyances are increasing particularly at the higher end in terms of property value as shown below;

- 2.25% (an increase of 0.25%) on up to £250,000 of the transaction value;
- 3.5% (an increase of 0.25%) on the next £150,000 (i.e. the portion from £250,000 to £400,000);
- 4% (an increase of 0.5%) on the next £350,000 (i.e. the portion from £400,000 to £750,000);
- 4.25% (an increase of 0.5%) on the next £250,000 (i.e. the portion from £750,000 to £1,000,000);
- 4.5% (an increase of 0.5%) on the next £1,000,000 (i.e. the portion from £1,000,000 to £2,000,000);
- 5.5% (an increase of 1.5%) on any amount above £2,000,000.

TRP is similarly increasing again with the most significant impact felt on higher value properties. Those properties with a TRP below 200 will see a 10% increase, with a graduated increase in this uplift to a maximum increase of 70% for those properties with a TRP above 1,000. Commercial properties will see a 5% increase, and an extension of the higher TRP rate to accountancy and non-regulated financial services businesses who will see an additional 200% increase.

If you would like further information in relation to any of these measures, please let us know.

Contact us

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