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THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

STATES OF ALDERNEY – NEW SINGLE PROPERTY TAX

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'States of Alderney – New Single Property Tax' dated 14th January, 2019 they are of the opinion:-

1. To approve the proposals set out in that policy letter for the preparation of the necessary Guernsey legislation to enable the introduction of a single property tax in Alderney, which was included in the Review of the Financial Relationship agreed in 2016, with effect from the 1st January, 2020.

2. To direct the preparation of such legislation as may be necessary to give effect to the above proposition.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

<u>THE STATES OF DELIBERATION</u>
<u>of the</u>
<u>ISLAND OF GUERNSEY</u>

POLICY & RESOURCES COMMITTEE

STATES OF ALDERNEY – NEW SINGLE PROPERTY TAX

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

14th January, 2019

Dear Sir

1. Executive Summary

1.1 This Policy Letter is recommending approval of the preparation of the necessary Guernsey legislation to enable the introduction of a single property tax in Alderney which was included in the Review of the Financial Relationship agreed in 2016.

1.2 Currently under the Alderney (Application of Legislation) Law, 1948, which reflects the arrangements set out in the 1948 Agreement on the Financial Relationship between Guernsey and Alderney, Guernsey legislation relating to tax has effect in Alderney as if the two islands were a single jurisdiction. Guernsey legislation on tax on real property ("TRP") therefore applies to Alderney and the TRP levied in the two islands is pooled and supports the provision of services in Alderney. For Alderney to be able to levy their own new property tax (which will subsume the occupiers' rate Alderney is currently empowered to levy under the 1948 Law to pay for the domestic services for which they remain responsible) the Guernsey legislation on TRP will have to be amended (for example, to apply a zero rate to Alderney) and the 1948 Law will need to be modified to facilitate the new Alderney legislation, which Alderney will enact separately.

2. Background

2.1. In February 2016 (Billet d'État III, 2016), the States considered a Policy Letter from the Policy Council titled *"The Review of the Financial Relationship between Guernsey and Alderney"* and, agreed in principle, that the financial arrangements be modified such that:

- Guernsey retains responsibility to fund all Transferred Services, and the Social Security Funds, through the pooled income sources of Income Tax and Social Security Contributions;

- The States of Alderney is responsible for funding all other public services in Alderney (including the harbour, drainage (foul and surface water), roads, coastal defence, water and electricity), from all other levies, rates, taxes, permit fees, rents, duties and other income collected from sources based in Alderney (such as tax on real property, occupiers' rates, import duties and excise duties, fees in lieu of Congé, document duty, numismatic and philatelic profits, and company registration fees.

2.2. The 2017 Budget Report (Billet d'État XXVI, 2016) included:

"As the first stage in introducing the modified financial arrangements, the Policy & Resources Committee is intending, subject to the formal approval of the States of Alderney, to propose in the 2018 Budget Report that, with effect from 2018:

- *The Tax on Real Property (TRP) rates in respect of Alderney buildings will be set at £zero. The 2017 budget for this income is £800,000;*

- *The excise duty on Motor Fuel imports into Alderney will be set at £zero. The 2017 budget for this income is £350,000;*

- *The document duty on conveyances of Alderney property which is paid to General Revenue is paid to the States of Alderney. The 2017 budget for this income is £350,000;*

- *A commensurate reduction is made to the recommended 2018 Cash Limit for the States of Alderney. The estimated reduction is £1.5million which would reduce the Cash Limit to £330,000 per annum.*

During 2017, the States of Alderney will develop its existing Occupier's Rates system (which uses the existing Cadastre register) in order to levy one property tax. As part of its 2018 Budget, the States of Alderney will agree the Occupier's Rates and Excise Duty on Motor Fuel it will levy. The States of Alderney considers that these proposals would provide them with greater freedom and flexibility to set tax *and duty rates at such levels they determine will best raise the funds necessary to provide their public services."*

2.3. However, at its meeting in September 2017, the States of Alderney agreed that The Occupiers' Rates will be due from the property owner rather than the occupier from 2019 but did not approve the Law Officers being instructed to prepare the necessary legislation. Therefore, the implementation of the changes to the financial relationship stalled.

2.4. In July 2018, the States of Alderney reconsidered and agreed this matter. The Billet included:

"A single property tax will also bring benefits of simplicity, transparency and more efficient administration. It will also allow Alderney to adjust the rates of charge on businesses and domestic properties in a manner that best reflects the needs of the island. There are charges on some property that better reflect the needs of Guernsey and some which are unduly penalistic on certain business types, reflecting a time-past when these were seen as an easy source of revenue. Having said this any reductions in the tax-take from one type of property will have to be met with increases on other types.

The new Property Tax will have some implications for landlords who may have to make some adjustments to leases and rental agreements in advance of the implementation date. The Law Officers have confirmed that this is a private contract law matter.

The Tax Office has also confirmed that a single property tax will not be allowed as a deductible expense cost as it represents a cost of property ownership."

3. Proposal

3.1 The States of Alderney Policy and Finance Committee has requested the Policy & Resources Committee to submit a Policy Letter recommending approval of the necessary Guernsey legislation for the implementation of a new single Property Tax to be in place by 1st January, 2020. This will require an amendment to the Section 3 of the Alderney (Application of Legislation) Law, 1948 in order to provide for the change of incidence from occupier to owner, any other necessary change to that Law or to the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 to accommodate Alderney's legislative autonomy in relation to property taxation, and any other consequential amendments that may be found to be necessary in the course of the legislative drafting process.

3.2 The charging of TRP on Alderney property would remain on the statute book but would be levied at nil in future (a change that can be effected by Guernsey Ordinance or regulations under the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007). The property tax raising responsibilities and control over revenues will pass to the States of Alderney together with a commensurate reduction in the States of Alderney Cash Limit. The States of Alderney would enact their own property taxation legislation that would include (it is envisaged) an Ordinance each year to set the annual charge for the registered owner of a property.

3.3 This proposal will provide the States of Alderney with greater freedom and flexibility to set property tax rates at such levels as they determine will best raise the funds necessary to provide their public services. If there is a decrease in the level of property tax income received by the States of Alderney, for example as a result of a reduction in rates, the States of Alderney would either have to raise additional income from another source or reduce expenditure.

4. Compliance with Rule 4

4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

4.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not to be put into effect.

4.3 In accordance with Rule 4(3), the Propositions are not requesting the States to approve funding.

4.4 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

4.5 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States and to develop policies relating to fiscal policy and the financial resources of the States, and relations with the other islands of the Bailiwick.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens