

Implications of the Finance (2023 Budget) (Jersey) Law 202- for property transactions

Service area / [Property Law](#)

Legal jurisdiction / [Jersey](#)

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The Finance (2023 Budget) (Jersey) Law 202- (the “Law”) was adopted by the States of Jersey on 16 December 2022. Most of the provisions of the Law (and all of those provisions discussed in this article) will take effect from 1 January 2023.

In this briefing, we will review the implications of the Law for property transactions in Jersey.

Tax on purchase of residential properties which are not used as a main residence

The key implication of the Law is that stamp duty (and equivalent land taxes such as land transactions tax and enveloped property transactions tax) on acquisitions of domestic residential property which will not be the purchaser’s main residence will be increased. This will therefore capture the purchase of buy-to-lets, second homes, and holiday homes. The changes apply only to residential properties and do not currently affect the stamp duty rates payable on acquisitions of commercial property.

Stamp Duty (Freehold and Flying Freehold Property)

Following implementation, such purchases will incur Stamp Duty at a rate 3% higher than the standard rates for residential property, with effect from 1 January 2023. The Law amends the provisions of the Stamp Duties and Fees (Jersey) Law 1998 (the “Stamp Duty Law”) to give effect to this change.

The Law uses the term “*main residence*”, which is defined as “...*the property that is occupied as the person’s main residence, whether or not it is in Jersey*”. A dwelling which has been acquired for any purpose other than as the purchaser’s main residence will be a “relevant property” for the purposes

of the law, and will be liable to the higher tax rates on acquisition.

By way of example, using the current rates, the stamp duty payable on a £700,000 residential property would have previously been £14,000, regardless of whether such property was the purchaser’s main residence. Following adoption of the Law, if the property is not the purchaser’s main residence, the stamp duty payable will be £35,000, plus the usual registration fees.

The Law also applies to contract leases (i.e., leases for a term greater than 9 years) of residential property, where the residential property being leased is not the main residence of the tenant. As with freehold properties, leases within the scope of the Law will attract stamp duty at 3% above the usual residential rates.

In addition, the Law has added provisions requiring a statement by any purchaser confirming that the dwelling is being acquired for use as their main residence, and a declaration that this statement is true, complete and correct, to the best of the purchaser’s knowledge and belief.

A false or misleading statement is an offence and could result in imprisonment for 6 months and a fine of level 3 on the standard scale (currently £10,000).

The Law does not provide for any changes to the stamp duty payable on registration of debt, so that the stamp duty payable on registration of a loan will remain at 0.5% regardless of whether the property is the borrower’s main residence or not – but it is worth noting that where the property is for “occupation by the purchaser”, certain concessions may continue to apply.

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Land Transactions Tax (Share Transfer Property)

The Taxation (Land Transactions) (Jersey) Law 2009 (the "LTT Law") will be amended by the Law in the same way as the Stamp Duty Law, to include reference to "main residence", with equivalent increases in the LTT payable on share transfer transactions in respect of a dwelling that is not the transferee's main residence.

Additionally, the Law includes provision to increase the base amount of LTT now chargeable on an applicable transaction from £80 to £90. This brings the LTT Law in line with the Stamp Duty Law, which was amended to incorporate an increase in its base amount earlier in 2022. In both cases, this £90 fee will be added to the LTT and/or stamp duty (as the case may be) that is otherwise payable on the transaction.

Enveloped Property Transactions Tax

The Taxation (Enveloped Property Transactions) (Jersey) Law 2022 (the "EPTT Law") only came into effect on 4 April 2022, and will be amended by the Law in much the same way as the LTT Law and the Stamp Duty Law.

The Law amends the EPTT Law to bring in the higher rate of enveloped property tax ("EPTT") on an "applicable transaction" where the enveloped property in question is a dwelling acquired for a purpose other than use as the main residence of the person by whom the significant interest in an entity is acquired. Again "main residence" is defined as "property that is occupied as the main residence whether or not it is in Jersey". The rates are equivalent to those for stamp duty (subject to the £500,000 minimum threshold).

As with the Stamp Duty Law, the Law also amends the EPTT Law so that the higher rates apply to contract leases for domestic properties as well.

As we have seen with the changes made to the LTT Law, the Law also brings the base amount under the EPTT Law in line with the Stamp Duty Law by increasing this from £80 to £90. Again, this £90 fee is to be added to the actual EPTT payable on the transaction.

Carey Olsen is here to help

If you would like any advice on how the Law will affect you or your future property transactions, please contact a member of our Jersey Property Law Team.



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