

# Dwelling Profits Tax



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There is nothing like a bit of sanctimony, mixed with a knee-jerk reaction, to result in ill-considered legislation which, as day follows night, results in the proof yet again of the law of unintended consequences. For example, tragic shootings in the United Kingdom resulted in the crazed decision to ban the ownership of guns, and thus deprived sportsmen of the ability to do something which they were really rather good at: pistol shooting. On a greater stage, the atrocities of the Second World War resulted in the European Convention on Human Rights, which in turn has spawned domestic human rights' legislation which has tipped the balance the other way (and, purely by way of example, has resulted in an abused legal aid system).

Guernsey, despite its earlier reputation for pragmatism (I exclude from that a huge amount of the legislation which we have inflicted upon ourselves from the late 1980s onwards) is no stranger to the creation of laws which are just plain stupid. A good example is the 1975 law relating to dwellings profits tax.

The background to that law was the very lively property market of the early 1970s. On a rising market, some investors were speculating – i.e. investing in properties in the hope that the capital value would go up. (No! Oh my paws and whiskers. How could they do that?) Much (in fact, by my memory serves, pretty well all) of the speculation was in respect of the more expensive end of the property market anyway, but there was concern at the time that there would be an unacceptable effect on the local market. So what happened? Well, dwellings profits tax legislation was brought in (but not until the property boom had ended). Under this law, a property owner couldn't sell a dwelling for profit unless he had either lived in it for a year or, that failing, he had owned it for five years.

Dwellings profits tax was the outcome of debates of the States of Guernsey in October 1973 and June 1974. A number of the (equally excessive) proposals of the then Advisory and Finance Committee (for example, a company was not to be able to own an open market house) were not given legislative force, but dwellings profits tax suited the populist zeitgeist of the time, notwithstanding that the Advisory and Finance Committee had itself said that the speculation in dwellings had not in any substantial way denied young people the chance to own their own homes and that the Committee was of the opinion that taxation could never do more than simply treat symptoms.

What has happened with dwellings profits tax is that house owners (or flat owners) have been artificially constrained in the way in which they deal with their property. Suppose, for example, you buy

a somewhat run down property, rehabilitate it and then make it available for local market tenancy. If your financial circumstances change and you want to realise your assets, including the house, you can't do so without paying 100% tax on any profit made (after deduction of allowed expenses), unless you have owned the property for five years or you have lived in it yourself for a year. Quite frankly, that's stupid. Again, suppose that you have been looking for your ideal house for a long time, and nothing has come on the market. As a result, you buy something which you really don't want. All of a sudden (Murphy's law is operating here – which often happens) the house of your dreams suddenly materialises on the market. Unless you take up a second mortgage or you can otherwise afford it, you can't buy that ideal house, simply because you've got to wait for the remainder of the year to sell off your own property. Again, let's say that you are working in London, and holding down a good job. You want to help your sister get onto the property ladder in Guernsey, and therefore you advance the money and buy a house jointly. She lives in it, but you don't, because you want to stay in your good job. After a year or so she wants to get married and move house. Can you realise your own investment by selling your share for profit? No. You have to wait until you have owned it for five years. Of course, in the real world, so does your sister, because she simply won't be able to sell her one-half share. (Compare this with a married couple. In the case of their joint ownership it is only necessary for one spouse to occupy the dwelling throughout any continuous period of twelve months as her only or main residence in order to gain exemption from DPT.) The same sort of problem arises if an employer tries to assist an employee in the same way – by taking a share of the property.

Although it can't be said that DPT has actually stifled development (not in respect of new -build) it hasn't helped at all in respect of the renovation of low grade housing. In many cases, the developer has been put off by implications of the law – because in order to comply with the law and escape the disgraceful 100% tax, the developer has had to spend not less than 20% of the sale price on the renovation of the property. Simply by way of example, if a builder buys a house and land for £150,000 and spends £30,000 on renovation, his outlay (including, let's say, purchase costs) will be £185,000. The developed property is valued at £275,000 by a valuer. Under the law, he must spend not less than 20% of the sale price on restoration – i.e. £35,000. Thus the builder cannot sell for £275,000 without paying 100% tax on profit.

This law was bone-headed, populist and wildly over-reactive. It must go.