

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Defence Related Taxation Exemptions
Paper No: 248/10
Date: 21 October 2010
Report of: Taxation Officer / Commissioner of Taxation

1.0 Purpose

To seek Executive Council's approval for a further 1 year extension to the Taxes and Duties (Defence Contractors' Employees Exemption) Order, until 31 December 2011.

2.0 Recommendation

Executive Council is recommended to approve the proposed extension.

3.0 Summary of Financial Implications

There are no direct financial implications from the recommendation in the paper since no provision has been made for the taxation revenue from defence contractor employees.

4.0 Background

4.1 Some employees in defence-related businesses are exempted from paying Falkland Islands Income Tax, subject to certain conditions.

4.2 These exemptions have been contained within in a series of orders made under the Taxes and Duties (Special Exemptions) Ordinance 1987, the current order being the Taxes and Duties (Defence Contractors' Employees Exemption) (No. 3) Order 2010 – although Standing Finance Committee is currently considering a draft (No. 4) order, in which another designated employer would be added.

4.3 These orders are made under the powers given to the Governor by the Taxes and Duties (Special Exemptions) Ordinance 1987. Section 9A of the Ordinance (which was introduced in 1995) permits the Governor to make such an order on the advice of the Standing Finance Committee (rather than Executive Council).

4.4 Following the acceptance of the proposals presented to Executive Council on 26 November 2009 (ExCo paper 232/09), the exemption from Falkland Islands tax for MoD defence-related employees was extended until at least 31 December 2010.

4.5 Due to the increased co-operation of MoD with FIG, it is felt that it would not be beneficial to implement any tax measures at this time and the possibility of an increased civilian base at MPC may give rise to additional tax revenue in the future.

4.6 For these reasons, it is proposed that the existing exemption should remain in place for another year.

4.7 The power of the Governor to make orders under section 9A has to be exercised on the advice of the Standing Finance Committee rather than Executive Council. This means that, if Executive Council does decide to extend the exemption, the matter will have to go back to Standing Finance Committee for it to advise the Governor to make the necessary order.

5.0 Financial Implications

5.1 The precise financial implications are unknown as tax exemptions are in place and therefore there is no requirement for information on income to be declared for any relevant employment.

5.2 In paper 310/05, submitted to Executive Council on 15 December 2005, it was roughly estimated that the annual revenue that could be collected from Defence Contractor Employees' amounted to between £750,000 and £900,000.

5.3 Information gathered at that time showed the majority of employees were and would still remain under the personal allowance. It is therefore unlikely that the estimate would have increased significantly.

6.0 Legal Implications

6.1 If Executive Council does decide that the exemption should be extended, an order will have to be drafted for Standing Finance Committee to consider.

6.2 In terms of the effects of civilianisation, it is worth noting that for the exemption to apply to an individual employer at MPC, that employee must not just be working for a designated employer but must also be in relevant employment, which is defined as:

(a) employment only for the purpose of providing services in the Falkland Islands to either —

(i) Her Majesty's regular armed forces; or

(ii) the Ministry of Defence of Her Majesty's Government in the United Kingdom; or

(b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) of this definition or by virtue of this paragraph of this definition;

7.0 Human Resources Implications

None.