WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER ANSWER TO BE TABLED ON TUESDAY 29th APRIL 2014

Question

“Notwithstanding his previous answers on the use of structured loans by Jersey registered companies to subsidiaries in order to avoid legitimate UK corporation tax, exemplified by Henderson Infrastructure and Alder Hey PLC, what part of the new Financial Services Framework does he consider addresses the question of what constitutes ‘aggressive or abusive’ tax avoidance and, if none, why not?

Despite the absence of a comprehensive action plan on base erosion and profit shifting, does he not accept that he could and should take responsibility for regulating the activities of Jersey registered companies in this area of financial activity and, if not, why not?

Will he explain to members how his statement that "we are part of the growth solution of the UK government" matches the reduction in UK tax revenue produced by our activity and does he accept that his statement that "clearly our innovative company law is providing useful arrangements for UK companies" simply means we are involved in assisting companies to abusively avoid legitimate tax?”

Answer

This question has been directed to the Minister for Treasury and Resources but would more correctly have been asked of the Assistant Chief Minister with responsibility for Financial Services. However, an answer has been provided below.

The Financial Services Industry Policy Framework includes among its key objectives “Uphold the reputation of the Island and ensure that Jersey is considered a centre of excellence for sound business practice by the international community”. As the Chief Minister and the Assistant Chief Minister – Financial Services have made clear in public statements, sound business practice includes ensuring that Jersey is not used by those engaged in abusive tax planning schemes. In this context what constitutes abusive tax planning is identified from the international standards set by relevant international organisations such as the OECD and from Court or Tribunal decisions obtained by the HMRC in the UK.

The OECD Action Plan includes action to limit base erosion via interest deductions and other financial payments and this forms part of a general review of transfer pricing guidelines. In advance of knowing the outcome of this Action regard can be had on a case by case basis for the view taken by the tax authority directly affected. In this respect it is to be noted that the arrangements made in the case to which the Deputy has referred have been considered and accepted by the UK authorities.

The Capital Economics study showed conclusively that while there was some reduction in UK tax revenue arising from Jersey’s international finance centre activities this was very substantially exceeded by the benefit the UK economy derived from those activities. In particular the contribution Jersey has made to the liquidity of banks in the UK has meant that the banks have been in a better position to lend to British businesses and thereby foster the growth of the UK economy.

Through Jersey’s innovative company law the States have been able to attract more business to Jersey that the UK has then derived a benefit from. At the same time Jersey has sought to limit the loss of tax revenue through joining in the fight against tax evasion through enhancing transparency and the exchange of information. This is being achieved by the signing of an intergovernmental agreement that provides for the automatic exchange of information. A request has also been made of the HMRC to identify abusive tax planning schemes through the DOTAS (Disclosure of Tax Avoidance Schemes) reporting schemes so that appropriate action can be taken in accordance with the Sound Business Practice objective in the Policy Framework document. That assistance will hopefully be forthcoming shortly.