

4.8 Deputy G.P. Southern of the Chief Minister regarding the progress made in addressing the E.U. Code Group’s reservations regarding the Island’s corporate tax regime: [OQ.3/2018]

I believe I am due a whole series of when questions here since the Minister in response to 3 detailed written questions has said: “I could tell you about what our plans are but I would have to shoot you immediately afterwards.” So can we get some detail or some potential detail at all? Following his statement to the Assembly on 12th December 2017, will the Chief Minister inform Members what progress, if any, has been made on addressing the E.U. Code Group's reservations regarding the declaration of company tax and profits without real economic activity and, if none, when does he expect to make some progress and to inform this House?

Senator I.J. Gorst (The Chief Minister):

It is nice to have the question extended. Officials, of course, are working on a wide range of matters relating to the E.U. Code Group process ahead of forthcoming dialogue. I have, during my time as Chief Minister, committed Jersey to a range of new standards on tax and transparency that reflect changing times and new expectations. In 2017 alone the Government of Jersey signed the O.E.C.D. (Organisation for Economic Co-operation and Development) multilateral convention on the prevention of base erosion and profit shifting and also delivered on our separate commitment to the United Kingdom for exchange of beneficial ownership information. I will ensure that we adopt a similarly constructive approach towards satisfying concerns of the E.U. Code Group. It is important, however, that I highlight the commitment from the Code Group and this Government to a process of dialogue. It would be inappropriate for me to set out Jersey’s position in any great depth ahead of that dialogue getting underway.

[12:00]

4.8.1 Deputy G.P. Southern:

Will the Minister at least state when he will come to this House with a working definition of “without economic substance” and his response or his department’s response to the reservations of the E.U. Code Group?

Senator I.J. Gorst:

The Deputy knows that there is no universally accepted definition of economic substance. He knows, or I hope he knows, that the O.E.C.D. are thinking about these issues and they themselves are in dialogue with the members of the O.E.C.D. The European Union and the Code Group and E.C.O.F.I.N. (The Council of Economics and Finance Ministers of the European Union) have not agreed on economic substance and therefore the dialogue is important and until that dialogue takes place, while we are thinking about how we may give confidence to the E.U. around the concerns that they have, it would be premature for me to make such commitments.

Deputy G.P. Southern:

He did not answer the question again. When would he consider he is likely to know something about what the definition is and bring it to the House?

The Deputy Bailiff:

Deputy, I cannot give you a further supplementary at this point but there may be time for you to go into the list for a further supplementary later on if you would like.

4.8.2 Deputy M.R. Higgins:

Can the Chief Minister clarify something for me? When the E.U. Code Group are going on about economic substance and so on, are they only referring to regulated companies that are within the Island or are they also referring to the 30,000-odd companies that are registered in the Island, that are essentially investment holdings or property holdings where there is no economic substance to it? Would he please clarify what the situation is?

Senator I.J. Gorst:

The Deputy knows that there are differing companies, either Jersey registered companies or administered companies here, and they are created for differing purposes. We are gathering further information to help us to think about the issues and the concerns that the European Union Code Group have but they themselves have not yet clarified what processes might be acceptable for those different forms of company. Let us be quite clear, we are right at the forefront here of developing international standards and it may be frustrating for Members of this Assembly but this is where we are. We are taking our place, we are working constructively with the E.U. and the O.E.C.D. in developing these standards together with those bodies so that they can ultimately, and we hope quickly, become international and therefore offer a level playing field. But they are developing and therefore the certainty that Members are asking for at this point is not available.

4.8.3 Deputy M. Tadier:

In particular, in relation to written question and answer (e), which relates to providing an estimate of any revenue loss, or as the Chief Minister calls it deferred, from local companies, can he give a timeline as to when he will be able to provide that estimate?

Senator I.J. Gorst:

I do not have the written questions directly in front of me because I am answering oral questions. I can certainly revert back to the Deputy in due course with an answer to his question.

4.8.4 Deputy M. Tadier:

May I ask a question which relates in general terms about the substance test? The Chief Minister said earlier that there is not a universal substance test, but what is the substance test that his department uses and applies when looking at these issues?

Senator I.J. Gorst:

The Deputy should know that the J.F.S.C. (Jersey Financial Services Commission) uses a myriad of different types of tests for regulated entities, which is part of the question that Deputy Higgins was asking me earlier, and the Code Group in the questions and answers that we have provided to them seem satisfied with that.

4.8.5 Deputy G.P. Southern:

I have 2 here but I will try one to start with.

The Deputy Bailiff:

There can only be one final supplementary so I think it is a question of choosing your best shot.

Deputy G.P. Southern:

I heed your advice, Sir. Is it not the case that in general, in terms of companies in Jersey, if the authorities do not ask what profits are occurring and what tax is paid upon those profits then it does not have the information to share with the rest of Europe about what is going on in the Island? Further, on an area where he does have full control he says that it is not possible at the

current time to provide a full analysis of the profit of the 6,000 companies split between companies that are incorporated in Jersey and companies which are incorporated elsewhere. When - it is that "when" question - does he think he will have a picture, albeit not necessarily the full analysis, of the 6,000 companies in which that refers to?

Senator I.J. Gorst:

I cannot be precise on exactly what information will be available when. We are engaged with some of the best minds in our community, some of the best minds in Government, working together with our colleague Crown Dependencies. I understand some Members' frustration but, as I said earlier, we are gathering more information, we are right at the forefront of evolving and changing international standards where there is currently, as I stand, no consensus and we are working together with these international standard setting bodies and the E.U. to try and deliver consensus. I believe that we are in a very good position. I believe that for many years we have been a jurisdiction of substance, for all the reasons that I have explained previously, and that we will navigate through and be able to give satisfaction to the European Union around the concerns that they have. We may, of course, need legislative change and policy change and that is what we are looking and considering now. If there are legislative changes required then of course they will come to this Assembly in due course appropriately for Members to agree or not.

Deputy G.P. Southern:

Given that the Chief Minister has not revealed any information whatsoever I am relieved not to be shot.