



Corporate Services Scrutiny Panel

Public Hearing

Witness: Mr. B. Shenton

Thursday, 1st October 2020

Panel:

Senator K.L. Moore (Chair)
Connétable R. Vibert of St. Peter
Deputy S.M. Ahier of St. Helier

Witnesses:

Mr. B. Shenton

[12:58]

Senator K.L. Moore (Chair):

Good afternoon and thank you very much for joining us, Mr. Shenton, and for taking part in this public hearing. As you know, the panel is carrying out a review into the prior years' tax reform and we will be discussing your petition, which was a call to write off the tax liability for the prior year if moved to the current year basis.

Deputy S.M. Ahier of St. Helier:

Could you please outline why you started your petition to write off income tax liability for prior year if moved to current year basis?

Mr. B. Shenton:

Well, when the proposal was announced or shortly after the proposal was announced, I was having a coffee with my brother, John, who is a tax professional. I was commenting about how misleading the announcement had been simply because the announcement had been made more or less: "Oh,

we are doing this to help the public of Jersey. We are doing this because of COVID. We are doing this because of the poor people who have taken an income drop this year and as a result they will find it tough to pay their taxes from last year.”

[13:00]

Whereas in fact it seemed to me it was a good way of bringing in £320 million into the coffers early and all it was was a tax hike proposal shortly after we have just sort of had a hike in the long-term care rate as well. I think I was probably influenced by a lady who stopped me. Unfortunately, or fortunately, I do not know, I get stopped a lot in town because people think I am a politician. In fact, quite often they say that they voted for me, which is quite incredible.

Senator K.L. Moore:

Some time ago, maybe.

Mr. B. Shenton:

2005 was the last time I stood, that is 15 years ago. So I do not know how long they think a term of office is. She was quite distressed by the whole thing because she had children that were going off to university in about 2023, she was a prior year taxpayer and she was minded of the fact that she did not think university funding would still be free by that time with everything else going on and she just did not know where she was going to find the money to send her kids to university. So I had a nice coffee with my brother. I used to joke when I was in the Assembly that I was probably the only person in the House with a qualification in ethics. I am a member of the Chartered Institute of Securities and Investment and you have to take an ethics qualification to get your fellow status. Certainly if my firm operated in such a misleading manner over investments as the Income Tax Department were operating in the sale of this proposal to the public I would have certainly been either heavily fined and/or certainly been sanctioned over it. So I saw the best way of dealing with this was through the petition route. I have never done a petition before. The idea behind the petition was very much to say: “Okay, well if you want to go down and move to current year basis because you are doing it in a sort of Mother Teresa type thing to help us all out, then you will not mind writing it off” because after all this is just doing something for the public of the Island. There is no tax raising measures here in what you have produced so far. So the petition is to write off liability for the prior year if you move it to the current year basis. I have received a lot of support for the proposition or for the petition, should I say.

Senator K.L. Moore:

Would you like to outline that feedback?

Mr. B. Shenton:

I think most of it revolves around how it has been sold because there is a lot of misleading information that has been sent out within the documentation. Everyone got a leaflet and, for example, it says that if you pay on account it will not really affect you. Well, it will affect you if you are a pensioner paying on account. You could end up with a much higher tax bill just as your care fees start kicking in because, as we all know, you have got to pay your first, around about, £50,000 in care bills before the long-term care commitment falls in. It was quite interesting inasmuch as they said you can do the online survey. The online survey just basically gave you the repayment options, it did not give you any opportunity to say that you were against or a repayment option to write it off. I put my name forward for one of the focus groups but I was debarred for that because I had been lobbying the government. On the widest definition of lobbying, signing a petition is lobbying the government so basically the focus groups should be consisting of people that have not signed any petitions or taken any interest in the matter. I think that was further highlighted when ... the fact that they wrote to the current year taxpayers who will not be affected by this and the letter goes: "Dear whatever" there was a brief outline of what is going to happen and then says: "As you are current year taxpayer you will not be affected by these proposals and you will continue to pay your tax as you do currently." So you are not affected by it. "However, we would welcome your views on the proposal and repayment options. You can provide your feedback as follows." So they are asking the current year taxpayers who will not be affected by these proposals to give their feedback on the repayment options and yet the people that are affected by it, if they have signed a petition or have lobbied are debarred from doing this. It would be a bit like me going to the bank and borrowing £10,000 and them saying: "Well, when it comes to repayment, Mr. Shenton, we will just ask a passer-by on the street what they think because you are affected by this so we do not want your views." Why are they going out to consultation on people that will not be affected by it? I mean, if you are currently a taxpayer you will probably say: "Well, it does not affect me, do whatever you want." The economy will go ... I am pretty certain the economy will go into recession next year. There will be quite a lot of unemployment. There is quite a lot of unemployment in the finance industry going on as we speak. I can name a number of institutions that have laid off significant numbers of staff. I do not think it will be helpful to put their names in the public domain at this time. When you lay off staff within the finance sector you would sign a confidentiality agreement and you do run the risk of losing your pay out if you go public so there is nothing to be gained from that. But there is unemployment taking place within the finance sector. There is unemployment taking place within the hospitality and other sectors. The economy will go into a downturn. The government has admitted that by stoking the economy with cash you can ... by putting money into the economy with the £100 vouchers, that can be a positive effect, taking £320 million out of the economy could be absolutely disastrous and no one knows what the economy will look like in 2023, 2024, 2025. You will be turning around to people and saying: "You have to pay your 2023 tax bill and we also want a contribution to your 2019 tax bill as well. They may well have hit the rocks in terms of their own

personal circumstances. So it certainly will not help them. At the very start they said: "We are doing this to help everyone out." I do not think there is a large number of people, prior year taxpayers, that have been affected as they state. What you have to bear in mind - it is now 1st October - personally I have paid off most of my 2019 tax bill, as most other people have, already from my 2020 earnings. Those people that are affected, there are much easier ways of doing it using the discretion of the Income Tax Law to give them dispensation or to give them a deferred payment option. So what you are trying to do here is penalise everyone in an effort to help the few.

Connétable R. Vibert of St. Peter:

Can I just ask your thoughts on the potential impact of the writing off of the 2019 prior basis tax liability on the government finances? What are your thoughts on if you did write it off what will the impact be on the government finances?

Mr. B. Shenton:

The actual impact on the government finances will not be great in terms of the one hit because we are still bringing in the tax revenue. Everyone is still paying I.T.I.S. (Income Tax Instalment System). Everyone will carry on paying I.T.I.S. By writing it off all you are doing is basically saying that the money that you may get in the future will be written off but that depends on how desperate you are to move to a current year basis. If you are desperate to move to a current year basis you may say we will write that money off but you are not going to affect the tax take for this year, you are not going to affect the tax take for next year apart from a very small amount. So basically a lot of people if they stay taxpayers until they die, they settle up out of their estates after they die, so that is when they catch up basically. That is a very good time to catch up because when you are dead you do not need much money. I mean they could have brought a proposition that we are going to write off 2019 but it will be payable from your estate when you die on the basis that is when those people settle it. When you die you do not have the ... you are normally of an age where your children have been through university, you have paid all your costs with regard mortgages and everything else. So they could turn around and say: "We are going to move to current year, we are going to write it off" or they could alternatively say: "We are going to lose current year but you will still be liable out of your estate." Instead they said: "We want the money now and we want you all to pay 2 years' tax at once for a period of time.

Deputy S.M. Ahier:

You mentioned that the repayments would more likely start in 2023, the Minister for Treasury and Resources, just prior to this meeting, said that she has decided that it will start from 2025. Will that make any difference if the repayments start later?

Mr. B. Shenton:

If the Minister for Treasury and Resources has a crystal ball as to how the economy is looking in 2025 ... I think the longer you push it out ... so I am 60 now, my retirement age is not until 67 but if you were, say, 65 now and you have got a couple of years left earning and then all of a sudden you have to try and find this money after you have dealt with ... because what happens at the moment, if your income ... because you head towards retirement then your income takes a slight decline and therefore you know that you have this little bit of extra tax to pay every year just to bring it up because your I.T.I.S. will not quite clear you off, and then you use them to retire. But what you could end up with, the longer they put it off, is people could be retired and then be finding the money out of their pension.

Deputy S.M. Ahier:

What about the suggestion that the £330 million that will be collected over that period from 2025 will be used to fund the cost of the COVID-19 epidemic? Do you regard that as creative accounting?

Mr. B. Shenton:

That is not what they have said, is it? They have said that they are doing this to international best practice and to assist those ... I do not know where it is international best practice, but to assist those that have struggled as it is.

Deputy S.M. Ahier:

It has been mooted by the Chief Minister that that is the intention.

Mr. B. Shenton:

So he has admitted it is a tax raising endeavour?

Deputy S.M. Ahier:

Basically to pay off the debt of the COVID epidemic.

Mr. B. Shenton:

So the prior year taxpayers will fund the pandemic?

Deputy S.M. Ahier:

Exactly.

Mr. B. Shenton:

Well, that is very fair, is it not?

Deputy S.M. Ahier:

How do you feel about that possibility?

Mr. B. Shenton:

I think the idea is that government is run for the benefit of the people, it is not there just to fleece the public. I think if they are looking to pay off the pandemic spending I think there are much fairer ways of treating it. There should be a complete review of the whole tax system, including Zero/Ten, in my opinion.

Deputy S.M. Ahier:

If you have an alternative ... if that was the case and the £330 million was not raised to pay off the pandemic costs, do you have an alternative way yourself that you feel that that could be paid off? A slightly different question.

Mr. B. Shenton:

No, I think I would look at it slightly differently. If you are running a budget and you put money aside for a disaster and you have that money aside for that and the disaster occurs, you spend that money. We have a rainy day fund. A global pandemic is probably a rainy day event. There is nothing set in law with regard the size of our reserves. You could use the rainy day fund to cover basically what was a rainy day event.

Senator K.L. Moore:

But if reducing or delving into that rainy day fund resolved in changing your status with regards to the credit rating, would you reconsider that move?

Mr. B. Shenton:

I do not think a reduction in the size of the rainy day fund would significantly impact your credit rating. The borrowing costs are significantly lower now than they were before and the government has a revolving credit facility in place to borrow money because they want to stay fully invested in the stock markets. So basically what they are saying to me is we want you to pay as individuals because we want to keep our money invested. But it is not their money, it is our money.

[13:15]

The Connétable of St. Peter:

What are your views on the potential fiscal stimulus of the reform?

Mr. B. Shenton:

The fiscal stimulus?

The Connétable of St. Peter:

Of this reform.

Mr. B. Shenton:

In what ways?

The Connétable of St. Peter:

Well, that is one of the arguments, that it can stimulate the economy. Do you believe that --

Mr. B. Shenton:

What, this can ... taking money out of the economy ...

The Connétable of St. Peter:

Yes, yes.

Mr. B. Shenton:

... can stimulate it?

The Connétable of St. Peter:

Is there anything you can see where it stimulates the economy?

Mr. B. Shenton:

Well, I have been in the investment business for 42 years, I have never come across the concept of removing money ...

The Connétable of St. Peter:

I do take your view that taking £310 million out of the economy is unlikely to stimulate it but is there anything that you can see that would ...

Mr. B. Shenton:

Absolutely nothing whatsoever.

The Connétable of St. Peter:

No, fine.

Mr. B. Shenton:

Absolutely nothing whatsoever, no.

Senator K.L. Moore:

Is your proposal to write off the liability purely based on the fiscal stimulus impact that it could have on ...

Mr. B. Shenton:

No, no, I will be honest with you, the idea of the petition is to leave everything as it is. It is saying if you want to change it to current year because it is so efficient and international standards and best practice, then write off the prior year. But if you do not want to change it to current year then leave it as it is. I do not think any of the taxpayers, which is a significant number, have ever asked you or asked the government to move them on to current year, I do not think anyone would have asked them to say: "I would like to pay 2 years' tax at once." The petition is written to basically say leave it as it is. Well, it was written to sort of say: "Stop telling lies, this is a money raising exercise. Be a bit more open and do not go after the prior year taxpayers to pay off the pandemic."

Deputy S.M. Ahier:

The Minister for Treasury and Resources prior to this meeting said about the liability for the tax would be frozen for 5 years, therefore starting in 2025, and she regarded it as being a free loan for people repaying their tax after that date. They would not have to pay any interest on the delay of payment. How do you feel about that suggestion?

Mr. B. Shenton:

I think when I was in the States I tried to talk to the Minister for Treasury and Resources about some pension reform and she said to me: "Do not talk to me, Ben, I do not do figures." I think that basically sums it up to be honest with you. It is a loan to the government, if we are paying it off early we are giving the government money early. When I started work in 1978 the agreement between me and the government was that I would pay my tax on a prior year basis. So they want to change that agreement and make me pay them early. It is not them lending me money, it is me paying them early under this proposal. I am not even sure about the legality of it. Someone did write to me with a load of court cases where it was sort of stating I paid my tax this year to pay off my 2019 tax liability. It is up to me to decide how that money is applied. You cannot then apply it to another tax liability. I think the ... if I just find ... it is basically the reallocation. It is basically the concept of paying your money and then the person you pay it to using that to pay a different bill or different liability. They did quote me some case law to say that you cannot exercise discretion on what you are applying the money against.

Senator K.L. Moore:

If you would be kind enough to share that legal opinion that would be extremely helpful, Mr. Shenton. Thank you.

Mr. B. Shenton:

Yes, yes.

Senator K.L. Moore:

I would just like to make it clear that we had a private meeting with the Minister and her team prior to this hearing and, of course, we will be conducting a public hearing with her at a later date in a couple of weeks' time prior to the in-committee debate that is now going to be held about the subject of your petition.

Mr. B. Shenton:

Yes, I thought that was very bad of the Minister for Treasury and Resources to argue that the in-committee debate should not take place when discussing the move to current year. Because the whole thing is linked to the move to current year. If you do not move everyone to current year then the petition falls away. So I thought that was a little bit devious but then on the leaflet it does say: "The prior year tax reform proposals to freeze 2019 prior year basis tax liability and move prior year basis taxpayers to current year basis status will be debated and agreed by the States Assembly in October 2020." The letters that went out ... this particular one the lady did not get because she passed away, although they did not know that. I think it says exactly the same thing that it will be debated and agreed by the States Assembly. So I think that says quite a lot about ministerial government. I am not quite sure where this States Assembly stands. The States have passed a proposition to specifically exclude People's Park from the hospital list, as far as I am concerned the States Assembly needs to have a good look at itself because, at the moment, it is not being respected in the manner that it should be.

Senator K.L. Moore:

I would love to ask you a further question about that but I think we probably should keep on topic.

Mr. B. Shenton:

No, I tend to drift off, unfortunately.

Senator K.L. Moore:

It is absolutely fine. I think we just have one further question really, which is obviously the Minister has published her response to your petition. Has the response, now that you have received it and had time to consider it, caused you to change your views as put forward in the petition or to reflect in any way upon the petition?

Mr. B. Shenton:

No, definitely not. Firstly the proposal is a money-grabbing exercise. It is not related to COVID, being sympathetic to people who have been hit by COVID. People have already paid their 2019 ... well, I have largely paid my 2019 tax already so I am not quite sure how you sort of help those people. A lot of people will have already paid. It does affect pensioners much more than they make out in their proposals and a lot of pensioners you speak to are quite confused by the whole thing because I know a number of pensioners that will be affected but they think: "Well, it does not affect me, I have already paid my 2019 tax." It is quite difficult to explain it to them. It does not affect limited companies, for example. Limited companies will still be paying in arrears. It only affects the individuals. Maybe it is easier to go after the individuals than limited companies. You are asking me to pay your money early, normally you would apply a discount rate. In my case if you assume that my earnings will fall off a cliff between now and retirement, you are asking me to pay ... well, if you assume I drop dead in 10 years, that is a 10-year discount rate you would have to apply to that money because that is when you would normally get it. You are taking money out of the economy when the economy is struggling or potentially going to be struggling. The way the Tax Department is currently run, this is a little off-piste, they are turning more and more into a H.M.R.C. (Her Majesty's Revenue and Customs) sort of officious, unfriendly do as I say type tax department. They might argue that that is international standards but it is not the standards that most public would want. I am still waiting to sort out my 2018 tax assessment. All they did was they mistyped some figures into the system and I have ended up with a higher tax liability than I should. But, you know, it is just not right. You say to me that the Tax Department have now said that they are going after the prior years' taxpayers to cover COVID, I mean that is quite disgraceful in my opinion.

Deputy S.M. Ahier:

There was mention originally that there may be discounts given for early repayment of the tax. Do you think that would be fair in any way or would that improve the situation?

Mr. B. Shenton:

What, they will give me discounts for paying them early?

Deputy S.M. Ahier:

So if you went to pay the repayments in 2025, if you pay them all off in 2025 you might get a discount for paying early rather than leaving it to be paid over the 10-year period.

Mr. B. Shenton:

Yes, they should be offering everyone quite a meaningful discount for paying their tax early. This is ... you know, if I can keep myself as a taxpayer until I die, this money is not due until I die.

Senator K.L. Moore:

Well, thank you very much for your attendance today. It is greatly appreciated and most helpful.

Mr. B. Shenton:

That is quite all right. I wish you luck.

Senator K.L. Moore:

Thank you. I will close the hearing.

Deputy S.M. Ahier:

Thank you.

Mr. B. Shenton:

It is nice to have scrutiny hearings back in the room, is it not?

Senator K.L. Moore:

It is.

Mr. B. Shenton:

It will be nice to get the Chamber back in as well.

Senator K.L. Moore:

It would, yes.

Deputy S.M. Ahier:

A lot of Members are very keen not to come back.

Mr. B. Shenton:

I am not going to say a word.

[13:26]