

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES  
BY DEPUTY G.P. SOUTHERN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 29th MARCH 2011**

**Question**

The Minister in his response to Question 6121 on 15th March stated that an apparent effective rate of tax from finance sector profits of less than 10% was “not considered to be caused by tax avoidance activity”. Will the Minister now give accurate figures for the profits made by “financial intermediation businesses” along with the income tax paid on these profits and the effective rate these revenues represent?

He stated that the Tax Office “would challenge such (tax avoidance) activity if identified”. Does the Minister accept that tax avoidance is legal and explain to members under what circumstances such avoidance activities by a financial institution would be challenged?

**Answer**

It will require substantial research and much more time to answer the questions the Deputy asks about the figures for profits and effective rates for the financial intermediation sector for the years 2001 to 2009. There are two aspects to these numbers – that relating to IBCs (International Business Companies) and that relating to non-IBCs. The profits for the latter category are being extracted from our database but will take time to obtain. This information will be provided as soon as possible. The profit figures for IBCs will require a manual search of all of the taxpayers’ files. There are approximately 170 taxpayers in this sector and to review their files over a 10 year period would take a significant amount of time. Given that this regime is now coming to an end, it is questionable whether this is an appropriate use of officer time. This part of the information will therefore not be provided unless the Deputy can demonstrate that the information is relevant and necessary.

Tax avoidance, in contrast to tax evasion, is legal. However tax avoidance can be considered to be unacceptable and so subject to challenge where a taxpayer seeks to use the tax law to get a tax advantage that was not intended. This might happen for example where a financial institution seeks to shift profits from an activity which is subject to tax at 10% to one which is subject to tax at 0%, but does so in a wholly artificial and contrived way. It might fit within the tax law but is not a commercial transaction and only in place to reduce the tax charge.

The Income Tax (Jersey) Law has a provision at Article 134A which allows the Comptroller to challenge any transaction by a Jersey taxpayer if it is entered with the purpose, or has as one of its main purpose, the avoidance of Jersey income tax. Professional tax advisors regularly approach the Comptroller for tax rulings and confirmations of the tax treatment of, for example, new company structures, re-structuring or other tax planning schemes. If the Comptroller considers that the structure, re-structuring or other tax planning scheme is an avoidance transaction on which he would invoke Article 134A he would advise them accordingly. This is often sufficient for the advisor to seek an alternative tax planning scheme. This deterrent effect is unquantifiable. But it does exist and remains very important in deterring individuals and companies from avoiding or reducing their liability to Jersey tax. The Comptroller does not keep a central data base of such tax rulings, all such rulings being kept in the individual file concerned once the ruling is made and the case settled. Article 134A and such rulings apply to a financial institution as they do to all other taxpayers.