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WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON MONDAY 15th JULY 2013

Question

Notwithstanding the response given on 2nd July 2013, will the Chief Minister clarify for members what changes, if any, he has recently agreed with the UK Prime Minister, in relation to

1. how much information exchange Jersey has entered into;
2. why Jersey refuses to provide corporate tax transparency;
3. why Jersey still has no register of trusts;
4. why Jersey does not commit to full automatic information exchange under the terms of the existing European Union Savings Tax Directive;
5. why Jersey opposes the extension of the European Union Savings Tax Directive;
6. when Jersey will sign the OECD tax mutual assistance agreement?
7. what information Jersey will exchange under its new commitment to automatic information exchange, and when?

Answer

1. Following what has recently been agreed with the UK Prime Minister, the arrangements for tax information exchange with the UK already include or will include the following –

   - Tax Information Exchange Agreement (in force November 2009)
   - Double Taxation Arrangement (in force 1952)
   - EU Savings Tax Agreements (in force July 2005)
   - Disclosure Facility (in force April 2013)
   - Intergovernmental Agreement based on US FATCA (under negotiation),
   - OECD Multilateral Convention on Mutual Administrative Assistance on Tax Matters (awaiting extension of UK ratification).

2. Jersey has not refused to provide corporate tax transparency. Quite the contrary. Jersey is recognised internationally as a ‘model’ to follow. Jersey joined with the G8 countries in producing an Action Plan on how to improve the transparency of the ownership and control of companies and trusts. To quote from the Action Plan –

   “Jersey has access to all the information on beneficial ownership that is required to meet the present international standards and to respond effectively to requests for information from tax authorities or law enforcement agencies as required by statute.”

“ Should international agreement be reached that steps should be taken to allow tax authorities and law enforcement agencies to have access to beneficial ownership information held on a central registry, Jersey will comply with any new international standard in this respect that has global application covering G8, G20, OECD and EU member jurisdictions plus other major financial centres. Because of the quality of the beneficial ownership information already held in the Island such compliance will present far less of a challenge for Jersey than for most if not all other jurisdictions”

Jersey is also committed to take the steps set out in the Action Plan which include “Undertake a general review of corporate transparency, having regard for the development of international standards and their global application, starting with the publication of a pre-consultation paper before the end of 2013.”

3. Jersey shares with the G8, the G20, OECD and EU Member Jurisdictions plus other major financial centres in not requiring a register of trusts. The Financial Action Task Force that is the international standard setter for anti-money laundering revised its recommendations in February 2012 and focussed on the role of the trustees as the source of information on the identity of the settlor and the beneficiaries of trusts. This is also reflected in the G8 Communique issued following the Summit held in Northern Ireland last month. Jersey is recognised internationally as a jurisdiction that, because of the licensing and supervision of trust service providers, has more information available than other countries. This information is available to tax authorities and law enforcement agencies in accordance with existing statutes.

4. Jersey has always made it clear that it has no problem with the principle of automatic exchange of information (AEOI) under the terms of the existing European Union Savings Tax Directive. What has been said is that a change from the present retention tax option to AEOI should await a clear indication from the European Union that such a change is in prospect for Austria and Luxembourg. Accordingly Jersey has responded to the recent statements made by Luxembourg on the adoption of AEOI in 2015, and the expectation that Austria will follow suit before the end of the year, and has consulted with the industry. The results of that consultation will be considered by the Financial Services External Relations Advisory Group (FERAG) at its next meeting.

5. Jersey has not opposed the extension of the European Union Savings Tax Directive. The present position is that we are waiting for an approach from the European Union. This is expected to take place once the European Commission has made sufficient progress with the mandate it was given last month to negotiate a revised Savings Tax agreement with Switzerland and the other four non-EU European third countries.

6. Jersey cannot sign the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters because only sovereign states can be signatories. Jersey in common with the other CDs will have to rely on the UK issuing a Letter of Declaration extending the UK’s ratification of the Convention to Jersey. Under the provisions of the Convention it will enter into force on the first day of the month following the expiration of three months after the date of receipt of the Declaration by the Secretary General of the Council of Europe . The Letter of Declaration is currently under discussion with HM Treasury.

7. The intention of the OECD is that there should be a single standard for AEOI based on the US FATCA model. This will be reflected in the intergovernmental agreement with the UK, the joint project initiated by the UK and four other EU member states in which Jersey has agreed to join together with twelve more EU Member States, and bilateral AEOI agreements under the terms of the Multilateral Convention. The information to be provided will include –

- Name, address, date of birth and, where applicable, the National Insurance Number of specified persons and the name and address of each entity;
- The account number
- The name of the reporting financial institution
- The account balance or value
- The total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account
- The total gross proceeds from the sale or redemption of property paid or credited to the account.

Under the proposed intergovernmental agreement with the UK, information relating to calendar years 2013 and 2014 shall be exchanged no later than 30 September 2016. Subsequently the information shall be exchanged within nine months after the end of the calendar year to which the information relates. For 2013 and 2014 the information to be exchanged is limited to that covered by the first four bullet points above.