

**WRITTEN QUESTION TO THE MINISTER FOR  
TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER**

**ANSWER TO BE TABLED ON TUESDAY 6th JUNE 2006**

**Question**

Would the Minister inform members, in relation to the document entitled 'Zero/Ten Design Proposal' –

- (a) whether the decision to introduce 'look through' only for investment holding companies but not for trading companies owned by Island residents will reduce estimated tax yield and, if so, by how much? If not, can the Minister explain why the mechanism was originally chosen?
- (b) whether the removal of the requirement to disclose beneficial ownership for Jersey companies contained in Section 6 has any effect on the Island being well regulated over money-laundering?
- (c) why the decision was taken not to introduce limited or 'schedular' look through contained in paragraph 10.3.2?
- (d) why the decision was taken not to apply anti-avoidance measures in section 12 and whether this will result in any impact on fiscal revenue and, if so, to what extent?
- (e) of the impact, if any, of the proposals made in paragraphs 17.2.2 to 17.3.1 and what estimates have been made, if any, of the tax revenues contained in paragraph 17.6?
- (f) of the *de minimis* rental level under consideration in paragraph 17.6.3, and what impact, if any, this has on tax revenues?
- (g) what estimates, if any, have been made of the impact of the exemption on shareholdings below 1% contained in 19.3.2 on revenues? and,
- (h) what additional resources will be required, if any, in order to make the changes to Article 134A of the Income Tax (Jersey) Law 1961 effective in tackling avoidance?

**Answer**

- (a) There will be no loss of the estimated tax yield arising at the personal or dividend level as all distributions and deemed distributions will eventually be collected by assessment on the individual shareholder. However, there will be a loss of interest that may have accrued on these tax revenues as there is a timing difference between the receipt of tax revenues under the original 'look through' proposals, (when tax revenues would have been received on total profits more or less as currently), compared to the revised 'partial distribution' proposals which will only tax all undistributed profits for the first year in the fourth year with tax collection in the fifth year and so on. However, part of the proposals include a deferred distribution charge which equates to an annual interest charge of 4% so that will compensate to some degree for the loss of interest which may have accrued on these tax revenues. If the Limited Trading Partnership route is chosen, however, there will be no loss of tax or loss of interest on persona/dividend tax revenues in such instances as such assessments will be made on 'a partnership basis' of all profits arising. The original 'look through' proposals were chosen with part of the rationale being to maximise tax yield on a current year basis;
- (b) whereas there is a proposal to remove the requirement for upfront disclosure of beneficial ownership for Jersey companies to the Financial Services Commission, (where a company is administered by a licensed Jersey trust and company service provider), there is no weakening of the legal requirement for the licensed Jersey service provider to know and to keep that information and for it to be subject to

investigation by the Commission either through the on-site inspection process or through it being specifically requested by the Commission as circumstances dictate. Indeed, the requirements in this respect are due to be further enhanced shortly through the introduction of a revised Money Laundering Order and related regulatory guidance, which reflect the latest international standards on anti-money laundering. An inability either to demonstrate compliance during an on-site visit or to respond to a specific request for beneficial ownership information would amount to a significant breach of the anti-money laundering requirements and could thus have an impact on the service provider's continuing 'fit and properness' to hold an ongoing licence under relevant legislation, or lead to the use of a regulatory sanction by the Commission, as well as leaving the firm concerned and its directors open to possible criminal prosecution (as happened in a recent case) The change now being proposed on up-front disclosure is not, therefore, seen to represent a risk to the Island's well founded reputation for being well regulated in terms of anti-money-laundering.

This also fits in with the wider international picture. The OECD in its report on the misuse of corporate vehicles and the FATF in its methodology for assessing compliance with the 40 recommendations on money laundering refer to three options for ensuring that information on beneficial ownership is available - up-front disclosure; regulation of trust and company service providers; and investigatory powers. Up-front disclosure may be attractive when focusing on the formation stage but nowadays the emphasis is much more on the importance of on-going monitoring and in this respect, with Jersey now having a well established track record in the regulation of trust and company service providers, the Island has a very positive story to tell which the proposed change in no way impairs;

- (c) this would cause an unnecessary administrative and operational burden at both professional offices and the Income Tax Office through the preparation and examination of such 'schedular' look through computations for non-trading income and would not be a wise use of scarce resources;
- (d) such anti-avoidance measures would be complex and resource intensive to administer. In any case, the most simple avoidance measure of all for specified financial services companies would be to transfer the assets in question to another competitive jurisdiction and that is not something that I would like to see, as it is much more preferable to keep the capital here in Jersey. So it is not simply a matter of tax but as importantly maintaining the capital base here in Jersey rather than losing it;
- (e) there are no statistics available to make an estimate of the tax yield that would arise from such an extension of the tax base and that, as well as the complex legislation that would be needed to administer the legislation in question, is why this proposal has not been pursued. The very broad and tentative estimate of the tax revenues that may arise from the proposal at paragraph 17.6 is some £5 million, although it is by no means certain that the proposal in question will come to fruition as I am still awaiting feedback on that proposal as I am with all the others;
- (f) once again, this is a matter that is out for consultation as I do not want to impose an unnecessary administrative 'red tape' burden on tenants or letting agents. It is for this very reason that the United Kingdom has its own de minimis rental level of £100 per week;
- (g) to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge and the deferred distribution charge would be both administratively onerous as well as being practically and legally indefensible. These shareholders will still be liable, as now, at the standard rate of 20% on the dividends they receive from these companies. It is not thought that there will be any impact, as compared to the present situation, on revenues;
- (h) there will be no additional resources to police the revised Article 134A as all assessing and accounts inspection staff at the Income Tax Office already undertake a crucial role in investigating all cases of tax avoidance. There is also a specialist Division which tackles tax evasion and fraud and those officers will also be involved in policing the new Article 134A provisions. The new 'tick the box' regime will also make checking of individual taxpayer Income Tax Returns must easier and transparent that at present and will assist the Comptroller and his staff in ensuring complete and correct Income Tax Returns are being made.

