

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

ANSWER TO BE TABLED ON TUESDAY 28th MARCH 2006

Question 1

- (a) Has the Minister considered or consulted the contents of the PriceWaterhouseCoopers (PWC) report of 31st January 2006, entitled “*Analysis of the responses to the second consultation document on the States of Guernsey future economic and taxation strategy*”, and, in particular, section 5.4 on the taxation of Guernsey resident shareholders?
- (b) if so, what consideration, if any, has he given to the evidence presented in the report by PWC that look-through, or attribution provisions -
- *requiresubstantial policing and anti-avoidance legislation..... an unprecedented level of disclosure by Guernsey taxpayers..... (and) are likely to prompt a major change in the culture of tax compliance...*
 - *there are significant legal obstacles that could potentially render attribution unworkable and expose the States to judicial challenge. Our understanding (based on discussions with legal experts) is that an attribution regime is potentially very vulnerable to challenge under both company law and human rights law.*
 - *it is likely that enforcement of the attribution rules would require provisions forcing the company to act as agent for the resident shareholders in certain circumstance. It is doubtful that such provisions would comply with the (EU) Code of Conduct (on Business Taxation)?*
- (c) What legal advice, if any, has the Minister received concerning the vulnerability of “attribution” to legal challenge and non-compliance with the EU Code of Conduct on Business Taxation and if he has not sought any, the reasons why; if he has received legal advice, what did it state?
- (d) In the light of the Guernsey decision to abandon attribution for a distribution-only system to recover tax from local shareholders, will he also reconsider and review the proposals for look-through?

Answer

- (a) Yes.
- (b) Over the past few months I have been reviewing the detailed proposals relating to the implementation of the 'look-through' arrangements, and this has led me to consider carefully the fundamental principles for the attribution of profits. A consultation paper will be published in April 2006, setting out in some detail the proposed arrangements, which represent a significant refinement of the originally agreed policy, to reflect the practical considerations of implementing a scheme to recover some or all of the profits which will no longer fall to be taxed directly onto companies following the implementation of 0/10%. The consultation paper is based on detailed analysis of the options and takes into account the views of expert practitioners such as those expressed in the PWC Report to which the question refers.
- (c) The Code is an internal EU mechanism and a political process of peer review with which we have agreed to co-operate voluntarily. It does not have a legal form and agreement within the meaning of the Code is reached by consensus of Member States and parties associated to it. We reached such an agreement with the EU in June 2003, with the full engagement of the U.K. Government which has clearly indicated its support for our proposed arrangements, including the 'look-through' mechanism. Furthermore, the

proposed 'look-through' arrangements are in the realm of the personal tax base, and Jersey has a right to consider ways of safeguarding that tax base as a response to the unintended consequences of 0/10 which might otherwise allow for tax avoidance opportunities to Jersey resident shareholders of companies.

(d) See (b) above.

Question 2

Will the Minister inform members what progress, if any, has been made in reviewing the "20 means 20" proposals and when he intends to bring fresh proposals to the Assembly?

Answer

I am currently in the process of reviewing the options for implementing the agreed principle of raising more tax from those on higher incomes in the light of more up-to-date income forecasts and further detailed analysis. Revised proposals will be presented to Members for their consideration before the summer recess.

Question 3

- (a) What consideration, if any, is the Minister giving to the protection offered to fee paying schools from the impact of GST on school fees and will consideration also be given to how this compares with medical bills and prescription fees?
- (b) What conflict exists, if any, for the Minister as a governor of one of the private schools in considering the matter outlined in (a) above?

Answer

- (a) I am well aware of the valuable saving to States expenditure provided by the fee-paying schools which educate a significant proportion of our pupils. GST, even at 3%, does slightly increase the burden on parents who are already making sacrifices to provide that education for their children. It is not strictly comparable with medical bills and prescription fees, but, as with the latter, there may be a need to see how any potential corresponding recompense or delivery can best be provided.
- (b) I have made my position as Governor/Trustee of two Church schools quite open in the Members' Declaration of Interests. I have made it clear to the two schools that I adhere to the agreed States policy of implementing a 3% rate of GST with as few exemptions as possible, and the schools concerned have both acknowledged this. Should the matter come up for debate in the States I would again make clear my possible conflict of interest (even though I would receive no direct pecuniary gain) and would withdraw from a debate on that aspect.

Question 4

Appendix IV of the PriceWaterhouseCoopers (PWC) report of 31st January 2006, entitled "*Analysis of the responses to the second consultation document on the States of Guernsey future economic and taxation strategy*" shows a table illustrating the schedules of the Isle of Man proposed taxation rates. Will the Minister produce the equivalent table showing his proposals for Jersey corporate tax rates, and where differences occur, will he explain to members the reasons for such differences?

Answer

The rates for the Isle of Man shown on the PWC document have not been fully reflected in their actual budget proposals. However, the consultation document to which I referred in answer to Question 1 will contain the most

up-to-date tax rates available for other similar jurisdictions.