Policy and Resources
Chief Executive
Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 603400
Fax: +44 (0)1534 870755

States of Jersey

13 June 2005

Deputy R Duhamel
Shadow Scrutiny
Royal Court House
States Building

Our ref: FW/CR
Your ref:

Dear Deputy Duhamel

Thank you for your letter dated 20th May asking for a written submission on the following questions.

1. **In negotiating with the British Government (the UK) why was it proposed that companies licensed by the JFSC should be liable to income tax at a 10% rate whereas other companies with a presence in the Island (i.e. operating through freehold or leasehold premises), should be liable at a zero tax rate instead of the same 10% rate?**

What was proposed was that the general rate of corporation tax for companies both with a presence in Jersey, and those used as investment vehicles for overseas customers (i.e. today's Exempt Companies) should be zero. It was always clear in the negotiations with the British Government that providing the general rate of corporation tax across the economy could be demonstrated to be zero, then there was an opportunity for a limited number of companies and/or a designated sector to be taxed at a higher rate. One of the criteria for establishing this was that the number of companies subject to the zero rate should be the majority of companies operating in Jersey and it was quickly realised that financial services companies, defined as those licensed by the JFSC to operate in the Island with a presence here, represent only some 700 companies out of a total universe of over 33,000 companies registered in the Island. The 33,000 is a combination of those with an operating presence and Exempt Companies.

It was therefore agreed that the financial services companies licensed by the JFSC could be subject to a higher rate. The choice of the 10% rate is entirely a function of competitive forces in the market place. This 'higher' rate could in fact be any other percentage, but given recent tax moves in significant competitor jurisdictions such as Singapore, Dublin and the Isle of Man, the 10% rate appears to be that which the financial services market, defined as major international institutions, generally demands and is prepared to pay

2. **Was the above proposal put by Jersey or the UK?**

The proposal was put by Jersey as will be clear from concurrent correspondence (see letter Senator Frank Walker to Panel Chairman) The enclosures to this letter evidence the Jersey proposals to the United Kingdom and through them to the European Union Member States dated 15th October 2002.

3. **If Jersey decided that it was now appropriate for it to impose a 10% tax rate on companies with a presence here could it do this without opposition from the UK?**

Yes, given the agreement reached with the UK and the EU, the general rate of corporation tax could be set at 10% including that for Exempt Companies. This would then mean that they would lose their tax neutral status and be of no remaining interest to the international investment community. Huge sections of the current business base in the financial services sector would then move from the Island to competing jurisdictions which continue to offer the zero rate vehicle for external investors e.g. Guernsey, Isle of Man, Cayman, Luxembourg, Switzerland. In addition to this treatment of Exempt companies and others in Jersey set at a general rate of 10%, a specially designated higher rate could also be set for financial services companies – say at 20% under the agreement reached with the UK/EU. However, this 10/20 structure would be entirely uncompetitive in the international market place and inconsistent with the aim to retain a vibrant financial services sector in the Island.

4. **If not, on what basis is it anticipated the UK's opposition could be mounted?**

This question is not applicable in view of the preceding answer.

5. **If there would in fact no UK opposition is anticipated what are the reasons for not imposing 10% tax on non JFSC licensed companies with a presence in the Island?**

The reason for not imposing the 10% rate on non JFSC licensed companies is the need to preserve the tax neutral status of Exempt Companies by setting a general rate of corporation tax in the Jersey economy of 0%. The specific sector needs to demonstrate that it is a minority sector in terms of number of companies as explained in the answer to question 1 above.

6. **Can copies of all correspondence, meeting notes and relevant e-mails be produced relating to the agreement of the zero/10 tax basis with the UK?**

Copies of relevant correspondence with the UK and in respect of the ECOFIN Council conclusion of 3rd June 2003 have been released in the concurrent reply (letter Senator Frank Walker to Panel Chairman dated 13th May 2005). Given that these summarise in full the outcome of various different discussions and meetings with UK and other relevant officials, we would not wish to release other meeting notes and e-mails and certainly not without the agreement of the British Government. This is not because those documents contain any revelations or deviations from the conclusions already submitted to the Scrutiny Panel but because they represent negotiations and accordingly could be seen as a matter of sensitive national interest, particularly by the UK Government.

In order to address this point we would be happy to consider that officials who were involved in those negotiations could given evidence in camera to the panel if necessary, which evidence would be given on the basis it would be to provide comfort to the panel but would not appear in any open report.

Ultimately, we believe that any direct approach to the UK by the panel would be wrong in principle given the need to continue to defend the tax autonomy that the Island has enjoyed for centuries. The nature of that tax autonomy is that we take our own decisions and we should not be asking any other jurisdiction whether it is acceptable for us to do so.

Incidentally, for information, there is a UK parallel for evidence in camera whereby information is offered to Privy Councillors informally on the basis that the information will not be used. For example the Leader of the Opposition sometimes gets such information in sensitive national interest matters.

7. **Will the double taxation arrangement with the UK continue to operate for Jersey resident companies whether they pay zero tax or 10% tax?**

   Yes the double taxation agreement with the United Kingdom will continue to operate for Jersey resident companies whether they pay zero tax or 10% tax. In the case of zero tax liability in Jersey it is obviously the case that the tax liability in the UK rises in equal measure to the fall in the (previous) Jersey tax liability.

8. **What impact on the Island's economy will result by taking an additional £80 - £100 million annually of spending power from the Island's residents?**

   In answer to this question, we must refer the panel to the extensive research carried out by Oxera during the currency of the Fiscal Review. Numerous publications of this material have been made and they are fully available to the Panel.

I trust this information will be sufficient for your purpose.

Yours sincerely

Frank Walker

Senator Frank Walker
President – Policy & Resources Committee

direct dial: +44 (0)1534 603435
email: f.walker@gov.je
www.gov.je