

Corporate Services Zero-Ten Sub-Panel

FRIDAY, 15th DECEMBER 2006

Panel:

Senator J.L. Perchard (Chairman)
Deputy P.J.D. Ryan of St. Helier
Senator B.E. Shenton
Deputy G.P. Southern of St. Helier
Mr. R. Teather (Panel adviser)

Witnesses:

Senator T.A. Le Sueur (Treasury Minister)
Mr. M. Campbell (Comptroller of Income Tax)
Deputy J.A.N. Le Fondre of St. Lawrence (Assistant Treasury Minister)
Mr. J. Harris (Director, International Finance, Chief Ministers Department)

Senator J.L. Perchard (Chairman):

Good morning, gentlemen. As you know the Corporate Services Scrutiny Panel has formed a sub-panel and I am chairing it to look at the Zero/Ten proposals. We have agreed, the Minister and myself, that we need to go into a private session a bit later during this meeting but we are obliged to conduct the first part in public, albeit there is nobody here. But the point being is that what is said now will be put in the public domain at a future date, probably posted on the website. Are you still happy with that?

Senator T.A. Le Sueur (Treasury Minister):

I am quite happy with that. Perhaps if I start by explaining and apologising. Yesterday I sent a revised version of the law to you and I sent it effectively as soon as I received it myself, but I appreciate that you will not have had time to read it in detail - you must not be obliged to have done. I think it is probably part of the inevitability of the scrutiny process that if I try to keep you informed earlier before the law was all finalised I do that with the health warning that the law may change before it is finally lodged. That is the situation in this case, although I think the general principles of the law have not changed. It just how much we have put into this part of the law and how much we leave for subsequent legislation.

Senator J.L. Perchard:

On the point of the law would you prefer that we do not discuss it in the public session?

Senator T.A. Le Sueur:

I think it is probably easier if we do not discuss it in the public session but I say that as a caveat because I think it is just right that you should be aware of these things before we start so we have got no secrets,

no concerns.

Deputy P.J.D. Ryan of St. Helier:

It would help us if we could have a marked-up version with the changes from the previous draft which we do not have. We have made the request and at the moment that request is met with the response that: "We do not have a marked-up one." I cannot believe that is true.

Senator T.A. Le Sueur:

I think it is probably easier if I explain the changes when we get into that part of the meeting.

Deputy P.J.D. Ryan:

But could we have a marked-up version. It would help the scrutiny process rather than an unmarked-up one.

Senator T.A. Le Sueur:

I do not know offhand but we will certainly try.

Senator J.L. Perchard:

Just a little bit of background before we fire off with a few general questions. I was just looking back at the records. It was in May this year that you lodged the original Zero/Ten Design Proposal documents and we met you in August and September where you explained your thinking and we reported on this document in September - the original document. You produced an R80 in October which was a new version, we called it Zero/Ten 2. You are now currently constructing the draft law, Minister. When do you plan to lodge the draft legislation?

Senator T.A. Le Sueur:

I plan to lodge this draft legislation all being well on Tuesday, 3 days time. Now I appreciate that that does not give Scrutiny as much chance as it might like to comment on it, and I think it may well be that we have got to have a subsequent meeting after the law is lodged, even then, to go through any details of it. My concern is that in trying to adhere to a timetable I was hoping to debate this in January, unless I lodged it on Tuesday I am not going to have them ready in 6 weeks to debate in January. If there are serious concerns then yes, we will have to defer the debate until February and I have to defer lodging it for a week or 2. We will perhaps be in a better position to answer your question at the end of this discussion if there are any concerns. Certainly what we have tried to do, and I think maybe we will go through it in more detail later, is to keep this part of the law as far as we can to what is essential for bringing in Zero/Ten as soon as possible in order to give the profession the certainty of needs to plan for 2008.

Senator J.L. Perchard:

In your opinion, it is necessary to be lodging and the States debating the law at the earliest opportunity to reach a deadline of when in 2008?

Senator T.A. Le Sueur:

Well, we will come in to that in different times. There are some parts of law that come into place in 1st January 2008, some in mid-2008 and some in January 2009. So it is not one single date. I think there is a tension there between the need to get the law rectified before I lodge it, and the need not to have further delay if we could possibly avoid it.

Senator J.L. Perchard:

The law that you will be lodging next week, are you confident it will be fully compliant with the EU (European Union) Code?

Senator T.A. Le Sueur:

Yes.

Senator B.E. Shenton:

Can I just clarify that? The parts of the law that you are lodging next week, you are fully compliant?

Senator T.A. Le Sueur:

Yes.

Senator B.E. Shenton:

You are fully confident?

Senator T.A. Le Sueur:

I am.

Senator B.E. Shenton:

But that is just the parts of the law that you are lodging next week?

Senator T.A. Le Sueur:

I would have been fully confident in lodging the old one as well.

Senator B.E. Shenton:

The whole lot?

Senator T.A. Le Sueur:

No, I have the confidence anyway.

Deputy G.P. Southern of St. Helier:

Can I just confirm with you that actually what we are doing here, that the implementation date has been moved to 3rd June is effectively one of the changes in most recent --

Senator T.A. Le Sueur:

That is not a change. That is just setting out in law what was agreed.

Deputy G.P. Southern:

That effectively what you have done in this latest change is that the provisions for shareholder taxation, deemed dividends and look-through, those are the bits that have been parked for presumably ongoing work?

Senator T.A. Le Sueur:

Absolutely.

Senator J.L. Perchard:

Bearing in mind that, Geoff, I think -- we will be going into private session a bit later during this meeting.

Senator T.A. Le Sueur:

We can go into it in more detail at that stage.

Senator J.L. Perchard:

In the mark 2 Zero/Ten Design Proposals, Minister, you planned a 60 per cent distribution for trading companies which is similar to the Isle of Man proposal, are you happy that that is fully EU compliant?

Senator T.A. Le Sueur:

Yes.

Senator J.L. Perchard:

It is a bit difficult this ...

Deputy P.J.D. Ryan:

Have you received some further information so far as the Isle of Man's proposals?

Senator T.A. Le Sueur:

No. Certainly I have not done and I think the information I have is that it will not be discussed now until early next year.

Deputy P.J.D. Ryan:

That is only a month away.

Senator T.A. Le Sueur:

That is the start of the year, yes.

Mr. M. Campbell (Comptroller of Income Tax):

It is likely to be March/April time rather than January.

Senator T.A. Le Sueur:

John, have you got anything to add to that?

Mr. J. Harris:

Simply that they have spent too much time on Malta and not enough time on the Isle of Man and therefore are reported to what is known as the German presidency, which the German presidency brings back -- well, it originally was a January EU timetable and order of business being what it is, it is likely to be later. They have not fixed a date.

Deputy P.J.D. Ryan:

Are we to read anything into that?

Mr. J. Harris:

No, I think it is just that they spent too much time on Malta which was a very, very complicated business and dominated the whole of the 2 meetings, one of which they had set aside to discuss the Isle of Man.

Deputy P.J.D. Ryan:

Just as an aside, but not particularly for this public hearing, but is there anything on the Malta thing that has any bearing on us?

Mr. J. Harris:

It is not relevant to us but it is rather complicated.

Senator J.L. Perchard:

A lot of advisers are suggesting the Isle of Man proposals are being stalled and are probably not going to be acceptable to the EU Code of Conduct group. What is different between their proposals and your proposals in R80?

Senator T.A. Le Sueur:

I am not aware that there are lot of advisors saying that the Isle of Man proposals were unacceptable. There is concern that the part of the Isle of Man proposals dealing with how you assess deemed distribution are subject to question. That is a very narrow area where the Isle of Man has taken a more liberal basis, if you like, than we currently have because I am not certain at this stage whether the Isle of Man proposal is viable. If the Isle of Man proposal was acceptable it would make a simpler solution for us as well.

Senator J.L. Perchard:

Why didn't R80 suggest the Guernsey type proposal where it is a distribution only system rather than a deemed?

Senator T.A. Le Sueur:

I think it is really the question of balance between simplicity, trying to ensure a yield and an adequate cash flow and general tax planning. If you assess a company on actual distributions unless you have scope to deal with potential of taxing a company, deferment of that and possibly distribution on liquidation, you have, I think, a cash flow problem which I have not quantified but clearly far worse than we would on a 60 per cent basis, which in turn is slightly worse than having it on a 100 per cent basis.

Senator J.L. Perchard:

Many critics, and there are some of the Zero/Ten proposals, are suggesting that we will end up with an actual only system.

Senator T.A. Le Sueur:

That is possible. The main impediment from my point of view is just planning cash flow and trying to produce a budget knowing I have got a reasonable certainty of revenue. If that were the case then we might well go that way. Digressing slightly, we still remain fairly heavily reliant on income tax and corporate tax, for a fair chunk of our revenue. If the balance is spread more towards indirect taxes and corporate taxes were less of an issue then that might well be the case.

Deputy P.J.D. Ryan:

You say you have not done any work on how much revenue is at risk here on the differences between the 60 per cent and the actual distribution, or in fact the Guernsey model. You have done no calculations at all on that? I mean surely you must have.

Senator T.A. Le Sueur:

I think the Comptroller might well have done some calculations although I do not tend to do them myself. I do not have sufficient access to the tax information that he holds. I do not know to what extent he can disclose information, probably in round terms you can.

Deputy P.J.D. Ryan:

Is it a major problem?

Mr. M. Campbell:

It is. There is 30 to 35 million at risk. If we have a 60 per cent deemed distribution basis, it will collect probably 18 to 20 million. If we had actual distribution basis only some people would not distribute at all. So we would collect nothing from them and of course there is a real risk of tax avoidance evasion here because if they do not distribute for several years and they become non-resident, then they liquidate, then they get the cash, it is all gone,the tax.

Deputy P.J.D. Ryan:

So you have mentioned the figure of --

Mr. M. Campbell:

Thirty to 35 million.

Deputy P.J.D. Ryan:

What is up for grabs here?

Senator T.A. Le Sueur:

Somewhere between zero and probably 35 million.

Deputy G.P. Southern:

You mentioned, Malcolm, anti-avoidance tax measures and it says here: "Further work is being undertaken." Would you like to tell us more about what avenues you are exploring in tax avoidance?

Mr. M. Campbell:

Well, the anti-avoidance legislation part of that will be included in the shareholder taxation which will come forward next year. But Article 134A is being amended to look at a series of transactions as well as what we have now, the sole transaction. But there is more work needed on that which we will be looking at next year.

Deputy G.P. Southern:

In terms of the workload, the ongoing workload once you have developed what you need to look for, one of the problems with going to a multiple rate of tax is that that workload will go up.

Senator T.A. Le Sueur:

I do not know that workload will go up necessarily because of the multi-rate of tax because companies are either going to be in the zero rate or the 10 per cent or the 20 per cent rate.

Deputy G.P. Southern:

Or looking for ways to make part of their activities zero rated.

Senator T.A. Le Sueur:

I think that may be less of a difficulty than the individual personal shareholder issue.

Deputy G.P. Southern:

That is indeed a problem, yes. But then there may well be -- have you done any work at this stage about how many extra staff you might need in order to make sure that people are being compliant?

Mr. M. Campbell:

I think you have to remember that currently I have a tranche of accounts inspectors, quite a lot of accounts inspectors. What they do currently is they do add backs. They look at the trading accounts and they do add backs under the tax law, under Article 70. All that is going to go and of course a lot of the trading accounts we currently get which we examine and spend time on they will not come into us because there is no need to bring them in because they are going to be zero rated. So those staff will be retrained and they will be reallocated the work which is necessary under Zero/Ten and there are also plans for me to enhance the current expertise at income tax but within the existing staff complement, so no additional staff.

Deputy P.J.D. Ryan:

Can I just talk about the whole question of 60 per cent deemed distribution, the question of actual distribution Guernsey model, and link it to anti-avoidance and your powers Mr Comptroller? But turning now to the Minister; do you intend to do any work on comparisons on the amount of powers, the level of anti-avoidance powers as compared to other jurisdictions because what we are talking about -- the 2 are so intrinsically linked. Your 30 to 35 million that is at risk will be at less risk the higher and the stronger and the more intrusive your powers are in this scenario, I believe. We get to a point where it becomes undesirable for the society, just generally as far as the way we want to live as an Island, as a people. Do you intend to do some research in this area? Because there will come a point, I think, where you will need to take a view that this is just going too far.

Senator T.A. Le Sueur:

I do not know that research would necessarily help in that respect because different communities will have different ways of addressing these things and have really different philosophies towards taxation law for avoidance of taxation. Certainly there is the danger that the more complicated you make anti-avoidance provisions 2 things happen. Firstly, it provides more work for accountants and lawyers to find ways of getting around them, so it makes them happy and a little richer. Secondly, it discourages people from using Jersey, or living in Jersey, and encourages them to go elsewhere. So there could be a loss of yield through a different way. Against that you have got to have a system sufficiently clear to require people to disclose things which require disclosing, but Jersey taxation up to now has been based on a simple straightforward approach with, I think - I have no great research to prove this - but the general feeling is a high degree of compliance relative to many jurisdictions.

Senator J.L. Perchard:

Where do you then, Terry, think the balance lies in terms of the Comptroller's powers to attain information from taxpayers who are not under investigation? There is a fine line. What effect will that have on residents, like 1(1)ks?

Senator T.A. Le Sueur:

1(1)ks are basically in the same situation as anybody else in their obligation to provide information to the Comptroller. As far as the extent of disclosure is concerned, I wanted to make the laws as simple as possible but put the onus on the taxpayer to disclose to the Comptroller any situation which might be, sort of, at variance with the norm. If the taxpayer fails to disclose that the Comptroller has every right to make inquiries which the taxpayer might feel intrusive but certainly, I believe, it is within Malcolm's rights and within that our expectations.

Deputy G.P. Southern:

Is that not likely to discourage ks from coming here given that we have got information sharing agreements, or developing them, with other countries?

Senator T.A. Le Sueur:

I do not know. I think, Deputy, we are trying to address the situation of corporate taxation in Zero/Ten. If ks come to the Island my preference would be for those ks to be genuine people wanting to come to Jersey, appreciating what Jersey can do, appreciating that Jersey is giving them a good situation, and that they will comply with the law.

Deputy G.P. Southern:

But several witnesses have called the degree of information required from, whether it be shareholders,

whatever, as draconian. While you might like them to come here because they appreciate Jersey for what it is, brown cows in green fields, they do come for other reasons.

Senator T.A. Le Sueur:

I would be surprised if they had called anti-avoidance provisions draconian when we have not even finalised them yet.

Mr. M. Campbell:

Can I just confirm what the Minister has said? Jersey taxpayers, they do have a very high compliance rate. In a democracy, tax systems are dependant on taxpayers complying generally with the system and Jersey taxpayers do comply generally to a very high level. We do have an Investigations Unit, we do catch those who do not but generally it is a very high compliance rate of taxation in Jersey. The other issue on 1(1)ks, the 1(1)ks who are coming to Jersey, I get information from accountants and lawyers who deal with their affairs. It is completely open, completely transparent. They show me everything that the 1(1)k has and 1(1)ks will comply with the law. 1(1)ks do not come to Jersey not to comply with the law. They want to come here for other reasons as well.--

Deputy P.J.D. Ryan:

I think the point is discouraging 1(1)ks or further 1(1)ks from coming here that might otherwise, because after all people -- for example, in Guernsey, I mean, Guernsey are following a maximum tax rule.

Senator T.A. Le Sueur:

I do not think you should necessarily distinguish between 1(1)ks and any other taxpayer here. Taxpayers generally will not want to go to a jurisdiction with a repressive tax regime.

Deputy P.J.D. Ryan:

The question is; should we be considering a maximum tax?

Mr. M. Campbell:

You mean a tax cap?

Deputy P.J.D. Ryan:

Yes.

Mr. M. Campbell:

That is another policy issue which the Minister will have to address but that is not part of the current proposals.

Deputy P.J.D. Ryan:

Should we be, do you think, Minister, considering a maximum tax; a tax cap to take some of the steam out of that?

Senator T.A. Le Sueur:

That is something which I would need to look at more in terms of marketing and the ability to attract 1 (1)ks to the Island rather than for any particular tax yield. In my view the person who has got an income in excess of £1.5 million a year and does not want to pay one per cent tax on it may not be the sort of person who is necessarily uppermost in my mind.

Senator J.L. Perchard:

R80, your latest design proposals, and I quote: "Further work will be undertaken on anti-avoidance and information gathering powers." So you are still in that stage?

Mr. M. Campbell:

Yes.

Senator B.E. Shenton:

Can I go, sort of, one -- if we take the instance of a lady that has a minority shareholding in a number of companies which she receives no dividends on, how will she know under deemed distribution that she is meant to declare it on her tax return and how will you pick her up?

Mr. M. Campbell:

The company itself, the company secretary, will issue a statement under the proposals to those shareholders who have an interest of more than one per cent in the Jersey company, that will show her that she has to declare that on her tax return but there is a provision in the draft law which you had originally, that if she does not get any distributions at all from that company there is a provision to assess the company as agent for that shareholder to get the money off the company itself rather than the individual minority shareholder.

Senator J.L. Perchard:

I want to conclude the public session in the next 10 or so minutes because there are some private issues on the law that we want to discuss with you confidentially at this stage. Minister, there is one area that has been flagged up to the panel quite regularly and under the proposals many people are saying there is a lot of opportunities or a lot of problems will arise under the proposals of R80. They can see a lot of opportunities for a shareholder to be liable to be taxed twice. Have you noticed that? Have you recognised that as a problem?

Senator T.A. Le Sueur:

Yes. I think that is one of the reasons, not the main reason, but one of the reasons why we want to do more work on the shareholder taxation estimates of that law, just to make sure we do not fall into that difficulty.

Deputy P.J.D. Ryan:

So you can confirm then that it would not be your intention that double taxation would take place on the same income, as a general principle?

Senator T.A. Le Sueur:

As a general principle, that is fair. I mean you have got the situation of local shareholders of 10 per cent finance companies who will get a 10 per cent collection on the company stage and the balance on their personal situation. But that is not double taxation, that is taxation in 2 chunks.

Deputy P.J.D. Ryan:

That was not what we were talking about. We were talking about the --

Senator T.A. Le Sueur:

Tax on tax?

Deputy P.J.D. Ryan:

Yes.

Senator J.L. Perchard:

I think one area that we want to discuss with you in this public session is an alternative to the RUDL (Regulation of Undertakings Development Law) proposal. You highlight the importance in the original proposal of gathering some revenues from UK-owned businesses trading in Jersey.

Senator T.A. Le Sueur:

I think the desirability on equity grounds as far as possible, yes.

Senator J.L. Perchard:

As you know, the panel has had a submission from Jurat Blampied that we have worked on a little bit to promote this as an opportunity through a deemed rent proposal. I know you have been busy and the department have been busy with looking at the whole principle of Zero/Ten but have you considered the possibility of the Blampied proposal being a runner?

Senator T.A. Le Sueur:

I have considered it superficially but not in any particular detail yet. We did look at this in general terms at the time of the original Zero/Ten proposals when we were looking at it more in terms of straightforward rateable value properties akin to Parish rates. It may well be that, at least superficially, the Blampied version is very similar to simply a high level of Parish rate and allowable in the full rather than allow it at 20 per cent. I think 2 things we need to look at, and we will do in more detail once we have got this out of the way, is the -- whether that allowability would be at the 100 per cent or tax-rated at the 20 per cent rate which clearly makes significant difference to the UK residents. If it was at 100 per cent rate then they would be quite content that it was just moving money back from Gordon Brown to Malcolm and there is no economic disadvantage. At simply the 20 per cent rate then that would give them still basically an economic disadvantage. The other question we need to look at is the economic impact on the Island as a whole because we have to see just what the effect that would be on Jersey businesses and on business generally. Any additional tax like that has potential economic disbenefits. If it could be drafted in such a way that there was no economic disbenefits then that would be great but I think it is like trying to --

Senator J.L. Perchard:

Sorry, to interrupt, but what economic disbenefits to Jersey-owned businesses trading on Island would there be through the Blampied Schedule A proposal can you see?

Senator T.A. Le Sueur:

At this stage I do not have enough information on that to give you a reasonable answer on that one.

Deputy G.P. Southern:

Can I just come in there and ask how much involvement has there been from the economic adviser on the economic impacts rather than the fiscal or financial impacts?

Senator T.A. Le Sueur:

At this stage, not a lot. As I say we have parked the Blampied proposals while we try to finalise this lot. I think also you have got a potential mismatch at the present time. We have deferred discussion on Article 115(a) and the superannuation funds and the taxability of rents on property owned by them there is going to be an impact back on that one, we need to look at both of these at the same time, I think, once we have got this put to bed.

Deputy G.P. Southern:

Now the question still remains how much involvement will there be of the economic adviser? As you are saying, it is larger than just fiscal.

Senator T.A. Le Sueur:

As far as I am concerned, quite a bit. You have to see the full picture. I do not want to bring in a law which sounds right fiscally and makes a complete mockery economically.

Deputy P.J.D. Ryan:

Would you agree that in fact one of the main reasons for dropping the RUDL charge original proposal was because, in fact, there was a significant economic disbenefit as a result?

Senator T.A. Le Sueur:

There were economic distortions.

Deputy P.J.D. Ryan:

Yes, distortions. Because I was going to ask you, talking about the question of the pension funds, Article 115(a). Whether - and I think you have already answered it - you were going to get the economic adviser to look into the pros and cons of that one. I think you have already answered that one.

Senator T.A. Le Sueur:

Yes.

Deputy P.J.D. Ryan:

So that is imminent at the moment? What are the timescales for that, do you believe?

Senator T.A. Le Sueur:

I do not know. I am trying to solve this taxation problem first. As I said, it is something which we need to bring in the next year or 2. So I suppose sometime during 2007.

Deputy P.J.D. Ryan:

Looking at things in general terms, I think you made the statement just before that you wanted to get Zero/Ten law in with the basics on principle generality, and that might mean that you would have to park one or 2 other things.

Senator T.A. Le Sueur:

Yes. That was the spirit of R80 when we said we ...

Deputy P.J.D. Ryan:

Question; you are bringing in the current year basis of assessment. Is that not also a side issue? Should that not be parked as well? I mean what has that got to do with Zero/Ten? We do not really understand what that has got to do with Zero/Ten.

Senator T.A. Le Sueur:

I think that's probably as much a technical issue as a legal issue.

Mr. M. Campbell:

Both the profession and income tax quite like the idea of the current year basis on assessment for various technical reasons which I will explain to you if you wish but you might not want to go into. It is part of the original design proposals, it is in there. It says: "A current year basis on assessment should be introduced." There are other reasons as well. International business companies are currently on a current year basis of assessment. The look-through provisions for investment holding companies will have the assessment of individual shareholder on a current year basis of assessment so essentially we are going on a current year basis for everything, in the same way as the Isle of Man has and the same way as Guernsey have. There are very good technical reasons for it as well. For example, one of the reasons is that on cessation profits drop out of assessment under the current system - under this system we have now - with some tax planning. Not unnaturally, I do not like that very much when profits drop out of assessment. This current year basis which we are going to adopt will stop that mischief.

Deputy P.J.D. Ryan:

Will you be taxing people from a cash flow perspective twice in one year?

Mr. M. Campbell:

No, 2007 and 2008 is the bridging year. It is in the legislation. Transitional provisions are contained in the legislation.

Senator J.L. Perchard:

If we are not taxing twice in one year and we are bringing it forward one year, tell me how that works unless you are prepared to lose some income.

Mr. M. Campbell:

We have got transitional provisions whereby you take 2 years' profits and you split them in half.

Senator J.L. Perchard:

So we are going to lose some income?

Mr. M. Campbell:

No. No. We will still have a full year's assessment but we are just splitting the profits between 2 years.

Senator T.A. Le Sueur:

It may be you would have to go through the individual Article --

Mr. M. Campbell:

I can give you an example, not now, but I can give you an example if you wish to show you how it will work.

Senator J.L. Perchard:

Yes, I think the draft law probably explains that a little bit better.

Mr. M. Campbell:

It does.

Senator J.L. Perchard:

For the benefit of Harry, you must think that we are talking in code. We have a draft law that is not in the public domain yet and we have agreed with the Minister that we will treat it in confidence.

Deputy P.J.D. Ryan:

But in fact it has been lodged.

Senator J.L. Perchard:

Well, the mark 2 draft law is now being lodged next week that is why we are skirting.

Senator T.A. Le Sueur:

Hopefully. I mean I would not claim it being lodged next week until it happens.

Deputy P.J.D. Ryan:

The intention.

Deputy G.P. Southern:

It is just a general comment though, better not go anywhere into detail, but would it not be true, do you not agree, that it is true to say that the days of having a simple tax system which you have been rightly proud of, are about to end? We are going to have, albeit not the 3 foot of tax law thick the UK has but certainly we have probably added some, between 50 to 75 per cent to our tax law as this comes in. The days of simple tax are over in Jersey?

Senator T.A. Le Sueur:

I do not think the days of simple tax -- the days of dead simple tax are over. I do not want to make it more complicated than I can possibly avoid.

Deputy G.P. Southern:

But nonetheless it is becoming complicated.

Senator T.A. Le Sueur:

It is becoming more difficult than it was. But I think the political direction, if you like, to the Comptroller of Income Tax would still be to try to apply a lighter touch. In collecting all the tax that is due in a way which we can perhaps do through codes of practice, guidance notes and so on, as well as legislation.

Deputy G.P. Southern:

We are moving away from a light touch surely?

Senator T.A. Le Sueur:

We are moving away from simple touch.

Senator J.L. Perchard:

An area that does interest us is that Jersey individuals owning shares in non-Jersey companies. Very normal thing to do. Will these be taxed and how will Malcolm get the information?

Senator T.A. Le Sueur:

These are taxed now. If you get dividends on Marks and Spencers you pay tax them now and you will pay tax on them in future. You will declare them on your income tax return.

Senator J.L. Perchard:

You are satisfied that it is as simple as that under the new powers?

Senator T.A. Le Sueur:

Nothing changes in respect of the shareholder owning his shares in Marks and Spencers this year or next year.

Senator B.E. Shenton:

The only difference may be if you have got a local company you might move it away from Jersey.

Mr. M. Campbell:

You are talking about here, I take it, about Jersey beneficial owners who control and manage a company which they wholly own and manage. That is being looked at as part of the shareholder taxation provisions which will be brought forward next year.

Senator T.A. Le Sueur:

That is where you get some of the complications that Geoff was just talking about.

Senator B.E. Shenton:

Because I could move my company to somewhere else and then I would only pay on distribution?

Mr. M. Campbell:

The shareholder taxation provisions which will go forward next year will address that, but that will make things slightly more complicated. But if you wish to have the tax revenues from Jersey resident beneficial owners then you maybe have to have a little bit of complexity to ensure you get the tax revenues.

Senator B.E. Shenton:

That will be a very complicated bit of legislation you are going to bring in next year.

Deputy G.P. Southern:

That is why it has been parked. That is why it is not here in front of us today.

Senator J.L. Perchard:

Just to wrap up this public session. You are hoping to lodge the Zero/Ten framework next week to be followed next year with what -- we are talking about anti-avoidance legislation here which will be an amendment to the Income Tax Law next year. What other ...?

Mr. M. Campbell:

Essentially the shareholder taxation provisions to ensure that we catch the Jersey resident beneficial owners who own companies who are zero-rated in Jersey to ensure that they pay tax based on the proposed 60 per cent deemed distribution basis.

Senator J.L. Perchard:

Shareholder legislation provisions. When do you think we could lodge that, Minister?

Senator T.A. Le Sueur:

I would hope to lodge it in about April/May time, debating June/July time.

Senator J.L. Perchard:

I will put it down. Is the States going to be asked to pass Zero/Ten without any shareholder legislation in place?

Senator T.A. Le Sueur:

Yes.

Senator J.L. Perchard:

Are you happy with that?

Senator T.A. Le Sueur:

Yes. Because this is effectively dealing with taxation at the corporate level and the subsequent one will deal with taxation at the shareholder level. There are 2 separate -- there is a clear distinction you can make between corporate taxation and shareholder taxation.

Senator J.L. Perchard:

So we have got the Zero/Ten framework coming before Christmas, the shareholder legislation provision May time. Any other legislation to do with this that you envisage in 2007 that we can look forward to?

Senator T.A. Le Sueur:

There may well be some other things like the Blampied proposal you were talking about which may well come in towards the end of the 2007. I would not, at this stage, want to stick a timetable on that. This has taken me longer than I expected and the shareholder taxation may well take longer than we expected as well.

Senator J.L. Perchard:

So no essential ingredients of Zero/Ten to come other than the shareholder legislation provision?

Senator T.A. Le Sueur:

I think that is certainly the main one I can think of.

Senator J.L. Perchard:

So, effectively, Minister, we will be lodging next week an actual distribution only proposal?

Senator T.A. Le Sueur:

Next week's proposals do not talk about distributions to any great extent.

Mr. M. Campbell:

It is the Zero/Ten framework that is being lodged next week to give certainty to the finance industry for the zero rate of corporate tax and the 10 per cent rate to corporate tax for finance companies.

Deputy P.J.D. Ryan:

If nothing else changed though next week we would be effectively, by default, running on an actual distribution only?

Mr. M. Campbell:

No, this does not come in for several years. So we are still on the current basis of taxing.

Deputy P.J.D. Ryan:

If the States pass this law which you are going to lodge next week and did not pass --

Senator T.A. Le Sueur:

Did not do anything else.

Deputy P.J.D. Ryan:

Did not do anything else then you are on actual distribution?

Senator T.A. Le Sueur:

I think you are probably right, yes. But that was not the intention.

Mr. M. Campbell:

The intention is to ...

Deputy P.J.D. Ryan:

Do not read anything into what I am saying. I am asking the question.

Senator T.A. Le Sueur:

I think, without giving it too much thought the answer must be yes.

Senator B.E. Shenton:

So you are giving the States the opportunity to go along those lines?

Senator T.A. Le Sueur:

That was not the intention.

Deputy P.J.D. Ryan:

One last question, and I think I just detected in some of your projections that were in the budget seem to be firming up a little bit more on the size of the black hole, correct me if I am right or if I am wrong, you have not mentioned so much closer than we have numbers. Something between 85 and 92 - I cannot remember the exact numbers.

Senator T.A. Le Sueur:

I think I quoted - I get confused by numbers sometimes - I am working on a figure between 79 and 95.

Deputy P.J.D. Ryan:

That is a little bit more -- you are starting to put some numbers on it.

Senator T.A. Le Sueur:

Well, we were putting some numbers on it but it is still a range with 20 per cent between the top end and the bottom end.

Deputy P.J.D. Ryan:

Have you done some more work and are you starting to get a better feel for it?

Senator T.A. Le Sueur:

I do not think we are getting a much more better feel; as again we are up to date with information and we can feed that information into the figures. But there is still a fair degree of uncertainty in it. I think going back on that one, the last time we met you had not got a great deal of information on the composition of the black hole but I think we subsequently did give you that information. Those figures will be reviewed from time to time but to me the question is not whether it is 83 or 85, it is a question of getting the law in place, whatever the yield is.

Senator J.L. Perchard:

Just before wrapping up this public session and before we go into our private session, I just want to confirm publicly that the Corporate Services Panel, after having discussed this with you to ensure that we were not duplicating work being undertaken by the Treasury, have engaged the services of a UK tax adviser to look at the opportunities or the possibility that deemed rental could be offset against UK income tax. We are currently waiting for that work to be completed, expected before Christmas, which we will share with you as it arrives hot off the press. We would ask you to keep us informed fully, Minister, with any work that you are doing in the New Year with regards to this proposal of deemed rental or any other proposal to enable UK businesses trading in Jersey to contribute to the running of the Island.

Senator T.A. Le Sueur:

I think, firstly, thank you, that is very helpful and I look forward to seeing those findings. Secondly, my only potential solution at the moment as to dealing with the non-resident shareholder issue is something along the Blampied proposal or the proposal that you put forward following Peter Blampied's discussions to you. I do not know yet as to whether they work fully or not but I cannot think of anything

that works better than that so it is, from my point of view, at the moment that or nothing. I am not looking at any other alternatives.

Senator J.L. Perchard:

We intend to pursue this because we consider it very important that these businesses do contribute towards the running of the Island and we trust that you do the same.

Senator T.A. Le Sueur:

Yes, indeed. I think in our original report you suggested that there might be a GST option. As far as I am concerned that was not a viable option but the Blampied one might be.

Senator J.L. Perchard:

Okay - with that then, I will close this public part of the meeting and we will move into private session.