

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 26th JUNE 2018**

Question

Further to the response of his predecessor to OQ.3/2018 on 16th January 2018, will the Chief Minister provide an update to that answer and, in particular, will he –

- (a) state what progress, if any, has been made in addressing the E.U. Code Group's reservations regarding the declaration of company tax and profits without real economic activity and, if none, state when he expects to make some progress and to inform the Assembly;
- (b) state when he will come to the Assembly with a working definition of 'without economic substance' and a response to the reservations of the E.U. Code Group in that regard;
- (c) advise whether he intends to take any measures to improve access by the relevant authorities to the information held by companies in Jersey on profits and tax payments; and
- (d) state when he will be able to provide an analysis of the 6,000 companies referred to in the response to OQ.3/2018?

Answer

- a) The Government of Jersey welcomed a recent Scoping Document containing Guidance from the Code of Conduct Group on Business Taxation. The Government is committed to keeping the States Assembly updated on matters relating to the EU Code Group process and in this regard, the Minister for External Relations will make a statement to the Assembly on 26th June 2018.

It is important to note that progress in meeting the expectations of the EU Code of Conduct Group in relation to “economic substance” can only occur when sufficient clarity exists as to the requirements for “economic substance” – it is for this reason the Government of Jersey welcome the Scoping Document.

The publication of the EU Scoping Document was, in part, down to the work that has been done by Jersey and other jurisdictions with the EU Code of Conduct Group and the EU Commission to understand in more detail the concerns of the Code Group as to “economic substance”. The Guidance document goes some way to providing clarity as to “economic substance” however further dialogue is required between Jersey authorities and the EU authorities – that dialogue is ongoing.

At the same time as clarity is being sought of the concerns of the EU as to economic substance, Officials in the Government have been working with the regulator and industry to develop a package of measures to address any perceived concerns the EU may have as to economic substance. There has equally been regular dialogue with our Crown Dependency colleagues in order, where possible, to seek alignment on how we address this common issue.

- b) The Government of Jersey committed in December 2017 to address the concerns of the EU Code of Conduct Group along the lines of a detailed timetable that was contained in a letter sent by the then Chief Minister to the Chair of the Code of Conduct Group. That letter was attached to a statement made at that time.

It should be highlighted that the commitment was to introduce appropriate measures to address any concerns held by the EU Code of Conduct Group as to “economic substance” – that does not equate to

providing a definition of “without economic substance”. It should be noted that we particularly welcome the Scoping document referring to the application of methodology adopted by the OECD Forum on Harmful Tax Practices by analogy with its focus on a sector-by-sector assessment of what economic substance means.

I am pleased to report that progress is being made broadly in line with the December 2017 timetable, and whilst that timetable may be slightly refined, we anticipate bringing legislation to the Assembly in the Autumn that addresses any concerns of the EU Code of Conduct Group.

- c) Jersey holds a variety of information on companies either incorporated or tax resident in the jurisdiction. However, as with any regime, Jersey is looking to enhance information provided to authorities in formal reporting, in line with its international commitments and the commitments made to the EU Code of Conduct Group in December 2017.

Over recent years the Comptroller of Taxes has expanded the number of companies that need to provide profits information on their corporate tax return – details can be found in the answer to WQ 2017/632 (see:

[https://statesassembly.gov.je/assemblyquestions/2017/\(632\)%20dep%20southern%20to%20tr%20re%20eu%20code%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf](https://statesassembly.gov.je/assemblyquestions/2017/(632)%20dep%20southern%20to%20tr%20re%20eu%20code%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf)).

In early 2018 the Comptroller of Taxes engaged in a consultation process regarding the additional information that will be sought through future tax returns (i.e. over and above the information already being sought in the 2016 YOA corporate tax return). The proposals outlined in the consultation were:

- 2017 YOA corporate tax return – disclosure of company activity information
- 2018 YOA corporate tax return – plus disclosure of company profits
- 2019 YOA corporate tax return – plus submission of financial statements in an electronic format

The consultation period has closed and the responses received are being considered. Decisions on what information will be ultimately required from companies in the future will reflect the ongoing engagement with the EU Code of Conduct Group/EU Commission outlined above.

- d) Since the beginning of the year the focus has been on developing proposals for the collection of additional information through future corporate tax returns (see the answer to (c) above) rather than undertaking further analysis of the historical information provided in WQ 2017/632 (including splitting profits information between companies that are Jersey incorporated and non-Jersey incorporated companies).

As noted in the answer to (c) above, it is proposed that following the submission of the 2018 YOA corporate tax returns (due by 31 December 2019) profits information would be available for all Jersey resident companies.