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4.5 Deputy S.Y. Mézec of the Chief Minister regarding the impact of measures announced recently by the U.K. Chancellor on aggressive tax avoidance and evasion:

What impact, if any, will the fresh measures announced recently by the U.K. (United Kingdom) Chancellor on aggressive tax avoidance and evasion have on the level of activity of the financial services industry based in the Island?

Senator I.J. Gorst (The Chief Minister):

No impact is expected because what the Chancellor in the United Kingdom has announced is entirely consistent with the action we have already taken to discourage the use of Jersey by those engaged in aggressive tax avoidance and tax evasion. Tax evasion of course has been a criminal offence in Jersey since 1999 and our position on aggressive or abuse tax avoidance was made clear in the statement I issued in July last year.

4.5.1 Deputy S.Y. Mézec:

The media coverage of this yesterday shows that there are some in the industry who do not believe it is quite as simple as that and think that there will be people who will need to manage their affairs differently to accommodate these changes, so can I ask the Chief Minister what, if anything, is being done with the industry and U.K. Government to ensure that nobody gets caught off-guard and that everything is done properly?

Senator I.J. Gorst:

There are some in industry who obviously their profession is to give advice to make sure that their clients and prospective clients are not caught in any changes. That, I think, is what a particular adviser in the media was suggesting yesterday and that is a right and proper approach that advisers make sure that that is the case and of course we have got the change disclosure facility and we will work with H.M.R.C. (Her Majesty Revenue and Customs) to ensure that that disclosure facility is used appropriately in that 9-month window.

4.5.2 Deputy G.P. Southern:

The Chief Minister seemed to be very confident that there was no aggressive tax avoidance taking place on the Island. Can the Minister assure Members that those companies, such as mining companies which are invited to set up businesses here, will not be affected by the diverted profit tax, D.P.T., 25 per cent, if they were to divert profits through their Jersey-based subsidiary?

[10:00]

Senator I.J. Gorst:

Again the Deputy has purposely misquoted what I said in my answer and what I have said on previous occasions. That is that we have no desire and no wish to have aggressive, abusive, artificial tax avoidance schemes. Of course we are working with the international standard setters and we have supported the base erosion and profit shifting international agenda because generally we do not feel that Jersey, because it does not have the number of double-taxation agreements that some other international finance centres have, is used in the way that the Deputy is suggesting.

4.5.3 Deputy G.P. Southern:

Is the Minister giving an assurance that there is no profit shifting taking place in Jersey at the present time?

Senator I.J. Gorst:

Once again the Deputy is misquoting me and I stand by what I said in answer to his first question.

4.5.4 Deputy M. Tadier:

The Chief Minister just said that we do not want to see any artificial tax avoidance schemes in Jersey. Are there natural or organic schemes that the Minister is referring to? What does he mean by “artificial schemes”? It seems that all schemes for tax avoidance, whether legitimate or not, have to be dreamt up by somebody somewhere.

Senator I.J. Gorst:

Tax planning is a perfectly appropriate occupation and individuals do it as well as companies. They use specific clauses within a country’s tax code to plan their affairs to mitigate tax to an extent that they can. The Deputy knows to that which I am referring because it has been made quite clear in public statements not only on behalf of Government but also to members of Jersey Finance Limited.

4.5.5 Deputy S.Y. Mézec:

One of the things that is proposed by the Chancellor is to remove the requirement to prove the *mens rea* in tax evasion offences and to make it a strict liability offence. Not just for those committing it but also for those facilitating it. Could the Chief Minister let Members know whether or not that is already the case in Jersey and if it is not the case does he believe it would be a good idea?

Senator I.J. Gorst:

I do know that we have extremely strict requirements upon our service providers. I know that it is an offence for those working in the industry if they suspect or should have suspected that what is before them is evasion then they themselves are personally liable. I do not have the full details of that liability in front of me but I can easily provide it to the Deputy after this sitting.