

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY SENATOR J.L. PERCHARD
ANSWER TO BE TABLED ON TUESDAY 2nd JUNE 2009**

Question

“Given that under Zero/10 taxation, non-Jersey owned businesses can escape all Jersey income tax liability, thereby gaining a competitive advantage over locally owned businesses, would the Minister provide evidence to substantiate his view that the Deemed Rent proposal of Jurat P. Blampied for a tax on owner-occupied business property (in effect a re-introduction of Schedule A) to obtain a tax contribution from non-Jersey owned companies could be easily avoided in order to justify his reluctance to introduce this new tax?”

Answer

Evidence given by some professionals to the Corporate Services Scrutiny Panel suggested that it was possible to avoid the deemed rental charge. That is noted by the Panel at Key Finding 7. That is the basis which formed the view that the tax could be avoided. Includes examples (see below) of how the deemed rental charge may be avoided. It should be pointed out, however, that the draft Law did contain a number of anti-avoidance provisions at Article 123C(2C).

Non-Jersey companies bring more benefits to the Jersey economy than just the corporate tax they pay - they provide jobs and incomes and bring wider benefits through competition and greater efficiency. In addition, non-Jersey companies do not escape all Jersey income tax liability under 0/10. Companies do not pay tax but people do - shareholders and employees - and the employees of non-Jersey firms still pay income tax on their salaries (and GST on their Jersey expenditure).

In general it is also not the case that non-Jersey companies gain a competitive advantage over Jersey firms. Where non-Jersey firms remit their profits back to the UK the same amount of corporate tax will be paid as before 0/10. Under such circumstances the competitive advantage lies with the beneficial owners of Jersey businesses because the tax they will pay on look through will be less than that paid in the UK. While these circumstances may not apply in every case, no real world examples have been provided of how the non-Jersey businesses will gain a competitive advantage as a result of the move to 0/10

Examples of possible avoidance mechanisms**Deemed Rental Charge**

- Place conditions on a lease in order to reduce the market value on which the deemed rental would apply.
- Reduce the market value rent of the property through up front capital payments thus reducing the deemed rental.
- Separate the property from the trade and then charge a commercial rent from the property company to the trade. The rent would be assessable but if the property is financed through debt then the interest relief and expenses would wipe out any liability. And as market value is being charged then no deemed rental charge would apply.