

4.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding his commitment to ‘finding a proper and fair solution’ to the zero-rate tax paid by some local companies:

I am slightly thrown by all that interest there, so I am going to find my Order Paper and proceed with the question. Given that on 8th November 2011, when standing for his current position, the Minister made a commitment to finding a proper and fair solution to the Zero/Ten rate paid by some local companies. Will he reaffirm his commitment and state what progress, if any, has been made to finding the solution?

[10:15]

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I am happy to reconfirm my commitment to find a proper and fair solution that is appropriate for the Island. I can advise the Assembly that substantial work has been undertaken in recent months. We briefed the Council of Ministers a number of weeks ago and my Assistant Minister and I will be briefing all States Members on this important issue before the summer recess. This is perhaps a good opportunity to reiterate a number of the principles. Firstly, that we are committed to find a solution provided that it will not damage Jersey’s international competitiveness. Secondly, I restate that the economic climate is certainly challenging and that we should not do anything that damages economic growth or risks jobs. Thirdly, it is critical that we protect Zero/Ten and tax neutrality as this is the bedrock, the foundation of our financial services industry which is in turn a key pillar of the economy.

4.4.1 Deputy M. Tadier:

There are lots of caveats there and I wish the Minister for Treasury and Resources good luck in devising a scheme which meets all 3 of those tests. Regarding the caveat to do with not damaging competitiveness; does the Minister acknowledge that under the current system where some companies are essentially paying effectively zero rate on the High Street because the shareholders are elsewhere and others are paying 20 per cent, we are already damaging the competitiveness? So long as this system exists, local companies are at a disadvantage and are perhaps seeking to move abroad or going out of business because they cannot compete with foreign competitors.

Senator P.F.C. Ozouf:

First of all, may I express some gratitude for the Deputy saying just how difficult this issue is because it is a difficult issue and we have been trying to find a solution for some time and of course we are not alone, all the Crown Dependencies are wrestling with this issue. Secondly, it might be helpful to the Deputy to reflect on the fact that while there might have been an unfairness on the local retailing environment before deemed distribution was removed, one of the unintended consequences of removing deemed distribution means that retailers can hold profits in companies and only pay them when they choose to withdraw that money from a dividend. That is perhaps dealt with a lot of the unfairness that people perceive to be with the forced dividend arrangements.

4.4.2 Senator S.C. Ferguson:

When will the Minister admit that under the Zero/Ten requirements, as imposed by the O.E.C.D. and E.U. (European Union), it is impossible to have a differential tax scheme to catch overseas earned companies? When will the Minister admit that it is impossible?

Senator P.F.C. Ozouf:

If I may pick up the Senator on one issue; she will know that of course the code of conduct has nothing to do with the O.E.C.D., it is the E.U. and she needs to get her facts right. Secondly, there is no issue about admitting. The fact is that I have stated repeatedly that you cannot

discriminate between onshore and offshore activities. That is at the nub of the issue. This is not a new issue which is being raised by the Senator today. This is the issue that this Assembly has been wrestling with for years and we are trying to deal with it. But I am confident that there are some opportunities, particularly working with colleagues in the other Crown Dependencies, to find a way of capturing some revenue that was lost. Revenue that was not lost because of the zero, revenue that was lost because of the move from 20 to 10 per cent, which has got everything to do with competitiveness, nothing to do with the E.U. code.

4.4.3 Senator S.C. Ferguson:

Will the Minister answer the question and admit that it is pretty well impossible to meet the various requirements and have a differential tax system for overseas-owned companies?

Senator P.F.C. Ozouf:

Admitting something means that you have almost done something wrong and on this issue I do not think I set the rules. I have to work with my Treasury Department and indeed the other Crown Dependencies to try and find a solution, and we will try to find a solution. We do think there are options available to us. I am consulting my colleagues in the other Crown Dependencies and I promise to brief Members before the summer recess.

4.4.4 Deputy G.P. Southern:

This is a question about revenue generation; will the Minister confirm that the progress he has made has been largely to eliminate various schemes as possible solutions and that the answer that he is developing will come nowhere near replacing the £30 million lost from zero rate on certain companies?

Senator P.F.C. Ozouf:

I am grateful for the Deputy to confirm that the loss of zero-rating companies was substantially not £100 million. I will just remind myself of what the actual loss was, I think it was £30 million or less in relation to that. It might have been £15 million, but I will confirm that. I have eliminated a number of options but there are a number of options that we are considering. We are considering a number of options and I am going to brief Members on this. I have already briefed the Council of Ministers on this issue. There is a great deal of education I need to do. It is not a case of admitting, it is a case of understanding the principles and trying to find a solution that works within the principles that we have voluntarily complied with.

4.4.5 Deputy G.P. Southern:

Since the Minister cannot use a tax mechanism because that would differentiate between types of companies, it has got to be a charging system and any charging system will not replace the £30 million that is missing from our revenues.

Senator P.F.C. Ozouf:

Can I just also say that the revenue lost from the introduction of Zero/Ten was of course real and it was painful to deal with but if we would not have implemented the changes to Zero/Ten we would have lost the whole of the financial services industry. So it would not be £30 million; we would be losing hundreds of millions of pounds and as always there are trade-offs in relation to issues. I do not agree that necessarily charges should be completely eliminated. I understand the difficulty with them and I do not like charges as a mechanism but we are leaving all options open and I do not want to be drawn today on effectively options that we are looking at.

4.4.6 Deputy R.G. Le Hérissier:

Can the Minister explain how a disparate group, some members of whom led the charge in aggressive tax competition, can he explain how members of this group are now going to act co-

operatively to provide a solution to an issue which they drove without ever thinking of the consequences?

Senator P.F.C. Ozouf:

I do not think there was an aggressive group but certainly if one reflects on the fact that the corporate rate of tax in Ireland was 12.5 per cent and we had effectively a rate on banks of 20 per cent that certainly was a competitive issue. The Isle of Man set a 10 per cent rate no doubt with having an eye on the corporate tax in Ireland. The U.A.E. (United Arab Emirates) has a zero tax base. Hong Kong has a 15 per cent but territorial basis of tax. Singapore has other rates of tax. Malta has ways of competing. So this is not just a small caucus of countries. International tax competition across large countries and small countries is a factor in the world and seems to continue. We had to respond to that, making our tax system competitive was painful but we have done it, but I still need to find, if I can, a solution to deal with this residual issue.

4.4.7 Senator P.F. Routier:

In relation to the issue of unfair competition between locally-owned businesses and businesses which are owned by shareholders outside of the Island, can the Minister confirm that businesses which are owned by companies outside of the Island pay the rate of tax which is applicable in their own country?

Senator P.F.C. Ozouf:

That is of course absolutely correct. It depends upon the way that dividends will be treated and there has been some changes in the way that dividends are taxed within the United Kingdom who have moved to a territorial system. It will depend. He is right, but it does depend on where those businesses are owned.

4.4.8 Deputy M. Tadier:

Can I just refer to I suspect some possible misleading may have gone on in that response because the Attorney General did cover this answer once in one of his speeches and there is nothing to guarantee that anybody based abroad will pay any tax. It depends completely on the setup.

Senator P.F.C. Ozouf:

I think I said that.

The Bailiff:

I think the Minister said it depends on how it is dealt with in the home jurisdiction.

4.4.9 Deputy C.F. Labey of Grouville:

I wonder if the Minister is in a position to give some sort of indication as to what mechanisms could be used - because there was talk many years ago about deemed rent, which may or may not be suitable - but if he is going to brief us before the summer recess or during the summer he must have some idea now as to what sort of mechanisms could be used to level the playing field.

Senator P.F.C. Ozouf:

It is a fair question and of course the Deputy was responsible for the amendment, which obliged me to do exactly this work. I do apologise to the Deputy but I do not want to be drawn in public, at this stage, on the options that are under consideration. Taxation must be certain and we must effectively announce policy or potential policies in a proper way and I have not finished the analysis. I have not got the backing of the Council of Ministers on proposals. I am still doing some work with the Crown Dependencies. I am absolutely content to brief the Deputy in confidence of what our thinking is and will welcome her in the department to brief her confidentially on what our thinking is, and indeed any other Member.

4.4.10 Deputy M. Tadier:

On the Machinery of Government Review, and it looks like we may be creating a new Ministry for Alchemy because it seems to me that the Minister for Treasury and Resources is setting himself up for an impossible task here. We have heard the same suggestion from Senator Ferguson. The Minister also said: "I will find a solution if I can", so my question to the Minister is he has known about what he sees as a problem. It does not necessarily have to be a problem, but he has recognised that it does have some inherent unfairness for local companies. Surely he should know by now whether or not it is possible to find a solution to this. There is clearly doubt in the Minister's own mind as to whether this is achievable, so will we know by the end of this year and at what point will the Minister give up on trying to find a solution to Zero/Ten if he realises it is futile?

Senator P.F.C. Ozouf:

I think I have a reputation of never giving up. I am going to carry on trying to find a solution with my tax officials for something which is a problem, and I understand the anxiety which traders have in Jersey. The Deputy does not need to portray the Treasury Department as the Treasury of Alchemy. This is a really big problem. There is no easy solution, but we are trying and we are making best endeavours but we are looking to see where we can protect Jersey's tax revenues. The theme of this year's budget is going to be protecting revenues. Looking at the way that we can safeguard the revenues that we have, looking at where we can within the rules, gain more corporate tax revenue from activities in Jersey and we will not stop. But we have been looking at this for 5 years. If it takes another 2 years I will continue to work at it, if I am allowed to, and will continue to do so. But the Deputy says, of course, this is a really difficult problem but we have solved difficult problems before. I am not guaranteeing a solution will be found, but I am going to try.