

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES  
BY DEPUTY G.P. SOUTHERN OF ST. SAVIOUR**

**ANSWER TO BE TABLED ON TUESDAY 4th JULY 2006**

**Question**

In his written answer to my question of 6th June 2006, regarding exemptions on shareholdings, the Minister stated that *‘to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge and the deferred distribution charge would be .... legally indefensible* Will the Minister explain to members why the application of such measures would be legally defensible in the case of shareholders with a 2% shareholding?

**Answer**

The full text of my previous answer stated that *“...to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge would be both administratively onerous as well as being practically and legally indefensible”*.

It has never been my intention to imply or suggest that only assessing an individual with a shareholding above 1% in a publicly quoted company to the deemed distribution charge and the deferred distribution charge was legally defensible.

It is simply that a ‘de minimis’ percentage has to be chosen to prevent the illogical situation of the Comptroller of Income Tax being forced to assess to tax a minority shareholder in a public company on an infinitesimal proportion of the ‘deemed distributable profits’ of a publicly quoted company, such as Marks and Spencer, BP or CI Traders, when the shareholder in question has no control of any kind whatsoever over such companies, rather than being assessed to tax, as currently, on the dividends received from these public companies.

No doubt the Deputy will recall that my original proposals relating to this issue set the proposed de minimis limit at between 2% - 5%. It will be a matter for the States Assembly at which level that de minimis percentage should be set to prevent this illogical situation.