QUESTIONS TO BE ASKED OF THE PRESIDENT OF THE FINANCE AND ECONOMICS COMMITTEE ON TUESDAY, 11th MAY 2004 BY DEPUTY G.P. SOUTHERN OF ST. HELIER

Question 1

In response to questions on 30th March 2004, the President informed members that the Comptroller of Income Tax had ruled in 154 cases of tax avoidance under Article 134A of the Income Tax Law in the previous 6 months. Will the President inform members –

(a) how many cases in total were ruled on in the full year to April 2004 along with the total value involved under Article 134A?

(b) the total number of transactions and their total value that were wholly or partially counteracted under the article? and,

(c) the total number of transactions and their total value that were allowed under the article?

Answer

"(a) 404 cases with a total value of £42.9 million and estimated profits of £5 million were ruled on by the Comptroller of Income Tax in the full year to April 2004 under Article 134A.

(b) 145 transactions with a total value of £20.1 million and estimated profits of £5 million were wholly or partially counteracted by the Comptroller under Article 134A.

(c) 259 transactions with a total value of £22.8 million were allowed by the Comptroller and not counteracted by him under Article 134A.

Question 2

In his proposal to introduce a Goods & Services Tax (GST) at 5%, the President has given assurances that those who fall below income tax thresholds will be protected from further financial strain by increases in benefits of the order of £9 – £13.5 million. Would the President inform members –

what measures will be put in place to prevent the risk of creating a 'benefits trap' by such a move as the incentives of employment relative to benefits are proportionately reduced?

Answer

The Employment and Social Security Committee is in the process of developing a low income support system which will aim to maintain the work incentive by taking an integrated approach to financial support rather than the current piecemeal arrangements where benefits are provided by a number of States Committees. Whilst most beneficiaries are likely to fall outside the Income Tax net, there is at this stage no firm indication of who might or might not benefit. Similarly, figures for increases in costs can at this stage only be indicative, and will be dependent on adequate additional tax revenues to fund them. There is no empirical reason why mitigating the impact of a Goods and Services Tax on low income households should result in a 'poverty trap' or 'benefits trap', and indeed it should be the aim of any new income support system in maintaining the incentive to find employment to avoid creating any such traps.

Question 3

In answer to questions on 30th March 2004, the President stated that the Committee was pursuing ways of recovering estimated tax losses of between £20 and £30 million relating to non-finance businesses owned non-locally. Would the President inform members –

(a) what progress has been made on this issue? and,

(b) whether this situation places these businesses at a competitive advantage compared with locally owned non-finance businesses, and, if so, whether this advantage accrues to the £50 million lost tax revenue arising from finance business owned locally and non-locally?

Answer

(a) Although non resident shareholders may live in a variety of jurisdictions, the majority currently reside in the U.K., and we have had discussions with the U.K. authorities for some time now on a possible way forward. We have put forward some proposals which we feel could provide at least a partial solution to the transfer of corporate tax revenues and these are currently being considered constructively by the U.K. Inland Revenue and others and we await the technical response. Whilst we have to be realistic, we strongly believe there is a case for a considerable part of the potential 'leakage' to be recovered.

Naturally, there is some sensitivity about such discussions, so I trust members will understand the degree of circumspection which I have evidenced in my answer. When there is more definite information available this will be published by the Committee.

(b) No, a zero corporation tax treatment for non-locally owned businesses does not confer any competitive advantage over locally owned businesses because they will continue to pay overall the same amount of tax on the profits they make, but the tax will arise only in one place, (for example in the U.K.), rather than shared between two places, (for example Jersey and the U.K.), as is currently the case. That is the technical consequence of zero tax for overseas owned businesses which our current discussions and possible refinements to the zero regime are trying to mitigate - in the circumstances which I describe in my preceding answer. I appreciate that this may appear a less than entirely satisfactory situation for Jersey, and one which we are aiming to mitigate, but we need to understand that the Jersey entity itself, or the non-resident shareholder, does not actually benefit. The beneficiaries are the revenue authorities of other jurisdictions. Furthermore, if we get it wrong and impose alternative charges which will not qualify for relief under overseas tax laws we will actually be placing these businesses at a competitive disadvantage in the future, resulting in their possible closure and accompanying loss of local job opportunities.

Ultimately this is a choice between the lesser of evils. If we implement the Committee's proposals without any such recovery, then at worst we could lose £80-100 million, of which the maximum loss from non-locally owned, non-financial services businesses would be £25-£30 million. If we do not implement the 0/10% proposals, the overall loss of tax could be in excess of £300m. As I have indicated, the Committee is doing everything possible to reduce the potential tax loss from non-locally owned businesses. We are as concerned about this leakage as anybody else, but nobody has, as yet, come up with a feasible alternative to the Committee's overall proposals regarding corporate taxation.

Question 4

In answer to questions, also on 30th March 2004, the President referred to the economic benefit test established in 1997 under the RUDL. Will the President inform members –

(a) how this test operates today? and,

(b) how it will be affected by a move to zero/ten tax?

Answer

(a) The Comptroller of Income Tax ensures that, when a new non-resident financial or other institution wishes to set up in Jersey and the profits and tax projections detailed in the business plan or other documentation presented to the Comptroller indicates minimal or no tax will be paid, thereby making the tax contribution insufficient to justify the resources, such as office space or staff, that the institution wishes to take up in Jersey, he insists that the minimum tax contribution to be paid by such an institution on a yearly basis accords with the economic benefit test, as follows –

£15,000 per annum if no staff involved

£25,000 per annum per employee excluding those for whom a J category housing consent is required

£40,000 per annum per employee for those for whom a J category housing consent is required

Institutions requiring a mix of resources, for example, local and J category staff, will have to pay a multiple of the above as an annual tax contribution.

(b) It is anticipated that the Comptroller of Income Tax will continue to use the economic benefit test for financial and non-financial institutions wishing to set up in Jersey even if the 0/10% proposed corporate structure is approved, although I must stress that no formal decision has been taken on this matter as yet.”