

4.9 Deputy M. Tadier of the Chief Minister regarding aggressive tax planning:

Given the Chief Minister's commitment that Jersey wants no part of aggressive tax planning, why in his letter to the U.K. Prime Minister did the Chief Minister confirm his commitment to fight tax evasion but not avoidance, aggressive or otherwise?

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

The letter from the U.K. Prime Minister to which I responded on 20th May focused mainly on the G8 summit and transparency of beneficial ownership which is concerned with combating tax evasion. That is why my letter focused on our shared commitment to fight tax evasion. By way of contrast, of course, in my letters of the same date to the Irish Presidents of the E.U., I wrote to welcome the conclusions of the European Council in recognising the need for further efforts at national E.U. and global levels to combat tax fraud, tax evasion and aggressive tax planning and I remain fully committed to my previous statements that Jersey wants no part of aggressive tax planning.

4.9.1 Deputy M. Tadier:

The letter from the Chief Minister spoke both of tax avoidance and evasion. I hope the Chief Minister acknowledges that but will the Chief Minister, given the fact that he has reconfirmed his commitment to being against aggressive tax planning - whatever that means - can he say whether he has now identified the company which was used by Jimmy Carr and many others for the K2 scheme which was based in Jersey? Does he know which trust company was administering that scheme?

Senator I.J. Gorst:

The Deputy seems to fixate on a particular case that I have quite clearly said is not part of Jersey's future and there is no doubt that the Jersey Financial Services Commission, together with government, together with the promoter, needs to develop a policy for ensuring that in the future that sort of business does not find a home in Jersey and, as I said at the last States sitting, we have already set up a Sound Business Practice Committee and they will have the job of ensuring just that. So the Deputy, while wanting to fixate on one, and he knows my answer from the last sitting, can rest assured that we are taking this issue seriously.

Deputy M. Tadier:

May I ask a supplementary?

The Bailiff:

No, you have had one supplementary already, Deputy. You can come back at the end.

Deputy M. Tadier:

The Chief Minister did not answer the question. He was asked a specific question, does he know the name of the firm. He was not asked to tell us the name of the firm but does he know who was behind that scheme and he has not answered the question.

The Bailiff:

Well, that was fair, that was the question. Do you know the identity of this person?

Senator I.J. Gorst:

I thought I had answered it, Sir, albeit perhaps in a roundabout fashion. Ministers have access to large amounts of confidential information and therefore I suspect that while, as the Deputy said, he does not want me to make it public, which I am not in a position to do, I am obviously aware.

4.9.2 Deputy G.P. Southern:

Yes, the Chief Minister is being very light on his feet today. Does the Chief Minister accept that since we are clearly in the business of tax competition with our neighbours under Zero/Ten, we must therefore be in the business of tax avoidance, aggressive or otherwise?

Senator I.J. Gorst:

Tax competition is a perfectly acceptable competitive position for jurisdictions to take. The Prime Minister, when he wrote to not only myself but also the other Chief Ministers of Crown Dependencies, himself reiterated the U.K.'s commitment to tax competition and he would like to reduce the tax rate in the United Kingdom. We have long known that tax competition is important and it helps us deliver the quality well-regulated financial services sector that we have and so we must continue to retain that competitive advantage.

4.9.3 Deputy G.P. Southern:

If I may, a supplementary. Does the Chief Minister accept then that inviting companies to register here and thereby pay zero tax, this is aggressive marketing of a fundamental tax avoidance mechanism?

Senator I.J. Gorst:

Absolutely not.

4.9.4 Deputy R.G. Le Hérissier:

I wonder, given the Chief Minister's absolute commitment on our behalf to tax transparency, this clearly has caused a lot of concern among the population. Could he tell us where he sees the sources of the financial industry's success in the future coming from?

The Bailiff:

Is there a precise answer in 30 seconds there?

Senator I.J. Gorst:

I am not sure I can do that. The question was indeed rambling and covered a very broad subject. It is hardly fair to expect me to answer it in 30 seconds. I am absolutely confident about Jersey's future and the future of its financial services sector. We have taken decisions as a Government and this Government has continued that but our differentiating factor is being a quality jurisdiction, being a well-regulated jurisdiction, being a F.A.S. (Financial Accounting Standards) follower, complying with relevant international standards, having an independent and well-respected judiciary, having a stable Government, having a balanced budget, having a skilled workforce and they are things that we should be proud of, that we should protect ...

Deputy R.G. Le Hérissier:

Where is it coming from?

Senator I.J. Gorst:

... and that we should be promoting and this last weekend was an opportunity like we have not had in many a year to promote what Jersey does to acknowledge and have acknowledgement from around the world that we are part of the solution, not part of the problem, that we have a long track record and I believe that we will see the use of our financial services increase because of that.

Deputy R.G. Le Hérissier:

A wonderful riposte but where is it coming from?

The Bailiff:

Deputy, you asked such a general question that it is not surprising that the answer was very long. There is a supplementary. Where is it coming from, Chief Minister?

Senator I.J. Gorst:

From around the world. We have ...

The Bailiff:

Very well, that is the answer.

Senator I.J. Gorst:

No, Sir, we have ...

The Bailiff:

We are not going to have such general questions and expect people to give focused answers. Now, I saw next Deputy Trevor Pitman.

[10:45]

4.9.5 Deputy T.M. Pitman:

Given that all of us who live in the grown-up world know that the difference between evasion and avoidance is nothing more than semantics - a type of legalese nonsense you hear in courts - could the Chief Minister confirm that he really applauds Deputy Tadier for standing up and saying the right thing to the U.K. media this week?

Senator I.J. Gorst:

Could I just initially say that it is not a matter of semantics. It is a matter of what is legal and what is not legal and they are 2 quite different things. This Assembly glories in having independent Members and not being a party Assembly. We are a democracy, despite what some Members of this Assembly might like to think, and therefore, of course, Deputy Tadier may have a view which is different from mine and is different from this government and in a democracy, he is perfectly entitled to articulate those views. Of course, I disagree with them wholeheartedly and I believe that they damage our interests. We are working to promote the best interests of Jersey which I believe is in the best interests of every single individual in our community. Other Members disagree with me but I believe that they damage Jersey by doing so.

4.9.6 Deputy M. Tadier:

The Chief Minister disagrees with me wholeheartedly and I wholeheartedly believe that we should be fighting aggressive tax avoidance/evasion and not undermining the tax basis of other people's countries. The Chief Minister has said publicly that he disagrees with me wholeheartedly which is unfortunate. You see, it does not matter whether you ask a short question or a rambling question because the Chief Minister does not answer it anyway and he runs the clock out but we are more savvy because we have had some question training this week from the Solicitor General. The Chief Minister has told us that he knows which firm administered the K2 Jimmy Carr scheme which was an aggressive tax model yet he will not tell us which trust company that was so how do we know whether or not that is continuing? How can the public have any confidence when he will tell us, under duress, that he knows what it is but hides behind the veil of confidentiality? Will the Chief Minister tell us here in the States Assembly which company was used to administer that because he should not be protecting ...

The Bailiff:

I am sorry, Deputy, that is a very old question.

Deputy M. Tadier:

Yes, that is the question, Sir, will he tell us ...

The Bailiff:

You have asked the question, then because ...

Deputy M. Tadier:

Will he tell us the name of that company?

Senator I.J. Gorst:

I quite clearly said that Ministers get information on a confidential basis and that is how it should remain. I do not accept that there is a disagreement between Deputy Tadier and myself with regard to aggressive tax avoidance. That is one area where we do agree but Deputy Tadier, of course, said many other things in the international media for which there was no basis in fact and it is those that I disagree with. As I said, we are taking this matter seriously. The Sound Business Practice Committee has been set up and they will be coming forward with proposals in order to deal with this past business and into the future.

4.9.7 Deputy M. Tadier:

Can I ask why it is confidential? We already know that the U.K. accountants that devised this scheme are called Peak Performance Accountants and the Chief Minister is keen to tell us that this is a U.K. scheme but it is based in Jersey. If he is serious about tackling aggressive tax avoidance, why will he simply not tell us which trust company administers this so that we can ...

The Bailiff:

That is your question, Deputy. Why ...

Deputy M. Tadier:

Why is it confidential?

Senator I.J. Gorst:

Once again, the Deputy is making comments which are not quite an accurate record of the facts. The company is not based in Jersey. It is a U.K.-developed scheme. It is U.K. legal advice. It is U.K. promoted. It just so happens that administration took place in Jersey and it could have taken place in any number of jurisdictions.