

STATES OF JERSEY

Economic Affairs Scrutiny Panel Price and Charge Indicators (GST) Sub Panel

WEDNESDAY, 25th JULY 2007

Panel:

Deputy G.P. Southern of St. Helier (Chairman)

Deputy J.M. Martin of St. Helier

Connétable M.K. Jackson of St. Brelade

Witness:

Mr. S. Lowthorpe, GST Director, Income Tax

Deputy G.P. Southern of St. Helier (Chairman):

Thank you for attending, Steve. Just to introduce the members of the panel, as you know we are the Scrutiny Panel involved with the Draft Pricing and Charge Indicators (Jersey) Law which has arrived indirectly as a result of the introduction of GST (Goods and Services Tax), effectively. Before we start, then, we have Constable Mike Jackson, Deputy Martin and myself as Chair. We would normally have Deputy Lewis with us but he is called away to the floods, apparently, in the UK (United Kingdom) so he sends his apologies. Deputy Breckon is conflicted on this inquiry; he will be giving evidence to us later on in the day through his position as Chair of the Consumer Council. I must, before we start, draw your attention to the statement in front of you which indicates the conditions under which you appear and basically says: "Do not say anything you might be sued for because you have no protection." But within that remit feel free to speak frankly about what evidence you can. If I could start you off, if you would just like to tell us about your position and what you are doing at the moment, that would be a starting point.

Mr. S. Lowthorpe (GST Director, Income Tax):

Okay, that is fine. Well, I have a position with the title of Director GST, which is I think an assistant comptroller post equivalent, in the Income Tax Department. So I do have some responsibilities for income tax but the main purpose of my appointment was to assist in the implementation of GST, which again spans not just income tax in terms of administration of domestic tax but, as I think most people know, GST is applied to imports. There is no distinction in terms of liability between domestic supplies of goods and services or imported goods and services. So it is a fairly wide remit which spans both income tax and customs to get the administration in place before the target start date, which is end of

April, beginning of May, next year. Of course the preparations include drafting of legislation, internal procedures, communications, public notices. There is a broad range of activities to prepare both the administration and the taxpayers at large.

Deputy G.P. Southern:

The starting point for us is the issue of inclusive or exclusive pricing in shops. One of the arguments we talked about last night when we were talking to the Economic Development Minister was the difference between GST or VAT (Value Added Tax) and RST, a retail sales tax. He seemed to concentrate at one stage on that and said inclusive pricing is appropriate for GST or VAT, exclusive pricing is only ever used for RST. Would you like to start by talking about the difference between RST and GST just to fill us in?

Mr. S. Lowthorpe:

Yes, I will try to be -- as I am sometimes accused of being too technical. Well, first of all they are both indirect taxes so they are taxes that are applied to either goods or services. The biggest single difference is that a retail sales tax, by its very name, is that it is a tax levied at a single stage. In the past probably sales taxes in general were a very popular means of collecting indirect taxes so people with long memories will probably think of purchase tax in the UK which was a single stage indirect tax which was levied at a slightly different level, it was a manufacturer or wholesaler level. So probably the most popular form of indirect tax, other than customs duties, that was levied by the business community were the sales taxes and more probably at the wholesale, retail and import level. But a variation of that, of a single stage sales tax was: "Well, let us forget the manufacturers, let it drift down a bit further and let us collect it, again at a single stage only, at the retail level." So you had a retail sales tax. I think VAT became very -- well, it probably started in the 1950s. Its origins are probably not that clear either. South America or France. But they looked at the current sales taxes, probably saw that there was a sales tax levied at importer, manufacturer, wholesaler and then in other places at a retail level. That is really how a value added tax system evolved. Well, why do we not levy it at every stage down to the retail level? By doing that it has a self-policing element because you can audit goods when they come, either imported right down to the retail level. If they are domestically manufactured you can audit them down to the retail level. So it was seen as a more efficient tax system because there was an element of self-policing and it did provide this very robust audit trail. Now, to try and get back to the issue of pricing. First of all it surprised me that pricing has been an issue. I have always said that whenever a major tax system like VAT/GST is introduced there is always perhaps something new. You know there is about 150, 153 countries with a form of VAT/GST. I do not think any of them in the past have had an issue on pricing. So that is quite unique. I think to say that exclusive only applies to retail sales taxes is probably not correct. It is very difficult to find now a pure form of retail sales tax. You know, the States is probably -- well, certainly the last OECD (Organisation for Economic Co-operation and Development), last modern economy that has that style of taxation. India was probably one which is gone now. So it is

very, very difficult to identify and find many countries that have this pure single stage retail sales tax. But there have been, in the past. If we look, there would have been countries that levied a retail sales tax on an inclusive basis and on an exclusive basis. It is just that if people want to give examples it is natural that they would look at the States: "Let us see what the States does. How do they approach pricing?" Well, it just happens that it is one regime that still has a single stage retail sales tax. There are reasons for that. Why is the States out of kilter with the rest of the world? Well, they have produced draft VAT legislation at least twice in the past, just as a draft working document. The Bush regime has recently commissioned another study. Would a multi-staged tax system be better, more suited to the States? Every time they do this they produce model statutes based on the rest of the world. One thing for sure is that the pricing is always done on an inclusive basis when they have looked at this model statute. If I could find it, if I can find it, I would certainly release it. So the States themselves, I think, if and when they ever do move - and it is if and when - I think they would have got what is generally the accepted best principle of pricing on a multi-stage tax system at a retail level on an inclusive basis. If people want examples obviously they choose the States but it perhaps is not a relevant analogy because it is not a multi-stage tax system, but Canada is. Canada is as pure a generic GST/VAT system as you will ever find. It is the one example where they decided on a route of exclusivity right from 1999, I think, when it was introduced. But they did that because -- they did that for very specific reasons. They did it because it is complicated in that the tax is levied at 2 stages. There is a federal GST, so there is a federal tax which is called GST, there is a provincial tax which is called PST (Provincial Sales Tax) but it is levied on exactly the same -- it is a mirror tax system but they are different rates and one is called provincial sales tax and one is called a goods and services tax. They are both administered by Revenue Canada but the proceeds are split at a later stage on an agreed formula. Now, the problem with that is that some of the provinces, because of their natural resources, do not need a PST. So they were left, when they introduced it, with some provinces that had a PST, all of them had a GST. It proved unpopular with Canadians in general. I mean my wife happens to be Canadian and I just had my mother-in-law over so she was quite interested in the debate. Canadians generally do not like the exclusivity. As a person that goes to Canada quite frequently, I find it a bit confusing that I will go in, think that I am getting a bargain, wander around the shop, pick it up, I go to the till where first of all they will hit me with the provincial sales tax, then they hit me with GST, so that is 2 lots of tax. The PST varies. The GST is 7 per cent throughout, the PST varies from province to province. Then to complicate matters even further some of the provinces with the Federal Government have said: "Look this is getting to be a nonsense" so some of them have agreed to combine GST and PST so you have got HST (Harmonised Sales Tax). So I think the one example of pricing on an exclusive basis, which people -- Canada has a very good reputation in its tax systems. It is something that they are very uncomfortable with and I think they will try at the end of the day to gradually move, if they can get the provincial governments to agree, to an HST. I think once they do that they probably would consider moving to inclusive taxation.

Deputy G.P. Southern:

One of the political points that has been made to us, and I will not ask you necessarily to comment on it, is that at least with exclusive pricing people notice they are paying it. You know, if it does not show you do not know. That is certainly an argument that has been to us that perhaps we should know what the Government is charging us for. It is purely political. Certainly in Canada you were saying people still notice.

Mr. S. Lowthorpe:

They do and I think when you look -- I have worked for the IMF (International Monetary Fund) and obviously the IMF in turn was a bit -- revenue modernisation programmes in many countries linked reforms in taxation with democracy, improved democracy. So first of all they are saying: "Well, many of the countries in the world should reform the tax system, reduce corruption, improve governance" and one way of doing that certainly is for people to notice what tax elements they are paying and coupled with that to publicise what the taxation is used for. So in some of the countries that I have worked we did, as a deliberate policy, outside a hospital say: "This hospital was built from the taxes that you have paid." So I do not have a problem with that. In many ways my position has been that first of all I was surprised that this was an issue, but as a tax man, as a tax administrator I do not worry too much whether it is exclusive or inclusive as long as somebody pays the tax at the end of the day. So, right at the very beginning there was no reference in the GST Law to price marking as such because there is always a natural assumption that elsewhere in legislation it will be covered by other forms of statute. Right at the beginning there was an assumption that there would be perhaps freedom of choice on the part of the business community, or it would be swept up by other statutes. It was only as we sort of went down the path almost to presentation in the States this year, before April, that I became more aware of the position that there was no equivalent of price marking legislation. But perhaps GST was being used for consumer protection. But to me you should not mix the 2 things up.

Connétable M.K. Jackson of St. Brelade:

Are you aware of any legal implications coming from the EU (European Union) which suggests that shelf marking should be used as opposed to price at the till?

Deputy G.P. Southern:

I think this is EU directive 98/06.

Mr. S. Lowthorpe:

I will try and answer that although I am not entirely sure that I am in a position to do it. I can answer it from a tax point of view but I cannot answer it if the references that you make are to price marking or consumer protection. From a tax point of view, there is no doubt that within the EU, the EU directives impose inclusivity on all member States. So the UK, when it introduced VAT in 1973, there was no

question that prices will be inclusive from day one. I think the previous work that was done in Jersey said that we are not bound by the EU at all so the tax system for Jersey was to avoid many of the complications that are inherent with the EU systems. We can, from a legal point of view, have a system which is entirely different. Other than the one issue which is protocol 3, which was more to do with customs, then nobody has challenged the right of Jersey to introduce a tax system of its own design. So all I can say is that what is intended from a pricing point of view for GST, it does not matter if it contravenes the 6 directives for VAT because we are not bound by the EU directives. But if, in fact, there is some other form of statute, which Jersey is bound by in terms of price marking, then I am not in a position to know.

Deputy G.P. Southern:

I think you were talking before about Article 94 from the TSV(?) regulations.

Mr. S. Lowthorpe:

From the law itself?

Deputy G.P. Southern:

From the law.

Mr. S. Lowthorpe:

Yes, the Article 94.

Deputy G.P. Southern:

Which says that the regulations may require that a global price is indicated. That includes GST without separate mention of GST. So it is a permissive --

Mr. S. Lowthorpe:

Again, I am being honest that originally the draft law had no Article 94 so the GST law itself was silent in terms of price marking on the basis that there was an assumption either there would be freedom of choice or other legislation, other existing statute already made provision for probable inclusivity. It is very unusual for it to be on an exclusive basis. It was only through further consultation that I became aware that we had a fairly major problem.

Deputy G.P. Southern:

Right, and that has been focussed on now with the Draft Price and Charge Indicators Law, Article 2(3) which has taken that "may" and made it into a "shall." The requirements shall be subject to exemptions, that the price law charge indicated is inclusive of the tax.

Mr. S. Lowthorpe:

Yes, because I think at that stage it was realised that if this is really a consumer protection issue then there should be -- I was not really part of that debate. But if this is a consumer protection issue then it is much better to deal with it under its own separate statute than to try and fix it as part of GST. The 2 things to me do not fit naturally together. So there was a decision taken then to produce a separate statute to cater for consumer protection and the issue of pricing, for which I had no mandate with at all.

Deputy G.P. Southern:

Okay. As somebody with a vast experience, if perhaps I can describe it as that, of GST throughout the world, can I take you on to one of the arguments that has been produced in the debate of inclusive versus exclusive, the rounding up debate? What can you tell us about the fractions of pennies, or whatever monetary unit you are using, that occur in multi-sized process?

Mr. S. Lowthorpe:

Well, there are generally 2 approaches. One, it is not common to see the issue of rounding included in tax legislation. Again, it is usually included in some other form of legislation. If it is necessary then, as a very generous tax man, you usually say you round down in all circumstances. That is highly generous. But that is purely from a tax point of view. If you include rounding then the general international consensus is that you round down, you never round up. I think, again, it is an issue because we are talking --

Deputy G.P. Southern:

When you say you round down, you round down as a tax collector?

Mr. S. Lowthorpe:

Yes. Yes, if you need to include specific reference to rounding up or rounding down then generally in the majority of tax law, if it is mentioned at all, then the rule is you just round down. Is it seen as being generous? Not really. But at least it is clear and simple. But it again is not that common because the issue of rounding is normally included in other statute and I assumed, and again I would not pretend to be fully familiar with the price marking law, but the issue of rounding was probably going to be included in that legislation, but I do not know.

Deputy G.P. Southern:

It is not my impression that it is.

Mr. S. Lowthorpe:

Okay.

Deputy G.P. Southern:

I certainly asked the Minister last night whether he was going to deal in legislation with rounding to the point of saying: "Right, if it is point 4 we round down, if it is above you round up." That is permissible. Or everybody rounds down, you can do it any number of ways. So the reality is that I do not think we are considering, probably rightly because we are a small jurisdiction, going down to that level. I do not think we are going to deal with it which leaves us with the question of what would the market do? Now, I do not know, there is an argument that whenever tax changes take place along these lines that: "Surprise, surprise" retailers, wholesalers, the chain tends to round up because it can. Have you had experience of that from elsewhere in the world?

Mr. S. Lowthorpe:

I would say that, in my experience, has not been a problem. What has been a problem is that if somebody is aware that a tax like GST or VAT is to be introduced then they will certainly savour any price rises that they had in mind or perhaps plan for the future and they will introduce them at the same time as the tax starts because nobody is going to shout at them for increasing prices, all the blame will be deflected on the Government and say: "Well, it is a result of VAT or GST." So, there have been quite well documented cases of people deliberately thinking: "Well, we were due to have a price rise in any case but it is much better to time it with the introduction of a tax system." Usually, whatever these issue are, it is a blip which usually is over within the first 2 or 3 months because it becomes, again, a very competitive market. Anywhere in the world with an open market economy then it is competition, tax can often be used as another form of competition. "We will absorb the tax, we will pay the tax on your behalf." It is used as a marketing ploy and I am quite sure it will be in Jersey so there could be a slight blip in terms of prices but I am quite sure things will level out after that. If we are in a position of freedom of choice by the retailer you can choose either exclusive or inclusive. I think that will be another element of potential competition.

Deputy G.P. Southern:

Do you see much difference in cost to the retailer between the 2 systems of pricing?

Mr. S. Lowthorpe:

Well, I think that is why we have a division. You know, I will be honest that in 2006 we put out a consultation paper which -- there were a number of issues that we were seeking opinions on and one of them was on, you know, pricing at the retail level. At the end of that consultation exercise, what surprised me - it was probably the worst result that we ever wanted - was that there was a pile of letters and they were just about like that. These wanted inclusive at all costs; these wanted exclusive at all costs and they split into 2, I suppose, predictable camps. The inclusive submissions were all businesses with their origins in the UK. The exclusive submissions were all indigenous Jersey businesses. So, that is when I thought: "Blimey that is the one result you really did not want to know." I think you can see

for the same reasons we have had a lot of dialogue through the chamber in terms of what it would cost if those people that want to price on an exclusive basis have to move to an inclusive basis. Now, I have not really seen an accurate reasoned business case, but there are costs. It is the systems that they have. If these are products which are pre priced outside of the Island then there would be a resource implication. These are. It is resources and it is usually back to support systems, IT support systems. But what you have are these 2 camps and they are equally adamant that whichever they went, if it was the opposite direction to the one that they want, it is going to cost them and it is going to cost them -- even the picking figures out of the sky. The figures that they quoted are about the same. So there are some big UK businesses that have said: "Look, our systems are obviously generic systems, based on the UK. If we had to move from inclusive pricing to an exclusive basis this is costly. This is very costly." Just the same for the Jersey businesses. I will be honest, way back I was saying that I thought the only outcome of this was for the first time: "Let us do something different", and the difference would be that we allow the business community to do what it thinks is best. In the interests of its own business, which could be costs, but at the end of the day they will be influenced by the consumer, the man in the street.

Deputy J.A. Martin of St. Helier:

Sorry, can you just explain why, for someone who is inclusive from the UK, you said it would be more costly to be exclusive in Jersey? Why? Because they do not charge that on main food over there so their prices that they ... explain to me Iceland, pound on the box lasagne. Now, that comes from Iceland, it is sold in Checkers.

Mr. S. Lowthorpe:

Yes, it is all based on their automation, the level of computerisation, the support systems that they have because the current support systems that are used, Iceland, WH Smith, BHS (British Home Stores), all of them, they are all mirror UK systems and all of the pricing is based on the prices being inclusive of VAT or tax. By design many of them will have a bespoke system which has been designed for them, and it is designed and based on UK price inclusivity. So to get the software changes --

Deputy J.A. Martin:

Has most food not got VAT on it in the UK?

Mr. S. Lowthorpe:

It is a mixture. It is about 50/50. But I think their systems are based on an inclusivity. If the item is not taxable then obviously it does not extract tax, it has a tax code that is 0, do not take 17.5 over 117.5 equals the tax. It is all a question of the level of automation that they have. I would have to accept that if they then went to an exclusive basis it would mean changes in the software. Now, when they say it is going cost £100,000, do I believe them? I cannot disbelieve them because they have not put forward a really reasoned business case for what the cost would be in the support accounting systems. But it is

exactly the same for the businesses in Jersey that would -- they say: "We can cope with exclusivity quite easily because it would not mean us pre pricing things", I can understand that. That is a resource intensive thing. For us just to save 3 per cent on an automated system that they have is much easier for them to have to reprice than move to an exclusive basis. So I can accept and understand the rationale put forward by both of the camps. The only thing I would say is that arguments that have been put forward by the chamber, I think the chamber do an excellent job, personally I have a good relationship with them, but they do tend to speak only for the Jersey businesses and I said: "Why is it that there is this equal camp? Why are they so quiet?" and it is because most of them apparently were members of the chamber but have just withdrawn. They have formed their own -- I am just accepting what they said. They formed their own association and apparently that did not last very long. So really the UK origin businesses that are desperately wanting inclusivity perhaps do not have a voice other than on an individual basis.

The Connétable of St. Brelade:

From a tax collection point of view I presume there is no difference?

Mr. S. Lowthorpe:

No difference whatsoever. Generically we have what we call retail schemes. It is to try and make the computation of the tax easier so, in effect, all they do is record the gross take, the total monies that are received for sales in a period, they can just have that and they apply a tax fraction. The good thing is we do not have too many complications so the retail schemes themselves are simple. But in the UK the retail schemes first of all have to identify the proportion of a gross take which is taxable and then they apply a VAT fraction to it. But really from an administration point of view it is not a problem as long as they pay their tax. I would be happy to go ahead with this freedom of choice because I think tax administration you have got to -- the length of time I have been in it, it is a massive change in the main thrust, the main emphasis is to facilitate the business community. We help you to fulfil your obligations and we will help you in every way possible that we can but you have to pay the right tax at the right time. There is nothing in terms of inclusive, exclusive which presents a problem.

Deputy G.P. Southern:

As an administrator.

Mr. S. Lowthorpe:

Absolutely.

Deputy G.P. Southern:

This has become rolled up into the argument, you talked about local businesses and non local business, UK businesses largely, with their pre prepared pricing. One of things is there are a number of

companies which do not appear to take off the VAT that they do not pay here and therefore we have this added complication that we appear to be paying VAT, although it is not VAT, plus GST, are they going to absorb that? There is a whole set of questions around that. Does this argument in any way impinge upon that because certainly it is something that is hot with the public out there, you know, why are you paying VAT, these people are ripping us off? Is there anything exclusive or inclusive that aids or clarifies that situation? I do not know.

Mr. S. Lowthorpe:

Not really. In terms of our help desk it is the question that you get nearly every day. You know, why is it that these UK businesses can make supplies in Jersey and they appear to be selling at exactly the same price as they are on the mainland and yet the mainland price includes 17.5 per cent VAT. It is very difficult to answer. I say: "Well, they are fully entitled and eligible to zero rate those supplies from the mainland to Jersey." So the price into Jersey should have had the 17.5 per cent removed. I have this argument on a personal basis with one or 2 people who give me excuses and they say: "Well, we cannot take the VAT off" so I write back to them and say: "I will suggest a way in which you can. That you can zero rate the supply, put that amount in box so and so on your VAT100 return form" and I spell it out, step-by-step-by-step and then I never get another letter. That is the end of it. The --

Deputy G.P. Southern:

Are you still paying the VAT?

Mr. S. Lowthorpe:

No, I do not. I go elsewhere. But it is very -- what I am interested in happens to be very specific and there is a limited market: (a) I cannot buy the things in Jersey; (b) I have to go to certain suppliers. It is sporting equipment and will not go to go into any more detail. But there is a problem and I think in the sales offices if we could transfer ourselves into the sales directors' offices of some of the big multinationals in the UK, there would be the sales graphs on the wall and certainly it will be Birmingham, Manchester, Liverpool, London, Jersey and I am quite sure, as long as the sales growth is static or just slightly rising the margins certainly will be much higher for Jersey than any of the other branches. But there is this excuse, this myth, it is UK VAT when we know it is not UK VAT. The stock answer: "Oh, be assured I paid the tax to UK Revenue and Customs." I said: "How do I know?" Nobody is ever going to know. There is only one person that knows that, that is UK Revenue. I could, with my contacts, try and find out but I would not want to do that and I could not. But there is a problem. I think the UK inclusive camp there is no doubt from the letters that were submitted they gave a strong indication that if GST is kept at 3 per cent, if they are allowed inclusivity then there was a clear statement that they would not, when GST starts, increase the prices.

Deputy J.A. Martin:

Because they are already getting 17 per cent. But for them that is not a very good reason, at 3 per cent inclusive.

Mr. S. Lowthorpe:

But they will just say --

Deputy J.A. Martin:

We have to look into the future.

Mr. S. Lowthorpe:

They would just say they were adjusting the price. You know there is not -- we cannot say: "Well, that - - you know, you are deliberately confusing people that that is the VAT content." It is an open market economy. They sell goods in this Island for what they can sell them for. I think they certainly -- they use this VAT issue as a convenient way of pricing higher than they need to. I think the JEP (*Jersey Evening Post*), to give them credit, when I first came to Jersey the journalist from the JEP was more interested in the UK -- the UK VAT issues than necessarily about GST in the future. I think the -- I am not just saying it because I know he is there but I think they did an excellent campaign. I think that has had an impact. I think the introduction of GST itself will expose them even further.

Deputy G.P. Southern:

Indeed, indeed, and that is the clearest exposition that we have had so far of that particular issue. Can I take it back - and I do not mean to harp on it but I want to explore it fully if we can - to the issue of rounding. It seems to me that -- the example I use is my *Guardian* newspaper. It costs 70 pence plus 3 per cent is 72.1 pence. I fully expect my newsagent or whoever I am buying it from to round it up to -- I expect to pay 73 pence, which is effectively sort of 4.x per cent rate rather than 3 per cent automatically. Now, you are saying in a competitive market rounding up will not go because people will be competing. I mean, I am not sure that is necessarily the state of the Jersey market in that sense, but I am also wondering if that gets compounded. If you have got multi-stage tax, if at every stage people say -- let us not say whether they will or will not but should they round up the last fraction of the penny rounded up, does that compound?

Mr. S. Lowthorpe:

No, because until you get to the final consumption usually it has been output sales, input to the next one, output sales. It is only when it hits the point of final consumption that there is any issue of cascading. So there is no problem. I think the issue of rounding up, rounding down has to be addressed now because whether we do it through GST regulations, we cannot -- obviously now we cannot leave it to price marking. So I think it is quite right that you have raised it and I think it is something which needs to be clarified. But there would be no concern of a cascading effect because the only impact is really at

the retail level when the goods are sold at the point of consumption. I think the interesting thing -- why I say that the competition element will be interesting is that I am quite sure there will some people, taking your *Guardian* newspaper, that will not increase the price at all. But there will be others perhaps that will add 3 per cent. I mean market forces are going to very quickly dictate where that person buys their *Guardian* from. So I see that GST will introduce an element of competition that perhaps was not there before.

Deputy G.P. Southern:

I will come back to that because certainly it was mentioned last night -- in last night's session with the Economic Development Minister. He was saying: "Well, hang on, if that amounts to a quiet phone call between retailers or wholesalers saying: 'We are all right. We will round up or whatever, we will add this to it'". We have experience in the past of that happening in that we used to years ago, before your arrival, used to pay an extra penny on a newspaper, every newspaper, and that was -- that became part of the norm. You just accepted that you paid an extra penny. Certainly there was no competition then. Nobody split ranks and started charging the ordinary price until *The Sun* started doing reduced price offers, I think, and then the whole thing went. But you were suggesting that JCRA (Jersey Competition Regulatory Authority) could intervene because that would be a cartel-type operation. If everybody was seen to be rounding up there would be some sort of implicit agreement that that was what was going on and we might act through the JCRA.

Mr. S. Lowthorpe:

Well, I think if there were -- I would never imagine particularly on those suppliers of goods that there would be the cartel -- you know, the cartel mentality would work because it does -- because you have got those 2 camps. One that is saying: "Well, we are in competition certainly with Jersey businesses. We are in the main selling quite similar goods." But the philosophy at the present time is: "Well, we are not going to put our prices up but on the other hand we are going to increase our prices by 3 per cent." I think at the end of the day all we used to say in less -- well, even where we had price control regulations, the only fair thing to say was, well, look, at the end of this I think some prices will go up, some prices will go down and some will stay the same. It is going to be down to the individual businesses that will decide on their pricing structure, but it adds another dimension which they can use to be either more competitive or less competitive.

Deputy J.A. Martin:

Right, can I just recap on that so I have got this really in my brain? I can see now, I think, where you are coming from. Say the Boots, the Woolies, the BHS, who are based in the UK, their system is set up for inclusive. So whether it is VAT and you are paying £2.50 for your pair of socks, now whether that is inclusive of 17 per cent, their systems are, okay, we are going to send this batch to Jersey, 3 per cent Goods and Services, boom, boom, boom, into their systems and they can come up with a £2.50 plus 3

per cent shelf price, done. So that is fine. My question was back to, like, we have, let us say, Co-op, Checkers, Salfeways who are, say, locally owned businesses mainly in the food retail who, obviously because we cannot supply the food, come from the UK. Now, that was my question, basically. The box price in Checkers at the moment for an Iceland Lasagne is £1. Not just that, there is loads, so for them to change -- how do they then get to -- Iceland to not -- obviously it would have to not put the pound on and they would have to re-price it or they would see the pound on the box but then it would still be confusing, if it was inclusive, for the customer.

Mr. S. Lowthorpe:

Yes. Well, even if they had to move to inclusivity what they are saying is that they would have to re-price tens of thousands of stock lines.

Deputy J.A. Martin:

This is what we have heard.

Mr. S. Lowthorpe:

Yes, and I believe them.

Deputy J.A. Martin:

Yes, fine. This is on the food, mainly on the food.

Mr. S. Lowthorpe:

Yes, yes. So they -- you know they have -- how big are these problems? How real are the problems? How often do they re-price goods that are in stock already? I mean, I have got to be honest, you know, I am not a consumer personally. I am more -- these are questions probably Trevor Le Roux is in a better position to answer. But, you know, he would perhaps counter the Co-op argument and say: "Well, look, you already employ people that are re-pricing goods on a fairly regular basis, not when they enter the shop but at different stages." But you cannot deny that both of those camps have a valid argument. You know, I cannot. Just as a simple taxman who, you know, does not do a lot of shopping I can understand that they have problems. They are entirely different problems. They are vocal to an equal degree except one. You know, I have to say that the Chamber does not put forward the other side of the argument because most of those people are not members of the Chamber so why should they?

Deputy G.P. Southern:

I think you have said, as far as an administrative concern, then the way forward is one that is permissive, either/or. You choose. Leave it to the market. You want exclusive price, do it.

Mr. S. Lowthorpe:

Yes, yes, I am more -- I was getting very worried about this issue. Well, I mean, I am still worried about the issue because ... But I have come to the conclusion that we have come to now, before Christmas, that the only way forward to me -- the only sensible way forward was to do something completely different in Jersey: to allow the businesses to decide. It is a business decision. You are running a business. You make decisions all the time. You will make -- you have a choice which is unusual, and you make that choice on the basis of, you know, the best interests of your business and ultimately the customer. To me, I was happy.

The Connétable of St. Brelade:

There is the one sort of potentially complicated issue and that is the one of restaurants. You know, you go in, you have got the prices on the menu, then we have the 10 per cent at the bottom of the menu. Does that 3 per cent come after that or before that?

Mr. S. Lowthorpe:

Which 10 per cent are we talking about? **[Laughter]**

The Connétable of St. Brelade:

The service charge.

Mr. S. Lowthorpe:

No, the service -- I mean, the service charge is quite easy to deal with. If that service charge is not obligatory so you have got an option to pay, if you are impressed with the service you pay it. If it is something which is an option you will pay it. So if it is a voluntary payment by a customer and it is paid in full to the staff then it is not part of the taxable supply. It is treated in exactly the same way as a gratuity or a tip which is meant to be voluntary. It is just that they tended to formalise service charges in a slightly different way. That 10 per cent was -- first of all, was not going back to the staff. It tended to disappear or, you know, 5 per cent to the business, 5 per cent might go to the staff. So, you know, it is on our Frequently Asked Questions. It is in a public notice that has been issued. So I think -- and I have been to Jersey Hospitality many times so I have explained as best I can. They are all, you know, comfortable with it. So the 3 per cent would not be added if, in fact, that is being treated in the same way as a gratuity or a tip and it is being paid to the staff.

Deputy G.P. Southern:

Yes, you have been reported as saying that you would recommend businesses with a turnover of less than £300,000 not to register, I believe, for VAT. Is that accurate and can you just talk a little about VAT and small businesses?

Mr. S. Lowthorpe:

Well, sometimes the JEP is slightly off the mark as you probably know much better than I do. **[Laughter]** What I said was in answer to an open question, was that, you know, this again, the business of below the threshold. You know, we have got a higher threshold which was going to -- it was a question we should put on there. It is a higher threshold and it was done deliberately. It was done to try and keep smaller businesses out of the tax system. But probably the main reason every country in the world does have a threshold and it is to try and keep the administration as cost-effective as is possible. I mean if somebody said to me: "Right, the threshold is £30,000 in Jersey" then I would probably need to double or even -- I would probably need 3 times the staff because to me it is resource intensive. The unit cost for a big taxpayer is the same as for a small taxpayer. So it was done for administrative purposes mainly and it was done deliberately to try and keep the smaller, informal businesses out of the tax system. So that really leaves somebody with a choice. You know, do I -- if you are above the £300,000 you are in. If you are below the £300,000 then, first of all, you have a choice. I could volunteer if I thought by doing so was an advantage to me as a businessman. There can be many reasons why people volunteer. I mean if you are in the main supplying other businesses that are registered for GST then from a pure financial point of view they do not care whether you charge the GST or not so you will be able to recover GST charged on expenditure. So for financial reasons there are advantages. But again it varies massively from business to business, what type of business you are in. Now, when I said that, it was somebody pressed me and this was specifically to do with hospitality. It was specifically to do with a guesthouse, a small hotel. It is easier to answer there because it is very service, very labour intensive. If you are supplying goods for retail in the same state, well, it does not really matter much with the 3 per cent whether you are in or out. If you are mainly labour intensive, so your added value is your labour which happens in most hotels, then the amount of input tax is low, the amount of output tax is high. So it is better in the main not to be registered. I said if it was me with a hotel and I was -- you know, I just had normal tourists then I would not register. But what I did say was that this is an individual choice that anybody that does volunteer for registration, then I think we are duty bound to talk to that person before we go ahead and accept the voluntary registration just to make sure that that person is, you know, completely aware of what they are letting themselves in for because once they come in they have to remain in for 3 years because if you do not do that you can have people - - what we call the jumpers. They jump in, jump out, then financially --

Deputy G.P. Southern:

Worst case scenario.

Mr. S. Lowthorpe:

Yes. So they jump in, jump out. So what we say is if you volunteer and you are accepted you are in for 3 years but you must be fully aware of all the advantages. What I usually do is go through a training account with them and say: "Look, that is what you would get back. That is what you are going to have to charge on." Who do you charge? Are they consumers or other businesses? But the last thing to

complicate is that, you know, there is a status factor. A lot of the voluntary registrations in the UK are from people that they want people to think that the business is bigger than it really is. So it is purely a status factor.

Deputy G.P. Southern:

If you were to get that status factor and loads of people volunteered, would that cause you a headache because you would have to start employing some more assessors as administrator?

Mr. S. Lowthorpe:

Yes, I think even the status -- we build in a factor.

Deputy G.P. Southern:

Take the status factor out of it. If a large number of businesses under £300,000 voted to volunteer you would have to start employing some more --

Mr. S. Lowthorpe:

We would face difficulties but, you know, we -- Jersey is very late in -- you know, in introducing a consumption tax. I mean there is a heck of a lot of historical data around. We build in based on -- it is IMF stuff I use but we build in a 10 per cent factor. So we have got around a 10 per cent factor built in for voluntary registrations. It does not usually vary much. It is between 5 and 10 is about the norm all over the world whether it is a small island or a big landlocked country.

The Connétable of St. Brelade:

Do see any change after the 3-year period? Obviously the 3 per cent is capped. Would you see the £300,000 being capped or would you expect that to jump up with the result of inflation after 3 years?

Mr. S. Lowthorpe:

Well, it is not capped. I mean there is no legal provision that caps the registration threshold in the same way as the rate of tax. So it would be possible for the threshold to change.

Deputy G.P. Southern:

With or without legislation? If it is just a scheme --

Mr. S. Lowthorpe:

It would have to be approved by the States.

Deputy G.P. Southern:

Right, okay.

Mr. S. Lowthorpe:

But there is -- you know, there is no capping mechanism. I mean the normal thing that applies elsewhere in the world is that the threshold is reviewed, as the whole tax system I am quite sure will be reviewed after the first year. But, I mean, in the UK we started off with a threshold in 1973 of £5,000 per annum. That was the turnover threshold then. It has increased each year by an automatic inflation factor. So it has gone up from 1973 by the rate of inflation and it is now just under £70,000. So there is an inflation factor which you can use. But I think it is one of these that it is very difficult to -- at this stage it would be part of a review. I think if, you know, we did get a lot of voluntary registrations we would have to look at the voluntary provisions. People often try in other regimes to bring down a threshold to increase revenue yield which I think is a bad way of doing it. So I would hope that we maintain the £300,000 but that it is adjusted by inflation.

Deputy G.P. Southern:

We have got a strange record on adjusting for inflation because certainly allowances and exemptions tend not to get -- we get creep, fiscal creep on that. Certainly mortgage tax relief is not -- no proposal to index it so we are going to get fiscal creep on that. So it is something to bear in mind. We have not got a routine.

Mr. S. Lowthorpe:

In the UK it is not covered by statute but it is something which has happened automatically as part of a budget each year. So the registration threshold has increased every single year in line with inflation. There were attempts at various times to both hike and also to reduce and introduce what was in some European countries known as an equalisation levy. That is, to bring in a more simplified system. But I just hope that we stick at that level and that it is adjusted. But we would have to -- it is something that you naturally would want to review to see whether you pitched it at the right level in the first place.

Deputy J.A. Martin:

I need to get this one. So I am a corner shop that sells mainly food, but a lot of little corner shops I know have -- you know, it is surprising what -- you know, they have got the light bulb, the shoelace, everything. You know, there are quite a good few items but their turnover is, let us say, £100,000 so they do not have register. But they are being supplied by a wholesaler. Now, does that stop there so that because they are not registered the wholesaler cannot pass on? They pass it on but they cannot pass it on?

Mr. S. Lowthorpe:

You have got the -- the latter is absolutely right. That is what -- when it -- when they are not registered that becomes the point of consumption. So they cannot claim back the 3 per cent that they have been

charged, say, from the wholesaler or the importer but they do not have to charge 3 per cent on any of the sales.

Deputy J.A. Martin:

They do not have to or cannot? I think Phillip said they cannot.

Mr. S. Lowthorpe:

Cannot.

Deputy J.A. Martin:

In theory they cannot claim GST.

Mr. S. Lowthorpe:

They cannot describe it as GST. You know, they could not use exclusive pricing and say: "Well, part of this is GST." As a non-registered person you cannot issue any document that purports to show GST. So your understanding is spot on.

Deputy G.P. Southern:

Yes, but their cost base would have gone up.

Mr. S. Lowthorpe:

Absolutely.

Deputy G.P. Southern:

And their profit margin they will examine.

Mr. S. Lowthorpe:

Would go down and they would -- yes. But the one thing is because of the rate of tax I think the impact on competition is probably large. Again I should not say anything but they are probably better by not being in because the impact on their business in terms of profit will still be marginal. The level of competition if they have competed before, they should be able to compete in the future. They would not have the administrative compliance issues of completing a quarterly return which to some of them, you know, is a problem even though the form is as simple as we can get it.

Deputy J.A. Martin:

Thank you.

Mr. S. Lowthorpe:

Can I just -- there was something on my mind about price. Yes, so that was -- so Phillip was absolutely right about the implications of price marking on somebody that is not registered for GST because we would almost have 3 categories: a non-registered person that cannot charge GST in any case, whether he is a retailer, wholesaler, whatever he is.

Deputy G.P. Southern:

Could he advertise a sign saying "GST free"?

Mr. S. Lowthorpe:

I do not think there is anything to stop him. There is nothing to stop him doing that. No, I mean from a tax point of view there would be nothing to stop him saying: "I am not registered for GST." I mean even the registered taxpayer we are not insisting that they have to display, you know, a certificate in a prominent place as you walk in and this kind of thing. I mean it is -- I cannot -- from a tax point of view I cannot think of anything to stop him saying: "I am not registered for GST." But I mean it would be the consumer that would decide whether that was of benefit to them or not **[Laughter]** because they might go in: "I am not registered for the GST" but it could be 3 times higher than somebody down the road. So I do not think they would go in too many times.

Deputy G.P. Southern:

I interrupted you.

Mr. S. Lowthorpe:

No, I think it was -- I think that we have got those 3 categories. You know, the non-registered person that -- coming back more to price marking, the non-registered person that cannot display or show GST separately. Then perhaps the 2 categories now of registered taxpayers: those that wish to be inclusive, those that wish to be exclusive. You know we are meeting Chamber this afternoon with Trevor to try and get some sense in to, you know, what is the downside? The downside is the poor consumer going in and not really understanding whether it is in or out or what it is. So we are trying to come up with some, you know, simple way. I mean it is going to have to be regulated but we are trying to come up with some fairly simple graphics to try and illustrate whether somebody is inclusive or whether it is exclusive. I think, you know, we were trying to get some graphic. You know, whether it is a cash register which has got exclusive or inclusive or whether -- I have got a -- I mean, I am no artist but I have got a calculator with the plus button sticking up and 3 per cent on the display. But something which makes it absolutely crystal clear when somebody either walks in or gets to the till that these prices are inclusive and these are exclusive because the only downside and what I thought was the only solution that we have got, of course, is that there will be, there could be, you know, some consumer confusion. I think that soon --

Deputy G.P. Southern:

We had a quite a complex discussion about what happens in Marks & Spencers but it certainly is something that I got used to. I shop in there from time to time. Yes, I noticed it. Oh, yes, what is the bill? Oh, it is more than last time. Yes, of course. But is it that confusing?

Mr. S. Lowthorpe:

I think there -- I mean there is bound to be an element of confusion but I think it is manageable. I think what we have got now I just cannot see, you know, any other way forward. I think what will be more interesting, again for me as a taxman, is that I think it is a sensible compromise. Of course your report is going to be very influential. Then I think it is also sensible, you know, after that first year that there is an independent review. You know, whether that is another scrutiny review or whether -- I think the wording that was used in the announcement was that there would be -- after the first year of operational GST there would be another review to see, you know, what happens next.

Deputy G.P. Southern:

Well, I will not develop an argument. I know what I think I heard but I will not develop that here because it would suggest some bias on my part.

The Connétable of St. Brelade:

Can I just talk about the -- for the petrol and the impôt situation because we have got impôt charged on the shelf, if you like, at the moment - not disclosed - and GST going on top of that, so effectively a tax on a tax. Is this the only situation where that would arise or perhaps with alcohol as well? Any other situations like this?

Mr. S. Lowthorpe:

Well, it is -- well, you have got some real cranky taxes elsewhere in the world. I mean, the general rule is that you always apply VAT or GST as the last tax in the line. So you have to say, well, what comes before it? I mean, fortunately in Jersey you could potentially have something subject to -- right, let us get it in the right order. It could be subject to customs duty, it could be subject to excise duty and it could be subject to GST. It is theoretically possible and GST is the last one to be levied. But I mean that is just normal, we are not doing anything different to anywhere else in the world. I think over the next 10 years you will probably see customs duties disappear completely.

Deputy G.P. Southern:

Have they not been saying that for 30 years? **[Laughter]**

Mr. S. Lowthorpe:

Well, the thing is -- to be fair I think there is a greater -- I mean you are -- Jersey is in a sort of a unique

club at the present time with a number of other countries that are looking at a consumption tax. Why are the other countries looking at it? Mainly Caribbean Islands is because within the next 2 or 3 years they will have no customs revenue at all. They have relied on customs duties almost entirely. In the Bahamas, I mean, they have effectively no direct taxes so they have relied completely on customs duty. They have entered into trade agreements with North America, South America, various other places that have no customs duty. They are being forced, you know, down a route which they never contemplated. But I think to answer your question it would still be possible but highly unlikely because there is very, very little customs duty collected. But if it was also subject to excise duty it could also -- it would be subject to GST.

Deputy G.P. Southern:

Tax on tax?

Mr. S. Lowthorpe:

Yes.

The Connétable of St. Brelade:

In terms of transparency to the consumer are there any other situations in the world where what we have described as the impôt or excise duty, are there any situations where those are disclosed to the consumer?

Mr. S. Lowthorpe:

That is a very good question, I mean because Jersey has already been living with tax inclusive prices for quite a long time. But I think it is -- and again I am not entirely sure that from a tax point of view, though, you probably could show it separately if you were -- I mean anybody could work it out backwards and say: "Well, here is a ..." You know, you get your pint of beer and somebody says: "Oh, well, that is 3 pence but now give me the balance in duty." But I mean it just -- it has never happened because (a) the retailer could work out the content. The only time I can ever remember it was the campaign in the UK not too long ago when it was deliberately done to just emphasise that the cost of petrol -- the commercial cost was negligible but the revenue content was massive. So there was a big campaign to try and get the Chancellor to at least reduce some of the tax content. But it was done for specific reasons. So really anywhere else in the world, nobody ever shows excise duty or any other duties or taxes separately.

Deputy G.P. Southern:

Except Canada where you have got the State tax?

Mr. S. Lowthorpe:

But even there if the same goods are subject -- and again I am going back to other taxes, not GST, but if those goods are subject to customs duty or excise duty in Canada those taxes are hidden. You know, you do not see them at all. It is only the GST, PST, HST which is shown and added separately.

Deputy G.P. Southern:

Okay. I think that just about covers our list of possible questions.

Deputy J.A. Martin:

No, I have got no more.

The Connétable of St. Brelade:

I think just one. If the rate of GST were to change in the future, would that dictate more the form of collection?

Mr. S. Lowthorpe:

I think by then most of these businesses will have -- I mean, we have got a 3-year capping period. I mean, am I am answering the question? I think there will be other pressures on these businesses. They are going to make a decision and they will have either gone the right way or the wrong way. I think the pressure from the consumer -- I think the consumer -- what will worry me most - and I think some of the publicity has not been good - that there was a natural assumption that if it was inclusive prices, the prices would go up. If I am a consumer what do I -- I am not really bothered but I would want whatever had the least impact on prices. I think there has been quite a lot of misinformation to give it the impression that if you are pricing on an inclusive basis that naturally means that prices are going to go up. I would see it exactly the opposite here. So I think the businesses will make these decisions. They will make them perhaps on the right decisions now, but I think within the first 6 months of the tax I think there will be a lot of positioning. I think it is the consumer that will decide, you know, which they prefer.

Deputy G.P. Southern:

I hear what you are saying but I think the Minister last night summed it up where he said there is no such thing as a tax on business. It is a tax on consumers because inevitably whatever the tax situation is, the retailer or whatever business will pass it on.

Mr. S. Lowthorpe:

Yes.

Deputy G.P. Southern:

To put it in context, I mean, for example, if I am operating on a whatever -- 20 per cent mark-up or

profit margin -- 20 per cent profit margin and my costs go up by 2 per cent, what am I going to do? Inevitably I am probably going to pass it on if I can.

Mr. S. Lowthorpe:

I think they also are looking ahead to the other fiscal changes as well. So that they may even be looking at Zero/Ten and linking the 2 things together and trying to look at the overall incidence of tax even though one is going to happen slightly late down the line.

Deputy G.P. Southern:

Do not take me there. I have been there before. We could do the next hour on that one. **[Laughter]** I think we are just about done, unless of course there is a big glaring area that we have not discussed about that you are dying to tell us: "You have got to consider this"?

Mr. S. Lowthorpe:

No, no, I mean, I am grateful that you called me. I think it was very useful to have the questions in advance because that does not normally happen. You know, what I was hoping to say, I mean, you have given me more than an opportunity to say it. No, I think -- but, you know, if there is anything because, you know, it is not easy to -- I mean, I used to say it is a bit like riding a bike. You know, it is very difficult to start off with, difficult to get that balance, but suddenly the concept of the tax, you know, hits you and then you have got it. So if there is anything any time that, you know, you want to ask then ...

Deputy G.P. Southern:

I am glad you said any time because a little birdie has just told me -- little birdie that way just told me enforcement issues. Again it is a worldwide system. We are used to gathering VAT or GST. Are there any particular issues with enforcement? The ways of cheating, are you happy that it is not going to be an intensive scheme to -- I do not know, what is the situation with enforcement because obviously any tax you need to be able to enforce its collection?

Mr. S. Lowthorpe:

Well, I think -- you know, it took me a little time to adjust to say the Jersey way of tax administration. So that was -- I would say it is sensible, it is relevant, for the environment that you are in, but perhaps I came from one which was slightly harder, really. So I think we have got the right balance. The most important decision taken to date was one which is not in the law but was a commitment by my Minister to say that, you know, he will not impose penalties in the first year of the tax for ... If somebody is a little bit late with a return or they do not pay on time then he has given a commitment - I mean obviously it is not in the law - that we will not penalise people in the first year of the tax unless obviously it is a deliberate attempt to evade tax. So, you know, he accepts and understands that it will be difficult in the first year for people to understand and get to grips with it. That is something I

recommended and he accepted and endorsed. So I think that really sets the tone that that is something, you know, which is good for business. You know that they are not going to be in fear. Yes, there has been criticism about, you know, some of the powers that we have got, but I mean this is a tax system perhaps, you know, for a long time in the future. There will be -- I think at a 3 per cent rate the temptation to abuse is less. But that is what everybody said when it was 10 per cent in the UK. So, you know, there are some interesting side effects of GST, but I think initially in that first 3-year period with the 3 per cent I think the opportunities, the incentive, is just not there.

Deputy G.P. Southern:

Thank you for that. You came with a reputation for being frank and straightforward and have reinforced that. Thank you, very informative.

Mr. S. Lowthorpe:

Okay, thank you.