

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT
ANSWER TO BE TABLED ON TUESDAY 29th MAY 2012**

Question

Is the Minister aware of a practice whereby a person has his/her salary paid by a company at a level just sufficient to qualify for social security supplementation, whilst any balances are made up by open-ended, interest free loans from the company and, if so, what action, if any does he propose to take and would he further estimate the amount of tax lost by this process?

Answer

In answering this question it has been assumed that the Deputy is referring to a situation in which the relevant individual is the majority shareholder of and controlling director in the company (i.e. the relevant individual is an owner/manager), so as to have complete discretion over the manner in which he/she extracts value from the company.

Social security analysis

For social security purposes the owner/manager will be treated as if he/she is self employed, therefore their liability to social security will be calculated by reference to the gross amount of income drawn from the company, including the value of any loans made. Therefore by taking the steps indicated by the Deputy the owner/manager will not have achieved a social security saving.

Income tax analysis

Where a shareholder extracts value from a company by way of a loan, the shareholder will be taxed on the amount of the loan taken out in the year of assessment less the amount of that loan paid back. Therefore by taking the steps indicated by the Deputy the owner/manager will be taxed on the gross amount of the loans made, broadly as if they were dividends, and hence the owner/manager will not have achieved an income tax saving by organising their affairs in this way.