

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 16TH JANUARY 2018**

Question

Is it the case that, prior to 2017, Jersey authorities did not seek, and could not therefore gather, information on the profits made and tax paid by some 87% of companies either registered in, or associated with, the Island? If so, will the Chief Minister explain how it can be claimed that the Island is fully co-operative on transparency through the automatic sharing of information and that it can be known what profits can be linked to genuine economic activity?

Is it the Chief Minister's assessment that, in order to satisfy the substance test contained in the E.U. Code Group's criteria 2.2, the Jersey government should –

- (a) require all companies incorporated in, or associated with, the Island by way of a permanent establishment to file a set of accounts and tax return with its tax authority annually; and
- (b) ensure that those companies will be presumed to be taxable in Jersey unless they can provide evidence that they have declared their profits and have been, or will be, assessed for tax in another place;

and, if not, will he outline what alternative proposals he has under consideration which will satisfy the E.U. Code Group's criteria?

Answer

Details of the information collected through the annual company tax return process was provided in the answer of the Minister for Treasury and Resources to question 2017/632¹. Although profits information has not been systematically collected from all companies resident in the Island/trading in the Island through the annual company tax return process, that does not mean that information cannot be collected by the Jersey authorities. The Comptroller of Taxes has broad legal powers to request relevant financial records from any company which is tax resident in the Island or trading in the Island through both the Income Tax (Jersey) Law 1961 and the Taxation (Accounting Records) (Jersey) Regulations 2013.

The amount of profits data collected through the annual company tax return process does not impact on the ability of the Island to meet its international obligations regarding the automatic sharing of information (e.g. under the Common Reporting Standard or Country-by-Country reporting). In its recent review of Jersey compliance with its exchange of information on request obligations the OECD's Global Forum rated Jersey as 'compliant' across all ten areas reviewed; one of only six jurisdictions globally to receive this rating.

The Jersey Government is working with the Code Group to address their concerns over satisfying Criteria 2.2, regarding the existence of tax regimes that facilitate offshore structures that attract profits without real economic activity. Officers are actively considering what steps might be necessary to assuage the specific concerns.

¹ See:

[http://www.statesassembly.gov.je/assemblyquestions/2017/\(632\)%20dep%20southern%20to%20tr%20re%20eu%20code%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf](http://www.statesassembly.gov.je/assemblyquestions/2017/(632)%20dep%20southern%20to%20tr%20re%20eu%20code%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf)

It will only be during dialogue with the Code Group, which we expect will start in the coming weeks, that officials will be able to clarify what actions might satisfy the substance test contained in the E.U. Code Group's criteria 2.2.

Consistent with the approach outlined in the answer to question 2018/3, it would be inappropriate to make extensive comment on policy under development, particularly if such comment were to have the potential of undermining Jersey's interests ahead of the Code Group dialogue.