

2.4. Deputy G.P. Southern of the Minister for Treasury and Resources regarding the tax treatment of a Trust deed whereby the settler may become a beneficiary:

Would the Minister inform Members how the Comptroller of Income Tax will regard, for tax purposes, a Trust drawn up under the Trusts (Jersey) Law 1984 as recently amended, such that the Trust deed can be amended to the extent that the settlor may become a beneficiary, and will such a Trust be regarded as a bare trust?

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

This is the latest in a number of questions raised by the Deputy in relation to the recent amendments to the Trusts Law. It might have been better if the Deputy had raised these questions before the amendment in question had been passed. It may also be advisable that in future he considers a more informal approach to these matters, since I think that asking questions such as this is not a productive use of States' time. I say that, Sir, for one simple reason; the question can be answered by facts which are already in the public domain. Nothing in the amendments of the Trusts Law changes the ability of a settlor to amend a trust so that he becomes a beneficiary. That has always been possible under Jersey law. As such, the Comptroller will treat such Trusts in future in exactly the same way as he has done to date, which is explained in paragraph 2 of the Concession of Practice booklet published by the Comptroller. In summary, the position is that a Jersey Trust created by a Jersey settlor will only be exempt from Jersey tax if certain conditions are met. These include that the settlement is irrevocable, that the settlor and his spouse are irrevocably excluded from benefiting and that the avoidance of Jersey tax was not the main purpose of creating the settlement. The full concession is set out on page 2 of the Concessions booklet.

2.4.1 Deputy G.P. Southern:

Is it not the case that Jersey Trusts Law is now so divergent from U.K. Trust Law that it is seriously endangered as being seen as a mechanism to create a bare trust by the U.K. tax authorities?

Senator T.A. Le Sueur:

No, Sir.