

3.10 Deputy G.P. Southern of St. Helier of the Chief Minister regarding 'No Tax' activities in the Island:

Will the Chief Minister assure Members that he will publish the results of investigations into N.T. (No Tax) activities in the Island which facilitate or administer schemes which appear to constitute "aggressive tax avoidance" and will he agree to broaden the investigation to establish the extent of these types of activities in the Island's finance sector and report back his findings to the States by the end of July?

The Chief Minister:

Could I ask the Minister for Treasury and Resources in his role as Assistant Minister responsible for financial services to answer this please?

Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

As the Chief Minister said last year in the run-up to the G8 Summit and afterwards, Jersey does not need or wish to be associated with abusive tax planning schemes. The Government of Jersey, the regulator in the industry, should take all the necessary action to safeguard the reputation of the Island in response to abusive tax planning schemes, which as I have said we have a zero-tolerance approach to. Ministers have asked the U.K. authorities to help identify such schemes through their U.K. D.O.T.A.S. (Disclosure of Tax Avoidance Schemes) reporting schemes and we undertake a review of any involvement in such schemes which have been successfully challenged by H.M.R.C. (Her Majesty's Revenue and Customs) in the U.K. Ministers will receive a report on this investigation by the end of July. If it is decided to use the power in the Control of Housing and Work Law, proper legal processes will need to be followed. This will affect how much information can be made public at that time.

3.10.1 Deputy G.P. Southern:

Could the Minister answer the second part of the question, which is about the extent of these types of activities in the Island? Does the Minister have any idea? Is this tens of companies, thousands of companies, hundreds of companies; what is the extent to which these activities are taking place here?

Senator P.F.C. Ozouf:

It would be wrong to pre-empt the review that we carried out and indeed we know in respect of the particular schemes that H.M.R.C. have successfully challenged and the U.K.'s activities - as we have all said quite a number of times, the U.K. are putting their own house in order, putting the G.A.R. (general anti-avoidance rule) in place, challenging schemes - will help us now assist with the U.K.'s own compliance with their own U.K. arrangements. So I really do not think the activities are widespread. We know that there are limited involvements. We think there is a link with N.T. advisers and we are reviewing that. As we have previously said, the work by McKinsey and Capital Economics have indicated that such schemes, zero-tolerance of tax evasion and really quite minimal use, we think, of Jersey through these schemes. But we are finding out and we will know more when the review has been completed.

3.10.2 Deputy M. Tadier:

The language always seems to shift. We were talking about aggressive tax avoidance, it has become abusive now. My question is abusive of what? What is the criteria for determining whether an abuse is taking place, what is being abused and who decides it?

Senator P.F.C. Ozouf:

That is a good question and indeed the language over the last few years has evolved. The international community is now clarifying language about what is acceptable and what is not. Some people will not agree with tax competition. Other people agree and we certainly agree with tax competition. The U.K. Prime Minister has said that he agrees in tax competition. I think that it is clear that we understand abusive and we are using the word “abusive”, and in terms of a scheme that has been promoted which is clearly against the intention of the U.K. Parliament, and now has been confirmed by H.M.R.C. as being so, it is clearly within that category of abuse. So there is a helpful definition. But we set up the Sound Business Practice Committee, which is also working with industry to prevent the Island from these abusive practices but these issues that fall short of evasion, and so that position and the language it is quite difficult to frame the language, I think we know what we mean.

3.10.3 Senator S.C. Ferguson:

There has been a lot of talk about companies like Starbucks and Amazon, which are legally permissible under E.U. (European Union) law, what would be the approach proposed by the Minister for Treasury and Resources should he be informed of such set-ups based in Jersey?

Senator P.F.C. Ozouf:

First of all, this is a joint initiative and reports will be shared by the Ministerial group, which consists of myself, the Chief Minister who chairs, Minister for Economic Development and Assistant Chief Minister and Minister for External Relations, so there are a team of Ministers looking at that. So we know that there has been a live debate about corporate tax structuring. But none of the commentary about, for example, Apple and Google and Amazon have focused on Jersey. There is clearly a debate within the E.U. about what it is about tax competition. Jurisdictions have allowed to set their own tax rate but they should not be... the definition that we do not want to be involved in is where they are contrary to the intended will of the U.K. Parliament and indeed, as we sign other agreements, the intended structures of other national properly elected parliaments.

3.10.4 Deputy M.R. Higgins:

The Minister for Treasury and Resources refers to abusive tax schemes. Will he define “abusive tax scheme” because it is a phrase that is used. I may have one version of it, he may have another. It is time we had a definition of abusive tax scheme. That is the first point. The second point ...

The Bailiff:

One question at a time:

Deputy M.R. Higgins:

The McKinsey report he referred to again, it did mention abusive taxing, it did define it, and is he going to share that with Members or certainly the Corporate Services Scrutiny Panel?

[11:00]

Senator P.F.C. Ozouf:

It is the Economic Affairs Scrutiny Panel that is reviewing financial services and they have been engaged in that review and we are happy to discuss and give them information on that. This is a big issue and it is an important issue. I have been clear, the Chief Minister has been clear, that we have no need or wish to be involved with abusive schemes, and I have defined what we think as abusive schemes. We think that schemes that are effectively promoted and been sold, they are U.K. taxpayer schemes promoted by U.K. individuals. There may be a

local issue, we will find out about that. But they are effectively contrary... they are designed to effectively be contrary to the will of the U.K. Parliament, and they are schemes that have now been effectively progressed to be confirmed as unacceptable under U.K. law. That is the definition. It is quite clear definition is important to evolve and the Sound Business Practice Committee will help.

3.10.5 Deputy G.P. Southern:

We were coming towards a definition there which was so minute as to pick-off perhaps 0.301 per cent of all the bad practises that have happened. But nonetheless I note with interest that the Minister keeps saying that this report and this report will come to the Council of Ministers, will he publish those so the public can understand what is going on in this Island and the degree to which abusive tax avoidance does take place?

Senator P.F.C. Ozouf:

The Deputy's question, I think, and others that he has made, would suggest or lead to the impression that there is a lot of business in Jersey that is within this category. We have said for a long time that is not the case. We think the work that Capital Economics did, which was of course published, showed that, and we do not know what the outcome of this review is going to be so we do not know whether or not we can publish it. But the Assistant Chief Minister, Senator Routier, has already taken action in relation to a certain African matter and a charity and I believe that his panel will have no doubt in taking action in relation to any involvement with N.T. advisers. That is at the abusive, unacceptable end of what is happening, trust in others. We have no desire to be part of having that kind of business practice in Jersey. We will not tolerate it.

3.10.6 Deputy G.P. Southern:

Is the Minister saying that his Government will close down businesses on this Island but will not inform the public at large, the voters, about what he is doing?

Senator P.F.C. Ozouf:

That is not what I have said, but there are Regulations of Undertaking or previously Regulation of Undertaking matters and Housing and Work Laws, which are private applications, confidential to the companies concerned. If they are challenged they are made public through the court system. We will make available information that is proper but it would not be right to disclose effectively confidential information to the public domain. But if we can give more information perhaps it is just the Deputy does not like what I am telling him. There is not a large scale of this business in Jersey. He wants to hear that there is lots of it, and there is not, so I cannot provide a report that says that.