

4.6 Deputy G.P. Southern of the Chief Minister regarding action in respect of aggressive tax planning schemes:

When the Chief Minister in his statement released on 21st June 2012 calls upon those concerned in aggressive tax-planning schemes to “act”, what actions does he envisage and what actions, if any, will he be taking as Chief Minister?

Senator I.J. Gorst (The Chief Minister):

May I first remind the Assembly again that the scheme which has been subject to recent publicity is not a Jersey scheme. They are schemes promoted by U.K. advisers for use by U.K. residents in accordance with current U.K. tax law. Jersey is just one of the many jurisdictions that can find that it is being used in connection with such schemes. The U.K. does not wish its law to be applied in the way that it has been. The best way of dealing with those schemes is for the U.K. to change its tax laws either by closing down what they see as specific loopholes or introducing a general anti-avoidance rule, which we understand the British Government is considering. As I said earlier, Jersey has had a general anti-avoidance rule for over 50 years. What we can and will do is what I said in my statement. That is to remind our financial institutions of the role we expect them to play in supporting the policy objectives of the Jersey authorities in continuing to enhance the Island’s reputation as a well-regulated and responsible international finance centre. I intend to reinforce this message through meetings with the industry’s representative bodies. In addition I will be asking the relevant Government departments and the Jersey Financial Services Commission to indicate whether there is any further action they believe could be taken in their areas of responsibility to help limit the risk of future threats to Jersey’s hard fought reputation.

4.6.1 Deputy G.P. Southern:

That at least was progress. He is going to ask some questions. In the light of his firm political commitment to comply fully with all relevant international standards will the Chief Minister sign the Island up to automatic information exchange under the European Savings Tax Directive and extend the coverage to include disbursements from Jersey-based trusts to residents in the U.K. and elsewhere in Europe? Guernsey and the Isle of Man have signed up to this, why have we not?

Senator I.J. Gorst:

We are, of course, committed to exchange but while the European Union itself is not yet in a position to give a date for introduction and all its Member States have agreed on that date, then Jersey will reserve its position until that is forthcoming.

4.6.2 Deputy G.P. Southern:

In the light of his Minister for Treasury and Resources’ statement of co-operation, consulting with Isle of Man and Guernsey over tax issues, can the Minister tell us, if it is good enough for Guernsey and the Isle of Man why is it not good enough for us?

Senator I.J. Gorst:

We make our own decisions. This Government makes its own decisions. This Assembly makes its own decisions in the best interests of Jersey and that is as it should be.

4.6.3 Deputy T.M. Pitman:

Given that the late and notorious American socialite, Leona Helmsley, once summed up the attitude of so many of the rich that tax is for the little people, is it not high time that Jersey sent out the message that expecting to pay less tax simply because you have more should be consigned to the dustbin of history and to work in tandem with other jurisdictions to ensure we have a moral and ethical approach to life?

Senator I.J. Gorst:

I do not think it is helpful to talk about taxation in those terms. Jersey has a policy, as I have said probably 3 times already this morning, of complying with all relevant international standards and that is one that I am absolutely committed to and that is absolutely right and proper. Some of the issues that the questioner is referring to should be considered by those international standard setters, and we take our place at that table and are part of those deliberations, and that is the right and proper place that they should be considered.

4.6.4 Deputy T.M. Pitman:

I would ask if the Minister could clarify for me why it is not helpful to highlight these huge anomalies in taxation? What is wrong with fairness?

Senator I.J. Gorst:

The Tolley's handbook on how to deal with the U.K. tax system runs at something like just over 11,000 pages. As I said earlier, governments make decisions with regard to how they are going to tax individuals, companies within their communities. They then make amendments and adjustments and over time, by nature, they become very complex. We, as a Jersey Government, have for a number of years tried to ensure that our taxation is simple, it is straightforward, and is as low as possible. It now appears that many other jurisdictions are deciding that perhaps rather than their complex system they would like to mirror the system that we have got.

4.6.5 Senator S.C. Ferguson:

With respect to the Chief Minister, I understand the latest edition of Tolley runs to 17,000 pages. From the way Jersey is always quoted in the context of these various schemes, it appears that the Island is being specifically targeted by the U.K. and onshore authorities. What actions will the Chief Minister be taking to deal with this?

Senator I.J. Gorst:

I do not see it in those terms at all. Each state must decide its taxation system, and that is right and proper. The United Kingdom and across Europe are suffering from the economic downturn and they are, in light of that, reviewing their taxation system and asking themselves if there are specific - as I said earlier - what might be called loopholes, which they wish to close, and whether they might wish to introduce a GAAR (General Anti-Avoidance Rules), something which we have had in our jurisdiction for over 50 years. I am not sure whether the Senator's opening remarks in correcting me with regard to the length of Tolley is suggesting that I should be going back to private practice.

4.6.6 Deputy M. Tadier:

The Chief Minister seems to tell half the story when he mentions the fact that these are U.K. schemes devised in the U.K., *et cetera*, and forgets to mention that of course they are administered and marketed by companies that are registered in Jersey, operating in Jersey and giving revenues to the Tax Department in Jersey. Also does the Minister acknowledge that he is playing a risky game when on the one hand he appears to condemn such practices as K2 and implores local companies to act but then apparently in question time is unwilling to give an answer of how he as Chief Minister, in Council of Ministers and as some kind of figurehead of the States Assembly and Government should perhaps be putting in measures to make sure that these kind of practices, which he personally finds unpalatable, are unable to continue in our Island. What steps will the Chief Minister take to investigate what other types of vehicles of this nature exist? What encouragement and assistance will he give for these to be shut down by those operating them in our Island?

Senator I.J. Gorst:

I find myself in somewhat of a difficulty. I have been answering questions on this subject all morning and I believe that I have given fair and balanced answers, yet it would appear that some Members perhaps have not heard what I have been saying. The questioner who has just asked a question insists on suggesting that the scheme recently published is promoted in Jersey. As I said a number of times earlier, it is promoted by a U.K. promoter. Yes, it is administered in Jersey and I have said that is the case but it is promoted by a United Kingdom promoter. With regard to acting, I have been absolutely clear about what I will be doing and I have reiterated that again several times. I do not think there is anything else I can add to that.

4.6.7 Deputy G.P. Southern:

I did hear the Minister say that he would raise these issues with the J.F.S.C. and other authorities. When he does so, will he raise the following 3 issues and bring a statement back to the House as to what progress he has made on them, (1) the signing up to the automatic information exchange under the E.U. Savings Tax Directive, (2) a requirement for full public disclosure of the ultimate beneficial owners of all companies registered in Jersey and annual financial statements from all companies registered in Jersey, and (3) a requirement also that all Jersey-based paying agents, banks, trust administrators, *et cetera*, making income and capital distributions to persons resident in the U.K. and elsewhere inform the Jersey tax authorities of any such payments in order that the Island's authorities can be transparent and meet their international exchange of tax information agreements?

Senator I.J. Gorst:

Perhaps first of all I could thank the Deputy for his question. I have, as I said earlier, outlined what I shall be doing and that is ensuring that the financial services community in Jersey is aware of Government policy with regard to pursuing ourselves and ensuring that we are a well-regulated, transparent jurisdiction complying with all relevant international standards, and that is the way I will be framing the conversation. Therefore with regard to the Deputy's question I am afraid the answer is no.