

**WRITTEN QUESTION TO THE MINISTER FOR EXTERNAL RELATIONS
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON MONDAY 3rd DECEMBER 2018**

Question

Further to my previous questions on whether the Minister anticipates any problems arising with the European Union as a result of the application of the Taxation (Companies – Economic Substance) (Jersey) Law, and his statements that the Law will apply to all Jersey-resident companies, will the Minister advise –

- (a) how many Jersey-incorporated companies are not at present considered resident in the Island;
- (b) of any such non-resident companies, for how many is their tax residence known;
- (c) for the remainder, what is known about their tax residence;

and will the Minister explain whether it is his assessment –

- (d) that a company trading ‘in’ Jersey is taken to mean a resident company and a company trading ‘through’ Jersey is a Jersey-incorporated non-resident one;
- (e) that companies trading ‘through’ Jersey are not subject to the E.U.’s requirements;
- (f) that the E.U.’s requirements make any distinction between companies trading ‘in’ Jersey and those trading ‘through’ Jersey in terms of whether the regulation should apply;

and if, in response to part (f), he considers there is such a distinction, will he explain why and state what legal precedent or cause, if any, he has used to make that assessment?

Answer

- a) The total number of Jersey incorporated companies that claimed not to be Jersey tax resident was 111 in 2016, the most recent year for which we have the complete dataset;
- b) Until recently the Taxes Office did not routinely ask these companies what their alternative tax residence was, unless there was a Jersey tax risk;
- c) The Taxes Office is of the opinion that such companies will generally be UK tax resident real estate investment trust (REIT) companies, however from the 2018 year of assessment forward the Taxes Office will be requesting this information routinely.

A Jersey incorporated company may claim not to be Jersey tax resident when:

- i. it is controlled and managed in another territory; and
- ii. where that territory has a corporate tax rate of 10% or more; and
- iii. that territory must consider the Jersey Company to be tax resident.

These standards mean that, for example, a Jersey Incorporated company cannot replace its Jersey tax residence with say British Virgin Islands tax residence.

The Taxes Office don’t agree the distinctions in parts d, e and f of the question.

The Government of Jersey expects that, in its assessment of business taxation in 3rd countries, the Code of Conduct Group on Business Taxation will have ensured a level playing field such that, where a Jersey incorporated company is tax resident elsewhere and the EU has similar concerns about that country or elements of its taxes system, it will be subject to consistent economic substance requirements in that jurisdiction.