

CORPORATE SERVICES SCRUTINY PANEL

ZERO/TEN DESIGN SUB PANEL HEARING

Review of Zero/Ten Design Proposals

Friday, 4th August 2006

Panel

Senator J.L. Perchard (Chairman)
Senator B.E. Shenton
Deputy P.J.D. Ryan of St. Helier
Deputy G.P. Southern of St. Helier
Mr. B. Curtis (Advisor to the Panel)
Mr. R. Teather (Advisor to the Panel)
Miss. S. Power (Scrutiny Officer)

Witnesses

Jurat P. Blampied

Senator J.L. Perchard:

Thanks for that. Welcome, Jurat Blampied, to our Corporate Services sub-panel scrutinising the Zero/Ten Design Proposal. I think you know everybody. I just have to read you a little statement that I think you have in front of you, probably to your left there: "It is important that you fully understand the conditions on which you are appearing at this hearing." You will find a printed copy of the statement that I am about to read in front of you. "The proceedings of the panel are covered by Parliamentary privilege through Article 34 of The States of Jersey Law 2005 and the States of Jersey, Powers, Privileges and Immunities Scrutiny Panels PAC, PPC Jersey Regulations 2006. Witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action, although the immunity should obviously not be abused by making unsubstantiated statements about third parties who you have no right of reply. The panel would like you to bear this in mind when answering questions. The proceedings are being recorded and transcriptions will be made available on our scrutiny website." That is a formality that we have to follow. Well, as I said, thank you for coming and particularly, thank you for your submission, which is very comprehensive and very honest. In fact, you give details of some business activities that highlight the problems of minority shareholders and we will address that in due course. Could I kick off; what is your view, Sir, on Limited Trading Partnerships? What legal problems could arise from forming LTPs and converting to them? Not only legal problems but what problems would there be for businesses such as the ones you have quoted then?

Jurat P. Blampied:

Well, the small businesses would be involved in significant costs and I think that the problems of administration and the costs of changing to LTPs does not warrant the RUDL charge. I understand the reason for the RUDL charge; it is to seek some revenue from those companies, such as A De Gruchy & Co. and the Guiton Group^[1], which would otherwise pay no tax at all. I saw an earlier report on the Zero/Ten strategy document that the States produced saying that they would be taxed in their place of residence but that is naïve. A company such as A De Gruchy would avoid tax^[2] and so would the Guiton Group and there are others. So would the gas company. But now, it is proposed to tax the utility companies, so the gas company will not avoid tax but there are others that would. I understand the logic for it but I have made a suggestion of ^[3]... Am I taking up too much time?

Senator J.L. Perchard:

No, no, you fire away --

Jurat P. Blampied:

Pardon?

Senator J.L. Perchard:

Fire away.

Jurat P. Blampied:

[Laughter] Thank you. I have got a postscript that I will read with you to my ... It is a postscript rather on Schedule A. Can I talk a bit about Schedule A?

Senator J.L. Perchard:

Of course. Is it included in your ...?

Jurat P. Blampied:

Yes, it is.

Senator J.L. Perchard:

If you can direct us? We all have a copy of it.

Deputy G.P. Southern:

Before you go there, you say very straightforwardly that is the naïve view that they will be paying tax in the UK but of course, they will not be. By what sort of mechanisms do you see them not paying tax?

Jurat P. Blampied:

Well, instead of declaring a dividend they make a loan^[4].

Deputy G.P. Southern:

Okay.

Deputy P.J.D. Ryan:

You think in your view a professional advisor or an accountant of those companies would be advising that course of action, would you?

Jurat P. Blampied:

Oh, yes, I am sure. I mean, it is not evasion, it is avoidance, is it not?

Deputy P.J.D. Ryan:

It is avoidance, yes.

Jurat P. Blampied:

These companies would adjust their affairs to minimise their taxation liability. They would be in an advantageous position compared to, say, Voisins where Voisins would pay 20 per cent on their profit, but A De Gruchy would pay nothing. So, they have got more money to retain and plough back into the business.

Senator J.L. Perchard:

Well, look, I will just correct you there because Voisins will not pay 20 per cent on their profits; there are shareholders of the company.

Jurat P. Blampied:

No, well, that is not correct. If it belongs to Gerald Voisin himself, he would pay 20 per cent.

Senator J.L. Perchard:

Yes.

Jurat P. Blampied:

It is not a Limited Liability Company.

Deputy P.J.D. Ryan:

What you are talking about here, Peter, you use the word "naïve" and you explained just now that an accountant would be advising those companies to minimise their tax liability in the ways that you have suggested. This is very, very important and if you would not mind, I would just like to clarify the position because we have had opinions from other accountancy practices and from Government and from John Harris that this would not be a particularly -- I am trying to think of the words that were said

and I cannot remember. Perhaps other members could help me? But the words that were said was that it would not be material, I think was one word that was used; this would not be a material problem. Now, you seem to be at variance with that view.

Jurat P. Blampied:

It would not be ...?

Deputy P.J.D. Ryan:

It would not be material.

Jurat P. Blampied:

Well, Jersey will be losing because they just will not be paying tax to the Island Revenue.

Deputy P.J.D. Ryan:

Yes, Jersey would be losing but the extent to which the Inland Revenue in the UK would lose out as a result of that and what was being said was that they would have all sorts of anti-avoidance^[5] and they would go after the Jersey – the owners.

Jurat P. Blampied:

Well, they could do. It is possible that legislation would be introduced to tax them. There is legislation that requires companies to make a distribution to the English revenue but I think that is not the material point so far as Jersey is concerned.

Deputy P.J.D. Ryan:

I know. As far as Jersey is concerned, we would lose the money but it was this question of whether ... - you know, because what we are talking about here is - to what extent Voisins would be disadvantaged to A De Gruchy. That is a problem.

Jurat P. Blampied:

Yes, I think so.

Deputy P.J.D. Ryan:

But a separate problem for the loss of the revenue.

Jurat P. Blampied:

Yes. A De Gruchy will not declare dividend; it will accumulate its profits. The English fiscal authorities will tax a dividend, when a company like A De Gruchy & Co. Ltd pays it to its parent company. Guiton Group is the ... (Well, I cannot talk too much about the Guiton Group because I was a director of it) ... If the shareholders are not all resident in England - if they are resident in other

territories - they will not pay any tax on a dividend that is paid by a Jersey resident company.

Deputy P.J.D. Ryan:

Right. Okay.

Jurat P. Blampied:

Does that make sense?

Deputy P.J.D. Ryan:

Yes, thank you. Okay.

Jurat P. Blampied:

Yes. But it is possible that the United Kingdom revenue will introduce legislation which would tax in some way the profits that arise in Jersey. But the problem is that they avoid Jersey tax. I suggested in my comments the introduction of Schedule A. Schedule A was abolished in England and it was replaced, although not as a form of revenue but as a form of rates, by the poll tax and that produced an uproar. There is now a community charge in England and properties are banded in 3 categories - a, b and c - bands. My daughter lives in Sussex - she is in the lowest band - she pays a lot more in community charge than I pay in rates in Jersey. The principal benefit in kind that a lot of people enjoy in Jersey is the ownership and occupation of their own home. I suggested some time ago that Schedule A should be reintroduced in Jersey because it is the principal benefit in kind. The Finance Committee at the time looked at it and the reply I got was that it would penalise people who were asset --

Senator J.L. Perchard:

Cash poor? Asset rich and cash poor?

Jurat P. Blampied:

-- wealthy but cash poor and it would be difficult to administer. To deal with the second point first of all; it would be incredibly easy to administer because every parish assesses a property to a rental value, so you know what the rental value is. Asset rich, cash poor, yes, to an extent I agree but I think there should be a threshold, below which you would not pay Schedule A tax.

Senator J.L. Perchard:

A threshold on income?

Jurat P. Blampied:

Pardon?

Senator J.L. Perchard:

A threshold on income?

Jurat P. Blampied:

No, a threshold on Schedule A assessment.

Senator J.L. Perchard:

I am concerned that you have the little old lady living in the house that she was born in being forced to sell it because she is cash poor.

Jurat P. Blampied:

No, there would be a threshold.

Senator J.L. Perchard:

Yes.

Deputy G.P. Southern:

Can I just come in there? I mean, it sounds like what you are talking about is what many people nowadays are calling land value tax and we have seen it is certainly an issue. Certainly, I am of the opinion that that is an appropriate tax-raising measure appropriate to Jersey because, I mean, the value of Jersey is in its land. It is not something you can pick up and take away to the Cayman Islands. We know who owns every bit of it and you can tailor it at variable rates to fit what it is you need to raise and the appropriate conditions you meet there. So, if you wanted to exempt those who are asset rich and cash poor, you could do.

Jurat P. Blampied:

Yes, I believe that social justice requires a threshold so that the little old lady living in a house that has a modest rental value does not pay tax but I should pay more ... I just had my parish rates for St. Clements and I pay £767. It is a nicer property than my daughter has in Sussex. She pays - I forget now - a couple of thousand quid. The community charge is used for some things in England that are paid for by the State in Jersey. So, the person living in a substantial house would pay for the benefit of his living in it. But if I may take it a stage further; if Schedule A is introduced for all our tax payers, that would include the A De Gruchy's of Jersey and A De Gruchy would have to pay a chunk of money in their Schedule A tax and so they should.

Deputy G.P. Southern:

So would their neighbours.

Jurat P. Blampied:

Yes, but there is this difference^[6]: Schedule A, is paid on what is called the Net Annual Value. It is

allowed as a deduction in lieu of rent in assessing the assessable profit. So, if you have got a business in Jersey that owns the building in which it trades, or the Seymour Group with hotels, if they pay, say, £30,000 in Schedule A tax- that would be 20 per cent on £150,000, if my maths is right, £30,000 on £150,000 - but the £150,000 would be deducted as a nominal rent from their profit, so they would not be disadvantaged at all. Have I --

Deputy G.P. Southern:

I see. Yes.

Jurat P. Blampied:

Have I made sense?

Deputy G.P. Southern:

In that sense, it fits as a replacement for the RUDL charge --

Jurat P. Blampied:

That is what I believe, Deputy, yes.

Deputy G.P. Southern:

And would automatically be tailored?

Jurat P. Blampied:

It would replace the RUDL charge and it would mean that those companies trading in Jersey, a lot of them - most of them, not all of them - would have to pay Schedule A. The finance houses owning the property in which they trade would have to pay Schedule A and there is a measure of social justice about it, particularly if there is a threshold.

Senator J.L. Perchard:

Would this not be confused with the commercial rate that we are applying now with the new rate structure?

Jurat P. Blampied:

No, because I mean, the commercial rate ... I do not know enough about the commercial rate to comment. - But it is not an enormous amount. (I retired from most things but Romerils keep me on and I keep on saying it is time I went). But now Romerils owns their premises. It would not make any difference to them, the introduction of Schedule A, because if Romerils owns its premises in Dumaresq Street, if the rental value of that is £50,000 a year, they would pay £10,000 in Schedule A but their Schedule D liability, which is the tax on their profits, would be reduced by £10,000, so it does not affect Romerils. The only thing it does affect are those companies trading in Jersey that do not pay Jersey tax.

If they have to pay a bit more on commercial rates - I pick my words carefully - I was going to say - so be it, but so be it, I think, is right.

Senator B.E. Shenton:

But that would push up costs and they could not claim it back, so would it not be inflationary?

Jurat P. Blampied:

No, the Schedule A will not be inflationary because so far as the companies that are owned by Jersey residents, they pay tax on their profits by the look-through procedures. It will not increase their liability.

Senator B.E. Shenton:

No, but for non-Jersey companies it is an added cost.

Jurat P. Blampied:

Well, for non-Jersey companies, but otherwise they are not paying tax in Jersey at all.

Senator B.E. Shenton:

But they would be paying 30 per cent UK tax.

Deputy G.P. Southern:

The argument that we started with was it is naïve to think they are paying 30 per cent tax. In all probability, they are not.

Jurat P. Blampied:

Yes, but even --

Deputy G.P. Southern:

(...overspeaking) to reduce that.

Jurat P. Blampied:

If they have to pay Schedule A in Jersey --

Senator J.L. Perchard:

It is creditable against their UK tax.

Jurat P. Blampied:

The double taxation agreement between the United Kingdom and Jersey extends to all income other than dividends and debenture interest, so an English resident receiving rent in England gets double taxation relief. I should qualify that a bit because if it is a Jersey company, they are not going to get relief in

England for the Schedule A tax because they would get a dividend, but those companies that trade in branches of Jersey will get double taxation relief. A schedule A tax; it is a marginal amount and they will be avoiding United Kingdom tax, retaining profits in Jersey. I mean, the RUDL charge is an attempt to --

Senator J.L. Perchard:

Do just that?

Jurat P. Blampied:

Yes, to do just that. It is the same principle, yes.

Deputy P.J.D. Ryan:

It is the same principle, in effect, as RUDL or any other.

Jurat P. Blampied:

Yes.

Senator J.L. Perchard:

If we introduced Schedule A to target specifically to catch some revenue from more non-locally-owned trading companies on the Island. Could we target it specifically at business or you suggested that we go right across all profits?

Jurat P. Blampied:

Right across everyone. I think I should pay more tax because of the house I live in.

Senator J.L. Perchard:

Yes. (...overspeaking)

Senator J.L. Perchard:

I think it would, if I lived in a --

Senator J.L. Perchard:

(...overspeaking) what your daughter is paying?

Jurat P. Blampied:

Yes, if I lived in Trinity Manor I should pay more tax because of the value of the house that I live in.

Senator J.L. Perchard:

Your proposal to not put too much pressure on little old lady whose is asset rich but cash poor-

Jurat P. Blampied:

No, because I think that social justice demands that there is a threshold below which you would not pay Schedule A tax. I mean, a rental value of say £15,000 a year could be exempt for everyone.

Senator J.L. Perchard:

Yes, but what happens if the little old lady lived in a large house - let us say it was a family house - for generations, needed new windows, needed central heating, but she could not afford it but did not want to sell her property? Would we force her to sell it under Schedule A?

Jurat P. Blampied:

If she lives in a house that has a rental value of more than £15,000, I really cannot believe that she cannot afford to pay the tax. You have this problem with social welfare in the parishes. Some parishes take a charge on the property, some do not. If you are living in a property with a rental value of more than £15,000, you would start to pay above that. If it is £20,000, you would only pay on £5,000. I do not think that many little old ladies live in houses with a rental value of £15,000 who could not pay a bit more tax.

Senator J.L. Perchard:

It is a very interesting alternative to RUDL and not only that, there is a revenue-raising measure that we will explore in our review, I am sure, in our report.

Deputy P.J.D. Ryan:

Before you leave this subject, one further question of Jurat Blampied. Do you think there will be any other side advantages of the Schedule A taxation in terms of property values?

Jurat P. Blampied:

Any what?

Deputy P.J.D. Ryan:

Any other hidden advantage in the terms of perhaps downward pressure on housing prices, property prices.

Jurat P. Blampied:

I do not think so. Jersey tax is low.

Deputy P.J.D. Ryan:

Yes. Would there be disincentives to occupy bigger houses, therefore you would reduce the demand on purchasing them?

Jurat P. Blampied:

I do not think it would influence people at all.

Senator J.L. Perchard:

There might be a few little old ladies that are forced to sell their houses.

Jurat P. Blampied:

[Laughter] I cannot --

Deputy G.P. Southern:

(...several inaudible words) history on this. Oh, Jimmy, you soft-hearted liberal! [Laughter] I'm completely rephrasing my view of you...

[Interruption]

Senator B.E. Shenton:

Can I just add, under the proposals, under Article 115: "Charities and superannuation funds are exempt from Jersey income tax", this is under Schedule A (...several inaudible words) and the original proposal was to revoke that exemption. Now, the Treasury Minister has had a lot of people arguing that this should not be the case because the sense that rental values will drop and there will be a lack of investment in the Island. Would you like to comment on that? Because my feeling is that he is starting to weaken here. On the actual Design Proposal it's chapter number 17...

Jurat P. Blampied:

Foreign charities and superannuation funds?

Senator B.E. Shenton:

Yes, and then 17.1.3.

Jurat P. Blampied:

"In order to prevent distortions in the market and to protect the tax base it is proposed that Article 115 be repealed in respect of United Kingdom charities and superannuation funds"

Deputy G.P. Southern:

Then 17.1.3 explains what ...

Jurat P. Blampied:

So, they are proposing to apply Schedule A to rentals paid to UK charities and superannuation funds?

Senator B.E. Shenton:

Which I think is a good idea but they are now starting to back track on that following pressure from other people locally.

Jurat P. Blampied:

It is odd because they are not proposing to assess Jersey charities but they would deduct Schedule A tax of 20 per cent on rents paid to England. I do not suspect there are many charities that invest in Jersey. So far as investment in property in Jersey in offices and shops in Jersey, the payment of Schedule A does not affect them at all because if you have an investment company in England - and there are investment companies in England that buy office buildings, for example, in Jersey as an investment - the double taxation agreement between the United Kingdom and Jersey covers rents. It covers all dividends and debenture interest, so if you get an investment company in England that gets rents from Jersey of £500,000 a year, they will pay £100,000 tax in Jersey. That will be allowed as a credit against their UK liability. So, I do not see that as a problem. I doubt whether there are many superannuation funds invested in Jersey, although it is possible that there are. Now, the English Chancellor has removed the taxation benefit from superannuation funds in England, which is one of the reasons the -- you are shaking your head? **[Laughter]**

Senator J.L. Perchard:

It is a bit unfortunate that Richard is our professional advisor but as he is not political, he is unable to speak at these hearings although he has got things to say at certain times.

Jurat P. Blampied:

He does not agree.

Male Speaker:

(...overspeaking)

Deputy G.P. Southern:

Certainly, I thought the position was as you said it, that he is now taxing, so double taxation would apply.

Senator J.L. Perchard:

I think it is appropriate that Richard can make a comment there. He is not going to ask you a question and I am happy that you make a comment as long as you do not ask a question of Jurat Blampied.

Mr. Richard Teather:

The treatment of UK superannuation funds is, you are correct, tax relief when they receive dividends has

been taken away but they are fully tax exempt on rental income.

Jurat P. Blampied:

Are they? I did not know that.

Mr. Richard Teather:

So, there would not be any UK tax against which to offset Jersey tax.

Jurat P. Blampied:

No. So, it's gone from dividends but not from rental income, which is odd. So, they would be less interested in investing in Jersey investment property but I would not have thought there were many of them.

Senator B.E. Shenton:

No, well, I did not think there were many of them, the level of opposition came up, so maybe there was.

[Laughter]

Jurat P. Blampied:

It is possible. I mean, BHS is held by superannuation fund? It could be.

Deputy P.J.D. Ryan:

I think the focus is on the new property being built at the waterfront where there is felt to be interest from superannuation funds in the UK.

Jurat P. Blampied:

Well, that is possible. That is possible. Well, the investor, the English company that invests in property, would not have any disadvantage at all because of the double taxation agreement.

Senator J.L. Perchard:

Many buildings in Jersey will be owned by UK pension funds, will they not? A bank building, for example, a building occupied by a Jersey bank, could well be owned by the UK pension fund.

Jurat P. Blampied:

It is possible but I would be surprised if the Barclays buildings in Jersey were owned by the Barclays pension fund.

Deputy G.P. Southern:

It is certainly worth exploring, is it not?

Jurat P. Blampied:

Okay. I was Chairman of Barclays Private Bank and Trust and Barclays Bank Finance and they were not owned by a pension fund.

Senator J.L. Perchard:

Okay, let us move on. Are you happy, Senator, that we move on?

Senator B.E. Shenton:

Yes, let us move.

Jurat P. Blampied:

I think we answered that one. I really do not know what effect it would have but I would not have thought very much.

Senator B.E. Shenton:

No, and you would basically be in favour of them being charged income tax in Jersey on the rental incomes?

Jurat P. Blampied:

I think it would get awfully complicated if you start making exceptions. The market would find its own level.

Senator J.L. Perchard:

In your submission, you express extreme concern about the position of the minority shareholder. You quote your interest in the Jersey Recreation Grounds and give an example of your liability would be greater than your dividends. I wondered if you would like to expand on the position of a minority shareholder, if we approve the deemed distribution principles.

Jurat P. Blampied:

Yes. Can I just say that I am not concerned about myself. The Recreation Grounds is perhaps unusual because it runs largely as a municipality, a golf course, and the shares have been held for generations by Jersey families, mostly in St. Clements, but it does illustrate the point. I am a director of Romerils; I have no shares in Romerils. It was founded 50 years ago by Bernard Romeril and Roy De Louche, who are both dead. I forget the number now; I think it is 9 shareholders, who own between 1 and 10 per cent of the shares. Romerils, like all trading companies, has to retain profit to finance expansion if its trading is increasing, to finance increased debtors, to repay bank borrowing that it has used to convert property. No trading company that I know of distributes the sort of profits that are suggested in this proposal. If you have got this in front of you, if you look at page 50, 26.3.7. Now, there it suggests that over 4 years, after a profit of £100,000 each year - that is a total of £400,000 - £340,000 would be distributed. I am

anxious to not be discourteous to whoever drafted this but that is nonsense. I am pleased to see you are nodding. Companies retain significantly more than that and that applies to all bona fide trading companies. They have to do it. The effect of that is the minority shareholder will be paying if not more tax than he gets in dividends, a chunky bit and it will reduce the return from the shares.

Senator J.L. Perchard:

Not only the minority, Jurat Blampied, the shareholders as well.

Jurat P. Blampied:

The large shareholders as well. My concern is to, in this case, the smaller shareholder but that is the problem with the look-through. Now, I have tried in my suggestions to differentiate and I ... May I?

Senator J.L. Perchard:

Of course you can, yes, absolutely. Refer to your submission.

Jurat P. Blampied:

Yes. It is on page 12: "Companies other than trading companies. There are a vast amount of companies in Jersey that are not trading companies and they should be assessed if they get rental income, or they are assessed under Schedule A, and in other cases of Schedule D, with the exception of case 1 of Schedule D, which is a trading company." Now, all those companies in Jersey are at the moment assessed on the actual profit in the calendar year, which in Jersey is the same as the fiscal year. People have those companies in Jersey to avoid UK inheritance tax because when they die, the asset passing on their death are shares in the Jersey company. If they hold shares in an English company, they would be vulnerable to UK Inheritance Tax. Years ago, when I was first in practice in Jersey, before we became a finance centre, the Articles used to have the clause in the memorandum, it was known as the Bailiff's clause, because Lord Coutanche required companies to have a clause in them saying that the company could not hold assets that would be liable to English Estate Duty, as it was then, and that it was in co-operation with the UK revenue. Well, that has gone. Now, everyone who has a reasonable amount of money has a Jersey investment company. I have got a Jersey investment company. The look-through provisions present no problem for me and they should not for people with a family company. I will be in no different position because the company pays tax each year on the income of my investment company. I don't want to mislead you it's not enormous but I pay tax on that on each year - the company does - and I get a dividend that I do not pay tax on because I pay that in the company. Now, I am in exactly the same position if I pay tax through the look-through provisions on the income of that company.

Senator B.E. Shenton:

Although, at the moment you deduct management charges and other fees.

Jurat P. Blampied:

Yes, I think that is a bit unfair that they are not going to deduct them. I am fortunate because I do my own accounts, so the only management charge I have got is £150, which is the registration fee. I have got a family lawyer who is a director with my wife and myself. I would have no objection to losing those director's fees. I am surprised that the Jersey Revenue still give relief to a married woman who has an own income in her own right - it is called Additional Personal Allowance - and all these Jersey companies have a man and a wife who take a director's fee and if the married woman's director's fee is £1,500, she pays no tax at all. I think she should. I think my wife should pay. I pay it but she should pay £300 on the director's fee that she gets. This is outside this and it is not mentioned in here. So, those are management expenses, Senator. I think they should be disallowed in any event. I think, personally, they should be disallowed now. There is a lack of equity^[7]. The Comptroller has, in recent years, been disallowing director's fees on investment companies that he feels are disproportionate to the responsibility involved but he does allow director's fees of a couple of thousand quid. So, I have no difficulty with that. The management expense, which I think there is a case for allowing, is the accountant's fee in producing the accounts. But there are not really very many management fees.

Senator J.L. Perchard:

It also goes over to bank fees and interest on management fees. I think it overlaps into the bank charges.

Jurat P. Blampied:

Yes, if they are paying bank interest they should not pay it in the company, they should pay it themselves. They get relief for it. I would not have thought there were many investment companies. It is possible that a company in Jersey buys a property and borrows money. I am not sure that bank interest is a management expense. There is an Article in the law that allows bank interest paid as an expense, although it has been reduced on properties that are purchased.

Senator J.L. Perchard:

I think the comptroller is of the impression it will be. The comptroller is of the impression it will be in the new proposal.

Jurat P. Blampied:

But there will be no relief for bank interest.

Senator J.L. Perchard:

Yes, against rental income there will not be.

Jurat P. Blampied:

Yes. All right. I see no problem with that, so in answer to the Senator's question, I do not think the removal of management expenses is a great hardship. Of course --

Senator J.L. Perchard:

Let's get back onto the position of minority shareholders. I am aware of the time and we did slip from there, we had a sidewinder from Senator Shenton. [Laughter] The position of minority shareholders; you were saying that the deemed distribution charge puts them in an unjust position?

Jurat P. Blampied:

Yes, I think that the deemed distribution charge does generally affect people adversely and unfairly because it --

Senator J.L. Perchard:

So, if we say that that is the case, is there an alternative to the deemed distribution charge?

Jurat P. Blampied:

Yes, I think so far as investment companies are concerned ... I forget where I dealt with this.

Mr. Richard Teather:

It is page 12 for the investment companies and page 13, paragraph 4 for the trading companies.

Jurat P. Blampied:

Yes, there is this problem that exists in Jersey of these accumulation funds and they are being promoted by some of the fund managers in Jersey. I know of someone who sold his portfolio [of shares], £500,000, put it [the money] in an accumulation fund and he now pays no tax because the income is being accumulated. I was a director of UK Select Trust in Guernsey, which pays no tax in Guernsey, and you can elect to take shares instead of dividends and there are a lot of people -- UK Select Trust is listed on the Stock Exchange in London, it has got a portfolio of about £70 million. I am muddling myself because I am talking about stock dividends now but I think that there should be a requirement for families that are not family companies, which are large investment companies, to distribute their income - they would then get a distributor status. If they distributed, say, 95 per cent of their income, then the Jersey shareholder would pay tax on that, so there would be no need for a look-through. If they retain income and do not distribute it, then I think something like the look-through provisions are necessary. I think they are necessary in any event because of the use of the accumulation funds that are now growing in Jersey.

Deputy G.P. Southern:

As I understand it, the comptroller of income tax has to okay the level of any accumulated fund that you wish to set up.

Jurat P. Blampied:

Only if he knows about it.

Deputy G.P. Southern:

You beat me to it. You beat me to it.

Jurat P. Blampied:

He does not know about it. This person I know, had a letter from the Comptroller saying: "Where have your dividends gone?" He replied: "I sold all my shares. I sold all the shares produced income" and that was the end of it. He [The Comptroller] has the right to look into it if it is done to avoid tax and to make an assessment under 134(a) but he does not know about it. There is a requirement in anti-avoidance for more disclosure and I think that is right. People who put their money in a Cayman Islands company and accumulate the income there, that should be disclosed and taxed. All of those sort of companies, if they do not distribute the income, then I think the look-through provision is appropriate. I think you get over the problem and you would reduce the complication of the look-through assessments of calculation, which is a considerable administrative burden, if you have the family companies where they are just assessed - the individual is assessed - and that is not difficult. For companies that are not family companies, they would be granted a distributor status if they distributed, say, 95 per cent of their profits because they are investment companies. They have not got to retain their profit to finance their development.

Senator J.L. Perchard:

You are of the opinion it is quite in order to have a different set of rules for investment companies regarding look-through or compulsion to pay out profits; a different set of rules to that of trading companies? We can do that (...overspeaking)?

Jurat P. Blampied:

Yes, because the establishment of a Limited Liability Company in order to avoid Inheritance Tax, it puts a barrier between the underlying portfolio and the UK revenue perfectly reasonably. It is an artificial barrier; there is no requirement to limit a trading liability. A trading company is different. A trading company has to attract investment, it has to pay dividends, it has to retain profits to trade. Can I just make one general comment? You can never get perfect equity in taxation and the more you endeavour to do so, the more complicated the rules get. Every set of rules that are introduced to produce equity produce other things that are not reasonable. I see no difficulty at all in distinguishing between somebody who holds the investment through a company or invests in an investment fund - a unit trust - that is managed for you. I distinguish that from the trading company that has a commercial risk as to attract investment and has to retain profits.

Senator J.L. Perchard:

So, looking at trading companies specifically then and deemed distribution, it has been suggested to the

panel that one could start off on an actual distribution with regards to taxing the shareholders and not use the deemed distribution proposal, as suggested in the document. Have you a view on that?

Jurat P. Blampied:

Yes. What I suggested is they should be permitted to retain, say, 33 and a third per cent of their profit. It has the advantage of simplicity. One of the problems with the design strategy is the incredible complexity that this introduces. Now, if you say a trading company - a bonafide trading company that is not family owned -- because I think there is a distinction in the family-owned trading company, the small hotel that is in the company and trades; the company is there to protect the limited liability. So, the family company, I think, should pay tax on the whole of its profits. The larger trading company, I think it should be able to retain a proportion of its profits.

Senator J.L. Perchard:

So, you are not of the opinion, as some of the submissions that we have received, that we should go for actual distribution only?

Jurat P. Blampied:

No, because they would distribute nothing.

Deputy G.P. Southern:

They would just roll it up in the value of the company.

Senator J.L. Perchard:

Would they? You know, at the end of the day, what is the point of just rolling up your profit?

Deputy G.P. Southern:

Because you would get good capital gains. You will realise at the end of it. (...overspeaking).

Senator J.L. Perchard:

How would you?

Jurat P. Blampied:

Well, you would sell the shares.

Senator J.L. Perchard:

In Jersey trading businesses, you would see that as a likelihood? There would be some.

Jurat P. Blampied:

No, I think you have to have anti-avoidance procedures like taxing loans that are made. There is

incredibly complex UK taxation on close companies that deals with anti-avoidance. You have to have anti-avoidance legislation. I think, myself, there is something to be said for enabling them to retain a proportion of their profits.

Senator J.L. Perchard:

Is there any other areas, gentlemen, (...overspeaking)?

Deputy G.P. Southern:

Can I come in there on Appendix A, page 16 of your comments, where you were talking about stamp duty and inheritance tax. Would you like to tell us something about that because it is unlikely I am going to meet anybody else in Jersey that is in favour of anything like this.

Jurat P. Blampied:

Well, I was asked to do a report on stamp duty and stamp duty payable on the value of an estate in Jersey is a form of taxation. The regulations are now being changed and you pay a fee for registering a will or obtaining probate. You also pay stamp duty on the value of your estate. I suggested an increase in stamp duty on the conveyance of real property and the removal of a top-tier exemption. If you have an estate over £10 million in Jersey, your stamp duty was fixed at that amount. If you had £50 million, you did not pay any more than if you had £10 million. That has been removed and they have increased the stamp duty on conveyancing. It is now about 3 per cent; but there is marginal relief. I have got the schedule here, which I am going to leave with you. What the States did at the same time was to reflect the increase in stamp duty on conveyancing in the stamp duty payable on the registering of a will of immovable estate, on land and buildings. So, I suggested that they should remove the differences between personalty, that is stock and shares and cash, and property. There is no logic in the difference. The schedule that you are referring to is now out of date because what has happened is whereas the personal estate stays the same, the immovable estate has gone up. If you now have an immovable estate of £700,000, you pay £13,000 in stamp duty. So, it is £13,000 compared with about £4,000 on personalty. So, you pay £9,000 more if you die possessed of a house worth £700,000 than if you have stocks and shares worth £700,000. The differentiation is a nonsense because if you own your house in a Limited Liability Company, you pay the smaller rate. If you have the house in your own name, you pay the larger rate. If you have an investment company that owns an investment property, you pay the smaller rate. If it is in your own name, you pay the larger rate. There is no logical reason for the differentiation. Normally, they should be aggregated; the 2 values should come together. That would produce a worthwhile amount of additional tax. It is interesting that there has been no fuss about the increase in the stamp duty on conveyancing. It is logical. It is not logical to have the same stamp duty on conveyancing and inheritance tax but they have made it the same for immovable property. It should be aggregated with the personal estate and the rate should be the same for the total value when the estate dies.

Senator J.L. Perchard:

Many of our Jersey investment companies will have estates as part of the portfolio that are held in trusts in Jersey. As you know, our trust business is built a lot on that. Would they adhere because of the advantageous situation? Would that not drive them away?

Jurat P. Blampied:

I would not think it would make any difference because the English duty -- there is a threshold in England of £285,000 at the moment, I think it is, and after that you pay 40 per cent. Now, 40 per cent compared with 3 per cent is very material.

Deputy G.P. Southern:

It is going to take a long wait before you (...overspeaking) --

Senator J.L. Perchard:

Guernsey might offer a better deal than Jersey or the Isle of Man?

Jurat P. Blampied:

It is possible.

Senator J.L. Perchard:

Yes, that is the problem (...overspeaking).

Jurat P. Blampied:

Yes. I did, in paper, refer to the Guernsey rates but yes, that is a point, Senator. I have not got my paper with me... May I write to you about Guernsey?

Senator J.L. Perchard:

That would be helpful and the Isle of Man, you know, it is a competitive market of course (...overspeaking).

Jurat P. Blampied:

Yes, I agree.

Senator J.L. Perchard:

Yes. Albeit, this does fall outside the Zero/Ten proposals but it is very thought provoking.

Jurat P. Blampied:

It is slightly outside your brief.

Senator J.L. Perchard:

As is the Schedule A proposal. I think we need to look in more detail at this.

Jurat P. Blampied:

I have your brief somewhere, yes: "Effectiveness, fairness and efficiency of anti-avoidance measures and other measures for maintaining the tax base." I think that is within your brief.

Senator J.L. Perchard:

Absolutely.

Deputy P.J.D. Ryan:

Can I just return for a second, just quickly, to the minority shareholder issue of the deemed distribution and what have you. At the moment, the company pays 20 per cent on its profits anyway. It is a question of what it then distributes by way of distribution. Under Zero/Ten, the company would no longer be paying that 20 per cent, so it would have a better cash position in order to distribute higher dividends, would it not? Does that not argue against your --

Jurat P. Blampied:

Can I interrupt Patrick - I understand your point. A company has got £100,000 and it pays at the moment 20 per cent on that, it pays £20,000, it distributes £80,000.

Deputy P.J.D. Ryan:

I was thinking of the company that does not distribute very much.

Jurat P. Blampied:

Well, I think if it does not -- if it is a family company, like my own investment company --

Deputy P.J.D. Ryan:

No, I was thinking of the trading company.

Jurat P. Blampied:

The trading company?

Deputy P.J.D. Ryan:

Yes, and the minority shareholder.

Senator J.L. Perchard:

Well, let us look at the company, as Jurat Blampied commented on, the Recreation Grounds.

Deputy P.J.D. Ryan:

The Recreation Grounds?

Senator J.L. Perchard:

The Recreation Grounds made a profit of £75,000, for example, and as Patrick said, that is liable to tax at 20 per cent. So, the dividend paid is £60,000 paid in dividends, yes? What Patrick has rightly pointed out is that under the Zero/Ten proposal, £75,000 will be paid out to the shareholders rather than £60,000 and then the shareholders will pay the tax of their share of £75,000, whether they are minorities or not. You, in your submission, did not recognise that -- I felt -- you said that you would be paying more tax with deemed distribution than you are receiving in dividends. But of course, you will be receiving a greater dividend because the company is not paying tax up front is it not?

Jurat P. Blampied:

I get a dividend net of £440. They would distribute it gross, £550, so I would have to pay £110 that the company previously paid. So, my position is unscathed. The point is that the company will have retained the £110, so it will have a greater finance because I will be paying its tax. So, you are right but I think that the trading companies, should be able to retain, say, a third of their profits. So, if they distribute two-thirds, they will be distributing a bit more because they will not be paying tax but I will be paying tax on it. They will be left with the same amount as they had before. I think you have got a problem if a trading company does not distribute. I think that it should be able to retain a proportion of its profit to finance its business. I do not think the net effect is any different because if it has a bit more profit to distribute, then it still retains a third of its profits. Could I go on, on one other thing? I think stamp duty is avoided in Jersey by people not registering wills and probate and I think that the legal profession will tell you if you leave your immovable property as if under an intestacy, you need not bother to register probate. Some people defer registering wills of immovable property. In England, if you do not pay your inheritance tax - and I forget the period, something like 6 months, that is why people pay on account - you have to pay extra duty. I think Jersey should impose a 10 per cent charge on stamp duty or inheritance tax that is not paid within 6 months of the date of death.

Deputy P.J.D. Ryan:

This is to stop avoidance (...overspeaking)?

Jurat P. Blampied:

To stop avoidance.

Senator J.L. Perchard:

(...several inaudible words). Geoff loves this.

Deputy G.P. Southern:

I'm loving every minute of this - this is the highlight of the day for me. Very sound ideas coming out. I have been carefully paying attention to the advisor (...overspeaking).

Jurat P. Blampied:

Deputy I am gamekeeper turned poacher.

Deputy G.P. Southern:

That is what I am hearing. That is what I am hearing.

Jurat P. Blampied:

I used to advise people how to minimise their tax. Tax is unfair but there is some inequity in Jersey. There are some things that require looking at from a point of view of social justice. I mean, stamp duty on wills, I think we should have a threshold. There is a threshold in England on £285,000. In Jersey, you start paying ... I forget where it is now.

Deputy G.P. Southern:

Page 17.

Jurat P. Blampied:

Thank you very much. Yes, it is not an enormous amount but in Jersey, you pay £250 if you have got an estate of £50,000. In England, you do not pay anything. Take £300,000 - it is the nearest to £285,000 - in Jersey, if it is in land and buildings you pay £2,750. In England, you do not pay anything. There is criticism in England because the threshold has not been moved in line with the increase in value of properties and it is at £285,000 and there is criticism of that. But I think there should be a threshold in Jersey as there should be a threshold in the introduction of Schedule A.

Senator B.E. Shenton:

But inheritance tax is deemed to be one of the unfair taxes globally and there are moves to move away from Inheritance Tax.

Jurat P. Blampied:

Yes, I do not think we'll ever get fairness in --

Senator B.E. Shenton:

Taxation?

Jurat P. Blampied:

-- taxation. [Laughter] No, I think what is unfair about the inheritance tax in England is the cut-off at £285,000. (...overspeaking).

Deputy G.P. Southern:

Yes, it has not kept pace with --

Jurat P. Blampied:

No, I think that after that there should be a reduced rate but it goes straight into 40 per cent. So ...

Senator J.L. Perchard:

It does sound a bit harsh. Gentlemen, is there anything else that you want to raise with Jurat Blampied?

Male Speaker:

No.

Senator B.E. Shenton:

Well, I would like to thank him for a very interesting (...inaudible).

Male Speaker:

Yes.

Deputy G.P. Southern:

Yes, that has been the most interesting part of the day.

Senator J.L. Perchard:

Yes, we have had a pretty extensive day of submissions and yours have been the most colourful, I must say, and as Geoff said, probably the most enjoyable. There is certainly a lot of food for thought and I hope that when we start drafting our review, we could perhaps ask you again just to clarify some of the points you have raised because there is a couple of very interesting points there that we may wish to include in our review. Thank you for attending and for your submission and I would like to formally declare our meeting closed.

[1] Which are not owned by Jersey resident shareholders

[2] in Jersey and possibly elsewhere

[3] bringing back Schedule A Income Tax for owner occupiers and this should go some way towards providing an alternative to the RUDL charge

[4] to the non-resident shareholder

[5] legislation

[6] between companies trading in Jersey and owned by Jersey residents and other companies

[7] in the present arrangement