

2.9 Deputy M.R. Higgins of the Chief Minister regarding the impact that a failure to sign up to the requirements of the US Foreign Account Tax Compliance Act provisions would have on the Jersey economy:

Would the Chief Minister advise Members what impact the failure to sign up to the requirements of the US Foreign Account Tax Compliance Act provisions will have on the Jersey economy and the delivery of the Medium-Term Financial Plan and what impact similar agreements across the European Union will have?

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

There is no thought of any failure to sign up to the requirements of U.S. F.A.T.C.A. We are well advanced with the negotiation of an inter-governmental agreement with the United States. There is therefore no expectation of an outcome that would have an adverse impact on the Jersey economy and the delivery of the Medium-Term Financial Plan. If F.A.T.C.A. type agreements become an international standard and are adopted more widely there would be a level playing field. In these circumstances there is no reason why such a development across the E.U. (European Union) should equally adversely affect Jersey's competitive position.

2.9.1 Deputy M.R. Higgins:

Supplementary, Sir? Thank you for that. So, basically we are saying that if... there is no question of us not signing up to the agreement and because of the extra-territorial sort of effect of this Act any finance company operating in Jersey that operated in the United States would not be able to function anyway in the United States so we have to sign up to it. The question I am asking though is: if these agreements are extended further and there is no level playing field, what impact does he expect it to have on the Jersey economy and the amount of tax revenue that is generated from the finance companies in Jersey?

Senator I.J. Gorst:

The Deputy is asking me to respond to a hypothetical question. I have answered earlier today with regard to the negotiation and discussion that is going on with the United Kingdom Government and I think that we all recognise that in due course it is likely that automatic exchange of information will become an international standard. That is what we will argue for, the development of an international standard in that regard and not for a discriminatory or a non-level playing field approach.

2.9.2 Deputy T.M. Pitman:

Although the Chief Minister says that Deputy Higgins is asking about a hypothetical question, surely it is always wise to have a contingency plan, a plan B. So in the worst case scenario could he not give the Deputy the information he asks and clarify what is the worst case scenario because we do not know if a level playing field is going to come about. That is the reality, we are not masters of our own fate.

Senator I.J. Gorst:

We have always acknowledged and it has been Government policy that we will comply with relevant international standards and that continues to be our policy and that continues to be what we will work towards. I do not think that I can stand up and answer every single hypothetical question or what ifs in regard to any number of different scenarios. That is our position. We are aligned with the United Kingdom in seeking to ensure that Jersey is not used by U.K. residents and domiciled individuals to evade their tax. We are negotiating in that regard. We take our place in regard to the O.E.C.D. (Organisation for Economic Co-operation and Development) Peer Review Group and we argue for relevant and appropriate international standards.

2.9.3 Deputy T.M. Pitman:

I am not trying to labour the point but the reality is... and I fully accept what the Chief Minister is saying, you know, we want a level playing field. However, if we succumb - if that is the right word - to what the British Government are seeking there is not going to be a level playing field so there must be a contingency, there must be a plan B. Surely, can the Minister at least acknowledge that?

Senator I.J. Gorst:

As I said, we are negotiating with the United Kingdom. We are aligned with them with regard to the use of Jersey for not wanting U.K. resident domiciled to be using Jersey for tax evasion. Therefore, I am not sure why the Deputy wishes a plan B. We are aligned; it is a matter of negotiation and getting an agreement that we are both satisfied with.

2.9.4 Deputy G.P. Southern:

Would a U.K. F.A.T.C.A. agreement apply to the 20 per cent of bank deposits in 2010 held in Jersey and revealed in Treasury figures as undeclared at their home base and therefore evading tax?

Senator I.J. Gorst:

The Deputy says that those deposits which are withholding rather than declaring are evading tax. That is his assumption. Once again the Deputy seems to want me to talk about what the form of an agreement might be prior to it having been negotiated and agreed between 2 parties. I cannot do so, I cannot see into the future in that respect.

2.9.5 Deputy G.P. Southern:

In that case I may ask whether a U.S. F.A.T.C.A. agreement which we are negotiating would apply to trusts and business accounts.

Senator I.J. Gorst:

Once again, while the standard face agreement of an inter-governmental agreement with the U.S. might be standard across the board, it is the negotiation with regard to what is included in the annex information, and in that regard we, like many other jurisdictions and our Crown Dependency brothers, are still in negotiation.

The Bailiff:

Do you wish a final question, Deputy Higgins?

2.9.6 Deputy M.R. Higgins:

Before I do, just a quick comment because that is unbelievable the fact that the Chief Minister thinks that the...

The Bailiff:

Questions not comments, please. It is not comment time, it is question time.

Deputy M.R. Higgins:

Okay, the question is, does the Chief Minister seriously believe that Jersey can stand up to the United States and dictate the terms that are going to be included in that agreement and in the annex? Does he really because it is a joke?

The Bailiff:

What is the question?

Deputy M.R. Higgins:

Does he think he can stand up to the United States and the United Kingdom?

Senator I.J. Gorst:

May I just address that final point? Some Members of this Assembly may think that these issues are something to be bandied across this Assembly and think that they are a joke. I do not agree with that. I believe that we are a responsible jurisdiction, we are a responsible Government and we negotiate as such. We are following exactly the same course as other countries that have negotiated and discussed with the United States of America with regard to their F.A.T.C.A. agreement and it is not appropriate for me to say any more than that. We are being responsible. I would expect Members to be disappointed if we were doing anything other than that.

Deputy M. Tadier:

Point of order. I note that there was a Standing Order that relates to imputing false motives for Members and while one cannot say that someone is misleading the House, should it also be presumed that no Member in this Assembly would think that any issue like this is a joke?

The Greffier of the States (in the Chair):

You just pre-empted me, Deputy, I was going to say to the Chief Minister nothing I had heard from any of the supplementary questions made me think that any Member was treating this as a joke.

Senator I.J. Gorst:

I do apologise but I thought I heard the Deputy say that it was a joke.

Deputy M.R. Higgins:

Can I just clarify that? I said that it was a joke if you thought... the Chief Minister, I should say, thought that the Island could stand up to the power of the United States. I think you have watched "The Mouse That Roared" and you have got delusions of grandeur for the Island.

The Greffier of the States (in the Chair):

That was what I heard you say, Deputy, thank you. Very well, we come to the next question.

Senator I.J. Gorst:

No, perhaps I should address that issue. I think that, while notwithstanding your ruling, it does appear that the Deputy is impugning motives to myself and to my officers in this regard. It arose from a question that Deputy Southern asked with regard to the details of the annex to the agreement with the United States of America. There are certain financial instruments which will be included as exempt instruments under those agreements and that is right and proper that we negotiate as every other country and jurisdiction is doing. Therefore, I reject the Deputy's comments with regard to our negotiation.