

21.06.08

6 Deputy G.P. Southern of St. Helier of the Minister for External Relations and Financial Services regarding the prospective impact of a proposed international minimum effective tax rate. (OQ.128/2021):

It need not be a quick response. A full response would be better. What assessment, if any, has there been of the potential impact of the G7, or a wider distribution of members of the O.E.C.D. (Organisation for Economic Co-operation and Development), agreeing a U.S. (United States)-proposed minimum effective tax rate, whether at 21 per cent or 15 per cent, on Jersey's Zero/Ten corporate taxation regime?

Senator I.J. Gorst (The Minister for External Relations and Financial Services):

Can I start by thanking Members' indulgence? The current O.E.C.D. work comprises 2 pillars. Pillar one deals with the tax challenges arising from digitalisation and pillar 2 contains proposals for ensuring that large multinational enterprises pay agreed minimum effective taxation on cross-border profits. These proposals are quite rightly targeted in scope, focusing on the world's largest and most globally mobile companies. As a member of the inclusive framework on base erosion and profit shifting, Jersey continues to play a full and active role in the O.E.C.D. discussions on the development of proposals for international tax reform. Jersey, like all jurisdictions, will need to wait for the outcome of discussions on the framework at international level before considering matters of possible domestic application and implementation in further detail.

3.6.1 Deputy G.P. Southern:

That barely touched the question, which was what estimate does he have of the potential impact of moving to a minimum tax rate will have on the Zero/Ten policy that we currently have for our corporate tax regime?

Senator I.J. Gorst:

The reason that I answered the question in the way that I did is because Deputy Southern knows as well as I that the detail of what the agreement reached by the G7, let us be clear, was not a surprise. But there was very little detail about future application. Therefore, I answered it in the terms that I did. Once we have that detail, then we will be able to do more detailed work and provide a fuller answer to the Deputy.

3.6.2 Senator S.C. Ferguson:

Will we now start getting proper double taxation agreements rather than slightly less satisfactory exchange of information agreements?

Senator I.J. Gorst:

The Senator raises a good point. Of course the tax information exchange agreements that we have been negotiating, some of them have had very thin D.T.A. (double taxation agreement) provisions attached to them and then we have just around 9 full D.T.A. agreements. Of course what the G7 agreement means is that, because we do not have those D.T.A. agreements, it is more difficult for those countries perhaps who do have them. But, if there is to be a change, and it is a very big "if" at this point, then the Senator is right that, if we were required or decided, in light of global agreement that there needed to be a change to our provisions, and that is not clear at this point, then we would seek a broader range of D.T.A. agreements.

3.6.3 Senator S.C. Ferguson:

There was a warning note struck by a former head of Jersey Finance regarding the possibility of increases in taxes. Finance is not a magic money tree. Can we have assurances that you are working on plan B and that you will come back to the States with an outline plan before the summer recess?

Senator I.J. Gorst:

I will not be bringing any plan to the States before the summer recess. The timetable for further international agreement is that the O.E.C.D. inclusive framework will meet at the beginning of July, the G20 will meet again later in July, and then they will meet again later in the year. But of course it is not unusual for officials in my department, together with officials in the international tax area of the Comptroller of Taxes, to be considering changes and international tax developments very frequently. So we are considering all of these international tax developments, as the Senator would expect. But agreement has not yet been reached at the O.E.C.D. level or the G20 level. It is important that any agreement that is ultimately reached is not just for the benefit of the G7 countries, but also is for the benefit of developing countries, not just for large countries, but also for small countries. Those arguments have still to be had.

3.6.4 Deputy R.J. Ward:

May I ask the Minister whether scenarios are being worked out within his department so we are prepared for the different possible outcomes of this decision? If not, when will that start to happen so that we can be ready for a possible change? As opposed to being reactive, being proactive.

Senator I.J. Gorst:

Let us be clear, the tax that we have in Jersey is rightly a sovereign decision for the States Assembly and we believe very strongly that the regime we have in place, I know it is not universally accepted in the Assembly, but broadly we believe that the regime that we have in place serves to serve and suits Islanders and suits our economy. That is how it should be and we should not apologise for the tax regime that we have in place. It is clear and it is transparent and it serves Islanders well. Any change would have to go through the appropriate consultation process, consideration process, by Government, by the Assembly, by the Scrutiny Panel. So, if there is in future to be a change, it should follow that appropriate process. But we would not do a kneejerk change. Stability is extremely important. Tax neutrality is important for us coupled with the strong substance legislation that we have in place. Of course the issues of substance and exchange of information has also played a strong part in what the G7 agreed last weekend.

[10:45]

3.6.5 Deputy R.J. Ward:

Can the Minister reassure the States Assembly that we will not be in a position, one might call it the fishing position, where things arise and create real issues for the Island at the last minute? Is he confident that will not happen?

Senator I.J. Gorst:

Yes, I am very confident of that. Perhaps to refer back to his earlier question, as I said, officials across Government are considering international tax matters and potential changes to international tax matters as part of their daily work. As I have said, Jersey sits as a member of the inclusive framework and has been party to these considerations for many months and years.

3.6.6 Senator S.Y. Mézec:

The impacts of issues like this are obviously not particularly clear at this point but could be fundamental. On that basis, will the Minister guarantee to Members that when it is more clear what potential changes may be on the horizon that States Members will be properly and fully briefed well in advance of having to make any decisions in the States Assembly? The reason I ask that is because with the pandemic it feels like those types of briefings are not happening as adequately as they were happening beforehand. So would he guarantee that, if any fundamental changes are on the horizon, we will be informed and fully briefed on them as early as possible and not let to be simply nodded through by the Assembly?

Senator I.J. Gorst:

My officials and myself have been endeavouring to keep the Scrutiny Panel updated as we have been in these meetings of the inclusive framework and considering potential implications. The Senator does not need a guarantee from me. Any changes, and we still are not at the process of having international agreement yet, but let us make the assumption that there is an international agreement in due course, be it later this year or next year. If Jersey ever wants to change its taxation policy, it has a process to go through. That is as it should be. That process is full consultation, full agreement by the States Assembly, full review by the Scrutiny Panel, and these things of course take time anyway, if there are to be any changes, simply a systems implementation process as well. So the Senator does not need my guarantee. Those safeguards are built into our democratic processes.

3.6.7 Senator S.Y. Mézec:

I am afraid I do need the guarantee because it does not feel like that has been the case over the last year, as it may well have been previously. We can blame that on the pandemic and that is fine. I am asking that the Minister with responsibility for this area, at the earliest opportunity he is able to do so in such a way where it would be useful, once more detail has come from the G7 or the O.E.C.D., that we can at an early point have a full briefing and discussion on that, at the start of any process that may well lead to further changes. So that we can be as best informed as possible and not simply have what has happened too often in the last year where we have been given information on quite serious matters relatively late in the day, which has not been adequate. So I am asking him to guarantee that will not be the case for something fundamental like this.

Senator I.J. Gorst:

I have outlined the process that would be gone through. Surely the democratic processes of Jersey's Parliament, the States of Jersey, are sufficient. But of course I will continue to keep appraising Scrutiny of any developments and I think what the Senator is asking for is that he would value a broader States Members briefing as well. I can do that in due course.

3.6.8 Deputy G.P. Southern:

In an attempt to get some clarity about what is proposed currently, does the Minister agree with the following description: a French company declares profits in a subsidiary based in Jersey where it is subject to corporation tax of zero per cent. If Jersey opted not to apply the tax at 15 per cent at all, the French Government would then be able to claim a 15 per cent tax top-up against the company's profits. Does the Minister accept that is an accurate measure of what is being proposed now?

Senator I.J. Gorst:

The Deputy knows that scenario is based on a myriad of assumptions and he would not expect me to draw a conclusion from a scenario based on a myriad of assumptions. The details still need to be agreed by the O.E.C.D. and the G20 and we are involved in those discussions. The clarity that the Deputy is seeking will of course be available in due course.

Deputy G.P. Southern:

If I may, he has not answered the question again. The question was: does he agree that is an accurate description of the situation now of what is proposed? Not in the future. What is proposed now.

Senator I.J. Gorst:

It is not possible, as you well know from your previous experience, for me to answer a question based on so many assumptions. The Deputy I am sure himself knows that he has had to draw assumptions in order to present the scenario to me. I will not be drawn in the manner that he is wishing to draw me.