

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY DEPUTY L.V. FELTHAM OF ST. HELIER CENTRAL
QUESTION SUBMITTED ON MONDAY 13th NOVEMBER 2023
ANSWER TO BE TABLED ON MONDAY 20th NOVEMBER 2023**

Question

“Will the Minister provide details of any risk assessments that his department has undertaken in relation to the Regulatory Technology (Reg Tech) Super Deduction detailed within the Proposed Government Plan 2024-2027, and further detail how he reached his own assessment in Oral Question 213/2023 that there is no risk that international companies will channel Reg Tech Funding via Jersey to avoid paying tax?”

Answer

As part of our policy design process, Revenue Jersey considered and took careful steps to minimise risks and unintended consequences surrounding fiscal cost, administrative complexity, and compliance/enforcement. The measure is also being introduced as a pilot project and will be reviewed after two years.

Critical to this risk mitigation has been careful thought and consultation about the scope and definitions that are contained in the draft law. Draft Finance (2024 Budget) (Jersey) Law 202- includes strict eligibility criteria that were developed in consultation with the Jersey Financial Services Commission about the regulated nature of companies (only) that can access the relief. Together with the categories of technological investment for which relief will be permitted.

To limit operational costs and administrative complexity, the Super-Deduction is also designed to be processed using existing tax forms and procedures, resulting in minimal changes being required to government systems.

To counteract tax motivated channelling of investment between subsidiaries of groups structures, the draft law includes specific restrictions to ensure:

1. An eligible entity cannot claim capital allowances of 150% on expenditure where it relates to hardware or software that was owned by a connected party before 1 January 2024. This prevents ‘old’ hardware or software being recycled between group companies.
2. The claimant company is required to hold software or hardware for at least three financial years to obtain the full benefit of enhanced capital allowances. If they do not, they are subject to a 150% balancing charge that recovers the value of the deduction. This should discourage Jersey financial services businesses from being a conduit company for hardware and software costs.
3. If an eligible entity transfers hardware or software claimed as capital expenditure under the Super-Deduction to a connected party the value is deemed to be at the price it would fetch if sold on the open market. This ensures the recovery balancing charge is not artificially reduced.

In addition to these specific measures, eligible companies must still meet economic substance requirements in Jersey under the Taxation (Companies- Economic Substance) (Jersey) Law 2019.

The Income Tax (Jersey) Law 1961 also contains a General Provision Against Legal Avoidance (Part 20A) that grants the Comptroller powers to counteract behaviours for which the main purpose is avoiding or reducing liability to income tax.

Revenue Jersey is drafting guidance concerning the new provisions that will be published online. This guidance will explain how Revenue Jersey will deal with pricing between connected parties that results in

eligible expenditure claims being higher than an arms-length price. In these cases, the tax advantage being sought will be challenged.