

**QUESTION TO BE ASKED OF THE PRESIDENT OF THE POLICY AND RESOURCES
COMMITTEE ON TUESDAY, 29th APRIL 2003 BY SENATOR P.V.F. LE CLAIRE**

Question

It has been announced publicly that Guernsey has decided to opt for a withholding tax instead of exchange of information in connection with the European tax package. Would the President inform members –

- (a) what consultation process with representatives of the finance industry has occurred in order to arrive at the current understanding of an industry preference for exchange of information over a withholding tax and is the Committee satisfied that this option has the support of the vast majority of the industry?
- (b) what difficulties will arise for companies operating in both Guernsey and Jersey, if the two Islands adopt different approaches to this issue?
- (c) whether it is possible for Jersey to adopt an ‘either/or’ approach to this issue thereby allowing some companies to exchange information and some to opt for a withholding tax, thus retaining as much business as possible and, if not, would he explain the reasons for the Island being unable to do so?
- (d) whether the Committee intends to present a proposition to the Assembly so that the final options and their implementation relating to this matter may be debated and agreed by all States members?

Answer

- (a) A systematic consultation process with representatives of the finance industry has been underway on this issue for over two years. The most recent chronology is as follows –
 - (i) in April 2002, a survey of its members was commissioned by the Jersey Bankers Association which indicated a preference for Exchange of Information subject to a ‘level playing field’ relative to key competitor jurisdictions;
 - (ii) the key EU decision making body in respect of the Tax Package is the Finance Ministers’ Council known as ECOFIN. Since political agreement was reached on the Tax Package at the ECOFIN Council meeting of 21st January 2003, the finance industry in Jersey has looked again at the possibility of the Withholding Tax alternative, which is largely based on pure competitive considerations in the light of the position adopted by Luxembourg, Switzerland and more recently Guernsey;
 - (iii) after the 21st January 2003, a new round of consultations was undertaken with all of the major industry trade associations backed up by selective meetings with key industry representatives;
 - (iv) in addition, a presentation was made by the President and Officers of the Policy and Resources Committee to 250 members of the Finance Industry on 18th February 2003. This presented, inter alia, the pros and cons of Exchange of Information and the Withholding Tax alternative as well as the Jersey position on the entirety of the EU Tax Package;
 - (v) on the 8th April 2003, officers of the Policy and Resources Department met a large delegation from the Jersey Bankers Association to continue the dialogue further in the light of the announcement by Guernsey on the 4th April 2003, of their intention to opt for the Withholding Tax alternative; and,
 - (vi) in the light of the Guernsey stance, it is true to say that opinion is more volatile than hitherto and that as a result a final, qualitative survey has now been produced by Policy and Resources and circulated to members of the finance industry through Jersey Finance Limited to revisit the

choice available. Experience to-date points to significant differences existing within the industry depending on the nature of the business undertaken. One of the difficulties faced therefore is to ascertain which view is the view of the majority, what the impact of the different options will be, and what will be best for the Island in the long term.

- (b) The difficulties will essentially be two-fold -
 - (i) the risk is that business will transfer from one Island to another. However, it is not clear to what extent such migration will occur and part of the latest survey exercise mentioned in my previous answer aims to quantify this; and,
 - (ii) large institutions, particularly banking businesses with significant volume operations, would generally not welcome an outcome whereby different systems changes will be necessary.
- (c) The EU Tax Package process, with which we have indicated a willingness to co-operate, has been provisionally concluded on the basis that any jurisdiction must opt either for a system of Exchange of Information or the Withholding Tax alternative (which includes a client by client generated option for an 'either / or' approach). No such choice exists at a company by company level.
- (d) Yes, it has always been made clear in any indicative or provisional proposals made to the UK Treasury or the EU that any commitments made in respect of the EU Tax Package, including the choice between Exchange of Information or the Withholding Tax alternative, will be subject to States approval.