

**WRITTEN QUESTIONS TO THE PRESIDENT OF THE FINANCE AND ECONOMICS COMMITTEE
BY DEPUTY G.P. SOUTHERN OF ST. HELIER**

ANSWERS TO BE TABLED ON TUESDAY 1st FEBRUARY 2005

Question 1

Would the President inform members –

- (a) what the '*reasons unconnected to the move to 0/10%*' attached to the loss of £10 million to £12 million in tax revenues referred to in his answer to my written question on 18th January 2005, are?
- (b) whether, in the light of his statement that '*the maximum level of tax revenues is in the order of £5 to £6 million*', the Committee intends to generate the missing tax revenue of the order of £20 million from other sources, and, if so, which ones?

Answer

- (a) The reason for the loss relates to two or three companies currently resident in, and paying tax in, Jersey which have chosen to relocate to another jurisdiction. This relocation shows how extraordinarily mobile many of those vehicles which generate significant amounts of tax revenues are, and how we must take very great care to ensure that we put in place both the correct tax framework and the proper climate so that we not only keep the business we already have, but also attract more of it to Jersey to generate the tax revenues that we need to preserve our economic well-being and to safeguard Jersey's high standard of living for future generations.
- (b) I believe that the question misunderstands the calculations involved in the loss of tax revenue of up to £100 million due to the move to a 0/10% corporate tax structure, and may be guilty of 'double-counting'. The loss of tax revenue from 0/10% remains in the order of up to £80-£100 million, irrespective of the revised figure for the loss of tax revenue from non-finance, non-resident companies. The 'missing' £20 million to which the Deputy refers is, and has always been, included as part of the £80-£100 million estimated tax loss estimate.

The proposals the Committee has put forward, and which the States have accepted, have been designed to generate £80-£100 million in additional tax net revenue. This is made up of £20 million from States efficiency savings, £20 million from economic growth, £5 million from ITIS and £55 million from tax raising measures yet to be finalised.

Question 2

Would the President outline how anti-avoidance measures to catch a group of investors seeking to create an artificial arrangement under the Comptroller's proposed 4.9% *de minimis* level on company holdings will work?

Answer

Under the enhanced anti-avoidance powers the Committee intends to give the Comptroller of Income Tax, all Jersey residents must ask for pre-clearance of any financial or investment arrangement, scheme or transaction, or series of arrangements, schemes or transactions, which will involve the avoidance, deferral or reduction of Jersey income tax. So each one of the group of investors referred to by the Deputy would have to ask for pre-clearance for any arrangement, scheme or transaction they were intending to be involved in, giving a full and complete description of the arrangement, scheme or transaction and the amount of Jersey tax that will be avoided, deferred or reduced, so that the Comptroller can rule on it. In addition, I ought to make it clear that any *de minimis* limit put in place as part of the imputation provisions will not apply to those acting in concert to avoid that limit. In other words, if any person, in conjunction with connected persons, such as a wife or husband, a partner, a relative, or the husband or wife of a relative, who have a combined total of more than the proposed *de minimis* limit in a

particular company, whether Jersey or foreign, then an imputation of profits will be made on such connected persons to bring the total imputed profits into charge to Jersey tax. Failure to ask for pre-clearance and a failure to disclose will result in penalties being imposed under revised Articles 136, 137 and 138.

Details of the *de minimis* rules have yet to be finalised, but they are intended to apply primarily to shares in publicly quoted or traded companies rather than in private companies.

Question 3

Would the President inform members what levels of transfers from income to capital via 'roll-up funds' are allowed under Article 134A of the Income Tax (Jersey) Law 1961, as amended, and how such levels are calculated?

Answer

There are no specific guidelines contained in Article 134A as to the levels of transfers the Comptroller may or may not allow under that Article so he has drawn up notes and formulae to inform the decision making and rulings process. However, he is not prepared to release into the public domain details of his notes and formulae used in the calculation of such rulings under Article 134A as to do so would, in his opinion, undermine his ability and restrict his freedom and authority to make rulings, and undermine any negotiations he may or may not enter into with particular parties to ensure a good and proper settlement under the provisions of Article 134A.