

3.4 Deputy G.P. Southern of the Minister for Treasury and Resources regarding estimate of Jersey tax being avoided by tax planning measures:

Notwithstanding the reply to my question on 6th June 2006, what estimate has been made, if any, of the amount of Jersey tax currently being avoided by the tax planning procedures referred to in paragraph 12.2 of the document entitled “Zero/10 Design Proposal”. Would the Minister reconsider introducing anti avoidance measures to counteract this planning?

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

No estimate has been made. But as the lower rate would only apply to tier 1 capital - an amount fixed for regulatory purposes - rather than for surplus capital as a whole, the impact on tax revenues should not be significant for that tier 1 element in isolation. I will not be introducing anti-avoidance measures for the reasons given in my written answer, 6th June. This is essentially a competition issue. The Deputy should be aware that multinational banks are situated in many jurisdictions worldwide and they will make commercial decisions on which jurisdiction to place their reserves over and above their minimum tier 1 capital requirements. That decision will be taken bearing in mind various issues including tax, which of course is a cost like any other cost to such banks. No legislation that we would introduce would ensure that such capital is deposited or maintained in Jersey. Indeed, the prospect of such legislation is likely to see us lose not just the excess capital, but also the loss of a whole swathe of banking business and that would have a very detrimental consequence on our tax revenues.

3.4.1 Deputy G.P. Southern:

May I remind the Minister of what the text says on 12.2. It says: “Specified financial services companies will be in the position of being able to hive down assets into a zero per cent rate subsidiary.” It then goes on to say: “This happens currently” but it then says: “It is not proposed therefore that any specific anti-avoidance measures be introduced...” Does the Minister not agree that this is like pointing to the horse in the stable, saying the stable door is open and then giving the horse a slap on the rump?

Senator T.A. Le Sueur:

No, Sir, this is simply reflecting the transition from the present international business company status, which will no longer be effective after 2011 or 2012 into a ‘Zero/10’ situation and ensuring the Island remains competitive.

3.4.2 Deputy G.P. Southern:

Is the Minister saying that such mechanisms such as transfer pricing are openly available to any company in Jersey if it wishes to want to avoid paying tax in Jersey?

Senator T.A. Le Sueur:

No, Sir, I am not.