

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER**

ANSWER TO BE TABLED ON TUESDAY 16th MAY 2006

Question

- (a) Following recent public statements, would the Chief Minister clarify for members what has and has not been agreed concerning the island's taxation commitments, and by whom, by publishing the e-mails that he has referred to publicly as evidence of such agreement and, if not, will he inform members whether the agreement covers -
- i) only the Island's stated intention to eliminate non-compliant business taxation; or
 - ii) the replacement of such taxes with the zero/ten mechanism; or
 - iii) the principles of "look-through" relating to zero/ten?
- (b) Would the Chief Minister inform members whether this agreement has been reached with -
- i) the Paymaster General, representing the UK government;
 - ii) the Paymaster General, as chair of the EU Code of Conduct group;
 - iii) the International Director of Tax at HM Treasury;
 - iv) the EU Code of Conduct group;
 - v) ECOFIN?
- (c) Would the Chief Minister state whether the items listed in (a) above have been presented to, or discussed with, any of the authorities listed in (b) above?
- (d) Have the detailed proposals contained in the Zero/Ten Design Proposal (R.37/2006) published by the Minister for Treasury and Resources on 5th May 2006 been presented to, or discussed with, any of the authorities listed above yet and, if not, will they be presented for approval and, if so, by whom?

Answer

- (a) It is not my practice to publish written inter-governmental communications without the express agreement of the other party. The extracts previously quoted were aimed at dealing with the substance of this question. The quoted extracts were:

‘The public statement made in the Ecofin conclusions of June 2003 was that the Council:-

“Notes that the descriptions in Annex 1 of 14812/02 FISC 299, as updated by the descriptions in Annex A of 7018/1/03 FISC 31 REV 1 (en), form an agreed basis for the evaluation of rollback.

· Notes that the Code Group has considered the proposed revised or replacement measures of Member States and of dependent or associated territories for those listed in Annex C of SN 4901/99 against the established criteria of the Code of Conduct and, as set out in Annex B of 7018/1/03 FISC 31 REV 1 (en), has found that none of these are harmful within the meaning of the Code.

· Agrees that the proposed revised or replacement measures are adequate to achieve rollback of all the harmful features of the 66 measures listed in Annex C of SN 4901/99.”

There are a few points which your Minister could usefully make –

- (a) Jersey’s ongoing commitment to fair tax competition (including going back to Senator Le Sueur’s time) and the part zero/ten plays in that;
- (b) Jersey has made specific commitments to remove tax measures found harmful under the Code of Conduct;
- (c) those commitments, including the timetable and broad scope of the new regime, were agreed by ECOFIN;
- (d) Jersey is developing detailed proposals with the aim of complying with those commitments; and,
- (e) the U.K. reports annually to the Code of Conduct on Jersey’s progress towards meeting those commitments.’

In terms of this specific question I would reply as follows –

i) and ii) I can confirm that agreement has been reached with all parties referenced under b - i) to v) on the reasonable assumption that there is no practical distinction to be drawn between the EU Code of Conduct Group and its Chair. In addition the position of both is covered by the statement (quoted above) made by the ECOFIN Council on 3rd June 2003, following receipt of recommendations received from the EU Code Group.

That statement demonstrates that the ‘proposed revised or replacement measures of ...Jersey regarding the commitment to rollback and the zero/ten plans were presented to and evaluated by the Code Group/ECOFIN

On this basis, noting in particular the ECOFIN conclusions referenced above, the Island has no reason to believe that the ECOFIN statement of 3rd June 2003, on the proposed system for Jersey will not continue to apply.

The remit of the Group limits it to matters of business taxation. Provisions such as ‘look-through’ that are concerned to address personal tax anti-avoidance issues do not fall within the remit of the Group and our discussions with U.K. officials would suggest that they agree.

Look-through provisions are not a pre-condition for the implementation of a zero-ten tax system but in some form are desirable for the management and limitation of tax avoidance possibilities within Jersey’s personal tax base. The agreement to 0/10 detailed above is sufficient in itself for Jersey’s fiscal plans to proceed.

- (b) Please see response to part (a) above.
- (c) Please see response to part (a) above.
- (d) These detailed proposals were made public on 5th May 2005, and were made available to H.M. Treasury at the same time as to States Members. As stated in part (a) this will enable the U.K. to provide input on behalf of the Island to the Code of Conduct Group and ECOFIN on the continuing monitoring of the ‘rollback’ process.

It is important to be clear that we will not be presenting these proposals for approval, because to do so would undermine Jersey’s constitutional rights. Jersey has domestic competence in fiscal affairs and the suggestion that an EU body has to approve our proposals is to undermine that competence. It should be noted that the Code of Conduct Group is not a body with the power to enforce, even amongst the EU member states themselves, and this is a process in which Jersey is participating voluntarily because the Island is not in the EU’s fiscal territory. Nevertheless, regard will be had for any views expressed by the Code of Conduct Group in line with our position as a ‘good neighbour’ to the EU.