

2.15 Deputy P.V.F. Le Claire of the Minister for Treasury and Resources regarding alternatives to the Zero/Ten regime

Following the Minister's recent press release concerning Zero/Ten in which he advised that the consensus of the E.U. Code Group was that the present Zero/Ten regime was harmful, what options, if any, are under consideration as a viable alternative?

Senator P.F.C. Ozouf (Minister for Treasury and Resources):

I will add to the earlier answers that I gave. As stated in my earlier answers, the Commission's position is it is the interaction of our 'Deemed Distribution' rules with Zero/Ten that causes the harmful effects. We have said to the Code Group that we would look to changing these rules if that is the concern. So I am aware, following a number of questions that I have been asked, that some commentators are claiming that it would be impossible to change the deemed distribution provision without undermining the whole aspect of a company taxation system or losing significant amounts of tax revenue. That is incorrect. We are confident that if changes to 'Deemed Distribution' are necessary there are alternatives that will work equally well and that are outside of the scope of the Code.

2.15.1 Deputy P.V.F. Le Claire:

Another alternative that the Minister has circulated to Members is that of a territorial tax. A territorial tax will take huge amounts of legislation to implement, possibly taking as long as 5 years. That will significantly impact upon the finance industry in that time. Can the Minister let us know what his views are about the drafting of such legislation?

Senator P.F.C. Ozouf:

The Deputy is quite correct, the corporate tax consultation which was issued a number of months ago had 'Territorial Tax' as a potential option and that is a feature of taxation systems of both the U.K. and France's taxation system and a territorial system is one of the issues that we looked at. But I would just repeat that our understanding of the concern of the Code Group in relation to Zero/Ten is the interaction between personal and business tax and it relates to deemed distribution. So that is why our focus of attention is certainly on resolving those issues in terms of deemed distribution. There is nothing else that I am aware of that is viewed as being harmful.

2.15.2 Deputy M. R. Higgins:

In his earlier answer the Minister said 2 things: first, that deemed distribution arrangements related to personal taxation and were an anti-avoidance measure. Secondly, that if the measures were deemed harmful by ECOFIN he would amend the law and introduce a new revenue neutral tax. Would the Minister explain why he would introduce a revenue-neutral tax if it is for anti-avoidance purposes and does he have any intention of raising G.S.T. any higher to make up for these shortfalls?

Senator P.F.C. Ozouf:

The answer to that last question is absolutely no, not according to everything that I have. Clearly the Deputy believes that deemed distribution is a business tax regime. That is the view of some commentators in a negative sense on Jersey. Deemed distribution is an anti-avoidance mechanism. It is to ensure that there are reasonable

levels of dividends that are paid by trading companies and that are paid by the individual. If we did not have this avoidance mechanism for personal tax in place shareholders might avoid making distributions. Now, if we continue to be concerned about that issue then we can find alternatives which would be equivalent to that avoidance mechanism of deemed distribution. Those are issues that obviously I am discussing with my officials, if that is the concern of the Code Group.

2.15.3 Deputy M. R. Higgins:

The Minister has not answered the question about why would he introduce a revenue-neutral tax if it is going to be anti-avoidance?

Senator P.F.C. Ozouf:

Anti-avoidance makes sure that from a personal tax position you maintain your revenues. This is personal tax. Deemed distribution is on personal tax assessment and is the reason, by the way, why I do not know the numbers because it is going to be affecting the tax revenues for the first time next year. I have discussed it in detail with my officials in relation to whether there are alternative ways of anti-avoidance mechanism being put in place and indeed if you are concerned about individuals of shareholder loans and people extracting money from companies in a way that avoids tax, there are lots of other examples where you can put in place an alternative avoidance mechanism to maintain revenue for personal tax.

2.15.4 Deputy G.P. Southern:

Will the Minister agree to talk to his officials, namely the Controller of Income Tax, and seek an estimate to the revenue to be obtained in 2010 from deemed distribution?

Senator P.F.C. Ozouf:

That is going to be something quite difficult to work out because it is going to be affecting revenues next year. What I can say is that if you understand deemed distribution as I have attempted to explain Members will understand that it is possible to put alternative measures in place such which numerous nations, numerous tax systems have alternative avoidance mechanisms in place that would work equally well in terms of being revenue neutral. So I am reasonably confident that in the event that that is the issue we can find alternative mechanisms which would not mean an alternative tax black hole or additional problems. That is not the conclusion that we have reached.

2.15.5 Deputy G.P. Southern:

If I may, a supplementary? Will the Minister agree to talk to his Controller of Income Tax and seek a number - a sum - for the amount of revenue that might be produced in 2010 by deemed distribution? An estimate, please.

Senator P.F.C. Ozouf:

I would refer the Deputy to the answer that I gave and that is it is going to be difficult to work out exactly what, because of the economic situation ... the Deputy clearly does not understand that corporate profits and the whole world in relation to the way that individuals receive income has changed dramatically. It is very difficult in a world in which markets have been turbulent and income tax receipts are forecast. I will be able to give an estimate but I would say in about 12 months' time.

2.15.6 Deputy M.R. Higgins:

Is the Minister misleading the House when for example the Fiscal Policy Panel state in their report that the affect of Zero/Ten in 2010 has been estimated at around £80 million with the remaining £50 million being due to the economic downturn? Is he misleading the House?

Senator P.F.C. Ozouf:

I am not misleading the House. The issue of deemed distribution ... the Deputies want to say that changing the deemed distribution is going to be harmful... is going to cause a deficit. I am confident that it is not, and indeed deemed distribution will accrue to the revenues of the States next year. If the Deputies understand the way that deemed distribution works, and perhaps I should send a briefing note about it, then they will better understand and they will be able to ask alternative questions.

The Bailiff:

Deputy Le Claire, do you have a final question?

2.15.7 Deputy P.V.F. Le Claire:

I do. I would like to first of all request you to consider what might probably not be a point of order but continuously it seems that we put questions to the Minister and he changes the subject and then gives us an answer on the change of subject, avoiding the answer that we have requested. I have just listened to 3 supplementaries with a tail-end of answers he did not give to previous questions taking up time on this subject which is about alternatives. In my question on alternatives I specifically asked the Minister, and I would like to ask a supplementary on this, whether or not he had considered the consequences in relation to the amount of time it is going to take to draft legislation for a territorial tax which in some people's views may take up to 5 years. I wanted to know - although he has said that he has looked at that, that was as much as he said - and I would like to ask a supplementary. First of all, can he answer the questions; and, secondly, how much time has he considered it will take to draft legislation if we need to move to a territorial tax, which is an alternative that he has circulated to Members?

Senator P.F.C. Ozouf:

I apologise to the Deputy if I do not answer his questions. This is a complex area and I do try and inform Members to the best of my ability to the issue. To answer the direct question, in the event that we would - and it is a big if and it is not something which is currently being the policy option that we are progressing - consider that it would be in the best economic interests of Jersey to move to a territorial system the Deputy is right that it would take certainly 3, 4 or 5 years probably, in order to draft that legislation, for it to be considered properly by the Assembly, for us to understand the economic impacts, to consult and do all of those things. But that is not the favoured policy approach of Jersey at this present time.

The Bailiff:

Very well then, we move to the next question which the Deputy of St. John will ask of the Minister for Transport and Technical Services. Deputy.