

2.17 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the justification of 'Deemed Distributed' measures:

Further to the response given on 20th October 2009, over a year ago, when I asked the Chief Minister whether the introduction of the deemed distributive measures which discriminate against Jersey-owned Jersey companies in direct contravention of the Organisation for Economic Co-operation and Developments (O.E.C.D.) directive was justified, is he still able to justify the measures in light of the recent announcement by the E.U. Code Group?

Senator T.A. Le Sueur (The Chief Minister):

I think, like the Minister for Treasury and Resources, there is little I can add at this stage to the press release issued on 23rd November and my written answer to question 12 today. We have been informed that at this meeting on 19th November the Code Group reached a consensus that our present business tax regime gives rise to harmful effects. That is based on the view of the E.U. Commission that our deemed distribution affects business, not personal tax, and is discriminatory - a view that we have contested. We have been informed that there has not yet been a formal assessment by the Code Group and there are further discussions to go through before any final conclusion is reached.

2.17.1 Deputy J.M. Maçon:

Given that the Minister for Treasury and Resources does not feel that it is appropriate for him, as Minister for Treasury and Resources, to ask for the confidentiality of the ECOFIN report to be waived, given that the Minister is responsible for international affairs, will the Chief Minister ask for this?

Senator T.A. Le Sueur:

Although I am indeed responsible for international affairs, what the ECOFIN Council publishes is entirely a matter for their own decision and I am and Jersey is totally unable to influence that decision.

[11:30]

2.17.2 Deputy G.P. Southern:

May I move the Chief Minister on to the third item of the E.U. Code on Business Taxation, item 3, and will he state how the application of a zero rate applies to international business companies and how that accords with test 3 which says: "Whether advantages are granted, even without any real economic activity and substantial economic presence within the member state offering such tax advantages."

Senator T.A. Le Sueur:

Perhaps the Deputy could clarify how that relates to the original question?

Deputy G.P. Southern:

Certainly, there is a difference between how we treat locally-based non-finance companies and other companies based here which are internationally owned. Therefore there is a potential for discrimination on the basis of question 3 under the E.U. Code on Business Taxation.

Senator T.A. Le Sueur:

There will certainly always be a difference of opinion and a difference of interpretation by different people. On this case I think the Deputy and I are going to have to disagree on the interpretation.

2.17.3 Deputy G.P. Southern:

Is the Chief Minister confident that there is no discrimination under test 3 of the E.U. Code on Business Taxation?

Senator T.A. Le Sueur:

Whether I am confident or not is immaterial, it is what the general view turns out to be. At this stage it would be foolish for me for anybody else to speculate on what the outcome might be.

2.17.4 The Deputy of St. Mary:

Can the Chief Minister explain why - or maybe he cannot **[Laughter]** - Guernsey has taken a much more proactive stance and more or less accepted in advance and said: "Let us accept the reality" and I just wonder whether the Chief Minister thinks that not accepting reality is a good idea.

Senator T.A. Le Sueur:

No, I am not going to comment on Guernsey's policies. They have made certain statements, but they have also made statements to say that they wish to maintain the good and common relationship between Jersey and Guernsey and our approach to these matters, so one has to balance both those statements one against the other.

The Bailiff:

A final question, Deputy? No. Well, then we will move to question 22, which the Deputy of St. Martin asked of the Chief Minister.