WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER ANSWER TO BE TABLED ON MONDAY 6th DECEMBER 2010

Question

Will the Minister inform members how the deemed distribution provision under Jersey's zero/ten tax system can comply with tests 1 and 2 of the EU code on Business Taxation, given -

1. Whether advantages are accorded only to non-residents or in respect of transactions carried out with non-residents;
2. Whether advantages are ring-fenced from the domestic market, so they do not affect the national tax base;
3. Whether advantages are granted even without any real economic activity and substantial economic presence within the Member State offering such tax advantages.

Will he further state how the application of the zero rate to International Business Companies (IBC) accords with test 3?

The Minister stated the following in his press release on 23rd November 2010 -

"Jersey has been told that there was consensus on the part of Code Group members in support of the Commission's paper and that the present 0/10 regime, as it stands, was harmful."

Given the continuing controversy over zero/ten, does the Minister believe his actions have produced stability in business taxation matters?

Will the Minister inform members what "alternative anti-avoidance measures" to the use of deemed distribution he has under consideration which might comply with the Code?

Answer

Jersey's position continues to be that the deemed distribution regime does not fall within the scope of the EU Code of Conduct on Business Taxation, as they are a personal tax measure. The tests contained within the Code do not therefore apply.

Companies that are subject to the International Business Company (IBC) regime are subject to tax at rates of 30% on their Jersey-source income and rates of between 2% and 0.5% on income sourced outside the Island. Jersey has committed to phase out the IBC regime. No new IBCs have been permitted since 2006, while existing IBCs may continue to claim the status until 2011. After that date, existing IBCs will be taxed under the zero/ten regime. It is anticipated that the majority of these companies will be subject to the 10% rate of company tax.

Jersey's business community and its residents need to be certain that whatever action is taken in response to the EU Code Group review has been carefully considered, and its implications fully understood. The Minister for Treasury and Resources is taking steps to ensure that this is done, by continuing to engage with the EU, and through the ongoing Business Tax Review. Failure to do so would be irresponsible and would certainly cause instability.

It will not be possible to say for certain what action, if any, needs to be taken in response to the EU Code Group's review until the Code Group comes to a firm conclusion on zero/ten. This is unlikely to be before February 2011 at the earliest. It would therefore be premature to speculate on possible actions before then.