

2.6 Deputy M.R. Higgins of the Chief Minister regarding the Tax Information Exchange Agreement with India:

Will the Minister inform Members what the current position is regarding the Tax Information Exchange Agreement (T.I.E.A.) with India, and explain fully why it was not signed during the recent Ministerial visit to that country; and detail the reasons which have necessitated the delay?

Senator F.E. Cohen (Assistant Chief Minister - rapporteur):

During the course of the Ministerial visit to India issues arose concerning the ambit of the draft agreement and the timing of the implementation of certain of the draft provisions. As the Chief Minister has previously said in a reply to a written question on 29th March, the draft agreement was different in ambit from other agreements that India had previously entered into. It was also different, in some respects, from other T.I.E.A.s that Jersey had entered into. As a result of these considerations and because there was insufficient time for the Indian Cabinet to be consulted about any alteration to the terms of the draft agreement, it was necessary to delay signing an agreement until those issues could be resolved. Since that time the Government of India and the Island authorities have been in discussion as to how the matter can be best advanced, either by an amendment to the draft agreement to a more standard form or a signature of a collateral agreement as to its implementation. It is of course important that both jurisdictions have an agreement in terms that are satisfactory and capable of implementation. Both India and Jersey remain committed to the signing of an agreement in appropriate terms, and I very much hope that an agreement will be signed very soon and presented to the States for ratification in the usual way.

2.6.1 Deputy M.R. Higgins:

Can the Minister give us a little bit more detail in terms of some of the changes that the Indian Government is wanting? Are they wanting, for example, far more explicit clauses dealing with information from the Island?

Senator F.E. Cohen:

The draft agreement was crafted in such terms as to extend the extent of the recovery regime above and beyond that which would normally be expected in the tax information exchange agreement.

2.6.2 Deputy M.R. Higgins:

Could the Minister just explain a bit further about recovery regime, what do you mean?

Senator F.E. Cohen:

I do not think it is appropriate for me to go any further. The draft agreement was in terms that were not appropriate for signing in view of our standard term of Tax Information Exchange Agreement. Also there is a possibility that they could have been outside the entrustment provisions from the U.K. (United Kingdom) Government.

2.6.3 Deputy P.V.F. Le Claire:

The Minister answered by saying that the agreements were outside the normal ambits and has now said that it was not in the standard terms. Do other international Tax

Exchange Information Agreements that Jersey has with other jurisdictions differ in any way, or is there just one standard form that we normally get them to sign?

Senator F.E. Cohen:

Basically the terms of a Tax Information Exchange Agreement - and I say basically - are in standard form. Naturally I think over the years to come Tax Information Exchange Agreements will adapt and become extended, but at this stage we have generally a standard form of tax information exchange agreement.

2.6.4 Deputy R.G. Le Hérissier of St. Saviour:

Would the Minister tell the House whether or not this failure to sign was due to the fact that we did not carry out the proper homework prior to arriving in the country?

Senator F.E. Cohen:

I was not due to sign the agreement anyway, so it was not my failure to sign. The issue was that certain matters arose when we were in India that perhaps could have been better checked before we left, but the fact is that they fortunately were discovered while we were on our way to India and that put us in a position where it would have been inappropriate - as I have just explained - to sign the Tax Information Exchange Agreement as then drafted.

2.6.5 Deputy R.G. Le Hérissier:

Who discovered the absence of relevant information?

Senator F.E. Cohen:

I am not entirely sure, but certainly there was some examination of the proposals by the Law Officers' Department.

2.6.6 Deputy M.R. Higgins:

Can the Minister give assurances that it is not related in any way to the recent corruption and money laundering allegations being made against certain Indian officials about money in Jersey and elsewhere?

Senator F.E. Cohen:

Absolutely. As far as I am aware it is absolutely nothing to do with the corruption allegations in India. The issue simply relates to the fact that the draft T.I.E.A. that was supposed to be signed in India was not in standard form. Matters are being negotiated at the moment, it would be inappropriate to go into the detailed content of those negotiations, but I have little doubt that a Tax Information Exchange Agreement will be signed with India in short order.