

2.7 The Deputy of St. Martin of the Minister for Treasury and Resources regarding the long-term consequences for business ownership and locally generated personal income tax returns:

Given that 1(1)(k)s can, outside property rental, trade in Jersey at 1 per cent personal income tax rate once they have exceeded a predetermined yearly income of 20 per cent tax rate, what effect will that have on locally-owned businesses that will have to generate an additional 19 per cent profit to maintain parity in competitive businesses and what are the long term consequences for business ownership and locally granted personal income tax returns?

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

Experience has suggested that generally 1(1)(k)s tend to not invest in businesses which compete with existing locally-owned businesses. If they are involved in businesses, it has tended to be property-based which, as the Deputy quite rightly points out, will still be taxed at 20 per cent or they bring over new business which is very different to any existing business so therefore would not compete. If it becomes apparent that this is an issue, there are tools that could be deployed including the use of the Regulation of Undertakings and Development Law to minimise the risk. On balance, the benefits of the new 1(1)(k) regime to the economy outweigh the theoretical risk, but we will keep this issue under review.

2.7.1 The Deputy of St. Martin:

Yes, I almost anticipated the answer from the Treasury that this is a little small fry, that either local businessmen can take it on the chin because we need to keep his 1(1)(k)s sweet and happy. Surely, this anomaly was raised during my door-knocking by a businessman, who was very upset by the current arrangement, and he is asking us, you do need consultation during the run up to the ... I think it was, P.114, the proposition about the arrangement for 1(1)(k)s; did the anomaly come to light and if so what steps did the Minister for Treasury and Resources make to make it clear to all States Members that this anomaly existed, because I certainly was not made aware of it during the course of the debate.

Senator P.F.C. Ozouf:

The Deputy would seem to suggest that we do not care about local trading businesses and local residents. Quite apart from profoundly disagreeing with that personally, I would just explain to the Deputy the arrangements that exist to support local business through economic development, *et cetera*. All Governments have arrangements - or a lot of Governments around the world have arrangements - to boost their economy by attracting high net worth individuals to the jurisdictions. We had a full debate on this issue in the Assembly. I consulted Members on the issue and we debated it. As I say, if it does become an issue then there are tools that we can deploy in order to protect local businesses and I would not hesitate to do it and I will keep the matter under review. But, on balance, this is beneficial to Jersey.

The Deputy of St. Martin:

I did ask about why was the anomaly not brought to States Members attention during the course of debate?

Senator P.F.C. Ozouf:

I gave a substantial report on this issue, I published a report in relation to the lead-up to proposing the legal changes and we had a full debate in the States. I am surprised the Deputy was not aware of this issue when it was debated. For my part, I did my best to ensure that Members had a full understanding of it.

2.7.2 Deputy T.M. Pitman of St. Helier:

The Deputy of St. Martin is too polite, I think. I took part in that very full debate. The Minister said to me in that debate there were absolutely no negative knock-on effects from the 1(1)(k) regime. Would he now like to apologise to the States because I think the Deputy of St. Martin has proven him to be completely wrong.

Senator P.F.C. Ozouf:

The net benefit to the Island... Deputy Pitman has strong views on this subject and I do not think anything I will say will convince him. The fact is that we want to put in place a regime which not only benefits the Island but ensures that 1(1)(k)s bring their business to Jersey. We were dealing with this issue that 1(1)(k)s ran their financial affairs with their substantial trusts and other administrations in Guernsey when we thought the local economy can benefit from the undertaking of that work and that was the change that was envisaged and that is why in this place we had a full debate on it and Members in the majority approved it.

Deputy T.M. Pitman:

Supplementary. Does the Minister not ever answer the question?

Senator P.F.C. Ozouf:

I did answer the question and I state again that the overall benefits deal with the issue and I cannot be clearer. I have made my position clear on this.

2.7.3 The Deputy of St. Mary:

The previous questioner asked the Minister whether he could stick with his statement and others made that statement too that there were no negative effects. Here is a possible negative effect and the Minister has even pledged to keep it under review, so again, will he not go down the line of net benefit? We are not concerned with net benefit, we are concerned with the statement that was made in that debate that there can be no negative effects from 1(1)(k)s and will he agree and state now that that was not true? And the point about other jurisdictions having similar arrangements for attracting wealthy individuals, does the Minister not ...

The Bailiff:

I am sorry, Deputy, you asked one question, I think you had better stick to that.

Senator P.F.C. Ozouf:

The Deputy has made some extraordinary remarks in the media and in relation to another proposition about Ministers not effectively saying the truth, and I think that he is insinuating that I did not. I have been absolutely clear with Members about the 1(1)(k) regime but we debated it, there was a full report on the issue and I object to be the insinuation that somehow Members are not presented with full information. They were and this issue of attracting 1(1)(k)s will benefit the Island and I am confident in it and I would bring it again now, but I will keep under review the possible theoretical risks that the Deputy raises, which have been alert from the start of this process which I do not believe are going to be an issue.

2.7.4 The Deputy of St. Mary:

May I ask a supplementary? Does the Minister not agree that Jersey, being a very small jurisdiction in comparison to say the U.K., trying to attract wealthy immigrants, makes the risks much, much higher of what the Deputy in his original question was suggesting, that there will be or might be impact on local businesses if the 1(1)(k)s decide to compete with them? We are a small jurisdiction, surely that makes a difference.

Senator P.F.C. Ozouf:

I do not think it does particularly make a difference when there is a vibrant competitive market in what is effectively a small domestic market and I would again repeat that the main investments which 1(1)(k)s have historically made in the Island are property, and they are taxed at 20 per cent in the manner which I have explained in the original answer to the Deputy of St. Martin.

2.7.5 Deputy M. Tadier:

I think it is all too easy to be negative when we are looking at this. The Minister should be congratulated because at least the 1(1)(k)s are paying 1 per cent more than the zero-rated companies with which other local trading companies have to compete already. Now, the Minister in his furious comment that 1(1)(k)s only compete in areas that local traders do not, such as space travel and wind farms on the north coast. Even if that were true, does the Minister not agree that they are competing in general terms with the businesses that are fixed? There is a limited amount of money, certainly in terms of a recession in the Island and therefore they have a distinct advantage having to pay 19 per cent less tax than their locally trading counterparts. Will the Minister perhaps answer that direct question and say whether that is fair and does that have a negative impact on local traders?

Senator P.F.C. Ozouf:

I say again, that in theory, that is a possible outcome of the new regimes for the new 1(1)(k)s that would be attracted to the Island and would seek residence. But there are measures that we have, including the Regulation of Undertakings and Development Law and others which I will keep under review - or my successor, whoever that may be, will keep under review - in dealing with this issue and I repeat again that the overall net benefit of the Island of attracting 1(1)(k)s and their business, boosting financial services and, to the extent that they invest in property and pay in 20 per cent, is overall good for Jersey and good for the economy, creating jobs in what is a very difficult economic climate at the moment.

2.7.6 Deputy M. Tadier:

A supplementary, if I may? The Minister said that there are tools which he could use if it proves to be the case that this is prejudicial to local traders; what are those tools and will the Minister bring those tools forward in what is supposed to be a free market economy?

Senator P.F.C. Ozouf:

I have no evidence that this is an issue. It is a theoretical issue which was rehearsed in the previous answers to the Deputy of St. Martin. I know the Deputy and most of the questioners in relation to this issue do not agree with the 1(1)(k) regime. I

understand that point of view and nothing that I think that I can say will assuage them from their concerns.

The Bailiff:

I think the question was what are the tools available?

Senator P.F.C. Ozouf:

I repeat again, the Regulation of Undertakings and Development Law, which I will continue to keep under review.

Deputy M. Tadier:

Can I just say on a point of order, the Minister has absolutely no place in saying what the views are of other Members which he does not know. But the other point is he has not mentioned at all that is what I asked for and I am not asking for an answer now because the Minister has chosen not to answer but he could easily have given me materially what the tools are that they would use in the case to resolve these issues were they to be found to be true.

The Bailiff:

Well, I think in relation to tools, I did ask, Deputy, and the Minister said it was the Regulation of Undertakings and Development, that is what he said.

Deputy M.R. Higgins:

Could he explain? I thought it had been withdrawn.

The Bailiff:

Deputy, one moment, you are not next in the list of questions, it is Deputy Southern next.

2.7.7 Deputy G.P. Southern:

I have got my question here. Does the Minister not accept that the removal of a level playing field, this particular area of business taxation and the introduction of a further 1 per cent rate, tax rate for some but not all, puts the Island at risk of breaching the E.U. regulations on good practice for business taxation?

Senator P.F.C. Ozouf:

These are personal tax issues, they are not part of the E.U. code of conduct on business taxation. I do not see that there is an issue whatsoever in relation to that matter.

Deputy G.P. Southern:

A 1 per cent rate on businesses run by 1(1)(k)s in the Island is a business tax.

Senator P.F.C. Ozouf:

At the risk of offering the Deputy some information on the 1(1)(k) regime, Zero/Ten and all the rest of it, he needs to understand very clearly the difference between personal tax and business tax, which he clearly does not understand.

The Bailiff:

Deputy Higgins, do you wish to ask a question?

2.7.8 Deputy M.R. Higgins:

My apologies for jumping in first. Yes, my belief is the Regulation of Undertakings and Development Law is to be repealed because of part of the changes for the Migration Law, so what measures will the Minister for Treasury and Resources be bringing in to control this?

Senator P.F.C. Ozouf:

I do not know where the Deputy has been, but we have had a debate in this Assembly about a new composite law which replaces the Regulation of Undertakings and Development Law brought skilfully through the Assembly by Senator Routier which merges the Housing and Regulation of Undertakings and Development Law of which those tools were there. Again, the Deputy is gesticulating. Again, I do not think anything I will say will convince the Deputy that a 1(1)(k) regime is beneficial to the Jersey and beneficial for jobs.

[10:45]

2.7.9 Senator J.L. Perchard:

Would the Minister for Treasury and Resources please confirm for some Members who do not seem to be aware that utility companies in Jersey pay 20 per cent income tax, financial services companies registered with the Financial Services Commission pay 10 per cent income tax and all other companies, all other companies in Jersey pay 0 per cent income tax.

Senator P.F.C. Ozouf:

That is correct.

2.7.10 Deputy T.A. Vallois of St. Saviour:

Could the Minister advise whether any work has been undertaken to determine the risks for both competition and tax for businesses as of 2011 and therefore the ultimate underlying consequences of the consumer's pocket?

Senator P.F.C. Ozouf:

Again, I would refer the Deputy to the answer that I gave a few moments ago that the main investment by 1(1)(k)s is in property and not into domestic businesses in the Island. So we had looked at that. It is an anticipated potential development with it that we thought about but we do not think that, on balance, it is an issue, but we will keep the matter under review. We are not aware of any 1(1)(k) businesses or 1(1)(k) individuals that have invested in a way that is prejudicial to competition in the manner which the Deputy is trying to get me to confirm, which I do not accept. But we will keep it under review; if there is an issue I will bring forward proposals to deal with it.

The Deputy of Wimberley:

So, the answer was no?

2.7.11 The Deputy of St. Martin:

I am disappointed that the Minister should cast aspersions on me because I am asking questions about the 1(1)(k)s. Can I remind him that I did support the proposition and this question has come to me, it has come this morning as a result of consultation with my constituent in St. Martin so please I would ask that he withdraw any comments he has made about casting aspersions on me. But I am glad that he accepts that there is an unfair situation and can I have an assurance then from the Minister that he will follow this particular question up and there will be maybe a statement made in the

House, maybe in 6 months, as a result of the consultation and any inquiries that may well have come from other business people who feel they are trading on an unfair basis or playing on an unlevel playing field.

Senator P.F.C. Ozouf:

I thank the Deputy for his support and certainly I was reminded of his support for the 1(1)(k) regime, which I am pleased that he has stated. This is an issue of a theoretical risk, I thank the Deputy for bringing it to the Assembly in terms of ventilating the arguments because we are now further aware and Members may be more informed about the theoretical risk and certainly it is something that will keep under review, but I maintain the point that I do not think that there is an issue here. But we will review it should and if an issue be raised.