

4.11 Deputy G.P. Southern of the Chief Minister regarding the schedule for negotiating Foreign Account Tax Compliance Act agreements with the United Kingdom and United States:

Will the Chief Minister outline for Members the schedule for negotiating Foreign Account Tax Compliance Act agreements with the United Kingdom and the United States and advise what implications, if any, the Isle of Man's agreement to a F.A.T.C.A. with the U.K. has for Jersey?

Senator I.J. Gorst (The Chief Minister):

I refer the Deputy to my answer to his similar written question tabled today.

4.11.1 Deputy G.P. Southern:

Fine, thank you. That gives me plenty of opportunity to ask my supplementary then. Further, what implications for Jersey does the Chief Minister see in the E.U. (European Union) pressure now being exerted on certain E.U. Member States, such as Austria and Luxembourg, over the granting of Most Favoured Nation status by their agreement of a F.A.T.C.A. with the U.S.? Does that not mean that automatic information exchange is on the way, certainly within the E.U.?

Senator I.J. Gorst:

As I have said a number of times, Jersey is signed up to the E.U. Saving Tax Directives, in effect reserving its position with regard to automatic exchange on those bases until the E.U. itself has got common agreement across all its jurisdictions. Ministers have said in this Assembly that we recognise that automatic exchange of information is the standard which many jurisdictions are starting to consider and work towards and we are supportive and comply with all relevant international standards and will continue to do so.

4.11.2 Deputy J.H. Young:

Would the Chief Minister either confirm or deny whether it is correct that the U.S. position in these negotiations is that their agreement is dependent upon Jersey entering into the agreement with the U.K. and in the event of the U.K. agreement not being signed, then the U.S. agreement will not be ratified? Could he confirm or deny that?

Senator I.J. Gorst:

There are 2 separate pieces of work. Officials are well advanced together with Guernsey and the Isle of Man towards the culmination of a signing of a F.A.T.C.A. with the United States Government. Officials are equally side by side continuing to meet and discuss and negotiate with the United Kingdom Government with regard to helping them address their concerns around tax evasion of U.K. resident non-domiciled citizens.

4.11.3 Deputy M.R. Higgins:

Just following on from the Chief Minister's answer to that, has the U.K. Government threatened not to allow Jersey to sign the U.S. F.A.T.C.A.? That is what it comes down to. As part of their negotiations, are they saying: "You cannot sign with the United States unless you sign an agreement with us?" Yes or no?

Senator I.J. Gorst:

The United Kingdom Government ... I do not wish to speak on their behalf because I have no mandate to do so but it is my understanding that they believe or are convinced that F.A.T.C.A. will become an international standard and they wish to sign F.A.T.C.A. agreements with other jurisdictions and they are making that case to us and we are negotiating with them because we have said, and we will continue to say, that the U.S. F.A.T.C.A. agreement is global in its application and therefore creates a level playing field and that is what we are concerned about.

4.11.4 Deputy M.R. Higgins:

The Chief Minister has not answered the question. The question was have they threatened to prevent us entering into an agreement with the United States until we enter into an agreement with the U.K. on the same issue?

Senator I.J. Gorst:

We see no reason why we should not go ahead and complete the U.S. F.A.T.C.A. It seems to us to comply with the Letter of Entrustment that we have with regard to signing international agreements and therefore we expect to follow the normal course of affairs when signing these types of international agreements.

Deputy M.R. Higgins:

Sir, could you instruct the Chief Minister to answer the question he has avoided yet again?

The Bailiff:

Are you willing to answer the question about these negotiations, Chief Minister? The question was whether the U.K. has threatened or not to sign a F.A.T.C.A. with the U.S. unless we sign one with them.

Senator I.J. Gorst:

I have outlined exactly what I believe the process is and our interpretation of the Letter of Entrustment with regard to the signing of the U.S. F.A.T.C.A. and therefore I believe that that does answer the Deputy's question.

Deputy T.M. Pitman:

I have exactly the same question as Deputy Higgins. I am happy to ask it again and see if we can get a yes or no answer but otherwise I will just sit down and be quiet.

4.11.5 Deputy M. Tadier:

That is a kind of nuanced approach. It was simply a yes or no question. That is what we were asking for, so that is beyond the Chief Minister. The next question has to be has any legal advice been taken and is the U.K. able to block the signing of the agreement between Jersey and the U.S. if it so chooses to? That is the fundamental question and if he can answer a yes, no, maybe, or it is likely that something to that effect, I would be most grateful.

Senator I.J. Gorst:

I am pleased that the Deputy recognises that negotiations are not straightforward yes and no, and that Members of this Assembly would not expect me to put it in any way to the detriment of Jersey's best interests by being asked to simplify what are important but complex issues. I think I have answered the Deputy's question. As I have said, what Ministers and I believe is the appropriate process with regard to the completion of the U.S. F.A.T.C.A.

Deputy M. Tadier:

I thought this was question time not negotiation time.

The Bailiff:

What was the question, Deputy?

4.11.6 Deputy M. Tadier:

The question is that I appreciate that negotiations are not simple yes or no answers but question time in the States Assembly can be and often are simple yes or no answers but it does require an element of co-operation from our Ministerial colleagues.

Senator I.J. Gorst:

I seem to have answered a great number of questions on this particular issue over the course of a number of months and I have made our position, I believe, quite clear. Jersey is in alignment with the United Kingdom when it comes to tackling tax evasion and therefore it is right that we negotiate and consider with the United Kingdom how we can help them achieve that aim.

4.11.7 Deputy G.P. Southern:

My question is a 2-part, I am afraid. The first was what is the timescale for signing with the U.S. and it has not been answered, but secondly ...

The Bailiff:

I do not think it has been asked

Deputy G.P. Southern:

Pardon?

The Bailiff:

I do not think it has been asked.

Deputy G.P. Southern:

It was the original question, Sir.

The Bailiff:

Was it?

Deputy G.P. Southern:

Yes, the schedule.

The Bailiff:

The schedule for negotiations, right.

Deputy G.P. Southern:

That could be months or years, Sir, or weeks. The second half, just for clarification really, the Chief Minister has explained that while he is co-operating fully with the U.S. over signing a F.A.T.C.A., he is now refusing to co-operate with the U.K. and not negotiating but blocking the signing of a F.A.T.C.A. with them, thereby allowing Jersey to continue to act as a conduit for evaded tax.

Senator I.J. Gorst:

I have got to say I could not disagree more with the Deputy. I have been absolutely clear that our interests with regard to tackling tax evasion are absolutely aligned and our record in this regard, I think, stands second to none. In fact, our legislation is a lot stronger than many other jurisdictions around the world and we should be proud of that fact. So we are in conversation and negotiating with the United Kingdom around how we can help in that regard and we are not blocking. So with regard to the United States F.A.T.C.A. agreement that, in actual fact I understand from my officials, will be ready for approval in the next number of weeks and months, so in very early course.