

5.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding Tax Information Exchange Agreement requests from the French tax authorities:

How many Tax Information Exchange Agreement requests, if any, have been received from French tax authorities since the agreement was set up and how many have we been able to comply with fully?

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

Under the confidentiality article of the Tax Information Exchange Agreement between Jersey and France, Article 8 states that: "All information provided and received by the competent authorities of the parties shall be kept confidential." Details of the total number of requests received from France and answered by Jersey therefore cannot be disclosed by Jersey without the express permission of the French competent authority. The Deputy's question has been passed on to the French competent authority and confirmation has been received that the request has been referred to the Bureau CF3.

[10:15]

Permission to disclose total numbers is therefore still awaited. What I can say is that France has published the number of requests made of Jersey and the numbers of replies received in Jersey in 2011 in an official report, and that official report states that the number of requests made by France in that year were 16 and the numbers of replies received by France were 16.

5.4.1 Deputy M. Tadier:

The Minister must have a different interpretation. From what he read out, it sounds quite clearly that the intention is the information contained within the requests, i.e. that which one would expect to be confidential relating to clients' financial affairs in Jersey, should of course be kept between the 2 authorities. But I think the reading to any objective bystander - and I am sure even the Attorney General, were he to be present - it would be that the number of requests is by no means confidential and should be something that we should be given immediately upon request. Can the Minister clarify that, and also clarify why it has taken 2 weeks to get to this point and we have not progressed, given the critical nature in relation to Jersey's placement on this blacklist and getting answers relating to that?

Senator P.F.C. Ozouf:

A number of questions there, so I will pull up the article, but I am advised by my officials that it is the number of requests that is required to get permission from the French authorities to disclose. That is the advice that I have, and in any event, it would be appropriate to at least confirm that that is the French understanding of the nature of the article before I would disclose anything in public, so I await the answer from the French competent authority to the question of the total number. I am more than happy to disclose that number, but that would be wise to do so with the permission of the French Republic representatives. In relation to the Deputy's questions - and he has made a number of remarks, as other people have, on this matter - a great deal of work has been done since this proposed listing of Jersey on a non-co-operative listing has been made. The actual non-co-operative listing starts on 1st January, and indeed I am grateful for the Chief Minister's Department and the Assistant Minister with responsibility for External Relations' work in relation and my own officials that have been working very hard to ensure that we are not included in a list of non-co-operative jurisdictions by the French Republic as of 1st January next year.

5.4.2 Deputy S. Power of St. Brelade:

How confident does the Minister think he is with regard to the blacklisting being resolved in the calendar year of 2014 and has the Minister investigated the way the Tax Information Exchange Agreements are made and is he satisfied with that?

Senator P.F.C. Ozouf:

Indeed, yes, there are some T.I.E.A.s (Tax Information Exchange Agreements) where the competent authority is the Comptroller of Income Tax, there are others which it is the Minister. While I do not want to see any case names, I do not want to see any details of any of these, I certainly discussed with the Treasurer of the States, with the extremely high-performing individual, the Deputy Comptroller of Income Tax, who handles these matters and I am confident in the manner in which Jersey has been - certainly my own department - handling these requests. Clearly there is an issue to resolve with the competent authority in France and I would say to the Deputy that all endeavours, the Chief Minister's Department, my own department, will be directed towards ensuring that we comply and the French believe that we also comply with the spirit and the understanding of this agreement. It is important that clearly there may be a misunderstanding, there is some sort of problem somewhere, but certainly from my own investigation of the way my department is handling it with them, I find them to be co-operative, helpful and indeed I have also noted the complimentary comments that we have received from many other jurisdictions about the speedy, timely and efficient handling of requests from a number of countries around the world. Clearly there is a problem and we want to resolve it as quickly as possible to our mutual satisfaction.

5.4.3 Deputy G.P. Southern:

Is it the case that tardiness in response to individual cases is the root of this blacklisting or is it rather tardiness in response to automatic exchange of information, progress on that front? For example, compared to the Isle of Man and Guernsey, we have still not signed up to the European Savings Tax Directive.

Senator P.F.C. Ozouf:

I do not know how quickly the Deputy is aware of announcements made by the Chief Minister's Department and Ministers, but we have confirmed a number of matters in recent months, first of all as far as automatic exchange of information. The Chief Minister has said that we will be part of the G5 initiative and we will be working with France. Indeed, France is a Vice-Chair of the overseeing group with the O.E.C.D. (Organisation for Economic Co-operation) that looks at Tax Information Exchange and other arrangements, so indeed we should be and are regarded as a leader in terms of the G5 initiative. I am afraid the Deputy, I know that he probably gets his information from other places, but I am afraid it is just simply not right to say that Jersey is in any way tardy or unco-operative. My own findings of my investigation of my department is that we are anything but. Indeed, the department is speedy, timely, appropriate and extremely helpful to most jurisdictions around the world. There is, as I repeat, an issue with France which we must deal with, but we must deal with it co-operatively and properly and best endeavours are made, and indeed, the Assistant to the Chief Minister I think has secured a meeting with both the Ambassador in London and indeed Paris in forthcoming weeks.

5.4.4 Deputy G.P. Southern:

A supplementary, if I may. Is it not the case a contributory factor is that the Isle of Man and Guernsey have fully signed up to the E.U. (European Union) E.S.T.D. (European Savings Tax Directive) and we are still applying withholding tax?

Senator P.F.C. Ozouf:

This is a completely unrelated issue. This matter is in relation to the specific operation apparently of the T.I.E.A., although unfortunately we do not know any information yet from the French authorities about exactly what their own subdivisions within their tax authority or other departments have to deal with. Indeed, it must be said that some countries are more efficient in their handling of arrangements than others, and indeed, where there is an opportunity to improve the information flow between the competent authority in Jersey and the tax authority in another

country, we must do so. I am certainly satisfied from our own handling of the efficiency of the handling of requests. If we can improve arrangements in France, then we will do so. But that requires of course a dialogue on both sides.

5.4.5 Connétable of St. John:

Would the Minister agree that Members of this House going off-Island making statements to foreign newspapers and journalists running down the way Jersey runs its finance industry is not helpful and Members should consider the damage done to our Island is not in our best interests?

Senator P.F.C. Ozouf:

Yes.

5.4.6 Deputy J.M. Maçon of St. Saviour:

Can the Minister explain why when in previous written questions the Treasury has been able to give the number of how many T.I.E.A. requests have been given into the department and that information has been published, or can the Minister explain why France is singled-out to be different and explain why that is? Can you confirm that the process he is alluding now has to happen with France in order to get that information did not need to happen in all of these other countries when the information was requested, and explain why we are in that situation?

Senator P.F.C. Ozouf:

Individual T.I.E.A.s do have different arrangements in place. I recall that United States Tax Information Exchange Agreements have the same provisions, that the United States does not allow another jurisdiction to disclose the amount of requests that it makes unless it agrees, so I am in exactly the same position in answering questions. But we have passed the Deputy's request to France and I hope ... I certainly am aware of the number of requests. I have clearly indicated to the Assembly that while I have not seen the individual information, I am satisfied with the modalities and the arrangements that we are handling and that we want to resolve clearly a misunderstanding or some issue that needs to be dealt with France. But I repeat again, I am more than happy to release that information if France allows us to do so and I am content with the modalities of the arrangements that we have. Indeed, I have been impressed with the way the Deputy Comptroller's office handles these matters.

The Bailiff:

A final question, Deputy Tadier?

5.4.7 Deputy M. Tadier:

I will not deal with the comments of the Constable of St. John. I did feel that dinosaurs had died off during the Cretaceous period, but I will simply let history deal with who is correct when it comes between the differences of myself and the Constable of St. John. Could the Minister for Treasury confirm that we can expect to see between more than 5 but no less than 10, as one local source who had been speaking to finance and Ministerial officials to do with the number of T.I.E.A.s which the French were querying at the moment, and if that is the case, can he explain why that number might be bandied around to journalists, but the information is not being made available to Members when they are putting questions forward in an official capacity?

Senator P.F.C. Ozouf:

In relation to the first answer, I do not think it is helpful that inaccurate and unfair judgments are passed on the standards of our financial services industry by Members of this Assembly to French press, and so I do not think is an attribute that could be ...

Deputy M. Tadier:

A point of order: I did not ask that, and if that is the case, why does the Minister keep on giving false impressions to the international community when quite clearly I have been vindicated by Jersey's presence on the blacklist, because clearly France do consider us a tax haven. Clearly money is kept here by French individuals, Sir.

The Bailiff:

This is question time, not submission time.

Deputy M. Tadier:

If the Minister will pick a fight, then he can expect a response. Money must be kept in Jersey by French companies ...

The Bailiff:

Deputy, sorry, this is question time.

Deputy M. Tadier:

... otherwise we would not have requests for that information.

The Bailiff:

If you could carry on with your answer, please.

Senator P.F.C. Ozouf:

I think the Deputy displays to the Assembly again his profound lack of understanding, lack of knowledge of the standards that apply to the financial services industry and I think it is a matter of regret when a Member of this Assembly does continue to repeat ...

The Bailiff:

Can you move on to answer his question?

Senator P.F.C. Ozouf:

I am answering the question, Sir, indeed that he said that the Connétable of St. John was a dinosaur, which I think was unfair. I cannot and will not speculate on the number of requests. I am confident that as far as my own department and officials are concerned, there has been no speculation of numbers and it would be entirely inappropriate to do so. What I will do, with the assistance of the Assistant to the Chief Minister, who I again thank for his assistance in helping resolve this matter, I will inform Members as appropriate of the permissions that we receive from France, both in terms of the outstanding requests and the resolution of that, and I express the hope that we will be able to resolve this issue to both parties' satisfaction in the earliest possible course.

The Bailiff:

Very well. We come next to a question which Deputy Southern will ask of the Minister for Social Security.