

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY M. TADIER OF ST. BRELADE
ANSWER TO BE TABLED ON TUESDAY 24th FEBRUARY 2015**

Question

Is the Chief Minister committed to tackling tax avoidance, more generally, in addition to his previous commitments on “tax evasion” and “aggressive tax avoidance”?

Will the Chief Minister also provide examples of when “ordinary tax avoidance” becomes “aggressive tax avoidance” and where the onus lies in Jersey for tackling these mechanisms, which may have their genesis elsewhere?

Answer

A problem faced in responding to the question is that there is no precise definition of the various terms used in respect of the actions of those who seek to reduce their liability to tax. In particular there are no clear boundaries between tax planning, tax avoidance, aggressive or abusive tax avoidance and tax evasion.

However, tax evasion is criminal and in 1999 Jersey was one of the first countries to include tax evasion as a predicate offence in our AML legislation. The international Financial Action Task Force only included it in their recommendations in 2012.

Tax evasion also occurs when individuals fail to disclose income in their tax returns. An example of where the Island has acted in support of other jurisdictions is our voluntary support of the EU in its action to tax savings income.

On tax avoidance the position is less clear cut. Where an individual or company takes advantage of legislative provisions which the legislature intended, this tax avoidance is now often referred to as tax planning. For example those resident in the UK who qualify for the resident but non-domiciled status are not required to pay UK tax on foreign source income if that income is received into a Jersey bank account and is not remitted to the UK.

On the other hand, there will be cases where individuals or companies engage in tax avoidance which, while legitimate, seeks to exploit loopholes in legislation in a way that was not in the mind of the legislature when that legislation was enacted. It is for the legislatures in the countries concerned to close the loopholes, but Jersey has always sought to avoid any reputational damage that might be caused by an association with this activity.

In some cases there is an international response, as with the OECD Base Erosion and Profit Shifting (BEPS) programme. Jersey is supportive of this programme which includes, among other things, a country by country reporting requirement for companies.

In other cases there are schemes that were introduced by the UK Government to promote investment in certain sectors (e.g the film industry) which have subsequently been taken advantage of by tax advisers on behalf of UK clients with the objective of securing substantial savings in tax. In a number of cases these have been successfully challenged by the UK HMRC

Jersey does not need or want to be associated with any such arrangements that are considered to fall within the definition of abusive tax avoidance. This was the subject of a public statement issued in July

2014 in which I and the then Treasury minister said “We support fair tax competition, and view legitimate tax planning as an appropriate response to operating cross-border. We do not support that which goes beyond legitimate tax planning for commercial purposes nor do we want our service providers to host abusive tax schemes designed to frustrate the will of national parliaments.”

Government, the JFSC and JFL have joined forces to seek to ensure that in future such schemes do not involve the Island. We have also made it clear that we want to support the UK in achieving their ambitions in relation to that which we consider to be unacceptable and have had discussions with HMRC on how that support might be provided..

We will continue to respond to any situation where the reputation of the Island is threatened. There is plenty of legitimate business available which can be relied upon to support Jersey’s continued success as a quality international finance centre.