

2018.11.06

**2 Deputy G.P. Southern of St. Helier of the Minister for External Relations regarding the provisions of the Draft Taxation (Companies – Economic Substance) (Jersey) Law 201-: [OQ.175/2018]**

Will the Minister advise whether, by restricting the Economic Substance Law, P.132/2018, to resident companies only, the law will only apply to some 13 per cent of Jersey companies and not to those incorporated outside the Island and trading within it; and whether, if such companies' profits are not recorded, Jersey will have any means to assess whether such profits have local economic substance and thereby meet the Code of Conduct Group's test?

**Connétable R.A. Buchanan of St. Ouen (Assistant Minister for External Relations - rapporteur):**

I thank the Deputy for his question. The answer is that the draft law will apply to 100 per cent of Jersey resident companies, whether they are incorporated in Jersey or not. It correctly uses the residency test already established in Jersey under the Income Tax Law 1961. This is a test on being managed and controlled in Jersey. The draft law comes from the Code of Conduct Group on Business Taxation and is therefore appropriate for Jersey to use this residency test. For the avoidance of doubt, this test does include 11,000 companies, which are incorporated outside of Jersey, but are managed and controlled within the Island. All Jersey resident companies will have to complete a revised tax return, which will require them to provide the information related to the Economic Substance Law.

**4.2.1 Deputy G.P. Southern:**

Approximately, in percentage terms, or in real terms, how many companies will be included in the data-gathering process to decide on economic substance in Jersey?

**The Connétable of St. Ouen:**

I anticipated the Deputy's question. There are 48,000, approximately, Jersey-resident companies, either incorporated in the Island or outside the Island, that are managed in the Island.

**4.2.2 Deputy G.P. Southern:**

They form the bulk or part of the number of companies being assessed to see if they pass the economic substance test, is that the case?

**The Connétable of St. Ouen:**

Yes; that is indeed the case. If they are resident and controlled in the Island then they will be caught by the substance test.

**The Bailiff:**

I think the question was whether they formed the bulk of the companies that have to be assessed.

**The Connétable of St. Ouen:**

The only answer I can find is, if they pass the "controlled in Jersey" test, the company is controlled within the Island, then they will be caught by the substance test. The number I have is there are 48,000 such companies in our sights, which will be caught.

**4.2.3 Deputy M.R. Higgins of St. Helier:**

Can the Assistant Minister elaborate on that 48,000 companies controlled within the Island? There may be 48,000 registered in the Island but is the Assistant Minister trying to say that, every one of

them, the decisions are being made by a board in Jersey or are they just being managed in the sense of registered here, they put in the returns and, so on?

**The Connétable of St. Ouen:**

In essence they are controlled. To pass the substance test they will have to be controlled in the Island. That means that decisions about running the company will have to be taken by the board of directors of that company in the Island and they will have to pass other tests about economic activity in the Island. So that broadly is the figure of companies that will be caught by this and until we start applying the test it is very difficult to have exact numbers. Some of those companies may just disappear and decide not to apply. But broadly speaking it is about 48,000 companies.

**4.2.4 Deputy G.P. Southern:**

On a completely different matter in a sense, and this is about procedural leave, could the Assistant Minister state why the original lodged proposition had to be withdrawn and replaced by the one we are talking about today, P.132?

**The Bailiff:**

You are right; that is completely different. Do you feel able to say anything?

**The Connétable of St. Ouen:**

There was a procedural error when the original proposition was lodged and it was an old version and it has now been withdrawn and the version to be debated is the correct version. So I apologise to the House on behalf of the External Relations Department; it was their error and we have corrected it.

**The Bailiff:**

We come to question 4 but, Deputy Ward, I understand that, as the Minister is away, you have agreed to receive a written answer?

**Deputy R.J. Ward of St. Helier:**

Yes, I would like to have a supplementary question, if possible, to the Assistant Minister.

**The Bailiff:**

I do not see how you can have a supplementary when we have not had an answer yet.

**Deputy R.J. Ward:**

Can I ask a question?

**The Bailiff:**

Assistant Minister, are you in a position to answer question 4? I understood it had been agreed that a written answer would be provided.

**The Connétable of St. Ouen:**

Yes, it has been provided. We do have a response, it is not very exciting but I am happy to provide it if necessary.

**The Bailiff:**

Very well, Deputy Ward, you have a question to ask the Assistant Minister.