

21.02.09

**5 Connétable K. Shenton-Stone of St. Martin of the Minister for Economic Development, Tourism, Sport and Culture regarding the position of capital allowances in relation to the growing and processing of medical cannabis (OQ.25/2021)**

Has the Minister considered the position of capital allowances on the large infrastructure costs, interest payments, related party fees and other mechanisms used to reduce the potential taxable profits arising from the growing and processing of medicinal cannabis; and will he state whether this will be fully addressed prior to any draft regulations being proposed?

**Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):**

This is ultimately a matter for the Minister for Treasury and Resources but I can report that Treasury officers have not yet commenced work to devise a scheme of taxation for medicinal cannabis. As stated in the response to the Constable's Written Question 35 of this year which was presented today, the Minister for Treasury and Resources has already laid the way for taxation of that sector.

[11:15]

Article 16 of the Finance (2021 Budget) (Jersey) Law 2020 enables the States to make regulations providing for the taxation of profits of companies whose business involves or relates to cannabis or its derivatives. So provision has already been made to do that. It is envisaged that work on the scheme of taxation for the sector will commence this year, once further progress has been made with other important tax reviews, such as independent taxation. But I would like to stress it is very much the intention that sector of the industry is appropriately taxed.

**6.5.1 The Connétable of St. Martin:**

I would just like to say to the Assembly, we are not talking about hemp here. So we are introducing the growing of high-grade medicinal cannabis in the Island and the Minister for Economic Development, Tourism, Sport and Culture is telling the Assembly ...

**The Bailiff:**

Sorry, Connétable, it has to be a question.

**The Connétable of St. Martin:**

I am just trying to get this correct, sorry. So the industry will not be regulated and we have already given out licences. Surely this work should have been done before the licences were given out. Can he tell me, as he has said to me verbally, the industry will be taxed at 20 per cent?

**Senator L.J. Farnham:**

I am not sure. The Connétable did state that the industry will not be regulated. I am not sure that has relevance to the question. But I can assure Members the industry is very highly regulated, in line with an M.O.U. (memorandum of understanding) with the U.K. Home Office who have delegated responsibility under the U.N. (United Nations) Cannabis Convention to Jersey. So the industry is very highly regulated and licensed. That is under the regime of the Minister for Health and Social Services. The Tax Department are doing the work on taxation of the sector at the moment. It is envisaged, but has not been agreed yet, the industry will be taxed at 20 per cent. But work is ongoing and I want to reassure Members that the industry will be appropriately taxed.

### **6.5.2 Deputy M. Tadier:**

I do not offer an opinion of course on this, but presumably the consideration being given to the appropriate level of taxation for these companies could also consider a zero rate or a smaller rate than 20 per cent. Because I would imagine being competitive is also in the forefront of the Minister's mind when it comes to attracting companies who grow and distribute and manufacture medicinal cannabis products in the Island to come here and to stay here. So, could he maybe say that the 20 per cent tax rate is not automatically in his thinking?

### **Senator L.J. Farnham:**

The 20 per cent rate is automatically in my thinking. That would be a fair rate. Jersey is leading the U.K. and leading the world in some instances in this sector by having a very highly regulated and controlled space from which to operate in. We want to go with quality, very high-quality production, extraction, manufacture, export, rather than quantity. 20 per cent is a competitive rate. It could even be taxed in a different way. Like I say, our tax specialists are doing the work. It is a very young industry. They need to complete their estimates and we need to wait for their advice before we make an agreement. But I have made it clear right from the word go, as well as providing more sustainability for our agricultural sector and improving productivity, in line with the rural economy strategy, this has to be a financially viable exercise for Jersey and the taxpayer moving forward. It can be if it is controlled properly and taxed properly. It can be of benefit to the Treasury and Islanders moving forward.

### **6.5.3 Deputy M. Tadier:**

The Minister will be aware that some of the barriers are slowly coming down for medicinal users in Jersey who want to access products. He has talked about high-quality products being produced. I know they will not exclusively be medicinal products but could be C.B.D. (cannabidiol) products as well. But does he find it strange that the industry could be producing high-quality products, which themselves are not being sold in Jersey, which could potentially also attract some kind of duty or tax and other revenues on their sale? Are we missing out as well as potentially doing a disservice to currently-vulnerable people in the Island who would want to consume these high-quality products?

### **Senator L.J. Farnham:**

That is a debate for the States for another day. There is certainly opportunity to improve the health of Islanders and to gain revenues from such activity. But that is quite separate from the industry we have established, which is based around the cultivation of cannabis, primarily for export to pharmaceutical and for medical use. The States need to discuss that at the appropriate time and make the appropriate decision.

### **6.5.4 Deputy G.P. Southern:**

We must beware of bandying about rates of tax as if we can run the whole gamut between zero and 20 per cent, depending upon where we choose. Surely that would be a challenge to our good neighbour policy on the E.U. (European Union), who are indeed there and have imposed Zero/Ten on us in order to make our regime non-toxic for them and fairer. If we were to start bandying different rates of tax around, we would be challenging the E.U. and their relationship with us, would we not surely?

### **Senator L.J. Farnham:**

I am not sure I would agree. We are not really bandying rates of tax. I was asked by the Connétable whether we were considering a rate of 20 per cent and the answer is yes, a rate of 20 per cent is being considered. Our taxation is a matter for ourselves. So I do not see it causing a problem. If anything, the E.U. has a problem with zero tax, not 20 per cent.

**6.5.5 Deputy G.P. Southern:**

The fact is that, under E.U. conditions, we are allowed those 3 bands of tax, zero, 10 and 20, and that is it. We cannot go to 15 per cent or 10 per cent or 17 per cent on things when we choose. I thought I heard the Minister say that was perfectly possible.

**Senator L.J. Farnham:**

I would rather wait to receive the expert advice, and I just stick to the position I said earlier that 20 per cent was currently being considered. I have not heard any other rates. But we could come back and, for example, perhaps a different form of taxation could be applied to the sector, perhaps a turnover tax for example or some other form of taxation. Although that is unlikely. We need to let the tax experts do their work and come back and listen to the advice at the appropriate time.

**6.5.6 Deputy R.J. Ward:**

Can I ask the Minister, in the rush to create another tax-producing industry in the Island, has he taken account of all of the possible long-term environmental effects of another monoculture? Some simple examples are the amount of water needed to grow the crop, the possible introduction of different pests, and the perhaps toxic effect on local wildlife.

**Senator L.J. Farnham:**

I am not sure if that relates to the initial question. But as part of the licensing application and process, environmental impact studies are required. There has been a lot of misinformation and concern about the sector and I would encourage Members to visit facilities in relation to just how the crop is grown. It is certainly a far-more friendly and sustainable use of the land than many other types of agriculture we currently deploy.

**The Bailiff:**

Deputy Ward, I allowed that question in. That slipped past me into the net I am afraid. I do not think it related to the original subject matter. So I will not allow a supplementary on it.

**6.5.7 Deputy D. Johnson of St. Mary:**

For the benefit of the Assembly, will the Minister confirm that he and his officers gave a presentation to the Economic and Industrial Affairs Scrutiny Panel less than 2 weeks ago and that he has committed to replying to some further questions we are about to raise, which are fairly imminent I might suggest? Will he confirm that these will be duly answered perhaps in anticipation of the panel conducting further work on this subject?

**Senator L.J. Farnham:**

Absolutely yes.

**6.5.8 The Connétable of St. Martin:**

What work has been carried out to prove that the production of hybrid medicinal cannabis will be a significant economic benefit? Bearing in mind the tax position on local companies and the

structuring of investment companies within trusts where it is difficult to see any significant economic benefit for the Island.

**Senator L.J. Farnham:**

Sorry, could the Connétable just elucidate that question? I am not sure I understood it.

**The Connétable of St. Martin:**

What work has been carried out on the production of high-grade medicinal cannabis to prove that there will be a significant economic benefit? Bearing in mind local tax positions on local companies and structuring of investment companies within trusts. It is not always so straightforward, so has work been carried out to prove that there will be a significant economic benefit?

**Senator L.J. Farnham:**

Thank you to the Connétable just for explaining that a little more clearly. Work has been ongoing on this project for almost 3 years now. It was originally identified in the rural economy strategy that we must drive towards the cultivation and production of higher-value crops. A considerable amount of work has been done, not just on cannabis, but other crops as well. We have many papers and evidence based on facts in relation to the potential financial benefits of such a market. But not just to the Treasury, creating new employment streams, new skillsets. It is not just about cultivation and growth. It is about scientific research, intellectual property, so there are lots of other elements to the industry that could benefit the Island and Islanders. But of course happy to share that information with Members if they so wish. A lot of work has been done. But I would also stress, it is a relatively new industry and we have to monitor it closely. This is a long-term business development programme and I ask Members to support it and help it grow, if you will excuse the pun.

**The Bailiff:**

I understand that question 6 now is being deferred, Deputy Pamplin?

**Deputy K.G. Pamplin:**

Yes, thank you. For the benefit of Members, I thank the Chief Minister for contacting me and, further to my email to the Greffier, this question will be asked by the Chief Minister in questions without notice. My second question later on in the order will be deferred for the new Minister when he has that responsibility in place in a couple of weeks' time.

**The Bailiff:**

Senator Gorst, you had a point of order.

**Senator I.J. Gorst:**

I did. I hope it is a point of order. Things were inferred in the previous question in regard to cannabis, which I do not think are correct. I wonder if you could rule, tax rates and fiscal matters are purely a domestic matter for the decision by the States of Jersey and not, as intimated by a questioner in that previous question, so I wonder if you can just rule on that?

**The Bailiff:**

I cannot rule on that. No matter what view I might take of the matter, Senator Gorst, it is not a matter on which the Presiding Officer can make a determination or the application of Standing Orders. Effectively that is a matter to be clarified outside of the course of questioning.

**Senator L.J. Farnham:**

To be helpful, I did allude to that in my answer. I did say, maybe not forcibly enough, that tax matters were a matter for the States.

[11:30]

**The Bailiff:**

Thank you very much but we cannot continue with this. This cannot be an exchange. I was asked for a point of order. I have indicated there is nothing for the Chair to rule upon and we must now move on.