

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

1. Statement by the Chief Minister regarding the signing of Tax Information Exchange Agreements

The Deputy Bailiff:

Now before we come to Questions, as Members know, the Chief Minister has given notice that he would like to make a statement and he has also indicated he has to leave the Island sometime this morning, I think, Chief Minister, is that right? So he has requested, if Members would agree, that he be able to give his statement at this stage. Do Members agree to that? Very well, Chief Minister, if you would make your statement then.

1.1 Senator T.A. Le Sueur (The Chief Minister):

Thank you, I am grateful to Members for allowing me that because I have to leave shortly to go to London. But I would like to inform the Assembly that, in pursuance of our policy of signing Tax Information Exchange Agreements when it is in our interests to do so, I will be signing a Tax Information Exchange Agreement with the United Kingdom later today in London and with France later this week. I should add that I have the full support of Jersey Finance Limited for signing both these agreements at this time. It is widely known that Jersey is one of the highest quality financial services centres with a long-standing reputation for stability, effective regulation and co-operation in the fight against international crime, terrorism and tax evasion. The Island is accustomed to independent scrutiny having just undergone a full assessment by the I.M.F. (International Monetary Fund), a report on which is expected in a couple of months and is currently working closely with the U.K. (United Kingdom) Chancellor's Independent Review of British Offshore Financial Centres. It is our longstanding policy that when there is a level playing field which encompasses all major financial centres, we will enter into financial information exchange without the need for incentives. However, given the current absence of a level playing field, we have agreed that where another country is offering sufficient reciprocal benefits we will sign a T.I.E.A. (Tax Information Exchange Agreement) with that country. To date we have signed 10 T.I.E.A.s of which 8 are with O.E.C.D. (Organisation for Economic Co-operation and Development) member states including the U.S.A. (United States of America) and Germany. With the signing of T.I.E.A.s with the United Kingdom and France and shortly with Ireland and Australia, Jersey will satisfy the O.E.C.D. benchmark of T.I.E.A.s with 12 O.E.C.D. member states. With the T.I.E.A.s being signed this week, France has offered exemption from certain property related taxes for Jersey residents and companies and the U.K. has agreed that Jersey residents drawing a U.K. pension will only pay tax in Jersey. However, more importantly, both countries have recognised Jersey as a jurisdiction committed to international co-operation. To quote: "The United Kingdom recognises Jersey as a member of the community of jurisdictions committed to international co-operation and information exchange on tax matters and wishes to assure the States of Jersey that Jersey will be treated as such by the United Kingdom authorities." These are very important endorsements particularly at the current time. Members will be aware of the media coverage in the run up to the G-20 Summit on 2nd April in London. The Summit is intended to provide a forum for world leaders to co-ordinate their actions to support the world economy in order to manage the effects of the current world recession and financial turmoil. However, much media coverage also focuses on reported intentions to take action against so-called tax havens. Indeed, in the European context there has been considerable attention given to Switzerland and the requirements to ensure that they participate fully in international programmes. I and my Ministers take this very seriously and we are working hard to ensure that Jersey is not only predictive of any actions, but it is also well placed to enhance its standing as an international financial centre and thus grow out of the recession in a way which positively benefits all Islanders. I am pleased that the statements being made by the United Kingdom Prime Minister and other world leaders reinforce their commitment to a level playing field and recognise that there is a clear distinction between those

international financial centres like Jersey who operate to internationally accepted standards and who are co-operating with exchange of information on tax matters and others who do not. The same understanding is emerging from the United States as is evidenced by the provisions within the Levin Bill. To give one example, the President of the European Commission said, in a recent speech: "There is no legal definition in E.C. (European Commission) or international law for tax havens or offshore financial centres. We have to be clear that some offshore financial centres are co-operating and accept recognised internationally accepted standards and others do not." He then went on to say: "The O.E.C.D. global forum on tax matters is drawing up a new list of jurisdictions that are not co-operating for exchange of information on tax matters." We called in Berlin for a list of unco-operative jurisdictions and a toolbox of sanctions. I understand the proposals in relation to unco-operative jurisdictions will be discussed at the Finance Minister's meeting this coming weekend and will be reviewed at the G-20 London Summit. I know that some Members and people in the Island are worried by the reports from the media. I am determined to do everything possible to ensure that Jersey emerges from the current turmoil and uncertainty in better shape to benefit from our position as a leading international finance centre. We are not and will not be complacent but I believe that our actions in recent years in reforming our tax systems, seeking the highest appropriate standard of regulation and business performance and engaging positively in the T.I.E.A. process, means that we have nothing to fear from the G-20 and subsequent processes. Indeed, it seems to me that it is those of our competitors who are pursuing isolationist, non-co-operative agendas which should be fearful and I think their clients should be reviewing their positions very carefully. Of course, the G-20 Summit is only one step in a very long process and we have much more work to do. I envisage that some of our highest priority work streams in the near future would be to support, protect and enhance our finance industry as this will benefit all Islanders. I am committed to doing so and I will continue to report on progress as major issues emerge. Thank you. [Approbation]

1.1.1 Deputy R.G. Le Hérissier of St. Saviour:

Thank you, 2 related points; would the Chief Minister calculate for the House how much business approximately will be lost by this and, secondly, would he acknowledge that this is essentially the first step on what could be the demise of the industry?

Senator T.A. Le Sueur:

I do not believe that any volume of respectable business will be lost. If we lose some of the margins that is perhaps no bad thing, but I think, more importantly, by protecting our position for the future we stand to gain far more than we lose.

1.1.2 Deputy G.P. Southern of St. Helier:

Did the Minister in that previous statement imply or intend to imply that we have some non-reputable business?

Senator T.A. Le Sueur:

No, I meant to imply that some customers will choose to go to places where there are different standards adopted for their own particular reasons. It is those sort of clients, for whatever reason that they choose, who may well find that their chosen location is a different one. I believe that, on balance, we will be in a very positive position.

1.1.3 Deputy G.P. Southern:

Could the Minister outline to Members under what circumstances tax information will be exchanged and what type of businesses are concerned with the T.I.E.A.s he is currently signing?

Senator T.A. Le Sueur:

The criteria for allowing divulgence of information under a Tax Information Exchange Agreement is clearly set out in the individual agreements and certain criteria do have to be met.

Providing they are met we will co-operate fully. What we will not do is engage in any fishing expeditions or other activities of that nature.

1.1.4 Deputy P.V.F. Le Claire of St. Helier:

Could I ask the Chief Minister whether Guernsey and the Isle of Man are also on track to do this this week? They have done it? Okay. Also, the quote on the front page is: "However, more importantly, both countries have recognised Jersey as a jurisdiction committed to international co-operation" and then the Minister goes on to quote. Could I ask who that quote is from, please?

Senator T.A. Le Sueur:

That is a quotation which we have requested from the U.K. authorities and which they are prepared to give and that puts us in a much stronger position and is one of the reasons why we are now agreeing to sign the Information Exchange Agreement. That quote does come from the U.K. authorities.

1.1.5 Deputy P.V.F. Le Claire:

Could I press the Chief Minister? Obviously making an international agreement in these times with our finance industry as the prime consideration for the future for employment for Jersey and acknowledging how important this is for the Island, it is important that Jersey does get these types of assurances from the United States authorities, but it is also equally important that when we are given these assurances, States Members know specifically who we are quoting, who are giving these assurances because if it is just somebody in the Back Benches of the Civil Service in England it is hardly adequate.

Senator T.A. Le Sueur:

The quotation does not come from the Back Benches of the Civil Service, whatever they may be, it comes from people in authority and able to speak on behalf of the authorities with authority and competence.

1.1.6 Deputy M.R. Higgins of St. Helier:

Could the Chief Minister tell us how much notice he had of this meeting and whether the Tax Information Exchange Agreement that he is going to be signing is the subject of negotiation with the U.K. Government or whether there are certain paths that have been imposed by the U.K. Government?

Senator T.A. Le Sueur:

Negotiations have been in train with the U.K. authorities for the best part of the last 12 months. We have been negotiating and pressing for better terms before Jersey is prepared to sign. That is why we have delayed signing in comparison with Guernsey and the Isle of Man who signed some time ago. We have now received all the benefits that we need including, importantly, that of endorsement by the U.K. authorities and having got that endorsement, it is now, in our view, better that we sign sooner rather than later. The U.K. shares that view and that is why they asked last week if we would be interested in meeting with them this week to sign the agreement. I said yes we would and today is the day we are doing that meeting.

1.1.7 Deputy M.R. Higgins:

Could the Chief Minister just again confirm that there were no conditions imposed by U.K. Government in that agreement?

Senator T.A. Le Sueur:

No conditions imposed other than the ongoing negotiation that there inevitably is with any jurisdiction to do with its services agreements. We have achieved a situation where the terms are

felt satisfactory to us, satisfactory to the industry and satisfactory to the U.K. authorities. So as far as I am concerned it is a win, win, win situation.

1.1.8 Deputy M. Tadier of St. Brelade:

Many see the G-20 Summit as the beginning of the end for offshore finance centres respectable or otherwise. Does the Chief Minister acknowledge this remote possibility that it may be so and can he inform the House what 'Plan B', if any, he has if Jersey does need to restructure its economy very quickly?

Senator T.A. Le Sueur:

The Deputy is entitled to his opinions. I do not believe that this will be the beginning of the end for responsible and reputable off shore financial authorities, it may well be the beginning of the end for those who are unco-operative and badly regulated. Our objective is to make sure we are in a category of those who are complying, those who are seen to be responsible so that 'Plan B' is not required.

1.1.9 Deputy M. Tadier:

I did ask if the worst case scenario that happens is there a 'Plan B.' Is the Minister saying there is no 'Plan B'?

Senator T.A. Le Sueur:

Without knowing the extent of what the implications might be, it is difficult to concoct a 'Plan B.' It is far more important, in my view, that we do not need to get into that situation by taking all the steps we possibly can to protect ourselves and to demonstrate just how good and responsible we are and that is what we are doing.

1.1.10 Deputy P.J. Rondel of St. John:

Given we are being squeezed by the U.S. and the U.K. and others, who hold people without trial, can we trust these governments? We are seeing U.K. citizens being released after 7 years in Guantanamo Bay without being charged; are you happy that you can do business and trust the U.K. Government? Is the Chief Minister happy?

Senator T.A. Le Sueur:

If we do not have some degree of trust in the world it will never get anywhere and I have to believe and trust in responsible people taking responsible attitudes in a responsible manner and so, in short, I have full trust that the U.K. will deliver what they say they will deliver and that we will deliver what we say we will deliver.

1.1.11 Deputy G.P. Southern:

Can the Minister inform Members when he will be releasing the terms of the T.I.E.A.s signed so that Members can check whether they are broadly or narrowly drawn?

Senator T.A. Le Sueur:

Any Tax Information Agreement which is signed has to come before this House to be ratified. I have already done that in respect of some which rates the Nordic countries and they will be down for a session to debate shortly. When we do the U.K. one it will be no doubt in a couple of months' time when the paper work is all completed. But the T.I.E.A. does not come into effect until and unless it has been ratified by both jurisdictions.

1.1.12 Deputy R.G. Le Hérissier:

Would the Chief Minister confirm his statement about all the finance industry was in support? Would he say that was indeed the case and if not, what were the main objections that were received from that industry?

Senator T.A. Le Sueur:

It is not possible for me to ask every single practitioner in every single area of the financial services industry and that is why I got a view from Jersey Finance Limited as a whole, representing every sector of that industry. The response from Jersey Finance Limited was that the industry, as a whole, was supportive of pursuing with the signing of the Tax Information Exchange Agreement. There may be individual parties who have a different point of view. All I can say is that the majority view, a clear majority view expressed by Jersey Finance Limited, was that the industry was in support.

1.1.13 Deputy P.V.F. Le Claire:

I just wondered what the financial and manpower implications would be for Jersey in investigating the Income Tax Exchange Agreement for U.K. residents and what measures Jersey will be taking to investigate U.K. residents, what facilities have been afforded Jersey so that we can investigate the tax affairs of U.K. residents?

Senator T.A. Le Sueur:

It is hard to say how much the financial and manpower implications might be. Clearly there may well be requests, as there have been with, for example, in recent time the U.S. authorities, that does take some manpower and therefore some finance as well. All I can say is that whatever those costs are, they will be very small in relation to the positive benefit that we will get by being seen as being a co-operative jurisdiction.

1.1.14 Deputy D.J.A. Wimberley of St. Mary:

Would the Chief Minister agree that if we are going to assess the risks facing the finance industry which there undoubtedly are, it is a good idea to engage with our critics and listen to what they have to say and see to try to scope the risks. In that connection, will Ministers and high-ranking officers of his department, take the opportunity of engaging with those who are coming to the seminar on Thursday evening organised by the Tax Justice Network, where people from all over Europe will be coming? Will he assure the House that he will take this opportunity of meeting with the critics?

Senator T.A. Le Sueur:

I am always ready to discuss these matters with informed critics who have come with a clear and objective point of view. I will not be attending the meeting on Thursday.

1.1.15 The Deputy of St. Mary:

Is the Chief Minister suggesting that the critics of the finance industry are ill informed?

Senator T.A. Le Sueur:

I am merely stating that I am not attending the meeting on Thursday. I cast no aspersions on the views of other people but I choose to take advice from people who I believe are competent to give advice.

The Deputy Bailiff:

Very well, that completes the time allowed for questions of the Chief Minister.