



Corporate Services Panel

O.E.C.D. (Organisation for Economic Cooperation and Development) Pillar 2

Witness: The Minister for Treasury and Resources and the Minister for External Relations

Wednesday, 26th September 2024

Panel:

Deputy J. Renouf of St. Brelade (Chair)

Deputy M. Tadier of St. Brelade (Vice Chair)

Deputy M.B. Andrews of St. Helier North

Connétable D. Johnson of St. Mary

Witnesses:

Deputy E. Millar of St. John, St. Lawrence and Trinity, the Minister for Treasury and Resources

Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter, Assistant Minister for Treasury and Resources

Ms. C. O'Brien, Deputy Comptroller of Revenue, Treasury and Exchequer

Mr. J. Coder, Director for International Tax Policy, Treasury and Exchequer

Mr. T. Le Feuvre, Director for Global Markets and International Agreements, Office of the Chief Executive

[15:32]

Deputy J. Renouf of St. Brelade (Chair):

Welcome, everyone, to this meeting of the Pillar 2 Scrutiny Panel public hearing with the ministerial team. I am going to start with some introductions, then I will make some introductory comments and then we will get going. So to introduce myself first, I am Deputy Jonathan Renouf, I am the Chair of the subpanel.

Deputy M. Tadier of St. Brelade (Vice Chair):

I am Deputy Montfort Tadier. I am the Vice Chair and I have been co-opted effectively from the Economic Affairs Panel.

Deputy M.B. Andrews of St. Helier North:

I am panel member Deputy Max Andrews.

Connétable D. Johnson of St. Mary:

David Johnson, Constable of St. Mary, member of this subpanel.

Deputy J. Renouf:

Minister, would you like to introduce your team?

Assistant Minister for Treasury and Resources:

It is really I am their team. So I am Ian Gorst, here as the Assistant Minister for Treasury and Resources.

The Minister for Treasury and Resources:

Elaine Millar, Minister for Treasury and Resources.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Cora O'Brien, Deputy Comptroller in Revenue Jersey.

Director for International Tax Policy, Treasury and Exchequer:

I am Jeremiah Coder, Deputy Director for International Tax Policy.

Deputy J. Renouf:

Joining us all the way from London, I imagine?

Director for Global Markets and International Agreements, Office of the Chief Executive:

Working from London today, yes, Tom Le Feuvre, I am the Director of External Relations.

Deputy J. Renouf:

Okay, thank you. So we have two hours, normal rules in Scrutiny Panel meetings apply. The meeting is being recorded and will be available online and there will be a transcript produced. Phones to silent please, if possible, and I think with that we can begin. Minister, we want to start with some general questions and perhaps to draw a broad picture of where this has come from and

where it is going. Could you explain how you understand the primary objectives of the proposition that you are bringing to the Assembly, that is P.53, which introduces this Pillar 2 into Jersey's law, could you explain what your primary objectives were in doing that and the approach that you took?

Assistant Minister for Treasury and Resources:

Thank you, Chair. This is a process which has been ongoing for a number of years. We were reminiscing yesterday that the first announcement was made back in 2018 when the O.E.C.D. made the announcement that it was going to undertake this review and piece of work to think about the taxation of digital companies and how the global taxation really interacted and whether it was appropriate for the way that companies traded in the modern world using technology. It, of course, came from some countries wishing to introduce a digital services tax. America not being happy with those digital service taxes and seeking to introduce trade barriers. It was then really put on the plate of the O.E.C.D. to think about how it could manage those issues. It started as a digital tax proposal. Some European Member States said that they would like to put on a minimum global tax on to the table for the same discussions. That really was the genesis. So we in Jersey have engaged with the O.E.C.D. through this design process. There has been hundreds of hours of working party meetings and steering group meetings. Cora, who just introduced herself, sits on behalf of Jersey on that steering group. I think that just shows how engaged we have been and how we can manage these international fora. It has taken views of all jurisdictions across the O.E.C.D. and others. What has ended up is what is called a common approach rather than anything else. So that means that there is flexibility in how jurisdictions can implement their Pillar 2 framework. I, for one, am extremely grateful for Cora and Jeremiah and all the work that they have undertaken at the O.E.C.D., which I think has given us in Jersey a real deep understanding of a positive implementation pathway. They have also done a lot of data analysis and colleagues in Revenue Jersey to understand those in-scope companies in Jersey, what they do, where they are, what profits are earned here, where they are headquartered, what group structures they have. Of course, all of that sort of information is highly sensitive and confidential, but it has been critical in us arriving at the position that we have. I know you have had lots of briefings by officials touching on some of those areas, which are confidential, but nevertheless important. Then we have had a lot of direct stakeholder engagement, both at officer level, they have done most of the heavy lifting, but also at ministerial level. The Minister and I have met with stakeholders here in Jersey, in London, and elsewhere around the world as well.

Deputy J. Renouf:

Can I push you on the objectives?

Assistant Minister for Treasury and Resources:

What I am trying to lead to is to get to the objectives. So all of that work has been done. So the objective of the O.E.C.D. was those objectives that I set out right at the start of answering that question. The results of those objectives are what we have now got in the model rules and our objective is in effect to give effect to those model rules here in Jersey in a way that means that we can maintain sovereignty, which is why we have gone for a domestic covered tax. We can remain flexible as this process unfolds, because we know that there is still some guidance which is being worked on and only this last week there has been other guidance published. It also allows us, in the way that we have published the legislation and the approach that we have taken, to manage the bureaucracy and the processes, thereby giving us, I think, a competitive advantage. So high-level objective is to deliver the model rules, but in a way which (a) is best for Jersey and also allows us to be flexible and competitive.

Deputy J. Renouf:

How does that fit, in broad terms, into Jersey's tax and economic policy objectives? Because we have had Zero/Ten for a long time and that was a conscious decision and now we are making a conscious decision to do something very different, to introduce an entirely new tax rate, move some companies off Zero/Ten and put them into a new tax bracket. Does it feel like it challenges our traditional model or our economic strategy or how does it fit, basically?

Assistant Minister for Treasury and Resources:

If our tax strategy is basically low, broad, simple, and fair, which it has been largely that for a number of years, then we see that Zero/Ten was premised on being tax neutral. So we always expected tax to be paid in the country where the capital was raised. We would not add an extra layer of tax here in Jersey and then, where that money was invested, there is also obligations in those countries decided by those domestic countries. What has changed is not our approach in Jersey. What has changed is the international consensus at the O.E.C.D. in delivering this common approach. As we say, the reason why your question about strategic aim is important, that is what we are seeking to do. The common approach means that you do have this flexibility, as I have said. So, one of the issues that one of the proposals under the O.E.C.D. proposals that we are not introducing is the under-taxed profit rule. The reason we are not introducing that is back to your point about what our economic model is, not adding any additional layer of tax in Jersey that we do not need to. Therefore, we are saying we are not going to add the under-taxed profit rule because that is not in line with our economic model. What has slightly changed, of course, is that, because of the way that the model rules are framed, in-scope global companies cannot avoid paying the tax. The question is, in the way the model rules are devised, is where will they pay that tax. The idea behind starting to look at this is that tax is paid where profits are made. Basically, it is an extension of all of the base erosion and profit shifting work, which again we in Jersey have been involved in at the O.E.C.D. for a long time. So we have not changed the lens through which we are looking at the

business here in Jersey, we are recognising that this is an international change. We are following the model rules, which is why you see the piece of legislation incorporating the model rules into domestic legislation. But we are seeking to remain competitive for those in-scope companies just in the same way that we always historically have. Back to that point about these model rules are designed to ensure tax is taken, as I say, where profit arises, but they are also designed that, whereby if that tax is not taken in that jurisdiction, other jurisdictions can then take that tax and in the way that the model rules are designed is that really would go up the chain. So it would be, we think, nonsensical for Jersey not to introduce it, but to introduce it in a way which is competitive.

Deputy M. Tadier:

Thank you. I have got some questions that specifically arise from what you have said and I think you almost have answered maybe some of the other questions later on, so thanks for that. Could you tell us about which companies are in scope and then tell us what the exclusions are, the exemptions are, from, not just the threshold, but other types of company and entities that are not in scope and why?

Assistant Minister for Treasury and Resources:

You would have seen the legislation, the in-scope companies are those prescribed by the model rules. So, in Jersey, that means there is about 1,400 in-scope companies.

[15:45]

These are global companies with large €750 million turnover. For us, that is 95 per cent of companies in Jersey are not in-scope, so we are talking a really small proportion of companies in scope, but they are globally significant companies.

Deputy M. Tadier:

So I do know this but a lot of it is for the public record, but to help with our understanding as well. So, the entities that might otherwise fall into that threshold but are exempt for other reasons, could you just talk to us about some of those?

Assistant Minister for Treasury and Resources:

Yes. So, there are exemptions based around substance. Those really are not relevant for Jersey and they are only also available in a different approach to the one we are taking. But there is flexibility within the O.E.C.D. rules or commentary, which allow for the exclusion of insurance, investment entities, and securitisation vehicles. Back to the point that the Chair just asked about our existing model, we have included those exemptions within our legislation.

Deputy M. Tadier:

Thank you. Could I move on, and you have touched on it already, but to talk about the broader objectives and maybe the underlying philosophy and intent of the global move towards Pillar 2. How do you see that and what do you see as Jersey's role in achieving those goals?

Assistant Minister for Treasury and Resources:

It is a two-part answer to that really. We have, as I have said, we do have this unique position at the O.E.C.D. in that in the global forum and the inclusive framework we do have our own seat, even though we are a sub-sovereign, because we are a competent authority in our own right. That authority rests with us. So I suppose the most important role that we play is in helping to frame those rules and being party to those conversations so that there is a good understanding of what centres like Jersey bring to the financial ecosystem and global flows. That is one bit of the answer. The other is that we in Jersey's Government for a long time have sought to implement relevant international standards. Now, even though in this instance it is not a minimum standard, so we could have said we are not going to implement it because it is not a minimum standard, in theory, but in practice I do not believe that was or is an option that is open to us, nor should be open to us, and therefore we are playing our part in delivering this new standard by implementing it.

Deputy M. Tadier:

So, I get that. So, apart from just doing this because we have to and we would look bad if we did not, in terms of the public good that is motivating this, could I just check if we are all on the same page? So, you mentioned about digitisation of the economy, I think, and that is one of the starting points. But do you accept that another underlying aim of this is to make sure that there is not what Google, for example, might say is a race to the bottom in terms of tax rates and to make sure that all big companies, wherever they are based, are contributing to public services in those areas?

Assistant Minister for Treasury and Resources:

That is obviously a highly political question and not directly correlated with the legislation before us. I have made the decision, and Ministers support this decision ...

Deputy M. Tadier:

Well can I ...

Assistant Minister for Treasury and Resources:

I will get to answer your question, because ...

Deputy M. Tadier:

Can I re-ask it though, because it is not my words. It is not political. This is from the O.E.C.D. So, their website talks about global and it says that global anti-base erosion rules are a key component to make sure that large multinational enterprises pay a minimum level of tax on income where they operate. That is just what the O.E.C.D. is saying. Is that something which you think is correct and you are willing to subscribe to as a Minister?

Assistant Minister for Treasury and Resources:

We are implementing this as part of the global consensus in the way that I have said on more than one occasion, and that is why we have got the legislation before us. In doing so, we are holding in tension the strong belief that taxation should be a sovereign issue, and I think we strongly continue to believe that in Jersey, I strongly continue to believe it. There was a lot of conversation and argument about, if we were going to introduce a minimum global rate, there were two bits of arguments about it, we take the position, going into this conversation, that taxation should be a sovereign matter, not a matter divested to multinational bodies. But at that multinational body that argument was superseded by stronger arguments, which were that there should be a global rate. We make our arguments. Our arguments do not always win out. But there was also a strong number of arguments about what that minimum rate should be and where those thresholds and parameters should sit. So, the international community, having now arrived at a position which would not have been my personal preference at the outset of this argument, we still play our role as an important international citizen and we then implement it. But, as you know, in the drafting and how we have drafted this legislation is a recognition that 15 is the rate that should be paid and that we would not want companies operating in Jersey to suffer double taxation elsewhere, which means they are paying a higher rate.

Deputy J. Renouf:

Can we dive into that a little bit? You talk about it is a sovereign matter and we have chosen or Government has chosen to exercise some sovereignty over this, as you indicate. There are some parts of the model rules that we are not choosing to implement. Could you explain what those are and what the rationale was?

Assistant Minister for Treasury and Resources:

I have just really touched on the main area that we are not implementing, which is the under-taxed profit rule, which is a rule which is, in its design, extraterritorial. So it is saying that, if a company in Jersey has other branches or sub-operations elsewhere and they are not implementing Pillar 2, and there are very few of those in practice, then that you will do a calculation in your jurisdiction that says you are taking the tax to top it up to the 15 per cent if it is less than somewhere else. We have taken the view that is not something that has been in our economic model in the past and we are not going to introduce it now.

Deputy J. Renouf:

The aim of Pillar 2 is to prevent profit-shifting and you have identified that could inadvertently effectively lead to double taxation because of other regimes that are in place in other countries.

Assistant Minister for Treasury and Resources:

It is not the profit-shifting that would lead to double taxation. It is the other regimes that have global tax regimes which are a different basis to the one that the O.E.C.D. has introduced.

Deputy J. Renouf:

We are talking particularly there about ...?

Assistant Minister for Treasury and Resources:

I am thinking the only other jurisdiction that has a full global tax regime is the U.S. (United States). Others have elements that might look like it but not a full global regime.

Deputy J. Renouf:

So what is Jersey doing to try to address those concerns of entities that could be subjected to a double taxation effect?

Assistant Minister for Treasury and Resources:

So the first thing to say is that it is not us that recognises, we have not just suddenly thought there is an issue here. Within the model rules itself, it says that there is a mismatch. It does not use that terminology, of course, but there is a mismatch between those two regimes and it refers to it as a blended C.F.C. (Controlled Foreign Corporation) regime. It recognises that. What we have done in regard to that is saying the O.E.C.D. themselves have created a transitional period for that mismatch to allow changes in the U.S. domestic regime. What we have done is introduced a transitional regime that means that, roughly speaking, the approach that we have taken will mean that those companies that could be suffering, those U.S. companies in that regime that could be suffering double taxation, we can help to mitigate that for this transitional period pointing to the model rules.

Deputy J. Renouf:

So what kind of mitigation are we talking about?

Assistant Minister for Treasury and Resources:

We are talking about a credit.

Deputy J. Renouf:

So they would not necessarily pay the 15 per cent in Jersey because they would be able to prove that they had paid some tax somewhere else?

Assistant Minister for Treasury and Resources:

That they are in what is called excess G.I.L.T.I. (Global Intangible Low-Taxed Income) elsewhere, yes.

Deputy J. Renouf:

Is there any possibility within that those companies in Jersey, which might well be on 10 per cent taxation rates at the moment under our Zero/Ten regime, could end up paying a lower tax rate in Jersey than they currently do because they are moved on to a new tax rate, which has discounts available which were not available under Zero/Ten?

Assistant Minister for Treasury and Resources:

I cannot give you a cast iron answer one way or the other to that because each company's facts and circumstances will be different and are different, and they are different in any given trading year. So, it is really not possible to say with certainty yes or no to that. We continue to work on those issues. What we do know, of course, is that the basis of the tax calculation under the two regimes is different. The base of the tax calculation under Zero/Ten is, as the law says, under Zero/Ten. Under the new regime and under the model rules, it is based on the accounting approach. So you have a different basis. So, because of the different basis, even with higher or lower rate, you could still end up paying the same quantum of money, even though the rate that has been applied is a different rate because the basis has changed and, as we know, the facts and circumstances of each company will change during a given year anyway.

Deputy M. Tadier:

I was just going to ask, it is a very specific question, but about whether there are any companies likely to be caught in this, which are charged at the 20 per cent rate locally, so presumably retail companies with trading over €750 million, and would they effectively see a reduction in their tax liability or would it be fixed at 20 per cent still?

Assistant Minister for Treasury and Resources:

So, it is really the same answer, because it is the same question. We cannot say with certainty because of the facts and the circumstances, but the amount of tax may be less, but, yes, of course those in-scope companies are moving from Zero/Ten and the large corporate retailer rate is 20 per cent currently.

[16:00]

If there are in-scope retailers, and this is where I have to be careful, because this is taxpayer sensitive information and Islanders walking down the high street might make guesses, if there are in-scope large companies, large corporate retailers, they will move from the 20 per cent into the new M.C.I.T. (Multinational Corporate Income Tax), which, as you rightly point out, is 15 per cent.

Deputy M. Tadier:

But is that automatic or do they have to, because the M.C.I.T. is a minimum 15 per cent rate, so if Jersey ...

Assistant Minister for Treasury and Resources:

No, the M.C.I.T. is a 15 per cent rate. The new global regime is a minimum 15 per cent.

Deputy M. Tadier:

But could Jersey have not made the decision to keep retailers at 20 per cent rather than reverting them to the 15 per cent, given the fact the 15 was supposed to be a minimum rather than a ceiling? Do you see what I mean?

Assistant Minister for Treasury and Resources:

I have taken the view, Ministers have taken the view, that 15 is both the minimum in Jersey and the ceiling. That is important. So it is ...

Deputy M. Tadier:

Can we quantify the loss for the retail tax revenue?

Assistant Minister for Treasury and Resources:

No, because just because something is moving from 20 to 15 does not mean to say there is a loss because the basis of the initial calculation is different. If you had kept the basis absolutely the same, then yes, your question would have been a good question that we could have answered. But because we are changing that basis, we cannot say, oddly enough, in a few years' time, once the process has been in, we will be able to answer that, but ...

Deputy M. Tadier:

That is because the whole group was affected, not just the entity that is trading in Jersey, is that right?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, and even the fact that under Zero/Ten you calculate it company by company, whereas under these new rules you will have one consolidated Jersey group, so there could be losses offset between entities, so there is lots of moving factors in there and they make it very difficult to do that.

The Connétable of St. Mary:

Minister, you have already referred to the U.S. situation and you may in fact have answered the question I was going to ask. So perhaps I will put it again. The sub-panel has noted that the draft legislation does not mention G.I.L.T.I., the United States based Global Intangible Low Tax Income regime. Could you clarify why G.I.L.T.I. is not so mentioned within the legislation?

Director for International Tax Policy, Treasury and Exchequer:

So, because the legislation route for the M.C.I.T. is ...

Deputy J. Renouf:

I think it would be better, we have said M.C.I.T. several times, I think we need to say what the M.C.I.T. is.

Director for International Tax Policy, Treasury and Exchequer:

The Multinational Corporate Income Tax legislation that has been ...

Deputy J. Renouf:

This is the new Jersey rate of tax that is being brought in, it is a new corporate income tax for in-scope companies. Thank you.

Director for International Tax Policy, Treasury and Exchequer:

As the Minister has said, the O.E.C.D. has a transitional way for allocating blended C.F.C.s like the U.S. G.I.L.T.I. and, because we are using the O.E.C.D. approach, they use the term blended C.F.C. and so likewise the legislation that has been lodged also uses the blended C.F.C., just so that taxpayers again understand that we are using the transitional O.E.C.D. approach.

Deputy J. Renouf:

So, it is because effectively that is what the O.E.C.D. refers to, they do not refer to it explicitly, so we do not.

Assistant Minister for Treasury and Resources:

They use a different term for something, and therefore we are pointing to those rules, and that is therefore the term that we use.

Deputy Comptroller of Revenue, Treasury and Exchequer:

We want to make it very clear that we are leveraging off the model rules and the terminology in the model rules, rather than introducing a new name for it, it is very clear to everybody that it is totally linked to the model rules. We felt that is the safer position.

The Connétable of St. Mary:

So, the mechanism we have, you are maintaining it does conform with the international standards and our commitments to the O.E.C.D., albeit in a perhaps not-easily-comprehensible way to the layman.

Assistant Minister for Treasury and Resources:

It was important to us to show that, as I have said, there is flexibility within the O.E.C.D. commentary and there are a number of reasons why we chose the - what would you like me to call it - M.C.I.T.?

Deputy J. Renouf:

M.C.I.T. is fine now we have explained it, I think.

Assistant Minister for Treasury and Resources:

The M.C.I.T., which gives us flexibility. We have spoken with the O.E.C.D., we have been transparent with our interlocutors about the approach that we were taking.

Deputy M. Tadier:

So, you have partly answered the next question already, but it relates to the U.T.P.R (under-taxed profit rule). So, given that the under-taxed profit rule acts as a backstop to the income inclusion rule, how might its absence impact Jersey's ability to prevent profit-shifting and ensure that multinational enterprises are paying their fair share of taxes?

Assistant Minister for Treasury and Resources:

What is important for us is that people are not using Jersey for base erosion and profit-shifting. It comes back to the point that you pushed me on earlier, other countries might take a different approach, but for us it was important to stick to our economic model, as far as we possibly could, by implementing both the I.I.R. (income inclusion rule) and the new corporate income tax, we were ensuring that we were not used in that way or continuing to ensure that we were not used in that way.

Deputy M. Tadier:

Thank you. I think that answers it.

Deputy M.B. Andrews:

Thank you very much, Chair. Thank you for being in attendance today, Minister and Assistant Minister. The panel just wants to ask what was the process involved in lodging the propositions and also we are aware that in the budget as well we saw the Pillar 2 tax was mentioned before the propositions were debated. Again, that is going to take place later this month. So I just want to know what the rationale was behind that.

Assistant Minister for Treasury and Resources:

As in adding a forecast of possible income before the legislation had been debated?

Deputy M.B. Andrews:

Debated by the States assembly, yes.

Assistant Minister for Treasury and Resources:

I think we would have been criticised if we had not put it in knowing what we knew, that we would be bringing forward legislation to ensure Jersey's compliance with the model rules. I think we were quite clear that this has been an evolving, and it continues to change, as countries either gain experience in it or the O.E.C.D. thinks about things which it needs to clarify in order to make it work. We chose to give certainty by saying that we would be implementing from accounting period starting after 1st January 2025, but it has still been difficult to deal with all of the clarifications coming from the O.E.C.D., changes to the model rules, and then thinking about what that meant for our legislation, engaging with all of the stakeholders that we have done. So, it has taken us longer than we would have liked, but we knew this was going to be quite a pressurised environment, which would not coincide with the Government Plan. But it would have been wrong of us to bring it forward, bring the legislation forward post the Government Plan and not to have included a forecast of the money in the Government Plan that we knew that, if States Members agreed this, would be there. I think that we would have been in a more difficult situation, but we know it is not ideal.

Deputy M.B. Andrews:

Thank you, Minister, for the clarification. You mentioned that it took longer than you anticipated. Originally, what was the timeline for this to be brought before the States Assembly?

Assistant Minister for Treasury and Resources:

We had hoped to have it launched before the summer recess. Cora, you will just remind me?

Deputy Comptroller of Revenue, Treasury and Exchequer:

We did say that we would lodge it in July and I think we lodged it in August, that is my memory of it.

Assistant Minister for Treasury and Resources:

Yes, we were a few weeks delayed.

Deputy M.B. Andrews:

Of course, there is mention of the baseline in the Government Budget of 52 million. So what is the intention with this new revenue stream and do you believe that it is going to be used for any particular purpose or is it just going to be used for additional revenue in the consolidated fund to facilitate Government expenditure?

The Minister for Treasury and Resources:

It is certainly not going to be additional revenue. I think what we have set out in the Government Plan that a significant proportion will be marked to top up reserves because that is clearly important. We always knew we had to do that. So I think we have got 41.6 million going into reserves. We have 15 million which would be used to invest in competitiveness, because it is very important that, given the potential changes that Pillar 2 creates, it is important we make sure Jersey is a competitive place that people still want to work here and they still want to be here and grow and invest in Jersey, so it is important we do that work. Deputy Gorst, we are just starting up that piece, a group met this week to start looking at competitive work, how we boost competitiveness and maintain that. Then the third thing from the base case is it will contribute to the financing costs of the hospital, so interest and issuance costs, so it will not go into a general revenue pot.

Deputy M.B. Andrews:

Thank you very much. No, okay.

Deputy M. Tadier:

Can I just check on the reserves, which reserves? Are we talking strategic, stabilisation, a bit of both?

The Minister for Treasury and Resources:

I think it is going into strategic reserve or stabilisation fund. I did not change my speech today and I am just ...

Deputy M. Tadier:

It is not a trick question, but it is the rainy day fund or the stabilisation?

The Minister for Treasury and Resources:

We are putting revenues will go into the stabilisation fund and the base case will go into stabilisation fund.

Deputy M. Tadier:

Yes, I can see that is the recommendation from the fiscal policy plan and that is what you are doing?

The Minister for Treasury and Resources:

That was our recommendation, that is our intention, they have kind of approved it and I think they have said that that is a sensible thing to do, because clearly they want us to build up the strategic reserve and the stabilisation fund.

Deputy M. Tadier:

Would you consider, because they also recommend that any excess, and I very much accept the fact that we are in a bit of an unknown here, you have had to make a prediction, we might ask about how you came to the £52 million in fact and let us do that first. Is that a conservative estimate, how realistic is that?

The Minister for Treasury and Resources:

We think it is a reasonable but probably prudent estimate.

Deputy J. Renouf:

So you would hope that there would be more?

Assistant Minister for Treasury and Resources:

So what we did was think about whenever you change a tax, you can never be sure of what behavioural changes might arise out of that. You can do everything in your power, as we are doing, to make sure that we continue to be competitive; that we make the implementation as easy as possible, that we wrap customer service and use technology around its implementation, as we are doing and we are happy to go on and talk about. But you can never be 100 per cent sure about behavioural change. So what we have done in this calculation is look at those businesses who are - there is not really a technical term - but you could say are stickier into Jersey. So those businesses that would be most unlikely to change their behaviour arising out of this change. There is of course, on the other side of the argument, that this is a global initiative and therefore this tax cannot be avoided by just simply moving somewhere else. But we know that there is structuring and all of those things that come into play. So the base case is based on those in-scope companies for whom it is unlikely that they would move or they could not move easily. What that of course means is that there is a potential substantial upside, but that upside would range from nothing to quite a big number, I do not know what that quite a big number could be, so we have put in what we call this base case that we can be reasonably certain will be raised. It is, as the Minister said, good to see the F.P.P. (Fiscal Policy Panel) saying that was a sensible, prudent approach to take.

[16:15]

In the Government Plan, there is also a high-level indication of what might happen to an upside. But of course that upside would ultimately end up being a year-end number as well. It really is open for debate as we come forward to the next Government Plan to think about what we do with that upside as well.

Deputy J. Renouf:

Can we push you on that because the F.P.P., the Financial Policy Panel, said that they recommend a formal commitment to ringfence any Pillar 2 income in excess of the base case into either the strategic reserve or the stabilisation fund. Do you regard that as a sensible recommendation?

Assistant Minister for Treasury and Resources:

Yes, I do not speak for the Minister, I think the Minister and I think that would be a sensible, prudent approach. I think it is fair to say that some of our other colleagues may have different priorities that they would like to see funding allocated for. So I think that will be a debate that has to be had (a) around the Council of Ministers and (b) in the States Assembly.

Deputy M. Tadier:

Can I just ask, also, given the fact that you have said it is a conservative estimate and of course any excess is relative to whatever the estimate, another Government might have given a higher estimate, so is there also a case to say that you should just use the same formula split for the entirety of what is being proposed?

Assistant Minister for Treasury and Resources:

Yes, there is, because, if we take the hospital, this is just funding the borrowing cost. If you took the same split on the upside, you would then be reducing some of the capital cost of borrowing, so that would work. You would be increasing your spend on maintaining Jersey's competitiveness and you would also be increasing the amount of money going into reserves. This is where it can get a little bit wooden dollars because if you are reducing your capital cost of borrowing, you are ultimately freeing up more money for reserves anyway in the medium term. So you could still argue, other than the allocation you put to competitiveness, that you are really allocating it into reserves.

The Connétable of St. Mary:

I think, Minister, you have answered the questions we are going to ask later on concerning the Fiscal Policy Panel, and maybe we will come back to them. But, on that, am I right in thinking that the

figures were based on almost a defensive attitude of trying to maintain the clientele, if that is the right word, we have in Jersey rather than as a programme or for potential new business?

Assistant Minister for Treasury and Resources:

There is always compromise in politics, Constable. Some of us might have wanted to do a split, which was simply competitiveness and reserves. We recognise the need to build and fund the hospital. So there is not, other than the amount of money that you need to cover the financing of the hospital, there is not a lot of science into the split of the other two numbers. What is important is that we do focus on competitiveness because one of the things that we see other jurisdictions doing is making offers to businesses around support that they will give to maintaining in-scope companies in their jurisdictions. Individual businesses have also been asking us the question, they are saying to us: "Well, Singapore is offering us A, B, C, and D, what are you offering, Minister?" It is not straightforward for Jersey because (a) there are constraints within the model rules about what can and should be done, and (b) when we look at what other people are doing, none of them perfectly fit what we would want in Jersey. But I am absolutely 100 per cent convinced we do have to do that work and we have to do it fairly quickly, and we are doing that work.

The Connétable of St. Mary:

On the question of other jurisdictions, we have chosen to defer implementation of Pillar 2 until 2025, whereas some have, so the U.K. (United Kingdom) and E.U. (European Union) Member States have already implemented it from 2024. Can you explain the considerations behind that timing or is it essentially what you already explained to us, it has taken a long time to get this far?

Assistant Minister for Treasury and Resources:

Well, it was a lot of uncertainty and quite a bit of pragmatism. What we have seen is that things have changed and been clarified in this last year. In hindsight, I am really pleased that we did not push forward for an accounting period starting on 1st January 2024, because we see other jurisdictions now have to change their approach, we were discussing that only yesterday. So they are having to change because of the changes in the model rules and the commentary and the codes and all of that stuff. So it is a good job that we did that. What that did create though of course was a temporary difficulty for E.U. and U.K. parented companies where they were going to be in-scope for that one year, which is why at the start of this year we knew we had to give certainty about when we were going to implement, even though we knew we were not totally certain that thing was working, they had to change that as they have. So there were some in-scope companies that would, on preference, have preferred a 2024 introduction. But they have recognised, when we spoke to them, the benefits of waiting until 2025. Those that wanted us to wait until 2025 for more certainty and to work through things were absolutely certain that 2024 was wrong and would have caused them really great difficulties.

The Connétable of St. Mary:

Feeding off another answer you gave, you mentioned competitiveness from other jurisdictions. Has our own situation affected our relationships with those jurisdictions and international reputation generally?

Assistant Minister for Treasury and Resources:

No, I do not think so. So we have tried to think about competitiveness even in the way that we have designed our legislation, in the way that we have had open and transparent communication with in-scope companies and stakeholders, so introducers, be they Stateside or in the U.K. or in the E.U., and we are also thinking about competitiveness in how we do the implementation, as I have indicated. But we also need to think about the wider competitiveness of Jersey to financial services businesses more generally.

The Connétable of St. Mary:

Okay, thank you.

Deputy M. Tadier:

I think 7 has been covered largely, would you say?

Deputy J. Renouf:

Yes, I think so.

Deputy M. Tadier:

Tell me if this question makes sense to you. I caveat it. Would there be a situation in which a Jersey-based multinational enterprise that potentially would face double taxation due to different interpretations or implementations of Pillar 2, and what mechanisms would there be to resolve such disputes?

Assistant Minister for Treasury and Resources:

It is a good question, it is theoretical, but it is a good question. Whenever there is a new global process, there needs to be a dispute resolution process. That dispute resolution process, I will be generous and say it has not been finalised by the O.E.C.D. The reality is I do not know if they have yet given much thought to it. They know it is going to be necessary. It will be necessary. There is no reason why we should be, before that dispute resolution mechanism, any more than anybody else should, but it is going to require a dispute mechanism for the very reasons that you say because countries will, by their very nature, maybe want to do things ever so slightly differently at the edges. But we have had half a mind to that in the way that we have developed our legislation all the way

through to make sure that it was clear that we were following the model rules. I do not know if you are going to ask me this later, but we already know, as we sit here, that we are going to need to amend, make a couple of amendments we probably have not shared with you yet because they are still with law drafting, one of which is around the I.I.R. legislation, making it clear that there is an ambulatory provision to incorporate changes in the commentary to make sure it is clear that it will automatically happen. Another one around losses, we thought it was clear, but others have said to us it not quite as clear as it might be about what you are doing with losses, so, because of what is happening, these things are going to inevitably happen.

Deputy J. Renouf:

So these are 2 amendments that are coming to the legislation before it is debated on 22nd October?

Assistant Minister for Treasury and Resources:

Yes.

Deputy M. Tadier:

This is specifically around the dispute resolution or related?

Assistant Minister for Treasury and Resources:

No, it is about making it clear that both of these that we are following the model rules. It is important that we make it clear that we are following the model rules because, if ever there is a dispute and we need to use the dispute resolution mechanism, we can show clearly that we have been following the model rules.

The Connétable of St. Mary:

Following on from that, what major economies have not yet aligned or committed to align with the with the Pillar 2 framework?

Assistant Minister for Treasury and Resources:

I do not know the answer to that. Yes, of course, I know the U.S. have not.

The Connétable of St. Mary:

I should have said other major ones than the U.S. Other offshore jurisdictions for example.

Assistant Minister for Treasury and Resources:

As we sit here, the Cayman Islands have not committed to implementing Pillar 2. Can you think of any others?

Deputy Comptroller of Revenue, Treasury and Exchequer:

There is probably some others who have been silent. But we cannot read into that, they may yet do it.

Deputy M. Tadier:

Can you clarify with the Caymans, I know we have heard from you in the private briefings, in the Caymans is it because essentially they do not have the infrastructure to collect taxes, is that one of the reasons rather than it being ideological, would you say?

Assistant Minister for Treasury and Resources:

It is not really for me to speak on behalf of another Government, but if I were going to speak on behalf of another Government I might surmise some reasons why they might not at this point wish to implement. One would be the maturity of their tax regime, which they do not have a tax regime, or one would be the base of their business coming from the States. So in that regard they could see that maybe they do not need to because that business is really covered under the States' G.I.L.T.I. regime. I think they would be the main 2. I do personally think, and this is not a commentary on them at all, I personally think that jurisdictions, over time, will introduce it because they will ask themselves: "Why are we giving tax earned on profits in our country to other countries?" That might take some time to get to that point.

The Connétable of St. Mary:

I do have a further question about if there were another several jurisdictions who chose not to implement Pillar 2, how would that affect the level playing field which the initiative is aimed to produce? But, from your answer, you are saying that is not going to be a situation.

Assistant Minister for Treasury and Resources:

Well, because of the design, it is not possible to avoid paying the tax. You would not pay it in one place, but another country could, because of the rules, take the tax from you in their country, even though it was a profit arising somewhere else. Unless there are specific fact patterns, you would expect most countries and jurisdictions to implement it. Our friends in the U.S. are slightly different because they already have a global tax regime. So their view is that why on Earth has the O.E.C.D. come along and done something different to our regime, why did they not just mirror our regime as the global regime?

[16:30]

It presents problems for them, as we have said, about the blended C.F.C. rule. We do not know, as we sit here of course, what the U.S. will do, if anything, to align its domestic global system with the

O.E.C.D. system or whether it will engage with the O.E.C.D. when we have got the change in things there, to see change there. I do not know. Tom, you have got your hand up there.

Director for Global Markets and International Agreements, Office of the Chief Executive:

Well, it was only just to say, because it is worth almost taking a step back and thinking about what makes this project unusual, and I think it is the combination of two features, one is that it is a common approach rather than a hard and fast international standard. What that means is jurisdictions have options and choice when it comes to their implementation pathway, provided their options and choices, should they choose to implement, align with the overall framework of the rules. So that is the first thing. The second thing that almost contrasts a bit with that is the way the rules are designed, they are an interlocking series of rules. So that if a particular jurisdiction chooses, for whatever reason, that it will not implement, then the tax is nonetheless captured somewhere else by other jurisdictions' use of the rules, and potentially in that situation then by topping up on the under-taxed element of the company's profits. So, although it is a common approach and jurisdictions can pick and choose, the way the rules are designed, they will capture the underlying businesses whether a particular jurisdiction has chosen to implement or not. I just thought it might be worth chucking that in because it is worth just keeping that in mind when thinking about what each jurisdiction is taking into consideration in terms of its implementation pathway. I hope that was helpful.

Assistant Minister for Treasury and Resources:

As ever, my officials say it far more eloquently than I can.

Deputy J. Renouf:

Did you want to take question 11, Max?

Deputy M.B. Andrews:

Yes, indeed, thank you, Chair. Minister, with the implementation of the income inclusion rule and the multinational corporate income tax, I just want to know whether any concerns have been raised with you as the Minister for Treasury and Resources and Exchequer by any individuals, or potentially firms, about Jersey's approach moving forward.

Assistant Minister for Treasury and Resources:

Other than the point that I raised in regard to answering the Constable's question about the timing because of U.K. and E.U. countries implementing earlier and it was not a concern, it was just preference would have been for but they recognised why we were taking the approach that we were taking. I am not aware of either entities or in-scope companies raising concerns. Rather they have been pleased with the open and transparent engagement that officials have had with them and, in

effect, want that to continue. The approach that we have taken has been one that they have supported.

Deputy M.B. Andrews:

Yes. What do you think this will do in terms of Jersey's status as an international centre with the approach that you have taken as Minister for Treasury and Resources?

Assistant Minister for Treasury and Resources:

In light of the traveller this is a global approach. I think that the way that we have managed it thus far and we expect to continue to manage it in this manner, shows that we are a jurisdiction which understands business, that understands global business and that we want to, within the rule of the international approach, work together to support business growth, not only in Jersey but their aspirations around the globe as well.

Deputy M.B. Andrews:

Obviously the panel is aware of Jersey's recent MONEYVAL assessment and of course we anticipate the additional revenue it will be generating as a result of Pillar 2 tax revenues, depending on the States Assembly approving both propositions. Do you think this will be an opportunity, potentially, for such investment to be made in financial services and maybe where there is areas of weakness or areas where improvements ought to be made?

Assistant Minister for Treasury and Resources:

The £15 million allocated is until 2026. In effect, State Members have 2 goes at looking at that. It is for 2026, so there is quite a lot of water to go under the bridge before that is written in black and white or approved in black and white. Sorry, I have forgotten really what you were asking me. We want to maintain a competitive jurisdiction and that will mean that we need to spend money to do that. As you will know, I think, from the other briefings that we are working at pace on a Q ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

Qualifying Refundable Tax Credit.

Assistant Minister for Treasury and Resources:

That is it, I just call it a tax credit. The Qualifying Refundable Tax Credit means that it qualifies within the model rules but it is a tax credit, something which we have not done very much of before in Jersey and, therefore, it is important we get it right. What does getting it right mean? It probably means that we want those businesses to grow their businesses in Jersey, so that might be assets under management. We are working with partners to think about what that tax credit could look like for Jersey, which means that businesses grow their Jersey operation.

Deputy M.B. Andrews:

Do you think with the £15 million that you have allocated and planned for investments that it may align with some of the broader policy objectives that the Council of Ministers have, such as the upskilling and reskilling of the workforce as well, financial services as well?

Assistant Minister for Treasury and Resources:

Yes, I absolutely expect that it will because the skills agenda is not a unique agenda to financial services, it is right across our economy. The housing agenda, the childcare agenda, all of those are universal issues faced by all Islanders right across their growth.

Deputy M.B. Andrews:

Yes, thank you very much.

Deputy J. Renouf:

Can you clarify all that, the £15 million, this amount of money that is coming from Pillar 2 revenues that you have notionally allocated to competitiveness? What things are in scope for that spending and what things are specifically excluded? In other words, you could not just shovel this money back to the companies who have paid it, so that would be excluded.

Assistant Minister for Treasury and Resources:

Yes.

Deputy J. Renouf:

But can you just talk us through what is allowed and what might not be?

Assistant Minister for Treasury and Resources:

This is part of the difficulty of making sure that it is qualifying because go back to Deputy Tadier's point about disputes, other countries because will say: "Just a minute, you are giving all the money back again, therefore, we are going to tax in our country because we do not think that your system is properly working." I do not have the parameters of what qualifies and what does not in front of me. I suspect that we are going to see further clarification of what does and does not qualify because of what some other countries have done and what they have proposed. There is a country which has proposed exactly that, we will just give you all the money back and that has caused quite a bit of contention at the O.E.C.D. that really degrades the spirit.

Deputy M. Tadier:

The effective tax rate and the actual tax rate, so ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

There are rules that are developing around these tax credits that are called the no-benefits rule, which basically say that you cannot take the same pot of money and give it back to the same group of companies because then you are not really implementing the tax fairly. If we were to introduce a tax credit we would have to think very carefully about the breadth of who we were targeting with it and the design of it, who the population is, what we are trying to achieve by it and for financial services. There are some tax credits that exist in the world already around R. and D. (research and development) tax credits, for example, and that is really not a huge part of Jersey's business. We need to do similarly to what we did with the M.C.I.T. and just think about it in the context of Jersey. What would incentivise businesses on the one hand and add to that breadth and depth of substance but also come within the rules, not fall foul of the rules?

Deputy M. Tadier:

Is that not a rush in a sense to do that? Because it will presumably come organically but then also the business community will also be telling you if there are things which Jersey is missing out on presumably, which fall within the scope.

Assistant Minister for Treasury and Resources:

We are committed to doing it and doing it at pace. Nearly all of our interlocutors say: "Look, get it right, rather than quick" but there are also quite a number saying: "Just get on and get something done." We are starting to coalesce around some of the aims that we might want to deliver. This is this thing about growing your business in Jersey. Officials have had, I think, already some good conversations with experts and affected in-scope companies but we are not there yet.

Deputy J. Renouf:

Just to be clear, I mean you are talking there about something very specific to the finance industry, would for that £15 million those competitive funds, funds for competition and free from competition, would they be available for just things like improving the housing, access to housing or something like that?

Assistant Minister for Treasury and Resources:

That is not what we are proposing with this element of the base case.

Deputy M. Tadier:

I was just going to follow up, could it be something that is both good for business and for the wider society let us say? For example - and it is not limited to this - investing in digital literacy, digital

infrastructure, that kind of thing, would that be something which, arguably, businesses might benefit as well from and welcome?

Assistant Minister for Treasury and Resources:

It could, particularly around the digital area and training. I think that is where you can see the most universal benefit. Let us just focus on the tax credit because we have never done a tax credit like this before, one of the questions we do not know is how much take-up would there be in the community and just how much or how many more assets would people bring here to have under management if there was this qualifying tax credit too? We are not quite sure about how we are going to divvy up that £15 million. There is an argument that says we should do a bit more promotional work as well, particularly in the States. We have got growing markets from there as well, so we need to think about that. For my part - and I would say this, would I not - £15 million is not that much to think about the wider competitiveness of Jersey and getting into the areas that you are talking to? If we could, as these debates go on, secure more for competitiveness, that will give us more opportunity to do this, like the things that you are just talking about, which I think are critical for wider competitiveness.

Deputy M. Tadier:

Could you clarify though this is £15 million additional? There is already business as usual going on, which does ensure that level of competitiveness for Jersey presumably. This is just additional.

Assistant Minister for Treasury and Resources:

This is additional. Yes, we have a financial services team, we have a promotional budget but when we compare that with what other jurisdictions are spending on promotion and policy development it is not very much.

Deputy M. Tadier:

Okay.

Deputy J. Renouf:

One specific thing, there is mention in the report about the tripartite group which is made up of the industry, the Government and the Regulator and their work on competitiveness. Is that ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

They are a ministerial group, yes.

Assistant Minister for Treasury and Resources:

Yes, I was not really sure what you were referring to.

Deputy J. Renouf:

Called the tripartite group, yes. I guess in a sense, is this the same thing that we have been talking about now or is that what that tripartite group is set up to do or is that a different work stream?

Assistant Minister for Treasury and Resources:

We have got lots of these work streams will, ultimately, filter up into that group. We have got the review of the regulatory environment; that comes under the auspice of that. We have got the tax credit, Qualifying Refundable Tax Credit, the design of that will be done in Revenue Jersey but it comes up under that group. We have got things strategic that we are thinking about but also things tactical, some short term and others much longer. The answer is probably yes.

Deputy J. Renouf:

Is that the decision-making? Not necessarily decision-making but the sort of the formulation of policy-making body.

[16:45]

Assistant Minister for Treasury and Resources:

One of the things that I think we have recognised is that international tax policy and tax policy can be in itself part of Jersey's competitiveness; how we manage it, how we engage, how we use technology, in this case how we have designed it in legislation is an important element of being competitive in certain of our markets. So is what we are doing in External Relations, so is what we are doing in financial services. We are trying to just, in effect, create a co-ordination body to make sure that we are all focused on Jersey remaining competitive, so that ...

Deputy J. Renouf:

It sounds quite important, should we be publishing minutes?

Assistant Minister for Treasury and Resources:

I doubt it, it is not that exciting. But, equally, you see the work that Deputy Mézec is doing in housing is important, the work that Deputy Ward is doing around skills is important as well and childcare work.

Deputy M. Tadier:

Can I just come in with one specific point and I hope you take it in the right spirit? The work of the tripartite group in your report says: "It is to improve the attractiveness of the Island for doing business

and economic growth, long-term prosperity.” Can I just ask, to what extent into the role of the Regulator to be involved in promoting that particular area? It sounds like marketing in a sense.

Assistant Minister for Treasury and Resources:

No, it is not just marketing, is it? The role of the Regulator is very important in Jersey remaining competitive. In the past the Regulator has had a number of M.o.U.s (Memorandums of Understanding) - they are still live - with Regulators around the globe. More and more the responsiveness and the customer-focus service that the Regulator brings is critical, alongside its A.M.L. (anti-money laundering) and other bits of its work. I think it is absolutely right because if Jersey is providing a service to global businesses we need to make sure that we are providing that service well.

Deputy M. Tadier:

Okay. No, I get that they have got an important role to play in Jersey's offering and to make sure it is well regulated. I guess what I would ask is that, how do you ensure that they are not in any way compromised and that their role is maintained as a Regulator when they are involved in that tripartite group, who is, I think the tripartite group which is looking to co-ordinate competitiveness? Is that something you would ...

Assistant Minister for Treasury and Resources:

Yes. A Regulator is independent. Why is a Regulator independent? A Regulator is independent so that they can make decisions about how they regulate with specific firms outside of Government or interference. But everything that we do in Government - and I think we have lost this - should have the democratic overlay. Independent regulatory bodies are accountable to the public through the democratic process. It is not a Jersey-specific thing, we see this as conversations being had in the U.K., who is the Regulator accountable to? Because it should be accountable to the public. Therefore, I do not accept that, yes, the Regulator is independent and makes those decisions independently but it has work to do and it is in its governing M.o.U. to have a mind for jobs and growth and should have a mind for the competitiveness of Jersey. Because in the Authorisation Department you can have an approach which does authorising new companies and new businesses that takes 48 hours or 2 weeks or you can have one that takes 12 months. That has a direct correlation with how competitive we are. It is not saying you have got to say yes to this and no to this and yes to this. It is simply saying how you deliver that service is critical to our competitiveness.

Deputy M. Tadier:

Thank you.

Deputy J. Renouf:

Max, do you want to talk to ...

Deputy M.B. Andrews:

Which one are we up to?

Deputy M. Tadier:

We are at 13 I think.

Deputy J. Renouf:

Yes, 13, yes.

Deputy M.B. Andrews:

I think the one thing I would take with this question is about the longer term.

Assistant Minister for Treasury and Resources:

I do not know what the question is yet.

Deputy M.B. Andrews:

There are people who have approached us who have said that we should not be implementing this because although we will get a short-term gain, at the very least we should be thinking about what the long-term implication of this is for Jersey's competitiveness. We have had an advantageous tax regime. We are not going to have that advantageous tax regime. What are the risks that sit around that and how have you made the calculus big decisions around that?

Assistant Minister for Treasury and Resources:

It is a very fair challenge but I would answer that question by looking at the way that the model rules are designed. It is not correct to believe that companies that are currently in Jersey and paying zero will now become in scope of our new M.C.I.T. but in scope of the rules and needing to pay a minimum of £15 million. It is not correct to say they could move somewhere else and not pay the £15 million. They could move somewhere else but then the other country here will then just take that tax. If we do not implement it, it will mean that that tax that could be in Jersey and could benefit Islanders will just be paid somewhere else because of the way the rules are designed. We could say we are not going to take that tax but that is not quite as straightforward as it then seems. Because that then creates quite a layer of bureaucracy and added bureaucracy that these companies have to do in another country to calculate under the same basis what their liability to tax in Jersey would have been and then just pay it somewhere else. We, I think, can make sure that we remain competitive in the way that we implement it. It is really critical that we get that bit of implementation right. That is why we spent so much time and engagement both thinking about it, designing it and then now

moving on to the implementation stage, using a portal, creating a specialist team of international tax experts, which we have already got people doing excellent work and have had throughout this period in helping us design it. It is really important that we get that bit right because that bit is what plays to the concerns that some people have about the long-term competitiveness of Jersey. As I sit here, everything that I have heard from those that we have engaged with make me confident that we will and are in how we are doing this remaining competitive. We can continue to show this approach well, then we can continue to attract business. There are other things within our competitive environment that need some work, which is why we have created the Competitiveness Board. I suppose where I really do have most sympathy with those who are concerned is really not about the implementation of Pillar 2, it is about the overall complacency across our economy that things will always remain good because they always have been good. We cannot take that for granted. How we respond to these international agendas is critical, playing our part and doing what we think is in our best interest, both in the short and the long term.

Deputy J. Renouf:

Is ... sorry, go on.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Sorry, Chair. Could I just reinforce the early comments of the Minister because I do think it is really important that people understand this principle, if Jersey took the choice not to implement Pillar 2 these business would still pay 15 per cent on their Jersey profits, they just would not pay it in Jersey. I know the Minister has said that, I just wanted to say it again because I have heard that ...

Deputy M. Tadier:

We would, therefore, lose the revenue as a Government, as an Island, yes.

Deputy Comptroller of Revenue, Treasury and Exchequer:

We would lose the revenue, they would still pay the tax.

Deputy J. Renouf:

I guess the bigger point behind it ...

Assistant Minister for Treasury and Resources:

It would be more bureaucratic for them.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, yes.

Assistant Minister for Treasury and Resources:

Because they would be having to comply with somebody else's bureaucracy on their Jersey operation. They have been clear to us they want to be able to say: "In Jersey I am compliant with the model rules of Pillar 2, box ticked in headquarters."

Deputy J. Renouf:

But the bigger point is that we are a ship that is sailing into uncharted waters. The tax regime is going to be different. There is a supposition that it will be 15 per cent everywhere and, therefore, one of our points of distinction is gone. What I am getting from you is that you believe that by the design of this we have maintained the points of difference and done so sufficiently by clever design sufficiently well to maintain some level of competitiveness in a tax sense.

Assistant Minister for Treasury and Resources:

That is right and we remind ourselves it is another reason why we have kept Zero/Ten separate; 95 per cent - is it 95 per cent or 96 per cent - of companies are remaining in Zero/Ten, paying on that basis either zero or 10? Obviously utilities, property and those corporate returns ...

Deputy M. Tadier:

Can we say for now?

Assistant Minister for Treasury and Resources:

No, we cannot say for now, that is we are maintaining Zero/Ten. We have created a separate corporate income tax to ensure for in-scope companies were compliant and competitive. None of us can ever say what the future will be but in the approach that we have taken we have maintained, I believe, our competitive advantage.

Deputy M. Tadier:

Can I ask something very briefly? It goes back to those stakeholders who very publicly suggested - and what you quite rightly corrected and what we have understood, I think, early on - is that it simply was not an option to not adopt this and Jersey would lost out on so much revenue ...

Assistant Minister for Treasury and Resources:

We could have not done it because it is a common approach, not a minimum standard. In there we could have said we are not going to do it but why would we say we are going to let somebody else take the tax on Jersey profits?

Deputy M. Tadier:

Indeed but my point is you are making this point to us now, do you think that message has gone out loudly enough to the public? Because 2 fairly high-profile people have made, I think, a fundamental mistake in their understanding of this to be able to write so publicly and, potentially, worry people. Is this something that you could make a response to in the public forum? I suppose more ...

Assistant Minister for Treasury and Resources:

I have learnt after all the years that just because somebody has written something in the newspaper, getting into a tit for tat is not the best way of informing the public about something. I do think that the narrative of those who were worried about that initially has changed and they are now talking about, what are the longer-term implications, will rates change, et cetera, et cetera? That is something we have always got to be mindful of.

Deputy J. Renouf:

Is there a risk that Jersey could be too successful in designing these rules? In the sense that we attract criticism from people who feel we have sailed close to the wind on what is permissible under that common approach.

Assistant Minister for Treasury and Resources:

I do not believe that that is a terminology that we can use to describe what we have done. All the way along we have looked to the model rules. We have incorporated the model rules by reference.

[17:00]

We are going to be making a couple of those amendments to clarify even further that we are pointing to the model rules where there might have been any uncertainty in regard to the way that we have pointed to the C.F.C. regime, right back to the Constable's question earlier. We have pointed to what the O.E.C.D. have themselves recognised is a discrepancy between 2 global regimes in a transition nature, just in the same way that the O.E.C.D. have put in a transitional ... what is the word? Yes, it has been too long, you are keeping me here too long; I am losing my words.

Deputy M. Tadier:

Feel free to bring your officers in at any time.

Assistant Minister for Treasury and Resources:

It is a transitional approach. We have been really mindful that some might want to make an accusation like that against us. That is why we have constantly pointed back to the model rules and it is why we have engaged with stakeholders and been open and transparent with them.

Deputy M. Tadier:

I have got a very specific question. I know it is something you did answer satisfactorily in the private briefing. It relates to the £750 million turnover. Is there any behaviour which might change in terms of companies who are just below the £550 million revenue? Sorry, I have got the £750 million written down, I do not know why I said that. In terms of either taking measures not to get to £750 million so that they might not pay that in any given year. I know it is about the groups as well, could you just clarify that it would be very difficult for companies to rearrange their structures to avoid that £750 million threshold if they were otherwise above it?

Assistant Minister for Treasury and Resources:

Do you want to do that?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Sure. These issues are kind of foreseen in the rules that groups might try to structure themselves so that they were not within the thresholds. There is averaging rules, so you have to kind of average your results over a number of years. There is also fragmentation rules.

Deputy J. Renouf:

You cannot split your company up to avoid ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes. That has been foreseen in a way, whether you would deliberately sort of stay below the £750 million, not sure because I suppose you are just limiting the size of your business; that would have quite bigger implications. But these things have been anticipated in the rules and so all of those measures are automatically brought into our regime through the model rules.

Deputy M. Tadier:

Can you give me an example? If the company wanted to, say, split itself and sell part of its company to someone else like a relative but it was a distinct company, is that envisaged or take ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

I think the safeguard for us as a tax authority and a jurisdiction is that these rules fundamentally work off consolidated financial statements, which is new; that is a kind of new methodology. It is a question of fact as to whether the auditors say that if you have consolidated financial statements and those consolidated financial statements show that you have global turnover of over £750 million, then de facto you are within the rules. That process has all of the auditing that has gone behind it, so that there is a lot of reliance can be placed on that.

The Connétable of St. Mary:

Yes, without wishing to be negative I mean it is somebody who was set on structuring or fragmenting their business, it would be difficult to trace them if they did it through different jurisdictions. If the one main jurisdiction is common it would mean that could be formative. It is a variation on tax avoidance quite simply.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, sure. I am sure there is always people will think about that. I think that that would get through their auditors, at least that is and prove that they are not a consolidated group. I think that is an additional bar that has not been there in tax bases in the world before.

The Connétable of St. Mary:

I have gone down that route, so that there are responsibilities on auditors to check any departures of assets from the group, then are there, to satisfy themselves?

Deputy Comptroller of Revenue, Treasury and Exchequer:

They will have to assure themselves that the consolidated financial accounts presented through and in fair view of the worldwide activities of the group. Part of that will be making sure they have picked up the activities and the assets in the different jurisdictions.

The Connétable of St. Mary:

Thank you. Another one from me, we are talking about the £750 million now. Is there a general intention to bring that down over the years, do we know?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, this is an early kind of point of debate in the design of the model rules. It was something that was debated quite hard at the time. As well as the 15 per cent minimum rate, what should the threshold be? There were some jurisdictions that wanted a lower threshold. But it was felt that the best way to design these rules was by reference to the existing country by country reporting rules. From multinational groups we exchange information about groups. Tom is Chair of that O.E.C.D. working party and their threshold is £750 million. It makes sense that we operate off the same threshold. You would know better than me, Tom, but I do not see that. Who says never? But it has been hotly debated and it is not coming down any time soon, is it?

Director for Global Markets and International Agreements, Office of the Chief Executive:

No, it is not. There are countries that advocate for a reduced threshold and have done since the start but there is not a consensus on that. I think 2 other things on that, one is, as you say, Cora, where possible the O.E.C.D. when taking on this very complex project has tried to construct it in part

around existing elements of international rules. We have that £750 million threshold for C.b.C. (Country by Country). There was a strong logic, I think, for carrying that across into this project. The second thing, which is just worth saying and not to underestimate it, is just how complex this project has been. I think that is in some ways evidenced by this session and the discussions we have had. It is a complex topic, it has taken a considerable amount of energy from the O.E.C.D. Secretariat and the countries supporting that work. I think for now at least the focus is going to be on implementing the agreed outcomes, not changing the agreed outcomes. I would expect at least some time to allow these new rules to settle in and to understand their implications and how they work in practice because there has been no small undertaking to get us to where we have got to.

Deputy M. Tadier:

Can I ask, the other way round, is the threshold likely to go up to allow for inflation or is it likely just to stay at £750 million for a while, do we know?

Director for Global Markets and International Agreements, Office of the Chief Executive:

I do not know, Cora and Jeremiah, whether there is a provision on that.

Deputy Comptroller of Revenue, Treasury and Exchequer:

That has not been tabled.

Deputy J. Renouf:

Fiscal drag will bring more companies into scope.

Assistant Minister for Treasury and Resources:

We do not underestimate Tom's point on that. It has been a nightmare getting here and there has been so much disagreement, which is why we have ended up with a common approach, rather than a minimum standard because there is still disagreement. It would be very, very brave to try and start opening it again because as much as one Member State might want to open one element, another will want to open another one and it would just turn into chaos again. This focus which now needs to turn to Pillar 1, which is not yet agreed. Sorry, Tom, did you want to say something else?

Director for Global Markets and International Agreements, Office of the Chief Executive:

The other thing is whenever international tax rules are changed, it introduces a degree of uncertainty for businesses. That is always one of the things that I think we worry about because that can have an impact on businesses making decisions and then that knocks on to economic growth. I think one good reason to maintain the thresholds where they are is that that does provide companies with a degree of certainty that they know where they stand on whether they are going to be in scope or not at the present time. I do think that is quite important when they are then thinking about how they

respond to these new initiatives because they all need to take advice. There are lots of filing obligations, a lot of activity that companies will have to do in order to comply. They need time in order to be able to prepare for that, which is also one of the reasons why we are keen to be able to give Jersey businesses the certainty by sort of having this legislation through to the timetable we have got. I think changing the parameters at this stage is not something that you cannot absolutely rule out but I would not say anyone would foresee that. As I say, I think the focus will be on let us get these new rules working. As I think the Minister said and Cora has said, that will mean an increase in sort of rulings and dispute resolution as countries work out how these new rules work. But that, I think, is the focus over the period ahead, rather than changing the goalposts.

Deputy J. Renouf:

Just to return to the point I was making earlier about competitiveness or otherwise of our regime, to say that you are walking a bit of a balancing act in that we want to maintain our own new corporate tax right at the outset. We want it to be attractive but if it became too attractive it might attract adverse comment. Is that a balancing act you recognise?

Assistant Minister for Treasury and Resources:

It is inevitable, is it not? I think Montfort was really driving at it in his earlier question about whether I believed in the principles of it. It starts off as a political project. We want to change the tax because of the way tech companies are trading. Somebody else comes along and says: "We would like see a minimum-labelled tax", that sort of political project. Then it goes to all of our hardworking officials and becomes a very technical project, until you have got something on the table and then it gets political again. It is trying through a big dose of being a political project to do something which is very technical. We have been mindful that there is a lot of politics involved in this project, which for us is why we have constantly continued to look to do everything that we are doing pointing to the model rules. Where there is flexibility, using that flexibility carefully and with balance and with rational argument but always pointing back to the model rules, so that anybody can look at it and say: "Yes, we can see where the model rules are."

Deputy M. Tadier:

Yes, there is. It is the same question as the Chair but perhaps from a different angle, is the risk not that the ... the genesis of this you could argue is for some bigger countries which might be looking at zero tax jurisdictions like ours but there are lots of others and saying it is not right that company is not paying tax. But when they do start paying tax it is the countries with those zero tax rates which are getting the tax revenue. Is there a risk that they will say the philosophy which we started off with at the beginning on question 1(b) is it is not meeting the desire that they set out to achieve.

Assistant Minister for Treasury and Resources:

You could make that argument. I do not think it is an argument that I really accept. Because at some point during this process the O.E.C.D. did lots of work saying: “We think that what happens in Island Z is there is all of this money being charged at zero and it really is very bad. When we get this new regime they are going to have squillions more tax.” We said to them: “That is not how Island Z works, it works like this. This is what we are doing, this is where the tax is being paid.” We have been quite clear about, firstly, how Jersey works, transparent about what we are doing, transparent about the tax, the base case tax scenario. If people do make that argument we can quite clearly say: “We have said this to you, we have said the other to you. You have created a regime, so the international community has created a regime where a global minimum tax should be applied to profits in the jurisdiction.”

Deputy Comptroller of Revenue, Treasury and Exchequer:

I think also, Minister ... sorry.

The Minister for Treasury and Resources:

I was going to say if the principle is, as I have always understood it, that global companies should be paying tax on their operations where they arise, then it does not really matter where the tax is being paid. The whole point is to ensure the tax is paid.

Deputy M. Tadier:

Yes, and can I just ask ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

I was going to say this exact same point because it is success for the O.E.C.D. that countries implement a minimum tax. When we go to the meetings they are pleased to hear of more countries implementing the minimum tax.

[17:15]

It is where the profits are earned but one of the policy objectives was to introduce a minimum tax. Jersey introducing it is ...

Deputy M. Tadier:

Yes. But is it where the profits are earned or is it where the profits are declared? Companies will pay the tax where the profits are declared because surely the purpose was to avoid mechanisms to shift profits.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Companies will now be paying tax where their audited financial statements under accepted accounting principles say their profits are earned. That is the clearest, I think, baseline that you could have.

Assistant Minister for Treasury and Resources:

It is and it is back to the point that I was trying to make with my Island Z is we have not been an area or an island that has had base erosion and profit-shifting, which was the implication of your question.

Deputy J. Renouf:

We have still got sort of some practical questions.

Deputy M. Tadier:

Yes, yes, I think we got on a flight of fancy there, did we not?

Assistant Minister for Treasury and Resources:

We did.

Deputy J. Renouf:

We can have a few more, we have got a few minutes for those as well, a few more but there is ...

Assistant Minister for Treasury and Resources:

No, no, we have not, no, no.

Deputy J. Renouf:

It is a sort of practical ...

Deputy M. Tadier:

This is to do with the timeline, which you have touched on some of the timeline already. What measures are being taken to ensure that all the necessary systems and processes are in place before the implementation date?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Do you want me to talk about that?

Assistant Minister for Treasury and Resources:

Yes, you can do that, yes, because it is ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

Apart from the legislation work that we are doing, there is a lot of work going on a number of parallel streams at the minute, particularly in Revenue Jersey. We are looking at our I.T. (information technology) system that we are going to need to procure a new kind of top class I.T. system that will be specifically tailored for Pillar 2 businesses. At the minute we are doing some business process analysis work which will lead to a tender that will need to then go out for the I.T. system, so that work is happening. We are going to set up a dedicated Pillar 2 unit within Revenue Jersey, so it will be a unit that will be staffed by officials with different types of accounting and tax experience and dispute experience to look after the groups, and it will include rulings and guidance that we are working on, frequently asked questions. So over the coming weeks our next piece of work with the legislation is to really identify the key issues and questions that businesses are asking us and try and consolidate early answers to those and publish them on the website. So there are different strands taking place.

Deputy M. Tadier:

You mentioned the guidance and that is one of the questions; so you will be issuing the detailed guidance to businesses?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, we will be publishing guidance. It is going to be living, breathing and evolving guidance. We are going to start early with key immediate questions for people and then over the coming months we have worked out tables of contents for this guidance and we will be putting in our frequently asked questions and constantly modifying it. We do not want to wait until we finish guidance to publish anything.

Deputy M. Tadier:

Would you anticipate any kind of workshops or drop in sessions or slightly more tailored for individual businesses?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Of our 1,400, roughly 700 groups, we have spoken to a lot of them already many times. We are setting up a broader guidance working group which will have advisers for businesses in Jersey to kind of get more involved in some of the practical stuff, so there are quite a few plans on that. We do have a number of presentations as well that are coming up.

The Minister for Treasury and Resources:

I was going to say the different with this and some of other tax guidance is that this is really aimed at very sophisticated organisations who will have expert adviser who will be dealing with finance professionals. It will not be guidance as to be tailored for members of the public because it just will

not touch them and small businesses. So it will probably be quite different in nature and presentation, simply because of the audience, I expect.

Deputy Comptroller of Revenue, Treasury and Exchequer:

Yes, it is quite niche.

Deputy J. Renouf:

Could you talk a little bit about the timetable for the revenue arriving in Government coffers? Will it dribble in over the year or will it all arrive at the end, and if so, what dates are we talking about? When will we get that visibility as to how much money is arriving?

Deputy Comptroller of Revenue, Treasury and Exchequer:

Part of this being not Zero/Ten is that we will have rolling dates for payment and filing because that is the way the rules work so that is the way we need to fit in with the global system. The first visibility on cash payments, the earliest will be accounting periods ending 31 December 2025 and the first payment on account for those will come in at the end of May 2026, 5 months after the end of the account period. So we will start to see cash coming in for December year ends in 2026.

Deputy J. Renouf:

Is that around the time of an election?

Deputy M. Tadier:

That will be for the new Chief Minister to spend.

Assistant Minister for Treasury and Resources:

What you are trying to say is the people who come after us will benefit.

Deputy J. Renouf:

Basically, yes. So it will start in May 2026 and then just build up through that year?

Deputy Comptroller of Revenue, Treasury and Exchequer;

That is it, yes, and then the balance is paid ...

Deputy M. Tadier:

You may need to consider the ringfencing then because I think every candidate might want to spend that money on something different.

Assistant Minister for Treasury and Resources:

Which is why we should have mind to what the F.P.P. said earlier this week.

Deputy J. Renouf:

I am looking at my fellow panel members and just seeing if there is anything they want to ask.

The Connétable of St. Mary:

One small thing. You mentioned all the way through this hearing the question of flexibility and responsiveness. In legislative terms what are the mechanisms for bringing in any measures we feel necessary as the result of perhaps actions by other jurisdictions?

Assistant Minister for Treasury and Resources:

Well, it is a piece of primary legislation so if we were going to change it we would largely need to change it by regulation.

The Connétable of St. Mary:

It would be regulation, okay.

Deputy Comptroller of Revenue, Treasury and Exchequer:

There are areas of guidance where the rules are not black and white and so we will use that mechanism to try and clarify Jersey's interpretation of some of those rules, and that is where it is important that our interpretation is not out of line with the rules but works for Jersey.

The Connétable of St. Mary:

The other question I had here was about the Fiscal Policy Panel and how the money is going to be used, but you have already - as far as you dare say, Minister - committed yourself to using it in the way they suggest I think.

Deputy M. Tadier:

We know that this is very ... I was about to say esoteric legislation but it is fairly niche in a sense but in another sense the idea of it is quite simple. Do you envisage being able to communicate a relatively straightforward or simplified message to people about what this entails, because I think it is of something which is of interest to a wider constituency rather than just the business industry. For example, would you consider things like infographics which could be used to explain what things like U.T.P.R. and all those different interpretations could be in a visual form.

The Minister for Treasury and Resources:

For the public as a whole?

Deputy M. Tadier:

Yes, I think so, and maybe for States Members, dare I say.

Assistant Minister for Treasury and Resources:

Are you trying to suggest that we have not done that thus far?

Deputy M. Tadier:

I am saying that we have probably had to do that in our heads and get these kind of ...

Deputy Comptroller of Revenue, Treasury and Exchequer:

Could I maybe clarify? We did try to some sort of diagrams, I know it is still a little bit tricky but is that the type of thing that ...

Deputy M. Tadier:

I think so because I think having tangible examples - and they do not have to be Jersey based - you show a company under different models and how it would work. Almost like a short video where people can just watch it. Would you consider that?

Assistant Minister for Treasury and Resources:

The Cora and Jeremiah Show.

Deputy M. Tadier:

There may be a few people it helps.

Assistant Minister for Treasury and Resources:

It is a fair point because we have been dealing with the in scope companies; as the Minister said, they are very sophisticated, they have got their own tax team, some of them probably as big as Revenue Jersey. It will affect the public in those broader ways that we have described in this hearing. It is not going to be straightforward, I think it is quite challenging, but we will go away and see if we can amend maybe some of those flow diagrams or pictorials or something.

The Minister for Treasury and Resources:

I would have said do not tell the public things that they do not understand if it is not immediately relevant to them. I think the message to the public is we are introducing a tax that affects the biggest companies in Jersey and they will pay this tax. I think when we are trying to communicate other things to the public at the same time, I think Richard Summersgill would say it is difficult to tell people things too far in advance and to make it simple for people to understand.

Deputy M. Tadier:

I am sure you have your creatives in all your departments, including this one, who ... I just think people visualise things in different ways and understand things in different ways and it is potentially a lot more exciting than it sounds.

The Minister for Treasury and Resources:

The message for the public is possible as simple as: "We have some companies in Jersey who will now be paying tax and that is a good thing for the Island because it will create money that we can put into our reserves for the future."

Deputy J. Renouf:

But I think everybody in Jersey understands Zero/Ten, at least as a concept; I am not sure they have yet landed with the idea ...

The Minister for Treasury and Resources:

I do not think they do.

Deputy J. Renouf:

... it is now Zero/Ten/Fifteen/Twenty. Our tax system is changing in quite a big way.

Assistant Minister for Treasury and Resources:

Yes, so we would say it is not Zero/Ten/Fifteen/Twenty; we have got Zero/Ten and we have got the new, more shiny M.C.I.T., which is 15.

Deputy M. Tadier:

So we will not have the 20, as we established earlier, the 20 is ...

The Minister for Treasury and Resources:

No, this is in the middle, the 20 per cent will still exist.

Deputy J. Renouf:

It is just we do not like to talk about it too much.

Assistant Minister for Treasury and Resources:

Under Zero/Ten utilities, property earnings, and large corporate retailers pay 20.

Deputy M. Tadier:

Let us finish on that then. I am not the Chair but for me ...

Assistant Minister for Treasury and Resources:

Tom is going to need to leave sharpy ...

Deputy M. Tadier:

Is there some irony then that you have got some companies with a lower turnover paying 20 per cent tax when the higher profit ones are only getting taxed 15? Is there not a strong argument just to bring it all down to 15?

Assistant Minister for Treasury and Resources:

We remind ourselves, why do countries charge property taxes ...

Deputy M. Tadier:

I am talking about retail.

Assistant Minister for Treasury and Resources:

Okay, but property is there as well, and utilities. The reason they charge them higher is frankly that they cannot move. It is immovable. That is why they charge higher rates. When it comes to retail then we remind ourselves of what the profit threshold currently is under the basis of Zero/Ten; it is £500,000 before you start paying any tax. So it is not an ungenerous regime currently. Having said that, we are mindful that we still need to do some thinking and consideration of that large corporate retailer element arising out of this change, and we are doing that.

Deputy J. Renouf:

Good. Ministers and officers, thank you very much indeed. I often get asked to explain this in a nice, simple and easy way. I am not sure that we have quite passed that threshold here today but I hope that we have at least shed some light on it. I think we have done a pretty thorough explanation of the principles involved and the key decision points that the Government has taken and why those decisions have been taken. Thank you very much indeed for your time and we can close the meeting at that point.

[17:29]