Civil servants' e-mails used on anti-tax haven website

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By Christine Herbert
cherbert@jerseyeveningpost.com

CONFIDENTIAL e-mail correspondence between senior States employees has been published on the website of an organisation opposed to tax havens.

The e-mails were sent on 13 and 14 September and relate to the new zero/ten tax proposals currently being drafted which are due to be finalised next month and debated in the States in January.

The correspondence was referred to in an article in the Observer two weeks ago in an article headlined: 'Revealed, how Jersey woos tax avoiders.' It alleged that the e-mails exposed 'for the first time how the tax haven is actively helping the world's super-rich to avoid tax'.

Subsequently Jersey's Chief Minister, Frank Walker, dismissed the story as 'a deliberate misinterpretation'. He told the JEP that the Observer had obtained the e-mails after a civil servant in his department had accidentally sent it to the wrong address.

Related questions were asked in the States on Tuesday by St Helier Deputy Geoff Southern (business, page 25).

Now the original correspondence has been published on the 'blog' of Richard Murphy, an accountant and member of the Tax Justice Network.

In essence the e-mails consist of an initial question posed by the Comptroller of Income Tax, Malcolm Campbell, about potential areas of risk including a possible loophole allowed under the recently amended Jersey Trust Law, flagged up by the Island's Attorney General, William Bailhache.

In his reply on 14 September John Harris – States director of international finance and director general designate of the Jersey Financial Services Commission – said the trust law changes were not intended to facilitate tax avoidance.

Changes

Paul de Gruchy, finance industry executive at Economic Development, advised that the changes were to give legal certainty to what is already common practice around the world. However, Mr de Gruchy also tells Mr Campbell: 'I imagine that a large number of wealthy people all over the world (including Jersey) do just the thing you fear in your e-mail – place assets in trusts in another [ju]risdiction, define themselves as excluded pers[ons] for the time they are resident in a specific juris[dic]tion, have assets returned to them when they ce[ase] to be resident in that jurisdiction, and then rece[ive] all the gains/rolled up income tax-free.

'If zero/ten is implemented with look-thro[ugh] provisions, for example, I would expect ma[ny] wealthy people who might own a private Jersey [in]vestment company to simply move the assets [to a] company in another jurisdiction, place the sha[res] of that company in a trust and let the assets [roll] up.

'Practically the changes will not make it any e[as]ier to avoid tax. What they will do is allow Jerse[y to] compete more effectively for international wor[k.']

It is this explanation that is likely to have p[ro]vided the basis for the Observer article.

Treasury Minister Terry Le Sueur said yes[ter]day that he had not been aware the full text of [the] e-mails had been made public.

He said he had 'no concern at all' that the tr[ust] law revisions could provide a means for Island[ers] to avoid paying tax. 'They will simply bring Jer[sey] into line with all the other jurisdictions,' he sai[d].