

Jersey - putting tax before regulation

Published: January 13, 2026, 3:13 am

The [correspondence](#) between Jersey's tax officials, civil servants and politicians draw attention to some pretty unsavoury consequences of that island's new trust laws. It would therefore have been all too easy to overlook the issues raised with regard to the introduction of 0/10 corporate taxation in the island.

The 0/10 regime is Jersey's economically suicidal response to the requirements of the European Code of Conduct on Business Taxation. That Code says it is inappropriate for a territory to offer one tax rate to resident companies and another to non-residents. The obvious expectation in Europe was that there would be a levelling up. But, led by the Isle of Man the trend has been to level down to 0%- businesses' dream tax rate. The Isle of Man can afford this because it has almost no need for corporation tax revenue because the tax haven status of that island is guaranteed by the UK government who pay it absurd amounts of UK VAT under an agreement so obviously unreasonable that it must constitute state aid to the Isle of Man financial services sector and all who abuse it.

So Jersey has to offer 0%. But Jersey will in 2006 get exactly half (£193 million) of its £385 million income tax revenue from companies. I have estimated that £120 million of this will be lost under 0/10. Terry Le Sueur, their Finance Minister has said I'm wrong; it's only £90 million. Even if he's right, the States are forecasting a deficit of about £70 million a year in 2010 when this policy comes into force. And that's unsustainable, and they know it.

The fact that they keep any income is because financial services businesses will pay tax at 10% under the new arrangement (that's the 10% bit of the 0/10, a formula which otherwise always comes to zero, as I suspect will be the case in reality).

Which makes it even more curious to note that a year after I told Jersey they had massive problems with their 0/10 proposals, and when under questioning from me in the States of Jersey scrutiny process Terry le Sueur admitted for the first time they had no idea how they were going to define who paid tax at 10% and who paid at 0%, they still don't know how to do this. No wonder therefore that I gather that the States

Treasury still officially have no clue how much tax they're going to lose from this policy.

The reason is clear. As I said in [my report to the States last](#) year, they have a real problem with what are called the SPVs and other such arrangements in Jersey. These are 'special purpose vehicles'. They're used by very large companies to issue 'off balance sheet debt'. In other words, they distort the presentation of the accounts of the issuing company. According to evidence submitted to the States last year companies that have used them include:

- (a) Barclays Bank - credit card securitisation.
- (b) Eloyds FSB - commercial paper conduit (securitisation).
- (c) Capital One Bank - credit card securitisation.
- (d) DZ Bank - all manner of capital market activity - securitisation, synthetic securitisation, capital raising etc.
- (e) Commerzbank - commercial paper conduit (securitisation).
- (f) HSBC - securitisation.
- (g) Bank of America - Securitisation.

But these SPVs are decidedly odd. First of all, they're owned by charitable trusts (not that I've ever found any payments to charity by them), which means we're back to trusts and all the issues that arise from them again. Second, the companies are deemed to be non resident in Jersey even though they are incorporated there, have their directors there and do all their business (which is purely book-keeping) there. Which is crazy, because they're clearly not resident anywhere else. But none the less, Jersey does not tax them at present because in Jersey it really is true that the law can and does say black is white, even when to the rest of the world that's obviously not true.

But under 0/10 Jersey is going to charge financial services business to tax at 10%. And it's not allowed to ring fence, so it faces a bit of a problem with these SPVs, because they're clearly financial services companies. Look at that list and tell me what else they are. And then note what John Harris, Director of International Finance for Jersey has to say in his mails:

I am "anxious" (perhaps unnecessarily) on 2 points - one absolutely fundamental to how 0/10 is intended to work, the other a matter of commercial value which we would be foolish in my view to ignore if we have no good reason to do so. Both go to the matter of the detail of drafting.

On the first point, how we describe qualification with the 10% rate is critical. If we simply lump all regulated businesses in a general definition we will sweep up vital zero tax vehicles such as SPVs, Funds etc into the 10% rate and the resulting reaction from industry and external advisers will not be pretty. I am therefore keen to see the draft now that there is one and to see for myself how the interface with the various regulatory laws is expressed. There needs to be a schedular approach - which in turn is mirrored by the FSC laws. I will explain what I mean by this when I see you.

(The second point is deleted here, it's not relevant)

Now look at how Malcolm Campbell, head of tax, responded to this. He said:

On the first two points I think we need to meet to formulate drafting instructions and show them to Terry to make sure he is happy with them, and, if so, we can then send to the Law Draftsman.....the tick the box regime should be accepted by all and sundry but I am very aware how sensitive this matter is for some professionals so we have to be considered and careful in what we propose.

Let's consider what this means:

1. First of all, it's clear that the scope of regulation by the Jersey Financial Services Commission is to be changed to make sure that businesses Jersey does not want to tax are not taxed simply because they will be taken out of regulation.
2. Second it's pretty clear that Jersey is heading for a regime of 'tick the box' taxation.

Now the first of these is important. It puts out the message loudly and clearly that tax avoidance is more important to Jersey than regulating important parts of its financial services sector. I guess there's no surprise there, but it confirms what we've always known.

The second scenario is even more interesting. It's going to be a matter of 'tick the box' to say whether you're taxable or not. And the mails actually show that Jersey knows this is going to be almost impossible to monitor. As John Harris says:

people are sensitive to disclosure requirements which go beyond the existing admittedly minimal obligation

You bet they are. The disclosure in question is about whether companies are really resident in Jersey or not. And when faced with the question, and the almost certain knowledge that they cannot be proved to have ticked the wrong box (because if Jersey knows anything it's how to make impregnable trusts) how many Jersey residents and companies are going to tick the box saying they're not, even when they are? I think you know the answer to that.

Is it any surprise as a result that the Jersey States Treasury is now, I understand, reluctant to give any figure for tax lost from 0/10 (which worries me, because it suggests I might have understated things after all). I think Jersey's future is looking very bleak indeed. Which states' future is not when it's facing losing a massive part of its tax revenue, with any remaining part being dependent upon the honesty of at least some taxpayers who are, in no small part, dependent upon tax evasion for their income?

The politicians in Jersey like to pretend all is well in the place. The truth is clearly otherwise. Would you put your money in a country that looks like it might go bust? I

wouldn't, but let's be clear, that looks likely. It only has reserves of £418 million according to the [2006 Budget](#). If the loss from 0/10 is only £70 million a year that's bankruptcy in about 2016 then (since it starts in 2010).

What a way to run a financial services industry.

Technorati : [0/10](#), [Jersey](#), [financial regulation](#), [tax avoidance](#)