

Zero / ten is dead and still Jersey can't face the truth...

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The basis for the European Commission's High Level Working Party's decision on the future of zero / ten taxation in Jersey and the Isle of Man has now been published. I can't as yet find it on the web, but I have a copy. It says:

The High Level Working Party (HLWP) discussed the current scope of the Code of Conduct on business taxation in line with ECOFIN conclusions of 7 December 2010 (doc. 17380/10 FISC 149) .

The HLWP took the view that personal income taxation falls, as a general rule, outside the scope of the Code. However, certain aspects of such taxation may be taken into account in specific circumstances.

The regimes of the Isle of Man and Jersey (doc. 16766/10 FISC 139 point 12) fall under the scope of the Code of Conduct due to the following reasons:

- 1. Shareholders are not taxed exclusively on actual distributions, but also on deemed distributions. The combination of both ensures current taxation of business profits at shareholder level.*
- 2. Current business profits are effectively taxed at shareholder level via deemed distribution or attribution provisions. The mechanism is designed as a system based on shareholder and company taxation to ensure combined taxation of business profits.*
- 3. The mechanism, whereby current business profits are taxed at shareholder level via deemed distribution or attribution provisions, only applies to resident shareholders thus creating an instrument to protect the national tax revenues and to attract non- resident shareholders.*
- 4. The mechanism is an alternative means of taxing domestic business profits rather*

than an anti-avoidance measure.

These conclusions are without prejudice to any further clarification of the scope of the Code of Conduct made necessary by examination of other regimes with potentially damaging effects.

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I think that is in emphatic enough for even Philip Ozouf, the Treasury Minister of Jersey to understand. The last paragraph is also very important. It makes clear that the decision stands independent of any other consideration to come in the future and will not be revised as a consequence of those deliberations.

It is almost impossible to imagine that EcoFin will overturn this decision.

In the circumstances the response from Ozouf is almost too baffling to comprehend. His Department issued a press release yesterday, only as a consequence of my having put this information into the public domain, saying:

The EU Council's High Level Working Party has met to consider Jersey's zero-ten corporate tax regime and has confirmed the earlier findings of the Code Group. It has concluded that the combination of the Deemed Distribution rules and zero-ten does give rise to harmful effects.

The Code Group will now meet on the 17th February to formally assess Jersey's Tax regime.

The Treasury and Resources Minister, Senator Philip Ozouf commented "We are pleased that we now have clarity and that this conclusion has confirmed our expectations.

"Over the coming weeks we will be considering all of the appropriate options for Jersey and will announce a course of action once this process is complete"

A detailed background paper on the history and current status of zero-ten can be found online.

Unless I'm seriously mistaken what this says is that Ozouf always expected Jersey to lose on zero / ten. But only a few weeks ago he argued all was well with it. The man simply can't have it both ways. No wonder there's a motion of no confidence in him before the States of Jersey right now.

The truth is that, as I have heard from at least one high level insider in Jersey, they are utterly terrified by the consequences of this decision and have not a clue what to do

about it. They know that this decision knocks their whole finance industry into touch and they're scared stiff as a result.

And they also know the number to call. I've always said I'm willing to help. After all, I'm the only person who has ever and consistently called this one right. But I'm not holding my breath.