

TAXE 2 COMMITTEE MEETING 14<sup>th</sup> MARCH 2016INTRODUCTORY STATEMENT BY ROB GRAY, DIRECTOR OF INTERNATIONAL TAX POLICY,  
STATES OF GUERNSEY

Thank you Mr Chairman.

Distinguished members of the TAXE 2 Committee, it is a pleasure to be here this afternoon for this exchange of views with you.

My name is Rob Gray and I am the Director of International Tax Policy for the government of Guernsey. Up to the end of 2015, I was the Director of Income Tax in Guernsey.

Guernsey is entirely autonomous for both fiscal and budgetary purposes and as Director of Income Tax, with responsibility for collecting and protecting tax revenues in Guernsey in order to pay for public services, I had challenges little different to those faced in every Member State of the EU.

I now support our government in ensuring that Guernsey continues to implement the highest international standards of tax transparency. Our parliament has voted unanimously to remain formally committed to meeting global standards. This is not an option, but a responsibility.

I represent Guernsey in the OECD's Automatic Exchange of Information Working Group; in the BEPS Ad hoc Group on the Multilateral Instrument, and, subject to Global Forum endorsement, Guernsey will be a full member of the Global Forum's Peer Review Group from 2017. These are roles that we take very seriously, demonstrated by the fact that the Global Forum established the Competent Authority meeting, now an annual event, after this was suggested by Guernsey.

The Chief Minister of Guernsey met with you, Mr Chairman, in your then capacity as the Chairman of the TAXE 1 Committee in Brussels in May last year, along with Jersey's Chief Minister, and with a number of members of the Committee too. We want to ensure there is effective dialogue with the European Parliament in relation to our shared objective – to have in place effective and objective international standards for tackling tax fraud, and aggressive tax avoidance.

I will keep this opening statement brief as you will already have much of the detail in front of you, in the letter and appendix from Guernsey's and Jersey's Chief Ministers dated 22 February 2016; and in the detailed submissions that Guernsey and Jersey sent to assist the Committee's work on tax rulings in May 2015.

### **1. Guernsey, the UK and the European Union**

Guernsey is a British Crown Dependency, as is Jersey. This is completely different to the status of Overseas Territories such as Gibraltar, the Cayman Islands or the British Virgin Islands.

Guernsey is not represented in the UK Parliament and does not form part of the UK. The UK Parliament does not legislate for Guernsey without its consent. It is settled constitutional practice that the UK consults Guernsey before it may bind Guernsey to obligations in international law.

By agreement, Guernsey has been included in many important international conventions to which the UK is a party – for example the OECD Convention was extended to Guernsey by the UK, at Guernsey's request, in 1990. This means that Guernsey is part of the UK's membership of the OECD, and that OECD decisions and recommendations apply to Guernsey as they do to the UK.

Guernsey's relationship with the European Union is provided by Protocol 3 to the UK's Treaty of Accession to the European Economic Community in 1972, under which Guernsey is part of the customs territory of the E U and there is free movement of goods between Guernsey and Member States.

Guernsey is not, though, part of the single market in financial services and is not required to implement Directives on such matters as movement of capital, company law or money laundering. Similarly Guernsey is a third country for the purposes of EU tax legislation. However, Guernsey voluntarily chooses to adopt such measures where appropriate, such as the Savings Directive, or our commitment to meeting international standards of financial regulation and countering money laundering and terrorist financing.

Our determination to be a strong partner of Europe also extends to sanctions. Guernsey adopts all EU – and indeed United Nations – sanctions and asset freezes voluntarily and immediately, to ensure institutions regulated in the Islands cannot be used as a 'back door' for parking or transferring targeted assets. All EU restrictive measures imposed since January 2011 have been implemented and are administered robustly, as has been recognised by the External Action Service.

## **2. Guernsey's tax system**

As I said earlier, Guernsey raises its own tax revenues and pays for its own public services. It has a, fair and competitive tax regime that meets OECD standards of transparency and information exchange.

Revenue is raised principally through income tax on individuals and companies. The top rate of personal income tax is 20% and there is a General Anti-Avoidance Rule. Tax fraud is an offence in Guernsey. Companies generally pay tax at 0% although certain financial services activities are charged tax at 10%, and companies carrying out regulated utility activities, and companies deriving income from interests in Guernsey land, are taxed at 20%. Guernsey's business tax regime complies with international standards and is a system that is sustainable, competitive, protects the economy and preserves tax neutrality.

Our standard rate of corporate tax of 0% is based on two principles:

- the Code Group principle on non-discrimination between resident and non-resident owned companies
- tax neutrality and transparency

As an international finance centre Guernsey aggregates capital, facilitating the investment of funds through a well-regulated jurisdiction into European financial markets. The return to the investors should be taxed in their home country and any business activity generated by the investment in Europe should be taxed in the jurisdiction where that activity takes place. This is, of course, aligned with the objectives of the BEPS agenda.

We fully recognise that for tax to be paid where it is due it is necessary for the countries concerned to have information to help them enforce compliance with their tax legislation.

As we set out in our submission to the committee in May 2015, Guernsey has not made any tax rulings since 2008, when our present corporate tax regime was introduced. We have taken the definition of tax rulings as that set out in the European Commission fact sheet of 18 March 2015 [EC - Combatting corporate tax avoidance - tax rulings, particularly sections 2.7, 2.8 and 2.9].

This is now a matter of formal policy in Guernsey, and any variances from the legislation are dealt with solely through publicly available official Statements of Practice

### 3. Guernsey's track record and ongoing actions

Since Guernsey committed to the OECD initiative on transparency and effective exchange of information in 2002, we have demonstrated that commitment in a number of ways. These include:

- Voluntarily **adhering to the principles of the Code of Conduct on Business Taxation**, which has ensured that Guernsey's corporate taxation system was **formally endorsed by the EU's Code Group in December 2012**
- As mentioned earlier, voluntarily adopting the **EU Savings Directive**, including moving to full **automatic exchange of information from 2011**, so that information relating to accounts held in Guernsey by individuals resident in an EU Member State is automatically sent to their home jurisdiction each year
- Being part of the **Early Adopter Group of the Common Reporting Standard on automatic exchange of information**, having been in the first wave of signatories of the Multilateral Competent Authority Agreement in Berlin, in October 2014. This means that we will be able to exchange information for 2016 in 2017
- Being **assessed by the OECD's Global Forum on Tax Transparency and Exchange of Information for Tax Purposes** as Largely Compliant with the international standards on exchange of information on request – a rating that is equal to that of the UK, Germany and the USA among others
- Participating in the **Multilateral Convention on Mutual Administrative Assistance in Tax Matters**
- Having **60 bilateral Tax Information Exchange Agreements** in place (including 23 EU Member States) and **13 bilateral Double Taxation Agreements** in place (including a further 3 EU Member States).

We welcome the positive recognition of this track record from the European Commission, and from the OECD.

In short, Guernsey – like Jersey – meets every international standard of tax transparency and information exchange, and its politicians have made a clear and unanimous political decision to continue doing so.

### 4. Next steps for Guernsey

Guernsey is actively engaged on the **BEPS agenda, both Guernsey and Jersey are** observer members of the BEPS Ad hoc Group on the Multilateral Instrument, and Guernsey fully supports the actions being taken to ensure the fairness of the international tax system and to secure countries' revenue bases.

As Guernsey does not have an extensive network of Double Taxation Agreements, particularly not with EU members, it is not used for profit shifting and transfer pricing to the extent experienced by other jurisdictions. However it is important that we nevertheless play a full and active role in implementing these global standards and ensuring that profits are taxed where the economic activity that generates the profits is carried out and where the value is created. This fits with Guernsey's long-standing regulatory approach to ensuring that the finance sector in Guernsey has substance.

We have noted that the Commission's 28 January Communication on an external tax strategy for the EU sets out the principles of a 'scoreboard' system for benchmarking third countries against criteria recommended for agreement by Member States. . We welcome the benchmarking of the steps that we have taken, and their effectiveness in countering aggressive tax avoidance and tax fraud; and we welcome doing so against clear, objective and universally applied criteria.

In addition, Guernsey's Ministers will soon be recommending to our parliament that Guernsey adopts country-by-country reporting.

Guernsey is also continuing to demonstrate leadership on the **beneficial ownership agenda** having had in place a regulatory framework for trust and corporate service providers since 2000, which has been demonstrably successful in practice. Trust and corporate service providers are required to meet global anti-money laundering and countering the financing of terrorism obligations, and Guernsey's company law requires local resident agents to hold accurate and verified beneficial ownership information. This is in line with the standards and recommendations of the Financial Action Task Force and the G20 High Level Principles.

In 2015, Guernsey was the first non-EU Member State, aside from the USA, to hold the presidency of the Camden Asset Recovery Inter-agency Network (otherwise known as CARIN). We used our presidency, among other things, to sponsor initiatives designed to improve co-operation between jurisdictions around the world in relation to exchange of information concerning beneficial ownership of companies.

This was reflected in the very high quality of our recent MONEYVAL evaluation report, which included findings in relation to transparency of beneficial ownership and international cooperation and information exchange.

All of the work that my law enforcement colleagues are doing in relation to beneficial ownership is being carried out with full regard to the Fourth Anti-Money Laundering Directive of the European Union as a point of principle.

Guernsey shares the EU Member States' aim of enhanced timeliness of access to accurate beneficial ownership information, and the secure exchange of that information. The intention is to have in place in Guernsey a secure, consolidated and locally-accessed register with a designated point of contact, and provisions in place for timely information exchange between Guernsey and EU Member State law enforcement authorities. The work to deliver that is now underway, and in 2017 recommendations will be made to our legislative and executive parliamentary assembly for approval.

That concludes Guernsey's opening statement.

Thank you.