

## **Jersey Callously indifferent to tax evasion**

The difficulty of dealing with the mails that have come out of Jersey in the last few days is knowing where to start. There is so much within them that requires comment. But it's clear the key issue in here is a simple one: the fact that Jersey is knowingly helping tax evaders to pursue their activities. I'll have to deal with the other issues later.

The mail issued on the instructions of Terry Le Sueur (Minister of Finance) and the statement of Malcolm Campbell (head of tax) only add to the impression that Jersey is, as I have suggested, rotten to the core. Look at what Bill Ogley says for Le Sueur:

The controller of Income Tax ... has made a statement clarifying that the exchange was devoted to anti avoidance rather than facilitation of avoidance, as alleged by the reporter.

Of course, that's right. The correspondence was concerned with preventing avoidance. But only in the context of Jersey. This is apparent from Malcolm Campbell's comment that:

I am .. content that I will have .. powers to attack any tax avoidance .. on the domestic tax front ... It is a matter for other jurisdictions world-wide to take powers to themselves in their own domestic tax laws if they feel that their citizens are avoiding or evading their own domestic taxes.

In other words, as Campbell himself acknowledges, and as the Attorney General of Jersey obviously realises only too well, the new trust laws in Jersey do 'facilitate greater tax avoidance' (as the Attorney General apparently put it although as is commonplace in Jersey where the parameters of acceptability are somewhat different from those elsewhere, for avoidance please read evasion). But Campbell does not care about the consequences of the legislation for the rest of the world.

Worse than that though he has tried to pretend there is no such risk for others. He said in his statement:

We believe that a trust should be a transparent vehicle, with the declaration of trust setting out unambiguously the extent of the powers of both the settlor and trustee. The effect of the proposed changes will be to enhance transparency and accountability, something that can only be of benefit to those who establish trusts; those who administer them and, indeed, those who seek to challenge them.

It is impossible for me to believe that Campbell thinks this to be true. The reason is simple. It is not true of Jersey trusts. The reasons are:

There is no register of trusts in Jersey. No one knows how many there are, for example;

There is no requirement for a trust in Jersey to publish its trust deed, to anyone;

The duty of a trustee in Jersey is to conceal the identity of the settlor, the trust deed and the actions of the trust. This is implicit in the professional relationship of client confidentiality, which is not in any way over-ridden by statute in Jersey with regard to trusts;

No trust has to file accounts in Jersey, and if the trust is created for a non-resident person they do not have to submit tax returns.

To therefore suggest that what Jersey is doing is to 'enhance transparency and accountability' is in straightforward terms untrue: there is no concept of either transparency or accountability inherent in Jersey trusts or the law and practice of them. Indeed, their entire purpose is to facilitate the exact opposite. And given that opaqueness and impregnability are their intention Malcolm Campbell, Terry le Sueur and all the others party to this correspondence must know that just as this new law enhances the opportunity for abuse in Jersey (John Harris' comments to the contrary being so absurd that any remaining shred of credibility he had in the international tax community must have gone) so it follows that it must increase the chance for abuse elsewhere as well, an abuse which those other countries have no chance of tackling precisely because Jersey's law is designed to make sure that the perpetrators of tax evasion are beyond reach.

In which case the defence offered by Jersey is completely hypocritical. It has created a new law which has deeply worried one of its senior law officers because of the opportunity for abuse within Jersey that it has created, and that concern is so justified that statutory steps are required to prevent Jersey citizens availing themselves of that opportunity. And yet Jersey wishes to pretend that this should be no concern for anyone else.

The reality is that all countries who wish to tackle criminality will see that Jersey is promoting tax evasion by acting as it has, and is quite indifferent to the consequences. This is corruption of the highest order. International action is needed to stamp it out. And the UK has to take the lead in doing so.

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