

OPEN AGENDA

No: 12/2020

Memorandum for Economic Development Committee

SUBJECT

Draft Company Registry Policy

Memorandum by Chief Economist

ADVICE SOUGHT Economic Development Committee (EDC) are requested to:

- 1) **Endorse the Company Registry Policy for 6 week Consultation**
- 2) **Agree that ‘Company Registry’ can be added as an Export Sector to a future revision of the SEDP**

BACKGROUND & CONSIDERATIONS

1. The Sustainable Economic Development Plan (SEDP), as endorsed by EDC, supports growth of exports in order to attract more money to St Helena, and become Altogether Wealthier.
2. Many jurisdictions work to provide competitive Company Registry services for globally operating companies to attract international revenues. St Helena regularly reviews revenue generating opportunities and this paper has been put together to move forward development of St Helena’s Company Registry to provide a better, more transparent and more attractive service to customers whilst ensuring that we keep abreast of international requirements.
3. Development of St Helena’s Company Registry is timely, as the EU’s new Economic Substance Requirements legislation will require tax in St Helena to be transparent and fair and St Helena will be reviewed on it’s ability to tax global profit and provide a transparent registry.
4. In April 2019, EDC gave approval for Officers to pull together a proposal for Company Registry on St Helena. Since this was a technical area which required input from a specialist, after a budget was approved, SHG went out to tender for a Financial Services Policy Advisor consultancy. The consultancy, Orgueil Limited, was appointed in November 2019. The duties of the Financial Services Policy Advisor have been the following:
 - Write a policy paper summarising the vision for the Company Registry for endorsement by St Helena’s Economic Development Committee. Undertake any associated consultation as necessary.
 - Recommend Amendments to the Companies Ordinance,

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Financial Services Ordinance and Tax Ordinance in line with the policy. Work with St Helena Government's Draftsperson to develop the amendments.

- Develop best practice procedures for the administrative function and build capacity of the registrar.
5. The Policy Objectives which were made clear to the Consultancy were:
 - St Helena's legislation should ensure that taxation of companies operating globally should be transparent and there should be compliance with anti-base erosion and profit shifting measures
 - St Helena should market its Company Registry and ensure that the registry of bona fide companies is facilitated where appropriate to encourage revenue generation on St Helena for the benefit of its people.
 6. The Draft Policy has been created, and reviewed by Officers to be appropriate. The EDC are being asked whether the Draft Policy can be taken for 6 week public consultation to gather feedback from the public and stakeholders.
 7. Please see:
 - Company Registry Policy Draft for Consultation
 - Company Registry Policy Annex A - Legislative Changes required
 - Company Registry Policy Annex B - Business Case
 - Company Registry Policy Annex C - Contents of new Anti Money Laundering Handbook
 - SWOT analysis of Company Registry Policy
 8. The Executive Summary of the changes proposed are outlined in Chapter 1 (pages 3-6) of the Company Registry Policy Draft for Consultation. A presentation of the Company Registry proposals which is intended to be used for the Consultation will also be presented at this EDC open session for elected members to provide feedback on where necessary.
 9. It is proposed that consultation is undertaken during the period 29 May 2020 – 13 July 2020.
 10. The questions for consultation are as follows:
 - Consultation question 1: Do you agree that 20% of global profits should be deemed local to St Helena and taxed at local rates (25%)?
 - Consultation question 2: Do you agree that for medium and large businesses, a minimum tax rate of 1% of turnover should apply to ensure that all medium and large businesses

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pay tax on St Helena?

- Consultation question 3: Do you agree that the definition of medium business should be defined as one with a turnover of between £25,000,000 and £50,000,000 and the definition of large business be one with a turnover of more than £50,000,000 per annum, for purposes of charging a minimum tax rate?
 - Consultation question 4 – Do you agree that branch taxes should be implemented in St Helena to ensure that branches of companies operating in St Helena do not avoid paying tax when they remit profits away from St Helena?
 - Consultation question 5- Do you believe that St Helena should participate in the Common Reporting Standard (CRS), an information standard for the Automatic Exchange of Information (AEOI) regarding bank accounts on a global level, between tax authorities?
 - Consultation question 6- Do you believe that St Helena should participate in the US Foreign Account Tax Compliance Act (FATCA), an information standard for the Automatic Exchange of Information (AEOI) regarding bank accounts to the US tax authorities?
 - Consultation question 7- In your opinion, which countries would it be most important for St Helena to set up double taxation agreements with?
 - Consultation question 8- Do you agree that St Helena should sign up to the Base Erosion and Profit Shifting Minimum Standards?
 - Consultation question 9 – Do you agree that St Helena should utilise a St Helena Anti-money laundering Handbook (the “Handbook”) in accordance with the Financial Action Task Force (FATF) recommendations?
 - Consultation question 10 – Do you agree that there should be a ban on the use of bearer shares, because these allow beneficiaries a level of secrecy?
 - Consultation question 11 – Do you have any other comments on the Draft Policy and its annexes?
11. As with other consultations undertaken recently, feedback will be requested:
- Through one on one meetings, where these have been requested. Because the Consultant is off island, this will include a online element which can be facilitated by SHG Officers where necessary.
 - By online ‘survey monkey’ questionnaire,

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administered by the Statistics Office.

- At a public meeting arranged during the consultation period aimed at business participants. Since this is a technical Policy, which only affects Companies, it would not be required to undertake meetings in the districts, therefore one meeting in a central location will be organised.
 - Through the Chamber of Commerce.
12. The Draft Policy will be sent to the Financial Services Regulatory Authority for comment. It shall be flagged with the UK Foreign and Commonwealth Office for comment via the Governor's Office. It is suggested that a press release is issued and notice on the Consultation is sent to all of the companies on the Company Register, the majority of whom have provided email addresses. It is also suggested that international organisations which provide Company Formation and Administration services are contacted for their input.
 13. The Draft Policy will be updated as a result of comments and shall return to EDC for recommendation for Executive Council Endorsement in July or August 2020.
 14. This year, a review of the SEDP shall be undertaken to outline progress made to date, further actions needed, and any new developments. As a part of this workstream, elected members are also asked to give Officers a steer that 'Company Registry' should become an 'SEDP sector'.
 15. The financial benefits of becoming a better regulated fair tax jurisdiction would be as follows:
 - Fees and charges paid by each company registered
 - Tax paid by registered companies.
 16. Currently private companies pay £720 for incorporation, £21 to submit their annual return and £78.25 to submit their Financial Statement. The current Company Registry does not yield much in terms of revenue to SHG. In 2018-19 the Registry yielded £2,440 and in 2019-20 it yielded £3,353.
 17. The net gains will depend on how we intend to market the registry, whether we get on board with a company/ies who provide Company Formation and Administration services, who add St Helena to their portfolio, and how we choose to tax profit from global commercial activities.
 18. After consultation, when the Policy is due for endorsement, there will be costs related to enactment and implementation.
 19. The immediate costs will be in terms of human resource.

FINANCIAL IMPLICATIONS

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- Given the extent of the legislative change needed, from preliminary conversations with the Attorney General, it is possible that external legislative drafting support may be required. This could be at a cost of around £45,000 (assuming that a drafter may be engaged to support the entire changes needed).
 - It is likely that SHG will need to recruit a new Company Registrar and an assistant; costs assumed to be £100,000 per annum.
 - Worldcheck (financial crime and anti-money laundering screening software) - \$5,000 pa.
20. It is estimated that the set up charges could be around £150,000, with annual costs of around £100,000.
21. Registering over 140 new companies per annum should make the service break even. Considering Company Registry services across the world, it is considered that registry of over 200 companies per annum could be achievable.
22. Company registry essentially is an export business as it raises funds from companies operating globally. Attracting those funds is a significant benefit to St Helena Government's revenues, as these revenues can be used to pay for other Government projects and programmes.
23. It is imperative that St Helena does not provide an environment for tax avoidance, aggressive tax planning, and base erosion and profit-shifting. Currently, St Helena does not tax profits derived globally, so it is pertinent to bring in legislation as soon as possible to introduce taxation on globally derived profits. Tax changes come in at the start of a financial year, so the aim is for changes to come into force from 1 April 2021. Currently St Helena is a largely unknown jurisdiction and therefore we are not at risk of being seen to allow profit-shifting because we do not have any multi-national companies incorporated in St Helena. However as awareness of St Helena increases, there is a greater risk that unless we modernise our Company Registry, we could gain a negative reputation.
24. St Helena aims to market itself as a clean, responsible and transparent place to do business. The Draft Policy has been therefore drafted in a way to ensure St Helena does not join EU's list of third-country non-cooperative tax jurisdictions ("tax haven list").
25. This paper is linked to the following Investment Policy Principle:
5. Encourage growth through import substitution, export

ECONOMIC IMPLICATIONS

CONSISTENCY WITH INVESTMENT POLICY

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PRINCIPLES

promotion and domestic production.

PUBLIC / SOCIAL IMPACT

26. There will be no impact to the public.

ENVIRONMENTAL IMPACT

27. There will be no environmental impact.

PREVIOUS CONSULTATION / COMMITTEE INPUT

28. Company Registry was on the agenda at the April 2019 Economic Development Committee. EDC were asked to agree that the Company Register should be published online to ensure transparency, agree a preferred option about how to approach Company Registry within a Policy, and agree that Companies, Income Tax and legislation should be drafted in accordance with the preferred option, to come back to EDC for endorsement.

29. An extract of minutes are below:

30. “The Government Economist briefed members on the Company Registry and asked whether it should be promoted going forward. EDC felt affordability was an issue and that companies should be consulted and given sufficient notice that the Registry would be published. The FS advised there had been no objections from FCO. It was noted UK has required the company’s registry be published by 2023 thus there would be sufficient time to factor in this work.”

31. “EDC was asked to give approval to pull together a proposal, to include the above information, which would be reported back to EDC. Members agreed, noting that no agreement was given on policy changes.”

PUBLIC REACTION

32. This change is unlikely to be controversial for the St Helena public, as Company Registry is largely an administrative task, without significant direct impacts on people, employment or land.

PUBLICITY

33. The consultation will be mentioned in the EDC update.

34. Press Release will be distributed with a link to the Draft Policy and Annexes on the SHG website.

35. The Company Registry website will be updated to link to the consultation.

36. Companies on the Register will be contacted to inform them about the consultation.

37. The Financial Services Regulatory Authority, and the FCO will be contacted to inform them about the consultation.

38. International organisations which provide Company Formation and Administration services will be contacted to inform them about the consultation.

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**SUPPORT TO
STRATEGIC
OBJECTIVES
LINK TO
SUSTAINABLE
ECONOMIC
DEVELOPMENT
PLAN GOALS**

39. This paper supports the following National Priority:
- Sustainable and ethical economic development
40. This paper is linked to the following SEDP Goals:
1. Increase Exports

**OPEN /CLOSED
AGENDA ITEM
Corporate Support
Corporate Services
DATE OF MEMO**

Open

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15 May 2020

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