

Chief Minister's Statement to Tynwald

11 December 2012

Madam President,

In October, Government announced our intention to negotiate a partnership agreement with the United States of America to implement its foreign account tax compliance act, or FATCA.

Last Friday I announced that the Isle of Man would be adopting information sharing arrangements with the United Kingdom, which will closely follow those currently being negotiated with the United States of America.

Today I wish to outline the strategic basis for that decision.

The Island's direct tax regime has faced external pressure for change, in terms of transparency, for over a decade. The nature, extent and focus of pressure has ebbed and flowed throughout that period, but has never left us.

Awareness of this has informed the government's policy-making and actions over that period. We have long sought to position the Island so as to avoid damaging political and economic attitudes being held against it. This approach, for instance, led us to work successfully to feature on the OECD first "white list" in 2009.

Government has also sought to foster an awareness of an Island characterised by its pragmatic and co-operative approach to international relations, committed to the implementation of international standards in an effective and professional manner.

Whilst some would argue that the Island has gained little from this, the counterargument is simple: a failure to meet the standards of the best regulated jurisdictions in the world, and help to shape that framework, would damage the Island's economic prospects in the medium to long term.

Honourable members, the US FATCA is a game changer in relation to transparency and the automatic exchange of information agenda. It will be used as the lever and model by many countries for equivalent information to be provided to them.

Such is its reach and effect, FATCA may even overtake the proposed changes in the EU savings directive. This government considers, therefore, that automatic exchange of tax information in something like the volume and form required by the USA under FATCA will become part of the international standard.

It is clear that the next two years will see massive changes in the way in which nations co-operate in the field of international taxation issues.

Bluntly, we have a choice: we can either participate in the shaping of that change and, in the process, help to minimise its less welcome impacts in the short term, or we can sit back and let others effectively shape our future.

As Chief Minister, I cannot accept the lack of leadership that this second option represents.

Because we have reached this view, key strategic decisions as to how and where to position the Isle of Man in response to the evolution in global standards need to be taken now.

Those decisions must take into account the needs of our private sector as far as is possible, although we must base decisions of this magnitude on the interests of all those who work and live in the Island, as well as those with whom we have important relations.

However, in terms of the business community whether based here or overseas, it seems to me that we can put those needs into two categories: the actual ability to do business here and use the Island as a base for international operations on the one hand and the cost of doing business here on the other.

Adhering to international standards and norms creates a sort of passport, or right of way, into global markets for all sections of our highly diversified economy.

There is a brand associated with the Isle of Man as a country which both protects and fosters business. That brand will be damaged if we try to swim against the tide of international changes and sentiment and run the risk of forever being labelled as a tax haven, with the prospects of new blacklists and missed opportunities.

Government does all that it can to maintain our reputation as a co-operative and competitive jurisdiction, and I am proud that during my tenure as Treasury, Economic Development and Chief Minister this reputation has been the bedrock of our economy, and has helped to deliver continuous economic growth and diversification.

I accept that the cost of doing business, and in particular what might be called the compliance burden, is a different but very important kind of pressure on our economy, and government also does all that it can to keep this cost to a minimum. I will return to this theme shortly.

First, I want to give Honourable Members a little more information about FATCA and the intergovernmental agreements – or IGAs – associated with it.

FATCA assists in the prevention of tax evasion and financial crime by creating a co-operative environment within which information on many forms of investment owned by non-residents is shared with the investor's country of residence.

In its basic form, financial institutions would need to have a direct relationship with the US authorities which could be particularly burdensome. The development of a model IGA was first announced by the USA and five initial partners, France, Germany, Italy, Spain and the UK and was driven by the concerns of business about the heavy compliance load which would be put on them in the absence of these international framework agreements with the USA.

The key concerns apply as much in the Isle of Man as they do in the UK and elsewhere, and this is what led our government to decide that an IGA was the best approach for the Island.

Under FATCA, financial institutions could be put in an impossible position. If they provide customer information directly to the us authorities, they could well end up breaching data protection laws. To solve that problem, financial institutions under an IGA will provide information to their local tax authority, and the information will then be shared with the USA under a pre-existing information-exchange agreement.

Second, FATCA requires financial institutions to close the accounts of customers who refuse to provide information. This could cause another big problem, again putting these institutions at risk of breaking local law, their contractual obligations to their customers, or both. The IGA takes away this problem.

Third, madam president, the IGA also simplifies the tests used to identify customers, and places more reliance on anti-money laundering (AML) and know-your-customer (KYC) rules; rules which we have consistently met or exceeded to make an important contribution to the fight against international crime and terrorism.

Finally, the IGA allows certain business types and financial products effectively to be carved out of the FATCA requirements completely, and so streamlines the whole process.

The work which financial institutions need to do under FATCA actually starts next year in 2013, although information reporting does not start until September 2015. The reporting of information in 2015 is partial, and the range of information required under FATCA expands in 2016 and reaches its full extent in 2017.

I know well that business needs certainty to operate successfully, and in relation to FATCA, our negotiation of an IGA with the USA gives business precisely that: a great deal of certainty, combined with the benefits which I outlined just now.

An additional benefit for our multinational companies is that we will be providing exactly the same platform in the Isle of Man that they will need to run in the UK and their other major countries of operation. This helps them reduce compliance costs and increases the attractiveness and credibility of the Isle of Man as one of the world's leading international business centres.

Madam President, this court must consider how we wish to position the Island for the future.

On the tax front, I believe the Isle of Man must be viewed by the international community as a highly competitive jurisdiction, with a good tax treaty network, but with tax and regulatory regimes which meet international standards and are not harmful to other countries' economic or fiscal interests. Achieving this position will build further confidence in the stability of our investment environment and our credibility as a trading partner.

As such we will continue to be an accepted, respected and significant part of the international political and economic community, despite our relative size.

Last week's announcement of a new relationship of co-operation with the UK demonstrates this government's strategic approach and its consideration of all of the factors which I have just outlined. It represents a carefully considered balance of all those factors which, taken together, represent the public interest.

The decision did not please everyone and I acknowledge that; but it was in the Island's best interests. Government will do all that it can to reduce the additional burden which will come from this new relationship and maximise the reputational and credibility dividend which flows from it.

I intend to negotiate more than just an IGA with the UK, and will provide Honourable Members with more information when the negotiations reach their conclusion. I trust that it will be accepted that I cannot go into great detail today, but I will outline some themes.

FATCA became part of US law in 2010, and so businesses around the world have been preparing for its implementation for quite some time, especially after draft regulations were published in February of this year. My announcement about the new relationship with the UK should be followed by a period of preparation and planning, and so I intend to build extra time into the final arrangements with the UK.

I also want to modernise our double taxation agreement with the UK, which dates back to 1955: particularly so that we have an explicit understanding between our two countries on how to determine where a person or business is resident for tax purposes.

Finally, and although I am sure that we have no more reason to worry about tax evasion here in the Island than the UK does in relation to its own jurisdiction, I want to explore whether we can put in place some form of mechanism which will encourage people to regularise their tax affairs when they may have neglected them in the past.

There will now follow a period of intense negotiation in relation to the detailed implementation of that statement of intent and I will ensure that I keep Tynwald and very importantly, our business community regularly updated on the progress and detailed outcome of those negotiations over the forthcoming weeks and months.

I believe the future for the Isle of Man is clear: we must continue to be a highly-regarded international business centre by leading jurisdictions, institutions and investors.

In the New Year government will publicly engage with Tynwald, the public and leaders in our community to set out this economic vision and the policy choices we must make to support it.

This is part of government's clear programme of engagement to help us steer the Island through what is, undoubtedly, a difficult period but which is also capable of producing new and sustainable opportunities in the medium to long term. This will include our plans to assist our business community with the compliance issues arising from last week's announcement

Through this programme you will hear:

- Of our plans for the development of the Island as an enterprise zone
- Of the plans to utilise the Economic Development Fund (some £17m set aside for the development of new and existing business)
- Of our determination to review all barriers to economic growth and consult on removing them. This should mean we create a work permit system that welcomes medium and large businesses but respects the need to provide opportunity for local residents
- That we are applying additional resource to support professional services and e-business in driving and managing new business projects from first contact to launch.

- You will hear of our plans for restructuring our package of support under its financial assistance scheme aimed specifically at financial services businesses wishing to relocate to the Island.
- You will learn of our determination to continue and expand government's support for all export focused businesses in the economy.
- And you will hear how our fully integrated promotional campaign embraces all sectors under a single banner of "The Isle of Man. Where You Can."

I want the whole of the Isle of Man to be seen as an enterprise zone. I think the department of economic development's initiative of "The Isle of Man. Where You Can" captures the positive attitude we must maintain if we are to continue to have the economic and social prosperity we have been fortunate to enjoy over the last 30 years.

I believe our economy must be one where there is:

- A sustainable and vibrant financial services industry, free from the risk of exclusion from core markets abroad. Again FATCA and UK automatic exchange are vital building blocks in securing this objective.
- Proactive expansion and growth of our wider economy where we build, make, design and support local business trading globally.
- Education and infrastructure which supports the diversity of our economy.
- Rejuvenation of our traditional industries to embrace our heritage while recognising the changing world, whether that be through innovation in motorsports, refocusing our tourism industry to activity led pursuits or specialist agricultural products.
- We are bold enough to innovate, take risks and incubate new sectors which are the envy of our competitors.

Our commitment to FATCA is both a challenge and an opportunity.

But given our achievements over the last 25 years, I am convinced we can succeed again.

Honourable Members, we can build, even in these difficult times, a sustainable economy, embracing new ideas and reaching new goals. But key to that success is the ability to recognise change, respond to it appropriately and adapt in a way that enables us to thrive in this new environment.

I believe our response to the move to greater transparency will enable us to deliver that future.