Talk of taxo gives me epistaxis!

It is said that there are only two things certain in life: death and taxes.

Benjamin Franklin's rather depressing take on life does reflect our general obsession with death and the fact that all Governments (wherever situate) extract money from us by way of taxation. I have a few more obsessions, but Business Brief is not the forum in which to air them!

Taxation, of course, has been around for millennia. I understand that the earliest known tax records date back to approximately 6,000 years BC in the form of clay tablets found in modern day Iraq. In more recent times, taxation policies were developed to pay for wars. In Britain it was the Napoleonic wars and in the US the first federal tax was created shortly after the Civil War to pay for debts that had accrued as a result of that conflict.

Leaving aside an individual's gripe at the concept of tax, it is obviously a "hot potato" in the international community (as it has always been) particularly given sneaky, snooping journalists, disclosures such as the "Paradise Papers" and the fallout that befalls such revelations.

I will let you into a secret: notwithstanding the importance of tax in our lives, tax judgments are generally as dull as dish water.

However, last month Commissioner Birt issued a Judgment from the Royal Court of Jersey in connection with an application by an English Trustee in Bankruptcy (TIB) of a (formally) very wealthy individual for directions as to whether compliance with an information notice issued to the individual by HMRC in England requiring the production of documents which the TIB had obtained in Jersey would amount to a breach of orders of the Royal Court through which the TIB had obtained such documents. If so, could the Royal Court now grant the TIB leave to comply with the information notice?

The application was defended on the basis that the Royal Court had no jurisdiction to make any of the orders sought by reason of Article 49 of the Bankruptcy (Jersey) Law 1990 and the rule against enforcement of foreign taxes.

Article 49 of the 1990 law provides that the court "*may, to the extent it thinks fit, assist the court of a relevant country or territory in all matters relating to the insolvency of a person*". After some discussion on this point, the Royal Court found that it was the arbiter of whether material disclosed in proceedings maybe disclosed elsewhere.

Perhaps of more interest was the second argument that the Royal Court had no jurisdiction to make the orders requested as it would amount to the indirect enforcement of foreign revenue law.

The Court was referred to Rule 3 of Dicey, Morris & Collins which states that *"English courts have no jurisdiction to entertain an action … for the enforcement, either directly or indirectly, of a penal revenue or other public law of a foreign state."*

This rule is based on the well-known decision of the House of Lords in The Government of India v Taylor

and, as the Royal Court pointed out, accurately reflects the current position under Jersey law.

In this particular case, the Court had to consider whether the orders requested by the TIB would amount to an indirect enforcement of a foreign (in this case UK) revenue law.

In these particular circumstances, the Royal Court found that what HMRC was doing was undertaking an investigatory role for the purposes of checking a tax payer's tax position and this, of itself, was not a measure of the enforcement or collection of a tax liability.

The Court made various orders for the TIB to comply with the information notice.

This will certainly be a case welcomed by Jersey plc. It will not be so welcomed by those who seek to do the cha cha cha with their local tax collector. It is also a helpful reminder that Jersey is not a tax collector per se.

It was also a joy reading a Judgment about tax which did not send me into a deep sleep or give me a nose bleed!