

23 January 2001

Ms. Leung Siu-kum  
Clerk to the Bills Committee on  
Inland Revenue Amendment Bill  
c/o Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Ms. Leung

**Inland Revenue (Amendment) Bill 2000**

We thank you for inviting our views on the captioned Bill and would like to comment specifically on section 16(2)(e) & (f). While recognizing that the spirit of the amendments is to combat tax avoidance practices by tightening the restrictions on tax exemption for interest expenditure arising from circular borrowing and issuance of debentures between associated parties, we are concerned that such amendments, as presently drafted, will have a negative impact on legitimate and genuine fund-raising activities.

1. The ability of financial institutions to transfer their loans to third parties in the ordinary course of their business will be curtailed by these amendments.
2. The term “associates” is defined so loosely that genuine borrowings may be caught within its ambit. This will undermine the flexibility currently enjoyed by companies in employing different types of financial instruments in their fund-raising activities.

3. It would also be difficult for borrowers to comply with the law, as the lending banks are under no obligation to disclose to them if and how their loans have been transferred.
4. It is not wise to tamper with our simple and efficient tax system which is commonly accepted to be a major factor contributing to the success of Hong Kong. We would certainly support an anti-tax avoidance legislation to preserve public revenue, but are concerned that a “total disallowance” approach as proposed may disallow the interest costs arising from genuine fund-raising activities.
5. As there exists in the current Ordinance a section 61A to deal with tax avoidance practices, we would suggest that this section may be strengthened with a “motive” factor such that abusive practices may be combated head-on without affecting genuine business activities.

Yours sincerely

Louis Loong  
Secretary General

c.c. Mr. Keith Kerr, Chairman, Executive Committee