



香港稅務學會

**THE TAXATION INSTITUTE OF HONG KONG**

*(Incorporated in Hong Kong as a company limited by guarantee)*

Your Ref: CB1/BC/1/00

26 March 2004

**BY HAND AND E-MAIL (mloo@legco.gov.hk)**

Clerks to Bills Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

For the attention of Mr. Matthew Loo

Dear Mr. Loo,

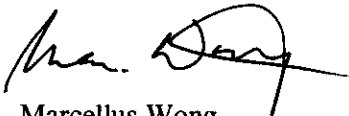
**Bills Committee on Inland Revenue (Amendment) Bill 2000  
- Invitation for submission**

Thank you for your letter of 3 March 2004 with the proposed committee stage amendments ("CSAs") on the exemption of market makers from the new section 16(2C) attached. We have a number of thoughts:

1. From a technical perspective, we believe that the proposed CSAs contained in section 16(2H) is clear and unequivocal to allow interest deductions on bonds and debentures held by "market makers". We also note that it has been proposed that the Commissioner of Inland Revenue (the "Commissioner") will make clear in practice notes to be issued that under no circumstances will long term holdings (more than 3 months) and substantial holdings (more than 5% of the issuance) of the debentures or instruments concerned would be considered consistent with market making activities (and therefore no exemption will be available), unless there are reasonable explanations that can satisfy the Commissioner.
2. We understand that there was a concern raised by some members of the Bills Committee that the proposed new sections only sought to exempt "market makers" rather than "market making activities". as such. From a technical perspective, the Institute does not see any reason why the exemption could not be extended to genuine "market making activities" provided that the term "market making activities" is clearly defined in the Inland Revenue Ordinance (the "IRO"), e.g. by means of percentage threshold and the length of holding etc.

3. In addition, we believe it will be more appropriate for the percentage threshold and the length of holding (if these were the main criteria in determining market making activities) to be set out unequivocally in the IRO and not just in the practice notes.
4. We believe our proposed amendment (i.e. expanding the exception from "market makers" to cover "market making activities") would, coupled with the Hong Kong Government's initiative to issue government bonds, enhance Hong Kong's position as an international debt/bond centre.

Yours sincerely,



Marcellus Wong  
Chairman, Taxation Review Committee  
The Taxation Institute of Hong Kong