



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/18/02

1 December 2003

BY HAND AND E-MAIL: ml00@legco.gov.hk

Mr. Matthew Loo
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Mr. Loo,

Inland Revenue (Amendment) Bill 2000 (the "Bill") - Amendments to be moved by the Secretary for Financial Services and the Treasury

Thank you for your letter of 14 November 2003 in which you invited us to comment on the proposed amendments to the Bill (draft dated 7 November 2003) to be moved by the Secretary for Financial Services and the Treasury.

We are delighted that the Administration has taken into account many of the comments from the industries and professional bodies in the two rounds of consultations since the tabling of the Bill in 2000.

In general, we are in favour of the third reading and the enactment of the bill to take place without further delay. We have no further comments on the direction and the general principles set out in the Bill. This letter, therefore, only deals with certain drafting and technical issues.

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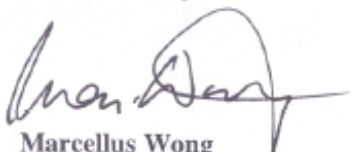
1. **Expenses of self-education**

We refer to our submission to the Commissioner of Inland Revenue dated 30 August 2002. We regret that the Administration has not taken into our suggestion to remove the reference to "any employment" in section 12(6)(b)(ii) and section 12(6)(c)(ii) in the Bill. If the Administration were to retain such wordings, we believe it would be appropriate for the Commissioner of Inland Revenue to issue a Departmental Interpretation & Practice Note to clarify that the term "any employment" should be interpreted to include any current or future employment or whether the future employment is linked to the present employment or whether the taxpayer is currently employed.

2. **Deduction of interest expenses**

- (a) In both section 16(2B)(b) and section 16(2C)(b), the term "arrangements are in place" is used. In accordance with our understanding, where such term is used (for example, in the tax legislation in the UK), the interest deduction restriction will be invoked even when "on paper arrangements" are in place and where no actual interest is passed directly or through any interposed person to the borrower or to a person who is connected with the borrower. We should be grateful if the Administration could reconsider whether the restriction on interest deduction could be restricted to cases where the passing of interest actually occurs.
- (b) Again both sections 16(2B)(b) and 16(2C)(b) have used the term "interposed person" without any further elaboration. We should be grateful if either such term is defined in the Inland Revenue Ordinance or to be covered by a Departmental and Interpretation Note. (We will expect the Inland Revenue Department to issue a Departmental Interpretation & Practice Note to cover section 16 in any case as a result of such technical amendments to it.)
- (c) We should be grateful if the Administration could consider further simplifying the drafting language and style used in the Bill to benefit both laymen and professionals.

Yours sincerely,



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

c.c. Mrs. Alice Lau, Commissioner for Inland Revenue