

立法會
Legislative Council

LC Paper No. LS18/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 23 November 2001**

**Legal Service Division Report on
Inland Revenue (Amendment) (No. 2) Bill 2001**

Object of the Bill

To enable the furnishing of tax returns (of the types to be specified) by electronic means and by telephone.

LegCo Brief Reference

2. FIN 43/5/144 issued by the Finance Bureau.

Date of First Reading

3. 21 November 2001.

Comments

4. At present, certain types of tax returns may be submitted either in the traditional printed form under the principal ordinance or in electronic form with the use of digital certificates under the Electronic Transactions Ordinance (Cap. 553) (ETO).

5. The Bill now proposes to make provisions under the principal ordinance not only to take over from the ETO the power to allow tax returns in electronic form with the use of digital certificates, but also to empower the submission of tax returns in electronic form where a password (instead of a digital certificate) is used and by telephone too.

6. In other words, after the passage of the Bill, the principal ordinance will have self-contained empowering provisions for tax returns to be submitted in forms other than the traditional, printed medium and not have to rely on the limited general empowering provisions of ETO.

7. Members may however wish to note that not all tax returns are intended to be covered by the new measure. In paragraphs 7, 12 and 13 of the LegCo Brief, it is explained that only certain types of tax returns meeting specified criteria and requirements will be covered by the proposed lodgment scheme, which will be expanded in future. Under the Bill, provision is therefore made empowering the Commissioner to specify by notice in the Gazette the classes of persons or returns to which the electronic and telefiling lodgment scheme will apply. It is also specifically provided that such notices are **NOT** subsidiary legislation. Drafts of the notices to be gazetted after the passage of the Bill are attached at Annexes B and C to the LegCo Brief.

8. The Bill also takes the opportunity to make some minor drafting changes to some Chinese expressions in the principal ordinance.

Public Consultation

9. No public consultation is mentioned in the LegCo Brief.

Consultation with the LegCo Panel

10. The policy aspects of the Bill have not been discussed by any LegCo Panel.

Conclusion

11. The proposals contained in the Bill are essentially the development of existing policies. Members may wish to decide whether there is any issue to be considered in more detail.

12. Some drafting enquiries (letter as attached) are being made to the Administration.

Encl

Prepared by

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19 November 2001

FIN 43/5/144
LS/B/8/01-02
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Secretary for the Treasury
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By Fax (2530 5921) & By Post

16 November 2001

Dear Madam,

Inland Revenue (Amendment) (No. 2) Bill 2001

I would be grateful for your clarification on the following matters by 20 November 2001 -

- (a) In the proposed new section 2(5) to the principal ordinance, does the word "adopting" simply mean "using" or does it have any other meaning?
- (b) In the proposed new section 51AA(5)(b), should the words "person" and "return" be in plural form?
- (c) The powers to specify requirements and to approve a password and designate a system provided in the proposed new section 51AA(6) and (7) respectively seem to be exercisable even outside the context of the section. Is this the intended effect or should their effect be restricted to the section or particular subsections thereof?
- (d) What is the need for providing an alternative Chinese equivalent ("格式") of "form" in addition to the existing translation("表格") and for saying "the form of any forms" in section 86(1)?

Yours faithfully,

(Arthur CHEUNG)
Assistant Legal Adviser