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Bills Committee on Revenue  
Legislative Council  
Hong Kong Special Administrative Region of the  
People's Republic of China  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Your ref CBI/BC/14/04

Our ref DB/CW/43

Contact Darren Bowdern (2826 7166)

Attention: Ms Connie Szeto

29 December 2005

Dear Sirs

### **Revenue (Profits Tax Exemption for Offshore Funds) Bill 2005**

We refer to your facsimile dated 6 December 2005 in connection with the above captioned matter. We have the pleasure of providing our views below.

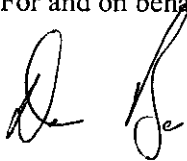
The Committee Stage Amendments ("CSA") and the overall proposed draft legislation has been a welcomed development on this topic. It is evident that the CSA has addressed most of the principal concerns raised by the interested parties during the consultation. In particular, we are pleased to see:

- the scope of "specified transactions" being expanded to include many derivative transactions.
- some flexibility being introduced to allow for further expansion of the list of qualifying transactions. The link to the Securities Futures Ordinance's ("SFO") definition of "securities" has been removed and instead, a list of "specified transactions" will be defined and introduced as Schedule 16 into the Inland Revenue Ordinance ("IRO").
- the scope of "specified person" being expanded to include any licence holder under the SFO and the clarification that a "specified transaction" qualifies for exemption so long as it is "carried out through or arranged by" a specified person.
- the carving out of "non-profit participating shares" from the application of the Deeming Provisions.

We note that the Bills Committee have not fully addressed certain issues raised during the consultation, notably the definition of central management and control, taxation of individuals under the deeming provisions, deemed loss and double taxation. However, we understand these were issues that the Government was firmly of the view that they would not be willing to consider or incorporate into the draft legislation. We also note that the buying/selling of equities in private companies incorporated in Hong Kong is intentionally excluded from the exemption and that the Government will not move away from their position. Nevertheless, we are pleased to note the CSA confirming/clarifying that the buying/selling of equities in private companies outside Hong Kong are transactions qualifying for exemption.

Overall, we are supportive of the CSA and recommend the Bill as currently drafted for passage.

Yours faithfully  
For and on behalf of KPMG Tax Limited



Darren Bowdern  
*Principal*