



The American Chamber  
of Commerce in Hong Kong  
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Your Ref: CB1/BC/10/08

September 15, 2009

Chairman of the Bills Committee  
Legislative Council  
Legislation Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Sir,

**SUBMISSION ON INLAND REVENUE (AMENDMENT) (NO. 3) BILL 2009**

We are pleased to provide our comments on the Inland Revenue (Amendment) (No. 3) Bill 2009 (the "Bill").

The Bill amends the Inland Revenue Ordinance to enable Hong Kong to expand the information that may be exchanged in a comprehensive double taxation agreement. The American Chamber of Commerce believes that the passage of the Bill is critical to maintaining Hong Kong's position as a key financial and trading centre and should be enacted.

Hong Kong has a straightforward tax system and one that is easily administered. Hong Kong has evolved from an economy based on manufacturing to a regional finance and trading centre. In addition, Hong Kong is also the regional headquarters location for many multinational corporations. Consequently, Hong Kong individuals and businesses continue to increase the amount of commerce that they conducted with other jurisdictions.

In order to minimize taxation imposed by foreign jurisdictions on Hong Kong corporations and individuals it is imperative that Hong Kong continue to expand the number of comprehensive double tax agreements it enters. However, Hong Kong's ability to enter into additional double tax agreements is constrained because our ability to exchange information is limited under Hong Kong law. The Bill would amend the Inland Revenue Ordinance to allow for the broader exchange of information necessary to expand our network of double tax agreements thereby benefiting Hong Kong corporations and residents.

In addition, as you are aware, significant publicity has been generated in the past year regarding the transparency of several tax regimes. The United States, the OECD and the G20 have all expressed concern regarding a number of jurisdictions' tax transparency and there is various pending legislation that would impose punitive measures for those jurisdictions found to be

"non-transparent." These jurisdictions fall into two general categories, those that have bank secrecy laws and those that do not provide for exchange of information with other jurisdictions. Hong Kong's failure to provide for exchange of information at least to the level as provided by the 2004 OECD Model Convention has caused Hong Kong to come under scrutiny regarding the transparency of our tax system.

Should the Bill not be passed by the Legislative Council, it is the opinion of the American Chamber of Commerce in Hong Kong that certain jurisdictions will impose punitive measures against Hong Kong businesses and individual residents or persons doing business with Hong Kong persons. Therefore, we urge you to enact the Bill at your earliest possibility.

While we support the enactment of the Bill, we note that paragraph 10 of the Legislative Council Brief provides that a person can verify the accuracy of information to be provided with the IRD. If the IRD refuses to accept the proposed correction to the information that the person may seek review by a higher authority whose decision is final. The Financial Secretary is proposed in this position. We would suggest that an independent panel or some other body outside of the executive branch of the government fulfill this role.

We appreciate the opportunity to share our comments on the Bill, and hope that you find them useful. We will also send representatives to attend the meeting held by the Bills Committee on 8 October 2009.

Please do not hesitate to contact Evan Blanco at 2852 6438 if you would like to discuss our submission further.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Evan Blanco". The signature is fluid and cursive, with the first name "Evan" and last name "Blanco" clearly distinguishable.

Evan Blanco  
Chair, Taxation Committee  
AmCham Hong Kong