

立法會
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By Multi-fax
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From : Clerk to the Legislative Council
To : All Members of the Legislative Council

Council meeting of 13 May 2009

**Proposed amendments to motion on
“Enhancing the tax system to
keep Hong Kong competitive”**

Further to LC Paper No. CB(3) 545/08-09 issued on 30 April 2009, Hon Vincent FANG Kang and Hon Albert HO Chun-yan have respectively given notice of their intention to move separate amendments to Hon Paul CHAN Mo-po's motion on “Enhancing the tax system to keep Hong Kong competitive” scheduled for the Council meeting of 13 May 2009. As directed by the President, the proposed amendments will be printed on the Agenda of the Council.

2. To assist Members in debating the above motion and the two amendments, I set out below the procedure to be followed during the debate:

- (a) Hon Paul CHAN moves his motion;
- (b) the President proposes the question on Hon Paul CHAN's motion, and orders a joint debate;
- (c) the President calls on the two Members, who intend to move amendments, to speak in the following order, but no amendment is to be moved at this stage:
 - (i) Hon Vincent FANG; and
 - (ii) Hon Albert HO;

- (d) the President calls upon the designated public officer(s) to speak;
- (e) joint debate on the motion and the two amendments follows thereafter;
- (f) the President gives leave to Hon Paul CHAN to speak for the second time on the two amendments;
- (g) the President calls upon the designated public officer(s) again to speak;
- (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the two Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon Vincent FANG to move his amendment to the motion, and forthwith proposes and puts to vote the question on the amendment;
- (i) after Hon Vincent FANG's amendment has been voted upon, the President deals with Hon Albert HO's amendment to the motion; and
- (j) after Hon Albert HO's amendment has been dealt with, the President calls upon Hon Paul CHAN to reply. Thereafter, the President puts to vote the question on Hon Paul CHAN's motion, or his motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

**Motion debate on
“Enhancing the tax system to
keep Hong Kong competitive”
to be held at the Legislative Council meeting
of Wednesday, 13 May 2009**

1. Hon Paul CHAN Mo-po’s original motion

That, whereas the Hong Kong profits tax system has not kept pace with time and does not offer adequate incentives and concessions to help Hong Kong enterprises and manufacturers upgrade their business to improve their competitiveness; whereas improved competitiveness of Hong Kong enterprises and manufacturers will create more jobs and economic opportunities for the people of Hong Kong; whereas appropriate choice of tax incentives and concessions is a key inducement to drive business innovation and to lure business investment which can in turn improve the overall competitiveness of Hong Kong; and whereas tax issues are becoming increasingly complex yet setting the right tax policy is becoming ever more important to the overall competitiveness of Hong Kong; therefore, this Council urges the Administration to:

- (a) amend the Inland Revenue Ordinance or otherwise to provide for appropriate tax incentives or concessions or other features to encourage business upgrading, drive business innovation, stimulate business investment and foster economic growth, such tax incentives or concessions or features shall include but not limited to the following:
 - (i) tax loss carry-back provisions, with appropriate dollar cap for the loss that can be carried back and an appropriate maximum number of years to which tax loss carry-back can be applied;
 - (ii) group tax loss relief, to be available only to wholly-owned and near wholly-owned subsidiaries within the same group of companies;
 - (iii) allowance for capital expenditure incurred on plant or machinery physically located outside Hong Kong (e.g. on the Mainland) and which are used in processing trade arrangements producing profits assessable in Hong Kong; and
 - (iv) profits tax reduction and tax credits on foreign withholding tax, with appropriate anti-avoidance provisions, to make Hong Kong a choice location for regional offices and service centres for group companies;
- (b) identify and evaluate further changes, enhancements, initiatives and priorities, as appropriate, in respect of tax policy principles and tax administration

practices, in order to further improve the overall competitiveness of Hong Kong's tax system; and

- (c) establish a specialist 'tax policy unit', to be staffed by sufficiently senior personnel with relevant technical knowledge and practical experience, to conduct research and provide policy formulation support to the Administration, in order to enable a continued and focused effort at identifying and evaluating changes, enhancements, initiatives and priorities to better Hong Kong's tax policy and tax administration practices.

2. Motion as amended by Hon Vincent FANG Kang

~~That, whereas the Hong Kong profits tax system has not kept pace with time and does not offer~~ *on the basis of maintaining Hong Kong's simple and low tax system*, adequate incentives and concessions ~~to help Hong Kong enterprises and manufacturers~~ *should be offered to industrial and commercial enterprises in Hong Kong to help them* upgrade their business to improve their competitiveness; whereas improved competitiveness of Hong Kong enterprises and manufacturers will create more jobs and economic opportunities for the people of Hong Kong; whereas appropriate choice of tax incentives and concessions is a key inducement to drive business innovation and to lure business investment which can in turn improve the overall competitiveness of Hong Kong; and whereas tax issues are becoming increasingly complex yet setting the right tax policy is becoming ever more important to the overall competitiveness of Hong Kong; therefore, this Council urges the Administration to:

- (a) *regularly review and update the legislation and code of practice on taxation in Hong Kong, so as to enhance the clarity and enforceability of the tax stipulations in Hong Kong and, in particular, provide greater certainty in the concept of charging profits tax according to the 'territorial source principle', with a view to consolidating Hong Kong's status as an international financial centre and the regional headquarter of enterprises;*
- (a)(b) amend the Inland Revenue Ordinance or otherwise to provide for appropriate tax incentives or concessions or other features to encourage business upgrading, drive business innovation, stimulate business investment and foster economic growth, such tax incentives or concessions or features shall include but not limited to the following:
 - (i) tax loss carry-back provisions, with appropriate dollar cap for the loss that can be carried back and an appropriate maximum number of years to which tax loss carry-back can be applied;
 - (ii) group tax loss relief, to be available only to wholly-owned and near wholly-owned subsidiaries within the same group of companies;

- (iii) allowance for capital expenditure incurred on plant or machinery physically located outside Hong Kong (e.g. on the Mainland) and which are used in processing trade arrangements producing profits assessable in Hong Kong; ~~and~~
 - (iv) profits tax reduction and tax credits on foreign withholding tax, with appropriate anti-avoidance provisions, to make Hong Kong a choice location for regional offices and service centres for group companies; *and*
 - (v) *tax deductions for research and development expenditures to be increased to a rate of at least 200%, and full tax deductions for the purchase of trademarks and brand names, so as to encourage product research and development and promote the development of creative industries;*
- ~~(b)~~(c) identify and evaluate further changes, enhancements, initiatives and priorities, as appropriate, in respect of tax policy principles and tax administration practices, in order to further improve the overall competitiveness of Hong Kong's tax system; and
- ~~(e)~~(d) ~~establish~~ *study the establishment of* a specialist 'tax policy unit', to be staffed by sufficiently senior personnel with relevant technical knowledge and practical experience, to conduct research and provide policy formulation support to the Administration, in order to enable a continued and focused effort at identifying and evaluating changes, enhancements, initiatives and priorities to better Hong Kong's tax policy and tax administration practices.

Note: Hon Vincent FANG's amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon Albert HO Chun-yan

That, whereas the Hong Kong profits tax system has not kept pace with time and does not offer adequate incentives and concessions to help Hong Kong enterprises and manufacturers upgrade their business to improve their competitiveness; whereas improved competitiveness of Hong Kong enterprises and manufacturers will create more jobs and economic opportunities for the people of Hong Kong; whereas appropriate choice of tax incentives and concessions is a key inducement to drive business innovation and to lure business investment which can in turn improve the overall competitiveness of Hong Kong; and whereas tax issues are becoming increasingly complex yet setting the right tax policy is becoming ever more important to the overall competitiveness of Hong Kong; therefore, this Council urges the Administration to:

- (a) ~~amend~~ ***study amending*** the Inland Revenue Ordinance or otherwise to provide for appropriate tax incentives or concessions or other features to encourage business upgrading, drive business innovation, stimulate business investment and foster economic growth, such tax incentives or concessions or features shall include but not limited to the following:
- (i) tax loss carry-back provisions, with appropriate dollar cap for the loss that can be carried back and an appropriate maximum number of years to which tax loss carry-back can be applied;
 - (ii) group tax loss relief, to be available only to wholly-owned and near wholly-owned subsidiaries within the same group of companies;
 - (iii) allowance for capital expenditure incurred on plant or machinery physically located outside Hong Kong (e.g. on the Mainland) and which are used in processing trade arrangements producing profits assessable in Hong Kong; ~~and~~
 - (iv) profits tax reduction and tax credits on foreign withholding tax, with appropriate anti-avoidance provisions, to make Hong Kong a choice location for regional offices and service centres for group companies; ***and***
 - (v) ***provision of tax concessions whereby the costs incurred by companies for employee training and purchase of environment-friendly facilities, etc are deductible from assessable profits and the amount of deduction allowable should be double the amount of the costs incurred, so as to encourage companies to provide in-service training for their employees and protect the environment;***
- (b) ***study the introduction of a two-tier profits tax system whereby the profits tax rate for those companies with assessable profits of \$10 million or above should be raised by 1.5%, while such tax rate for other companies should remain unchanged, so as to achieve a progressive and fair profits tax system as well as increase the government revenue to support the Government in promoting more measures to create employment, stabilize the economy and alleviate people's hardship;***
- (c) ***abolish the standard rate of salaries tax so that taxpayers will pay their salaries tax according to marginal tax rates on the basis that the higher the income, the more the amount of tax payable and vice versa, so as to narrow the gap between the rich and the poor;***
- ~~(b)~~(d) identify and evaluate further changes, enhancements, initiatives and priorities, as appropriate, in respect of tax policy principles and tax administration practices, in order to further improve the overall competitiveness of Hong Kong's tax system; and

~~(e)~~(e) establish a specialist ‘tax policy unit’, to be staffed by sufficiently senior personnel with relevant technical knowledge and practical experience, to conduct research and provide policy formulation support to the Administration, in order to enable a continued and focused effort at identifying and evaluating changes, enhancements, initiatives and priorities to better Hong Kong’s tax policy and tax administration practices.

Note: Hon Albert HO’s amendment is marked in *bold and italic type* or with deletion line.