

立法會
Legislative Council

LC Paper No. CB(3) 585/08-09

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Date : 12 May 2009

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) 575/08-09 issued on 8 May 2009, Members are invited to note that the President has given permission for **Hon Ronny TONG Ka-wah to move an amendment to Hon Albert HO Chun-yan’s amendment**, i.e. the second amendment to the motion. The terms of the motion as amended by the two Members are set out in **Appendix I**. As directed by the President, Hon Ronny TONG’s amendment will be printed in the terms in which it was handed in on the Agenda of the Council.

2. The President has also given permission for **Hon Albert HO to revise** the terms of his proposed amendment, if the first amendment to the motion to be moved by Hon Vincent FANG Kang has been passed (*the terms of Hon Albert HO’s revised amendment are set out in item 5 of Appendix II*).

3. For Members’ ease of reference, the terms of the original motion and of the motion, if amended, are set out in **Appendix II**. To economize on the use of paper, hard copies of Appendix II **will not** be provided to individual Members. However, two copies of this circular together with Appendices I and II will be placed on the two wooden cabinets at the corridor between the Chamber and Ante-Chamber throughout the relevant Council meeting. In addition, two copies will be placed inside the

Chamber (one at the last row of the Government Despatch Box near Entrance A and one at the other side of the Chamber near Entrance C, i.e. the entrance where two stewards are seated). If any Member wishes to obtain a personal copy, please contact Council Business Division 3 at 2869 9492 or 2869 9753.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl. (Appendix II issued by email only)

**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**

**Motion as amended by Hon Albert HO Chun-yan and Hon Ronny TONG
Ka-wah**

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 abolition of the provisional tax and reduction of the unnecessary economic, operational and administrative procedures and costs borne by the business sector, with the small and medium enterprises in particular; and also 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 provisional tax and~~ 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
- (c)(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.

Hon Ronny TONG's amendment is marked in *~~bold and italic type with dotted line~~*.

**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.

<p>4. Motion as amended by Hon Albert HO Chun-yan and Hon Ronny TONG Ka-wah</p>
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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:

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- (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 abolition of the provisional tax, and reduction of the unnecessary economic, operational and administrative procedures and costs borne by the business sector, with the small and medium enterprises in particular; and also 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 provisional tax and 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.

Hon Ronny TONG's amendment is marked in *bold and italic type with dotted line*.

5. Motion as amended by Hon Vincent FANG Kang and Hon Albert HO Chun-yan

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:

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- (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;
- (e) provide 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;
- (f) 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; and

- (g) 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.

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

Hon Albert HO's amendment is underlined.

6. Motion as amended by Hon Vincent FANG Kang, Hon Albert HO Chun-yan and Hon Ronny TONG Ka-wah

~~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:

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 - (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;
- (e) provide 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;
- (f) study the *abolition of the provisional tax, and reduction of the unnecessary economic, operational and administrative procedures and costs borne by the business sector, with the small and medium enterprises in particular; and also 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; and

(g) abolish *the provisional tax and* 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.

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

Hon Albert HO's amendment is underlined.

Hon Ronny TONG's amendment is marked in *bold and italic type with dotted line*.