

**Panel on Financial Affairs**

**List of follow-up actions**  
(Position as at 28 January 2010)

<b>Subject</b>	<b>Date(s) of relevant meeting(s)</b>	<b>Follow-up actions</b>	<b>Outcome</b>
1. Policies on remuneration for and post-termination employment of senior executives of the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC)	4 May 2006	Regarding the reviews being conducted on the policies on post-termination employment of senior executives of HKMA and SFC, members suggested that reference be made to the improved arrangements introduced for directorate civil servants on 1 January 2006. In this connection, the Governance Subcommittee (GSC) of the Exchange Fund Advisory Committee and SFC were invited to inform the Panel of the outcome of their reviews in writing in due course.	The written response from the GSC Chairman was issued to members vide LC Paper No. CB(1)182/06-07(01) on 27 October 2006.  Response from SFC awaited.
2. Impact of duty-free cigarettes on tax revenue	----	Members of the Bills Committee on Dutiable Commodities (Amendment) Bill 2009 expressed concern that the tobacco duty rate increase might lead to upsurge in the sale of duty-free cigarettes, which would reduce tax revenues. The Administration was requested to provide information on sales figure of duty-free cigarettes and the duty potential of the duty-free cigarettes sold within six months to one year after enactment of the Bill. The matter was referred to the Panel on Financial Affairs for follow-up.	Response awaited.

<b>Subject</b>	<b>Date(s) of relevant meeting(s)</b>	<b>Follow-up actions</b>	<b>Outcome</b>
3. Depreciation allowances in respect of machinery and plants under "import processing" arrangements	14 December 2009	<p>(a) To facilitate the Panel's understanding of the impact of the application of section 39E on Hong Kong enterprises providing machinery or plants for use by Mainland enterprises under "import processing" arrangements, the Administration was requested to provide information on the number of tax assessment cases in the past few years where Hong Kong enterprises had been denied depreciation allowances pursuant to the above-mentioned provision (including but not limited to the number of cases where the enterprises concerned had raised objections to the assessments).</p> <p>(b) The Administration was requested to respond to the following motion passed by the Panel:</p> <p>"本委員會促請政府：</p> <p>(1) 改變以一刀切的方式處理本港各企業在內地使用的機械或工業裝置（包括模具）所應享有的折舊免稅額，以致一些沒有避稅意圖或行為的本港企業未能取得該免稅額而致多付稅款；</p> <p>(2) 停止錯誤引用《稅務條例》第 39E 條向沒有避稅意圖或行為的本港企業追討有關稅款，以及，</p>	Response awaited

<b>Subject</b>	<b>Date(s) of relevant meeting(s)</b>	<b>Follow-up actions</b>	<b>Outcome</b>
		<p>(3) 立即啟動有關的法例檢討機制，按實際情況檢討及修改第 39E 條，使條文與時並進，避免打擊無辜企業，妨礙他們的升級轉型，影響到本港經濟發展和就業機會。"</p> <p>(Translation)</p> <p>"That this Panel urges the Government to:</p> <p>(1) change the broad-brush approach adopted for granting depreciation allowances to Hong Kong enterprises in respect of their machinery or plants (including moulds) used in the Mainland, as such approach renders some local enterprises with no tax avoidance intention or acts unable to claim such allowances, and hence paying more taxes;</p> <p>(2) cease invoking section 39E of the Inland Revenue Ordinance incorrectly for recovery of taxes from Hong Kong enterprises with no tax avoidance intention or acts; and</p>	

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
		(3) activate immediately the relevant mechanism for legislative revision to review and amend section 39E according to actual circumstances, in order to modernize the provision and avoid impacting on the blameless enterprises and hindering their upgrading and restructuring processes, which will in turn affect the economic development and employment opportunities in Hong Kong."	
4. Issues relating to the listing of Asia Citrus Holdings Limited	21 December 2009	<p>In relation to a member's concern about actions against listed corporations for breaches/misconduct, the Administration were requested to provide the following information:</p> <ul style="list-style-type: none"> <li>(i) the enforcement actions that would be taken against the parties concerned for breaches/misconduct under the existing legislation; and</li> <li>(ii) the channels for investors who had suffered losses to seek remedies from the parties concerned.</li> </ul>	The Administration's response was circulated to members vide LC Paper No. CB(1)837/09-10 on 6 January 2010.
5. Review of notification and appeal system for disclosure of information under	29 December 2009 (date of referral from Bills	As requested by the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2009, the Administration will report to the Panel on Financial Affairs on the	Response awaited

<b>Subject</b>	<b>Date(s) of relevant meeting(s)</b>	<b>Follow-up actions</b>	<b>Outcome</b>
comprehensive avoidance of double taxation agreements	Committee)	effectiveness of the proposed notification and appeal system for disclosure of information under comprehensive avoidance of double taxation agreements 18 months after implementation.	
6. Companies Ordinance rewrite	4 January 2010	<p>(a) In relation to members' concerns about the progress and timetable of various outstanding legislative proposals relating to the Companies Ordinance (Chapter 32), the Administration is requested to provide a list of the relevant reviews and consultations conducted by the Administration and the regulators of the financial market, together with details about the progress of these exercises and the respective timetables for introduction of relevant legislative proposals.</p> <p>(b) In relation to a member's concern regarding the proposed options for retaining or abolishing the "headcount test" for approving a scheme of arrangement or compromise, the Administration is requested to provide information on the relevant arrangements in Australia and the new developments since Australia amended the legislation on "headcount test" in 2007.</p>	The Administration's response was circulated to members vide LC Paper No. CB(1)1004/09-10 on 27 January 2010.

<b>Subject</b>	<b>Date(s) of relevant meeting(s)</b>	<b>Follow-up actions</b>	<b>Outcome</b>
7. Legislative proposals to enhance the efficiency of the existing tax appeal mechanism	4 January 2010	<p>In relation to Hon James TO's concern that the proposal to empower the Board of Review to give pre-hearing directions and to sanction non-compliance may have undue effects on taxpayers in seeking tax appeals, the Administration was requested to substantiate its legislative proposal when that is introduced into the Legislative Council by including the following information:</p> <ul style="list-style-type: none"><li>(i) the number of hearings of the Board which had been deferred due to late submission of documents; and</li><li>(ii) the number of wasted days of the Board resulting from the late submission of documents.</li></ul>	Response awaited