



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : TsyB R 183/700-6/4/0 (C)  
本函檔號 OUR REF : LS/B/15/12-13  
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By Fax (2179 5848)  
19 April 2013

Miss Shirley KWAN  
Principal Assistant Secretary for Financial Services & the Treasury  
The Treasury Branch, R Division  
Financial Services and the Treasury Bureau  
24/F, Central Government Offices  
2 Tim Mei Avenue, Tamar  
Hong Kong

Dear Miss KWAN,

### **Inland Revenue (Amendment) Bill 2013**

To assist my scrutiny of the Inland Revenue (Amendment) Bill 2013 (the Bill), I should be grateful if you would clarify the following matters:

*Clause 8 – proposed section 4 of the Inland Revenue (Disclosure of Information) Rules (Cap. 112 sub. leg. BI)*

It appears from paragraph 19(c) of the LegCo Brief (File Ref.: TsyB R 183/700-6/4/0 (C)) and paragraph 7 of the Explanatory Memorandum that the proposed amendment to section 4 of the Inland Revenue (Disclosure of Information) Rules (Cap. 112 sub. leg. BI) is intended to enable the Commissioner to disclose information that is foreseeably relevant to tax assessment in respect of any period that starts after the relevant arrangements have come into operation. However, the proposed paragraph (b) of section 4 uses the expression "administration or enforcement of the tax law" (施行或強制執行...稅務法律) which seems to be broader in scope than "tax assessment" (評稅).

- (a) Please clarify the policy intent of this proposed amendment and why the words "administration or enforcement of the tax law" are used.

*Consequential amendments to Personal Data (Privacy) Ordinance (Cap. 486)*

At the meeting of the Panel on Financial Affairs on 5 November 2012, the Deputy Secretary for Financial Services and the Treasury (Treasury) 2, in response to a Member's question, said that the Bill might necessitate corresponding amendments to the relevant parts of the Personal Data (Privacy) Ordinance (Cap. 486) (see paragraph 42 of LC Paper No. CB(1)359/ 12-13). However, no such amendments appear to have been included in the Bill.

- (b) Please confirm whether any consequential amendments need to be made to any provisions of Cap. 486, such as section 58(1)(c) and (1A), and if so, how and when these amendments would be introduced.

*Drafting matters – Clause 4(3)*

The proposed section 49(1B) of the Inland Revenue Ordinance (Cap. 112) begins with the word "But". It is noted that during the scrutiny of the Legal Practitioners (Amendment) Bill 2010, a draft Committee Stage amendment (CSA) was initially put forward for the proposed section 7AI(1A) which began with the words "*But a person is not liable...*" (see LC Paper No. CB(2)1914/10-11(01)), but the final CSA (see LC Paper No. CB(2)2160/ 11-12(02)) which was eventually passed (and renumbered as section 7AN(2) in the Legal Practitioners (Amendment) Ordinance 2012 (22 of 2012)) says: "*However, a person...is not liable...*". In relation to the proposed section 49(1B) of Cap. 112:

- (c) Please consider whether the word "But" may be omitted or substituted by "However," without changing the meaning or effect of the proposed subsection (1B).
- (d) Please provide examples (if any) of legislative provisions in Hong Kong where the word "But" is similarly used at the beginning of a sentence.

*Other matters*

- (e) According to paragraph 4 of the LegCo Brief, other jurisdictions may impose unilateral sanctions on Hong Kong if it fails the Phase 2 peer review by the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum). What sanctions may be imposed by other members of the Global Forum if Hong Kong fails the Phase 2 peer review?

- (f) Paragraph 14 of the LegCo Brief refers to an update to the Article on Exchange of Information (EoI) of the Model Tax Convention and its Commentary approved by the Organization for Economic Cooperation and Development in July 2012. Please provide a copy of the 2012 version of the EoI Article for our reference.

I would appreciate it if you would let us have the Administration's reply in both languages as soon as possible, preferably **by 29 April 2013**.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Bonny Loo".

(Mr Bonny LOO)  
Assistant Legal Adviser

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