



By Email: bc\_07\_12@legco.gov.hk

29 May 2013

Mr. Anthony Chu  
Clerk to Bills Committee  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road,  
Central,  
Hong Kong

Dear Mr. Chu,

**Bills Committee on Inland Revenue (Amendment) Bill 2013**

Thank you for your letter of May 10.

We are in the process of obtaining for the feedback from members. Meanwhile, may we enclose herewith a copy of our letter dated July 6, 2012 to the Financial Services and the Treasury Bureau at an early round of consultation by the Administration.

Yours sincerely,

Daisy Lau  
Manager-Administration

Enc.



By Email: [rdiv@fstb.gov.hk](mailto:rdiv@fstb.gov.hk)

6 July 2012

Ms. Shirley Kwan  
Financial Services and the Treasury Bureau  
24/F, Central Government Offices,  
2 Tim Mei Avenue, Tamar,  
Hong Kong

Dear Ms. Kwan,

**Consultation Paper on  
Provision of the Legal Framework for Entering into  
Tax Information Exchange Agreement (TIEA)**

We refer to the Consultation Paper and various meetings we have had with you and other officials of the Financial Services & Treasury Bureau and the Inland Revenue Department.

2. We realize that TIEA is a growing trend, and Hong Kong as a member of the international community will have to be party. Having said that, we believe it will be in the interest of Hong Kong, without prejudicing the interest of other nations, to set its priority in entering into comprehensive double taxation agreements (CDTA), before contemplating to explore TIEAs.

3. We further suggest that the bases of CDTA and TIEA are different. CDTA is based on the interest of taxpayers of contracting parties; TIEA, however is based on the information need of the tax service, often unilaterally, of the contracting parties. Since the basis is different, we believe it is reasonable that the scope, the mode or the process for exchange of information need not be the same. That is, they should be narrower and more restrictive than in the case of CDTA.

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4. A taxpayer resident in a host country is under certain protection, and the host government has the duty to ensure that his protection might not be compromised either by law or by public administration because of an external request for tax information.
5. When a party refuses to enter into a CDTA with Hong Kong, but instead seeks to enter into a TIEA, it should provide clear explanation for not entering into CDTA and for the need of TIEA. The party's position should be submitted to the Legislative Council.
6. In considering a TIEA, the government should specify clearly the taxes referred to. Thus, the words "income tax" as applied to Hong Kong are generic, and it is preferred to state "profits tax" or "salaries tax" etc. Also, we agree that there should be no examination abroad.
7. Between CDTA and TIEA, there is no reason to accord favoured treatment to TIEA. Therefore, there is no need to seek new / additional resources if Hong Kong is to proceed with TIEA.
8. In any agreement, we are seeking fair treatment and to safeguard the rights of citizens. We believe Hong Kong could sign TIEAs with jurisdictions which manifestly govern by the rule of law, upkeep independence of the judiciary and honour human rights. Further, there should be regular review of agreements entered into, and where circumstances warrant, an agreement should be modified or annulled.
9. Thank you for the opportunity to exchanging views.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. P. Lee', written over a light blue circular stamp.

J. P. Lee  
Chairman