



香港工業總會
FHKI

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Federation of Hong Kong Industries

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CB(1)1185/12-13(03)

31 May 2013

The Honourable Kenneth LEUNG
Chairman of Bills Committee on Inland Revenue (Amendment) Bill 2013
Legislative Council

Dear Mr Leung,

Inland Revenue (Amendment) Bill 2013

Thank you for your invitation for submissions. The Federation of Hong Kong Industries (FHKI) would like to give our views on the Inland Revenue (Amendment) Bill 2013 for the Bills Committee's deliberation.

1. Preserving Hong Kong's status as international financial centre & commercial hub

1.1 The FHKI is of the view that preserving Hong Kong's status as an international financial centre and commercial hub is of paramount importance to our economy and its long-term development.

1.2 Hong Kong can ill afford to be labelled by the international community as "un-cooperative" in terms of exchange of tax information (EoI) as it will have serious repercussions for Hong Kong in attracting international investment and for local traders with business dealings across international borders.

2. Hong Kong companies face risk of double taxation

2.1 While mindful of the above-mentioned principles, we are concerned that if Hong Kong is to accept tax information exchange agreements (TIEAs), there might have a higher incidence of double taxation on Hong Kong companies.

2.2 Comprehensive avoidance of double taxation agreements (CDTAs) provide tax relief but TIEAs do not offer such kind of relief measure. There are fears that in the absence of tax relief and EoI to be made possible between Hong Kong and a foreign jurisdiction with which Hong Kong enters into a TIEA under the proposed legislative framework, Hong Kong companies with business establishments in the jurisdiction would be more likely to be subjected to double taxation if their incomes derived from Hong Kong are deemed to be taxable pursuant to the domestic laws of the jurisdiction.

2.3 Scenarios of this kind need to be averted lest the tax burdens of those Hong Kong companies be unfairly increased.

3. Appropriate safeguards to be put in place

CB(1)1185/12-13(03)

3.1 Regarding the operational aspect, the Government should ensure a high level of protection to Hong Kong taxpayers' privacy and the confidentiality of any information exchanged, to minimise any abuse of TIEAs. The FHKI is delighted with the Government's intention to apply the safeguards currently used in CDTAs to any future TIEA.

3.2 Although the Inland Revenue Department (IRD) has a set of internal guidelines, the Departmental Interpretation and Practice Notes (DIPN) No. 47, in handling requests for EoI from treaty partners under CDTAs, we find it necessary to strengthen the safeguards for taxpayers, if TIEAs are eventually adopted, to ensure fairness and better protect their interests when the IRD deals with an EoI request.

3.3 We suggest incorporating the DIPN No. 47 in the legislative framework for TIEAs to make them legally binding. In addition, the notification system should be modified to allow the Judiciary, on application by a taxpayer who is the subject of an EoI request and who is aggrieved at any decision by the IRD, to intervene in the case and review the validity of the IRD's decisions.

Yours sincerely,



Roy Chung
Chairman