

立法會 *Legislative Council*

LC Paper No. CB(3) 70/12-13

Paper for the House Committee meeting of 26 October 2012

Questions scheduled for the Legislative Council meeting of 31 October 2012

Questions by:

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| (1) | Hon Emily LAU Wai-hing | (Oral reply) |
| (2) | Dr Hon Kenneth CHAN Ka-lok | (Oral reply) (New question) |
| | <i>(Replacing his previous question)</i> | |
| (3) | Hon CHAN Yuen-han | (Oral reply) |
| (4) | Hon Alice MAK Mei-kuen | (Oral reply) |
| (5) | Hon Tommy CHEUNG Yu-yan | (Oral reply) |
| (6) | Hon NG Leung-sing | (Oral reply) |
| (7) | Hon LEUNG Kwok-hung | (Written reply) |
| (8) | Hon Alan LEONG Kah-kit | (Written reply) |
| (9) | Hon CHUNG Kwok-pan | (Written reply) |
| (10) | Hon TANG Ka-piu | (Written reply) |
| (11) | Hon WONG Ting-kwong | (Written reply) |
| (12) | Hon Kenneth LEUNG | (Written reply) |
| (13) | Hon Charles Peter MOK | (Written reply) |
| (14) | Hon LEUNG Yiu-chung | (Written reply) |
| (15) | Dr Hon LAM Tai-fai | (Written reply) (New question) |
| | <i>(Replacing his previous question)</i> | |
| (16) | Hon CHEUNG Kwok-che | (Written reply) |
| (17) | Hon Albert CHAN Wai-yip | (Written reply) |
| (18) | Hon Paul TSE Wai-chun | (Written reply) |
| (19) | Hon Frederick FUNG Kin-kee | (Written reply) |
| (20) | Hon Alice MAK Mei-kuen | (Written reply) |

註 :

NOTE :

議員將採用這種語言提出質詢

Member will ask the question in this language

國際學校學額

(2) 陳家洛議員 (口頭答覆)

據報，政府為興建青年宿舍，計劃收回蒙特梭利國際學校所在的土地，該學校的搬遷可能使現時的國際學校學額減少。關於該學校的搬遷事宜和國際學校的政策，政府可否告知本會：

- (一) 政府收回上述土地的具體計劃是甚麼；政府會否對該學校，以及其師生和家長提供協助；若會，詳情是甚麼；鑒於該學校在近10年間曾三度搬遷，政府會否協助該校建立永久校舍；若會，詳情是甚麼；若否，原因是甚麼；
- (二) 過去3年，有需要入讀國際學校但因學額不足而在本地學校就讀的外籍學生的人數是多少；政府對於未能在短期內覓得國際學校學位的學生，會否採取一些短期和過渡性措施，協助他們解決學習困難；若會，詳情是甚麼；若否，原因是甚麼；及
- (三) 鑒於有家長指出，現時國際學校學額供應不足，已經直接影響海外人才和投資者來港發展事業和投資的意欲，政府會否兌現行政長官的選舉承諾，制訂具體政策增加國際學校學額；若會，政策的具體詳情是甚麼；若否，原因是甚麼？

International school places

(2) Dr Hon Kenneth CHAN Ka-lok (Oral reply)

It has been reported that the Government plans to resume the site where the International Montessori School (“IMS”) is situated for development of a youth hostel, and that the relocation of IMS may reduce the existing number of international school places. Regarding the relocation of IMS and the policy on international schools, will the Government inform this Council:

- (a) of the Government’s specific plan to resume the aforesaid site; whether the Government will provide assistance to IMS, its teachers and students as well as the parents; if it will, of the details; given that IMS had moved three times in the past decade or so, whether the Government will assist IMS in developing a permanent campus; if it will, of the details; if not, the reasons for that;
- (b) of the number of foreign students in the past three years who needed to study at international schools but went to local schools due to a shortage of international school places; whether the Government will adopt some short-term and transitional measures to assist students who cannot secure international school places in the near future in tackling their learning difficulties; if it will, of the details; if not, the reasons for that; and
- (c) given that some parents have pointed out that the shortage of international school places at present directly affects the desire of overseas talents and investors to develop their career and make investments in Hong Kong, whether the Government will honour the Chief Executive’s pledge in his manifesto by formulating a specific policy on increasing international

school places; if it will, of the specific details of the policy; if not, the reasons for that?

檢討《稅務條例》第39E條

(15) 林大輝議員 (書面答覆)

行政長官在其競選政綱中表示，“支持香港廠商轉型，發展內銷市場”，以及“針對在內地港企轉型過程中產生稅務成本增加的問題，積極與內地政府協商解決”。他在2012年7月1日政府的就職典禮上亦表示，“我們要重視在內地發展的港商對本地經濟的貢獻，持續支持內地港商轉型升級”。就此，政府可否告知本會：

- (一) 有何具體措施或計劃落實行政長官的上述承諾；
- (二) 行政長官所指的在內地港企轉型過程中產生稅務成本增加的問題，是否包括《稅務條例》(第112章)第39E條(“第39E條”)導致港資進料加工企業不能就提供予內地企業使用的機械或工業裝置在香港獲得折舊免稅額的問題；如是，如何解決這問題；如否，原因為何；
- (三) 鑒於當局曾表示，要放寬第39E條的限制存在實質困難，包括該些在內地使用的機械或工業裝置是否產生應在香港課稅的利潤、是否只用作製造售給有關港商的貨品、曾否被轉售，以及是否已被其他人申索了有關的折舊免稅額等，政府會否與內地有關當局協商解決該些實質困難；如會，詳情為何；如否，原因為何；
- (四) 鑒於上屆政府的財經事務及庫務局局長和商務及經濟發展局局長曾表示，當局認為沒有足夠理據放寬第39E條，現屆政府會否重新檢討第39E條；如會，詳情為何；如否，原因為何；
- (五) 鑒於上屆政府拒絕接納稅務聯合聯絡小組就第39E條所提出的建議，現屆政府會否考慮接納該建議；如會，詳情為何；如否，原因為何；

- (六) 行政長官有否向任何政府部門查詢或跟進第39E條的問題；如有，詳情為何；如否，原因為何；
- (七) 有關政府部門有否向行政長官如實及客觀地反映本港工商業界、會計界及稅務專家等人士就第39E條所表達的意見；如有，行政長官有何回應；如否，原因為何；
- (八) 有關政府部門有否向行政長官如實解釋為何當局一直沒有就第39E條的詮釋問題諮詢律政司或其他法律界人士；如有，行政長官有何回應；如否，原因為何；
- (九) 鑒於當局曾表示，如放寬第39E條的規定，可能會出現避稅漏洞，現屆政府有否仔細評估出現所謂的避稅漏洞的可能性和影響；如有，詳情為何；如否，為何提出這個說法；及
- (十) 鑒於當局曾表示，他們所作出的每項政策決定都必須以香港整體利益和廣大納稅人的福祉為依歸，政府有否評估對第39E條作出修訂，會為香港整體利益作出多少貢獻；如有，詳情為何；如否，原因為何？

Review of section 39E of the Inland Revenue Ordinance

(15) Dr Hon LAM Tai-fai (Written reply)

The Chief Executive (“CE”) has indicated in his election manifesto that “[w]e will support Hong Kong manufacturers in restructuring their business model to tap the domestic market on the Mainland”, and “will actively consult with Mainland authorities to help Hong Kong enterprises on the Mainland to resolve the problem of increased taxation costs arising from business restructuring”. In the Inauguration Ceremony of the Government held on 1 July 2012, CE also said that “[w]e fully recognize the contribution to our economy by Hong Kong businesses operating on the Mainland and will continue to support their restructuring and upgrading”. In this connection, will the Government inform this Council:

- (a) of the specific measures or plans to honour CE’s aforesaid pledges;
- (b) whether the problems of increased taxation costs arising from the restructuring of Hong Kong businesses on the Mainland include the problem of Hong Kong enterprises engaged in import processing trade not being able to obtain depreciation allowance in Hong Kong for machinery and plants made available for use by mainland enterprises because of section 39E of the Inland Revenue Ordinance (Cap. 112)(“section 39E”); if so, how this problem can be solved; if not, of the reasons for that;
- (c) as the authorities have said that there are practical difficulties in relaxing the restriction imposed by section 39E, which include whether the machinery or plant used on the Mainland was producing profits chargeable to tax in Hong Kong, whether it is used for the manufacturing of goods sold solely to the Hong Kong enterprise, whether the machinery or plant has been sold, and whether depreciation allowances

of the same machinery or plant have been claimed by other enterprises, etc., whether the Government will discuss with the relevant mainland authorities to resolve such practical difficulties; if it will, of the details; if not, the reasons for that;

- (d) as both the Secretary for Financial Services and the Treasury and the Secretary for Commerce and Economic Development of the Government of the last term indicated that there were no justifiable grounds to relax section 39E, whether the Government of the current term will review afresh section 39E; if it will, of the details; if not, the reasons for that;
- (e) given that the Government of the last term refused to accept the recommendation put forward by the Joint Liaison Committee on Taxation on section 39E, whether the Government of the current term will consider accepting the recommendation; if it will, of the details; if not, the reasons for that;
- (f) whether CE has made enquiries to or followed up with any government department on issues involving section 39E; if he has, of the details; if not, the reasons for that;
- (g) whether the government departments concerned have relayed truthfully and objectively to CE the views on section 39E of the local industrial and commercial sectors, the accounting trade and tax experts; if they have, of CE's response; if not, the reasons for that;
- (h) whether the government departments concerned have truthfully explained to CE why the authorities have all along not consulted the Department of Justice or other members of the legal profession on the interpretation of section 39E; if they have, of CE's response; if not, the reasons for that;

- (i) as the authorities have indicated that relaxation of section 39E might lead to tax avoidance loopholes, whether the Government of the current term has carefully assessed the possibility of the emergence of the so-called tax avoidance loopholes and their impact; if it has, of the details; if not, why the authorities have said so; and
- (j) as the authorities have indicated that they have to take into account the overall interests of Hong Kong and all the taxpayers in making each and every policy decision, whether the Government has assessed the contribution to be brought to the overall interests of Hong Kong by amending section 39E; if it has, of the details; if not, the reasons for that?