

立法會
Legislative Council

LC Paper No. CB(1)1242/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/SS/1/13/1

**Subcommittee on the Three Orders Made under Section 49(1A) of the
Inland Revenue Ordinance and Gazetted on 4 October 2013**

**Minutes of the third meeting on
Monday, 11 November 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon James TO Kun-sun (Chairman)
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP

**Public officers
Attending** : Ms Shirley KWAN
Principal Assistant Secretary for Financial Services and
the Treasury (Treasury) (Revenue)

Mr CHIU Kwok-kit, JP
Deputy Commissioner (Technical)
Inland Revenue Department

Ms Alice CHOY
Senior Government Counsel (Treaties and Law)¹
Department of Justice

Miss Michelle FUNG
Government Counsel (Treaties and Law)
Department of Justice

Miss Cindy CHEUK
Government Counsel
Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Hugo CHIU
Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Meeting with the Administration

Follow-up to issues arising from previous meeting

- (LC Paper No. CB(1)277/13-14(01) -- List of follow-up actions arising from the discussion at the meeting on 6 November 2013
- LC Paper No. CB(1)277/13-14(02) -- Administration's letter and response to the issues arising from the meeting held on 6 November 2013
- L.N. 148 of 2013 -- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order
- L.N. 149 of 2013 -- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order
- L.N. 150 of 2013 -- Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order

- File Ref: TsyB R 183/800-1-1/94/0 (C) -- Legislative Council Brief on Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Guernsey) Order
- File Ref: TsyB R 183/800-1-1/28/0 (C) -- Legislative Council Brief on Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Italian Republic) Order
- File Ref: TsyB R 183/800-1-1/63/0 (C) -- Legislative Council Brief on Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (State of Qatar) Order
- LC Paper No. LS3/13-14 -- Legal Service Division Report
- LC Paper No. CB(1)95/13-14(01) -- Background brief on the Three Orders Made under Section 49(1A) of the Inland Revenue Ordinance and Gazetted on 4 October 2013 prepared by the Legislative Council Secretariat)

Discussion

The Committee deliberated (Index of proceedings attached at **Appendix**).

II Any other business

Legislative timetable and way forward

2. The Chairman said that the Subcommittee had completed scrutiny of the three items of subsidiary legislation. The deadline for giving notice of amendment to the subsidiary legislation was 20 November 2013. He would give a verbal report to the House Committee on the Subcommittee's deliberations on 15 November 2013. Members agreed that the Chairman would report the Subcommittee's deliberations at the motion debate to take note of the relevant report of the House Committee on consideration of subsidiary legislation and other instruments at the Council meeting of 27 November 2013.

3. There being no other business, the meeting ended at 4:50 pm.

Council Business Division 1
Legislative Council Secretariat
9 April 2014

**Proceedings of the
Subcommittee on the Three Orders Made under Section 49(1A) of
the Inland Revenue Ordinance and Gazetted on 4 October 2013
Third meeting on Monday, 11 November 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000759 – 000808	Chairman	Introductory remark	
000809 – 001104	Administration	<p>Briefing by Administration on its response to issues arising from the meeting held on 6 November 2013 (LC Paper No. CB(1)277/13-14(02)).</p> <p>The Administration highlighted that it would adopt a pragmatic approach to address members' concern about the mechanism for the Inland Revenue Department ("IRD") to gather information from the third party ("the information holder") in handling exchange of information ("EoI") requests from requesting jurisdictions who were partners of comprehensive avoidance of double taxation agreements. The details of the relevant mechanism were set out in paragraph 7 of the paper.</p>	
001105 – 001308	Mr SIN Chung-kai Administration	<p>Mr SIN's enquiries on how the Administration would implement the updated mechanism in paragraph 7 of the paper, and how the information holder would be aware that he/she could request to know the name of the requesting jurisdiction of an EoI request.</p> <p>The Administration advised that the updated mechanism would be implemented through administrative means. The details and related procedures would be set out in the relevant Departmental Interpretation and Practice Note ("DIPN") on the website of IRD.</p> <p>Mr SIN suggested that IRD should update the DIPN accordingly.</p>	
001309 – 001609	Chairman Administration	Referring to paragraph 6 of the paper, the Chairman enquired about the difference between items 6(b) and 6(c), whether the subject of the information requested under an EoI request would be given in IRD's formal notice issued to the information holder, and whether the information holder would be informed that the information sought was to meet an EoI request.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration responded that:</p> <p>(a) item 6(b) of the response paper provided a general description of the requested information (e.g. bank statements, transaction records) while item 6(c) set out details of the requested information (e.g. the specific periods of the bank statement or transaction amount);</p> <p>(b) IRD's formal notice issued to the information holder would mention the subject of the EoI request. It would also include a reference to IRD's access powers provided under the Inland Revenue Ordinance (Cap. 112). However, the name of the requesting jurisdiction would not be disclosed in the formal notice.</p>	
001610 – 001814	Chairman Clerk Administration	<p>The Chairman drew members' attention to the legislative timetable.</p> <p>The Chairman would make a verbal report on the Subcommittee's deliberations at the House Committee meeting on 15 November 2013, and report on the Subcommittee's deliberations at the motion debate to take note of the relevant report of the House Committee on consideration of subsidiary legislation and other instruments at the Council meeting of 27 November 2013.</p> <p>The Chairman requested the Administration to give an undertaking to implement the updated mechanism as set out in paragraph 7 of the paper during the relevant motion debate at the Council meeting of 27 November 2013.</p>	