



羅兵咸永道有限公司

By fax (2121 0420) and by post

Hon CHAN Kam-lam
Chairman,
Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009
Legislative Council
Hong Kong SAR Government

PricewaterhouseCoopers Ltd.
21/F, Edinburgh Tower
15 Queen's Road Central
Hong Kong
Telephone +852 2289 8688
Facsimile +852 2810 9688
pwchk.com

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CB(1)2664/08-09(03)

Dear Hon Chan Kam-lam,

Submission on the Inland Revenue (Amendment) (No. 2) Bill 2009

The Inland Revenue (Amendment) (No. 2) Bill 2009 ("the Bill") consists of technical amendments to improve the tax administration and procedural amendments to smooth the operation of the Board of Review. With reference to your invitation for submission on the Bill, we would like to give the following comments.

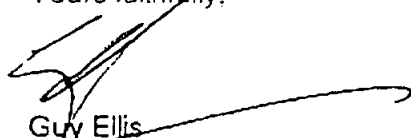
Technical Amendments

While we support the proposed technical amendments which are necessary to improve the tax administration, some of these amendments should have been made earlier. For example given section 16G was enacted in 1998 to allow deduction of capital expenditure incurred in a prescribed fixed asset for profits tax purposes, it appears there is considerable time lag for the current proposal to section 16(2)(e)(i) to extend the deduction of interest expense to those on capital expenditure incurred in prescribed fixed assets. We recommend the timing of these technical amendments could be enhanced if there is an on-going mechanism to review the existing tax legislations for technical amendments.

Procedural Amendments

We also support the current procedural amendments to the operation of the Board of Review. However in a long run, the Hong Kong SAR Government may have to consider the comments given in the judgement of the Court of Final Appeal on the case ING Baring Securities Ltd v Commissioner of Inland Revenue on the structure of the Board of Review. We believe any structural change of the Board of Review will be controversial and should require careful consideration by the Hong SAR Government and further consultation with the public, business community and the profession. Setting aside any long-term structural change of the Board of Review, the proposed amendments are appropriate to smooth the existing operation of the Board of Review.

Yours faithfully,



Guy Ellis
Partner
Tax Services