



財經事務及庫務局

(庫務科)

香港下亞厘畢道

中區政府合署

傳真號碼 Fax No. : 2868 5279  
電話號碼 Tel. No. : 2810 2229  
本函檔號 Our Ref. : FIN CR 1/2306/09  
來函檔號 Your Ref. : CB1/BC/7/08

FINANCIAL SERVICES AND THE  
TREASURY BUREAU

(The Treasury Branch)

Central Government Offices,  
Lower Albert Road,  
Hong Kong

**CB(1)326/09-10(02)**

12 November 2009

Ms Rosalind Ma  
Clerk to Bills Committee on  
Inland Revenue (Amendment)(No.2) Bill 2009  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong  
(By fax: 2121 0420)

Dear Ms Ma,

**Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009**

**Follow-up to third meeting on 27 October 2009**

Thank you for your letter of 27 October 2009. The Administration's response is provided in the ensuing paragraphs.

**To allow a retired member to handle a case that he has handled before**  
*(paragraph 1(a) and (b) of the list of follow-up action)*

Under the three circumstances stated in paragraph 5 of the Legislative Council Brief, it is already the current practice of the Board of Review to have the case handled by the original hearing panel as far as possible because there is a practical need for the hearing panel to be conversant with the case background and previous deliberations. Therefore, our proposed technical amendment is not intended to create a totally new arrangement for the handling of cases under those three circumstances. It only provides the Board with the flexibility to deploy a

member of the original hearing panel in case he happens to have retired from the Board.


At present, both parties to an appeal may raise their concerns on the composition of the hearing panel upon receipt of the hearing notice. While it is the ultimate authority of the Chairman of the Board to decide whether or not to change the composition of the hearing panel, it is not uncommon for the Chairman to do so after taking into account views of either party. It is also unlikely that the Chairman, being an independent and fair-minded person, would redeploy a former member of the Board if that member has been proven no longer fit and proper to serve. However, as a matter of principle, we consider that parties to an appeal should not be given a statutory right to veto the Chairman's decision on the composition of the hearing panel.

**To extend the prosecution period for breaches of secrecy provisions**  
*(paragraph 2(a) and (b) of the list of follow-up action)*

In 2002, after considering the advice of the Director of Public Prosecutions, the Administration decided to amend the Inland Revenue Ordinance (IRO) to extend the six-month prosecution period for breaches of secrecy provisions. The Administration considers that the prosecution period should be extended to six years so as to align with the similar provision in the Business Registration Ordinance. The Inland Revenue Department collects information under both ordinances and the information collected under each ordinance can be used to enforce the laws in the other ordinance. We therefore consider that the level of safeguards against breach of secrecy should be comparable under the two ordinances.

In view of Members' concern as set out in paragraph 2 of the Bills Committee's list of follow-up action subsequent to the last meeting, we accept that the prosecution period for breach of secrecy provisions under the IRO can be extended to 2 years instead of 6 years.

Yours sincerely,



(Ms Shirley Kwan)  
for Secretary for Financial Services  
and the Treasury

c.c. CIR (Attn: Mr K K Chiu)  
(Attn: Mr K C Yim)  
DoJ (Attn: Ms Angie Li)  
BoR (Attn: Mr Simon Yip)

Internal  
PAS(R)