

LS/B/26/08-09
2869 9468
2877 5029

Ms Joan HUNG
AS for Financial Services & the Treasury (Treasury)(R)1
Financial Services and the Treasury Bureau
The Treasury Branch
5/F, East Wing
Central Government Offices
Central
Hong Kong

14 August 2009

BY FAX
Fax No.: 2234 9757

Dear Ms HUNG,

Inland Revenue (Amendment) (No. 3) Bill 2009

We are scrutinising the legal and drafting aspects of the Inland Revenue (Amendment) (No. 3) Bill 2009 (the Bill). We have the following questions on the Bill for your clarification.

Clause 3(2)

Would you give examples to illustrate the meaning of "any tax of a similar character imposed by the laws of that territory" in the new section 49(1A)?

Clauses 7(2), 8(1) and 8(2)

Why is it appropriate to repeal the reference to "partnership" in sections 80(2)(c), 82A(1)(a) and 82A(1)(c) of the Inland Revenue Ordinance (Cap. 112) respectively?

Clause 9

It is noted that the clause adds further exemptions to section 58(1)(c) of the Personal Data (Privacy) Ordinance (Cap. 486) (PD(P)O). Have you consulted the Privacy Commissioner for Personal Data as to whether or not the legislative proposals have complied with the requirements of protecting personal data under the PD(P)O?

LegCo Brief on the Bill

In paragraph 9 of the LegCo Brief, it says that "[t]he safeguards will be incorporated in individual comprehensive avoidance of double taxation agreement (CDTA) (which will be implemented as subsidiary legislation subject to LegCo's negative vetting) or in documents of record between the two contracting parties". Would you explain the reasons for not implementing all the safeguards incorporated in individual CDAs as subsidiary legislation?

2004 Organization for Economic Cooperation and Development (OECD) Model of exchange of information (EoI)

Would you give examples to illustrate the operation of paragraphs 3 and 5 of the 2004 OECD Model of EoI?

We would be grateful if you could give us a reply in both languages before the date of the next Bills Committee's meeting.

Yours sincerely,

(Stephen LAM)
Assistant Legal Adviser

c.c. DoJ (Attn : Mr Michael LAM, SALD) (Fax : 2869 1302)

LA

SALA1

CCS(1)5