

**Bills Committee on
Inland Revenue (Amendment) (No. 3) Bill 2009**

Follow-up to issues raised at the sixth meeting on 26 November 2009

1. In connection with the Administration's agreement to add provisions in the proposed Inland Revenue (Disclosure of Information) Rules (the Rules) to address members' concerns about safeguards to protect individual privacy and confidentiality of information in the exchange of information (EoI) under comprehensive avoidance of double taxation agreements (CDTAs) (as set out in Annex C to LC Paper No. CB(1)466/09-10(02)), the Administration was requested to:
 - (a) provide the revised draft of the Rules for members' consideration; and
 - (b) consider Hon James TO's request of subjecting the Rules to the positive vetting procedure instead of the negative vetting procedure, so that Members' right to object to any future amendments to the Rules would be less restricted.

2. In relation to members' concern about the drafting of the Departmental Interpretation and Practice Notes at Annex B to LC Paper No. CB(1)466/09-10(02), the Administration was requested to consider refining the wordings of the draft in response to the following:
 - (a) Concern shared by Hon James TO and Hon Alan LEONG about measures to prevent abuse of the EoI arrangement by the requesting party to obtain information not relevant to taxation matters. In this connection, the Administration was requested to consider Hon James TO's suggestion of providing examples to illustrate cases of "bona-fide" requests in paragraph 16, as well as examples of cases which fell outside the interpretation of "bona-fide" requests and therefore would not be entertained;
 - (b) Hon Paul CHAN's concern about clarity of the phrase "may not be used" in paragraph 25 and his view of revising this to, say "shall not be used";
 - (c) Hon James TO's concern whether "fiscal information" and "non-fiscal crimes" in paragraph 25 meant "tax information" and "non-tax related crimes or offences";
 - (d) Hon James TO's concern whether the scope of information exchange under CDTAs would be appropriate if the requesting party must resort to other means (for example, through mutual legal assistance) "if the information appears to be of value to the requesting party for another purpose" in paragraph 25; and

- (e) Hon James TO's concern about the "legitimate reasons from the requesting party" on the basis of which Hong Kong would permit disclosure of information exchanged to oversight authorities in paragraph 29. In this connection, the Administration should consider Hon Paul CHAN's suggestion of setting out clearly that such disclosure would be in accordance with the provisions in the respective CDTAs only.
3. In relation to Hon James TO's concern, the Administration was requested to illustrate, with example of CDTAs in force or those under negotiation, the impact and benefits of adopting the latest international standard for EoI arrangement for the Hong Kong community and the taxpayers.

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