

HIPP THE HONG KONG INSTITUTE OF PATENT PRACTITIONERS

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Legislative Council Secretariat

3/F Citibank Tower, 3 Garden Road,

Central, Hong Kong

Attention: Clerk to Bills Committee on Inland Revenue(Amendment) (No. 2) Bill 2011

Dear Sir/Madam,

Submission regarding Inland Revenue(Amendment) (No. 2) Bill 2011 (the Bill)

The Hong Kong Institute of Patent Practitioners (HIPP) is established by a group of patent practitioners in Hong Kong with the aim to promote Hong Kong as an international hub for the acquisition and commercialization of Intellectual Property Rights (IPR). The raise of awareness of IPR resulting from the increased trading and utilization is expected to stimulate innovation in Hong Kong and broaden Hong Kong's economic base. This ultimate goal is in line with Chief Executive's proposed development of six major industries including innovation and technology in his Policy Address of 2009-2010.

HIPP welcomes any form of tax relief with regard to dealings in IPR as a means to encourage the industries in exploiting IPR. The tax relief will also lower the barrier for technology transfer which is the key for innovation in a knowledge based economy. HIPP noticed that the following amendments are proposed in the Bill:

1. Sales proceeds for patent rights and rights to any know-how to be brought to tax would be capped at deductions previously allowed.
2. To remove the "use in Hong Kong" condition current applicable to the tax deduction for IPR.
3. Inclusion of copyrights, registered designs and registered trade marks as tax deductible IPR.

Whilst HIPP supports these amendments as a step in the right direction for Hong Kong to progress towards a diversified knowledge based economy by encouraging innovation and technology, HIPP takes the view that these simple amendments do not go nearly far enough. The development of the six major industries requires additional implementation of even more favourable policy and financial aid to support the development of Hong Kong into a Knowledge Economy.

In particular, HIPP would like to point the government and policy makers to the following areas, which are exemplary of how local innovative industries are lacking support and illustrates the difficulties entrepreneurs are facing.

The **Patent Applicant Grant** (the Grant) under the innovation and Technology Fund provides a funding of HK\$ 150,000 to encourage local inventors and industries to apply for patent to protect their intellectual property. The Grant correctly recognizes that patent is essential for any innovative industry to protect their fruitful R&D results, but missed the point that Hong Kong corporations need to make multiple patent applications worldwide to protect various aspects of their innovations. Under the current regulations, an applicant can only obtain the grant once. Innovative industries are characterized by their longer period of initial investment in the R&D of a product, usually taking several years or even more, before being able to generate sustainable revenue. In this regard, HIPP urges the government to review its policy on the Grant and allow an applicant to obtain multiple grants under the scheme in order to provide what is similarly available in China.

IPR acquisition and purchase often occurs cross-border. In some jurisdictions, withholding tax is applicable to a seller of IPR and the local purchaser in Hong Kong ends up paying a premium to the seller to cover the withholding tax in the foreign jurisdiction. HIPP urges the government to negotiate favourable tax treaties with Hong Kong's major trading partners so as to lower the withholding tax rate in cross-border transactions. This does not only benefit the innovative industries but is essential in the development of Hong Kong as an IP trading, holding and licensing hub.

Should any government department be interested in discussing IPR or innovative industries in Hong Kong, or need further details on our suggestions, please do not hesitate to contact us.

Yours faithfully,

Dr. Jacqueline Lui (President)

Mr. Henry Wheare (Council Member)

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