



立法會秘書處

LEGISLATIVE COUNCIL SECRETARIAT

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27 October 2010

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

Dear Ms HUNG,

Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains) (United Kingdom of Great Britain and Northern Ireland) Order (L.N. 126 of 2010)

I am scrutinizing the legal and drafting aspects of the above Order. It would assist Members if you could clarify the following matter.

According to paragraph 2 of Article 24 of the Agreement (which is reproduced in Part 1 of the Schedule), any information received under paragraph 1 by a Contracting Party shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. It is noted that this is the same as the relevant provision in Hong Kong's sample Exchange of Information Article. However, in Paragraph 4(c) of the Protocol to the Agreement (which is reproduced in Part 2 of the Schedule), it is provided that the United Kingdom competent authority may disclose information to the Information Commissioner, the Adjudicator and the Parliamentary Ombudsman and their staff in the investigation of complaints against the administrative actions of Her Majesty's Revenue and Customs. What is the rationale for permitting the disclosure of information to the persons or authorities mentioned in that Paragraph?

I would appreciate it if you could let me have your reply (in both Chinese and English and with soft copy to Miss Joey LEE at jmylee@legco.gov.hk) on or before 29 October 2010.

Yours sincerely,



(Timothy TSO)
Assistant Legal Adviser

c.c. DoJ (Attn.: Miss Selina LAU, Sr Govt Counsel (By Fax: 2869 1302))
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