16 May 2011

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) (New Zealand) Order (L.N. 67 of 2011)

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(b) of the Protocol to the Agreement (which is reproduced in Part 2 of the Schedule), it is provided that the New Zealand competent authority may disclose information to the Office of the Ombudsmen in the investigation of complaints against the administrative actions of the New Zealand Inland Revenue Department. What is the rationale for permitting the disclosure of information to the Office of the Ombudsmen 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) by noon on 17 May 2011.

Yours sincerely,

(Timothy TSO)
Assistant Legal Adviser

c.c. DoJ (Attn.: Ms Mabel CHEUNG, Sr Govt Counsel (By Fax: 2845 2215)
Mr Ken FUNG, Govt Counsel (By Fax: 2869 1302))
LA
SALA3