

For information

Legislative Council Panel on Financial Affairs

**Legislative Proposals to Enhance
the Efficiency of the Existing Tax Appeal Mechanism**

PURPOSE

This paper informs Members of the Administration's decision to put on hold the introduction of the legislative proposals to enhance the efficiency of the existing tax appeal mechanism, pending the outcome of a judicial review which may have implication for the legislative proposals.

BACKGROUND

2. In order to enhance the efficiency of the existing tax appeal mechanism, the Administration aims to amend the Inland Revenue Ordinance (Cap. 112) to –

- (a) allow taxpayers and the Commissioner of Inland Revenue to lodge direct appeals to the court against the decisions of the Board of Review (Inland Revenue Ordinance) (the Board) on questions of law without the need to have the Board to agree to state a case for the court's consideration; and
- (b) empower the Board to give pre-hearing directions for tax appeal hearings and to sanction non-compliance with the directions.

The Administration briefed Members at the Panel meeting on 4 January 2010 on the above legislative proposals. On 6 July 2010, the Administration wrote to update the Panel of its plan to introduce the legislative proposals to the Legislative Council in the 2010-11 legislative session after resolving a few unforeseeable legal issues arising in the course of drafting the legislative amendments.

THE ADMINISTRATION'S DECISION

3. While the drafting of the proposed legislative amendments has come to the final stage, the Administration notes that the Court of First Instance will, in mid January 2011, hear an application for judicial review relating to the case stated procedure under the existing tax appeal mechanism. Since the outcome of the judicial review might have impact on the scope of the above legislative proposals, the Administration considers it prudent to put on hold the legislative exercise and to avoid potential prejudice to the said judicial review.

4. As tax appeal cases can still be handled under the existing tax appeal mechanism, putting on hold the introduction of the above legislative proposals will not affect the public at large.

Financial Services and the Treasury Bureau
December 2010