



THE

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香港律師會

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Ms. Sharon Chung
Clerk to Bills Committee
Inland Revenue (Amendment) Bill 2013
Legislative Council, Legislative Council Complex
1 Legislative Council Road, Central, Hong Kong


Dear Ms. Chung,

**Re: Bills Committee on Inland Revenue (Amendment) Bill 2013
Further submission**

I refer to your letter dated 3 June 2013 in connection with the captioned matter and attach further submission prepared by the Law Society's Revenue Law Committee.

The Law Society has no objection to its submission being posted on the Legco website.

Yours sincerely,


Joyce Wong
Director of Practitioners Affairs
e-mail: dpa@hklawsoc.org.hk

Encl.

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Inland Revenue (Amendment) Bill 2013

We refer to the *Administration's Responses to Written Submissions from Deputations* ("Administration's Response") dated June 2013 to the Law Society's submissions dated 30 April 2013.

1. Section E "Safeguards for Taxpayers"

The Law Society requested statutory protection on disclosure of items covered by legal professional privilege ("LPP").

The Administration's Response to this request has merely cited section 51(4A) of the Inland Revenue Ordinance (Cap. 112) which states:

"..... nothing in subsection (4) shall require disclosure by counsel or solicitor of any privileged information or communication given or made to him in that capacity".

The Administration considers this section provides adequate protection of LPP.

It does not.

The Administration's response misapprehends the full scope of LPP. Section 51(4A) provides that nothing in subsection (4) shall require disclosure by counsel or solicitor of any privileged information. It does not give the recipient of that advice (i.e. the taxpayer, the client) any statutory protection against disclosure of the legal advice received.

LPP is provided by a combination of common law and under Article 35 of the Basic Law which states:

"Hong Kong residents shall have the right to confidential legal advice....."

The Law Society submits that all CDTAs and TIEAs should contain a clause similar to that in the *Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Canada) Order*:

“In no case shall the provisions of [the relevant agreement] be construed so as to impose on a Party the obligation to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;”

¹

**Revenue Law Committee
The Law Society of Hong Kong
6 June 2013
1395689**

¹Cap. 112CF Article 24 3(b)