

A BILL

To

Amend the Inland Revenue Ordinance to make further provisions to facilitate the collection and disclosure of tax information under arrangements made with the government of a territory outside Hong Kong, and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 2013.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Inland Revenue Ordinance (Cap. 112)

3. Part 8 heading amended (double taxation relief)

Part 8, heading, after “Relief”—

Add

“and Exchange of Information”.

4. Section 49 amended (double taxation arrangements)

(1) Section 49, heading—

Repeal

“Double taxation arrangements”

Substitute

“Arrangements for relief from double taxation and exchange of information”.

(2) Section 49(1A)—

Repeal

“Hong Kong with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory,”

Substitute

“Hong Kong.”

(3) After section 49(1A)—

Add

“(1B) But only arrangements made for either or both of the following purposes may be specified in an order under subsection (1A)—

- (a) affording relief from double taxation;
- (b) exchanging information in relation to any tax imposed by the laws of Hong Kong or the territory concerned.”.

5. Section 51 amended (returns and information to be furnished)

- (1) Section 51(4)(a), after “possession” (wherever appearing)—

Add

“or control”.

- (2) Section 51(4A)(i), after “possession”—

Add

“or control”.

6. Section 51B amended (power to issue search warrant)

Section 51B(1AA)—

Repeal

“tax concerned,”

Substitute

“tax concerned or any other sums or values in respect of which a person is chargeable to the tax concerned,”.

7. Section 52 amended (information to be furnished by officials and employers)

Section 52(1), after “possession”—

Add

“or control”.

Part 3

Amendments to Inland Revenue (Disclosure of Information) Rules (Cap. 112 sub. leg. BI)

8. Section 4 amended (information that may be disclosed in response to disclosure request)

Section 4—

Repeal

“does not relate to any period before the relevant arrangements came into operation.”

Substitute

“relates to—

- (a) the carrying out of the provisions of the relevant arrangements in respect of any period that starts after the arrangements have come into operation; or
- (b) the administration or enforcement of the tax law of the requesting government’s territory in respect of any period that starts after the relevant arrangements have come into operation.”.

9. Schedule amended (particulars to be contained in disclosure request)

(1) The Schedule, item 5, after “possession”—

Add

“or control”.

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- (2) The Schedule, item 6, after “possession”—
Add
“or control”.
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Explanatory Memorandum

The main purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) (*the Ordinance*) and the Inland Revenue (Disclosure of Information) Rules (Cap. 112 sub. leg. BI) (*the Rules*) to make further provisions to facilitate the collection and disclosure of tax information under arrangements made with the government of a territory outside Hong Kong.

2. The Bill is divided into 3 Parts.

Part 1

3. Clause 1 sets out the short title.

Part 2

4. Clause 4 amends section 49 of the Ordinance so that arrangements may be made with the government of a territory outside Hong Kong not only for affording relief from double taxation, but also for exchanging information in relation to any tax imposed by the laws of Hong Kong or the territory.
5. Clauses 5 and 7 respectively amend sections 51 and 52 of the Ordinance to clarify that the power under those sections to obtain information is exercisable not only in respect of information possessed by a person, but also in respect of information in a person's control.
6. Clause 6 contains a consequential amendment to section 51B of the Ordinance.

Part 3

7. Clause 8 amends section 4 of the Rules to enable the Commissioner of Inland Revenue to disclose information that relates to the carrying out of the relevant arrangements, or to tax assessment, in respect of any period that starts after the arrangements have come into operation.
8. Clause 9 contains consequential amendments to the Schedule to the Rules.