立法會
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Paper for the House Committee Meeting on 10 January 2014

Legal Service Division Report on Inland Revenue (Amendment) (No. 3) Bill 2013

I. SUMMARY

1. **The Bill**	The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to - (a) give captive insurers (i.e. insurers which provide self-insurance within the same group of companies) a concessionary profits tax rate (equivalent to that given to reinsurance companies, i.e. one-half of the normal tax rate of 16.5% for corporations) for their business of insurance of offshore risks with effect from 1 April 2013 as proposed by the Financial Secretary in the 2013-14 Budget; and (b) increase the maximum amount deductible under that Ordinance, subsequent to the increase of the maximum relevant income level under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) from $25,000 to $30,000 per month with effect from 1 June 2014, and to provide for transitional arrangements.
2. **Public Consultation**	According to the Legislative Council Brief, the Insurance Advisory Committee was consulted on the tax concession proposal on 16 August 2013 and supported the initiative.
3. **Consultation with LegCo Panel**	The Clerk to the Panel on Financial Affairs has advised that the Panel was consulted on 4 November 2013 and members were generally in support of the proposals.
4. **Conclusion**	No difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may wish to consider whether there are any policy or other aspects which should be studied in detail.

II. REPORT

The date of First Reading of the Bill is 8 January 2014. Members may refer to the LegCo Brief (File Ref.: L/M (19) in G6/90/4C (2011) Pt.5) issued by the Financial Services and the Treasury Bureau on 24 December 2013 for further details.

Object of the Bill

2. The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to give captive insurance companies, for their offshore risks insurance business, a profits tax concession equivalent to that given to reinsurance companies; to increase the maximum amount deductible under sections 16AA and 26G of that Ordinance; to provide for transitional arrangements for that increase; and to make minor amendments.

Provisions of the Bill

<u>Proposed tax concession for captive insurers</u>

3. The Financial Secretary proposed in the 2013-14 Budget to reduce the profits tax of captive insurers[1] for their business of insurance of offshore risks such that they will enjoy the same tax concessions under the Inland Revenue Ordinance (Cap. 112) as those currently applicable to reinsurers.

4. According to paragraph 3 of the LegCo Brief, while captive insurance has been widely used as a risk management tool in advanced economies, its utilization in Asia remains low. Attracting companies to set up captive insurers in Hong Kong to form a cluster will help the development of other related businesses which will in turn reinforce Hong Kong's status as a regional insurance hub. With a sound regulatory regime and availability of a wide range of professionals, Hong Kong is well positioned to establish herself as a domicile for captive insurers.

5. The purpose of the amendments in Part 2 of the Bill is to give authorized captive insurers a concessionary profits tax rate (i.e. one-half of the normal tax rate for corporations, which is currently at 16.5% under Schedule 8 to Cap. 112) for their business of insurance of offshore risks with effect from 1 April

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[1] A captive insurer is defined under section 2(7)(a) of the Insurance Companies Ordinance (Cap. 41) to mean a company (***relevant company***) which carries on general business only and such business-

(i) does not relate to any liabilities or risks in respect of which persons are required by any Ordinance to be insured; and

(ii) is restricted to the insurance and reinsurance of risks of the companies within the same grouping of companies to which the relevant company belongs.

2013. This proposed tax concession applies to all corporations that fall within the definition of "authorized captive insurer" under clause 6(5) of the Bill and have elected in writing that the concession applies to them.

<u>Proposed increase in maximum amount of deduction for contributions to recognized retirement schemes</u>

6. Section 16AA of Cap. 112 provides for the deduction of mandatory contributions by self-employed persons for the purpose of calculating their tax payable under profits tax. Section 26G of Cap. 112 provides for the deduction of mandatory contributions to recognized retirement schemes by employees for the purposes of calculating tax payable under salaries tax or tax under personal assessment. The maximum amount of allowable deduction under sections 16AA and 26G of Cap. 112 for each year of assessment is prescribed in Schedule 3B to Cap. 112. It is currently set at $15,000 (i.e. $25,000 x 5% x 12 months).

7. On commencement of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 on 1 June 2014, the maximum level of relevant income for contribution purposes under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) will be increased from $25,000 to $30,000 per month. Schedule 3B is accordingly proposed to be amended to increase the maximum amount of allowable deduction for mandatory contributions from $15,000 to $17,500 (i.e. $25,000 × 5% × 2 months + $30,000 × 5% × 10 months) for the year of assessment 2014/15, and to $18,000 (i.e. $30,000 × 5% × 12 months) from the year of assessment 2015/16 onwards.

8. The Bill also proposes to add Schedule 30 to Cap. 112 to provide for the transitional arrangements relating to the holding over of payment of provisional salaries tax and provisional profits tax, on the ground of the taxpayer's entitlement to the increase in the maximum amount of allowable deduction for contributions to recognized retirement schemes, for the years of assessment 2014/15 and 2015/16.

<u>Commencement</u>

9. The Bill, if passed, would come into operation on the day on which it is published in the Gazette.

Public Consultation

10. According to paragraph 11 of the LegCo Brief, the Insurance Advisory Committee was consulted on the tax concession proposal on 16 August 2013 and supported the initiative.

Consultation with LegCo Panel

11. The Clerk to the Panel on Financial Affairs has advised that the Panel was consulted on 4 November 2013 and members were generally in support of the proposals. In order to attract companies to set up captive insurers in Hong Kong, there was suggestion that the related companies should be exempted from all corporate profits tax in their first two years of operation in Hong Kong. As regards the proposal of increasing the maximum amount of allowable deduction for mandatory contributions made by employees or self-employed persons, a member opined that the Administration should consider granting more tax concessions to encourage employees and self-employed persons to increase their voluntary contributions.

Conclusion

12. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Members may wish to consider whether there are any policy or other aspects which should be studied in detail.

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