

Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2015

Response to ALA's letter dated 28 August 2015

Issue

The LegCo Assistant Legal Advisor (“ALA”), in her letter of 28 August 2015, sought clarification on why the proposed new section 69AA (appeal against Board of Review’s decision: hearing of appeal) and the proposed amended section 69A (right to appeal directly to Court of Appeal against decision of Board of Review), are not included in the proposed amendment to section 82B(3) (appeals against assessment to additional tax to Board of Review) of the proposed Bill. This note sets out the Administration’s response.

Proposed amendment to section 82B(3)

2. The purpose of section 82B(3) is to provide that relevant procedures relating to appeals against assessment to additional tax to the **Board of Review** (“BoR”) are the same as those for appeals against assessment to tax other than additional tax. The procedures include –

- (a) **Sections 66(2) and (3) (existing)** – giving of notice of appeal to BoR and appealing on the statement of grounds of appeal;
- (b) **Section 68 (existing)** – hearing and disposal of appeals to BoR;
- (c) **Section 68AA (new)** – power of BoR to give directions on provision of documents and information;
- (d) **Section 68AAB (new)** – privileges and immunities of the Chairman, Deputy Chairmen and members of BoR at panel hearings;
- (e) **Section 68A (existing)** – power of BoR to correct clerical mistakes and other errors;

- (f) **Section 69 (existing and as substituted)** – right to appeals to the Court of First Instance; and
- (g) **Section 70 (existing)** – tax assessments or amended assessments to be final.

3. It is not necessary to cover the proposed new section 69AA and the proposed amended section 69A under section 82B(3). The former concerns the **hearing of appeals against BoR's decisions by the Court of First Instance** and the latter concerns the **revised leapfrog procedures of the Court** where leave to appeal has been granted in respect of a decision of BoR. Same as the existing section 69A (right to appeal directly to the Court of appeal against decisions of BoR) which is **not** covered under section 82B(3), the above proposed sections are **not** part of the procedures relating to appeals to the BoR.

Financial Services and the Treasury Bureau
September 2015