



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : TsyB R 183/700-6/7/0 (C)
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By Fax (2234 9757)

26 January 2016

Miss YIP Sin-ching, Crystal
AS for Financial Services &
the Treasury (Treasury) (R)1
Financial Services and the Treasury Bureau
24/F, Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Miss YIP,

Re: Inland Revenue (Amendment) Bill 2016

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects. I would like to seek information on the following matters.

Model articles

The Bill seeks to incorporate the new international standard on automatic exchange of financial account information in tax matters (AEOI) into local legislation by amending the Inland Revenue Ordinance (Cap. 112). To facilitate members' scrutiny of the Bill, it would be helpful if you would provide a table (as suggested in the Annex) setting out the amendments proposed in the Bill, the equivalent model articles under the relevant AEOI documents, and any differences between the proposed amendments and the model articles (if any).

Taxpayers' privacy and confidentiality of the information exchanged

The Bill does not contain any proposals to provide safeguards under domestic legislation relating to taxpayer's privacy and confidentiality of

the tax information exchanged under AEOI nor contain any empowering provisions to make any subsidiary legislation to such effect. I note that the existing Inland Revenue (Disclosure of Information) Rules (Cap. 112BI) provide certain procedural rights and safeguards for persons affected by the information exchange, e.g. a right to be informed about the information exchanged, a right to request the Commissioner of Inland Revenue to amend the information to be exchanged and a right to review the Commissioner's decision. However, the Rules are only applicable to a request for disclosure of information and thus the relevant safeguards would not be available to taxpayers under AEOI arrangements. In this regard, please let us know, upon the implementation of new AEOI standard, whether there will be any safeguard under domestic legislation on the privacy and confidentiality of the information to be exchanged, e.g. similar to those available under the existing Cap. 112BI.

I would be grateful if you would let me have your response in bilingual form at your earliest convenience, preferably before **2 February 2016**.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Clara TAM', with a stylized, cursive script.

(Clara TAM)
Assistant Legal Adviser

Encl.

cc. DoJ (Attn: Mr Alan CHONG and Ms Phyllis POON (By Fax: 3918 4613))
Clerk to Bills Committee

Proposed amendments in the Bill	Equivalent model article(s) under AEOI standard	Remarks, e.g. difference between the proposed amendments and AEOI standard
e.g. key definitions, such as reporting financial institution, reporting etc. (new section 50A)		
due diligence obligations on reporting financial institutions (new section 50B)		
reporting obligations on reporting financial institutions (new sections 50C and 50D)		
Required information to be reported (new section 50F)		
Non-reporting financing institutions and excluded accounts (new Schedule 17C)		
Due diligence requirements (new Schedule 17D)		