

Bills Committee on Inland Revenue (Amendment) Bill 2016

**List of follow-up actions arising from the discussion
at the meeting on 2 February 2016**

Due diligence requirements

1. The Administration is requested to elaborate on the due diligence requirements (including relevant rules, guidelines and procedures) for reporting financial institutions ("FIs") to identify reportable accounts (whether the account holder is an individual or entity) held by tax residents of reportable jurisdictions, and collect the reportable information in respect of these relevant accounts, under the proposed legislative framework for the implementation of automatic exchange of financial account information in tax matters in Hong Kong.

Offence relating to the signing of self-certification that is misleading, false or incorrect

2. The Bill provides for an offence against any person who, in making a self-certification that is required to be collected by a reporting FI, makes a statement that is misleading, false or incorrect in a material particular; and knows, or is reckless as to whether, the statement is misleading, false or incorrect in a material particular ("the offence"). The person is liable on conviction to a fine at level 3. In this connection, the Administration is requested to –

- (a) address some members' concerns that the imposition of criminal sanction may not be justified in view of the nature of the offence; and the suggestion that the Inland Revenue Department should seek confirmation from the account holders concerned on the self-certification before establishing the offence or taking enforcement actions;
- (b) consider putting in place measures, such as by issuing relevant guidelines to reporting FIs on the presentation of documentation for collecting self-certification, to alert account holders of the need to exercise caution in making self-certification and the liability to criminal sanction for making false self-certification; and
- (c) clarify whether the offence will be a recordable offence and hence may affect the offender's application for Certificate of No Criminal Conviction processed by the Hong Kong Police Force.