

立法會
Legislative Council

LC Paper No. CB(1)1377/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/16/2

Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2017

Minutes of first meeting
held on Tuesday, 25 April 2017, at 11:30 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon Kenneth LEUNG (Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon SHIU Ka-fai
Hon CHAN Chun-ying

Member absent : Dr Hon Junius HO Kwan-yiu, JP

Public Officers attending : **For item II**
Financial Services and the Treasury Bureau
Mr Andrew LAI, JP
Deputy Secretary (Treasury)2

Inland Revenue Department

Mr CHIU Kwok-kit, JP
Deputy Commissioner (Technical)

Ms LEUNG To-shan
Senior Assessor (Tax Treaty)2

Department of Justice

Ms Phyllis POON
Senior Government Counsel

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Anki NG
Senior Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Election of Chairman

Election of Chairman

Mr James TO, the member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of Chairman of the Bills Committee.

2. Mr James TO invited nominations for the chairmanship of the Bills Committee. Mr CHAN Chun-ying nominated Mr Kenneth LEUNG, and the nomination was seconded by Mr Charles Peter MOK. Mr LEUNG accepted the nomination.

3. There being no other nominations, Mr Kenneth LEUNG was declared Chairman of the Bills Committee. Mr LEUNG then took the chair.

4. Members agreed that there was no need to elect a Deputy Chairman.

Action

II. Meeting with the Administration

- LC Paper No. CB(3)433/16-17 — The Bill
- File Ref: TsyB R 183/700-6/7/0 (C) — Legislative Council Brief
- LC Paper No. LS51/16-17 — Legal Service Division Report
- LC Paper No. CB(1)864/16-17(01) — Assistant Legal Adviser's letter dated 3 April 2017 to the Administration
- LC Paper No. CB(1)864/16-17(02) — Administration's reply to Assistant Legal Adviser's letter dated 3 April 2017
- LC Paper No. CB(1)864/16-17(03) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
- LC Paper No. CB(1)864/16-17(04) — Background brief prepared by the Legislative Council Secretariat)

5. Members noted a submission from Oxfam Hong Kong which was tabled at the meeting.

(Post-meeting note: The submission was issued to members vide LC Paper No. CB(1)878/16-17(01) on 25 April 2017.)

Discussion

6. The Bills Committee deliberated (index of proceedings attached at the **Annex**) and completed clause-by-clause examination of the Inland Revenue (Amendment) (No. 3) Bill 2017.

Follow-up actions to be taken by the Administration

7. The Administration was requested to provide the following information:
- (a) the criteria or considerations for including additional jurisdictions in the list of reportable jurisdictions under the Inland Revenue

Action

Ordinance (Cap. 112) ("IRO") for automatic exchange of financial account information on tax matters;

- (b) whether the Administration would consider prescribing the said criteria or considerations in IRO and the reasons if the Administration would not consider this suggestion; and
- (c) its proposed draft Committee Stage amendments to the Bill for consideration by the Bills Committee.

(Post-meeting note: The Administration's response was circulated to members vide LC Papers Nos. CB(1)915/16-17(02) and (03) on 9 May 2017.)

Invitation of public views

8. Members agreed to post a notice on the website of the Legislative Council ("LegCo") and write to the 18 District Councils ("DCs") to invite views from the public and the DCs on the Bill.

(Post-meeting note: The notice was posted on the LegCo website on 27 April 2017 and invitation letters were sent to DCs and relevant organizations on the same day.)

Date of next meeting

9. The Chairman said that he would work out the date of next meeting with the Clerk and inform members accordingly.

(Post-meeting note: With the concurrence of the Chairman, the second meeting was scheduled for Friday, 12 May 2017 from 8:30 am to 10:30 am to meet with deputations and the Administration. The notice of meeting was issued to members vide LC Paper No. CB(1)884/16-17 on 26 April 2017.)

III. Any other business

10. There being no other business, the meeting ended at 12:57 pm.

Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2017

**Proceedings of the first meeting
on Tuesday, 25 April 2017, at 11:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000132 - 000241	Mr James TO Mr CHAN Chun-ying Mr Charles Peter MOK Mr Kenneth LEUNG	Election of Chairman	
<i>Agenda Item II - Meeting with the Administration</i>			
000242 – 000439	Chairman	Opening remarks	
000440 - 001259	Administration	Briefing by the Administration on Inland Revenue (Amendment) (No. 3) Bill 2017 ("the Bill").	
001300 - 002006	Chairman Administration Assistant Legal Adviser ("ALA9")	ALA9's enquiry about the scope of reportable jurisdictions, taxpayers' privacy and confidentiality of the exchanged information, and retention of information by the Inland Revenue Department ("IRD") before conducting the exchange. The Administration's response as detailed in its reply to ALA9's letter dated 3 April 2017 (LC Paper No. CB(1)864/16-17(02)).	
002007 - 002959	Chairman Mr Dennis KWOK Administration	Mr KWOK's enquiry and the Administration's response on the criteria or considerations for including additional jurisdictions in the list of reportable jurisdictions (Part 1 of Schedule 17E) under the Inland Revenue Ordinance (Cap. 112) ("IRO") for automatic exchange of financial account information in tax matters ("AEOI"), and suggestion on prescribing such criteria or considerations in IRO. The Administration advised that the criteria for adding the list of reportable jurisdictions had been stipulated in paragraph 9 of the Legislative Council Brief for the Bill, and any amendment to the list of reportable jurisdictions in future would be subject to Legislative Council ("LegCo")'s scrutiny by negative vetting and justifications would be provided (LC Paper No. CB(1)915/16-17(02)).	Admin (paragraph 7 of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
003000 - 003943	Chairman Mr Christopher CHEUNG Administration	<p>Discussion on:</p> <ul style="list-style-type: none"> (a) whether it was the legislative intent of the Bill to enable the implementation of AEOI in Hong Kong on a multilateral basis in future; (b) the potential undue compliance burden on financial institutions ("FIs") in carrying out due diligence procedures to verify whether the financial accounts were reportable caused by the surge in the number of reportable jurisdictions, and the liabilities, if any, on FIs if account holders had not provided accurate information on their tax residences; (c) the impact on account holders if Hong Kong was to conclude AEOI arrangements with the Mainland on a bilateral basis, and early notification of the arrangement to the trade on concluding the arrangements; and (d) the need to step up publicity to enhance awareness of the revised AEOI arrangements of the general public. <p>The Administration's responses to the above subjects were summarized in paragraphs 16, 17, 20 to 23 and 31 of LC Paper No. CB(1)1008/16-17.</p>	
003944 - 005139	Chairman Mr CHAN Chun-ying Administration	<p>Discussion on:</p> <ul style="list-style-type: none"> (a) the feasibility of adopting a staggered approach to include the proposed 73 newly-added reportable jurisdictions to ensure a gradual and orderly implementation of AEOI, and to minimize the compliance burden on FIs; (b) whether FIs would be allowed an option to submit full year data for 2017 instead of data for the second half of 2017 only; and (c) whether FIs could hold the relevant data for all reportable jurisdictions and only provide the data to IRD for those jurisdictions with which Hong Kong had 	

Time marker	Speaker	Subject(s)	Action required
		<p>the dedicated exchange agreements in place.</p> <p>The Administration's responses to the above subjects were summarized in paragraphs 12, 13 and 20 of LC Paper No. CB(1)1008/16-17.</p>	
005140 - 005812	Chairman Mr YIU Si-wing Administration	<p>Discussion on:</p> <ul style="list-style-type: none"> (a) the safeguards on taxpayers' privacy and confidentiality of the information exchanged under AEOI arrangements; (b) the penalties, if any, on IRD staff for leaking information in the course of handling AEOI data; and (c) the scope of data to be exchanged under AEOI arrangements. <p>The Administration's responses to the above subjects were summarized in paragraphs 28 and 29 of LC Paper No. CB(1)1008/16-17.</p>	
005813 - 011324	Chairman Mr Paul TSE Administration	<p>Discussion on:</p> <ul style="list-style-type: none"> (a) exercising caution against breach of confidentiality obligations, or misuse of information, by Hong Kong's AEOI partners; (b) benefits for Hong Kong to pursue AEOI given its territorial-based tax regime; (c) whether FIs would need to collect past information for individual jurisdictions at different points in time whenever Hong Kong entered into an exchange agreement with a new jurisdiction; and (d) consultation and invitation of public views on the Bill. <p>The Administration's responses to the above subjects were summarized in paragraphs 12, 18 and 28 of LC Paper No. CB(1)1008/16-17.</p>	
011325 - 011511	Chairman Mr CHAN Chun-ying Administration	<p>Discussion on:</p> <ul style="list-style-type: none"> (a) the resources and time required for FIs to make necessary preparations to meet the 	

Time marker	Speaker	Subject(s)	Action required
		<p>reporting requirements proposed in the Bill; and</p> <p>(b) the Administration's approach in enforcing relevant obligations on FIs during the initial stage of AEOI implementation.</p> <p>The Administration's responses to the above subjects were summarized in paragraphs 20 to 23 of LC Paper No. CB(1)1008/16-17.</p>	
011512 - 011725	Chairman	Invitation of public views	
011726 - 012304	Administration	<p>Briefing by the Administration on its proposed Committee Stage amendments (LC Paper No. CB(1)915/16-17(03)):</p> <p>(a) adding "Republic of Turkey" as a reportable jurisdiction with reporting year "2018"; and</p> <p>(b) amending the reporting year in respect of "Republic of Korea" under Part 1 of Schedule 17E from "2018" to "2019".</p>	
<p>Clause-by-clause examination of the Bill [The Bill (LC Paper No. CB(3)433/16-17)] [Marked-up copy of the Bill prepared by the Legal Service Division (LC Paper No. CB(1)864/16-17(03))]</p>			
012305 – 012729	Chairman Mr CHAN Chun-ying Administration	<p>The Bills Committee conducted clause-by-clause examination of the Bill.</p> <p><u>Clause 1 — Short title and commencement</u></p> <p><u>Clause 2 — Inland Revenue Ordinance amended</u></p> <p><u>Clause 3 — Section 50A amended (interpretation)</u></p> <p><u>Clause 4 — Schedule 17E amended (reportable jurisdictions and participating jurisdictions)</u></p> <p>Members raised no queries.</p> <p>Mr CHAN requested the Administration to explain the procedure for amending Schedule 17E of IRO in future.</p>	

Time marker	Speaker	Subject(s)	Action required
		The Administration responded that amendments to Schedule 17E of IRO in future would be submitted by way of subsidiary legislation and subject to negative vetting by LegCo.	
<i>Agenda Item III — Any other business</i>			
012730 – 012830	Chairman	Meeting arrangement	

Council Business Division 1
Legislative Council Secretariat
15 August 2017