

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

Follow-up to the meeting on 25 April 2017

Purpose

At the meeting on 25 April 2017, the Government was requested to provide a written response to the following enquiry/suggestion –

- (a) the criteria or considerations for including additional jurisdictions in the list of reportable jurisdictions under the Inland Revenue Ordinance (“IRO”) for automatic exchange of financial account information on tax matters (“AEOI”); and
- (b) whether the Government would consider prescribing the said criteria or considerations in IRO and the reasons if the Government would not consider this suggestion.

This note sets out the Government’s response.

Reportable Jurisdictions

2. The Inland Revenue (Amendment) (No. 3) Bill 2017, together with the proposed Committee Stage Amendments presented in a separate paper, seeks to amend –

- (a) the definition of “reportable jurisdiction” in section 50A of IRO so that reportable jurisdictions can include territories outside Hong Kong irrespective of whether they are parties to arrangements having effect under section 49(1A) and requiring disclosure of information concerning tax of the territories; and
- (b) Part 1 of Schedule 17E of IRO to add 73 jurisdictions to the list of reportable jurisdictions (in addition to the two jurisdictions already under the current list).

3. The criteria or considerations for including additional jurisdictions in the list of reportable jurisdictions are set out below –

- (a) The jurisdiction concerned has become a confirmed AEOI partner of Hong Kong; or
- (b) The jurisdiction concerned is a prospective AEOI partner of Hong Kong by virtue of the following –

- (i) jurisdictions which expressed an interest to the Organisation for Economic Co-operation and Development (OECD) in conducting AEOI with Hong Kong or jurisdictions suggested by OECD;
- (ii) Hong Kong's tax treaty partners which have committed to AEOI; or
- (iii) all Member States of the European Union.

These considerations are in line with those set out in paragraph 9 of our Legislative Council Brief on this subject issued on 22 March 2017.

4. We do not consider it necessary to include the above criteria or considerations in IRO because any amendments to the list of reportable jurisdictions (i.e. Part 1 of Schedule 17E) in future are subject to scrutiny of this Council by negative vetting. This Council would be duly informed of the considerations involved in association with the amendments.

Financial Services and the Treasury Bureau
May 2017