



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

來函檔號 YOUR REF : FH CR 1/3822/13
本函檔號 OUR REF : LS/B/15/17-18
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By Fax (2840 0467)

13 June 2018

Food and Health Bureau
Health Branch
18/F, East Wing
Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong
(Attn: Mr Bill LI, Principal Assistant Secretary (Health) 4)

Dear Mr LI,

Inland Revenue (Amendment) (No. 4) Bill 2018

Thank you for your reply dated 13 June 2018.

We note your clarification that "adopted sibling" under the proposed section 26J(4) of the Inland Revenue Ordinance (Cap. 112) is not intended to include a taxpayer's (or the spouse's) adoptive parents' natural children where the taxpayer (or the spouse) is himself or herself an adopted child. Such legislative intent would appear to result in potentially differential treatment against taxpayers (or their spouses) who are adopted children in that they would only be able to claim deductions for premiums paid under VHIS policies for their parents' adopted children (but not natural children), whereas taxpayers (or spouses) who are not adopted would be able to claim deductions in respect of premiums paid for their parents' natural as well as adopted children.

Please explain whether such differential treatment would be ruled by the court(s) as contravening the equality provisions under Article 25 of the Basic Law and/or Article 22 of the Hong Kong Bill of Rights, having regard to the four-step proportionality test laid down by the Court of Final Appeal in *Hysan Development Co Ltd v Town Planning Board* (2016) 19 HKCFAR 372.

We look forward to receiving your reply in both languages as soon as possible.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bonny Loo". The signature is fluid and cursive, with the first name "Bonny" written in a larger, more prominent script than the last name "Loo".

(Bonny LOO)
Assistant Legal Adviser

c.c. Department of Justice
(Attn: Mr Salvador TSANG, Government Counsel)
(Fax: 3918 4613)
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