

Inland Revenue (Amendment) (No. 6) Bill 2017

Debate and voting arrangements

- Object of the Bill :** To amend the Inland Revenue Ordinance (Cap. 112) (“IRO”) to:
- (a) codify rules on transfer pricing to require income or loss from provision between associated persons (or between parts of the same enterprise in different territories) to be computed, for tax purposes, on an arm’s length basis;
 - (b) provide for an advance pricing arrangement regime under which how the rules apply may be agreed before transactions take place;
 - (c) require documentation relating to transactions;
 - (d) enable effect to be given to mutual agreements made with other jurisdictions under arrangements for relief from double taxation;
 - (e) enhance the current provisions for double taxation relief;
 - (f) adjust fees in respect of an application for advance ruling;
 - (g) revise the requirements relating to profits tax concessions so as to meet the international standards promulgated by the Organisation for Economic Co-operation and Development (“OECD”); and
 - (h) make amendments for related purposes.

First debate	: Clauses with no amendment	– Clauses 1, 2, 7, 11, 12, 15, 18 to 31, 35 and 36
Voting	: To vote on the above clauses standing part of the Bill together	
Second debate	: Clauses with amendments proposed by the Secretary for Financial Services and the Treasury (“SFST”)	– Clauses 3 to 6, 8, 9, 10, 13, 14, 16, 17, 32, 33, 34 and new clause 14A
Joint debate on the original clauses and the amendments thereto, and the new clause (The relevant Bills Committee examined and agreed to the amendments).		
Debate theme: Amendments to certain matters		
Clauses 3 to 6, 8 and 9		
– To amend the proposed section 8(1A)(c) under clause 3, proposed section 16(1)(c) under clause 4, proposed section 48A under clause 5, proposed section 50AA under clause 8 and proposed section 50AAC under clause 9, and add the proposed sections 8(1C) and 16(2J) respectively under clauses 3 and 4. These amendments concern the scope of the term “double taxation arrangement (“DTA”) territory”[*] and taxation relief.		
[*] “DTA territory” means a territory outside Hong Kong with which double taxation arrangements have been made.		
Clause 9		
– To amend the proposed sections 50AAF, 50AAJ, 50AAK(10) and 50AAM(10) under clause 9, and insert a note under the title of the proposed Part 8AA, which concern arm’s length provision and relief.		
[*] The arm’s length provision is to be determined in accordance with the OECD rules which may not produce a single provision (such as an exact figure as the price) but may produce a range of provisions where each provision constitutes an arm’s length provision.		

Clauses 9, 10, 14, 16, 17, 32, 33, 34 and new clause 14A

- To make technical, textual and consequential amendments to the proposed sections in the above clauses, including:
 - (a) consequential amendments to the definition of “intellectual property” in the proposed section 15F(5) under clause 14 in response to section 15(1)(b) and (ba) of IRO which covers the scope of intellectual property and rights;
 - (b) amendments to the requirements of the country-by-country reporting regime and preferential tax regimes in response to OECD’s suggestions; and
 - (c) renumbering the provisions and Schedules, amending typo in the Chinese text, deletion of clause no longer necessary, and amending definitions, heading of provisions and punctuation.

Clauses 9, 14 and 34

- To amend the note under the title of the proposed Part 8AA under clause 9, the proposed section 15F(5) under clause 14 and the proposed Schedule 44 under clause 34, which concern **the application of the provisions related to taxation of intellectual property income and the separate enterprises principle for attributing income or loss of non-Hong Kong resident persons.**

Clause 10

- To amend the proposed Schedule 17H under clause 10, which concerns **the service charge in respect of an application for advance pricing arrangement.**

Clause 13

- To amend the proposed section 15BA under clause 13, which concerns **the valuation of trading stock.**

Clauses 16 and 17

- To amend the proposed section 58C under clause 16 and the proposed Schedule 17I under clause 17, which concern **the period for and exemption from preparation of master file and local file.**

Order of voting	: To first vote on the above amendments (excluding the new clause) together, and then vote on the original clauses or the clauses as amended standing part of the Bill; and
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The new clause be read the second time and added to the Bill.

SFST’s amendments

(set out in LC Paper No. CB(3) 749/17-18 issued on 26 June 2018)