

**Subcommittee on
Two Orders Made under Section 49(1A) of the
Inland Revenue Ordinance and Gazetted on 14 September 2018**

**List of follow-up actions arising from the discussion
at the meeting on 5 November 2018**

Further to the Administration's response to issues raised by members at the last meeting (LC Paper No. CB(1)99/18-19(02)), in which the Administration has advised that "on every occasion where the requesting party would like to use the exchanged tax information (*that is supplied for tax purposes under the relevant Comprehensive Avoidance of Double Taxation Agreements ("CDTAs")*) for such specified non-tax related purposes,¹ the competent authorities of the requesting party have to seek prior authorization from the Inland Revenue Department, which will then consult the relevant law enforcement agencies and the Department of Justice ("DoJ")", and given that Hong Kong has respectively made arrangements for mutual legal assistance with India and Finland under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) under which any request for relevant assistance is handled by DoJ, the Subcommittee has requested DoJ to provide its views, in writing, on the application of the relevant CDTAs (i.e. the agreements specified in L.N. 155 ("India Agreement") and L.N. 156 ("Finland Agreement")) and Cap. 525 (in particular, section 5 of Cap. 525, Cap. 525AD and Cap. 525Y) to tax information requested or received by India or Finland under the relevant CDTA:

- in cases where the tax information requested or received by India or Finland under the relevant CDTA is or concerns a criminal matter covered by Cap. 525 and the state concerned requests to use such information for such other purposes as referred to in Article 26(2) of the India Agreement and/or Article 25(2) of the Finland Agreement;

¹ According to paragraph 9 of the response, under the laws of Hong Kong, tax information may only be used for limited non-tax related purposes (i.e. specified non-tax related purposes), covering purposes relating to recovery of proceeds from drug trafficking, organized and serious crimes and terrorist acts under the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), the Organized and Serious Crimes Ordinance (Cap. 455) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) respectively.

- (a) whether the requesting state should seek such information by making a request under Cap. 525 if no such request has been made; and
- (b) the guiding principles (including any legal and policy considerations) in determining whether such request would be handled under the exchange of information arrangements provided in the relevant CDTAs or in accordance with the relevant mutual legal assistance arrangements under Cap. 525.

Council Business Division 1
Legislative Council Secretariat
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