

**Inland Revenue (Amendment)
(Minimum Tax for Multinational Enterprise Groups) Bill 2024**

Debate and voting arrangements

Object of the Bill : Seeks to amend the Inland Revenue Ordinance (Cap. 112) to:

- (a) implement the international tax reform proposals to address the base erosion and profit shifting risks arising from digitalization of economy by introducing a global minimum effective tax targeting certain large multinational enterprise groups;
- (b) implement a domestic minimum top-up tax for the purpose of safeguarding Hong Kong's taxing rights on those groups and their members; and
- (c) make minor miscellaneous amendments.

Joint debate	: Clauses with no amendments, and clauses with amendments and new clauses proposed by the Secretary for Financial Services and the Treasury ("SFST")	— Clauses 1 to 16, and proposed new clauses 5A, 6A to 6E, 8A, 9A to 9C, 10A, 15A to 15D, 17 and 18
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Joint debate on the original clauses and the amendments (including the proposed new clauses) (as set out in the table in **Annex 1**).

A total of 114 amendments proposed by SFST

The amendments seek to amend the Bill in respect of the following matters (refer to **Annex 2** for details):

- A. Charging mechanism**
- B. Circumvention of the Global Anti-Base Erosion rules**
- C. Proposed new offences**
- D. Relevant textual amendments and drafting improvements**

Voting order : 1. Clauses with no amendments standing part of the Bill
2. SFST's amendments (excluding the addition of the proposed new clauses)
3. Clauses with or without amendments standing part of the Bill
4. Proposed new clauses be read the second time and added to the Bill

SFST's amendments

(set out in LC Paper No. CB(2)988/2025(01) issued on 20 May 2025)

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Clauses with no amendments	Clauses 1, 2, 5 and 11
Clauses with amendments proposed by the Secretary for Financial Services and the Treasury (“SFST”) (excluding the proposed new clauses)	Clauses 3, 4, 6 to 10 and 12 to 16
New clauses proposed by SFST	Clauses 5A, 6A to 6E, 8A, 9A to 9C, 10A, 15A to 15D, 17 and 18

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Amendments proposed by the Secretary for Financial Services and the Treasury

<i>Main objects of the amendments</i>	<i>Clause(s) involved</i>
A. Charging mechanism	
<ul style="list-style-type: none"> - Amending the proposed new section 25A of the Inland Revenue Ordinance (Cap. 112) to clarify that reimbursement for top-up tax is not taken into account in calculating the profits or loss in the paying entity or receiving entity of an in-scope multinational enterprise (“MNE”) group for the purpose of the profits tax under Part 4 of Cap. 112, and relaxing the limit of reimbursement for top-up tax to an entity or permanent establishment of the MNE group. - Providing additional guidance on safe harbours by amending Part 3 of the proposed new Schedule 61 (originally the proposed new Schedule 60) to Cap. 112 to provide for (i) certain situations where the Qualified Domestic Minimum Top-up Tax (“QDMTT”) safe harbour does not apply to an MNE group’s jurisdictional top-up tax under the Global Anti-Base Erosion (“GloBE”) rules for a fiscal year; and (ii) exclusion of certain deferred tax expenses from the simplified covered taxes for the calculation of the simplified effective tax rate in relation to the application of the transitional country-by-country reporting safe harbour. - Amending section 15N of Cap. 112 to provide that a QDMTT paid in a territory outside Hong Kong would also be taken into account under the “subject to tax” condition as provided in the participation requirement under the foreign-sourced income exemption regime, and clarify that the top-up tax percentage in relation to any top-up tax paid in that territory would be disregarded under the meaning of “applicable rate” for the purpose of this section. - Amending sections 50, 50AAA and 50AAAB of Cap. 112 to provide clarity that QDMTT payable in other jurisdictions is allowable as a tax credit through a bilateral relief or unilateral relief with respect to specified scenarios. 	<p>Clauses 7, 9, 16 and proposed new clauses 5A, 9A to 9C and 10A</p>

<i>Main objects of the amendments</i>	<i>Clause(s) involved</i>
<ul style="list-style-type: none"> - Incorporating the requirement for mandatory e-filing of profits tax return by entities of in-scope MNE groups into the Bill by amending section 51AAB of and introducing the proposed new Schedule 65 to Cap. 112. - Amending section 20 of the proposed new Schedule 63 (originally the proposed new Schedule 62) to Cap. 112 to provide a fixed time limit for raising top-up tax assessment of 8 years in relation to non-evasion cases and 12 years in relation to evasion cases so as to provide greater certainty to MNE groups. - Extending the time limit for taxpayers' application to correct errors or omissions in top-up tax assessment under section 70A(1) of Cap. 112, and for claiming refund of tax paid in excess in top-up tax assessment under section 79(1) from 6 years after the end of the year of assessment concerned to 8 years, so as to align with the extension of the time limit for raising top-up tax assessment and the record-keeping period. - Shortening the record-keeping period under section 17 of the proposed new Schedule 63 (originally the proposed new Schedule 62) to Cap. 112 from 12 years to 9 years after the completion of the transactions, acts or operations to which the records relate, so as to reduce compliance burden. - Extending the time limit for HK constituent entities to file GloBE Information Returns, if exchange mechanisms fail, from 30 days to at least 60 days, and relieving a HK constituent entity from the relevant filing requirement under certain conditions under section 7 of the proposed new Schedule 63 (originally the proposed new Schedule 62) to Cap. 112 to reduce compliance burden. 	
B. Circumvention of the Global Anti-Base Erosion rules	
<ul style="list-style-type: none"> - Deleting the proposed new section 26AH of Cap. 112 and applying section 61A of Cap. 112 with modifications, such that instead of the main purpose test, the sole or dominant purpose test would be adopted as the general anti-avoidance rule to address potential avoidance arrangements in the context of the GloBE and Hong Kong minimum top-up tax regimes to facilitate compliance. 	Clauses 8 and 16

C. Proposed new offences	
<ul style="list-style-type: none"> - Amending section 84 of Cap. 112 to provide that no prosecution in respect of an offence under the proposed section 80O (i.e. offences committed by a “Part 4AA entity”) may be commenced except at the instance of or with the sanction of the Commissioner of Inland Revenue, so as to align the treatment for prosecution under the proposed new section 80O with that under section 80 of Cap. 112. - Repealing the proposed section 80Q of Cap. 112 which relates to offences by directors and officers of Part 4AA entities and service providers to reduce compliance burden. - Amending the time limit for initiating proceedings under the proposed new section 80R of Cap. 112 from 6 years to 8 years after the date on which the offence was committed, and removing the other time limit of the expiry of 2 years from the day on which the offence was discovered by the Commissioner of Inland Revenue so as to provide certainty. 	<p>Clause 13 and proposed new clause 15A</p>
D. Relevant textual amendments and drafting improvements	
<ul style="list-style-type: none"> - Making relevant textual amendments and drafting improvements to enhance clarity.¹ 	<p>Clauses 3, 4, 6, 8, 10, 12 to 16, proposed new clauses 6A to 6E, 8A, 15B to 15D, 17 and 18</p>

¹ e.g. Clarifying whether the term “tax” under certain provisions covers top-up tax.