

Press release

LCQ1: US Internal Revenue Service attache

Wednesday, April 14, 2010

Following is a question by the Hon Paul Chan and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (April 14):

Question:

It was reported that the Criminal Investigation Division (CID) of the Internal Revenue Service of the United States (US) employed personnel (such as investigators, etc) to work in its overseas offices for tax enforcement purposes. It was also reported that the Commissioner of Internal Revenue of the US had said that the number of personnel working in those offices would be increased this year. In this connection, will the Government inform this Council:

(a) whether it knows if CID personnel have ever worked in Hong Kong for the aforesaid purposes and if they are still working in Hong Kong at present; if they have worked in Hong Kong, of their number in each of the past five years and which category of visa they were granted for entering Hong Kong and carrying out their duties; and

(b) given that members of the trade have indicated that countries do not normally assist one another in enforcing their respective tax laws and the US has not been willing to enter into negotiations with Hong Kong on a comprehensive double taxation agreement, and that the US had, in seeking to obtain information from a bank in Switzerland for US tax enforcement purposes, used a "fishing expedition" approach which is not permitted under the standards of the Organisation for Economic Co-operation and Development or under the relevant legislation of Hong Kong, whether the Government has assessed if it is in Hong Kong's best interests to have such CID personnel working in Hong Kong for the aforesaid purposes?

Reply:

President,

(a) and (b) Over the past five years, there has been an attache from the Internal Revenue Service (IRS) of the United States (US) in the Consulate General of US (USCG) in Hong Kong. The said attache post is held by an accredited consular officer with a diplomatic visa.

In addition, there is a local employee in the USCG in Hong Kong assisting the work of the US IRS attache.

In accordance with the Vienna Convention on Consular Relations (VCCR), which is applicable to consular relations between Hong Kong and other jurisdictions, a consular officer is a person entrusted with the exercise of consular functions. The VCCR provides that consular functions include ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the government of the sending State and giving information to persons interested. It is a duty of all consular officers to respect the laws and regulations of the receiving State.

The US IRS attache and the local officer mentioned above are carrying out liaison duties in Hong Kong. Same as all consular officers in Hong Kong, they have no law enforcement powers in Hong Kong and have to abide by local laws. There is no question of those personnel enforcing US laws in Hong Kong.

Ends