

Press release

LCQ12: Joint Liaison Committee on Taxation

Wednesday, October 20, 2010

Following is a question by Dr the Hon Lam Tai-fai and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (October 20):

Question:

The Secretary for Financial Services and the Treasury indicated in February this year that a review of the implementation of section 39E of the Inland Revenue Ordinance (Cap. 112) (section 39E) would be conducted through the Joint Liaison Committee on Taxation (JLCT). In this connection, will the Government inform this Council:

- (a) of the number of meetings held to date and the names of persons and organisations met by JLCT in respect of the study on section 39E, as well as the contents of the respective views collected;
- (b) how JLCT conducts extensive consultation with persons in the commerce and industry sector who are affected by section 39E;
- (c) whether JLCT has arranged legal adviser(s) to study the legal issues, including whether the authorities' current interpretation and implementation of section 39E have deviated from the original legislative intent, in particular the legal basis of the viewpoint that section 39E no longer targets merely against "leveraged leasing" after the amendment in 1992; if it has, of the name(s) and title(s) of the legal adviser(s); if not, the reasons for that;
- (d) whether JLCT will make public the contents and relevant information of the meetings held to study section 39E; if it will, of the details; if not, the reasons for that;
- (e) whether JLCT will enhance the transparency of such studies (such as allowing the public or persons in the commerce and industry sector who are affected by section 39E to observe the meetings); if it will, of the details; if not, the reasons for that;

(f) of the Government's estimated timing for making public the JLCT review report; and

(g) apart from the Financial Services and the Treasury Bureau taking charge of the review on section 39E at present, whether there are other government departments or officials participating in the review; if so, of the details; if not, the reasons for that?

Reply:

President,

(a) to (e) The Joint Liaison Committee on Taxation (JLCT) is a discussion forum set up on the initiative of the accountancy and commercial sectors in 1987. It discusses various tax issues and reflects the views of the industry to the Government. The JLCT is not an advisory body established or appointed by the Government, though Government officials are invited to attend its meetings. Hence, we are not in a position to respond to questions in relation to its operation. Nevertheless, we have relayed to the JLCT Chairman the questions and concerns of Dr the Hon Lam Tai-fai.

(f) to (g) As indicated in our letter of March 10, 2010 to the Legislative Council Panel on Financial Affairs and our replies to written questions raised by the Legislative Council on March 17 and July 7, 2010, we consider that the completeness of the anti-avoidance provisions in the Inland Revenue Ordinance would be affected if the relevant restriction is relaxed. There are also practical difficulties in the implementation and the provision could easily be abused. Hence, we need to consider thoroughly the feasibility of relaxing the relevant restriction, including whether there are effective measures to plug tax evasion loopholes. The Financial Services and the Treasury Bureau and the Inland Revenue Department would complete the study as soon as practicable. If there is a need to consult other government departments in the course of review, including the Department of Justice and the Commerce and Economic Development Bureau, we will invite their participation.

Ends