

Press release

LCQ13: Review and formulation of tax policies

Wednesday, December 15, 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 (December 15):

Question:

In mid-September this year, the Financial Services and the Treasury Bureau submitted the progress report in respect of the motion on "Enhancing the administration of tax policy in Hong Kong" passed by this Council. It was stated in the report that there was a designated unit in the Treasury Branch of the Bureau responsible for reviewing and formulating tax policies. Also, the Secretary for Financial Services and the Treasury (the Secretary) indicated in the briefing session on the Policy Address this year that there was no need to set up a tax policy unit at present. Concerning the proposal of relaxing section 39E of the Inland Revenue Ordinance (Cap. 112) (section 39E), the Government invited the Joint Liaison Committee on Taxation (JLCT) to conduct a study. However, on November 24 this year, the Secretary indicated that he had decided not to accept JLCT's proposal on section 39E because such proposal was not in line with Hong Kong's established taxation principles of "territorial source" and "tax symmetry", and JLCT had not proposed effective measures to plug possible tax avoidance loopholes. In this connection, will the Government inform this Council:

(a) whether the authorities have examined the operation and effectiveness of units set up by other jurisdictions which are similar to the tax policy unit after the aforesaid motion was passed by the Legislative Council; if so, of the details, and the reasons why Hong Kong has not followed their practice; if not, whether they will conduct such a study; if they will not, the justifications for that; and

(b) after receiving JLCT's proposal on section 39E in June this year, of the detailed process of handling the proposal by the policy bureaux and government departments concerned, including:

(i) which policy bureaux and government departments were involved, and listing out the dates on which the proposal was handled, the actions taken and the contents of the views raised by them;

(ii) how independent the policy bureaux and government departments in (b)(i) in handling such proposal are, and whether there is any situation of role conflict; if so, of the details and ways for improvement; if not, whether the Inland Revenue Department was involved and the reasons why there was no role conflict; and

(iii) in handling the aforesaid proposal, whether the authorities have considered from a macro policy point of view the unfairness caused by the existing section 39E to the business sector in Hong Kong, and that the tax regime should facilitate and support the transformation of the Hong Kong economy, etc; if they have, of the details; if not, the reasons for that?

Reply:

President,

(a) As we pointed out during the Legislative Council (LegCo) motion debate on "Enhancing the administration of tax policy in Hong Kong" on July 7 this year and in the progress report submitted in September this year to the LegCo in respect of the motion passed, there is already a designated unit in the Treasury Branch of the Financial Services and the Treasury Bureau responsible for reviewing and formulating tax policies.

(b) The proposal of the Joint Liaison Committee on Taxation involves relaxation of the restriction of section 39E of the Inland Revenue Ordinance (IRO) and would affect the completeness of the anti-avoidance provisions. Hence, it is imperative for the proposal to be considered carefully by the designated unit in the Treasury Branch responsible for reviewing and formulating tax policies in collaboration with the Inland Revenue Department which has ample experience in the implementation of the IRO. It is also necessary to examine whether the proposal is in line with the established fundamental taxation principles of Hong Kong and whether there are effective measures to plug possible tax avoidance loopholes.

As indicated in our reply to the written question raised by Dr Hon Lam Tai-fai on December 8 this year, we have examined whether there is room for relaxing section 39E. During the course of deliberations, we have already taken into consideration the views of the industrial and commercial sector, the accounting sector and tax experts. We have to take into account the overall interests of Hong Kong and all the taxpayers in making each and every policy decision. Our review has come to a conclusion that there are no justifiable grounds to relax the existing restriction in section 39E.

Ends