

Press Release
LCQ18: Automatic exchange of
financial account information in tax matters

Wednesday, May 24, 2017

Following is a question by the Hon Kenneth Leung and a written reply by the Acting Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (May 24):

Question:

The Organization for Economic Cooperation and Development (OECD) promulgated a new international standard for automatic exchange of financial account information in tax matters (AEOI) in July 2014. In this regard, the Inland Revenue (Amendment) (No. 3) Ordinance 2016 (the Amendment Ordinance) came into operation on June 30 last year to provide a legislative framework for the conduct of AEOI in Hong Kong. Under that legislative framework, Hong Kong conducts AEOI with its partners in accordance with the comprehensive avoidance of double taxation agreements or tax information exchange agreements (collectively referred to as "bilateral agreements") signed with them. On the other hand, currently over 100 tax jurisdictions have signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) which serves as the legal basis for the conduct of AEOI. However, Hong Kong has yet to sign the Multilateral Convention. In this connection, will the Government inform this Council:

(1) given that the Hong Kong Government has signed bilateral agreements with nine tax jurisdictions at present, whether it has any plan to sign more bilateral agreements; if so, of the details and implementation timetable; if not, the reasons for that;

(2) why only bilateral agreements are currently used as the legal basis for the conduct of AEOI; whether it has compared the merits and demerits of bilateral agreements and the Multilateral Convention in this regard; if so, of the details; if not, the reasons for that; and

(3) whether it has any plan to sign the Multilateral Convention; if so, of the details and implementation timetable; if not, the reasons for that?

Reply:

President,

As an international financial centre, Hong Kong has all along been supportive of the international efforts to enhance tax transparency and combat cross-border tax evasion. In September 2014, we indicated to the Organisation for Economic Co-operation and Development (OECD) our support for implementing automatic exchange of financial account information in tax matters (AEOI) under the OECD standard with appropriate partners, with a view to commencing the first exchanges by the end of 2018. So far, 100 jurisdictions have signed up for this global initiative.

The OECD allows jurisdictions to conduct AEOI on either a bilateral or multilateral basis. The bilateral approach involves the signing of a bilateral Competent Authority Agreement (CAA) for AEOI with other jurisdictions with the comprehensive avoidance of double taxation agreement (CDTA) or tax information exchange agreement (TIEA) as the basis. The multilateral approach involves the signing of the multilateral CAA with the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) as the basis.

My reply to the question raised by the Hon Kenneth Leung is set out below:

(1) So far, Hong Kong has signed bilateral CAAs with 11 jurisdictions, namely Belgium, Canada, Guernsey, Italy, Japan, Korea, Mexico, the Netherlands, Portugal, South Africa and the United Kingdom, for implementing AEOI from 2018. As an on-going effort to expand our AEOI network, we are also conducting bilateral CAA negotiations with over 30 jurisdictions.

(2) and (3) At present, Hong Kong is not covered by the Multilateral Convention and adopts a bilateral approach in the implementation of AEOI. Experience gained in the past year shows that bilateral CAA negotiations with individual jurisdictions take relatively more time.

We note that among the 100 jurisdictions committed to AEOI, 90 have

participated in the Multilateral Convention (either as a signatory or as a territory covered by way of territorial extension). We are actively considering the possibility of extending the application of the Multilateral Convention to Hong Kong so as to expand our AEOI network more quickly. We plan to brief the Panel on Financial Affairs of the Legislative Council on the latest developments in June this year.

Meanwhile, we introduced the Inland Revenue (Amendment) (No. 3) Bill 2017 to the Legislative Council in March this year, seeking to expand the list of "reportable jurisdictions" (from the existing two to 75 jurisdictions). Following the amendment, a financial institution in Hong Kong will be required to conduct due diligence procedures and collect the required information from account holders who are tax residents of both prospective and confirmed AEOI partners of Hong Kong, and furnish the Inland Revenue Department (IRD) with the relevant information so collected. This is to enable the IRD to maintain the financial account information from the second half of 2017 for future exchanges with other jurisdictions.

Ends