

## **Press Release**

### **Inland Revenue (Amendment) (No. 3) Ordinance 2016 comes into effect**

Thursday, June 30, 2016

The Inland Revenue (Amendment) (No. 3) Ordinance 2016 (the Amendment Ordinance) came into effect today (June 30).

"By providing a legal framework in Hong Kong for implementing automatic exchange of financial account information in tax matters (AEOI), the Amendment Ordinance enables Hong Kong to deliver its pledge of support for the new international standard on AEOI as promulgated by the Organisation for Economic Cooperation and Development (OECD)," a Government spokesman said.

In September 2014, Hong Kong indicated its support for implementing AEOI on a reciprocal basis with appropriate partners with a view to commencing the first exchanges by the end of 2018, on condition that we could put in place necessary domestic legislation by 2017. Following several rounds of engagement with stakeholders over past two years and the public consultation exercise from April to June 2015, the Government introduced an amendment bill into the Legislative Council (LegCo) in January 2016, which was passed by the LegCo on June 22. The Amendment Ordinance was published in the Gazette today and comes into immediate effect.

"Hong Kong has all along been supportive of the international efforts to enhance tax transparency and combat cross-border tax evasion. Timely implementation of AEOI is important for Hong Kong to comply with the international standard and maintain our reputation as an international financial centre and a responsible member of the international community," the spokesman added.

Under the AEOI standard, a financial institution (FI) is required to identify financial accounts held by tax residents of reportable jurisdictions in accordance with the OECD due diligence procedures. FIs are required to collect the reportable information of these accounts and furnish such information to the Inland Revenue Department (IRD). The IRD will exchange the information with the tax authorities of the AEOI partner jurisdictions on an annual basis.

"Tax residents of reportable jurisdictions" refers to those who are liable to tax by reason of residence in the jurisdictions with which Hong Kong has entered into an AEOI arrangement. In general, whether or not an individual is a tax resident of a jurisdiction is determined by having regard to the person's physical presence or stay in a place (e.g. whether over 183 days within a tax year) or, in the case of a company, the place of incorporation or where the central management of control of the entity lies.

Unless an account holder is a tax resident of another jurisdiction which has signed AEOI agreement with Hong Kong, FIs in Hong Kong do not need to report the information of such an account to the IRD. FIs may request account holders to provide self-certifications on their personal information including tax residence, so as to enable FIs to identify those accounts which should be reported under the AEOI regime. To facilitate the checking of tax residency by account holders, the OECD has established a portal which provides information on tax residency rules in jurisdictions which have committed to implementing AEOI. The IRD will upload onto its website the relevant link to the OECD's portal, as well as a set of frequently asked questions for public's reference ([www.ird.gov.hk/eng/faq/dta\\_aeoi.htm](http://www.ird.gov.hk/eng/faq/dta_aeoi.htm)).

Following the passage of the Amendment Ordinance, Hong Kong will start identifying partners from among the 42 economies who have signed agreements with Hong Kong on comprehensive avoidance of double taxation or on tax information exchange.

"Potential AEOI partners include those who have put in place a relevant legal framework for implementing AEOI which meets the OECD standard, and who have relevant safeguards in their domestic law for protecting the data privacy and confidentiality of information exchanged," the spokesman said.

We aim to conclude AEOI negotiations and include the relevant partners in a new Schedule to the Inland Revenue Ordinance (subject to negative vetting by LegCo) by the end of 2016. With LegCo approval, FIs can start conducting the due diligence procedures to identify and collect information of the relevant financial accounts in 2017, and furnish the information to the IRD in 2018 for transmission to the AEOI partners concerned.

Ends