Press Release

Inland Revenue Ordinance to be amended to facilitate international tax co-operation

Friday, October 6, 2017

The Inland Revenue (Amendment) (No. 5) Bill 2017 (Amendment Bill) was gazetted today (October 6). The Amendment Bill seeks to pave the way for Hong Kong's participation in the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and to align the Inland Revenue Ordinance (IRO) with the Common Reporting Standard (CRS) promulgated by the Organisation for Economic Co-operation and Development.

"The Multilateral Convention will be an important platform for Hong Kong to implement initiatives on international tax co-operation, including the automatic exchange of financial account information in tax matters (AEOI) and combating base erosion and profit shifting (BEPS)," a Government spokesman said.

The AEOI initiative aims to enhance tax transparency through annual exchange of financial account information of respective tax residents among tax jurisdictions. To this end, the IRO was amended in June 2016 to put in place a legal framework, and was further amended in June 2017 to mandate financial institutions to collect account information of tax residents from 75 jurisdictions.

On the other hand, the BEPS package aims to combat activities by multinational enterprises in exploiting gaps and mismatches in tax rules among economies to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. Among other things, Hong Kong needs to take forward automatic exchange of country-by-country reports and spontaneous exchange of information on tax rulings.

"Whilst a bilateral approach is allowed for the exchange of relevant information and reports, it has become increasingly impractical given the continued expansion in the scope and network of tax information exchanges in the international community. A more practical approach is for jurisdictions to adopt the Multilateral Convention as a basis to implement the initiatives," the spokesman said.

"The Chief Executive in Council currently does not have the power under the IRO to give effect to multilateral tax agreements or arrangements for international tax co-operation other than affording relief from double taxation and exchange of information. The Amendment Bill aims to remove the limitation so as to facilitate Hong Kong's participation in multilateral tax agreements and new areas of international tax co-operation," the spokesman added.

The Government is also taking the opportunity to make necessary legislative amendments to align the IRO with the CRS by removing inconsistencies identified. The CRS sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, and due diligence procedures to be followed by financial institutions.

Separately, the Chief Executive in Council has made the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (New Zealand) (Amendment) Order 2017 (Amendment Order) to implement the Second Protocol to the Comprehensive Avoidance of Double Taxation Agreement between Hong Kong and New Zealand. This will enable both sides to implement AEOI on a bilateral basis before the Multilateral Convention comes into effect in Hong Kong. The Amendment Order will be tabled at the Legislative Council on October 18 for negative vetting. The Second Protocol will enter into force after both Hong Kong and New Zealand have completed their ratification procedures.

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