

Government welcomes passage of Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains) Bill 2023

The Government welcomes the passage of the Inland Revenue (Amendment) (Taxation on Foreign-sourced Disposal Gains) Bill 2023 by the Legislative Council today (November 29). The Bill refines Hong Kong's foreign-sourced income exemption (FSIE) regime by expanding the scope of assets in relation to foreign-sourced disposal gains to cover assets other than shares or equity interests.

The Secretary for Financial Services and the Treasury, Mr Christopher Hui, said, "With the passage of the Bill, Hong Kong's FSIE regime will be brought in line with the latest requirement of the Guidance on Foreign Source Income Exemption Regimes updated by the European Union (EU) in December 2022. Hong Kong's tax regime is further strengthened to counter cross-border tax avoidance and prevent double non-taxation.

"Under the refined FSIE regime, foreign-sourced non-intellectual property (IP) disposal gains will continue to be exempt from tax if the multinational enterprise (MNE) entity has adequate economic substance in Hong Kong. For foreign-sourced IP disposal gains, the extent of the tax exemption will be determined by the nexus approach promulgated by the Organisation for Economic Co-operation and Development. While the scope of assets in relation to foreign-sourced disposal gains is expanded, exemption and relief have been put in place to minimise the compliance burden of the affected MNE entities. This will maintain the tax competitiveness of Hong Kong."

To provide the necessary continuity and tax certainty for taxpayers, other parts of the existing compliance framework of Hong Kong's FSIE regime will continue to apply to the refined FSIE regime. This covers the availability of double taxation relief and treatment of disposal loss as well as business facilitating measures to reduce compliance burden, enhance tax certainty and ensure tax transparency. For more details, please visit the webpage of the Inland Revenue Department on Foreign-sourced Income Exemption (www.ird.gov.hk/eng/tax/bus_fsie.htm).

The refined FSIE regime will be implemented with effect from January 1, 2024. The Government will request the EU to swiftly remove Hong Kong from the EU watchlist on tax co-operation.