Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Bill 2018 gazetted

The Government published in the Gazette today (December 7) the Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Bill 2018 to provide profits tax exemption for eligible funds operating in Hong Kong.

A government spokesman said, "The Bill seeks to address the concerns of the Council of the European Union (EU) over the ring-fencing features of our tax regimes for privately offered offshore funds and enhance the competitiveness of our tax regimes by creating a level playing field for all funds operating in Hong Kong. This would help strengthen Hong Kong's position as an international asset and wealth management centre and drive demand for the related professional services in Hong Kong. Our financial services industry will benefit as a whole.

"In order to achieve the aforementioned objectives, we propose to introduce new and self-contained provisions in the Inland Revenue Ordinance (Cap. 112) (IRO) so that all funds operating in Hong Kong, regardless of their structure, their location of central management and control, their size or the purpose that they serve, can enjoy profits tax exemption for their transactions in specified assets subject to meeting certain conditions. A fund can also enjoy profits tax exemption from its investment in both overseas and local private companies."

The spokesperson added, "To minimise the risk of tax evasion, we will put in place certain anti-abuse measures, including certain requirements on a fund's investment in private companies in relation to holding of immovable property and assets, as well as holding period. Also, the current anti-round tripping provisions for resident persons will be retained. In short, the proposal has struck a balance between facilitating market development and preventing tax abuse. The existing provisions will be preserved except for the necessary changes."

Under the IRO, publicly offered funds, both onshore and offshore, are exempted from profits tax. For privately offered funds, only offshore funds and onshore privately offered open-ended fund companies are exempted from profits tax. Other onshore privately offered funds cannot enjoy profits tax exemption like their offshore counterparts. The EU has identified Hong Kong's tax regimes for offshore funds to be problematic on account of their ring-fencing features, and the Government has announced that a review would be conducted on the tax concession arrangements applicable to the fund industry with regard to the international requirements on tax co-operation.

The Bill will be introduced into the Legislative Council on December 12.