

LCQ11: Establishing dedicated tax regime for maritime industry

Following is a question by the Hon Holden Chow and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (May 25):

Question:

The Government proposes to amend the Inland Revenue Ordinance (Cap. 112) to provide for a dedicated tax regime to attract shipping commercial principals (namely ship managers, ship agents and ship brokers) to set up presence in Hong Kong. In this connection, will the Government inform this Council:

(1) given that in order to ensure that only those entities which undertake the core income generating activities in Hong Kong would benefit from the dedicated tax regime, the Government proposes to stipulate that a qualifying shipping commercial principal must employ at least one full-time qualified employee in Hong Kong for meeting one of the minimum thresholds of the substantial activity requirement, of the difference between such a requirement and the relevant requirement in other jurisdictions (e.g. Singapore and the United Kingdom) (set out in a table);

(2) of (i) the number of enterprises engaged in ship management, ship agency and shipbroking businesses in Hong Kong (with a breakdown by class of employment size (i.e. 1 to 50 persons, 51 to 100 persons, and 101 persons or above)) and (ii) the total number of their employees, in each of the past five years;

(3) as the Task Force on Commercial Principals has estimated that the dedicated tax regime will, over 10 years, (i) create direct and indirect employment of around 27 000 and 50 000-odd jobs respectively in the relevant sectors, and (ii) generate cumulative incremental business of about \$32.5 billion, of the calculation method for the numbers of the relevant jobs, the types and natures of the jobs concerned, as well as the assumptions and data based on which the cumulative incremental business is arrived at; and

(4) whether it will consider regularly compiling statistics on an annual basis on the numbers of new enterprises established and jobs created in the relevant sectors after the introduction of the dedicated tax regime, so as to evaluate the effectiveness of such policy; if so, of the details; if not, the reasons for that?

Reply:

President,

â€œTo attract more maritime enterprises to establish presence in Hong Kong, the Hong Kong Maritime and Port Board (HKMPB) set up a dedicated Task

Force in 2020 to study the economic impact and details of providing tax concessions to specified shipping commercial principals, namely ship agents, ship managers and ship brokers. The Task Force has made reference to the work of introducing tax concessions for ship leasing and made recommendations on the tax concessions to the HKMPB. The recommendations include providing half-tax concessions (i.e. tax rate being 8.25 per cent, half of the profits tax rate for corporations at 16.5 per cent) for specified shipping commercial principals, with a view to facilitating the development of the maritime industry in Hong Kong and consolidating the overall capabilities of Hong Kong as a leading international maritime centre. With the HKMPB's endorsement of the relevant recommendations, the Government is working full-speed on the legislative amendment exercise, and has consulted the Legislative Council (LegCo) Panel on Economic Development on the legislative proposal, targeting to introduce the relevant legislative amendment proposal to the LegCo in June 2022.

Having consulted the Inland Revenue Department and the Census and Statistics Department (C&SD), our reply to various parts of the Hon Holden Chow's question is as follows:

(1) The tax concession proposal includes specifying the coverage of tax concessions and incorporating anti-abuse features so as to safeguard the integrity of the tax system and comply with international tax rules. In determining whether a preferential tax regime provided by a jurisdiction meets the international standards on countering base erosion and profit shifting, the Organisation for Economic Co-operation and Development (OECD) will take into account whether the regime has incorporated substantial activity requirements to ensure that only those entities which undertake the core income generating activities (CIGAs) in the jurisdiction would benefit from the regime. To satisfy the substantial activity requirements, one of the requirements is that an entity should employ an adequate number of full-time qualified employees for carrying out the CIGAs in the jurisdiction. It is understood that the OECD Forum on Harmful Tax Practices conducted reviews of the shipping supporting services-related tax regimes devised by two jurisdictions and the minimum threshold requirements on the number of employees prescribed under the tax regimes are as follows:

Jurisdiction	Year of review	Tax regime concerned	Threshold on the number of employees
Greece	2002	Ship Management Offices	Not less than four (specified in 2019)
Singapore	2017	Maritime Sector Incentive Scheme Shipping-related Support Services Award	Not less than five

To promote the development of shipping commercial principals in Hong Kong, we propose introducing the tax concessions to make our tax regime more competitive vis-à-vis our key competitors. Having consulted the trade and

taken into account the operational needs of some start-up companies, we propose that a shipping commercial principal must employ at least one full-time qualified employee in Hong Kong. However, this is only the minimum requirement that a shipping commercial principal must satisfy in order that the CIGAs are regarded as having been carried out in Hong Kong. In accordance with the OECD's requirement, we are also required to introduce the "adequacy test" for shipping commercial principals regime in the legislative proposal to ensure that the number of full-time qualified employees employed by a principal in Hong Kong must be adequate, compared with the principal's business scale and operation, types and level of business activities, amount of profits earned, etc.

(2) The number of business establishments engaging in ship agency and ship management, and ship broking by size and their total number of employees in the past five years are tabulated below:

Number of establishments	Size (number of employees)	2016	2017	2018	2019	2020
Ship agents and managers	0-50	232	249	245	251	254
	51-100	13	17	16	11	17
	>100	18	17	15	14	13
	Sub-total	264	283	276	276	284
Ship brokers	0-50	47	39	42	54	61
	51-100	0	0	0	0	0
	>100	0	0	0	0	0
	Sub-total	47	39	42	54	61
Sum of the above	0-50	279	287	286	305	315
	51-100	13	17	16	11	17
	>100	18	17	15	14	13
	Total	311	321	317	330	345

Total number of employees	2016	2017	2018	2019	2020
Ship agents and managers	7 590	7 506	7 325	6 751	6 318
Ship brokers	204	141	238	230	219
Sum of the above	7 793	7 646	7 563	6 981	6 537

Note: There may be a slight discrepancy between the sum of individual items and the total as shown in the tables due to rounding.

Source: The C&SD – Annual Survey of Economic Activities

The C&SD does not maintain separate statistics on ship agency and ship management businesses.

(3) The Task Force comprises tax, financial, legal and maritime experts. According to the economic assessment conducted by the Task Force, if the proposed new tax regime for qualifying ship agents, ship managers and ship brokers is put in place, comparing to the case with no introduction of tax measure, over 10 years it would bring about cumulative incremental ship agency, ship management and ship broking business receipts of approximately some \$32.5 billion, as well as direct employment of approximately some 27 600 jobs and indirect employment of some 50 000 to 55 000 jobs. The Task Force's assessment has made reference to the trends in global shipping commercial principal businesses and the current situation of Hong Kong amid the global maritime services scene. Assuming that the relevant tax measures would be introduced, the Task Force anticipated that over the next ten years, Hong Kong would be able to capture a larger global market share in these shipping commercial principal businesses, thus deriving the incremental amount of business receipts under normal economic conditions (e.g. barring protracted impediments to global business activities or unexpected economic impacts brought about by COVID-19). Making reference to the operating statistics of relevant maritime enterprises, the approximate incremental employment and value added were estimated. Based on the structure of shipping and maritime industries in Hong Kong, the incremental indirect employment was crudely estimated. The natures of the jobs created cover various maritime and other business services, including all ranks of staff working in relevant industries such as marine insurance, ship finance, equipment repairs and maintenance, etc.

(4) Every year, the C&SD conducts the Annual Survey of Economic Activities on major economic sectors. The survey aims to provide statistical information for gauging the business performance and operating characteristics of different economic sectors and for evaluating their contribution to Hong Kong's Gross Domestic Product. Amongst others, the survey on the transportation, storage and courier services sector compiles the statistics on the business establishments and number of employees etc. engaging in the ship agency and ship management, and ship broking sectors. The statistics may be used for monitoring the trends in operating performance of relevant sectors after the implementation of the new tax regime.