LCQ14: Latest developments in international tax landscape

Following is a question by the Hon Holden Chow and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (July 14):

Question:

To address the risks of base erosion and profit shifting (BEPS) arising from the digitalisation of economy, the Organisation for Economic Co-operation and Development (OECD) and the Group of Twenty (G20) have, over the past few years, been discussing with various tax jurisdictions, and drawn up the BEPS 2.0 proposals which include implementing a global minimum tax rate targeted mainly at large multinational enterprises. On the other hand, member nations of the Group of Seven (G7) reached a consensus early last month on a proposal to set the global minimum tax rate at 15 per cent. This proposal will be implemented upon endorsement by the G20 and the 139 nations under the aegis of OECD. By then, Hong Kong, which has been implementing a low and simple tax regime, has to implement the BEPS 2.0 proposals according to international consensus. In respect of the latest developments in the international tax landscape, will the Government inform this Council:

(1) whether it has assessed the impacts that will be brought by the implementation of the global minimum tax rate on Hong Kong's small and medium enterprises (SMEs) whose annual profits are less than $2 million (the profits tax rate applicable to such enterprises being lower than 15 per cent at present); whether it has plans to offer at that time subsidies or other support to the affected SMEs;

(2) given that the Government formed an Advisory Panel on BEPS 2.0 in June last year to review the possible impacts of the BEPS 2.0 proposals on the competitiveness of Hong Kong's business environment and to give advice to the Financial Secretary, of the latest work progress of the Advisory Panel (including its views on the aforesaid proposal by the G7); and

(3) given that the Government of the United Kingdom has reportedly been striving fervently for an exemption from the global minimum tax rate for London, and that the Government of Switzerland is planning to introduce tax concessions to cope with the BEPS 2.0 proposals, whether the Government has assessed if the implementation of the relevant exemption and tax concession measures is viable in Hong Kong; if it has, of the details?

Reply:

President,

My consolidated reply to the various parts of the question raised by the Hon Holden Chow is as follows:

With a view to addressing the base erosion and profit shifting (BEPS) risks arising from digitalisation of economy, the Organisation for Economic Co-operation and Development (OECD) announced on July 1 this year the framework for international tax reform (commonly referred to as BEPS 2.0) to ensure a fairer distribution of taxing rights in respect of profits of large multinational enterprises (MNEs) and to set a global minimum tax rate. A total of 132 jurisdictions globally (including Hong Kong as well as the United Kingdom and Switzerland as mentioned by the Hon Holden Chow) have indicated acceptance of the package. The OECD aims at finalising the technical details by October this year and implementing the package in 2023.

The global minimum tax applies only to large MNE groups with global turnover above 750 million euros, and exclusions are provided for Government entities, international organisations, non-profit organisations, eligible pension funds and investment funds, as well as international shipping income. If the jurisdictional effective tax rate of an MNE group is below the global minimum tax rate (which will be at least 15 per cent), the jurisdictions where its parent or subsidiary companies are located will be allowed to charge top-up tax in respect of the shortfall according to the relevant rules. This would increase the tax and compliance burdens on the large MNE groups. Since the revenue of small and medium enterprises would normally not exceed the threshold of 750 million euros, these enterprises would not be affected by the global minimum tax.

To formulate response measures, the Government set up an Advisory Panel back in June 2020 to review the possible impact of the BEPS 2.0 package on the competitiveness of the business environment of Hong Kong, and to make recommendations to the Financial Secretary on how to facilitate the sustainable development of Hong Kong as an international financial and business centre in light of the changing international tax landscape. Taking into account the preliminary views of the Advisory Panel, the Financial Secretary presented in the 2021-22 Budget in February this year the direction of the Government's response measures, indicating that Hong Kong would actively implement the BEPS 2.0 package according to international consensus while striving to maintain the key advantages of Hong Kong's tax regime in terms of simplicity, certainty and fairness; minimise the compliance burden on the affected enterprises; and continue to improve the business environment and competitiveness of Hong Kong.

The Advisory Panel on BEPS 2.0 will submit a report to the Government as soon as possible after the OECD finalises the technical details of the BEPS 2.0 package. The Government will carefully study the recommendations in the report and consult stakeholders on the specific response measures, with a view to rolling out the relevant legislative exercise.