

LCQ4: Impacts on Hong Kong people by an amendment to the tax law on the Mainland

Following is a question by the Hon Starry Lee Wai-king and a reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (October 31):

Question:

The Standing Committee of the National People's Congress passed in August this year the Draft Amendment to the Individual Income Tax Law (the new tax law), which will take effect on January 1 next year. Under the new tax law, the length of residency for which an individual must pay individual income tax on his or her income obtained inside and outside China is shortened from the current one year to 183 days. Those Hong Kong people who will be affected include the following three categories: persons who reside and work on the Mainland, persons who reside on the Mainland but return to Hong Kong every day for work, and retirees who have settled on the Mainland. In this connection, will the Government inform this Council whether:

- (1) it has assessed the respective numbers of the aforesaid three categories of Hong Kong people who will be affected by the new tax law;
- (2) it had, before the passage of the new tax law, relayed to the Central Authorities the impact of the new tax law on Hong Kong people; if so, of the details; if not, the reasons for that; and
- (3) it has measures put in place to mitigate the impacts of the new tax law on Hong Kong people; if so, of the details; if not, the reasons for that?

Reply:

President,

Many Hong Kong residents reside and work in the Mainland with the ever-closer ties between Hong Kong and the Mainland. Recognising their concerns about their tax obligations in the Mainland, the Special Administrative Region (SAR) Government has been communicating with the relevant Mainland authorities on tax matters concerning Hong Kong residents in the Mainland.

My reply to the Hon Lee's question is as follows:

- (1) Currently, the Government does not have comprehensive statistical information on Hong Kong people residing or working in the Mainland. Notwithstanding, the Census and Statistics Department (C&SD) has been making use of the movement records of Hong Kong permanent residents to compile and

release the estimation of "Hong Kong residents usually staying in the Guangdong Province" since 2016. These residents refer to Hong Kong permanent residents who have stayed in the Guangdong Province for six months and above cumulatively during the six months before and after the reference time-point. As at end-2017, the estimated number of such persons was around 530 000, among which about 40% were aged between 25 and 64. Since C&SD assumes that Hong Kong permanent residents departing Hong Kong via land control points and the China Ferry Terminal are travelling to the Guangdong Province, the estimation concerned cannot differentiate those who then travel to other areas in the Mainland or outside the Mainland. Besides, their purposes of stay (e.g. for work, study or settlement) in the Guangdong Province could not be ascertained in the estimation.

(2) and (3) The SAR Government understands and fully respects our country's legislative amendment exercise to enhance the tax regime. At the same time, we know that the business sector and some groups are very concerned whether the amended Individual Income Tax Law of the People's Republic of China will increase the tax burden on Hong Kong people who work or live in the Mainland, and affect Hong Kong people's desire to develop in the Guangdong-Hong Kong-Macao Greater Bay Area. Therefore, we have been communicating with the relevant Mainland authorities on this matter over the past few months to relay the concerns of Hong Kong people.

We are pleased to note that the Ministry of Finance and the State Administration of Taxation have taken into consideration the views expressed by the SAR Government and Hong Kong people, and recently commenced a public consultation on the Regulations for the Implementation of the Individual Income Tax Law of the People's Republic of China (Amendment Draft for Consultation) on October 20, 2018. It is proposed that, a resident individual who has no domicile and has resided in the Mainland for an annual aggregate of 183 days or more for less than five consecutive years, or has resided in the Mainland for an annual aggregate of 183 days or more for five consecutive years but during which there is a single absence from the Mainland of more than 30 days, may, upon filing records with the relevant tax authorities, pay individual income tax with respect to his/her income derived from sources outside the Mainland only on the part paid by enterprises, institutions and other economic organisations or resident individuals in the Mainland. This arrangement has largely retained the tax concession for individuals who have no domicile and have resided in the Mainland for less than five years under the existing Regulations for the Implementation of the Individual Income Tax Law of the People's Republic of China. We believe that the proposal has addressed the concerns of the majority of Hong Kong people working in the Mainland. The public consultation will close on November 4, 2018.

As regards the concern of Hong Kong retirees residing in the Mainland and the detailed interpretation of the Regulations for the Implementation of the Individual Income Tax Law, the SAR Government will continue to follow up with the relevant Mainland authorities. We hope measures to be implemented will be more beneficial to Hong Kong people after clarification is made.

Thank you, President.