

EPD convictions in June

Fifty-eight convictions were recorded in June 2018 for breaches of legislation enforced by the Environmental Protection Department (EPD).

Eleven of the convictions were under the Air Pollution Control Ordinance, 20 were under the Noise Control Ordinance, one was under the Product Eco-responsibility Ordinance, 20 were under the Waste Disposal Ordinance, and six were under the Water Pollution Control Ordinance.

The heaviest fine in June was \$58,000, assessed against a restaurant for discharging wastewater into the water control zone.

Secretary for Justice continues visit to Washington, DC (with photo)

The Secretary for Justice, Ms Teresa Cheng, SC, continued her visit to Washington, DC, the United States (US) today (July 12, Eastern Standard Time) to promote Hong Kong's legal and dispute resolution services and share details of Hong Kong's latest developments with key players from various sectors.

Ms Cheng first joined a roundtable meeting, hosted by the Director of the Center for East Asia Policy Studies of the Brookings Institution, Dr Richard Bush, to brief think tank representatives on the implementation of "one country, two systems" and the rule of law in Hong Kong. She said that under the principle of "one country, two systems" Hong Kong is unique in maintaining its own legal system, and that this arrangement is firmly guaranteed under the Basic Law.

In the afternoon, Ms Cheng delivered a speech at the American University Center on International Commercial Arbitration on Hong Kong's role in international arbitration and shared Hong Kong's experience on dispute resolution services.

Ms Cheng also met with members of the Cato Institute, including its Vice President for Monetary Studies, Dr Jim Dorn, and Vice President for Legal Affairs, Dr Roger Pilon, to brief them on the latest developments in Hong Kong.

In addition, Ms Cheng met with the Secretary General of the International Centre for Settlement of Investment Disputes (ICSID), Ms Meg Kinnear, and the Chair of the Sanctions Board of the World Bank, Mr James

Spinner. Ms Cheng said that Hong Kong was glad to be working with the ICSID to provide training courses focusing on investment law and investment mediation skills.

Ms Cheng will continue her visit to Washington, DC, tomorrow (July 13, Eastern Standard Time) and will speak at the Georgetown University Law Center on the dynamics of international legal norms, as well as meeting with leading figures from different sectors.



[Hong Kong Customs seizes suspected illicit cigarettes \(with photo\)](#)

Hong Kong Customs yesterday (July 12) seized about 1 million suspected illicit cigarettes with an estimated market value of about \$2.6 million and a duty potential of about \$1.8 million in Kwai Chung.

During an anti-illicit cigarette operation yesterday, Customs officers inspected a truck at a logistics site in Kwai Chung. After inspection, Customs officers found the batch of suspected illicit cigarettes in 104 carton boxes mix-loaded with eight boxes of decoration lighting onboard the truck.

The 38-year-old male driver was arrested and the truck was detained. Investigation is ongoing.

Smuggling is a serious offence. Under the Import and Export Ordinance, any person found guilty of importing or exporting unmanifested cargo is liable to a maximum fine of \$2 million and imprisonment for seven years.

Under the Dutiable Commodities Ordinance, anyone involved in dealing with, possession of, selling or buying illicit cigarettes commits an offence. The maximum penalty upon conviction is a fine of \$1 million and imprisonment for two years.

Members of the public may report any suspected illicit cigarette activities to the Customs 24-hour hotline 2545 6182 or its dedicated crime-reporting email account (crimereport@customs.gov.hk).



[Inland Revenue \(Amendment\) \(No. 6\) Ordinance 2018 gazetted](#)

The Inland Revenue (Amendment) (No. 6) Ordinance 2018, which primarily implements the minimum standards of the Base Erosion and Profit Shifting (BEPS) package promulgated by the Organisation for Economic Co-operation and Development (OECD) and codifies the transfer pricing principles into the Inland Revenue Ordinance (Cap. 112) (IRO), was gazetted today (July 13).

"The Amendment Ordinance aligns the IRO with the latest guidance promulgated by the OECD. In meeting the international requirements, we also seek to minimise the compliance burden for the business sector," a government spokesman said.

"The codification of the transfer pricing rules provides greater clarity and certainty for taxpayers. Our long-established territorial source principle of taxation will continue to apply to determine the chargeability of income or profits to Hong Kong tax," the spokesman added.

Under the Amendment Ordinance, the ultimate parent entity of a multinational enterprise (MNE) group which is Hong Kong tax resident is required to file country-by-country (CbC) reports to the Inland Revenue Department (IRD) for exchange with other relevant jurisdictions if the annual consolidated group revenue is not less than HK\$6.8 billion.

The Amendment Ordinance also requires taxpayers to prepare master files and local files as part of the transfer pricing documentation, subject to certain exemptions. In addition, the Amendment Ordinance gives a statutory basis to the cross-border dispute resolution mechanism (i.e. mutual agreement procedure and arbitration) and advance pricing arrangement, which were previously implemented based on IRD's administrative rules.

In general, the provisions relating to transfer pricing (except for sections 15F and 50AAK), relief consequential on transfer pricing adjustment, advance pricing arrangement, tax credit and profits tax concessions will apply in relation to tax payable for a year of assessment beginning on or after April 1, 2018. The provisions relating to CbC reporting will apply in relation to an accounting period beginning on or after January 1, 2018, whilst those relating to master file and local file will apply in relation to an accounting period beginning on or after April 1, 2018. Sections 15F (taxation of income derived from intellectual property by non-resident associates) and 50AAK (attribution of income or loss to non-resident persons' permanent establishments in Hong Kong) will apply in relation to a year of assessment beginning on or after April 1, 2019 so as to give taxpayers a longer lead time to make preparation.

IRD will provide further implementation guidance to facilitate enterprises' compliance with the new requirements through its Departmental Interpretation and Practice Notes.

The OECD released a package of 15 action plans in October 2015 to counter BEPS. In June 2016, Hong Kong indicated its commitment to implementing the BEPS package.

Inland Revenue (Convention on Mutual Administrative Assistance in Tax Matters) Order gazetted and commences operation

The Inland Revenue (Convention on Mutual Administrative Assistance in Tax Matters) Order (the Order) was gazetted and came into operation today (July 13). The Convention on Mutual Administrative Assistance in Tax Matters (the Convention) will enter into force in Hong Kong on September 1, 2018 to allow Hong Kong to effectively implement the automatic exchange of financial account information in tax matters (AEOI) and the Base Erosion and Profit Shifting (BEPS) package promulgated by the Organisation for Economic Co-operation and Development (OECD).

"The Convention provides a multi-party platform for participating jurisdictions to mutually agree with each other on various forms of administrative co-operation in the assessment and collection of taxes, including exchange of information. As at July 2, 2018, 124 jurisdictions had joined the Convention," a government spokesman said.

The declaration made by the Central People's Government (CPG) on extending the application of the Convention to Hong Kong was registered at

the OECD on May 29, 2018. The declaration includes a list of reservations and declarations in respect of Hong Kong under the Convention. On June 25, 2018, the CPG deposited with the OECD a unilateral declaration on the effective date for exchanges of information with respect to AEOI in Hong Kong. "We are grateful for the assistance of the CPG in extending the application of the Convention to Hong Kong," the spokesman added.

For Hong Kong to conduct the first round of AEOI on schedule, the Order needs to commence operation on the gazettal date (i.e. today). The Government will table the Order at the Legislative Council on October 10, 2018, for negative vetting.

Hong Kong will also ride on the Convention to take forward the automatic exchange of country-by-country reports and spontaneous exchange of information on tax rulings under the BEPS package. Pursuant to the reservations made under the Convention, Hong Kong will not render assistance to other tax authorities in terms of recovery of tax claims or fines, service of documents, and so forth.