Government welcomes passage of Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024

The Government welcomed the passage of the Inland Revenue (Amendment) (Minimum Tax for Multinational Enterprise Groups) Bill 2024 by the Legislative Council today (May 28). It enables the implementation of the global minimum tax (GMT) and the Hong Kong minimum top-up tax (HKMTT) in Hong Kong from January 1, 2025, onwards in accordance with the Base Erosion and Profit Shifting (BEPS) 2.0 package promulgated by the Organisation for Economic Co-operation and Development (OECD) for tackling tax evasion risks arising from the digitalisation of the economy.

The Secretary for Financial Services and the Treasury, Mr Christopher Hui, said, "The implementation of the GMT and the HKMTT highlights Hong Kong's staunch support to international co-operation in tackling cross-border tax evasion, and safeguards Hong Kong's taxing rights. With the 15 per cent GMT for in-scope multinational enterprise (MNE) groups in place, countries and regions can no longer compete for capital and investment by simply lowering their corporate income tax rates. With a fairer global taxation environment, our unique advantages such as the 'one country, two systems', excellent connectivity, first-class infrastructure, mature financial markets, quality talent pools, East-meets-West vibes, etc will become even more accentuated to showcase Hong Kong as a premier destination for doing business."

Under BEPS 2.0, MNE groups with an annual consolidated revenue of 750 million euros or above in at least two of the four fiscal years immediately preceding the current fiscal year (in-scope MNE groups) will need to pay the GMT of at least 15 per cent on profits derived from every jurisdiction in which they operate. With the implementation of the HKMTT, the Government of the Hong Kong Special Administrative Region (HKSARG) will have the first priority in collecting top-up tax from entities of in-scope MNE groups with an effective tax rate (ETR) in Hong Kong below 15 per cent to raise it to 15 per cent. Otherwise, the relevant top-up tax may be collected by other BEPS 2.0-implementing jurisdictions in which the group also operates. Hong Kong's taxing rights would then be ceded to other jurisdictions. It is estimated that the new regimes will bring in an additional revenue of about $15 billion per year from 2027-28 to the HKSARG.

To facilitate compliance by in-scope MNE groups, taking account of stakeholders' views, the GMT and HKMTT regimes have incorporated various features, including:

- safe harbours developed by the OECD, which are provided to reduce

compliance burden;
- the proposed record-keeping period is shortened, and the proposed time limit for filing a Global Anti-Base Erosion information return, if exchange mechanisms fail, is extended to reduce the compliance burden;
- the "sole or dominant purpose test", instead of the "main purpose test" originally proposed, is adopted as the general anti-avoidance provision to maintain consistency with the existing mechanism;
- the qualified domestic minimum top-up tax payable in other jurisdictions is allowable as a tax credit against profits tax charged under Part 4 of the Inland Revenue Ordinance (Cap. 112) (IRO) where appropriate; and
- the top-up tax to be collected in Hong Kong will be deemed as profits tax so that the relevant existing tax administration mechanisms in the IRO can be applied. Where applicable, taxpayers can ride on Hong Kong's Comprehensive Avoidance of Double Taxation Agreements or Arrangements signed with other countries or regions for resolving cross-border disputes.

The Inland Revenue Department (IRD) has set up a dedicated team to provide technical support and answer enquiries with regard to BEPS 2.0. They will also publish online guidance addressing common concerns.

More details on the GMT and the HKMTT are available at the IRD's dedicated webpage (www.ird.gov.hk/eng/tax/bus_beps.htm).