



HONG KONG MONETARY AUTHORITY
香港金融管理局

Circulars

17 Jun 2009

Tax Evasion

Our Ref : B1/15C

17 June 2009

The Chief Executive
All authorized institutions

Dear Sir/Madam,

Tax Evasion

The issues of tax evasion and bank secrecy have recently assumed a higher degree of prominence within the international community, with the G20 calling for action to be taken against tax havens and finance ministers singling out for criticism jurisdictions which they consider deliberately facilitate the evasion of tax.

The Hong Kong Government announced in the Financial Secretary's budget speech in February that it will be introducing legislative proposals this year to align its arrangements for the exchange of tax information with current international standards. This will, in turn, enable Hong Kong to extend its network of agreements for avoidance of double-taxation. This is regarded as important in maintaining Hong Kong's status as an international financial centre.

It is also important that Als act prudently in the conduct of their customer relationships and do not, knowingly or deliberately, aid and abet (or wittingly turn a blind eye to) unlawful tax evasion by their customers. Further, it goes without saying that Als should not market themselves or schemes operated by them as being available for this purpose or incentivise their staff (whether through payments of bonuses or otherwise) to engage in such conduct.

The use of illegal means to reduce tax liabilities, including deliberate concealment of assets from taxation authorities, may be expected to increase in the face of the economic downturn. Als should therefore be vigilant, and should have or put in place appropriate systems of control, to ensure that their staff (i) are fully aware that facilitation of tax evasion, whether by persons resident in Hong Kong or overseas, is not condoned; (ii) maintain the highest standards of integrity in dealing with their customers and clients; and (iii) do not engage in questionable conduct designed to assist unlawful evasion of tax. The HKMA will consider seriously the implications of any involvement in illegal tax evasion in the context of assessing an Al's ability to carry on its business with integrity, prudence and the appropriate degree of professional competence as required by the Seventh Schedule to the Banking Ordinance.

Als should also be mindful of their obligation to report suspicious activity to the Joint Financial Intelligence Unit and bear in mind that tax evasion (whether domestic or offshore) constitutes a predicate offence in Hong Kong for money laundering.

Reputation is of crucial importance to Als. Being identified with involvement in illegal tax evasion, with the resultant negative publicity and potential for sanction, would pose a serious risk to reputation which could impair public confidence in the AI concerned. Further, damage to an individual institution's reputation in this context may extend beyond that of the institution concerned and Hong Kong's reputation as a prudently managed international banking centre may suffer to the detriment of all Als and undermining Hong Kong's position as an international financial centre.

Als are expected to draw the attention of their relevant staff to the issues raised in this letter and to monitor closely international developments in this area.

Yours faithfully,

Karen Kemp
Executive Director (Banking Policy)

Last revision date : 01 August 2011