

CONTROLLING OFFICER'S REPLY

(Question Serial No. 2690)

Head: (76) Inland Revenue Department
Subhead (No. & title): ()
Programme: (1) Assessing Functions
Controlling Officer: Commissioner of Inland Revenue (WONG Kuen Fai)
Director of Bureau: Secretary for Financial Services and the Treasury

Question:

Some time ago, a male Senior Immigration Officer, who has entered into marriage with his same-sex partner, requested the Inland Revenue Department (IRD) to apply the same taxation arrangements applicable to heterosexual spouses to his partner. The appeal was ultimately allowed by the Court of Final Appeal (CFA). In this regard, please advise on the IRD's current taxation arrangements for married same-sex couples. It is also noted that the IRD has recently revised its policy on relevant matters, what changes have been made?

Please tabulate the numbers of applications for assessment and related enquiries received by the IRD by month since the appeal was allowed by the CFA. How many applications for assessment filed by individuals in the capacity of a spouse of same-sex marriage have been accepted?

Before the policy revision, were there any monthly statistics compiled on the applications and enquiries made for joint submission of tax returns and joint assessment by same-sex couples who were also married overseas?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 25)

Reply:

Subsequent to the judgement of the Court of Final Appeal in *Leung Chun Kwong v Secretary for the Civil Service* (2019) 22 HKCFAR 127, the Inland Revenue Department (IRD) has enhanced the computer system by allowing a married person, whether in a heterosexual marriage or same-sex marriage, to elect for joint assessment or personal assessment jointly with the person's spouse; and to claim allowances or deductions under the Inland Revenue Ordinance in respect of the person's spouse. The relevant public forms, pamphlets, IRD Homepage and GovHK website materials have also been updated accordingly.

By 31 December 2019, the IRD has received 78 Tax Return – Individuals involving taxpayers with valid same-sex marriage. The IRD does not keep monthly statistics for the related applications / enquiries.