

**立法會**  
**Legislative Council**

LC Paper No. CB(1)484/03-04  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/1/00

**Bills Committee on Inland Revenue (Amendment) Bill 2000**

**Minutes of the fourth meeting  
held on Thursday, 13 November 2003, at 4:30 pm  
in Conference Room B of the Legislative Council Building**

**Members present** : Dr Hon Eric LI Ka-cheung, GBS, JP (Chairman)  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Hon Miriam LAU Kin-yee, JP  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Public officers attending** : Financial Services and the Treasury Bureau  
  
Miss Erica NG  
Principal Assistant Secretary for  
Financial Services and the Treasury (Treasury)

Mr Ivanhoe CHANG  
Assistant Secretary for Financial Services and  
the Treasury (Treasury)

Inland Revenue Department

Mr TAM Kuen-chong  
Deputy Commissioner of Inland Revenue

Mr SO Chau-chuen  
Assistant Commissioner of Inland Revenue

Mr LI Yiu-kuen, Thomas  
Senior Assessor

Department of Justice

Mr LAM Siu-chung, Michael  
Senior Government Counsel

**Clerk in attendance** : Ms Anita SIT  
Chief Assistant Secretary (1)6

**Staff in attendance** : Ms Bernice WONG  
Assistant Legal Adviser 1

Mr Matthew LOO  
Senior Assistant Secretary (1)3

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**I Confirmation of minutes of previous meetings**

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| LC Paper No. CB(1)345/00-01 | - Minutes of meeting on 6 November 2000  |
| LC Paper No. CB(1)362/00-01 | - Minutes of meeting on 20 November 2000 |
| LC Paper No. CB(1)572/00-01 | - Minutes of meeting on 4 December 2000  |

The minutes of the meetings held on 6, 20 November and 4 December 2000 were confirmed.

**II Meeting with the Administration**

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|----------------------------------|---|
| LC Paper No. CB(1)7/03-04 (01)   | - Paper provided by the Administration on "Results of the Consultations and Effects of the Proposed Committee Stage Amendments" |
| LC Paper No. CB(1)303/03-04 (01) | - Revised proposed Committee Stage amendments provided by the Administration on 7 November 2003                                 |

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| LC Paper CB(1)303/03-04 (02) | - Marked-up copy of revised proposed Committee Stage amendments provided by the Administration on 7 November 2003                      |
| LC Paper CB(1)303/03-04 (03) | - Summary of deputations' concerns (Covering deputations who have agreed to release their submissions to the public)                   |
| LC Paper CB(1)303/03-04 (04) | - Summary of deputations' concerns (Covering deputations who have advised that their submissions should not be released to the public) |

2. Members noted that the Bills Committee was held in abeyance since March 2001 and was now reactivated to scrutinize the Bill and the Committee Stage amendments (CSAs) proposed by the Administration after two rounds of consultation undertaken in 2001 and 2002 with the industries, professional bodies, the Securities and Futures Commission and the Hong Kong Monetary Authority.

3. The Administration undertook to provide the Bills Committee with a paper on the reasons and effects of clauses 9 to 13 of the Bill together with the relevant proposed CSAs in respect of initial and annual allowances for commercial and industrial buildings and structures. The paper should also address the concern that the definitions of "commercial" and "industrial" buildings and structures under the Inland Revenue Ordinance (Cap. 112) (the Ordinance) were not consistent with those adopted in other legislation.

4. The Administration also undertook to follow up the concerns that the arrangement for the retrospective application of the proposed amendments in clauses 4 and 8 of the Bill needed to be reviewed, and that the public should be well-informed of the arrangement.

#### Public consultation

5. The Bills Committee discussed and agreed that public views on the Bill should be sought. As agreed by the Committee, the Clerk would:

- (a) arrange for the invitation of public views by posting a general invitation notice on the website of the Legislative Council (LegCo); and
- (b) issue letters to organizations which had previously provided submissions on the Bill.

6. The Bills Committee also agreed that interested organizations/individuals should be invited to attend the next meeting if they would like to present their views to the Bills Committee.

*(Post-meeting note: The invitation notice was published on the LegCo website on 14 November 2003. Letters were also issued to relevant organizations on the same date. The deadline for submission of views is 1 December 2003.)*

### **III Any other business**

#### Dates of next meeting

7. The next meeting was scheduled for 9 December 2003 at 8:30 am.

*(Post-meeting note: Notice of the meeting on 9 December 2003 at 8:30 am was issued to members vide LC Paper No. CB(1)330/03-04 dated 14 November 2003.)*

8. There being no other business, the meeting ended at 6:10 pm.

9. The index of proceedings of the meeting is at **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
2 December 2003

**Proceedings of the meeting of the  
Bills Committee on Inland Revenue (Amendment) Bill 2000**

**4th meeting on Thursday, 13 November 2003, at 4:30 pm  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000738	Chairman Mr CHAN Kam-lam	Confirmation of minutes of meetings on 6, 20 November and 4 December 2000  Welcoming and introductory remarks	
000739 - 001627	Chairman Administration	Briefing by the Administration on the Bill and the results of two rounds of consultation undertaken since December 2000 ( <i>CB(1)7/03-04(01)</i> )	
001628 - 001852	Chairman Administration	Briefing by the Administration on the proposed Committee Stage amendments (CSAs) to <b>clauses 2(3) and 4</b> of the Bill	
001853 - 002957	Chairman Administration	Briefing by the Administration on the proposed CSAs to <b>clause 6</b> of the Bill	
002958 - 004216	Chairman Mr CHAN Kam-lam Administration Ms Miriam LAU	Effect of the modified anti-avoidance provisions under the proposed CSAs to <b>clause 6</b> of the Bill to address the concerns of the industries and professional bodies	
004217 - 004440	Chairman Ms Miriam LAU Administration	Consultation with the industries and professional bodies on the proposed CSAs	

Time marker	Speaker	Subject(s)	Action required
004441 - 004644	Chairman Mr Ambrose LAU Administration	Existing arrangement for deduction of interest on loans borrowed by a Hong Kong company from its associated companies overseas under section 16(2)(c) of the Inland Revenue Ordinance (Cap. 112) (the Ordinance)	
004645 - 004906	Chairman Ms Miriam LAU	The Bills Committee to invite submissions on the Bill and the proposed CSAs from organizations which had previously given views on the Bill	Clerk to take actions as set out in paragraphs 5 and 6 of the minutes of meeting
004907 - 005020	Chairman Administration	The Administration confirmed that the paper CB(1)7/03-04(01) had summarized all the views expressed by the industries and professional bodies during the two rounds of consultation undertaken by the Administration	

Time marker	Speaker	Subject(s)	Action required
005021 - 005245	Chairman Administration	<p>The Chairman summarized the following three major amendments proposed in the CSAs:</p> <p>(a) Fees in respect of examinations and training courses arranged by a trade, professional or business association could be deducted for salaries tax purposes;</p> <p>(b) Introduction of interest flow-back test for companies and "connected person" test for persons in respect of deduction of interest on loans and debentures, and addition of a grandfathering provision to exempt the application of the new law to certain specified circumstances; and</p> <p>(c) Permission of partial deduction of interest on loans and debentures on appropriate basis.</p>	
005246 - 010948	Chairman Mr CHAN Kam-lam Administration Ms Miriam LAU	<p>Proposed amendments to initial and annual allowances for commercial and industrial buildings and structures under <b>clauses 9 to 13</b> of the Bill together with the relevant proposed CSAs</p> <p>Definition of commercial and industrial buildings and structures under the Ordinance</p>	Administration to take action as set out in paragraph 3 of the minutes of meeting
010949 - 011125	Chairman Administration	Briefing by the Administration on the proposed CSAs to <b>clauses 9, 13, 14(b), 15(b), 17(b) and 23</b> of the Bill	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
011126 - 011934	Chairman ALA1 Ms Miriam LAU Mr CHAN Kam-lam Administration	Suitability of using the concept of "control over a person other than a corporation" in <b>section 16(3A)(b)</b> of the CSAs	
011935 - 012727	Chairman ALA1 Administration Mr CHAN Kam-lam	Retrospective application of the proposed amendments in <b>clauses 4 and 8</b> of the Bill	Administration to take actions as set out in paragraph 4 of the minutes of meeting
012728 - 012813	Chairman Administration	Title of the future Amendment Ordinance upon enactment of the Bill	
012814 - 012822	Chairman ALA1	ALA1 to follow up with the Administration on other amendments proposed in the CSAs and related drafting issues	<i>(Post meeting note: ALA1 issued letter to the Administration on 22 November 2003.)</i>
012823 - 013400	Chairman Mr CHAN Kam-lam	Date of next meeting	