

立法會
Legislative Council

Ref : CB2/BC/10/04

LC Paper No. CB(2)2323/04-05
(These minutes have been seen by
the Administration)

**Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005**

**Minutes of the meeting
held on Monday, 13 June 2005 at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon Margaret NG
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man

Members absent : Dr Hon LUI Ming-wah, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHIM Pui-chung

Public Officers : Mr Martin GLASS
attending Deputy Secretary for Financial Services and the Treasury
(Treasury)

Miss Erica NG
Principal Assistant Secretary for Financial Services and the
Treasury (Treasury)

Mr Arthur YUEN
Hong Kong Monetary Authority
Executive Director, Banking Supervision

Mrs Millie NG KIANG Mei-nei
Principal Assistant Secretary for Financial Services and the
Treasury (Financial Services)

Mrs Teresa CHU WONG Lai-fun
Assistant Commissioner of Inland Revenue

Mr Allen NG
Deputy Commissioner of Estate Duty of Inland Revenue

Mrs Nancy HUI
Principal Assistant Secretary for Home Affairs

Mr Gilbert MO
Deputy Law Draftsman
Department of Justice

Ms Vicki LEE
Senior Government Counsel
Department of Justice

Mrs Emme WALLER
Senior Assistant Law Officer (Civil Law)
Department of Justice

Mr M Y CHEUNG
Senior Government Counsel
Department of Justice

Clerk in : Mrs Sharon TONG
attendance Chief Council Secretary (2)1

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mrs Eleanor CHOW
Senior Council Secretary (2)4

I. Meeting with the Administration
(LC Paper Nos. CB(2)1875/04-05(02))

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration –
 - (a) to consult the Land Registry on whether the grant of representation without a schedule of property would pose difficulty on the Registry, and the liability of the Registry if there was a mistake or omission on the part of the Land Registrar;
 - (b) to consider another commencement date for the Bill;
 - (c) to propose Committee Stage amendments (CSAs) to the Bill to address the following issues –
 - (i) the requirement for a schedule of property to be annexed to an application for grant of representation;
 - (ii) penalty provisions for intermeddling of estate to be added to the Bill; and
 - (iii) removal of article from safe deposit box not to be allowed;
 - (d) in relation to proposed sections 24A and 49AA of the Probate and Administration Ordinance, to advise on the existing information-seeking power of the Inland Revenue Department (IRD) provided under the Inland Revenue Ordinance (IRO) and whether it was necessary to introduce similar provisions in relation to Government departments from which IRD obtained information for the purpose of IRO.

(Post-meeting note : The Administration's responses were issued to members vide LC Paper Nos. CB(2)1939/04-05(01), 1968/04-05(01) and 1989/04-05(01) on 14, 16 and 17 June 2005 respectively.)

3. Ms Margaret NG, Mr TONG Ka-wah and Ms Audrey EU expressed dissatisfaction that the Bills Committee was rushing to complete scrutiny of the Bill.

Action

They questioned the urgency for the Bill to be passed within the current LegCo session and the need to decide at this stage the date for resumption of Second Reading debate on the Bill. They said that members had the responsibility to carefully scrutinise the Bill to ensure that the new application procedures for grant of representation after abolition of estate duty were in order. Given the various issues raised by the Bills Committee, the need for the Administration to draft CSAs to address these issues, the time required by members to scrutinise the draft CSAs and to consult the relevant parties such as the Law Society of Hong Kong, they considered that it was unreasonable to pass the Bill within the current session. The Chairman said that the question of whether to support the resumption of Second Reading on the Bill at the Council meeting on 6 July 2005 would be considered at the next meeting.

II. Date of next meeting

4. The Bills Committee noted that the next meeting would be held on 14 June 2005 at 8:30 am.
5. The meeting ended at 12:47 pm.

Council Business Division 2
Legislative Council Secretariat
18 July 2005

**Proceedings of the meeting of the
Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005
on Monday, 13 June 2005 at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000549	Chairman	Response of the Administration to the issues raised by members at the meeting on 6 and 7 June 2005	
000550 - 001224	Admin Hon Margaret NG	Whether a grant of representation without a schedule of property would pose difficulty on the Land Registry Liability of the Land Registry in the event of a mistake or omission on the part of the Land Registrar	Admin to consult the Land Registry
001225 - 002019	Chairman Admin Hon Margaret NG	The mechanism for handling appeals against decisions made by the Secretary for Home Affairs under proposed sections 60B and 60C	
002020 - 002258	Chairman Admin Hon Margaret NG	Overseas practices regarding schedule of property	

Time marker	Speaker	Subject(s)	Action Required
002259 - 004305	Chairman Admin Hon Margaret NG Hon Audrey EU Hon TONG Ka-wah Hon Jeffrey LAM	<p>Response of the Administration to the issues raised by members at the meeting on 9 June 2005</p> <p>Comparison of the protection afforded to estate beneficiaries before and after the passing of the Bill and proposal to introduce penalty provisions against intermeddling of estate</p> <p>Proposal to consider another commencement date for the Bill, e.g. abolition of estate duty to take effect on the date of budget announcement as proposed by Mr Daniel R BRADSHAW</p> <p>Availability of draft Committee Stage amendments (CSAs) to address issues raised by the Bills Committee, in particular the application procedures for grant of representation, and the need to consult relevant parties, such as the Law Society of Hong Kong</p> <p>Discussion between the Law Society of Hong Kong and the Administration on the new application procedures for grant of representation</p> <p>Urgency to enact the Bill within the current Legislative Council session</p>	Admin to consider the proposal
004306 - 004447	Chairman Admin	Proposal to introduce penalty provisions against intermeddling of estate	Admin to propose CSAs

Time marker	Speaker	Subject(s)	Action Required
004448 - 004643	Chairman Admin	Consultation with the Judiciary on the latest proposal of the requirement of a schedule of property to be annexed to an application for grant of representation	
004644 - 004702	Chairman Admin	Removal of documents and articles from the deceased's safe deposit box before and after passing of the Bill Proposal to delete "or article" from proposed section 60C(5)	Admin to propose CSAs
004703 - 004754	Chairman Admin	Positive vetting under proposed section 60G	
004755 - 005403	Hon Margaret NG Admin Chairman	Publicity on the change in application procedures for grant of representation	
005404 - 010437	Hon Albert HO Chairman Admin Hon Margaret NG Hon Andrew LEUNG Hon Jeffrey LAM	Proposal to defer the commencement date of the Bill to allow time for making preparatory arrangements for implementing the new application procedures for grant of representation	Admin to consider the proposal
010438 - 011052	Hon Audrey EU Admin Chairman	Relevant parties to be made aware of the new application procedures for grant of representation	
011053 - 011240	Chairman ALA1 Hon Albert HO	Clause-by-clause examination of the Bill	
011241 - 011627	Chairman ALA1 Admin Hon Audrey EU	Long title and Clauses 1 and 2 Whether midnight rule would apply to the Bill	

Time marker	Speaker	Subject(s)	Action Required
011628 - 012457	Chairman Admin Hon Audrey EU Hon Margaret NG	Clause 3 Law Society of Hong Kong's concern that the Bill, in not repealing the Estate Duty Ordinance (EDO), had the effect of not abolishing estate duty but suspending it	
012458 - 013719	Hon TONG Ka-wah Chairman Admin Hon Margaret NG	Proposal to adopt a zero-rating estate duty to replace the existing legislative approach Commencement date of the Bill Policy on retrospectivity of revenue proposals	
013720 - 014110	Chairman Hon Margaret NG Admin ALA1	Appropriateness of using the word "dying" in relevant provisions of EDO	
014111 – 014218	Chairman Admin	Clause 5	
014219 - 014737	Chairman Admin Hon Margaret NG	Clause 6 Loss of revenue as a result of changing the period for raising tax assessment on an executor from one year to three years	

Time marker	Speaker	Subject(s)	Action Required
014738 - 015823	Chairman Admin Hon Margaret NG Hon Audrey EU	Clauses 7 and 8 In relation to proposed sections 24A and 49AA of the Probate and Administration Ordinance, the existing information-seeking power of the Inland Revenue Department provided under the inland Revenue Ordinance Whether the information to be provided by the Probate Registrar to the Commissioner of Inland Revenue contravened the Personal Data (Privacy) Ordinance	Admin to provide the requested information (paragraph 2(d) of the minutes of the meeting refers)
015824 - 015844	Chairman	Date of next meeting	