

立法會
Legislative Council

Ref : CB2/BC/10/04

LC Paper No. CB(2)2585/04-05
(These minutes have been seen by
the Administration)

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

**Minutes of the meeting
held on Wednesday, 6 July 2005 at 8:30 am
in Conference Room A 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
Dr Hon David LI Kwok-po, GBS, JP
Hon Margaret NG
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
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 : Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Bernard CHAN, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon CHIM Pui-chung

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

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

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

Mr Allen NG
Deputy Commissioner of Estate Duty of Inland Revenue

Mr Stephen FISHER
Deputy Secretary for Home Affairs

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 : Ms Bernice WONG
attendance Assistant Legal Adviser 1

Mrs Eleanor CHOW

Senior Council Secretary (2)4

I. Meeting with the Administration

(LC Paper Nos. LS88/04-05, CB(2)2157/04-05(01), (02) and (03))

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

2. The Bills Committee requested the Administration –

- (a) to explain the existing fee charging policy for services provided by the Commissioner of Inland Revenue (CIR) and her officers under the Estate Duty Ordinance and the future fee charging policy after the Secretary for Home Affairs took up the residual functions from CIR upon the abolition of estate duty;
- (b) to provide the draft form for additional schedule of assets and liabilities;
- (c) to provide justification for the proposal to apply the abolition of estate duty with retrospective effect and examples of past legislation;
- (d) to explain why the proposed new penalty against intermeddling would not apply during the interim period i.e. on or after 15 July 2005 but before the commencement of the Bill; and
- (e) to clarify whether the existing or the proposed new penalty provisions would apply in cases of persons who died (i) before 15 July 2005; and (ii) in the interim period, where the act of intermeddling took place after the commencement of the Bill.

(Post-meeting note : The Administration's response was issued to members vide LC Paper Nos. CB(2) 2248/04-05(01)-(03) and 2267/04-05(01) on 12 and 13 July 2005 respectively.)

3. The Administration agreed to consult the Hong Kong Association of Banks and the Law Society of Hong Kong on the proposed intermeddling provisions.

II. Date of next meeting

4. The Bills Committee noted that the next meeting would be held on 14 July 2005 at 2:30 pm.

5. The meeting ended at 10:28 am.

Action

Council Business Division 2
Legislative Council Secretariat
15 September 2005

**Proceedings of the meeting of the
Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005
on Wednesday, 6 July 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000101	Chairman	Opening remarks	
000102 - 002730	ALA1 Chairman Admin Hon Margaret NG Hon Audrey EU Hon TONG Ka-wah	Possible liability of the Secretary for Home Affairs (SHA) under Part VA of the Probate and Administration Ordinance (PAO) and the Administration's position Cases on claims on damages for negligence and misfeasance in public office regarding the discharge of statutory functions	
002731 - 002924	Chairman	Papers provided by the Administration in response to the issues raised by members at the meeting on 16 and 20 June 2005	
002925 - 003516	Admin	Arrangements for the inspection and inventory-taking of a safe deposit box held by joint renters before and after the abolition of estate duty	
003517 - 003724	Hon Margaret NG Admin	Identification of the intended personal representative	

Time marker	Speaker	Subject(s)	Action Required
003725 - 005616	Hon Albert HO Chairman Admin	<p>Impact of the proposed intermeddling provisions on clearance of a safe deposit box which was jointly rented by the deceased and another person who was not the personal representative</p> <p>Whether the proposed intermeddling provisions would render the survivorship clause in the agreement with bank which allowed the surviving renter to take possession of the properties in the safe deposit box ineffective</p>	
005617 - 010207	Hon Audrey EU Admin Chairman	Existing and future charging policy for services provided by the Commissioner of Inland Revenue and SHA respectively	Admin to provide the requested information
010208 - 010246	Hon WONG Ting-kwong Admin	Arrangements for the inspection and inventory-taking of a safe deposit box	
010247 - 011205	Hon Margaret NG Admin Chairman ALA1	<p>Liability of the bank to release documents according to and not according to the certificate issued by SHA to the certificate holder</p> <p>Person responsible for taking inventory in the safe deposit box after the abolition of estate duty</p> <p>Proposed Committee Stage amendments (CSAs) to add new section 60H regarding prohibition against intermeddling of estate</p>	

Time marker	Speaker	Subject(s)	Action Required
011206 - 012210	Hon Albert HO ALA1 Chairman Hon Margaret NG	<p>Proposed new section 60H regarding prohibition against intermeddling of estate</p> <p>Impact of the proposed intermeddling provisions on clearance of a safe deposit box held by joint renter, in particular if the box was not included in the schedule of assets and liabilities</p> <p>Whether the joint renter of the safe deposit box who was not the personal representative could take possession of the properties in the safe deposit box in accordance with the survivorship clause in the agreement with the bank and whether this would constitute intermeddling of estate</p> <p>Future charging policy for services provided by SHA upon the abolition of estate duty</p>	
012211 - 012818	Chairman Hon Albert HO Admin Hon Margaret NG ALA1	<p>Draft forms provided by the Law Society of Hong Kong</p> <p>Draft form for additional schedule of assets and liabilities</p> <p>Whether overseas properties should be included in the schedule of assets and liabilities</p> <p>Whether a note should be included in the schedule of assets and liabilities that the inventory listed had not been verified by the court</p>	Admin to provide the requested information

Time marker	Speaker	Subject(s)	Action Required
012819 - 013137	Hon Audrey EU Chairman Admin Hon Albert HO	Reasons for replacing “gross value of the estate” with “net value of the estate” in the new forms	
013138 - 013346	Admin	Commencement date and retrospective effect of the ordinance	
013347 - 014324	Hon TONG Ka-wah Admin Chairman	Reasons for the proposal to apply the abolition of estate duty with retrospective effect and provision of examples of past legislation	Admin to provide the requested information
014325 - 015604	Hon Margaret NG Admin Chairman	<p>Appropriateness of using the wording “the original gazettal date” in paragraph 3 of LC Paper No.CB(2) 2157/04-05(02)</p> <p>Penalty against intermeddling of estate which took place during the interim period i.e. on or after 15 July 2005 but before the commencement date of the Bill, and after the commencement of the Bill</p> <p>Reasons for not applying the new penalty against intermeddling to cases of death occurring during the interim period</p> <p>Whether the existing or the proposed new penalty provisions would apply in cases of persons who died (i) before 15 July 2005; and (ii) in the interim period, where the act of intermeddling took place after commencement of the Bill</p>	<p>Admin to provide the requested information</p> <p>Admin to clarify</p>

Time marker	Speaker	Subject(s)	Action Required
015605 - 015717	Chairman	Items for discussion at the next meeting	

Council Business Division 2
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