

立法會
Legislative Council

Ref : CB2/BC/10/04

LC Paper No. CB(2)332/05-06
(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, 3 October 2005 at 4:30 pm
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
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
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

Member attending : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Members absent : Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHIM Pui-chung

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

Miss Erica NG
Principal 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

Mr Alex CHAN
Assistant Secretary for Home Affairs

Mr M Y CHEUNG
Senior Government Counsel
Department of Justice

Clerk in attendance : Mrs Sharon TONG
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)2527/04-05(01), CB(2)2570/04-05(01)
CB(2)2573/04-05(01), CB(2)2578/04-05(01) and CB(2)2627/04-05(01),
CB(2)2649/04-05(01))

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

2. The Administration was requested to -

- (a) explain the proposed changes to the application procedures for grant of representation, summary administration, sealing of foreign grants as well as the new procedures for small estates following the abolition of estate duty;
- (b) explain the procedures for a person who intended to apply for a grant of letters of administration with the will annexed, where no executor was named in the will found in the safe deposit box, or the executor refused to act or was incapable of acting as the executor, or the executor had passed away; and
- (c) explain the application of section 4(9) of the Intestates' Estates Ordinance (IEO) before and after the abolition of estate duty.

3. The Bills Committee requested the Administration to consider the following and provide a set of updated Committee Stage amendments (CSAs) -

- (a) whether the word "document" referred to in the proposed new section 60CB(1)(b)(i) of the Probate and Administration Ordinance (PAO) should include will of the deceased so that the will could be removed from the safe deposit box for application for a grant of letters of administration by a person where no executor was named in the will, or the executor refused to act or was incapable of acting as the executor, or the executor had already passed away;
- (b) improvement on the drafting of the proposed new section 60G of PAO taking into account comments of the Bills Committee that the section was difficult to read as well as comments of the Hong Kong Association of Banks; and
- (c) whether the proposed new section 60I of PAO, which provided for exemption for small estates, should be amended to cater for its possible interface with section 4(9) of IEO.

Action

4. The Bills Committee requested Assistant Legal Adviser 1 to liaise with the Administration on the drafting of the revised CSAs and assist in vetting the Chinese version of the proposed CSAs.

II. Date of next meeting

5. The Bills Committee agreed that the next meeting would be held on 10 October 2005 at 8:30 am.

6. The meeting ended at 6:14 pm.

Council Business Division 2
Legislative Council Secretariat
9 November 2005

**Proceedings of the meeting of the
Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005
on Monday, 3 October 2005 at 4: 30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000200	Chairman	Opening remarks	
000201 - 001231	Admin Chairman Hon Margaret NG	Response of the Administration to the issues raised by members at the meeting on 6 September 2005 (LC Paper No. CB(2)2573/04-05(01)) Latest proposed changes to the application procedures for grant of representation, summary administration, sealing of foreign grants as well as the new procedures for small estates following the abolition of estate duty	Admin to provide the requested information
001232 - 002536	Chairman Admin	Clause-by-clause examination of the 14 th draft of Committee Stage amendments (CSAs) (LC Paper No. CB(2)2627/04-05(01)) New Clause 1A – Clause 9 (pages 1 to 18 of LC Paper No. CB(2)2627/04-05(01))	

Time marker	Speaker	Subject(s)	Action Required
002537 - 004457	Chairman Hon TONG Ka-wah Admin Hon Albert HO ALA1	<p>Clause 9 (proposed new sections 60CA and 60CB of the Probate and Administration Ordinance (PAO))</p> <p>Procedure for a person who intended to apply for a grant of letters of administration with the will annexed, where no executor was named in the will found in the safe deposit box, or the executor refused to act or was incapable of acting as the executor, or the executor had already passed away</p> <p>Whether the word “document” referred to in the proposed new section 60CB(1)(b)(i) should include will of the deceased so that the will could be removed from the safe deposit box for application for a grant of letters of administration</p>	<p>Admin to provide the requested information</p> <p>Admin to consider drafting of the proposed new section 60CB(1)(b)(i)</p>
004458 - 010917	Chairman Admin Hon Albert HO Hon TONG Ka-wah	<p>Clause 9 (pages 18 to 26 of LC Paper No. CB(2)2627/04-05(01))</p> <p>Views of the Law Society of Hong Kong on the proposed arrangements for safe deposit box jointly rented by a deceased person and others and where the lease agreement in question contained a “survivorship” clause</p> <p>Improvement on the drafting of the proposed new section 60G of PAO taking into account comments of members that the section was difficult to read as well as comments of the Hong Kong Association of Banks (HKAB)</p>	<p>Admin to consider the drafting of the proposed new section 60G</p>

Time marker	Speaker	Subject(s)	Action Required
010918 - 011854	Chairman Admin	Clause 9A (pages 26 to 37 of LC Paper No. CB(2)2627/04-05(01))	
011855 - 012343	Hon Albert HO Admin Chairman	Clause 9A (proposed new section 60I of PAO) Whether the proposed new section 60I, which provided for exemption for small estates, should be amended to provide the Secretary for Home Affairs (SHA) with discretionary power, similar to that provided to the Government under section 4(9) of the Intestates' Estates Ordinance (IEO), to deal with the residuary estate of an intestate who left no issue, spouse, parent, sibling	Admin to follow up
012344 - 012645	Chairman Admin	Clause 9B – Clause 9C (pages 37 to 40 of LC Paper No. CB(2)2627/04-05(01))	
012646 - 013242	Hon Albert HO Admin Chairman	Clause 9A (proposed new section 60I of PAO) Application of section 4(9) of the IEO before and after the abolition of estate duty Whether the Bill would complicate the existing procedure for devolving the small estate of an intestate who left no issue, spouse, parent or sibling to a person who had taken great care of him before his death	Admin to provide the requested information Admin to follow up
013243 - 013439	Chairman Admin	Clause 9D – Clause 20 (pages 40 to 52 of LC Paper No. CB(2)2627/04-05(01))	

Time marker	Speaker	Subject(s)	Action Required
013440 - 013835	Chairman Admin ALA1 Hon Albert HO	Comments of HKAB, the Law Society of Hong Kong and the Hong Kong Bar Association on the 14 th draft CSAs Liaison between ALA1 and the Administration on the drafting of the revised CSAs No need to specify in the Bill that the public officers present at the inspection might offer assistance to the holder of the certificate in taking the inventory of safe deposit box	Admin to provide a set of updated CSAs and ALA1 to follow up
013836 - 013903	Chairman ALA1	Assistance of ALA1 in vetting the Chinese version of CSAs	ALA1 to follow up
013904 - 014334	Chairman Admin Hon Albert HO Hon Andrew LEUNG Hon SIN Chung-kai	Submission from Mrs Shirley LAU Proposed date for resumption of Second Reading debate on the Bill Date of next meeting	