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

Administration's response to submission of Hong Kong Shipowners Association Ltd./ Mr Daniel R. Bradshaw

	Summary of views	Administration's response
1.	Estate duty is not borne only by the very rich. Most of the very rich successfully and easily use international lawyers and accountants to avoid estate duty. The burden of estate duty largely falls on the middle class, most heavily on their widows and other dependants.	Agreed. Although the tax is targeted at the better-off, in practice the latter may avoid it through various legal means. In other places, estate duty avoidance is also very common and it is no easy task to plug these loopholes. There is some unfairness in the tax, as most paying the tax do not belong to the wealthiest class of the community.
2.	Many countries worldwide have abolished estate duty, recognising that the burden of the tax falls on the dependents of those who have not taken advice to prepare for their demise.	A number of economies in the region, including India, Malaysia, New Zealand, Australia and Macau, have abolished estate duty over the past 20 years. In Europe, Italy and Sweden have also abolished the tax. The US House of Representatives has also recently passed a Bill to repeal estate duty permanently and the Bill has now been submitted to the Senate for consideration. Abolition in these countries may have different backgrounds and reasons, and the fact that the tax is subject to avoidance is one of the reasons for some.
3.	An individual's assets will not necessarily be consistent	While disclosure in an estate duty affidavit of substantial assets

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	with his income. The argument that estate duty provides a convenient check on income tax payable is not sustainable because Hong Kong does not tax foreign source income or dividends. Given the number of dutiable estates, this check must be almost ineffective as an anti-avoidance measure.	inconsistent with tax returns of the deceased person during his/her life may sometimes provide hints for an investigation into possible liability to taxes under the Inland Revenue Ordinance (IRO), the existence of such assets is not a direct proof of understatement in the tax returns. In recent years, IRD has introduced some new methods to identify potential cases of tax evasion for early investigation. IRD's reliance on estate duty affidavits as a source of information to identify tax evasion cases has considerably reduced over the years and the estate duty affidavit only constitutes a minor and indirect source of information. Besides, after the abolition of estate duty, IRD will continue to receive relevant information from the Immigration Department and the Probate Registry, which would help IRD review the relevant tax files of the deceased person.
4.	Shipowners have been advised to move their ships out of the Hong Kong Register because of risk of estate duty. Many shipowners are contemplating moving their ships to Singapore, which has moved to exempt from its estate duty those persons who are not domiciled in Singapore owning movable assets therein. Shipowners, and hence	Under the current estate duty regime, properties located in Hong Kong at the time of the deceased's death are liable to estate duty unless they are specifically exempted. Some investors may choose not to invest in Hong Kong for fear that their assets may be liable to estate duty. The shipping industry's concern is noted.

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	Hong Kong generally, will benefit if estate duty is abolished.	
5.	Those in the business of avoiding estate duty may oppose abolition but it is not reasonable to maintain a tax on a small number of people to support an industry that is able to avoid that tax.	One of the reasons for proposing the abolition of the tax is that there are many opportunities for its avoidance or mitigation, given sufficient time and money and this phenomenon is also commonplace in other places.

Financial Services and the Treasury Bureau
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