

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

We provide herewith information requested by Members at the Bills Committee meeting held on 6 and 7 June respectively.

Sample “no-objection” letters

2. Currently the Estate Duty Office issues “no-objection” letters (*samples at Annex A*) to the bank concerned for release of money from bank accounts for funeral expenses and maintenance as well as for inspection of safe deposit boxes. After abolition of estate duty, the “no-objection” letters would be replaced by certificates for release of money and certificates for inspection, and the format of the latter two would also follow those of the former.

UK’s inheritance tax

3. UK’s inheritance tax is charged on the transfer of all property passing on death or transferred inter vivos seven years or less before death. The tax is levied on the worldwide property of individuals domiciled or deemed to be domiciled within the UK, and on the UK-situs property of non-domiciles. The exemption threshold for 2005/06 is £275,000. The value of the estate above the threshold is taxed at 40% (20% for immediate lifetime transfers to a discretionary trust and a controlled company). Transfers between spouses are exempt from tax. The tax was called capital transfer tax from 1975 to 1986 and estate duty before 1975. According to our understanding, all these (inheritance tax, capital transfer tax and estate duty) have a similar scope of charging.

Information on asset management industries

4. Some information on the asset management industries in Hong Kong and Singapore is in the note at *Annex B*.

Consultation Results

5. We have prepared a summary of views for the submissions we received, which is at *Annex C*. The submissions were sought to help the Government in preparing the Budget and it would be inappropriate to disclose the contents of the submissions including the parties who have made submissions without their consent.

Alternative legislative approach

6. On a member's question regarding the feasibility of zero-rating estate duty, our view is that it would be a highly artificial arrangement to levy a tax at 0%. We also consider that there may be unintended/undesirable consequences by adopting a zero-rating approach.

Financial Services and the Treasury Bureau (Treasury Branch)
8 June 2005

1. Sample “no-objection” letter issued by the Inland Revenue Department (IRD) for release of money for funeral expenses

Dear Sirs,

Re : _____, deceased

At the request of Mr./Madam _____ claiming to be the wife/husband/daughter/son/friend of the above deceased, I write to confirm that, on the information available to me, I have no estate duty objection to the release of a sum of \$ _____ out of the credit balance of _____ held by the deceased with your bank for payment of funeral expenses of the deceased. Please issue your crossed cheque in favour of (name of the funeral parlour) _____.

In the exercise of my power under Section 24(4) of the Estate Duty Ordinance, Cap. 111, I write to authorize the release of the above said sum.

Yours faithfully,

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Assistant Commissioner of Estate Duty

2. Sample “no-objection” letter issued by IRD for release of money for maintenance

Dear Sirs,

Re : _____, deceased

At the request of Messrs. _____ . Solicitors acting for the _____ of the above deceased’s Will, I write to confirm that, on the information available to me, I have no estate duty objection to the release of a sum of \$ _____ / a monthly sum of _____ payable on _____ out of the balance of Account No. _____ (Time Deposit No. _____) held by the deceased with your bank for the purpose of the maintenance of the dependants of the deceased.

In the exercise of my power under Section 24(4) of the Estate Duty Ordinance, Cap. 111, I write to authorize the release of these monies.

Yours faithfully,

(_____)
for Deputy Commissioner of Estate Duty

3. Sample “no-objection” letter issued by IRD for inspection of safe deposit box
in response to an application by a personal representative

Dear Sirs,

Re : _____, deceased

Mr./Mrs./Ms. of _____ of the above deceased has requested that the Safe Deposit Box No. _____ rented by the deceased with your Bank be opened on _____ for the purpose of taking inventory.

I have no objection to this request. If you agree to such opening, my Inspectors who will show you their Government Warrant Cards will inspect the box and take inventory of the contents.

If the applicant requests removal of the deceased’s will under which he/she was appointed as the executor and you accept his/her request, I confirm that I have no estate duty objection to the removal.

Yours faithfully,

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Assistant Commissioner of Estate Duty

4. Sample “no-objection” letter issued by IRD for inspection of safe deposit box
in response to an application by a firm of solicitors
acting on behalf of a personal representative

Dear Sirs,

Re: , deceased

, Solicitors for the estate of the above deceased has requested that the Safe Deposit Box No. rented by the deceased with your Bank be open on for the purpose of taking inventory.

I have no objection to this request. If you agree to such opening, my Inspectors who will show you their Government Warrant Cards will inspect the box and take inventory of the contents.

If the Solicitors request removal of the deceased’s Will under which their client was appointed as the executor and you accept their request, I confirm that I have no estate duty objection to the removal.

Yours faithfully,

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Assistant Commissioner of Estate Duty

**Information on the Asset Management Industries
of Hong Kong and Singapore**

Singapore

Number of "investment professionals" in the asset management industry :

2001 - 1,114

2002 - 1,012

2003 - 986

Asset under management :

2001 - S\$307 bn (US\$185 bn)

2002 - S\$343.8 bn (US\$207 bn)

2003 - S\$465.2 bn (US\$280 bn)

*Source: 2003 Survey of the Singapore Asset Management Industry,
Monetary Authority of Singapore*

Hong Kong

Number of staff engaged in the fund management industry :

2001 - no data included

2002 - 2,872 staff engaged in fund management industry by licensed corporations

2003 - 3,763 staff engaged in fund management industry by licensed corporations & 11,432 staff engaged by registered institutions

Asset under management :

2001 - HK\$1,484 bn (US\$191 bn) (data from licensed corporations only)

2002 - HK\$1,491 bn (US\$192 bn) (data from licensed corporations only)

2003 - HK\$2,250 bn (US\$289 bn) (US\$271 bn by licensed corporations; US\$18 bn by registered institutions)

*Source: Fund Management Activities Survey 2001, 2002 and 2003,
Securities and Futures Commission*

The data above on Hong Kong and Singapore are produced for reference only. Direct comparison should not be made given the different survey methodologies and definitions of terms used in the reports.

Financial Services and the Treasury Bureau (Financial Services Branch)
8 June 2005

Consultation on Estate Duty - A Summary of Views

A total of 100 submissions had been received during the consultation period from 21 July to 20 October 2004. 25 submissions were from trade/professional organisations; ten from chambers of commerce (one of which is a joint submission from four local chambers); and 64 from individual firms or members of the public. One was from a political group.

2. 57 submissions supported complete and immediate abolition of the estate duty, while 29 submissions were in favour of retention. The rest did not indicate any preference.

3. Those advocating abolition of estate duty considered it a deterrent to foreign investment into Hong Kong and hence an impediment to Hong Kong's development as Asia's premier asset management centre. Some of the abolitionists referred to the unparalleled wealth management opportunities currently being offered by the combination of the EU Savings Directive (making wealth management in Europe less attractive), the OECD crackdown on offshore tax havens, the pace of economic growth on the Mainland and the Capital Investment Entrant Scheme. They are of the view that Hong Kong should seize the initiative now and abolish estate duty to capitalise on this opportunity and attract business. The abolitionists also argue that estate duty does not, in practice, fulfill a

wealth distribution function. The richest members of society simply avoid paying estate duty (and, to this extent, estate duty can be said to be a “voluntary tax”) whilst the middle-class, who do not have the wherewithal to structure their affairs to minimize tax, end up bearing the brunt of the duty. They pointed out that the freezing of the deceased’s assets upon death caused undue hardship to the deceased’s family and business at a time when they were least able to withstand it. Some of the abolitionists have also remarked that the revenue lost up on abolition of estate duty would be compensated by increased economic activity and hence increased profits tax, salaries tax, stamp duties etc..

4. Those who are in favour of retaining the tax noted the progressive nature of the tax, recognising its contribution to the Government’s revenue. They were of the view that estate duty is a tax based on the principle of affordability, helps provide equality of opportunity, and is not easy to avoid because of the need to give up control, etc.. A predominant view amongst this group was that this is not an appropriate time (when the Government has a budget deficit problem) for abolition of the duty. They argued that estate duty is not a major factor for investment decisions and most of the foreign investments in Hong Kong have been made by sophisticated, mainly institutional, investors, as evidenced by the huge stamp duty collections in 1997-98. They observed that most international financial centres have estate taxes. Some of them are worried that abolition of the tax would adversely affect the business of certain segments of the financial services industry including trustees and insurance, thus undermining Hong Kong’s leading

regional status in these areas.

5. Respondents overwhelmingly opposed the proposal to provide exemption from estate duty for “non-Hong Kong-domicile” or “non-Hong Kong-resident” investors as this represents a fundamental departure from our long-established territorial taxation principle. Besides, they found the domicile and residency concepts vague and difficult to implement, and cautioned that their adoption would lead to arguments, litigation and unnecessary legal costs.

Financial Services and the Treasury Bureau (Treasury Branch)
8 June 2005