

Revenue (Abolition of Estate Duty) Bill 2005

Follow up to Members' enquiries at the meeting on 13 June 2005

At the Bills Committee meeting on 13 June 2005, in relation to the proposed new sections 24A and 49AA of the Probate Administration Ordinance (Cap. 10) which provides that the Registrar shall provide certain information to the Commissioner of Inland Revenue for the purposes of the Inland Revenue Ordinance (Cap. 112) (IRO), a Member enquired about the existing information seeking power of the Inland Revenue Department (IRD) under the IRO. Another Member asked whether it would be necessary to introduce similar provisions in relation to Government departments, such as the Immigration Department, from which IRD obtains information for the purpose of the IRO. The Administration's response is set out in the ensuing paragraphs.

2. Section 52(1) of the IRO empowers the Commissioner of Inland Revenue (CIR) to require any officer in the employment of the Government or of any public body to furnish any particulars which she may require for the purposes of the IRO which may be in the possession of such officer. Pursuant to this section, the IRD obtains information from the Immigration Department on local deaths registered each month. Section 52(1) is not applicable to the Judicial Officers as they are neither officers in the employment of the Government nor public bodies.

3. The IRD may also obtain information from third parties under section 51(4)(a) of the IRO. The section provides that an Assessor may give notice to any person or any other person whom he considers may be in possession of information in regard to any matter which may affect any liability of the person under the IRO. Unlike section 52(1), notices under section 51(4)(a) have to be issued in respect of specific taxpayers. The IRD would not be able to have information as to all possible death cases that might involve outstanding tax assessments. In particular, the IRD does not have information on taxpayers who died outside Hong Kong. Accordingly, obtaining of the relevant information in the present case cannot be achieved by the exercise of power under section 51(4)(a).

4. The Probate Registry has been passing particulars of grants issued and

applications for grants received to the IRD for cross checking since October 2002 and January 2004 respectively. It is for the purpose of detecting any forgery of the estate duty clearance papers provided by applicants in support of their application for grant. Since the same information is available from the estate duty affidavits currently received by the IRD, IRD does not rely on the information from the Probate Registry for assessment purposes.

5. Following the abolition of estate duty, no estate duty clearance paper will be issued in respect of persons dying on or after the effective date. Hence, there will no longer be any need for detection of forged estate duty clearance papers. On the other hand, the IRD will cease to receive estate duty affidavits on which particulars of the intended executor/administrator and the deceased are shown. The IRD needs such information for the purposes of raising tax assessments on the deceased in respect of periods prior to the date of his death. The information will only be available from the applications for grants filed with the Probate Registry.

6. As sections 52(1) and 51(4)(a) of the IRO are not applicable, a statutory requirement for the Probate Registry to pass the information shown on applications for grant to the IRD is needed to facilitate IRD's assessment work.

Financial Services and the Treasury Bureau
Treasury Branch
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