

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

**Questions of fee charging on residual functions to be taken up by
Secretary for Home Affairs upon the abolition of estate duty**

At the meeting of the Bills Committee on 6 July 2005, Members enquired whether fees would be charged on the residual functions to be taken up by Secretary for Home Affairs (SHA) upon the abolition of estate duty. This paper sets out the Administration's position.

Current situation

2. The following functions are currently performed by Commissioner of Inland Revenue (CIR) or her officers under the Estate Duty Ordinance (Cap. 111) to facilitate duty collection or revenue protection:

- (a) to inspect any document or article, and specifically to authorize representatives to inspect the contents of a deceased person's bank safe deposit box; and
- (b) to authorize the release of funds from an estate for burial of the deceased or maintenance of the former dependants of the deceased.

3. The power to authorize release of funds from the estate for burial expenses and maintenance is mainly to relieve hardship cases. About 600 applications for release of funds for funeral expenses and 20 applications for maintenance of former dependants of the deceased are received each year. Nearly all relevant applications at present concern members of the public who face immediate financial difficulties upon losing a bread-winner and are unlikely to attract any estate duty at the moment.

4. Regarding the inspection of the bank deposit box, at the moment, two officers from the Inland Revenue Department (IRD) attend the opening of the bank deposit box of the deceased and take inventory of its contents. Out of 15 620 cases finalized in 2003-04, only about 2 700 cases required the inspection of bank deposit box. Of the 2 700 cases, only some 150 cases (6%)¹ were dutiable.

5. Currently, the above work under paragraph 2 is performed by the CIR or her officers without charge.

Proposed arrangement after abolition of estate duty

6. After the abolition of estate duty, it is proposed that SHA will take up the following functions for probate administration purpose:

- (a) issue Certificates for Release of Money for burial expenses of the deceased and maintenance of the former dependents of the deceased who have an interest in the relevant estate;
- (b) issue Certificates for Necessity of Inspection of Bank Deposit Box; and
- (c) send public officers to attend the inventory-taking of the content of the bank deposit box at its inspection.

Factors to consider

7. The Administration finds the factors in the following paragraphs relevant in considering whether the services should be charged in future.

¹ Not all estate duty cases involve the inspection of bank deposit box. In terms of all estate duty cases finalized in 2003-04, only 1.7% were dutiable.

No fees have ever been imposed for the services

8. At the moment, only about 2% of the estate duty cases assessed by IRD are dutiable. For the remaining majority cases, no money (in form of tax or fee) is collected. To the majority of the public, they have all along been receiving the services in question free of charge. Imposition of fees may not be acceptable to the public.

The effect of imposing fees on the community

9. The Administration's intention in abolishing estate duty is to promote the development of our asset management business and hence bring wider economic benefits to Hong Kong as a whole. In so doing, we are mindful that the change will not result in additional financial burden to the public, especially those with limited financial means.

10. The Certificate for Release of Money is usually applied by those with immediate financial difficulties. It enables them to get the necessary funds from an estate for burial of the deceased or maintenance of the former dependants of the deceased. Imposition of fees on the services may contradict the purpose of having such a mechanism.

11. Heirs to an estate need to inspect bank deposit boxes for ascertaining if there is a will and for preparing the schedule of assets and liabilities for application of grant of probate or letters of administration. Imposing a fee would mean that such inspections can only be carried out after making payment. It is possible that those with limited financial means may have difficulty in so doing.

Revenue implications

12. There are some 620 cases applying for release of money for funeral

expenses of the deceased and maintenance of the former dependants of the deceased a year. The total costs involved are estimated to be around \$0.3 million per annum. Regarding the applications for inspection of bank deposit box, there are about 2,700 cases. The total costs involved are about \$2.5 million per annum. Imposing new charges would bring additional revenue of some \$2.8 million per annum. (The proposal to abolish estate duty will result in revenue loss of around \$1.5 billion in estate duty and \$50 million in abolition of court fees for grant of probate or letters of administration.)

Administration's view

13. In implementing the "user pays" principle, the Administration has always taken into account other factors like public affordability and acceptability and other policy considerations. As the work now proposed to be performed in future is not more than that currently performed, we therefore regard it more appropriate to keep the present arrangements unchanged in respect of fee charging and therefore do not propose to charge any fees on the functions to be performed by SHA. We shall review the situation after the system has been in operation for one year and consult the Panel on Financial Affairs in due course.

Financial Services and the Treasury Bureau
Home Affairs Bureau

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