

立法會
Legislative Council

LC Paper No. LS65/04-05

**Paper for the House Committee Meeting
on 13 May 2005**

**Legal Service Division Report on
Revenue (Abolition of Estate Duty) Bill 2005**

I. SUMMARY

- 1. Object of the Bill** To give effect to the proposal in the 2005-2006 Budget to abolish estate duty and to make related and consequential amendments.

- 2. Comments**

 - (a) The Estate Duty Ordinance (Cap. 111) is proposed to be amended to the effect that the estate of a person who dies on or after the commencement of the Bill, if enacted, would not be subject to estate duty.

 - (b) The Bill confers powers on the Secretary for Home Affairs to facilitate the release of money from bank account of a deceased person for meeting his funeral expenses and maintenance of his dependents, and the inspection of safe deposit box kept by the deceased.

 - (c) The Bill also seeks to abolish the fees for grants of probate or letters of administration or resealing of such grants.

- 3. Public Consultation** Consultation with LegCo Members, various chambers, groups and associations and the general public was conducted during formulation of the Budget.

- 4. Consultation with LegCo Panel** No consultation with any LegCo Panel was carried out.

- 5. Conclusion** The Legal Service Division is still scrutinizing the Bill. In light of the new policy introduced, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

Object of the Bill

To give effect to the proposal in the 2005-2006 Budget to abolish estate duty and to make related and consequential amendments.

LegCo Brief Reference

2. FIN CR 1/7/2201/04 issued by the Financial Services and the Treasury Bureau on 4 May 2005.

Date of First Reading

3. 11 May 2005.

Comments

4. The Bill proposes to amend the Estate Duty Ordinance (Cap. 111) (“the Principal Ordinance”) to the effect that the estate of a person who dies on or after the commencement of the Bill, if enacted, would not be subject to estate duty. The Bill would come into operation on the day on which it is published in the Gazette as an ordinance. By virtue of section 20 of the Interpretation and General Clauses Ordinance (Cap. 1), it would commence at the beginning of the day on which it is so published.

5. According to the LegCo Brief and the Explanatory Memorandum of the Bill, the policy intent is that the Principal Ordinance would not apply to the estate of a person who dies after midnight, Hong Kong time, on the day on which the Bill is published in the Gazette as an ordinance. The Principal Ordinance continues to apply in relation to persons who die before that time. Where the principal value of the estate of a person dying before commencement exceeds HK\$7,500,000, estate duty ranging from 5% to 15% would be payable.

6. The Bill also seeks to amend the Probate and Administration Ordinance (Cap. 10) to confer powers on the Secretary for Home Affairs (“the Secretary”) to issue certificates to facilitate:

- (a) the release of money from a bank account in the sole name of the deceased for meeting funeral expenses and maintenance of his dependents; and
- (b) the inspection of the safe deposit box of the deceased to ascertain if there is any will or similar instrument or any specified document or article and to permit the person intending to apply for a grant in respect of the estate to take possession of the same.

7. Currently under the Principal Ordinance, the Commissioner of Inland Revenue (“the Commissioner”) may allow the use of a part of the estate for burial of the deceased person or maintenance of his dependents, and may authorize a person to inspect any property of the deceased person to report its value to him. If the Bill is enacted, the Commissioner would no longer exercise these powers in respect of estate of a person dying on or after commencement. The proposed powers would cease to have effect on a date appointed by the Secretary by notice published in the Gazette.

8. Other amendments introduced by the Bill include abolition of the fees for grants of probate or letters of administration or resealing of such grants, time restriction of assessment or additional assessment of liability to tax of the executor of a deceased taxpayer, and provision of information by the Probate Registry of the High Court to the Commissioner.

9. Members may refer to the LegCo Brief for justifications and implications of the proposals. It is the Administration’s assessment that if estate duty and probate fees are abolished, an annual revenue of around HK\$1.5 billion and HK\$50 million respectively would be lost.

Public Consultation

10. According to the LegCo Brief, interested parties and the public were consulted as to whether the estate duty regime should be adjusted. The Financial Secretary conducted consultations with LegCo Members, various chambers, groups and associations and the general public while formulating the 2005- 2006 Budget and their views were taken into account.

Consultation with LegCo Panel

11. No consultation with any LegCo Panel was carried out.

Conclusion

12. The Legal Service Division is still scrutinizing the Bill. In light of the new policy introduced, Members may wish to form a Bills Committee to study the Bill in detail.

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