

**Extract from the Report of the Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005
submitted to House Committee on 21 October 2005**

X X X X X X X X X X

Residual functions to be taken up by the Secretary for Home Affairs upon the abolition of estate duty and fee charging

66. Upon abolition of estate duty, SHA will take up the following functions for probate administration purpose –

- (a) issue Certificates for Release of Money for burial expenses for 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 Authorizations for Removal from Bank Deposit Box; and
- (c) send public officers to attend the inventory-taking of the content of the bank deposit box at its inspection.

67. The Administration has explained that after the abolition of estate duty and enactment of the Bill, there will no longer be any revenue protection reason to retain such powers. However, the Administration considers it necessary to ensure that the deceased persons' families or dependants would not be adversely affected because of the change. The Administration will explore the possibility of having some of the functions related to the residual powers being performed by the private sector. At present, the proposal is that SHA will be empowered to discharge such functions and delegate these to the Commissioner of Inland Revenue administratively for a period, expected to be one year. This will ensure that the facility afforded to the public remains essentially unchanged for a period of time upon the abolition of estate duty. At the Bills Committee's request, the Administration has undertaken to elaborate on the arrangements during the resumption of the Second Reading debate on the Bill.

68. The Administration has explained that the proposed new section 60G in the Bill was introduced to provide that the relevant provisions empowering SHA to perform the residual functions shall cease to have effect on a date appointed by SHA by notice published in Gazette. Some members have suggested that section 60G should be deleted from the Bill to ensure that LegCo could be properly and thoroughly consulted on any proposal to cease the residual functions proposed to be taken up by SHA upon the abolition of estate duty. They consider the changes should be effected through

amendments to the main ordinance instead of through subsidiary legislation. In view of members' suggestion, the Administration will propose CSAs to delete the proposed section 60G from the Bill.

69. Members have also asked whether fees would be charged on these services to be taken up by SHA upon the abolition of estate duty.

70. The Administration has responded that in considering whether the services should be charged in the future, it would have to have regard to the following factors –

- (a) at present, only about 2% of the estate duty cases assessed by the Inland Revenue Department are dutiable. To the majority of the public, they have all along been receiving the services free of charge. Imposition of fees may not be acceptable to the public;
- (b) the Administration's proposal to abolish estate duty is to improve the development of Hong Kong's asset management business, and bring wider economic benefits to Hong Kong as a whole. In so doing, the change will not result in additional financial burden to the public, especially those with limited financial means;
- (c) the Certificate for Release of Money is usually applied for 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;
- (d) heirs to an estate need to inspect safe deposit boxes for ascertaining whether 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 inspection can only be carried out after making payment. It is possible that those with limited financial means may have difficulty in so doing; and
- (e) 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 \$300,000 per annum. Regarding the applications for inspection of safe 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.

71. The Administration has stated that in implementing the "user pays" principle, it has always taken into account other factors, such as public affordability and acceptability and other policy considerations. As the work proposed to be performed in

the future is not more than that currently performed by the Inland Revenue Department, the Administration therefore considers it more appropriate to keep the existing arrangements in respect of fees and charges unchanged and no fee will be charged on the functions to be taken up by SHA. The Administration has undertaken to review the situation after the new arrangements have been in operation for one year and consult the Panel on Financial Affairs in due course.

X X X X X X X X X X