

立法會
Legislative Council

LC Paper No. CB(1)2207/07-08
(These minutes have been seen
seen by the Administration)

Ref : CB1/BC/8/07/2

Bills Committee on Revenue Bill 2008

**Minutes of the third meeting
held on Thursday, 29 May 2008, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon Andrew LEUNG Kwan-yuen, SBS, JP (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon TAM Heung-man

Members absent : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon SIN Chung-kai, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS

Public officers attending : Financial Services and the Treasury Bureau

Mr Clement LEUNG
Deputy Secretary for Financial Services and the
Treasury (Treasury)

Mr Kenneth CHENG
Principal Assistant Secretary for Financial Services and
the Treasury (Treasury)

Inland Revenue Department

Mr CHU Yam-yuen
Deputy Commissioner (Technical)

Mr CHIU Kwok-kit
Assistant Commissioner (Unit One)

Mr YIM Kwok-cheong
Senior Assessor (Research) 1

Mr TAM Tai-pang
Senior Assessor (Special Duty)

Environmental Protection Department

Mr TANG Kin-fai
Assistant Director
(Environmental Compliance)

Electrical and Mechanical Services Department

Mr MAK Ka-chun
Acting Chief Engineer

Department of Justice

Mr Michael LAM
Senior Assistant Law Draftsman

Clerk in attendance : Miss Polly YEUNG
Chief Council Secretary (1)5

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Rosalind MA
Senior Council Secretary (1)8

Action

I Confirmation of minutes and matters arising

(LC Paper No. CB(1)1628/07-08 — Minutes of meeting on 16 May 2008)

The minutes of the meeting held on 16 May 2008 were confirmed.

II Meeting with the Administration

Submissions from organizations not attending the meeting

(LC Paper No. CB(1)1678/07-08(01) — Federation of Hong Kong Industries

LC Paper No. CB(1)1678/07-08(02) — Hong Kong General Chamber of Commerce

LC Paper No. CB(1)1678/07-08(03) — The Society of Chinese Accountants & Auditors

LC Paper No. CB(1)1685/07-08(01) — The Taxation Institute of Hong Kong

LC Paper No. CB(1)1685/07-08(02) — The Hong Kong Institution of Engineers)

Follow-up to issues raised at the meeting on 20 May 2008

(LC Paper No. CB(1)1627/07-08(01) — List of follow-up actions arising from the meeting held on 20 May 2008 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1627/07-08(02) — Administration's response to members' views and concerns raised at the meeting held on 20 May 2008)

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)563/07-08 — The Bill

LC Paper No. CB(1)1578/07-08(03) — Marked-up copy of the Bill prepared by the Legal Service Division

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| FIN CR 2/7/2201/07 | — The Legislative Council Brief issued by the Financial Services and the Treasury Bureau |
| LC Paper No. CB(1)1578/07-08(01) | — Letter dated 2 May 2008 from Assistant Legal Adviser (ALA) to the Administration |
| LC Paper No. CB(1)1578/07-08(02) | — Administration's response to ALA's letter dated 2 May 2008) |

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

2. The Administration undertook to provide its written response to the five submissions after the meeting.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)1884/07-08 on 12 June 2008.)

Proposal to lower the standard rate for salaries tax and tax under personal assessment (clause 7)

3. Some members opposed to the proposed lowering of the standard rate of salaries tax and tax under personal assessment as they considered that the proposal would mainly benefit the high-income groups and would result in substantial revenue losses in the long run. Mr LEE Cheuk-yan observed that if clause 7 of the Bill was voted on separately at the Council meeting, the Bills Committee would not have to consider moving a Committee Stage amendment (CSA) in its name for objecting to the proposal. Members invited the legal adviser of the Bills Committee to confirm the voting arrangements for the Committee Stage of the Bill after the meeting.

Proposal to lower the corporate profits tax rate (clause 10)

4. Some members remained unconvinced of the justification for lowering the corporate profits tax rate across the board irrespective of the scale of operation and assessable profits of the corporations. They were of the view that the proposed lowering of the corporate profits tax rate from 17.5% to 16.5% should only apply to small and medium taxpaying corporations while big corporations making large profits should be subject to the existing tax rate. In this connection, Mr Albert HO moved the following motion, which was seconded by Mr LEE Cheuk-yan:

"動議法案委員會提出委員會審議階段修正案，使草案第 10 條對《稅務條例》附表 8 新建議的利得稅率 16.5% 只適用於盈利額不多於 1000 萬元的公司或企業。"

(Translation)

"That it is moved that a Committee Stage amendment be proposed by the Bills Committee to the effect that the new profits tax rate of 16.5% proposed for Schedule 8 to the Inland Revenue Ordinance under clause 10 of the Bill only applies to corporations or enterprises with a profit of not more than \$10 million."

5. The Chairman ruled that the motion was relevant to the agenda item under discussion and invited members to speak. Mr CHAN Kam-lam did not agree with the proposed amendment in Mr HO's motion. He considered the proposed change unfair as corporations, irrespective of their scale, had likewise put in a lot of effort to maximize their profitability. Mr CHAN was of the view that at times of a substantial fiscal surplus, there was no practical reason for the Government to levy profits tax on business corporations at the current rate. The proposed lowering of the tax rate could provide incentive to corporations of different scales to set up their business in Hong Kong. Mr Howard YOUNG shared Mr CHAN's view. Mr YOUNG opined that the pros and cons of the amendment proposed by Mr Albert HO could be debated during the resumption of Second Reading debate on the Bill. On this occasion, it would suffice for members to decide whether the proposed CSA should be moved in the name of the Bills Committee

6. The Administration advised that the amendment proposed by Mr Albert HO would in effect introduce a progressive corporate profits tax regime instead of merely a change in the tax rate. The proposed amendment would complicate the existing simple taxation system of Hong Kong (under which there was only a flat corporate profits tax rate). It cautioned that some corporations might try to reduce their tax burden by splitting up their business so that each smaller entity would be subject to the lower tax rate. Moreover, the existing narrow tax base would worsen as the bulk of profits tax would be borne by only a few large corporations.

7. Ms Emily LAU supported the proposed amendment. She was of the view that the problem of a narrow tax base was the result of the Administration's failure to take forward a tax reform. Mr Albert HO added that the payment of corporate profits tax by only a small number of taxpaying corporations was the result of an unbalanced taxation system. Mr HO said that a fair taxation system should be developed in line with the principle of "ability-to-pay" and called on members to support his motion.

8. The Chairman put Mr Albert HO's motion to vote. Of the nine members present, six members voted for and two members voted against the motion. The Chairman abstained. The Chairman declared the motion passed by the Bills Committee.

9. Pursuant to the motion passed, members noted that the legal adviser of the Bills Committee would prepare the draft CSA to be moved in the name of the Bills Committee. Members also agreed that the draft CSA be circulated to members for consideration when ready.

Proposed waiver of the hotel accommodation tax (clause 2 and Part 3 (clauses 12 to 14))

10. Mr LEE Cheuk-yan maintained his objection to the waiver of the hotel accommodation tax. In this connection, he invited the legal adviser of the Bills Committee to also seek confirmation after the meeting as to whether clause 2 and clauses 12 to 14 under Part 3 of the Bill could be voted on separately at the Council meeting.

(Post-meeting note: The legal adviser's response to paragraphs 3 and 10, and the draft CSA prepared on the basis of the motion passed and after clarification with Mr LEE Cheuk-yan was issued to members vide LC Paper No. CB(1)1763/07-08 on 2 June 2008.)

Meeting arrangements and way forward

11. The Bills Committee completed clause-by-clause examination of the Bill. As members had by and large completed scrutiny of the Bill, they agreed that the meeting originally scheduled for 2 June 2008 would not be held. Members' views would be sought on the need or otherwise for holding a meeting on 5 June 2008 to consider the draft CSA to be prepared by the legal adviser and/ or the procedures for separate voting on individual clauses of the Bill. Members noted that the Administration planned to implement the hotel accommodation tax waiver with effect from 1 July 2008, if the Bill was enacted. Against that timeline, the Bill Committee noted that the proposed date for resumption of Second Reading debate on the Bill would be 25 June 2008 and the Bills Committee would submit its report to the House Committee on 13 June 2008.

(Post-meeting note: On the instruction of the Chairman, the meeting on 5 June 2008 would be held as scheduled. Members were notified of the meeting arrangement vide LC Paper No. CB(1)1778/07-08 on 3 June 2008.)

III Any other business

12. There being no other business, the meeting ended at 3:50 pm.

Council Business Division 1
Legislative Council Secretariat
22 July 2008

**Proceedings of the
Bills Committee on Revenue Bill 2008
Third meeting on Thursday, 29 May 2008, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 000204	Chairman	Confirmation of minutes of the 1 st meeting held on 16 May 2008 (LC Paper No. CB(1)1628/07-08)	
000205 – 000250	Chairman Administration	The Administration undertook to provide its written response to the five submissions after the meeting.	The Administration to take action as required in paragraph 2 of the minutes.
000251 – 000757	Chairman Administration	The Administration's briefing on its response to concerns and questions raised at the meeting held on 20 May 2008 (LC Paper No. CB(1)1627/07-08(02))	
000758 – 001341	Mr LEE Cheuk-yan ALA3	<p>(a) Mr LEE Cheuk-yan's view that the Administration's response did not address members' concern about the substantial revenue losses resulting from the tax reduction proposals in the long run, in particular in the face of strong demand for expenditure on areas such as health and welfare. Mr LEE reiterated his objection to the proposals to lower the standard rate of salaries tax and tax under personal assessment and the corporate profits tax rate. His enquiry on whether individual clauses of the Bill could be voted on separately at the Council meeting so that members could vote against the relevant clauses proposing the tax reductions (i.e. clauses 7 and 10).</p> <p>(b) ALA3's response that she would confirm the procedures for voting and advise members after the meeting. As to Mr LEE's view on moving Committee Stage amendment (CSA) to revise the corporate profits tax rate, ALA3's advice that CSAs moved to a bill would be subject to relevant provisions in the Rules of</p>	ALA3 to take action as required in paragraph 3 of the minutes.

		<p>Procedure (RoP). Under RoP, CSAs, which in the opinion of the President, had the effect of disposing of or charging the revenue could only be moved by a Member with the consent of the Chief Executive.</p>	
<p>001342 – 004522</p>	<p>Mr Frederick FUNG Administration Miss CHAN Yuen-han Mr Albert HO ALA3 Chairman Miss TAM Heung-man Mr LEE Cheuk-yan</p>	<p>(a) Mr Frederick FUNG’s observation that the information provided by the Administration in its response (LC Paper No. CB(1)1627/07-08(02)) revealed an increasing number of taxpaying corporations in the past five years although there had not been any reduction in the corporate profits tax rate. The Administration’s argument that lowering the corporate profits tax rate would increase the competitiveness of Hong Kong was not well-grounded.</p> <p>(b) The Administration’s advice that reduction in profits tax was a global trend. While many economies also offered tax incentives, Hong Kong’s competitive edge was mainly founded on its low and simple taxation system. Even if reduced by one percentage point, the profits tax rate of 16.5% was still above the 2002-2003 level.</p> <p>(c) Objection expressed by Miss CHAN Yuen-han, Mr Albert HO and Miss TAM Heung-man to the Administration’s rationale for lowering the corporate profits tax rate. View shared by Miss CHAN and Miss TAM that some members of the business community and the accountancy profession had expressed support for maintaining the existing rate so that more resources would be available to help the needy.</p> <p>(d) Miss CHAN Yuen-han pointed out that Members of the Hong Kong Federation of Trade Unions had all along supported the introduction of progressive corporate profits tax so that business corporations making huge profits would be subject to a higher tax rate. Mr Albert HO expressed a similar view and suggested that the</p>	

		<p>proposed corporate tax rate of 16.5% should only apply to corporations with annual profits not exceeding \$10 million.</p> <p>(e) Miss TAM Heung-man's view that instead of lowering the corporate profits tax rate, the Administration should consider other tax incentives to enhance the competitiveness of Hong Kong, such as group tax relief and tax concession for corporations setting up regional headquarters in Hong Kong.</p> <p>(f) The Administration's response that in the course of the 2008-2009 Budget consultation, there was clear support from the business sector and the accountancy profession for the tax reduction proposals. The proposed reduction would benefit a large number of small and medium sized enterprises, bearing in mind that about 70% of the taxpaying corporations were making annual profits of \$1 million or below.</p> <p>(g) Concern shared by Mr Frederick FUNG, Mr LEE Cheuk-yan and Miss TAM Heung-man that the proposed lowering of the standard rate for salaries tax and tax under personal assessment would mainly benefit high-income groups who had the ability to pay tax. Miss TAM's view that instead of alleviating the tax burden of the high-income groups, more relief measures should be implemented to help the needy.</p> <p>(h) The Administration's response that apart from salaries tax and personal assessment taxpayers, the proposed lowering of the standard rate would also benefit 24 600 unincorporated profits taxpayers and a number of property taxpayers. Proposals on other policy initiatives to help the needy were set out in the 2008-2009 Budget, while the scope of this Bill covered only the revenue proposals.</p>	
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004523 – 004644	Chairman Administration	Clause-by-clause examination of the Bill <i>Part 2 – Amendments to Inland Revenue Ordinance</i> <u>Clause 4 – Sections added</u> 16I. Deductions for specified capital expenditure incurred in relation to environmental protection facilities Members raised no query on the proposed section 16I.	
004645 – 004744	Mr LEE Cheuk-yan Chairman	(a) Mr LEE Cheuk-yan indicated that he would propose that the Bills Committee should move a CSA in its name to the effect that the reduction of the corporate profits tax rate to 16.5% would only apply to corporations making annual profits not exceeding \$10 million. (b) The Chairman suggested and members agreed that the motion be dealt with after the Bills Committee had completed clause-by-clause examination of the Bill.	
004745 – 005818	Chairman Administration ALA3	16J. Proceeds of sale of environmental protection facilities to be treated as trading receipts 16K. Environmental protection facilities owned as at commencement date Members raised no query on the proposed sections 16J and 16K. Schedule 17 Environmental protection facilities (a) ALA3's reference to section 2 of Part 2 of the proposed Schedule 17 and asked members to consider whether (i) it was necessary to suitably revise the section, taking into account that the Hong Kong Energy Efficiency Registration Scheme for Buildings (the Scheme) registered the "buildings", not the "installations";	

		<p>and</p> <p>(ii) it was necessary to align the term "building installations" in the proposed Schedule 17 with the term "building services installations" used in the Building Energy Codes of Practice for various types of installations issued by the Electrical and Mechanical Services Department .</p> <p>(b) The Department of Justice's advice that the register of building venues that had been registered under the Scheme contained the type of installation which was in compliance with the respective code of practice. The Administration's response that in order to support his claim under the proposed section 16I, a person could submit a copy of the Certificate of Registration that covered those installations for which specified capital expenditure was incurred. The term "building installations" included "building services installations". The Administration's view that the drafting of the provision was sufficiently clear and would unlikely give rise to operational difficulties.</p>	
<p>005819 – 010354</p>	<p>Chairman Administration</p>	<p><u>Clause 5 – Approved charitable donations</u></p> <p><u>Clause 6 – Section added</u></p> <p>90. Reduction of taxes for year of assessment 2007-2008</p> <p><u>Clause 7 – Standard rate</u></p> <p><u>Clause 8 – Rates</u></p> <p><u>Clause 9 – Allowances</u></p> <p><u>Clause 10 – Rate of profits tax in respect of a corporation</u></p> <p><u>Clause 11 – Schedules 17 and 18 added</u></p> <p>Schedule 17 Environmental protection</p>	

		<p>facilities</p> <p>Schedule 18 Reduction of taxes for year of assessment 2007-2008</p> <p>Members raised no query on clauses 5 to 11.</p>	
010355 – 010702	Administration Chairman	<p><i>Part 3(clauses 12 to 14) – Amendments to Hotel Accommodation Tax Ordinance</i></p> <p><u>Clause 12 – Tax on accommodation charges</u> Amendment to section 3(1) of the Hotel Accommodation Tax Ordinance</p> <p><u>Clause 13 – Tax to be paid and returns made to Collector</u></p> <p><u>Clause 14 – Schedule added</u></p> <p>Schedule Rate specified for purposes of section 3(1)</p> <p><i>Part 4 – Transitional Provisions</i></p> <p><u>Clause 15 – Interpretation</u></p> <p><u>Clause 16 – Allowances granted for current year of assessment</u></p> <p><u>Clause 17 – Applications for holding over payment of provisional salaries tax on additional grounds</u></p> <p><u>Clause 18 – Applications for holding over payment of provisional profits tax on additional grounds</u></p> <p><u>Clause 19 – Applications under section 17 or 18: general provisions</u></p> <p>Members raised no query on clauses 12 to 19.</p>	
010703 – 011920	Chairman Mr LEE Cheuk-yan ALA3 Mr CHAN Kam-lam Administration Mr Howard YOUNG Ms Emily LAU Mr Albert HO	<p>Motion moved by Mr Albert HO and seconded by Mr LEE Cheuk-yan on "動議法案委員會提出委員會審議階段修正案，使草案第 10 條對《稅務條例》附表 8 新建議的利得稅率 16.5%只適用於盈利額不多於 1000 萬元之公司或企業。 After discussion, the motion was voted on and passed by the Bills Committee.</p>	ALA3 to take actions as required in paragraph 9 of the minutes.

011921 – 012013	Chairman Clerk	Legislative timetable and meeting arrangements.	
012014 – 012050	Mr LEE Cheuk-yan Chairman	Mr LEE Cheuk-yan's view that he objected to the proposed waiver of the hotel accommodation tax. His request for the legal adviser to confirm whether the proposed clauses (clause 2 and clauses 12 to 14) in the Bill giving effect to the waiver could be voted on separately, so that it would not be necessary to move a CSA.	ALA3 to take action as required in paragraph 10 of the minutes.

Council Business Division 1
Legislative Council Secretariat
22 July 2008