

**Bills Committee on Inland Revenue (Amendment) Bill 2010
 (“the Bill”)**

Follow-up to Meeting on 25 May 2010

The Administration’s response to the list of follow-up actions arising from the meeting on 25 May 2010 is set out in the ensuing paragraphs.

A. Qualifying Standards for Each Category of Environment-friendly Vehicles under the Schedule

Vehicles under the Tax Incentives Scheme for Environment-friendly Commercial Vehicles

2. The current qualifying standard for environment-friendly commercial vehicles is set at Euro V level (Annex). Compared with Euro IV vehicles, Euro V heavy duty diesel vehicles emit about 40% less nitrogen oxides (“NOx”). For light duty diesel vehicles, Euro V models emit about 80% less respirable suspended particulates and 30% less NOx. As regards Euro V petrol/LPG vehicles, they emit about 30% less NOx.

3. The Environmental Protection Department (“EPD”) will review the qualifying standard annually in the light of technological development and the prevailing statutory emission standards so as to ensure that only vehicles of truly outstanding emission performance outstripping the prevailing statutory requirements are entitled to enjoy concessions for first registration tax (“FRT”). The new qualifying standard, if tightened up after the annual review, will be introduced on 1 April each year and published in EPD’s website.

4. When the new qualifying standard becomes effective, commercial vehicles meeting only the previous standard will not be eligible for the FRT reduction.

Vehicles under the Tax Incentives Scheme for Environment-friendly Petrol Private Cars

5. The qualifying standards (Annex) for environment-friendly petrol private cars are as below –

(a) hydrocarbons and NOx emissions not exceeding 50% of the limits in the Euro IV emission standards or the Japan 2005 emission standards; and

(b) fuel efficiency (measured by the mileage travelled with a litre of fuel) being at least 40% better than the average fuel efficiency in the corresponding private car class according to vehicle weight.

6. Similar to environment-friendly commercial vehicles, EPD will review the qualifying standards annually in the light of technological advancement to restrict the tax incentive to vehicles of truly outstanding emission and fuel efficiency performance. The new qualifying standards will be effective from 1 April each year and published on EPD's website. Petrol private cars meeting only the previous standards will not be eligible for the FRT reduction.

Hybrid Electric Vehicles

7. The Bill sets out the following definition for hybrid electric vehicle -

“Any motor vehicle (as defined by section 2(1) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330)) that is capable of drawing energy from both of the following on-vehicle sources of stored energy or power for mechanical propulsion –

(a) consumable fuel;

(b) battery, capacitor, flywheel, generator or other electrical energy or power storage device.”

8. The above definition for hybrid electric vehicles does not call for a separate qualifying standard and hence there is no need for regular reviews.

Electric Vehicles

9. Electric vehicle is now defined under section 5(3) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) as any motor vehicle that is solely propelled by electric power and does not emit any exhaust gas. Same as hybrid electric vehicles, there is no need for a separate qualifying standard for this category of vehicles.

B. Suggestion Concerning the Drafting of the Bill

10. After deliberation, the Administration considers that the term “remission” given in the Schedule as contained in clause 8 of the Bill will not give rise to statutory interpretation problems or misunderstanding in practice.

11. Since the two Tax Incentives Schemes mentioned in the Schedule are administered under the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330), the word “remission” must be interpreted in the context of the relevant provisions of that Ordinance. The relevant provisions of that Ordinance contained in section 5 read as follows –

“(5) The Chief Executive may **remit** in whole or in part first registration tax payable and may attach conditions to any **remission**.

(5A) A person who obtains a **remission** of first registration tax by submitting documents that the person knows to be false in a material regard, commits an offence and is liable on summary conviction to a fine of \$500,000 and to imprisonment for 12 months.

(5B) A person who obtains a **remission** of first registration tax –

(a) by submitting documents that are false; or

(b) contrary to the conditions attaching to the remission,
is required to pay the first registration tax **remitted** and which first registration tax is regarded as outstanding first registration tax for the purposes of section 4J(b).”.

12. In these provisions, the Chinese equivalent of “remit” or “remission” is “免除”. While the Chinese term alone is capable of meaning a total waiver of first registration tax, such an interpretation is not tenable as section 5(5) of that Ordinance provides clearly that “[t]he Chief Executive may remit in whole or in part first registration tax payable”. The use of “remission” or its Chinese equivalent “免除” in that subsection and in subsections (5A) and (5B) clearly indicates that the term includes a remission in whole or in part.

13. Accordingly, although an expression “in whole or in part” has not been used to qualify the term “remission” in section 1 of Part 3 of the Schedule, both the English and Chinese versions of the term, which must be interpreted in the context of the relevant provisions of the Motor Vehicles (First Registration Tax) Ordinance, will not be understood to mean a total waiver.

14. In any event, since the EPD has published in its website all the vehicles which have been approved to be eligible for the two Tax Incentives Schemes, there should be no problem in practice in ascertaining whether or not a particular type of vehicle is covered by the Schemes.

15. For reasons set out in paragraphs 11 to 14 above, the Administration does not intend to add “in whole or in part” after “remission of first registration tax” in section 1 of Part 3 of the Schedule.