

**立法會**  
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**Subcommittee on Public Revenue Protection (Motor Vehicles First  
Registration Tax) Order 2011**

**Background brief**

**Purpose**

This paper sets out the background to the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 (the Order). It also provides background information on the previous discussion of the Public Revenue Protection (Revenue) Order 2003 (the 2003 Order) which was made to give temporary effect to the 2003-2004 budget proposal relating to the first registration tax (FRT).

**Background**

2. The Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 was made by the Chief Executive under section 2 of the Public Revenue Protection Ordinance (Cap. 120) (the Ordinance) after consultation with the Executive Council to give immediate effect to the proposal in paragraph 166 of the 2011-2012 Budget Speech delivered by FS on 23 February 2011.

**The Public Revenue Protection (Motor Vehicles First Registration  
Tax) Order 2011**

3. Section 2 of the Ordinance provides, among other things, that if the Chief Executive approves of the introduction into the Legislative

Council (LegCo) of a bill whereby, if the bill were to become law any duty, tax, fee, rate, etc., would be imposed, removed or altered, the Chief Executive may make an order giving full force and effect of law to all the provisions of the bill. The Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 is made to give full force and effect to all the provisions of the bill contained in the Schedule to the Order. The bill will be introduced into LegCo in accordance with the normal legislative procedures.

4. The Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 is a temporary measure. Under section 5(2) of the Ordinance, an order made under the Ordinance shall expire and cease to be in force -

- (a) upon the notification in the Gazette of the rejection by LegCo of the bill in respect of which the order was made; or
- (b) upon the notification in the Gazette of the withdrawal of the bill or the order; or
- (c) upon the bill, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months from the day on which the order came into force,

whichever event first happens.

5. Under section 6 of the Ordinance, any duty paid under the order in excess of the respective duty immediately after the expiry of the order shall be repaid to the person who paid the same.

6. The bill contained in the Schedule to the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 proposes to amend item 1 of the Schedule to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to increase the first registration tax for private cars by about 15% as follows –

Tax Bands	Existing rates	Proposed rates
(a) On the first \$150,000 of taxable value*	35%	40%
(b) On the next \$150,000	65%	75%
(c) On the next \$200,000	85%	100%
(d) On the remainder (i.e. on taxable value over \$500,000)	100%	115%

7. The Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 came into force at 11 a.m. on 23 February 2011.

### **Proposals relating to the first registration tax in the Budget Speech for 2003-2004**

8. In his Budget Speech for 2003-2004, the then FS proposed to amend the FRT system. Currently, FRT for motor vehicles was charged on the Published Retail Price of vehicles and their accessories. Certain accessories, namely air-conditioners, audio equipment and anti-theft devices, as well as distributors' warranties are exempted from FRT and their values excluded from the calculation of taxable value. The then FS proposed to abolish these exemptions and strengthen the anti-avoidance provisions, introduce a marginal tax system for certain motor vehicles, and make adjustment to tax rates for different classes of motor vehicles.

### The Public Revenue Protection (Revenue) Order 2003 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120)

9. The 2003 Order, made in accordance with the Ordinance, was gazetted on 5 March 2003 and tabled at the Council on 12 March 2003. For revenue protection purpose, the 2003 Order gave temporary effect to the budget proposals relating to FRT starting from 2:30 p.m. on 5 March

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\* Under section 4E(2) of Cap. 330, "taxable value" shall be the aggregate of the published retail price of the motor vehicle, any optional accessories fitted or to be fitted to the vehicle within 6 months after first registration; and any warranty other than a manufacturer's warranty, etc.

2003 of the Budget Day. The Schedule to the 2003 Order contained provisions of the Revenue Bill 2003.

Subcommittee on Public Revenue Protection (Revenue) Order 2003 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120)

10. A subcommittee was formed on 21 March 2003 to study the 2003 Order. The Subcommittee held three meetings and received views from deputations on the FRT proposals. In the course of deliberations, the Subcommittee examined the following major issues -

- (a) impact of the FRT proposals on the motor vehicle trade and related sectors;
- (b) consequences of repealing or not repealing the 2003 Order; and
- (c) proposal to grant exemption for cars ordered before the 2003 Order took place.

11. The Subcommittee reported its deliberations to the House Committee on 11 April 2003. In gist, the Subcommittee noted that the 2003 Order had come into force at 2:30 p.m. on 5 March 2003 and would be in force for a maximum of four months. LegCo Members only had the power to repeal the 2003 Order but not to amend the provisions therein. The Subcommittee also noted that by repealing the 2003 Order, FRT would be charged at old rates as before the commencement of the 2003 Order but there was no immediate refund of the excess taxes collected. However, if the 2003 Order was repealed, in the event that the Revenue Bill 2003 was subsequently passed without amendment, the Administration would have to arrange for recovery of the underpaid tax during the period after the repeal of the 2003 Order and before the passage of the Bill. On the other hand, if the 2003 Order remained in force, any excess tax collected under that Order would be refunded in the event that the Revenue Bill 2003 was subsequently passed with tax rates lower than proposed or not passed at all. The Subcommittee was of the view that as there were uncertainties on the outcome of the Bill, it was inappropriate to repeal the 2003 Order to avoid causing confusion to the trade and vehicle buyers. Given the impact of the FRT proposals on the motor vehicle trade and related sectors, particularly in respect of

employment opportunities, the Subcommittee recommended that a bills committee be formed to study the Revenue Bill 2003 as soon as possible.

### Bills Committee on Revenue Bill 2003

12. At the House Committee meeting on 11 April 2003, Members decided to form a bills committee to scrutinize the Revenue Bill 2003. The Bills Committee held five meetings and received views from the motor vehicle trade and related sectors. In the course of deliberations, the Bills Committee examined the following major issues -

- (a) abolishing exemptions for three vehicle accessories; and
- (b) adjusting the bandwidths and tax rates.

13. The Bills Committee reported its deliberations to the House Committee at its meeting on 13 June 2003 recommending the resumption of the Second Reading debate on the Bill on 25 June 2003. The Revenue Bill 2003 was passed on 25 June 2003.

### **Relevant papers**

#### Report of the Bills Committee on Revenue Bill 2003

[http://www.legco.gov.hk/yr02-03/english/bc/bc07/reports/bc07\\_rpt.htm](http://www.legco.gov.hk/yr02-03/english/bc/bc07/reports/bc07_rpt.htm)

#### Report of the Subcommittee on Public Revenue Protection (Revenue) Order 2003 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120)

[http://www.legco.gov.hk/yr02-03/english/hc/sub\\_leg/sc05/reports/sc05\\_rpt.htm](http://www.legco.gov.hk/yr02-03/english/hc/sub_leg/sc05/reports/sc05_rpt.htm)

#### Legal Service Division Report on Public Revenue Protection (Revenue) Order 2003 made under section 2 of the Public Revenue Protection Ordinance (Cap. 120)

<http://www.legco.gov.hk/yr02-03/english/hc/papers/hc03211s-73.pdf>

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