

立法會
Legislative Council

LC Paper No. CB(1)1281/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/9/11

Subcommittee on Rating (Exemption) Order 2012

Minutes of the first meeting
held on Thursday, 23 February 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Starry LEE Wai-king, JP
Hon Alan LEONG Kah-kit, SC
Hon Albert CHAN Wai-yip

Public officers attending : Agenda item II

Miss Cathy CHU
Deputy Secretary for Financial Services and the
Treasury (Treasury)

Ms Shirley KWAN
Principal Assistant Secretary for Financial Services
and the Treasury (Treasury)

Ms Joan HUNG
Assistant Secretary for Financial Services and the
Treasury (Treasury)

Mr IP Pak-keung
Assistant Commissioner (Rating and Valuation)
Rating and Valuation Department

Mr CHENG Kim-fung
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Miss Rita YUNG
Council Secretary (1)3

Action

I. Election of Chairman

Mrs Sophie LEUNG was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(L.N. 14 of 2012

-- Rating (Exemption) Order
2012

LC Paper No. LS26/11-12

-- Legal Service Division
Report

LC Paper No. CB(1)1103/11-12(01)

-- Paper on Rating
(Exemption) Order 2012
prepared by the Legislative
Council Secretariat
(background brief)

LC Paper No. CB(1)1103/11-12(02)
(*Chinese version only*)

-- Letter dated 17 February
2012 from Hon Albert
CHAN Wai-yip

LC Paper No. CB(1)1103/11-12(03)

-- Administration's response
to questions raised by Hon
Albert CHAN Wai-yip as
set out in LC Paper No.
CB(1)1103/11-12(02))

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

3. The Chairman, Ir Dr Raymond HO, Mr LEE Cheuk-yan, Ms Starry LEE and Mr Alan LEONG declared that they owned properties in Hong Kong. Mr Albert CHAN declared that his wife was the owner of a domestic property in Hong Kong.

4. The Administration was requested to:

(a) provide information on the private companies as ratepayers which received the top ten highest amounts of rates concession in the years 2003-2004, 2007-2008 to 2010-2011 respectively, including the names of the companies and amounts of rates concession involved;

(b) provide the total number of domestic properties and non-domestic properties subject to rates payable five years ago, including the breakdown by classifications on rates payable by the landlord or the tenant of the properties; and

(c) advise whether amendments could be made to the Rating (Exemption) Order 2012 (the Order) under the Rating Ordinance (Cap. 116) to provide that an individual owner (be it a natural person or a corporate) of a number of tenements who was liable to pay rates might only have the benefit of rates concession up to a certain number of tenements owned by him.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)1196/11-12(02) on 28 February 2012.)

5. The Assistant Legal Advisor (ALA) was also requested to prepare a note to advise the Subcommittee whether amendments as stated in paragraph 4(c) above could be made to the Order under the Rating Ordinance.

(Post-meeting note: The information provided by ALA was issued to members vide LC Paper No. LS41/11-12 on 28 February 2012.)

Legislative timetable and meeting arrangement

6. To enable the Subcommittee to provide a report to the House Committee (HC) and to allow sufficient time for giving notice of motion to amend the Order, members agreed that the Chairman should move a motion at the Council meeting on 29 February 2012 to extend the scrutiny period of

the Order to 28 March 2012. Members noted that the Chairman would give a verbal report on the Subcommittee's deliberation at the HC meeting on 2 March 2012, and that the deadline for giving notice of motion to amend the Order and the date of moving the motion to amend the Order at Council meeting were 21 and 28 March 2012 respectively.

7. Members agreed to schedule a meeting with the Administration to continue to examine the Order. The Secretariat would consult members on the meeting date and notify them of the meeting arrangements in due course.

(Post-meeting note: With the concurrence of the Chairman, the next meeting of the Subcommittee had been scheduled for Wednesday, 29 February 2012, from 8:30 am to 10:30 am.)

III. Any other business

8. There being no other business, the meeting ended at 11:50 am.

Council Business Division 1
Legislative Council Secretariat
13 March 2012

**Proceedings of the first meeting of
Subcommittee on Rating (Exemption) Order 2012
on Thursday, 23 February 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000150 – 000249	Ir Dr Raymond HO Mr Albert CHAN Mrs Sophie LEUNG	Election of Chairman	
000250 – 000414	Chairman Ir Dr Raymond HO Mr LEE Cheuk-yan Ms Starry LEE Mr Alan LEONG Mr Albert CHAN	Declaration of interests	
000415 – 000529	Chairman Administration	Briefing by the Administration on the Rating (Exemption) Order 2012 (the Order)	
000530 – 001524	Chairman Mr Albert CHAN Administration	<p>Noting that the proposal to waive rates for 2012-2013 would cost the Government \$11.7 billion, Mr Albert CHAN opined that the rates exemption would benefit mainly the property developers and investors who owned the majority of properties in Hong Kong. He urged the Administration to introduce more relief measures to support the disadvantaged groups, such as the low-income earners renting partitioned rooms in old buildings. In this connection, he requested the Administration to provide information on the private companies which received the top ten highest amounts of rates concessions in previous cases of rates exemption.</p> <p>The Administration responded that:</p> <p>(a) the Order was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) (the Ordinance) to give effect to the one-off measure of rates concession proposed by the Financial Secretary (FS) in the 2012-2013 Budget. Rates were one of Hong Kong's indirect taxes levied on properties and the rates exemption would benefit all ratepayers, including the landlord or tenant of a property. Generally speaking, a tenant who paid rates should be able to benefit from the rates exemption directly;</p> <p>(b) on the distribution of the estimated total rates</p>	The Administration to follow up as stated in paragraph 4(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>concession of \$11.7 billion by property type, the amount of rates concession in terms of small domestic premises (i.e. up to 752 square feet) was \$5,846 million, which was the highest among various property types; and</p> <p>(c) in the 2012-2013 Budget, FS announced a package of initiatives to help ease the pressure of the economic downturn, targeted at people from all sectors of the community, including the disadvantaged.</p>	
001525 – 002200	Chairman Ms Starry LEE Administration	<p>Ms Starry LEE enquired about the percentage of domestic properties that would be subject to no rates following rates exemption for 2012-2013, and the maximum rateable value of these properties. She considered that the Administration should allow the "unused" amount of rate concession under the ceiling of \$2,500 per quarter for each rateable property to be carried forward for paying the rates in the future within a certain time limit, similar to the arrangement for the electricity charges subsidy from the Government in recent years.</p> <p>In response, the Administration advised that about 94% of domestic properties, i.e. with an estimated monthly rental value below \$16,600, would be subject to no rates following rates exemption for 2012-2013. The carry-forward arrangement for electricity charges subsidy was based on environmental concerns. Since any unused subsidy in a month could be carried forward for paying electricity charges under the same account till the expiry of a three-year period or the close of the account, whichever was the earlier, users would have sufficient time to fully utilize the subsidy and there would be no need to increase normal electricity consumption to exhaust the subsidy. Rates concession was different. It was a one-off measure proposed in the light of economic situation, the livelihood burden of the people and the fiscal situation. Allowing carry-forward would entail a recurrent nature, which was not the intention of the Government. Moreover, allowing the "unused" amount of rates concession to be carried forward might involve substantial adjustments to the accounting system of the Rating and Valuation Department over a period of at least six months, thus delaying the commencement date of the Order. As such, the Administration would not consider introducing a carry-forward arrangement for rates concession.</p>	

Time marker	Speaker	Subject(s)	Action required
002201 – 003024	Chairman Mr LEE Cheuk-yan Administration	<p>Noting that there had been several cases of rates exemption implemented as relief measures in recent years, Mr LEE Cheuk-yan expressed concern whether there had been any change to the terms of the tenancy agreement in the market in terms of the responsibility to pay rates, as compared with five years ago. He also expressed concern whether the rates exemption would benefit the tenants as in practice, the rent payable by some tenants to their landlords included an element of the rates payable on the property. He also opined that the rates exemption on non-domestic properties would only benefit the property developers who owned the majority of shops, commercial premises and offices, instead of the small and medium enterprises (SMEs).</p> <p>The Administration responded that:</p> <p>(a) in practice, terms of tenancy agreements might vary. Some tenancy agreements might contain a general provision that the rent was inclusive or exclusive of other payments such as rates, government rent or management fees. Whether the responsibility to pay rates rested with the landlord or the tenant was primarily a matter to be negotiated and agreed to by the parties concerned. If rates were paid by the landlord, whether the landlord was required to pass on any rates concession to the tenant would depend on the terms in the tenancy agreement. As rates concession was not an entirely new measure, the Administration considered that landlords and tenants should have acquired experience over the years to work out mutually acceptable arrangements; and</p> <p>(b) there were about 400 000 non-domestic properties (NDPs), of which 200 000 were reported leased out. Among these leased NDPs, the rates of about 110 000 of which were paid by the tenants whereas those of over 70 000 were paid by landlords. Among the 230 000 leased domestic properties, the rates of about 10 000 of which were paid by tenants whereas those of 210 000 were paid by landlords.</p>	The Administration to follow up as stated in paragraph 4(b) of the minutes.
003025 – 003549	Chairman Ir Dr Raymond HO Administration	<p>Ir Dr Raymond HO expressed support for the rates exemption to help ease the hardship and tax burden of the middle class.</p> <p>Echoing Ms Starry LEE's view, the Chairman and Ir</p>	

Time marker	Speaker	Subject(s)	Action required
		Dr Raymond HO called on the Administration to consider introducing a carry-forward arrangement for rates concession in the future, in particular for individuals or SMEs owning one property for self-use.	
003550 – 010347	Chairman Mr Albert CHAN Ir Dr Raymond HO Assistant Legal Adviser (ALA) Administration	<p>Mr CHAN Wai-yip enquired whether amendments could be made to the Order under the Ordinance to provide that an individual owner (be it a natural person or a corporate) of a number of tenements who was liable to pay rates might only have the benefit of rates concession up to a certain number of tenements owned by him.</p> <p>In response, the Administration advised that under section 36(2) of the Ordinance, the Chief Executive in Council might, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part. The assessment and collection of rates under the Ordinance were also done on the basis of individual tenements. The Order was made on the basis of the existing mechanism to give effect to the one-off measure of rates concession proposed by FS in the 2012-2013 Budget. The Administration had doubts whether limiting the amount of rates concession was feasible as proposed by Mr Albert CHAN.</p> <p>Discussion on amendments to the Order.</p>	<p>The Administration to follow up as stated in paragraph 4(c) of the minutes.</p> <p>ALA to follow up as stated in paragraph 5 of the minutes.</p>
010348 – 010450	Chairman Clerk	Legislative timetable and meeting arrangement	