

財經事務及庫務局

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By email (dywlo@legco.gov.hk)

27 March 2019

Mr Derek LO
Clerk to Subcommittee
Legislative Council Secretariat
1 Legislative Council Road
Central, Hong Kong

Dear Mr Lo,

**Subcommittee on Revenue (Reduction of Business Registration Fees
and Branch Registration Fees) Order 2019**

Thank you for your email dated 26 March 2019 enclosing the list of follow-up actions arising from the Subcommittee meeting on the same date. Please find the Government's response at **Annex**.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'W' followed by a wavy line.

(Ms Pecvin Yong)
for Secretary for Financial Services and the Treasury

c.c.

Commission of Inland Revenue (Attn: Ms YY TSE)
Department of Justice (Attn: Ms Amy CHAN)

**Revenue (Reduction of Business Registration Fees
and Branch Registration Fees) Order 2019**

**Government's response to the follow-up issues raised at
the Subcommittee meeting on 26 March 2019**

At the meeting of the Subcommittee on 26 March 2019, the Government was requested to provide written response to the Chairman's concerns on the legal basis for and operational details of the mechanism for refund of business registration fees paid as referred to in paragraph 5 of the Government's paper (LC Paper No. CB(1)761/18-19(01)).

2. The Revenue (Reduction of Business Registration Fees and Branch Registration Fees) Order 2019 ("Order"), which is made pursuant to **section 39A(a)** of the Public Finance Ordinance (Cap. 2) ("PFO") and attached at Annex to LC Paper No. CB(1)761/18-19(01), serves to reduce the fees payable for business registration certificates and branch registration certificates with a **commencement date (including commencement date for renewal)** falling between 1 April 2019 and 31 March 2020 (both dates inclusive) by an amount of \$2,000 and \$73 respectively. Section 39A(a) of PFO provides that the Chief Executive may **by order** reduce or vary any fee or charge made payable to Government by or under any Ordinance.

3. In other words, the Order does not cover businesses which are not yet required to renew their registration certificates within 2019-20 but have nonetheless made payment in respect of business registration certificates or branch registration certificates with validity falling within 2019-20 (i.e. some of those businesses with 3-year registration certificates). Neither does the Order cover businesses which will not renew their registration certificates within 2019-20 due to cessation of business but have nonetheless made payment in respect of registration certificates covering 2019-20.

4. Since the validity period of the certificates mentioned in paragraph 3 above also fall within the concession period under the relevant Budget measure, we propose to make refund to those businesses on a pro-rata basis where appropriate. The **refund**, which is not covered by the Order, is **separately** effected by way of approval from the Chief Executive pursuant to **section 39A(b)** of PFO, which provides that any fee or charge made payable by or under any Ordinance to the Government or to any public body or public officer, not being a fee or charge which is regulated by rules of court may be remitted or refunded, in whole or in part, in any particular case and on any special ground by the Chief Executive. Unlike **section 39A(a)** which specifies that the Chief Executive may “**by order**” (i.e. by subsidiary legislation) reduce or vary any fee or charge, the words “by order” are **NOT** expressed in **section 39A(b)** and therefore the making of legislation is not intended under section 39A(b) for granting remission or refund. The remission or refund under section 39A(b) will be exercised under the discretionary power of the Chief Executive on case-by-case basis and no legislation is involved. The refund will be made by the Inland Revenue Department starting from late July 2019.

Treasury Branch
Financial Services and the Treasury Bureau
March 2019