

立法會
Legislative Council

LC Paper No. CB(1)362/99-00

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seen by the Administration)

Ref: CB1/BC/15/98/2

Bills Committee on Revenue Bill 1999

**Minutes of meeting held on
Thursday, 13 May 1999, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon Christine LOH
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon Andrew WONG Wang-fat, JP
Hon Mrs Miriam LAU Kin-ye, JP

Non-Panel member attending : Hon LAU Kong-wah

Members absent : Hon Eric LI Ka-cheung, JP
Hon SIN Chung-kai
Hon Andrew CHENG Kar-foo

Public officers attending : Mr Martin GLASS
Deputy Secretary for the Treasury

Mr Kim SALKELD
Deputy Secretary for Planning, Environment and
Lands

Mr WONG Ho-sang
Commissioner of Inland Revenue

Miss Amy TSE
Principal Assistant Secretary for the Treasury

Miss Vivian SUM
Assistant Secretary for the Treasury

Mr Roy TANG
Principal Assistant Secretary for Transport

Dr Ernest S W LEE
Assistant Commissioner for Transport

Mr LAI Pak-hay
Chief Superintendent (Traffic), The Police

Mr Bryan CHAN
Principal Assistant Secretary for Financial Services

Mr Y Y CHU
Chief Assessor
Inland Revenue Department

Mr Thomas LI
Senior Assessor
Inland Revenue Department

Ms Sherman CHAN
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Miss Odelia LEUNG, Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG, Assistant Legal Adviser 1
Mr KAU Kin-wah, Assistant Legal Adviser 6
Mrs Mary TANG, Senior Assistant Secretary (1)2

I Meeting with the Administration
(LC Paper No. CB(1)1318/98-99(04))

Deferred payment of stamp duty for agreement for sale of residential property

The Commissioner for Inland Revenue (CIR) briefed members on the proposal to allow deferral of stamp duty payment for the agreement for sale of residential property which was set out in the information paper (Annex E to LC Paper No. CB(1)1318/98-99(04)).

2. Responding to Mr Ronald ARCULLI's query about the requirement for a banker's undertaking from a corporate purchaser applying for deferral of stamp duty payment, CIR advised that this requirement was necessary to avoid the possible abuse of the deferral scheme by property speculators who might make use of shell companies as a tool to evade payment of stamp duty chargeable on a confirmor agreement. Evasion of payment of stamp duty was possible because shell companies could quickly distribute all available cash and assets soon after the sub-sale of the property. This would render any action taken by Inland Revenue Department to recover the stamp duty on the confirmor agreement fruitless. The Administration therefore considered it essential to require the submission of a banker's undertaking as security when an application was made for deferral of stamp duty payment on an agreement for sale of residential property by a corporate purchaser. For commercial properties, the existing law provided that stamp duty was payable upon completion of the assignment.

3. Mr Ronald ARCULLI opined that the proposed requirement was an attempt made by the Administration in discouraging corporate purchasers from buying residential properties. He said that to justify the requirement, the Administration need to provide statistics to show the default rate of corporate purchasers in payment of stamp duty. Mrs Miriam LAU pointed out that since conveyancing solicitors had the responsibility to ensure payment of stamp duty before effecting the transaction legally, it would be quite unlikely that a purchaser could evade such payment. Therefore, there should not be any difference in the requirements between an individual and a corporate purchaser as far as deferral of stamp duty payment was concerned. The proposed requirement would not serve the intended purpose of targeting at shell companies against evasion of payment of stamp duty but would affect all companies involved in property dealing.

4. The Chief Assessor, Inland Revenue Department (CA/IRD) said that information on the default rate of corporate purchasers in paying stamp duty was not available because under the existing law, registration of a sale and purchase agreement was contingent upon the payment of stamp duty. However, some indirect statistics might shed light on the issue. Out of the \$32.2 million outstanding additional stamp duty as at May 1999, \$20.5 million were owed by corporate purchasers. For the year 1997 to 1998, property dealing companies accounted for 36% of all outstanding profit tax. These figures indicated that the tax default rates of property dealing companies were particularly high. The proposed requirement for a banker's undertaking was therefore necessary to protect public revenue.

Admin. 5. Members considered the information concerning the amount of outstanding additional stamp duty and outstanding profits tax owed by companies unrelated to the issue at stake. They reiterated that relevant information on the default rate of corporate purchasers on stamp duty payment was necessary to justify the proposal. The Administration agreed to provide further information.

Adjustment of stamp duty rates

6. On Mr Ronald ARCULLI's enquiry about the need for adjusting stamp duty rates, CIR explained that the proposal to increase the stamp duty rates for properties valued over \$3 million was a revenue raising measure. Revenue from stamp duty decreased in 1998-99 as compared with 1997-98. This was attributed both to the fall in property prices and to the reduction in the number of property transactions. Stamp duty constituted a very small fraction of the transaction value of a property. During the period from 1 April 1998 to 31 March 1999, the property price index for small and medium-sized properties had dropped 26% while those of large-size properties (100m² and above) had dropped 28%. CIR pointed out that given the fall in property prices, the absolute amount paid by a purchaser for stamp duty was less despite an increase in stamp duty rates.

7. The Deputy Secretary for the Treasury (DS for Tsy) said that revenue raising measures were included in the 1999-2000 Budget to restore a balance budget in mid-term. These measures were made on a highly selective basis to minimise the impact on the community. The proposed increase in stamp duty rates was focused on the higher end of the property market and would not affect 80% of the properties. The proposed increase was considered affordable to those who could best afford it. DS for Tsy added that the stamp duty rates had been adjusted from time to time, taking account of the prevailing market conditions.

8. Mr Ronald ARCULLI said that the proposed increase of stamp duty rate from 2.75% to 3.75% in respect of properties valued over \$6 million which represented a 36% increase was very substantial. He enquired about the way for arriving at the proposed increase and questioned whether the Administration had set a target amount of revenue from stamp duty to compensate for the reduced revenue resulting from the drop in property prices and transactions. DS for Tsy reiterated that despite the proposed increase in stamp duty rates, purchasers would pay less in absolute terms in stamp duty for the same transaction than when the property market was in the peak. The Principal Assistant Secretary for the Treasury added that based on the transaction records for the period from April 1998 to August 1998, less than 20% of the transactions involved properties valued over \$3 million and less than 5% involved properties over \$6 million.

9. On Mr Ronald ARCULLI's further enquiry on the impact of the fall in property prices on revenue, DS for Tsy provided the following breakdown on the amount of stamp duty collected from property transactions -

<u>financial year</u>	<u>amount of stamp duty collected</u>
1996-97	\$40.8 billion
1997-98	\$17.2 billion
1998-99	\$6.3 billion

Admin. In response to members, the Administration would provide a breakdown of stamp duty collected by types of property for the past three fiscal years.

10. Referring to Annex D to LC Paper No. CB(1)1318/98-99(04), Mrs Miriam LAU enquired about the rationale for pitching properties valued over \$6 million for the substantial increase in stamp duty rates. She was of the view that nowadays a property worth \$6 million was not a luxurious flat but an average increase of stamp duty over \$130,000 for such a flat was quite substantial. In response, CIR referred members to the Annex which showed, inter alia, the following statistics -

<u>Property consideration</u>	<u>Estimated number of transactions in 1999-2000</u>
less than \$3 million	128,800
\$3 to \$4 million	12,400
\$4 to \$6 million	8,600
\$6 million or above	7,300

11. CIR said that an increase in stamp duty of \$135,329 per transaction of properties in excess of \$6 million was an average figure. This was derived from averaging the estimated amount of stamp duty payable for the 7,300 transactions the value of which varied and some could be over tens of millions.

12. As to why the line was drawn at properties valued at \$6 million or over, DS for Tsy said that the proposed increases were percentage increases based on the traditional gradations in values under the existing legislation. There was no preconceived notion on the absolute amount of revenue which the Administration intended to raise. The Administration had looked at a number of scenarios and recommended the proposed increases which were considered fair and would produce a substantial amount of revenue.

13. Mr Ronald ARCULLI said that the modified scheme proposed under clause 18(b) of the Bill which exempted agreements which were cancelled or not completed from paying stamp duty was a great relief to developers.

Under the modified scheme, developers involved in the acquisition of properties for redevelopment projects would no longer be required to effect the stamp duty payment if they were subsequently unable to acquire all the properties for redevelopment. He considered the modified scheme a positive measure which would facilitate redevelopment.

Increased fixed penalty for smoky vehicles

14. The Chairman referred members to the submissions received on the proposal to increase the fixed penalty for smoky vehicles which were circulated under LC Paper Nos. CB(1)1272, 1281 and 1309/98-99. She informed members that the Hong Kong Union of Light Van Employees had requested to meet the Bills Committee to express views on the proposed increase.

15. Members deliberated on whether the Bills Committee should meet deputations. Referring to paragraph (b) of LC Paper No. CB(1)1318/98-99(04), Mrs Miriam LAU was concerned that the proposed amendment by Miss Christine LOH was outside the ambit of the Bill. She questioned whether the Bills Committee was the right forum to discuss policy matters which should best be dealt with by the relevant Panels. The Chairman said that it would be difficult not to touch on policy matters when discussing revenue measures. If a member wished to move an amendment, the Bills Committee should proceed to discuss the amendment. Whether the amendment would be allowed was decided by the President of LegCo. Miss Christine LOH said that before considering the proposed increase in fines for smoky vehicles, members would need to know whether the Administration was contemplating a further increase in the next LegCo session. She might need to reconsider her amendment to take account of the Administration's plans. Mr Ronald ARCULLI opined that it was proper for the Bills Committee to discuss Miss Christine LOH's amendment. More information about the justifications on the proposed increase and measures to rectify vehicle emissions should be provided by the Administration.

16. DS for Tsy said that adjusting the levels of fixed penalties for traffic offences in line with inflation was meant to maintain the general deterrent effect of penalties. There was no specific policy intent in respect of the proposed increases. He confirmed that the Planning, Environment and Lands Bureau (PELB) was formulating proposals to increase fines to achieve the policy objective of environmental protection.

17. The Chairman expressed regret that the Administration had failed to send representatives from PELB to assist members in the discussion on the subject. Miss Christine LOH said that she had had discussions with representatives of PELB and Environmental Protection Department on her proposed amendment and had urged them to attend the meeting. Mrs Selina CHOW said that the Administration had been creating an unnecessary

difficulty for the Bills Committee. She requested the attendance of the appropriate officials at the next meeting.

18. The Deputy Secretary for Planning, Environment and Lands (DSPEL) joined the meeting at around 10:00 am. He apologised for not being present earlier as he was not aware of members' request for his presence at this meeting. He informed members that PELB would be bringing forth a proposal to increase the fine for smoky vehicles in the next LegCo session. As the Administration had to await the results of public consultation on the increase, it was unable to make a specific proposal at this stage.

19. Mr Albert HO sought information on the Administration's view on Miss LOH's amendment. Mr LEE Cheuk-yan said that the Administration should advise members of its timetable and the scope of amendments intended to be introduced in the next LegCo session. Miss CHAN Yuen-han said that the Administration should introduce a whole package of measures to assist drivers in meeting vehicle emission standards and should not solely resort to increase in penalties. Mr CHAN Kam-lam enquired about the timing of the consultation process and how this could tie in with the work of the Bills Committee. Mrs Miriam LAU sought information on the scope of consultation and the measures in hand to solve the emission problem. Mrs Selina CHOW said that the Liberal Party did not believe that a substantial increase in fines would solve the vehicle emission problem.

20. The Chairman said that the Bills Committee would have to study in detail all related policies in connection with Miss Christine LOH's proposed amendment so as to arrive at an informed and fair decision. However, if the Administration could give an assurance that the increase in fines would be taken up in another forum, there would be no need for members to move further amendments.

21. In response, DS/PEL said that the Administration had been implementing a whole range of measures to resolve the problem of vehicle emissions. These included stepping up enforcement actions, introducing dynamometers for detection of emissions, organizing training programmes for vehicle mechanics and switching to cleaner fuels. The Administration supported that collaborative efforts rather than increases in fines would solve the problem of vehicle emissions. Given the seriousness of air pollution, the Administration reserved the position that if all the measures being adopted had failed to improve the air quality, it would consider increasing the fines for smoky vehicles to increase the deterrent effect. Once the information on the effectiveness of the adopted measures were available, it would be brought to the attention of LegCo for a decision as to whether further increases in fines were necessary. In response to the Chairman, DS/PEL agreed to provide an information paper to explain in detail the clean-up programme in respect of air pollution conducted by the Administration, including the timetable for

implementing the various measures, the level of fines for smoky vehicles to be proposed by the Administration should the various measures fail to achieve the intended objectives, and the proposed timing for increasing the fines.

22. Regarding Miss Christine LOH's enquiry on the timetable for proposing an increase in fines for smoky vehicles, DS/PEL confirmed that the Administration would submit the proposal to LegCo before the end of 1999. Miss LOH said that the Administration might need to re-think about its strategy of putting forth two proposals for increases in fines for smoky vehicles within six months.

23. The Chairman suggested and members agreed that discussion on the Administration's environmental strategy on smoky emissions should be postponed until an information paper on the subject was received.

Increase of tunnel tolls

24. DS for Tsy said that the proposal to increase the Cross-Harbour Tunnel (CHT) tolls from \$10 to \$20 was a revenue raising measure targeting at those who could afford to pay. He said that the last toll increase of CHT was in 1984 and its toll value had largely been eroded by inflation. He stressed that the proposed increase would affect private vehicles only, without impact on taxis and light and heavy goods vehicles.

25. The Principal Assistant Secretary for Transport (PAS/T) said that the Democratic Party's proposed amendment to increase the CHT tolls to \$15 in line with the Eastern Harbour Crossing (EHC) would bring about further traffic congestion at CHT since more drivers would use CHT which provided a more direct route between two sides of the harbour. As regards some members' suggestion of adjusting the tolls for the Western Harbour Crossing (WHC), PAS/T said that the charging of tolls was essentially a commercial decision resting with the WHC company.

26. Mr Albert HO briefed members on the position paper prepared by the Democratic Party regarding the proposed amendments to CHT tolls and metered parking charges which was circulated under LC Paper No. CB(1)1305/98-99(02). He indicated that the Democratic Party intended to move amendments to clause 37(d) of the Bill to the effect that CHT tolls for private cars and motorcycles be raised to \$15 and \$6 respectively.

27. In response to Mr CHAN Kam-lam's request for justifications for the proposed amendment to increase CHT toll for private vehicles to \$15, Mr Albert HO said that the adjustment of tunnel tolls should be treated both as a fiscal measure as well as a measure to regulate traffic flow. The Democratic Party considered that the removal of disparity in the tunnel tolls between CHT and EHC would help divert the traffic flow from CHT. Since a 100% increase

in CHT tolls for private vehicles and motorcycles was too substantial, the Democratic Party considered a 50% increase appropriate, having regard to the fact that the last toll increase was made in 1984.

28. Members requested the Administration to provide information on the expected annual revenue after the reversion of the ownership of CHT to Government.

Increase of on-street parking meter charges

29. Mr Albert HO indicated that the Democratic Party intended to move an amendment to clause 43 of the Bill to increase on-street parking meter charges from \$2 to \$3 per 15 minutes, as against the Administration's proposal of a double-fold increase from \$2 to \$4 per 15 minutes.

30. Mr LEE Cheuk-yan was concerned that the proposed increase in meter charges would induce private car parks to increase their charges. Mrs Miriam LAU enquired whether the proposed increase would mean that all parking meters would charge the same amount. She also requested the Democratic Party to justify their proposed amendment.

31. The Assistant Commissioner for Transport (AC/T) said that the Administration's proposed increase aimed at increasing the maximum on-street parking meter charges from \$2 to \$4 for every 15 minutes. There was a variation of meter charges which would depend on the location, the availability of car parks in the vicinity and the traffic situation. There were a total of over 500,000 parking spaces and only 14,000 were metered parking spaces, the proposed increase should not affect the parking fees in general. AC/T said that the proposed increase would help achieve the objective of maintaining a 15% availability of metered parking spaces, and would reduce the need for vehicles waiting or circulating around for spaces which in turn would minimise unnecessary traffic movement. According to the results of a study commissioned by a private carpark management company in 1997, 80% of drivers had indicated difficulty in finding on-street parking spaces and 50% had indicated that they would not object to a double-fold increase in parking fees if this would facilitate them in finding a parking space. The conclusion of the study was that the existing meter parking charges were too low and that an increase would reduce unnecessary car circulation which would be welcome by drivers.

32. Mrs Selina CHOW said that the difficulties in finding on-street parking spaces were due to the fact that there was no restriction on the parking time at a metered parking space for a vehicle.

Stamp duty relief for stock borrowing and lending

33. Members agreed to discuss the Democratic Party's proposed amendment and the Administration's amendments to the Stamp Duty Ordinance on stock borrowing and lending relief at the next meeting scheduled for 27 May 1999 at 4:30 pm. The Administration was requested to provide written comments on the Democratic Party's proposed amendments.

II Any other business

34. There being no other business, the meeting ended at 10:40 am.

Legislative Council Secretariat

8 November 1999