

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting on 25 June 1999**

**Report of the Bills Committee on Revenue Bill 1999**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Revenue Bill 1999.

**Background**

2. The Financial Secretary announced a number of revenue concession and revenue raising proposals in the 1999-2000 Budget. The revenue concession proposals are aimed at helping business in various fields including merchant shipping, finance, re-export, transport, insurance, etc. To regain the fiscal balance over the medium term, the Financial Secretary also put forward a number of revenue raising measures.

3. To give temporary effect to most of the revenue proposals, the Chief Executive made the Public Revenue Protection (Revenue) Order 1999 (the Order) under section 2 of the Public Revenue Protection Ordinance (Cap. 120) (the Ordinance) which was gazetted on 30 March 1999. The Order took effect on 1 April 1999. Section 5(2) of the Ordinance provides that the Order shall cease to be in force under certain specified events which include, inter alia, the expiration of four months from the date on which the Order came into operation.

**The Bill**

4. The Revenue Bill 1999 (the Bill) seeks to amend a number of ordinances to give legislative effect to the proposals in the 1999-2000 Budget. The major revenue proposals covered by the Bill include-

Revenue concession proposals

- (a) deferring the payment of stamp duty on residential property transactions

until the execution of the assignment;

- (b) exempting life insurance proceeds from estate duty irrespective of where they are paid;
- (c) exempting same-day transit passengers from the payment of air passenger departure tax;
- (d) reducing the maximum levels of shipping registration fees and annual tonnage charges;
- (e) introducing specific tax concessions to promote the development of local debt and securities markets;

#### Revenue raising proposals

- (f) increasing the betting duty on Mark Six lotteries from 20% to 25% and the duty on exotic bets on horse races from 18% to 19%;
- (g) increasing the fixed penalties for traffic-related offences;
- (h) increasing the maximum on-street parking meter charge from \$2 to \$4 for every 15 minutes;
- (i) increasing the Lion Rock Tunnel toll from \$6 to \$8;
- (j) increasing the Cross-Harbour Tunnel tolls for private cars from \$10 to \$20 and for motorcycles from \$4 to \$8; and
- (k) increasing the stamp duty rates on property transactions for purchases costing over \$3 million.

### **The Bills Committee**

5. The House Committee agreed on 16 April 1999 to form a Subcommittee to study the Order. Hon Margaret NG was elected Chairman of the Subcommittee at its meeting on 21 April 1999. On 23 April 1999 the House Committee agreed that the Subcommittee became the Bills Committee to continue scrutiny of both the Order and the Bill and that the Bills Committee should call membership afresh. Miss Margaret NG was endorsed by members of the Bills Committee as the Chairman. The Bills Committee held seven meetings with the Administration and received 2,256 submissions. A copy each of the membership lists of the Subcommittee and the Bills Committee are at **Appendices I** and **II** respectively.

#### **Deliberations of the Bills Committee**

6. The Bills Committee reported its deliberations on questions of principles about the Order to the House Committee on 30 April 1999. Members of the Bills Committee support the revenue concession proposals and the proposal to increase the

betting duty and the duty on exotic bets on horse races in the Bill. The deliberations of the Bills Committee on the other revenue raising proposals in the Bill are set out in the following paragraphs.

#### Fixed penalties for traffic-related offences

7. The Bill proposes to increase by 26.5% the fixed penalties for contravention of the provisions of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240). The justification put forth by the Administration for the increase is to maintain the deterrent effect of the fixed penalties which were last adjusted in 1994. An upward adjustment by 26.5% is in line with the cumulative inflation since 1994. The Administration has pointed out the severity of illegal parking in blackspots where traffic congestion is serious throughout the day. This, in the Administration's view, shows the inadequacy of the existing levels of fixed penalties to achieve the deterrent effect. According to the Administration, the proposed increase will not alter the policy intent for introducing those fixed penalties nor affect the relativity of the different types of penalties.

8. Some members of the Bills Committee are unconvinced of the need for the increase. They note that the total number of fixed penalty tickets issued by the Police for moving and parking offences has decreased year by year since the last adjustment from over 2.67 million in 1994 to less than 1.75 million in 1998. Despite the Administration's explanation that the lesser number of fixed penalty tickets issued is attributed to the implementation of a package of traffic improvement measures such as the increasing supply of parking spaces and the Selective Traffic Enforcement Policy adopted by the Police under which only verbal warnings are issued to illegal parking without obstructing traffic flow, some members could not accept in the face of declining prosecution figures that the deterrent effect of the existing levels of fines has been eroded by inflation. Moreover, some members are concerned about the impact of the proposed increase of fixed penalties on career drivers and car retailers who are already hard hit by the present economic recession.

9. Hon SIN Chung-kai has indicated that the Democratic Party does not accept the proposed increase and may move amendments to the relevant clauses of the Bill (clauses 23, 24 and 25).

#### Fixed penalty for smoky vehicles

10. Of the various traffic-related offences, the offence to emit excessive smoke from vehicles has been a subject of considerable discussion by the Bills Committee. The Bill proposes to raise the fine for smoky vehicles from \$450 to \$570 with effect from 1 August 1999. Hon Christine LOH proposes to increase it to \$5,000 with effect from 1 November 1999. The Bills Committee has received 2,050 written submissions in support of Miss LOH's proposal and 202 against it. Ten organizations/ individuals attended a Bills Committee meeting to express views on the subject, a list of which is at **Appendix III**.

11. The Bills Committee has taken note of the views of the transport trade that raising fines by itself is not an effective mean to solve the problem of smoky vehicles. To tackle the problem at root, the transport trade consider it necessary to implement a package of measures on different fronts. The trade suggests, amongst other things, further reducing the sulphur content of imported diesel, tightening the emission standards of newly imported vehicles, upgrading the standards of garages and mechanics in car repair and maintenance, establishing a data bank on car technology, using more revealing devices to test smoky vehicles, assisting car owners to self-measure emission levels, organizing courses to teach environmental driving habits, and replacing certain categories of diesel vehicles with cleaner technology. The transport trade has also stressed the importance of first putting in place the various improvement measures, in particular upgrading the standards of garages and mechanics in car repair and maintenance, before resorting to raising fines for the purpose of reducing emission.

12. Members of the Bills Committee, on the other hand, are mindful of the stance of certain sectors of the community, such as environmentalists, medical groups and chambers of commerce, on the need to impose heavy fines to deter excessive emission. These groups/persons consider it necessary to adopt a “carrot and stick” approach to deal with the problem. While supporting the transport trade’s call for introduction of different measures to reduce emission, these other sectors consider it the responsibility of individual car owners to properly maintain their cars. Given the rapid deterioration of the air quality which poses a health hazard to the whole community and hampers the recovery of the tourist industry, they regard the present level of fine and that proposed in the Bill out of line with the seriousness of the problem. In their view, a fine at a level of 5,000 is appropriate and will produce an immediate deterrent effect.

13. The Administration has explained to the Bills Committee the various measures taken to address the problem of smoky vehicles in the short, medium and long terms. The Administration has stressed that the proposal to raise the fine to \$570 is to restore the deterrent value of all fixed penalties in line with inflation. To bring down the level of smoky offences in line with public expectations, the Administration has pledged to amend the relevant legislation to increase, on top of inflation, the fixed penalty for smoky vehicles in the 1999-2000 LegCo session. The level of further increase will depend on the assessment of the severity of the problem and the acceptability of the public. In the Administration’s view, Miss Christine LOH’s proposed amendment is a specific proposal to increase the weight of a particular fine which should be dealt with as a separate exercise from the general adjustment of all traffic-related fines in the Bill.

14. Hon SIN Chung-kai has indicated that the Democratic Party will consider moving an amendment to the Bill (item 29 in clause 25(b)) to the effect that the fine for smoky vehicles will be at a level between the proposal in the Bill and that of Miss Christine LOH. A fine of \$1,000 may be considered.

Parking meter charge

15. The Bills Committee has examined the justification for the proposal to increase on-street parking meter charge from \$2 to \$4 per 15 minutes. Members note the Administration's explanation that the proposal is a revenue raising measure. Like other revenue raising measures in the 1999-2000 Budget, it is made on a highly selective basis after taking account of the affordability of those persons who will be affected. The increase in on-street parking meter charge could also help achieve the objective of maintaining a 15% availability of metered parking spaces, thus reducing the need of vehicles waiting or circulating around for spaces which in turn will minimize unnecessary traffic movement.

16. Whether the proposed increase will have a knock-on effect on carpark charges has been a concern to the Bills Committee. In this respect, the Administration has clarified that the proposed increase from \$2 to \$4 per 15 minutes is for the maximum charge only. The actual charges will be set by the Transport Department with regard to the conditions in individual districts. As compared with the current charges of off-street carparks in busy areas, the proposed maximum charge of \$16 per hour for on-street parking is still on the low side. The Administration expects that the proposed increase of charges for about 15,000 on-street parking spaces will have minimal effect on the charges of a total number of 500,000 parking spaces in the territory.

17. The Bills Committee takes note of the intention of the Democratic Party to move an amendment (clause 43) to reduce the amount of increase of on-street parking meter charge from \$2 to \$3 per 15 minutes. The reason given by members of the Democratic Party for moving an amendment is that the percentage of increase proposed by the Administration is too great and may induce fee increases in private carparks.

#### Cross-Harbour Tunnel tolls

18. Views of members of the Bills Committee are divided on the proposal to increase the Cross-Harbour Tunnel (CHT) tolls for private vehicles and motorcycles. The Bill proposes to increase the CHT toll from \$10 to \$20 for private cars and from \$4 to \$8 for motorcycles. The Administration's reason for the toll increase, similar to the proposal to increase on-street parking meter charge, is to raise revenue. After the reversion of the ownership of CHT to the Government on 1 September 1999 and with the proposed selective tunnel toll increase in place, the Administration expects an additional annual gross revenue of about \$695 million. The Administration has stressed that the proposed increase will not affect career drivers since only tolls for private vehicles and motorcycles are adjusted. Apart from raising additional revenue, the Administration has also pointed out the positive impact on traffic management as a result of the proposed toll increase. It is expected that with the proposed CHT toll increase, 10,000 private cars will be diverted to the Eastern Harbour Crossing (EHC) and the Western Harbour Crossing (WHC) per day. This will greatly relieve the traffic congestion in the vicinity of CHT, the traffic flow of which has exceeded its designed capacity by about 50% in the early part of 1999.

19. Members have pointed out that the present uneven distribution of traffic flow

of the three cross-harbour tunnels is attributed to their serious toll gap. The exceedingly high toll of \$30 for private cars charged by WHC explains why its current utilisation rate is as low as 30% of its designed capacity. Lowering the tolls of WHC to bring them closer to those of CHT and EHC is considered by members as the most effective means to regulate traffic flow of the three tunnels.

20. In recognition of the need to divert traffic flow from CHT in the meantime, some members accept an increase of the CHT toll for private cars to a level in parity with the EHC toll, i.e. \$15. They disagree with the magnitude of increase proposed by the Administration as this may, in their view, induce EHC to raise its tolls. Members of the Democratic Party have indicated that they will move amendments to the Bill (clause 37(d)) to the effect that the CHT tolls for private cars and motorcycles be raised to \$15 and \$6 respectively.

21. Hon CHAN Kam-lam has expressed that the Democratic Alliance for the Betterment of Hong Kong (DAB) considers it inappropriate to raise tolls to achieve the purpose of traffic management. DAB objects to the proposed toll increases in the Bill and to the proposal of the Democratic Party.

22. The Bills Committee takes note of the legal advice of the Secretariat that since the table of tolls for CHT set out in clause 37(d) is a new addition to the Road Tunnels (Government) Regulations, members who wish to retain the existing tolls of CHT for private vehicles and motorcycles will need to move amendments to the clause. Members also note that should clause 37(d) be negated, there will be no legally stipulated schedule of tolls for CHT.

23. Hon CHAN Yuen-han has indicated that DAB will move amendments to clause 37(d) to retain the present CHT tolls for private cars and motorcycles at \$10 and \$4 respectively.

#### Deferred payment of stamp duty chargeable on an agreement for sale of residential property

24. The Bills Committee welcomes the proposal in the Bill to allow deferred payment of stamp duty chargeable on an agreement for sale of residential property until the execution of the assignment or upon sub-sale of the property. Members consider that such an arrangement will make it easier for genuine home buyers to cope with the initial outlay when purchasing a property and diminish the loss of a property buyer who cannot complete the purchase for reasons beyond his control.

25. The Bills Committee however notices that a corporate purchaser is required to submit a banker's undertaking for the purpose of applying for deferred payment of stamp duty. The main reason given by the Administration for imposing such a requirement is to protect revenue. According to the Administration, a speculator holding a property in the name of a shell company may avoid paying stamp duty by dissolving or abandoning the shell company immediately after sub-selling the property in question. The proposed arrangement for allowing deferred payment is particularly prone to abuse where a series of sub-sales are effected before the execution of the

assignment. As the stamp duty payment is allowed to be deferred, it is highly possible that by the time the Inland Revenue Department (IRD) is aware of the sub-sale, the shell company has already been dissolved and the action taken to recover the stamp duty is unlikely to be fruitful. Although there is no direct information on the default rate of corporate purchasers in paying stamp duty because under the existing system, registration of the sale and purchase agreement is contingent upon the payment of stamp duty, the amount of outstanding stamp duty payable by corporate purchasers sheds light on the issue. Additional stamp duty is payable where the value of a property is assessed by IRD in excess of the transaction price on which stamp duty has been paid. The Administration has pointed out that of the \$32.2 million outstanding additional stamp duty as at May 1999, 64% is owed by corporate purchasers and that property dealing companies account for 36% of all outstanding profit tax owed by corporations for the year 1997-98.

26. Some members of the Bills Committee do not accept the Administration's explanations for the need to differentiate an individual from a corporate purchaser for the purpose of applying for deferred payment of stamp duty. They consider the information concerning the amount of outstanding additional stamp duty and outstanding profits tax owed by companies unrelated to the issue at stake. Some members also could not accept the Administration's view that conveyancing solicitors are not obliged to ensure the stamping of all the sale and purchase agreements in question before proceeding with the conveyancing. They have pointed out that it has all along been the usual conveyancing practice for solicitors to insist on stamping of all the agreements from which their clients derive title to the property since an unstamped document may not be used by a vendor to prove good title. Whether the vendor/purchaser is an individual or a company makes no difference in this regard. The possibility of a purchaser not settling the stamp duty for a property before proceeding with a sub-sale is slim. Members have also pointed out that if an individual is intent on avoiding payment of stamp duty, the recovery action taken by IRD is no less easier. Hon Mrs Miriam LAU Kin-yee has indicated that she reserves her position on the proposed requirement for the submission of a banker's undertaking on the part of a corporate purchaser for applying for deferred payment of stamp duty.

27. Noting that IRD, as a standing practice, accepts copied instruments chargeable with stamp duty for stamping, the Bills Committee suggests and the Administration agrees to make express provisions to reflect such a practice. The Administration also agrees to stipulate in the Bill the requirement to give reasons for refusing an application for deferred payment of stamp duty in the notice of decision. To achieve the purpose, the Administration will move amendments to clauses 16(d) and 18(d) and add a new clause 15A to the Bill.

#### Adjustment of stamp duty

28. The Bills Committee takes note of the proposal in the Bill to increase the stamp duty rates for property costing over \$3 million. Some members are concerned about the magnitude of increase in the stamp duty rate from 2.75% to the range between 3% and 3.75%. According to the Administration, the proposal is a revenue raising measure. Based on the transaction records for the period from April 1998 to

March 1999, less than 20% transactions involved property valued over \$3 million and less than 5% over \$6 million. Relatively speaking, purchasers of property costing over \$6 million are the group in the community who can best afford to pay the higher cost involved. The Administration has pointed out that given the fall in property prices over the last year or so, the absolute amount paid by a purchaser for stamp duty is less despite an increase in stamp duty rates.

### Regulation-making power for the Secretary for Transport

29. The Bills Committee reckons the need for the inclusion of an empowering provision under clause 48 of the Bill to enable the Secretary for Transport to make regulation for necessary consequential amendments pursuant to the repeal of the Cross-Harbour Tunnel Ordinance (Cap. 203), its subsidiary legislation, and the Cross-Harbour Tunnel (Passage Tax) Ordinance (Cap. 274). Members have scrutinized the draft regulation to be made under the clause and are satisfied that both the contents and the drafting could achieve the intended purpose, in particular the preservation of rights, privileges or liabilities under the repealed legislation in respect of outstanding legal actions and outstanding payments and the responsibility of the Cross-Harbour Tunnel Company Limited to keep proper records for the inspection by Government. The Administration has taken on board the suggestions of the Bills Committee to make textual improvement to the draft regulation.

### **Recommendation**

30. The Bills Committee recommends the resumption of the Second Reading debate on the Bill on 7 July 1999.

### **Committee Stage amendment**

31. The Committee Stage amendments to be moved by the Administration and Hon Christine LOH are at **Appendices IV and V** respectively.

### **Advice sought**

32. Members are requested to support the recommendation of the Bills Committee at paragraph 30 above.

Legislative Council Secretariat

24 June 1999

## **Appendix I**

### **Subcommittee on Public Revenue Protection (Revenue) Order 1999**

#### **Membership list**

Hon Margaret NG (Chairman)

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon Eric LI Ka-cheung, JP

Hon Mrs Selina CHOW LIANG Shuk-ye, JP

Hon Ronald ARCULLI, JP

Hon CHAN Yuen-han

Hon CHAN Kam-lam

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon Mrs Miriam LAU Kin-ye, JP

Hon Andrew CHENG Kar-foo

Total : 12 members

**Bills Committee on Revenue Bill 1999**

**Membership list**

Hon Margaret NG (Chairman)

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon Eric LI Ka-cheung, JP

Hon Mrs Selina CHOW LIANG Shuk-ye, JP

Hon Ronald ARCULLI, JP

Hon Christine LOH

Hon CHAN Yuen-han

Hon CHAN Kam-lam

Hon SIN Chung-kai

Hon Andrew WONG Wang-fat, JP

Hon Mrs Miriam LAU Kin-ye, JP

Hon Andrew CHENG Kar-foo

Total : 13 members

**Bills Committee on Revenue Bill 1999**

**Name of organizations/individuals  
meeting with the Bills Committee**

- (1) Preparation Committee of the New Millennium Environmental Protection Actions of the Transport Trade
- (2) The British Medical Association (Hong Kong Branch)
- (3) The American Chamber of Commerce in Hong Kong
- (4) Hong Kong Business Coalition on the Environment
- (5) Clear the Air
- (6) Hong Kong Conservation Photography Foundation
- (7) King George V School
- (8) Hong Kong Dolphinwatch
- (9) Mr John JARMAN
- (10) Dr Brian WALKER

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REVENUE BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Secretary for the Treasury

Clause

Amendment Proposed

New By adding -

**"15A. Section added**

The following is added -

**"18B. Presentation of copies of instruments, etc.**

(1) In this Ordinance, any reference to an instrument as one being or required to be presented or tendered to the Collector for stamping shall be construed as including a reference to a copy of the instrument if it is shown to the satisfaction of the Collector that it is impracticable in the circumstances of the case that the instrument be or be required to be so presented or tendered (as the case may be).

(2) Where a copy of an instrument

chargeable with stamp duty is presented to the Collector for stamping pursuant to subsection (1), the Collector may, where he is required or empowered under this Ordinance to stamp the instrument or cause it to be stamped, stamp a certificate issued by him, in such form as he may from time to time determine, in respect of the instrument or cause such a certificate to be stamped (as the case may be) as if the certificate were the instrument.

(3) Where the Collector stamps a certificate issued in respect of an instrument, or causes such a certificate to be stamped, pursuant to subsection (2) -

- (a) the instrument shall, for the purposes of this Ordinance, be deemed to have been stamped in the same manner and with the same amount as the certificate has been stamped; and
- (b) (i) the Collector may, where he is required or empowered under this Ordinance to

record or denote any particulars or matter on the instrument, record or denote (as the case may be) such particulars or matter on the certificate; and

- (ii) where any particulars or matter has been recorded or denoted on the certificate pursuant to subparagraph (i), such particulars or matter shall, for the purposes of this Ordinance, be deemed to have been recorded or denoted (as the case may be) on the instrument.

(4) In this section, a reference to a copy, in relation to an instrument, shall be construed as a reference to a

copy which is shown to the satisfaction of the Collector as a true copy of the instrument."."

- 16(d) In the proposed section 19(12A)(a), by adding ", or a copy of the stock borrowing and lending agreement which is shown to the satisfaction of the Collector as a true copy thereof" after "provided for".
- 18(d) In the proposed section 29C(13)(b), by adding ", and the reasons for the decision," after "decision".

REVENUE BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Hon Christine Loh

<u>Clause</u>	<u>Amendment Proposed</u>
2	(a) In paragraph (e), by deleting "25" and substituting "25 (a), (b), (c) and (d)";
	(b) By adding- "(ea) section 25 (ba) shall only apply to take effect on and after 1 November 1999;"
25	(a) In paragraph (b), by deleting "29,";
	(b) By adding- "(ba) in item 29, by repealing "\$450" and substituting "\$5,000;"