# 立法會
# *Legislative Council*

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**Bills Committee on**
**Boundary Facilities Improvement Tax Bill**

**Background Brief**

## Purpose

This paper sets out the background of the Boundary Facilities Improvement Tax Bill (the Bill), and summarizes the following -

(a) the legislative proposal contained in the Bill;

(b) views of Members expressed when the legislative proposal was deliberated at the meeting of the Panel on Financial Affairs on 19 February 2003; and

(c) views of transport operators when consulted by the Administration.

## Background

2. The Financial Secretary (FS) announced in the 2002-03 Budget Speech that the Government intended to introduce a Boundary Facilities Improvement Tax (BFIT) on passengers departing from Hong Kong by land and by sea in order to help finance the improvements to boundary facilities.

3. In his 2003-04 Budget Speech, FS stated that it was necessary to raise additional revenue of $20 billion between 2003-04 and 2006-07. According to his estimate, the proposals to be implemented in 2003-04 relating to salaries tax, profits tax, property tax, motor vehicles first registration tax, air passenger departure tax and the duty on exotic horse racing bets would raise revenue by $14 billion. The remaining $6 billion shortfall would be raised by measures to be proposed over the next three years. The BFIT and the Football Betting Duty are the two new taxes the Administration introduces in 2003-04 to raise revenue, and are estimated to generate additional annual revenue of about $1 billion and $1.5 billion respectively.

4. At present, passengers departing Hong Kong by air have to pay a flat-rate at $80 (which will be increased to $120 as proposed in the 2003-04 Budget subject to the passage of the relevant legislative amendments), and those departing at marine ferry terminals (the China Ferry Terminal and Macau Ferry Terminal) have to pay a fixed fee at $18 to the Government.

5. According to the Legislative Council Brief, in 2002, there were about 139 million passengers in total using land and sea control points departing Hong Kong for the Mainland or Macau. The figure is projected to increase to 251 million by 2016.

6. According to the LegCo Brief, the Government's investment in various ongoing and planned projects to improve boundary-crossing facilities totals about $14 billion.

**Purpose of the Bill**

7. The Bill provides the legal framework for levying the proposed BFIT. Under the legislative proposal therein, a person who departs from Hong Kong by a passenger ship or at a through-train railway station or at a boundary crossing will be liable to pay the tax at $18. The owner of a private car departing Hong Kong via a land departure point will have to pay the tax at $100 per car. The Administration will appoint transport operators to collect the tax on its behalf. An administration fee will be paid to the operators.

8. The following persons will be exempted from payment of the tax -

(a) boundary crossing full-time primary and secondary students;

(b) children under the age of 12 years old;

(c) drivers and other persons operating land transport vehicles and crew members of a passenger ship;

(d) passengers in transit; and

(e) visiting diplomats, consular members and members of specified international organizations, consulates, and personnel of the three Central People's Government offices.

9. Offences for failure to pay the tax, evasion of the payment of the tax, failure by an operator and his agent to maintain records or furnish returns, and provision of incorrect information in the required records and returns knowingly or recklessly by an operator or his agent are provided for in the Bill.

10. The Bill, if passed, will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury.

**Discussion at the Panel on Financial Affairs**

11. The Financial Affairs Panel was consulted on the legislative proposal at the meeting held on 19 February 2003.

Relationship between Boundary Facilities Improvement Tax and Kowloon-Canton Railway Corporation train fares

12. On the relationship between the BFIT and the train fares of the Kowloon-Canton Railway Corporation (KCRC), some members expressed concern that the current high train fare for the section between Sheung Shui and Lo Wu coupled with the BFIT would mean a form of double taxation for cross-boundary passengers. There was a suggestion that once the BFIT was introduced, the KCRC should reduce its fares for the Sheung Shui to Lo Wu section. Some members also opined that the Government should allow other operators to operate transport services to the control point so that competitive services would be provided to commuters.

13. Some other members considered that KCRC train fares and BFIT should be considered separately and fare adjustment should be a commercial decision of KCRC.

14. The Administration responded that KCRC was a commercial entity required to operate on commercial principles with autonomy to set its own fares. Its income was not Government revenue. The BFIT and KCRC's fares were two separate issues not to be confused.

Boundary Facilities Improvement Tax rate for cross-border private cars

15. On the proposed tax rate of $100 per private car, a member considered it fairer to charge $18 per passenger in the car than levying a fixed rate of $100 per car. Some other members considered that the billing process should be simple and cost-effective and the rate of $100 per private car was reasonable.

Mechanism for collecting the tax

16. On the proposed "off-site" collection mechanism for the BFIT, some members expressed concern that there would be operational difficulties for some transport operators to implement some of the exemptions. Members urged the Administration to work out the detailed arrangements in consultation with transport operators.

17. With regard to the use of the Automatic Vehicle Recognition System (AVRS) for collection of the BFIT from private cars, the Administration explained that the system had already been installed at customs clearance kiosks at all land departure points. It was basically a camera system which captured the licence plate and other necessary information when a vehicle underwent clearance at customs kiosks. Under the proposed arrangement, the Transport Department, which was the collection agency for BFIT regarding land departures, would develop a software programme for preparing and issuing bills to owners of the private cars having crossed any land departure points. The Administration also confirmed that as advised by the Office of the Privacy Commissioner for Personal Data, the billing system should comply with the privacy legislation.

**Consultation with transport operators**

18. According to the LegCo Brief, some 149 transport operators (126 operators of land transport and 23 operators of sea transport) are required to collect the tax on the Government's behalf. The Administration has conducted several rounds of discussions with the concerned transport operators. Various concerns have been raised over the proposed off-site collection arrangements. Some specific views are as follows -

(a) responsibilities placed on drivers to check exemptions and concessions and to file manifests are too onerous;

(b) operators may not be in a position to detect fraudulence by their employees and thus the responsibilities on employees and operators should be separately provided for in the legislation;

(c) operators will incur additional administrative expenses to collect the tax on behalf of the Government and thus the Government should pay them an administrative fee; and

(d) KCRC will require a lead-time of about one year to modify its ticketing systems and introduce any new systems to collect the tax.

19. After the consultations held in March to April 2003, the majority of the operators have expressed the view that the Government's proposed collection mechanism should be feasible. However, the Public Omnibus Operators Association Limited has raised strong objections and reiterated its concerns on statutory responsibilities and offences and that it does not think off-site collection would work especially for leased out coaches.

**Other views submitted to Members**

20. The Sino-Hong Kong Private Cars' Rights Association has sent a submission dated 7 June 2003 to Members objecting to the tax rate at $100 per car. The Association considers that on grounds of equity, the BFIT for private cars should be charged on the basis of number of passengers on the car.

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