

LEGISLATIVE COUNCIL BRIEF

REVENUE BILL 2003

INTRODUCTION

Annex A

At the meeting of the Executive Council on 25 March 2003, the Council ADVISED and the Chief Executive ORDERED that the Revenue Bill 2003, at **Annex A**, should be introduced into the Legislative Council to implement the revenue proposal in the 2003-04 Budget relating to motor vehicles first registration tax (FRT).

JUSTIFICATIONS

Abolishing exemptions

2. It is proposed that the exemption for three vehicle accessories, namely air-conditioners, audio equipment and anti-theft devices, and warranties provided by vehicle distributors, be abolished.

3. The motor vehicle FRT is charged on the Published Retail Price (PRP) of vehicles. At the time when the pre-Budget system was first designed (in 1994), the above vehicle accessories and distributors' warranties were either fitted to vehicles locally after the vehicles had arrived, or did not form part of the sales contracts of vehicles. Hence, these items were excluded from the taxable value of motor vehicles under the pre-Budget system. However, the trade practice has changed over the years. Today, the vast majority of the exempted accessories are in-built items. The majority of the warranties form part of the sales contracts of the vehicles. In any case, if the warranties form part of the price of a vehicle, they should be liable to tax. The current system of providing these exemptions has become largely outdated. It poses an unnecessary cost of compliance on the part of the trade (as vehicle distributors are required to apportion the values of the three exempted accessories even though the

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prices of such individual items are not separately provided by the manufacturers) and gives rise to tax evasion problems (through over-declaring the value of the tax-exempted items). We therefore recommend to abolish these exemptions.

4. The Government has consulted the trade on the proposal to remove the exemptions. It is supported by the Motor Traders Association of Hong Kong (MTA).

Adjusting the bandwidths and tax rates

5. As the value of exempted items constitutes a larger percentage of the total value of the vehicle for lower-priced private cars (e.g. 68% for private cars with taxable value, i.e. published retail price of the motor vehicle excluding the value of exempted items, below \$100,000), we propose to widen the tax bandwidths for private cars from \$100,000 for the first three steps to \$150,000 for the first two steps and \$200,000 for the third step, and to decrease the effective tax rate for these cars to mitigate the impact of abolishing the exemptions.

6. In order to raise additional revenue, we also propose to increase the tax rates for more expensive private cars with taxable value over \$150,000, and make the tax more progressive. The proposed marginal rates are 35%, 75%, 105% and 150% for the four bands respectively, while the effective tax rates for private cars with taxable value below \$150,000, between \$150,001 and \$300,000, between \$300,001 and \$500,000 and above \$500,000 would be 35%, 46%, 65% and 95% respectively on average.

7. Separately, we propose to switch to a marginal tax system which is more equitable. This was actually a proposal of the MTA. The current and proposed tax bandwidths and rates are set out in **Annex B**.

Annex B

8. While the above proposed changes will bring about an increase in tax liability for the majority of private cars, the increase is merely due to the abolition of exemptions rather than any increase in the tax rate for the bulk of the private cars.

9. The impact of the proposal will be higher for more expensive private cars. Nevertheless, expensive cars only represent a small portion of the private car market in Hong Kong. In 2002-03 (up to 5 March 2003), only about 6%, or 1,800, of the private cars first registered have a taxable value (after including the tax-exempted items) going over \$500,000. The proposal is not expected to affect people's livelihood. The table at **Annex C** sets out the impact of the proposals on some representative car models.

10. For **van-type light goods vehicles less than 1.9 tonnes**, we propose a marginal tax system similar to that for private cars to prevent abuse.

11. As regards **van-type light goods vehicles exceeding 1.9 tonnes and other goods vehicles**, the rates are proposed to be reduced to 17% and 15% respectively. As for **taxis, light buses, buses and special purpose vehicles**, the rate is proposed to be reduced to 3.7%. Reductions in tax rate are proposed for these commercial vehicles to mitigate the impact of the abolition of exemptions on them. For **motor cycles and motor tricycles**, it is proposed that the existing rates of 40% be maintained, as abolition of the exemption will have minimal impact on them.

Anti-avoidance measures

12. We propose to include a requirement for registered vehicle owners to declare to the Transport Department (TD) the purchasing of warranties (in addition to accessories) from any person (in addition to registered distributors and associated persons); and extend the requirement for payment of additional FRT for the accessories and warranties from three months after registration to six months thereafter. If registered distributors or associated persons offer the warranties, they should also make the declaration to TD. This strengthens the existing provisions that prevent tax avoidance through the purchase of accessories after first registration and levels the playing field for all providers of accessories and warranties. These are strongly supported by the MTA. The registered distributors, associated persons and registered owners would be required to keep the records of the distribution, sale and purchase of vehicles, and the accessories and warranties as applicable for thirty months from first

registration for inspection when required. This will complement the enforcement of the anti-avoidance provisions.

Public Revenue Protection Order

13. For the purpose of revenue protection, we arranged for the proposals relating to FRT to be covered by the Public Revenue Protection (Revenue) Order 2003, which was put into effect as from 2:30 p.m. on 5 March. All vehicles not registered before then will be subject to the revised tax system and rates. The Order gives legal effect to the proposals for a maximum period of four months. The proposals will cease to have effect as from 5 July should the Revenue Bill 2003 not be passed by the Legislative Council by then.

OTHER OPTIONS

14. There has been suggestion that exemption should be granted to distributors' stocks and cars for which orders have been placed and deposits paid before the PRPO took effect.

15. FRT is a tax on registering vehicles for use in Hong Kong. When FRT rates are changed, the new rates always apply to all vehicles which have not been registered at the time when the changes take effect. This is also the practice for all other tax measures, such as duty on wine and tobacco. In practice, an exemption for cars on order is extremely difficult to enforce because of the difficulty in verifying the timing of orders placed by vehicle buyers. Substantial revenue loss will result if this suggestion is adopted.

THE BILL

16. The main provisions of the Bill are as follows:

- (a) **clauses 3, 4, 5, 13 and 14** remove the existing references to the exemption of accessories from FRT;
- (b) **clauses 6 and 8** require the registered owners and registered distributors to declare to TD the values of

accessories fitted or taxable warranties obtained within six months after first registration of vehicles and require the payment of additional FRT upon delivery of the declaration to TD;

- (c) **clause 7** makes distributors' warranties part of the taxable value and provides for the calculation of additional FRT payable for accessories fitted and taxable warranties obtained within six months after first registration;
- (d) **clause 9** imposes a duty on registered distributors, associated persons and registered owners of motor vehicles to keep records in respect of sale and purchase of any vehicles, accessories and taxable warranties;
- (e) **clause 10** provides the penalty for the contravention of the requirements to make declaration and keep records;
- (f) **clause 11** sets out the marginal tax bands and rates for private cars and light goods vehicles not exceeding 1.9 tonnes and the revised tax rates for other vehicles; and
- (g) **clause 12** contains transitional provisions.

Annex D 17. The existing provisions proposed to be amended are at **Annex D**.

LEGISLATIVE TIMETABLE

18. The legislative timetable will be -

Publication in the Gazette	28 March
First Reading and commencement of Second Reading debate	9 April
Resumption of Second Reading debate, committee stage and Third	to be notified

Reading

IMPLICATIONS OF THE PROPOSAL

19. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the existing binding effect of the Motor Vehicles (First Registration Tax) Ordinance. It has no productivity or environmental implications. It does not have major sustainability implications. It would lead to an increase in retail price in a range between 5% and 27% for the representative vehicle models in **Annex C**. However, some distributors may choose not to pass the full tax burden to consumers. If so, the increase in retail price because of the abolition of exemptions and tax increases would be smaller.

20. The Budget proposals on FRT are expected to bring about additional revenue of about \$700 million in 2003-04. This estimate has already taken into account possible changes in the pricing strategy of vehicle distributors and the suppression effect of the tax increase on new vehicle sales. The Customs & Excise Department (C&ED) will have additional workload arising from the increased need to inspect vehicles connected with suspicious cases or complaints. TD will continue to check the declared values against the invoices submitted. They will be able to absorb the additional resource requirement.

PUBLIC CONSULTATION

21. We consulted the motor trade, including the car distributors, associations, motor trade companies as well as association representing consumer interests in 2001. 5,068 submissions were received, of which 5,026 were standard letters from employees of motor trade companies. The rest were from MTA or its members, the Hong Kong Right Hand Drive Motors Association (RHDMA) and Hong Kong Automobile Association (HKAA). MTA expressed support for abolishing the exemption for the three accessories and the distributors' warranties. It advocated the adoption of marginal tax rates for private cars and widening the first tax band from \$100,000 to \$150,000. It also suggested the lengthening of the anti-avoidance period for accessories and warranties and the proposed

record-keeping period. RHDMA expressed the view that removal of exemption for anti-theft devices might be a disincentive to the public to install the device and that distributors' warranty should not be subject to tax as it was not part of the machinery of the vehicle. It was also opposed to the requirement for registered owner of vehicles, registered distributors and associated persons to declare fitting of accessories and distributors' warranty on grounds of administrative complexity. Both Associations called for a reduction in the tax rates for private cars to mitigate the impact of the exemption abolition. HKAA did not have any objection to the proposal to abolish exemptions but urged the Government to revise the tax bands and lower the tax rates for private cars, especially for lower-priced private cars. The employees of the motor traders expressed support for Government's proposals to curb tax abuse, but expressed concern that high tax rates would jeopardise car sales and their jobs.

22. Owing to the confidentiality of the Budget, no formal consultation has been carried out in respect of the specific proposal to raise FRT rates.

23. We have met with the MTA and RHDMA after the Budget announcement. Both associations expressed concerns about the impact of the tax increases on the business and employment of the motor trade. MTA reaffirmed its support for the abolition of exempted items and adoption of the marginal tax system, but expressed concerns over the size of the tax increases. It counter-proposed that the marginal tax rates for the second to fourth tax bands should be reduced to 60%, 85% and 105%. RHDMA expressed reservations on the requirement for declaration of accessories within six months from first registration. It also proposed that cars imported within two months from Budget Day be taxed at the old rates and that the then exempted items should be taxed at a flat rate separate from the standard vehicle. During TD's briefing to the trade after Budget announcement, the motorcycle trade raised objections to the higher tax rates for motorcycles. It demanded that the rate for motorcycles be reduced to 35%, the same as private cars in the lowest tax band.

PUBLICITY

24. We issued a press release on the Budget proposals on 5 March and have briefed the trade. We will issue a press release on this Bill. A spokesman will be made available to answer media and public enquiries.

BACKGROUND

Current tax system

25. Currently, FRT is levied *ad valorem* on the PRP of a motor vehicle. PRP is the retail price of the standard motor vehicle and all the associated items. Air-conditioners, audio equipment and anti-theft devices and warranties offered by vehicle distributors are exempted from FRT and their values are excluded from the calculation of taxable value. If the C&ED considers that the PRP of a motor vehicle submitted by distributors does not reflect the market value or that the PRP of tax-exempted elements is constructed in such a way as to avoid the payment of FRT, the Department may reject the PRP and make a separate assessment. In the 2000-01 Budget, we announced that we would review the scope of exemptions from FRT with a view to updating the system.

26. We have consulted the trade and completed the review. We found that the original justifications for providing tax exemption for the three accessories and distributor's warranty have become largely outdated. At the end of 2001, we proposed to the trade that these exemptions should be abolished. We also proposed to reduce the tax rates by 8% to 15% in order to mitigate the impact of the abolition of exemptions on vehicles.

OTHERS

27. In case of enquiries about this brief, please contact Miss Erica Ng, Principal Assistant Secretary for Financial Services and the Treasury, at 2810 2370.

Treasury Branch

Financial Services and the Treasury Bureau

March 2003

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A BILL

To

Amend the Motor Vehicles (First Registration Tax) Ordinance to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year and to clarify the method of calculating the taxable value of a motor vehicle under section 4E(2)(ca) of that Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Revenue Ordinance 2003.

(2) This Ordinance shall be deemed to have come into operation at 2.30 p.m. on 5 March 2003.

Motor Vehicles (First Registration Tax) Ordinance

2. Interpretation

Section 2(1) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) is amended –

- (a) by repealing the definition of “exempted accessory”;
- (b) in the definition of “market value”, by repealing “means the price that a motor vehicle” and substituting “, in relation to any motor vehicle, accessory or taxable warranty, means the price that the motor vehicle, accessory or taxable warranty”;
- (c) in the definition of “standard motor vehicle”, by repealing everything after “a price” and substituting “published under section 4A(1)(a);”;
- (d) by adding –

“taxable warranty” (應課稅保證) means a warranty provided by a person in respect of a motor vehicle –

(a) which is not included in the retail price of the vehicle published under section 4A(1)(a); and

(b) under which the person undertakes to provide, within a fixed period and whether subject to payment of a fee on each occasion the service is provided, any of the following services for the vehicle –

(i) checking the condition of the vehicle;

(ii) the maintenance of equipment, parts, components or accessories;

(iii) the repair or replacement of defective equipment, parts, components or accessories; or

(iv) remedying any defective process involving painting or

rust-proofing or like
treatment,

and includes a warranty provided by a registered distributor or an associated person the retail price of which is published under section 4A(1)(c);”.

3. Publication of retail price

Section 4A is amended –

- (a) in subsection (1) –
 - (i) in paragraph (b) –
 - (A) by repealing “(other than exempted accessories)”;
 - (B) by adding “and” at the end;
 - (ii) in paragraph (c), by repealing “; and” and substituting a full stop;
 - (iii) by repealing paragraph (d);
- (b) in subsection (5), by repealing everything after “section 4E(2)(a)(i)” and substituting “, (ii) and (iiia) without first obtaining the consent of the Commissioner.”;
- (c) in subsection (6) –
 - (i) in paragraph (a), by repealing “and (ii);” and substituting “, (ii) and (iiia); and”;
 - (ii) by repealing paragraphs (b) and (c);
- (d) in subsection (7), by repealing everything after “4E(2)(a)(i)” and substituting “, (ii) and (iiia) or (c) and the first registration tax paid or payable on the motor vehicle without first obtaining the consent of the Commissioner.”;
- (e) in subsection (8) –

- (i) in paragraph (a), by repealing “and (ii)” and substituting “, (ii) and (iiia)”;
- (ii) by repealing paragraphs (b) and (c);
- (f) by repealing subsections (9), (10) and (11).

4. Commissioner may assess published retail price in certain circumstances

Section 4B is amended –

- (a) in subsection (1) –
 - (i) in paragraph (a), by repealing “a published retail price of the taxable or the exempted elements” and substituting “the published retail price of an element”;
 - (ii) in paragraph (b), by repealing “taxable and the exempted”;
 - (iii) by repealing “taxable and exempted”;
- (b) in subsection (3), by repealing “taxable and exempted”.

5. Commissioner may make regulation in respect of chassis or cab and chassis

Section 4C is amended –

- (a) by repealing subsection (1)(b);
- (b) by repealing subsection (2).

6. Declaration as to price paid

Section 4D is amended –

- (a) in subsection (1)(a) –
 - (i) in subparagraph (ii) –
 - (A) by repealing “3 months” and substituting “6 months”;
 - (B) by adding “and” at the end;

- (ii) in subparagraph (iii), by repealing “; and” and substituting “, irrespective of whether the warranty takes immediate effect;”;
- (iii) by repealing subparagraph (iv);
- (b) in subsection (1)(b) –
 - (i) in subparagraph (ii), by repealing “(including exempted accessories)”;
 - (ii) by adding –
 - “(iia) the value of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, included in the purchase of the motor vehicle, irrespective of whether the warranty takes immediate effect;”;
- (c) in subsection (1)(c), by adding “, (iia)” after “(ii)”;
- (d) by repealing subsection (2) and substituting –

“(2) If a person fits an accessory to a motor vehicle within 6 months after the first registration of the vehicle and the accessory has not been declared in a declaration signed under subsection (1) –

- (a) in the case where the accessory is fitted by a registered distributor or an associated person, the registered owner and the registered distributor; or
- (b) in the case where the accessory is fitted by a

person other than a registered distributor or an associated person, the registered owner,

shall, within 5 working days after the fitting of the accessory, make and deliver to the Commissioner a declaration, in the form approved by the Commissioner, setting out details, including the value, of the accessory and attaching such documentary evidence as the Commissioner may reasonably require in support of the declared value of the accessory.

(2A) If the registered owner of a motor vehicle obtains a taxable warranty for the vehicle within 6 months after the first registration of the vehicle and the taxable warranty has not been declared in a declaration signed under subsection (1) –

- (a) in the case where the taxable warranty is provided by a registered distributor or an associated person, the registered owner and the registered distributor; or
- (b) in the case where the taxable warranty is provided by a person other than a registered distributor or an associated person, the registered owner,

shall, within 5 working days after the date on which the contract for the taxable warranty is entered into, make and deliver to the Commissioner a declaration, in the form approved by the Commissioner, setting out details, including the value, of the taxable warranty and attaching such documentary evidence as the Commissioner may reasonably require in support of the declared value of the taxable warranty.”.

7. Calculation of first registration tax and taxable value

Section 4E is amended –

- (a) in subsection (2)(a) –
 - (i) in subparagraph (ii), by repealing “3 months” and substituting “6 months”;
 - (ii) by repealing subparagraphs (iia) and (iii);
 - (iii) by adding –
 - “(iiia) the published retail price of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, attaching to the sale of the vehicle, irrespective of whether the warranty takes immediate effect;”;
- (b) in subsection(2)(b) –
 - (i) in subparagraph (ii), by repealing “3 months” and substituting “6 months”;
 - (ii) by repealing subparagraphs (iia) and (iii);
 - (iii) by adding –

“(iiiia) the published retail price of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, attaching to the sale of the vehicle, irrespective of whether the warranty takes immediate effect;”;

- (c) in subsection (2)(c) –
 - (i) in subparagraph (i), by repealing “less any deduction for the value, as determined by the Commissioner, of the exempted accessories”;
 - (ii) in subparagraph (ii), by repealing “less any deduction for the value, as determined by the Commissioner, of exempted accessories”;
- (d) in subsection (2)(ca), by repealing everything after “shall be” and substituting “the declared value of the motor vehicle under section 4D less the depreciation allowed by the Commissioner under subsection (5);”;
- (e) in subsection (2)(d) –
 - (i) in subparagraph (i), by repealing everything after “as the case may be,” and substituting –
 - “less –
 - (A) depreciation at the prescribed rate, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which the motor vehicle became liable to first registration tax or additional first registration tax, excluding a part of a month of less than 15 days but

counting a part of a month of 15 days or more as a whole month; and

(B) the value of any expired portion of a warranty, other than a manufacturer's warranty and any other warranty that is mandatory, calculated on the basis of the published retail price or, where there is no published retail price, the declared value under section 4D, of the warranty; or";

(ii) in subparagraph (ii), by repealing "less any deduction for the value, as determined by the Commissioner, of the exempted accessories";

(f) by adding –

“(2A) After receiving a declaration made under section 4D(2) or (2A), the Commissioner shall revise the taxable value of the motor vehicle to which the declaration relates by adding the value of the accessory or taxable warranty as declared in the declaration or, if applicable, the market value of the accessory or taxable warranty as assessed under subsection (2B) to the existing taxable value of the vehicle calculated under this section and calculate the additional first registration tax payable for the vehicle.

(2B) If the Commissioner is of the opinion that the declared value of an accessory or a taxable warranty does not reflect the market value of the accessory or taxable warranty, the

Commissioner may assess the market value of the accessory or taxable warranty for the purposes of subsection (2A), having regard to the declared value or the range of market values of any similar accessory or taxable warranty.

(2C) The Commissioner shall give the registered owner and (if applicable) the registered distributor notice of his refusal to accept the declared value of an accessory or a taxable warranty immediately on reaching his opinion referred to in subsection (2B) and inform the registered owner and (if applicable) the registered distributor in the notice that written representation concerning the value of the accessory or taxable warranty may be made to the Commissioner within 14 days after the date of the notice.

(2D) The Commissioner shall consider any written representation made by the registered owner or (if applicable) the registered distributor and shall –

- (a) within 14 days after giving notice under subsection (2C); or
- (b) where any written representation is made to the Commissioner, within 14 days after receipt of the representation,

give the registered owner and (if applicable) the registered distributor notice of the market value of the accessory or taxable warranty as assessed by the Commissioner.

(2E) The Commissioner shall state in the notice given under subsection (2D) the reasons for –

- (a) his rejection of the declared value of the accessory or taxable warranty; and
- (b) his assessment of the market value of the accessory or taxable warranty under this section.

(2F) If the Administrative Appeals Board finds that the amount of additional first registration tax paid exceeds the amount properly assessable, the Commissioner shall refund the excess as soon as practicable after the decision of the Administrative Appeals Board is published.”.

8. Payment of tax

Section 4F is amended –

- (a) by adding –

“(4A) Any additional first registration tax attributable to the increase in total taxable value of a motor vehicle shall be paid at the time the

declaration made under section 4D(2) or (2A) is delivered to the Commissioner.”;

- (b) in subsection (5), by repealing “or (e)” and substituting “, (e) or (ea)”.

9. Section added

The following is added –

“4FA. Duty to keep records of sale and purchase of motor vehicles, accessories and taxable warranties

(1) A registered distributor and an associated person shall keep proper records in respect of the distribution or sale of any motor vehicle by the registered distributor or associated person, as the case may be, and the fitting of any accessory to, or the provision of any taxable warranty for, the vehicle within 6 months after the first registration of the vehicle.

(2) The registered owner of a motor vehicle shall keep proper records in respect of the purchase of the vehicle and the fitting of any accessory to, or the obtaining of any taxable warranty for, the vehicle within 6 months after the first registration of the vehicle.

(3) A person shall not be regarded as having kept proper records under this section unless the person, in respect of each transaction for which record is required to be kept –

- (a) keeps all the invoices and agreements relating to the transaction; and
- (b) records the particulars of –
 - (i) the names of the parties to the transaction;
 - (ii) the subject matter of the transaction, including in each case, the model and the registration mark or, where the registration mark is not available, the chassis number of the motor vehicle to which the transaction relates;

- (iii) the date of the transaction; and
- (iv) the value of the relevant motor vehicle, accessory or taxable warranty, as the case may be.

(4) A record which a person is required by this section to keep shall be retained for 30 months after the first registration of the vehicle to which the record relates.

(5) Without prejudice to the generality of section 4H, an authorized person may, for the purpose of ascertaining whether section 4D(2) or (2A) has been complied with, require a person referred to in subsection (1) or (2) to produce any record kept by the person under this section for his inspection.”.

10. Offences

Section 4I is amended –

- (a) in subsection (1) –
 - (i) in paragraph (e), by repealing “or (2)”;
 - (ii) by adding –
 - “(ea) being a registered distributor or a registered owner, fails to deliver a declaration as required under section 4D(2) or (2A), or makes a false declaration in purported compliance with that section, or fails to include all of the particulars or to attach to the declaration the documentary evidence required within the time as required under that section;”;
- (b) by adding –

“(1A) A person who, being a registered distributor or an associated person or a registered owner, fails to keep any record as required under section 4FA, commits an offence and is liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.”.

11. Schedule substituted

The Schedule is repealed and the following substituted –

“SCHEDULE

[s. 4E]

CLASSES OF MOTOR VEHICLES AND RATE OF TAX

Item	Class of motor vehicle	Rate of tax %
1.	Private cars –	
	(a) on the first \$150,000	35
	(b) on the next \$150,000	75
	(c) on the next \$200,000	105
	(d) on the remainder	150
2.	Taxis	3.7
3.	Public light buses and private light buses	3.7
4.	Public buses, except buses which are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Cap. 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) within the North-west Transit Service Area as defined in that Ordinance	3.7

5. Private buses, except buses which are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Services Ordinance (Cap. 230) or within the North-west Transit Service Area under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372)	3.7
6. Motor cycles	40
7. Motor tricycles	40
8. (a) Goods vehicles, other than van-type light goods vehicles	15
(b) Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight –	
(i) on the first \$150,000	35
(ii) on the next \$150,000	75
(iii) on the remainder	105
(c) Van-type light goods vehicle exceeding 1.9 tonnes permitted gross vehicle weight	17
9. Special purpose vehicles	3.7”.

12. Saving and transitional provisions

(1) The amendments made to the principal Ordinance by this Ordinance shall not apply in relation to any motor vehicle the first registration of which has been effected before the commencement of this Ordinance and the principal Ordinance as in force immediately before the commencement of this Ordinance shall continue to apply in relation to such vehicle as if this Ordinance had not been enacted.

(2) If, after the commencement of this Ordinance, an accessory that was an exempted accessory immediately before the commencement of this Ordinance is fitted to a motor vehicle at the time the motor vehicle is offered for sale, then before the registered distributor publishes a new retail price under section 4A of the amended Ordinance, the retail price of the accessory published

under the repealed section 4A(1)(d) of the principal Ordinance and in force immediately before the commencement of this Ordinance shall be deemed to form part of the retail price of the model of the motor vehicle and be added to the retail price of the model of the motor vehicle published under section 4A(1)(a) of the principal Ordinance and in force immediately before the commencement of this Ordinance and a reference to the published retail price of a motor vehicle in the amended Ordinance shall be construed accordingly.

(3) If, after the commencement of this Ordinance, an accessory that was an exempted accessory immediately before the commencement of this Ordinance is offered as an optional accessory at the time a motor vehicle is offered for sale, then before the registered distributor publishes a new retail price under section 4A of the amended Ordinance, the retail price of the accessory published under the repealed section 4A(1)(d) of the principal Ordinance and in force immediately before the commencement of this Ordinance shall be deemed to be the retail price of the accessory published under section 4A(1)(b) of the amended Ordinance and a reference to the published retail price of an optional accessory in the amended Ordinance shall be construed accordingly.

(4) In this section –
“amended Ordinance” (經修訂條例) means the principal Ordinance as amended by this Ordinance;
“principal Ordinance” (主體條例) means the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330).

Consequential Amendments

Motor Vehicles (First Registration Tax) Regulation

13. Interpretation

Section 1 of the Motor Vehicles (First Registration Tax) Regulation (Cap. 330 sub. leg.) is amended by repealing the definitions of "air-conditioner" and anti-theft device".

14. Exempted accessories

Section 2 is repealed.

Explanatory Memorandum

The main purpose of this Bill is to amend the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) ("principal Ordinance") to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year. After this Bill comes into effect, the exemption from first registration tax now given in respect of certain accessories and warranties will be cancelled. The fitting of any accessory to, or the obtaining of any taxable warranty for, a motor vehicle within 6 months after its first registration will be subject to first registration tax.

2. Clause 2 defines the meaning of a taxable warranty.
3. Clauses 3, 4 and 5 amend sections 4A, 4B and 4C of the principal Ordinance to remove references to exempted accessories and references to their exemption from first registration tax.
4. Clause 6 amends section 4D of the principal Ordinance to require the registered owner and registered distributor of a motor vehicle to declare the value of any accessory fitted or taxable warranty obtained or provided within 6 months after its first registration.
5. Clause 7 amends section 4E of the principal Ordinance to make the value of an optional warranty provided by a registered distributor part of the taxable

value of a motor vehicle for the purpose of calculating its first registration tax. It also enables the Commissioner for Transport to, for the purpose of calculating additional first registration tax payable, assess the market value of an accessory or a taxable warranty if he is not satisfied that its declared value reflects its market value.

6. Clause 8 amends section 4F of the principal Ordinance to require payment of additional first registration tax to be made when the declaration made under the proposed section 4D(2) or (2A) of the principal Ordinance is delivered to the Commissioner for Transport.
7. Clause 9 imposes a duty on a registered distributor, its associated person and a registered owner of a motor vehicle to keep records in respect of the sale and purchase of the vehicle, any accessory and taxable warranty.
8. Clause 10 amends section 4I of the principal Ordinance to provide for the penalty for contravention of the requirements to make declarations and to keep records.
9. Clause 11 substitutes the existing Schedule to the principal Ordinance.
10. Clause 12 contains saving and transitional provisions.
11. Clauses 13 and 14 contain consequential amendments to the Motor Vehicles (First Registration Tax) Regulation (Cap. 330 sub. leg.).

First Registration Tax on Motor Vehicles

Vehicle type	Present tax bands and rates	Proposed tax bands and rates #
Private cars	(a) taxable value does not exceed \$100,000 40% (b) taxable value exceeds \$100,000 but does not exceed \$200,000 45% (c) taxable value exceeds \$200,000 but does not exceed \$300,000 50% (d) taxable value exceeds \$300,000 60%	(a) for first \$150,000 of taxable value 35% [@] (b) for next \$150,000 75% [@] (c) for next \$200,000 105% [@] (d) for the balance (i.e. for taxable value over \$500,000) 150% [@]
Motor cycles	40%	40%
Motor tricycles	40%	40%
Goods vehicles		
Van-type light goods vehicles not exceeding 1.9 tonnes permitted gross vehicle weight	(a) taxable value does not exceed \$100,000 40% (b) taxable value exceeds \$100,000 but does not exceed \$200,000 45% (c) taxable value exceeds \$200,000 50%	(a) for first \$150,000 of taxable value 35% [@] (b) for next \$150,000 of taxable value 75% [@] (c) for the balance (i.e. for taxable value over \$300,000) 105% [@]
Van-type light goods vehicles exceeding 1.9 tonnes permitted gross vehicle weight	20%	17%
Goods vehicles, other than van-type light goods vehicles	18%	15%
Taxis	4%	3.7%
Public and private light buses		
Public and private buses (except those exempted from the Motor Vehicle First Registration Tax as specified in the relevant Ordinance)		
Special purpose vehicles		

Under the proposed tax system, no exemption will be given to air-conditioners, audio equipment, anti-theft devices or distributors' warranties. Also, the marginal tax system will be adopted for private cars and van-type light goods vehicles not exceeding 1.9 tonnes.

@ These are marginal tax rates.

Impact analysis of 2003-04 Budget proposals on individual private car models

Vehicle Model	Old tax system #						New tax system @					
	(I) Taxable value under old FRT regime	(II) Value of exempted items	(III) Tax under old FRT regime (<=\$100,000@40% \$100,001-\$200,000@45% \$200,001-\$300,000@50% >\$300,000@60%)	(IV) Old tax as % of old taxable value	(V) Retail price (including the old taxable value) under old FRT regime	(VI) Old tax as % of old retail price (including the old taxable value)	(VII) New taxable value after including exempted items	(VIII) Tax under new FRT regime (First \$150,000@35% Next \$150,000@75% Next \$200,000@105% Value>\$500,000@150%)	(IX) New retail price (including the new taxable value)	(X) New tax as % of new taxable value	(XI) New tax as % of new retail price (including the new taxable value)	(XII) % difference in retail price (including the taxable value) after tax increase
Car A	88,700	63,820	35,480	40%	188,000	19%	152,520	53,382	205,902	35%	26%	10%
Car B	61,300	54,080	24,520	40%	139,900	18%	115,380	40,383	155,763	35%	26%	11%
Car C	34,700	30,420	13,880	40%	79,000	18%	65,120	22,792	87,912	35%	26%	11%
Car D	106,500	63,500	47,925	45%	217,925	22%	170,000	67,500	237,500	40%	28%	9%
Car E	157,000	35,700	70,650	45%	263,350	27%	192,700	84,525	277,225	44%	30%	5%
Car F	250,000	61,000	125,000	50%	436,000	29%	311,000	176,550	487,550	57%	36%	12%
Car G	217,000	61,000	108,500	50%	386,500	28%	278,000	148,500	426,500	53%	35%	10%
Car H	415,300	125,520	249,180	60%	790,000	32%	540,820	436,230	977,050	81%	45%	24%
Car I	366,000	53,000	219,600	60%	638,600	34%	419,000	289,950	708,950	69%	41%	11%
Car J	480,000	70,700	288,000	60%	838,700	34%	550,700	451,050	1,001,750	82%	45%	19%
Car K	530,000	106,400	318,000	60%	954,400	33%	636,400	579,600	1,216,000	91%	48%	27%
Car L	654,625	52,600	392,775	60%	1,100,000	36%	707,225	685,838	1,393,063	97%	49%	27%

Old tax system refers to the system which was in place before 2:30 p.m. on 5 March 2003 when the Public Revenue Protection Order took effect.

@ New tax system refers to the system which is in effect since 2:30 p.m. on 5 March 2003 after the Public Revenue Protection Order took effect.

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	29 of 1998
Section:	2	Heading:	Interpretation	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made-see 29 of 1998 s. 105

- (1) In this Ordinance unless the context otherwise requires- (Amended 11 of 1997 s. 2)
- "accessory" (配件), in relation to a motor vehicle, does not include-
- (a) without prejudice to the generality of subsection (2), any process involving the painting or rust-proofing or like treatment of the vehicle; or
 - (b) any accessory, or any accessory belonging to a class of accessories, declared in a notice under subsection (2) to be an accessory, or a class of accessories, as the case may be, to which this Ordinance shall not apply; (Added 11 of 1997 s. 2)
- "associated corporation" (相聯法團), in relation to a person, means-
- (a) a corporation over which the person has control;
 - (b) if the person is a corporation-
 - (i) a corporation which has control over the person; or
 - (ii) a corporation which is under the same control as is the first-mentioned person; (Added 43 of 1994 s. 2)
- "associated person" (相聯繫的人) includes-
- (a) where the registered person is a natural person-
 - (i) a relative of the registered person;
 - (ii) a partner of the registered person and a relative of that partner;
 - (iii) a partnership in which the registered person is a partner;
 - (iv) a corporation controlled by the registered person, by a partner of the registered person or by a partnership in which the registered person is a partner;
 - (v) a director or principal officer of a corporation referred to in subparagraph (iv);
 - (b) where the registered person is a corporation-
 - (i) an associated corporation;
 - (ii) a person who controls the corporation and where the person is a natural person, a relative of the person;
 - (iii) a partner of a person who controls the corporation and, where the person is a natural person, a relative of the person;
 - (iv) a director or principal officer of the corporation or an associated corporation and a relative of the director or principal officer;
 - (v) a partner of the corporation and, where the partner is a natural person, a relative of the partner;
 - (c) where the registered person is a partnership-
 - (i) a partner of the partnership and, where the partner is a natural person, a relative of the partner;
 - (ii) a corporation controlled by the partnership, a partner in the partnership or where a partner is a natural person, a relative of the partner;
 - (iii) a corporation of which a partner is a director or principal officer;

- (iv) a director or principal officer of a corporation referred to in subparagraph (iii); (Added 43 of 1994 s. 2)
- "bus" (巴士) means a motor vehicle constructed or adapted for the carriage of more than 16 passengers and their personal effects; (Replaced 23 of 1983 s. 2. Amended 89 of 1988 s. 4)
- "Commissioner" (署長) means the Commissioner for Transport; (Added 13 of 1967 s. 2. Amended 30 of 1967 Schedule)
- "control" (控制、控制權) for the purposes of the definition of "associated corporation" (相 法團) means having a controlling interest in a corporation by way of-
- (a) a shareholding of more than 50% including an interest by way of trust; or
 - (b) having the right to appoint a majority of the directors of the corporation; (Added 43 of 1994 s. 2)
- "declared value" (聲明價值) means the amount declared by a registered distributor or other person applying for first registration of a motor vehicle as the price paid for the motor vehicle under section 4D(1); (Added 43 of 1994 s. 2)
- "disabled person" (傷殘人士) means a person who holds a certificate signed by or on behalf of the Director of Health or the Hospital Authority established under the Hospital Authority Ordinance (Cap 113) stating that the person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking and who is able to satisfy the Commissioner that he is fit to drive a motor vehicle; (Replaced 29 of 1996 s. 2)
- "distributor" (分銷商) means a distributor of motor vehicles for use in Hong Kong and includes a retailer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2)
- "driver operated village vehicle" (司機操作的鄉村車輛) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, in addition to the carriage of a driver only; (Added 31 of 1986 s. 8)
- "exempted accessory" (獲豁免配件) means an accessory exempted from first registration tax by regulation made by the Commissioner other than-
- (a) part of such an accessory, or any equipment (including any wiring) connected or to be connected to such an accessory, where that part or equipment, as the case may be, is incapable by itself of performing the function of the accessory; or
 - (b) such an accessory which is not in a working state; (Replaced 11 of 1997 s. 2)
- "fee" (費用) includes charge; (Added 11 of 1997 s. 2)
- "first registration" (首次登記) means first registration in accordance with the provisions of the Road Traffic Ordinance (Cap 374); (Amended 79 of 1979 s. 2)
- "first registration tax" (首次登記稅) or "tax" (稅、稅款) means the tax payable under this Ordinance before a motor vehicle's first registration or otherwise in accordance with this Ordinance; (Added 43 of 1994 s. 2)
- "golf cart" (高爾夫球車) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or intended for use for the carriage of passengers on golf courses, in addition to the carriage of a driver; (Added 80 of 1988 s. 17)
- "goods vehicle" (貨車) means a motor vehicle which is constructed or adapted for use primarily for the carriage of goods, but does not include-
- (a) a motor tricycle or a motor cycle with or without a sidecar attached thereto;
 - (b) a driver operated village vehicle; or
 - (c) a pedestrian controlled village vehicle; (Replaced 31 of 1986 s. 8)
- "importer" (進口者) means an importer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

- "landed value" (抵岸價值) means the value of a motor vehicle landed in Hong Kong calculated by reference to the cost of the motor vehicle plus the insurance and freight paid; (Added 43 of 1994 s. 2)
- "light bus" (小型巴士) means a motor vehicle having a permitted gross vehicle weight not exceeding 4 tonnes which is constructed or adapted for use solely for the carriage of a driver and not more than 16 persons and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (Added 23 of 1983 s. 2. Amended 89 of 1988 s. 4)
- "light goods vehicle" (輕型貨車) means a goods vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes; (Added 39 of 1991 s. 2)
- "locally assembled vehicle" (本地裝配汽車) means a motor vehicle that is a goods vehicle, bus, light bus or special purpose vehicle assembled in Hong Kong by adding specified additions to an imported chassis or to an imported cab and chassis; (Added 43 of 1994 s. 2)
- "manner" (方式) includes format; (Added 11 of 1997 s. 2)
- "market value" (市值) means the price that a motor vehicle would fetch in the open market between a buyer and a seller independent of each other, dealing at arm's length; (Added 43 of 1994 s. 2)
- "model" (型號) includes a specific motor vehicle identified by the distributor, by reference to a chassis number or other identifying feature acceptable to the Commissioner, that may be otherwise the same as other motor vehicles; (Added 43 of 1994 s. 2)
- "motor cycle" (電單車) means a two-wheeled motor vehicle with or without a sidecar; (Replaced 23 of 1983 s. 2)
- "motor tricycle" (機動三輪車) means a three-wheeled motor vehicle other than-
- (a) a motor cycle with a sidecar;
 - (b) a driver operated village vehicle; (Replaced 80 of 1988 s. 17)
 - (c) a pedestrian controlled village vehicle; and (Replaced 80 of 1988 s. 17)
 - (d) a golf cart; (Added 80 of 1988 s. 17)
- (Replaced 31 of 1986 s. 8)
- "motor vehicle" (汽車) means any mechanically propelled vehicle intended or adapted for use on roads, and includes the chassis of such a vehicle but does not include any conveyance for use solely on railways or tramways; (Amended 43 of 1994 s. 2)
- "new motor vehicle" (新汽車) means a motor vehicle which has not been legally used on a road in Hong Kong except by the manufacturer or by an importer, distributor or retailer; (Added 43 of 1994 s. 2)
- "optional accessory" (自選配件) means an accessory-
- (a) which is not fitted to a standard motor vehicle at the time when the vehicle is offered for sale; but
 - (b) which may be fitted to the vehicle for an additional payment; (Added 11 of 1997 s. 2)
- "passenger" (乘客) includes any person carried in a car except 1 driver;
- "pedestrian controlled village vehicle" (由徒步者控制的鄉村車輛) means a motor vehicle controlled by a pedestrian, having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m, constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, and not constructed or adapted for the carriage of a driver or any passenger; (Added 31 of 1986 s. 8)
- "person applying for first registration" (申請首次登記的人) means-
- (a) the purchaser of a motor vehicle; or
 - (b) the importer of a motor vehicle where he is not a registered importer,
- and who applies for the first registration of the motor vehicle; (Added 43 of 1994 s. 2)
- "private bus" (私家巴士) means a bus used or intended for use-
- (a) otherwise than for hire or reward; or
 - (b) for the carriage of passengers who are exclusively-

- (i) the students, teachers and employees of an educational institution; or
 - (ii) disabled persons and persons assisting them,
- whether or not for hire or reward; (Added 23 of 1983 s. 2)

"private car" (私家車) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 7 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, golf cart or taxi; (Added 23 of 1983 s. 2. Amended 80 of 1988 s. 17)

"private light bus" (私家小巴) means a light bus used or intended for use-

- (a) otherwise than for hire or reward; or
- (b) for the carriage of persons who are exclusively-
 - (i) the students, teachers and employees of an educational institution; or
 - (ii) disabled persons and persons assisting them,whether or not for hire or reward; (Added 23 of 1983 s. 2)

"public bus" (公共巴士) means a bus, other than a private bus, which is used or intended for use for hire or reward; (Added 23 of 1983 s. 2)

"public light bus" (公共小巴) means a light bus, other than a private light bus, which is used or intended for use for hire or reward; (Added 23 of 1983 s. 2)

"published retail price" (公布零售價) means the retail price published for a motor vehicle or any part of the published retail price relating to a part of the motor vehicle under section 4A; (Added 43 of 1994 s. 2)

"registered distributor" (註冊分銷商) means a person who has registered as a distributor of motor vehicles with the Commissioner under section 3A(2); (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

"registered importer" (註冊進口者) means a person who has registered as an importer of motor vehicles with the Commissioner under section 3A(1); (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

"registered person" (註冊人) means a person who is registered as an importer or distributor under this Ordinance; (Added 43 of 1994 s. 2)

"relative" (親屬) means the spouse, parent, child, brother or sister of the relevant person and, in determining the relationship, an adopted person is regarded as the child of both the natural parents and the adoptive parents and a step child is the child of both the natural parents and any step parent; (Added 43 of 1994 s. 2)

"retailer" (零售商) means a retailer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2)

"road" (道路) includes every highway, thoroughfare, street, lane, alley, court, square, archway, passage, path, way and place to which the public have access, either continuously or intermittently and either of right or by licence, whether the same is the property of the Government or otherwise, and a private road within the meaning of the Road Traffic Ordinance (Cap 374); (Amended 80 of 1988 s. 17; 29 of 1998 s. 105)

"specified additions" (指明附加物) means additions of a class or type, as the Commissioner specifies by regulation, that are added to the chassis or cab and chassis to form a locally assembled vehicle; (Added 43 of 1994 s. 2)

"special purpose vehicle" (特別用途車輛) means a motor vehicle designed, constructed or adapted primarily for a use other than the carriage on a road of goods, the driver or passengers; (Added 78 of 1988 s. 2)

"stand or ply for hire" (停車候客) means, in respect of any motor vehicle, being on any road in motion or stopped and exhibiting any sign or signal, or having a driver who is exhibiting any sign or signal, indicating that it or any portion of it is available for hire whether on a predetermined route or otherwise;

"standard motor vehicle" (標準汽車) means a motor vehicle offered for sale at a price which does not include the price of any accessories fitted or to be fitted to the vehicle; (Added 11 of 1997 s. 2)

"taxable value" (應課稅價值) means the amount calculated as the taxable value under section 4E; (Added 43 of 1994 s. 2)

"taxi" (的士) means any motor vehicle, constructed or adapted for use solely for the carriage of a driver and not more than 5 persons and their personal effects, which stands or plies for hire and in which the

passengers are carried for hire or reward under a contract express or implied for the use of the vehicle as a whole at a rate indicate by the taximeter; (Amended 23 of 1983 s. 2)

"taximeter" (的士計程錶) means any appliance for measuring the time or distance for which a taxi is used, or for measuring both time and distance, or for recording the fare by time or distance or by a combination of time and distance, which is for the time being approved for the purpose by the Commissioner; (Amended 13 of 1967 s. 2)

"transfer of additions" (轉換附加物) means the transfer of additions that come within classes or types of specified additions from the chassis or cab and chassis of one locally assembled vehicle to another chassis or cab and chassis to form another locally assembled vehicle; (Added 43 of 1994 s. 2)

"van-type light goods vehicle" (客貨車) means a light goods vehicle constructed with a fully enclosed body which is an integral part of the vehicle. (Added 39 of 1991 s. 2)

(Amended 43 of 1994 s. 2; 11 of 1997 s. 2)

(2) The Commissioner may, by notice in the Gazette, and subject to such conditions, if any, as are specified in the notice, declare an accessory, or a class of accessories, including any process or modification relating to a motor vehicle, not to be an accessory, or a class of accessories, as the case may be, for the purposes of this Ordinance. (Added 11 of 1997 s. 2)

(3) It is hereby declared that a notice under subsection (2) is subsidiary legislation. (Added 11 of 1997 s. 2)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4A	Heading:	Publication of retail price	Version Date:	30/06/1997

(1) A registered distributor shall, before offering a motor vehicle for sale for use in Hong Kong or distributing a motor vehicle for use in Hong Kong, publish in writing, in such manner as the Commissioner requires, a retail price of each model of the motor vehicle offered for sale or distributed by him containing-

- (a) the retail price of the model of the motor vehicle including the manufacturer's warranty and any other warranty that is mandatory (but excluding the first registration tax payable) with a description of what is included in the retail price; (Amended 11 of 1997 s. 5)
- (b) the retail price of optional accessories (other than exempted accessories) that are offered in addition to the standard motor vehicle, if any;
- (c) the retail price of warranties other than a manufacturer's warranty and any other warranty that is mandatory that are offered in addition to the standard motor vehicle, if any; and (Amended 11 of 1997 s. 5)
- (d) the retail price of exempted accessories offered for the model; if any.

(2) A registered distributor shall publish the retail price of the motor vehicle as assessed by the Commissioner, or if varied by the Administrative Appeals Board, as so varied, under section 4B as the published retail price of the motor vehicle.

(3) The retail price of a motor vehicle assessed by the Commissioner, or if varied by the Administrative Appeals Board, as so varied, is taken as the published retail price of the motor vehicle.

(4) A registered distributor shall deliver a copy of his retail price list intended for publication to the Commissioner not less than 7 days before publication and shall give the Commissioner not less than 5 working days' notice of an intended change in the published retail price of a model of a motor vehicle.

(5) A person shall not sell a new motor vehicle other than a locally assembled vehicle at a price greater than the taxable value of the motor vehicle calculated under section 4E(2)(a)(i) and (ii) plus the value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle and the value of any exempted accessories fitted to the motor vehicle but excluding that part of the values of exempted accessories and warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C without first obtaining the consent of the Commissioner. (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)

(6) A person shall not, without first obtaining the consent of the Commissioner, sell a new locally assembled vehicle at a price greater than the aggregate of-

- (a) the taxable value calculated under section 4E(2)(b)(i) and (ii);
- (b) the value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle but excluding that part of the value of an exempted warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)
- (c) the value of any exempted accessories fitted to the motor vehicle but excluding that part of the value of exempted accessories which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; and (Amended 29 of 1996 s. 3)
- (d) the value of specified additions to the chassis or cab and chassis.

(7) A person shall not sell a motor vehicle which is not a new motor vehicle or a locally assembled vehicle at a price greater than the taxable value calculated under section 4E(2)(a)(i) and (ii) or (c), the value of any unexpired portion of a warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle and the value of any exempted accessories fitted to the motor vehicle but excluding that part of the values of exempted accessories and warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C and the first registration tax paid or payable on the motor vehicle without first obtaining the consent of the Commissioner. (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)

(8) A person shall not, without first obtaining the consent of the Commissioner, sell a locally assembled vehicle (which is not a new motor vehicle) at a price greater than the aggregate of-

- (a) the taxable value calculated under section 4E(2)(b)(i) and (ii);
- (b) the value of any unexpired portion of warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle but excluding that part of the value of an exempted warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)
- (c) the value of any exempted accessories fitted to the motor vehicle but excluding that part of the value of exempted accessories which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3)
- (d) the value of specified additions to the chassis or cab and chassis; and
- (e) the first registration tax paid or payable on the motor vehicle.

(9) For the purposes of subsections (5), (6), (7) and (8), "value of any exempted accessories" (任何獲豁免配件的價值) means the published retail price of the accessories published under this section.

(10) For the purposes of subsections (5) and (6), "value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory)" (任何保證(製造商的保證及任何其他強制性保證除外)的價值) means the published retail price of the warranty published under this section. (Amended 11 of 1997 s. 5)

(11) For the purposes of subsections (7) and (8), "value of any unexpired portion of a warranty (other than a manufacturer's warranty and any other warranty that is mandatory)" (任何未期滿部分的保證(製造商的保證及任何其他強制性保證除外)的價值) means the value calculated on the basis of the published retail price of the warranty published under this section. (Amended 11 of 1997 s. 5)

(12) The Commissioner shall not refuse to consent to a sale under subsection (5), (6), (7) or (8) unless he is satisfied that the transaction is part of a scheme that avoids payment of first registration tax.

(13) The Commissioner may impose as a condition to a consent under subsection (5), (6), (7) or (8) a requirement for the registered owner, the person applying for first registration or the person applying for change of ownership of a registered motor vehicle, to pay additional first registration tax for the motor vehicle calculated on any increased value reflected in the increase in the purchase price of the motor vehicle. (Amended 11 of 1997 s. 5)

(14) The Commissioner may make public a retail price list delivered to him under this section in the manner he thinks fit.

(15) Subsections (7) and (8) do not apply to a motor vehicle-

- (a) sold under a written agreement with a non-refundable deposit paid; or
- (b) registered,

before the commencement of this section.

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 4B Heading: Commissioner may assess published retail price in certain circumstances Version Date: 30/06/1997

- (1) Where the Commissioner is of the opinion that-
- (a) a published retail price of the taxable or the exempted elements of a motor vehicle does not reflect the market value of that element of the motor vehicle; or
 - (b) the values of the taxable and the exempted elements of the motor vehicle are constructed in a way to avoid the payment of first registration tax,

the Commissioner may reject the published retail price for the motor vehicle and may assess a retail price that would reflect the market value of the taxable and exempted elements of the motor vehicle.

(2) The Commissioner shall give the registered distributor notice of his refusal to accept the published retail price immediately on his reaching his opinion.

(3) The Commissioner shall, after considering the representations of the registered distributor, give the registered distributor notice of the retail price that he considers reflects the market value of the taxable and exempted elements of the motor vehicle, within 14 days of giving notice under subsection (2) or receipt of any representations from the registered distributor.

- (4) The Commissioner shall give reasons for-
- (a) his rejection of a published retail price; and
 - (b) his assessment of the retail price under this section,

to the registered distributor at the time of giving notice under subsection (3).

(5) The Commissioner may register a motor vehicle where the full assessment of first registration tax is in dispute under this section if the tax is paid in full as assessed pending the outcome of an appeal to the Administrative Appeals Board.

(6) If the Administrative Appeals Board finds that the registered distributor or a purchaser has paid first registration tax in excess of that properly assessable, the Commissioner shall refund the excess of tax as soon as practicable after the decision of the Administrative Appeals Board is published.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4C	Heading:	Commissioner may regulate exempt value	Version Date:	30/06/1997

(1) The Commissioner may by regulation- (Amended 29 of 1996 s. 4)

- (a) specify the classes or types of additions to the chassis or cab and chassis of locally assembled vehicles that will be taxable under this Ordinance and set the formula by, or specify the amounts at, which they will be valued for the purpose of calculating the taxable value of locally assembled vehicles; (Amended 11 of 1997 s. 6)
- (b) specify classes or types of accessories that are exempted accessories and set the maximum exempted value of the accessories for the different levels of taxable value of motor vehicles for the purpose of assessing first registration tax and, without limiting the foregoing, the Commissioner may set the maximum exempted value as a percentage of the published retail price of the motor vehicle or some other standard specified by the Commissioner;
- (c) prescribe the conditions under which previously taxed chassis, cabs and chassis and additions to the chassis or cabs and chassis of locally assembled vehicles are excluded from first registration tax on the transfer of additions. (Amended 29 of 1996 s. 4)

(2) The Commissioner may, by regulation, specify the class or type of warranty that is an exempted warranty and set the maximum exempted value of the warranty for the different levels of taxable value of motor vehicles for the purpose of assessing first registration tax and, without limiting the foregoing, the Commissioner may set the maximum exempted value as a percentage of the published retail price of the motor vehicle or some other standard specified by the Commissioner. (Added 29 of 1996 s. 4)

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4D	Heading:	Declaration as to price paid	Version Date:	30/06/1997

(1) A registered distributor, if any, and a person applying for first registration shall each sign a declaration, in the form approved by the Commissioner, stating the date and place of purchase of the motor vehicle and-

- (a) for a motor vehicle sold by a registered distributor-
 - (i) the published retail price of the motor vehicle, if applicable;
 - (ii) the published retail price of an optional accessory fitted or to be fitted to the motor vehicle within 3 months after the date of first registration by the registered distributor or an associated person, if any;
 - (iii) the published retail price of any warranty, other than a manufacturer's warranty and any other warranty that is mandatory, attaching to the sale of the motor vehicle; and (Amended 11 of 1997 s. 7)
 - (iv) details of an exempted accessory fitted to the motor vehicle;
- (b) for a motor vehicle that is not sold by a registered distributor, the full price paid by the person applying for first registration for the purchase of the motor vehicle, including-
 - (i) the cost of all materials and work necessary to put the vehicle into the state necessary to meet first registration requirements; (Amended 11 of 1997 s. 7)
 - (ii) the value of accessories (including exempted accessories) included in the purchase of the motor vehicle; (Amended 11 of 1997 s. 7)
 - (iii) any incidental insurance and freight fees relating to the vehicle (but excluding any tax or fee paid to the government of the place from which the vehicle is imported); and (Added 11 of 1997 s. 7)
 - (iv) the cost element of the landed value of the motor vehicle which the importer is required to give under section 3B(2); (Added 11 of 1997 s. 7)
- (c) where paragraph (b)(i), (ii), (iii) or (iv) is applicable, attach to the declaration such documentary evidence as the Commissioner may reasonably require in support of that part of the full price to which that paragraph is applicable. (Added 11 of 1997 s. 7)

(2) The registered owner and a registered distributor shall, if the registered distributor or an associated person fits an accessory to a motor vehicle within 3 months after the first registration of the motor vehicle, not later than 5 working days after the fitting of the accessory, make and deliver a declaration setting out details of the accessory together with payment of the additional first registration tax attributable to the value of the accessory and any additional first registration tax attributable to the increase in total value of the motor vehicle with the accessory fitted.

(3) A registered distributor may authorize his employees and agents to make a declaration under this section and shall notify the Commissioner in writing as to the names of the persons authorized.

(4) In this section "fits an accessory" (安裝任何配件) includes commencing to fit an accessory.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4E	Heading:	Calculation of first registration tax and taxable value	Version Date:	30/06/1997

(1). The Commissioner shall calculate the first registration tax for a motor vehicle as the amount equal to the percentage, specified in column 3 of the Schedule, of the taxable value of the motor vehicle for that class of motor vehicle as at the date of first registration of the motor vehicle or the date of registration of the transfer of the motor vehicle or such other date as may be provided for in this Ordinance.

(2) The Commissioner shall calculate the taxable value of a motor vehicle as follows-

- (a) for a new motor vehicle (other than a locally assembled vehicle), where there is a published retail price, the taxable value shall be the aggregate of-
 - (i) the published retail price of the motor vehicle including any manufacturer's warranty and any other warranty that is mandatory; (Amended 11 of 1997 s. 8)
 - (ii) the published retail price of any optional accessories fitted or to be fitted to the vehicle within 3 months after first registration; (Amended 11 of 1997 s. 8)
 - (iia) where the value of the warranty other than a manufacturer's warranty and any other warranty that is mandatory exceeds the maximum exempted value that the Commissioner specifies under section 4C(2), the excess value of the warranty; (Added 29 of 1996 s. 5. Amended 11 of 1997 s. 8)
 - (iii) where the value of exempted accessories exceeds the maximum exempted value that the Commissioner sets by regulation, the excess value of the accessories;
 - (iv) without prejudice to the generality of subsection (3), any brokerage or agency fee paid or payable in relation to the purchase and importation of the motor vehicle; and (Added 11 of 1997 s. 8)
 - (v) any fee, or any fee belonging to a class of fees, declared in a notice under subsection (3) to be a fee, or a class of fees, as the case may be, for the purposes of this subparagraph; (Added 11 of 1997 s. 8)
- (b) for a new motor vehicle which is a locally assembled vehicle, the taxable value shall be the aggregate of-
 - (i) the published retail price of the chassis or cab and chassis, including any manufacturer's warranty and any other warranty that is mandatory; (Amended 11 of 1997 s. 8)
 - (ii) the published retail price of any optional accessories fitted or to be fitted to the vehicle within 3 months after first registration;
 - (iia) where the value of the warranty other than a manufacturer's warranty and any other warranty that is mandatory exceeds the maximum exempted value that the Commissioner specifies under section 4C(2), the excess value of the warranty; (Added 29 of 1996 s. 5. Amended 11 of 1997 s. 8)
 - (iii) where the value of exempted accessories exceeds the maximum exempted value that the Commissioner sets by regulation, the excess value of the accessories; (Amended 11 of 1997 s. 8)
 - (iv) the value of the specified additions to the chassis or cab and chassis as the Commissioner sets by regulation; (Amended 11 of 1997 s. 8)
 - (v) without prejudice to the generality of subsection (3), any brokerage or agency fee paid

or payable in relation to the purchase and importation of the parts of the motor vehicle; and (Added 11 of 1997 s. 8)

- (vi) any fee, or any fee belonging to a class of fees, declared in a notice under subsection (3) to be a fee, or a class of fees, as the case may be, for the purposes of this subparagraph, (Added 11 of 1997 s. 8)

except where, in the case of subparagraph (iv), it is shown to the satisfaction of the Commissioner that the additions to the motor vehicle were previously taxed and that the prescribed conditions for the transfer of additions are complied with, the value of the additions shall be excluded for the purpose of calculating the taxable value of the motor vehicle; (Amended 11 of 1997 s. 8)

- (c) for a new motor vehicle imported into Hong Kong, where there is no published retail price, the taxable value shall be-
 - (i) the declared value under section 4D less any deduction for the value, as determined by the Commissioner, of the exempted accessories; or
 - (ii) where the Commissioner is not satisfied that the declared value under section 4D reflects the market value of the motor vehicle, including the incidental freight and insurance, such other value as the Commissioner may determine having regard to the age of the motor vehicle, the retail price in the place of origin of the motor vehicle, including the cost of all materials and work necessary to put the vehicle into the state necessary to meet first registration requirements less any deduction for the value, as determined by the Commissioner, of exempted accessories;
- (ca) for a motor vehicle registered in the name of an importer in a place outside Hong Kong before its importation into Hong Kong, the taxable value shall be the depreciation allowed by the Commissioner under subsection (5) of the declared value of the motor vehicle; (Added 11 of 1997 s. 8)
- (d) for a motor vehicle which has been legally used on a road in Hong Kong other than by the manufacturer or by an importer, distributor or retailer or under a movement permit prior to first registration, being a vehicle which has become liable to first registration tax for the first time or additional first registration tax-
 - (i) the taxable value calculated under paragraph (a), (b) or (c), as the case may be, less depreciation at the prescribed rate, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which the motor vehicle became liable to first registration tax or additional first registration tax, excluding a part of a month of less than 15 days but counting a part of a month of 15 days or more as a whole month; or
 - (ii) where the taxable value cannot be ascertained under paragraph (a), (b) or (c), such other value as the Commissioner may determine as the market value of the motor vehicle less any deduction for the value, as determined by the Commissioner, of the exempted accessories.

(3) The Commissioner may, by notice in the Gazette, and subject to such conditions, if any, as are specified in the notice, declare a fee, or a class of fees, to be a fee, or a class of fees, as the case may be, for the purposes of paragraph (a)(v) or (b)(vi) of subsection (2). (Added 11 of 1997 s. 8)

(4) It is hereby declared that a notice under subsection (3) is subsidiary legislation. (Added 11 of 1997 s. 8)

(5) The Commissioner may allow depreciation for the motor vehicle referred to in subsection (2)(ca)-

- (a) at the rate of depreciation prescribed under the Motor Vehicles (First Registration Tax) (Depreciation) Regulations (Cap 330 sub. leg.); and
- (b) from the date of its registration in a place outside Hong Kong to the date of its importation. (Added 11 of 1997 s. 8)

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 4F Heading: Payment of tax Version Date: 30/06/1997

(1) Subject to section 5, before the Commissioner first registers a motor vehicle under the Road Traffic Ordinance (Cap 374)-

- (a) the registered distributor or registered importer who is selling the motor vehicle; or
- (b) where the motor vehicle is imported other than by a registered importer, the person who is applying for first registration,

shall pay a tax calculated by the Commissioner under section 4E.

(2) A registered distributor shall not deliver a motor vehicle to the purchaser until the first registration tax for the motor vehicle, if payable, is paid to the Commissioner.

(3) Where first registration tax is not payable under subsection (1) on the first registration of a motor vehicle and the motor vehicle is subsequently transferred, unless the transferee of the motor vehicle is exempted from paying first registration tax on the motor vehicle, the transferee shall pay first registration tax calculated under section 4E(2)(d) for the motor vehicle before the Commissioner registers the transfer of ownership.

(4) If-

- (a) the class of a motor vehicle is changed by reason of a change of use;
- (b) the status of the registered owner of a motor vehicle is changed to remove an exemption; or
- (c) the class of additions to the chassis or cab and chassis of a locally assembled vehicle is changed,

the registered owner of the motor vehicle, as from the date on which the change of class or status takes place, is liable to pay and shall immediately pay first registration tax calculated under section 4E(2)(d) less any first registration tax previously paid.

(5) A person convicted of an offence under section 4I(1)(a), (b), (c), (d) or (e) shall, in addition to any other penalty, be liable to pay double the amount of tax that would have been payable by him under this Ordinance for that event.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4I	Heading:	Offences	Version Date:	30/06/1997

(1) A person who-

- (a) being a registered distributor, delivers a motor vehicle to a purchaser before the first registration tax is paid for the motor vehicle;
- (b) being a registered owner, fails to pay, immediately on change of use to which the motor vehicle is put, first registration tax or additional first registration tax;
- (c) being a registered owner of a locally assembled vehicle, fails to pay, immediately on change of additions to the chassis or cab and chassis, additional first registration tax payable;
- (d) being a registered owner to whom section 4F(4)(b) applies, fails immediately to pay any first registration tax for which he is liable;
- (e) being a registered distributor, registered owner or person applying for first registration, signs a false declaration or fails to include all of the particulars, or to attach to the declaration the documentary evidence, required within the time as required under section 4D(1) or (2); (Amended 11 of 1997 s. 10)
- (f) sells a new motor vehicle (other than a locally assembled vehicle) at a price higher than the amount permitted under section 4A(5) without first obtaining the consent of the Commissioner;
- (g) sells a new locally assembled vehicle at a price higher than the amount permitted under section 4A(6) without first obtaining the consent of the Commissioner;
- (h) sells a motor vehicle which is not a new motor vehicle or a locally assembled vehicle at a price higher than the amount permitted under section 4A(7) without first obtaining the consent of the Commissioner;
- (i) sells a locally assembled vehicle (which is not a new motor vehicle) at a price higher than the amount permitted under section 4A(8) without first obtaining the consent of the Commissioner;
- (j) being the importer of a motor vehicle, fails to file the return as required under section 3B(1) with the Commissioner within 30 days (or such longer period as the Commissioner has permitted under that section in his case) of the importation of a motor vehicle into Hong Kong and not less than 5 working days before delivering that motor vehicle; (Amended 11 of 1997 s. 10)
- (k) being the importer of a motor vehicle, files a false or inaccurate return as required under section 3B(1) with the Commissioner;
- (l) being an importer of motor vehicles, fails to register as an importer as required under section 3A(1) with the Commissioner within 30 days of commencing to carry on that business; (Amended 11 of 1997 s. 10)
- (m) being a distributor of motor vehicles, fails to register as a distributor as required under section 3A(2) with the Commissioner within 30 days of commencing to carry on that business; (Amended 11 of 1997 s. 10)
- (n) being a registered distributor, fails to publish in writing a retail price list as required under section 4A(1);
- (o) being a registered distributor, fails to publish in writing a retail price as required under section

4A(2);

- (p) being a registered distributor, fails to deliver a copy of his retail price list intended for publication as required under section 4A(4) to the Commissioner not less than 7 days before publication; or
- (q) being a registered distributor, fails to give not less than 5 working days' notice to the Commissioner of his intention to change the retail price of a model as required under section 4A(4),

commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 12 months.

(2) A person who-

- (a) obstructs an authorized person;
- (b) fails to comply with a requirement, direction or demand given or made by an authorized person,

in the exercise of a power or the performance of a duty conferred or imposed by this Ordinance, commits an offence and is liable on conviction to a fine of \$10000 and to imprisonment for 6 months.

(3) Any prosecution or other legal proceedings against any person in relation to an offence under this Ordinance shall be instituted within-

- (a) 2 years after the date on which the offence is committed; or
- (b) 6 months after the date on which the Commissioner first has knowledge that the offence has been committed,

whichever is the earlier. (Added 11 of 1997 s. 10)

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
 Schedule: Heading: ORDINANCE SCHEDULE Version Date: 30/06/1997

[section 4E]

CLASSES OF MOTOR VEHICLES AND RATE OF TAX

Item	Class of motor vehicle	Rate of tax %
1.	Private cars-	
	(a) where the taxable value of the private car does not exceed \$100000	40
	(b) where the taxable value of the private car exceeds \$100000 but does not exceed \$200000	45
	(c) where the taxable value of the private car exceeds \$200000 but does not exceed \$300000	50
	(d) where the taxable value of the private car exceeds \$300000	60
2.	Taxis	4
3.	Public light buses and private light buses	4
4.	Public buses, except buses which are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Cap 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap 372) within the North-west Transit Service Area as defined in that Ordinance	4
5.	Private buses, except buses which are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Services Ordinance (Cap 230) or within the North-west Transit Service Area under the Kowloon-Canton Railway Corporation Ordinance (Cap 372)	4
6.	Motor cycles	40
7.	Motor tricycles	40
8.	(a) Goods vehicles, other than van-type light goods vehicles	18
	(b) Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight-	
	(i) where the taxable value of the van-type light goods vehicle does not exceed \$100000	40
	(ii) where the taxable value of the van-type light goods vehicle exceeds \$100000 but does not exceed \$200000	45
	(iii) where the taxable value of the van-type light goods vehicle exceeds \$200000	50
	(c) Van-type light goods vehicle exceeding 1.9 tonnes permitted gross vehicle weight	20
9.	Special purpose vehicles.....	4

(Replaced 43 of 1994 s. 6)

Chapter: 330B Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 1 Heading: Interpretation Version Date: 30/06/1997

In this Regulation-

- "air-conditioner" (冷氣機) means an equipment which produces air flow below ambient temperature but does not include an air warmer, air purifier, dehumidifier or a fan;
- "anti-theft device" (防盜裝置) means a device which is permanently fitted to a motor vehicle and which the Commissioner is satisfied is designed to deter a person from taking the motor vehicle without lawful authority;
- "heavy goods vehicle" (重型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes;
- "medium goods vehicle" (中型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes.

(Enacted 1994)

Chapter: 330B Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 2 Heading: Exempted accessories Version Date: 30/06/1997

The following classes of accessories fitted to a motor vehicle prior to or within 3 months of first registration are excluded for calculating the taxable value of the motor vehicle-

- (a) an air-conditioner;
- (b) an anti-theft device; and
- (c) audio equipment.

(Enacted 1994)

REVENUE BILL 2003**CONTENTS**

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A BILL

To

Amend the Motor Vehicles (First Registration Tax) Ordinance to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year and to clarify the method of calculating the taxable value of a motor vehicle under section 4E(2)(ca) of that Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Revenue Ordinance 2003.

(2) This Ordinance shall be deemed to have come into operation at 2.30 p.m. on 5 March 2003.

Motor Vehicles (First Registration Tax) Ordinance

2. Interpretation

Section 2(1) of the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) is amended –

- (a) by repealing the definition of “exempted accessory”;
- (b) in the definition of “market value”, by repealing “means the price that a motor vehicle” and substituting “, in relation to any motor vehicle, accessory or taxable warranty, means the price that the motor vehicle, accessory or taxable warranty”;
- (c) in the definition of “standard motor vehicle”, by repealing everything after “a price” and substituting “published under section 4A(1)(a);”;
- (d) by adding –

“taxable warranty” (應課稅保證) means a warranty provided by a person in respect of a motor vehicle –

(a) which is not included in the retail price of the vehicle published under section 4A(1)(a); and

(b) under which the person undertakes to provide, within a fixed period and whether subject to payment of a fee on each occasion the service is provided, any of the following services for the vehicle –

(i) checking the condition of the vehicle;

(ii) the maintenance of equipment, parts, components or accessories;

(iii) the repair or replacement of defective equipment, parts, components or accessories; or

(iv) remedying any defective process involving painting or

rust-proofing or like
treatment,

and includes a warranty provided by a registered distributor or an associated person the retail price of which is published under section 4A(1)(c);”.

3. Publication of retail price

Section 4A is amended –

- (a) in subsection (1) –
 - (i) in paragraph (b) –
 - (A) by repealing “(other than exempted accessories)”;
 - (B) by adding “and” at the end;
 - (ii) in paragraph (c), by repealing “; and” and substituting a full stop;
 - (iii) by repealing paragraph (d);
- (b) in subsection (5), by repealing everything after “section 4E(2)(a)(i)” and substituting “, (ii) and (iiia) without first obtaining the consent of the Commissioner.”;
- (c) in subsection (6) –
 - (i) in paragraph (a), by repealing “and (ii);” and substituting “, (ii) and (iiia); and”;
 - (ii) by repealing paragraphs (b) and (c);
- (d) in subsection (7), by repealing everything after “4E(2)(a)(i)” and substituting “, (ii) and (iiia) or (c) and the first registration tax paid or payable on the motor vehicle without first obtaining the consent of the Commissioner.”;
- (e) in subsection (8) –

- (i) in paragraph (a), by repealing “and (ii)” and substituting “, (ii) and (iiia)”;
- (ii) by repealing paragraphs (b) and (c);
- (f) by repealing subsections (9), (10) and (11).

4. Commissioner may assess published retail price in certain circumstances

Section 4B is amended –

- (a) in subsection (1) –
 - (i) in paragraph (a), by repealing “a published retail price of the taxable or the exempted elements” and substituting “the published retail price of an element”;
 - (ii) in paragraph (b), by repealing “taxable and the exempted”;
 - (iii) by repealing “taxable and exempted”;
- (b) in subsection (3), by repealing “taxable and exempted”.

5. Commissioner may make regulation in respect of chassis or cab and chassis

Section 4C is amended –

- (a) by repealing subsection (1)(b);
- (b) by repealing subsection (2).

6. Declaration as to price paid

Section 4D is amended –

- (a) in subsection (1)(a) –
 - (i) in subparagraph (ii) –
 - (A) by repealing “3 months” and substituting “6 months”;
 - (B) by adding “and” at the end;

- (ii) in subparagraph (iii), by repealing “; and” and substituting “, irrespective of whether the warranty takes immediate effect;”;
- (iii) by repealing subparagraph (iv);
- (b) in subsection (1)(b) –
 - (i) in subparagraph (ii), by repealing “(including exempted accessories)”;
 - (ii) by adding –
 - “(iia) the value of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, included in the purchase of the motor vehicle, irrespective of whether the warranty takes immediate effect;”;
- (c) in subsection (1)(c), by adding “, (iia)” after “(ii)”;
- (d) by repealing subsection (2) and substituting –

“(2) If a person fits an accessory to a motor vehicle within 6 months after the first registration of the vehicle and the accessory has not been declared in a declaration signed under subsection (1) –

- (a) in the case where the accessory is fitted by a registered distributor or an associated person, the registered owner and the registered distributor; or
- (b) in the case where the accessory is fitted by a

person other than a registered distributor or an associated person, the registered owner,

shall, within 5 working days after the fitting of the accessory, make and deliver to the Commissioner a declaration, in the form approved by the Commissioner, setting out details, including the value, of the accessory and attaching such documentary evidence as the Commissioner may reasonably require in support of the declared value of the accessory.

(2A) If the registered owner of a motor vehicle obtains a taxable warranty for the vehicle within 6 months after the first registration of the vehicle and the taxable warranty has not been declared in a declaration signed under subsection (1) –

- (a) in the case where the taxable warranty is provided by a registered distributor or an associated person, the registered owner and the registered distributor; or
- (b) in the case where the taxable warranty is provided by a person other than a registered distributor or an associated person, the registered owner,

shall, within 5 working days after the date on which the contract for the taxable warranty is entered into, make and deliver to the Commissioner a declaration, in the form approved by the Commissioner, setting out details, including the value, of the taxable warranty and attaching such documentary evidence as the Commissioner may reasonably require in support of the declared value of the taxable warranty.”.

7. Calculation of first registration tax and taxable value

Section 4E is amended –

- (a) in subsection (2)(a) –
 - (i) in subparagraph (ii), by repealing “3 months” and substituting “6 months”;
 - (ii) by repealing subparagraphs (iia) and (iii);
 - (iii) by adding –
 - “(iiia) the published retail price of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, attaching to the sale of the vehicle, irrespective of whether the warranty takes immediate effect;”;
- (b) in subsection(2)(b) –
 - (i) in subparagraph (ii), by repealing “3 months” and substituting “6 months”;
 - (ii) by repealing subparagraphs (iia) and (iii);
 - (iii) by adding –

“(iiiia) the published retail price of any warranty, other than a manufacturer’s warranty and any other warranty that is mandatory, attaching to the sale of the vehicle, irrespective of whether the warranty takes immediate effect;”;

- (c) in subsection (2)(c) –
 - (i) in subparagraph (i), by repealing “less any deduction for the value, as determined by the Commissioner, of the exempted accessories”;
 - (ii) in subparagraph (ii), by repealing “less any deduction for the value, as determined by the Commissioner, of exempted accessories”;
- (d) in subsection (2)(ca), by repealing everything after “shall be” and substituting “the declared value of the motor vehicle under section 4D less the depreciation allowed by the Commissioner under subsection (5);”;
- (e) in subsection (2)(d) –
 - (i) in subparagraph (i), by repealing everything after “as the case may be,” and substituting –
 - “less –
 - (A) depreciation at the prescribed rate, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which the motor vehicle became liable to first registration tax or additional first registration tax, excluding a part of a month of less than 15 days but

counting a part of a month of 15 days or more as a whole month; and

(B) the value of any expired portion of a warranty, other than a manufacturer's warranty and any other warranty that is mandatory, calculated on the basis of the published retail price or, where there is no published retail price, the declared value under section 4D, of the warranty; or";

(ii) in subparagraph (ii), by repealing "less any deduction for the value, as determined by the Commissioner, of the exempted accessories";

(f) by adding –

“(2A) After receiving a declaration made under section 4D(2) or (2A), the Commissioner shall revise the taxable value of the motor vehicle to which the declaration relates by adding the value of the accessory or taxable warranty as declared in the declaration or, if applicable, the market value of the accessory or taxable warranty as assessed under subsection (2B) to the existing taxable value of the vehicle calculated under this section and calculate the additional first registration tax payable for the vehicle.

(2B) If the Commissioner is of the opinion that the declared value of an accessory or a taxable warranty does not reflect the market value of the accessory or taxable warranty, the

Commissioner may assess the market value of the accessory or taxable warranty for the purposes of subsection (2A), having regard to the declared value or the range of market values of any similar accessory or taxable warranty.

(2C) The Commissioner shall give the registered owner and (if applicable) the registered distributor notice of his refusal to accept the declared value of an accessory or a taxable warranty immediately on reaching his opinion referred to in subsection (2B) and inform the registered owner and (if applicable) the registered distributor in the notice that written representation concerning the value of the accessory or taxable warranty may be made to the Commissioner within 14 days after the date of the notice.

(2D) The Commissioner shall consider any written representation made by the registered owner or (if applicable) the registered distributor and shall –

- (a) within 14 days after giving notice under subsection (2C); or
- (b) where any written representation is made to the Commissioner, within 14 days after receipt of the representation,

give the registered owner and (if applicable) the registered distributor notice of the market value of the accessory or taxable warranty as assessed by the Commissioner.

(2E) The Commissioner shall state in the notice given under subsection (2D) the reasons for –

- (a) his rejection of the declared value of the accessory or taxable warranty; and
- (b) his assessment of the market value of the accessory or taxable warranty under this section.

(2F) If the Administrative Appeals Board finds that the amount of additional first registration tax paid exceeds the amount properly assessable, the Commissioner shall refund the excess as soon as practicable after the decision of the Administrative Appeals Board is published.”.

8. Payment of tax

Section 4F is amended –

- (a) by adding –

“(4A) Any additional first registration tax attributable to the increase in total taxable value of a motor vehicle shall be paid at the time the

declaration made under section 4D(2) or (2A) is delivered to the Commissioner.”;

- (b) in subsection (5), by repealing “or (e)” and substituting “, (e) or (ea)”.

9. Section added

The following is added –

“4FA. Duty to keep records of sale and purchase of motor vehicles, accessories and taxable warranties

(1) A registered distributor and an associated person shall keep proper records in respect of the distribution or sale of any motor vehicle by the registered distributor or associated person, as the case may be, and the fitting of any accessory to, or the provision of any taxable warranty for, the vehicle within 6 months after the first registration of the vehicle.

(2) The registered owner of a motor vehicle shall keep proper records in respect of the purchase of the vehicle and the fitting of any accessory to, or the obtaining of any taxable warranty for, the vehicle within 6 months after the first registration of the vehicle.

(3) A person shall not be regarded as having kept proper records under this section unless the person, in respect of each transaction for which record is required to be kept –

- (a) keeps all the invoices and agreements relating to the transaction; and
- (b) records the particulars of –
 - (i) the names of the parties to the transaction;
 - (ii) the subject matter of the transaction, including in each case, the model and the registration mark or, where the registration mark is not available, the chassis number of the motor vehicle to which the transaction relates;

- (iii) the date of the transaction; and
- (iv) the value of the relevant motor vehicle, accessory or taxable warranty, as the case may be.

(4) A record which a person is required by this section to keep shall be retained for 30 months after the first registration of the vehicle to which the record relates.

(5) Without prejudice to the generality of section 4H, an authorized person may, for the purpose of ascertaining whether section 4D(2) or (2A) has been complied with, require a person referred to in subsection (1) or (2) to produce any record kept by the person under this section for his inspection.”.

10. Offences

Section 4I is amended –

- (a) in subsection (1) –
 - (i) in paragraph (e), by repealing “or (2)”;
 - (ii) by adding –
 - “(ea) being a registered distributor or a registered owner, fails to deliver a declaration as required under section 4D(2) or (2A), or makes a false declaration in purported compliance with that section, or fails to include all of the particulars or to attach to the declaration the documentary evidence required within the time as required under that section;”;
- (b) by adding –

“(1A) A person who, being a registered distributor or an associated person or a registered owner, fails to keep any record as required under section 4FA, commits an offence and is liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.”.

11. Schedule substituted

The Schedule is repealed and the following substituted –

“SCHEDULE

[s. 4E]

CLASSES OF MOTOR VEHICLES AND RATE OF TAX

Item	Class of motor vehicle	Rate of tax %
1.	Private cars –	
	(a) on the first \$150,000	35
	(b) on the next \$150,000	75
	(c) on the next \$200,000	105
	(d) on the remainder	150
2.	Taxis	3.7
3.	Public light buses and private light buses	3.7
4.	Public buses, except buses which are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Cap. 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) within the North-west Transit Service Area as defined in that Ordinance	3.7

5. Private buses, except buses which are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Services Ordinance (Cap. 230) or within the North-west Transit Service Area under the Kowloon-Canton Railway Corporation Ordinance (Cap. 372)	3.7
6. Motor cycles	40
7. Motor tricycles	40
8. (a) Goods vehicles, other than van-type light goods vehicles	15
(b) Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight –	
(i) on the first \$150,000	35
(ii) on the next \$150,000	75
(iii) on the remainder	105
(c) Van-type light goods vehicle exceeding 1.9 tonnes permitted gross vehicle weight	17
9. Special purpose vehicles	3.7”.

12. Saving and transitional provisions

(1) The amendments made to the principal Ordinance by this Ordinance shall not apply in relation to any motor vehicle the first registration of which has been effected before the commencement of this Ordinance and the principal Ordinance as in force immediately before the commencement of this Ordinance shall continue to apply in relation to such vehicle as if this Ordinance had not been enacted.

(2) If, after the commencement of this Ordinance, an accessory that was an exempted accessory immediately before the commencement of this Ordinance is fitted to a motor vehicle at the time the motor vehicle is offered for sale, then before the registered distributor publishes a new retail price under section 4A of the amended Ordinance, the retail price of the accessory published

under the repealed section 4A(1)(d) of the principal Ordinance and in force immediately before the commencement of this Ordinance shall be deemed to form part of the retail price of the model of the motor vehicle and be added to the retail price of the model of the motor vehicle published under section 4A(1)(a) of the principal Ordinance and in force immediately before the commencement of this Ordinance and a reference to the published retail price of a motor vehicle in the amended Ordinance shall be construed accordingly.

(3) If, after the commencement of this Ordinance, an accessory that was an exempted accessory immediately before the commencement of this Ordinance is offered as an optional accessory at the time a motor vehicle is offered for sale, then before the registered distributor publishes a new retail price under section 4A of the amended Ordinance, the retail price of the accessory published under the repealed section 4A(1)(d) of the principal Ordinance and in force immediately before the commencement of this Ordinance shall be deemed to be the retail price of the accessory published under section 4A(1)(b) of the amended Ordinance and a reference to the published retail price of an optional accessory in the amended Ordinance shall be construed accordingly.

(4) In this section –
“amended Ordinance” (經修訂條例) means the principal Ordinance as amended by this Ordinance;
“principal Ordinance” (主體條例) means the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330).

Consequential Amendments

Motor Vehicles (First Registration Tax) Regulation

13. Interpretation

Section 1 of the Motor Vehicles (First Registration Tax) Regulation (Cap. 330 sub. leg.) is amended by repealing the definitions of “air-conditioner” and anti-theft device”.

14. Exempted accessories

Section 2 is repealed.

Explanatory Memorandum

The main purpose of this Bill is to amend the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) ("principal Ordinance") to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year. After this Bill comes into effect, the exemption from first registration tax now given in respect of certain accessories and warranties will be cancelled. The fitting of any accessory to, or the obtaining of any taxable warranty for, a motor vehicle within 6 months after its first registration will be subject to first registration tax.

2. Clause 2 defines the meaning of a taxable warranty.
3. Clauses 3, 4 and 5 amend sections 4A, 4B and 4C of the principal Ordinance to remove references to exempted accessories and references to their exemption from first registration tax.
4. Clause 6 amends section 4D of the principal Ordinance to require the registered owner and registered distributor of a motor vehicle to declare the value of any accessory fitted or taxable warranty obtained or provided within 6 months after its first registration.
5. Clause 7 amends section 4E of the principal Ordinance to make the value of an optional warranty provided by a registered distributor part of the taxable

value of a motor vehicle for the purpose of calculating its first registration tax. It also enables the Commissioner for Transport to, for the purpose of calculating additional first registration tax payable, assess the market value of an accessory or a taxable warranty if he is not satisfied that its declared value reflects its market value.

6. Clause 8 amends section 4F of the principal Ordinance to require payment of additional first registration tax to be made when the declaration made under the proposed section 4D(2) or (2A) of the principal Ordinance is delivered to the Commissioner for Transport.
7. Clause 9 imposes a duty on a registered distributor, its associated person and a registered owner of a motor vehicle to keep records in respect of the sale and purchase of the vehicle, any accessory and taxable warranty.
8. Clause 10 amends section 4I of the principal Ordinance to provide for the penalty for contravention of the requirements to make declarations and to keep records.
9. Clause 11 substitutes the existing Schedule to the principal Ordinance.
10. Clause 12 contains saving and transitional provisions.
11. Clauses 13 and 14 contain consequential amendments to the Motor Vehicles (First Registration Tax) Regulation (Cap. 330 sub. leg.).

First Registration Tax on Motor Vehicles

Vehicle type	Present tax bands and rates	Proposed tax bands and rates #
Private cars	(a) taxable value does not exceed \$100,000 40% (b) taxable value exceeds \$100,000 but does not exceed \$200,000 45% (c) taxable value exceeds \$200,000 but does not exceed \$300,000 50% (d) taxable value exceeds \$300,000 60%	(a) for first \$150,000 of taxable value 35% [@] (b) for next \$150,000 75% [@] (c) for next \$200,000 105% [@] (d) for the balance (i.e. for taxable value over \$500,000) 150% [@]
Motor cycles	40%	40%
Motor tricycles	40%	40%
Goods vehicles		
Van-type light goods vehicles not exceeding 1.9 tonnes permitted gross vehicle weight	(a) taxable value does not exceed \$100,000 40% (b) taxable value exceeds \$100,000 but does not exceed \$200,000 45% (c) taxable value exceeds \$200,000 50%	(a) for first \$150,000 of taxable value 35% [@] (b) for next \$150,000 of taxable value 75% [@] (c) for the balance (i.e. for taxable value over \$300,000) 105% [@]
Van-type light goods vehicles exceeding 1.9 tonnes permitted gross vehicle weight	20%	17%
Goods vehicles, other than van-type light goods vehicles	18%	15%
Taxis	4%	3.7%
Public and private light buses		
Public and private buses (except those exempted from the Motor Vehicle First Registration Tax as specified in the relevant Ordinance)		
Special purpose vehicles		

Under the proposed tax system, no exemption will be given to air-conditioners, audio equipment, anti-theft devices or distributors' warranties. Also, the marginal tax system will be adopted for private cars and van-type light goods vehicles not exceeding 1.9 tonnes.

@ These are marginal tax rates.

Impact analysis of 2003-04 Budget proposals on individual private car models

Vehicle Model	Old tax system #						New tax system @					
	(I) Taxable value under old FRT regime	(II) Value of exempted items	(III) Tax under old FRT regime (<=\$100,000@40% \$100,001-\$200,000@45% \$200,001-\$300,000@50% >\$300,000@60%)	(IV) Old tax as % of old taxable value	(V) Retail price (including the old taxable value) under old FRT regime	(VI) Old tax as % of old retail price (including the old taxable value)	(VII) New taxable value after including exempted items	(VIII) Tax under new FRT regime (First \$150,000@35% Next \$150,000@75% Next \$200,000@105% Value>\$500,000@150%)	(IX) New retail price (including the new taxable value)	(X) New tax as % of new taxable value	(XI) New tax as % of new retail price (including the new taxable value)	(XII) % difference in retail price (including the taxable value) after tax increase
Car A	88,700	63,820	35,480	40%	188,000	19%	152,520	53,382	205,902	35%	26%	10%
Car B	61,300	54,080	24,520	40%	139,900	18%	115,380	40,383	155,763	35%	26%	11%
Car C	34,700	30,420	13,880	40%	79,000	18%	65,120	22,792	87,912	35%	26%	11%
Car D	106,500	63,500	47,925	45%	217,925	22%	170,000	67,500	237,500	40%	28%	9%
Car E	157,000	35,700	70,650	45%	263,350	27%	192,700	84,525	277,225	44%	30%	5%
Car F	250,000	61,000	125,000	50%	436,000	29%	311,000	176,550	487,550	57%	36%	12%
Car G	217,000	61,000	108,500	50%	386,500	28%	278,000	148,500	426,500	53%	35%	10%
Car H	415,300	125,520	249,180	60%	790,000	32%	540,820	436,230	977,050	81%	45%	24%
Car I	366,000	53,000	219,600	60%	638,600	34%	419,000	289,950	708,950	69%	41%	11%
Car J	480,000	70,700	288,000	60%	838,700	34%	550,700	451,050	1,001,750	82%	45%	19%
Car K	530,000	106,400	318,000	60%	954,400	33%	636,400	579,600	1,216,000	91%	48%	27%
Car L	654,625	52,600	392,775	60%	1,100,000	36%	707,225	685,838	1,393,063	97%	49%	27%

Old tax system refers to the system which was in place before 2:30 p.m. on 5 March 2003 when the Public Revenue Protection Order took effect.

@ New tax system refers to the system which is in effect since 2:30 p.m. on 5 March 2003 after the Public Revenue Protection Order took effect.

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	29 of 1998
Section:	2	Heading:	Interpretation	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made-see 29 of 1998 s. 105

- (1) In this Ordinance unless the context otherwise requires- (Amended 11 of 1997 s. 2)
- "accessory" (配件), in relation to a motor vehicle, does not include-
- (a) without prejudice to the generality of subsection (2), any process involving the painting or rust-proofing or like treatment of the vehicle; or
 - (b) any accessory, or any accessory belonging to a class of accessories, declared in a notice under subsection (2) to be an accessory, or a class of accessories, as the case may be, to which this Ordinance shall not apply; (Added 11 of 1997 s. 2)
- "associated corporation" (相聯法團), in relation to a person, means-
- (a) a corporation over which the person has control;
 - (b) if the person is a corporation-
 - (i) a corporation which has control over the person; or
 - (ii) a corporation which is under the same control as is the first-mentioned person; (Added 43 of 1994 s. 2)
- "associated person" (相聯繫的人) includes-
- (a) where the registered person is a natural person-
 - (i) a relative of the registered person;
 - (ii) a partner of the registered person and a relative of that partner;
 - (iii) a partnership in which the registered person is a partner;
 - (iv) a corporation controlled by the registered person, by a partner of the registered person or by a partnership in which the registered person is a partner;
 - (v) a director or principal officer of a corporation referred to in subparagraph (iv);
 - (b) where the registered person is a corporation-
 - (i) an associated corporation;
 - (ii) a person who controls the corporation and where the person is a natural person, a relative of the person;
 - (iii) a partner of a person who controls the corporation and, where the person is a natural person, a relative of the person;
 - (iv) a director or principal officer of the corporation or an associated corporation and a relative of the director or principal officer;
 - (v) a partner of the corporation and, where the partner is a natural person, a relative of the partner;
 - (c) where the registered person is a partnership-
 - (i) a partner of the partnership and, where the partner is a natural person, a relative of the partner;
 - (ii) a corporation controlled by the partnership, a partner in the partnership or where a partner is a natural person, a relative of the partner;
 - (iii) a corporation of which a partner is a director or principal officer;

- (iv) a director or principal officer of a corporation referred to in subparagraph (iii); (Added 43 of 1994 s. 2)
- "bus" (巴士) means a motor vehicle constructed or adapted for the carriage of more than 16 passengers and their personal effects; (Replaced 23 of 1983 s. 2. Amended 89 of 1988 s. 4)
- "Commissioner" (署長) means the Commissioner for Transport; (Added 13 of 1967 s. 2. Amended 30 of 1967 Schedule)
- "control" (控制、控制權) for the purposes of the definition of "associated corporation" (相 法團) means having a controlling interest in a corporation by way of-
- (a) a shareholding of more than 50% including an interest by way of trust; or
 - (b) having the right to appoint a majority of the directors of the corporation; (Added 43 of 1994 s. 2)
- "declared value" (聲明價值) means the amount declared by a registered distributor or other person applying for first registration of a motor vehicle as the price paid for the motor vehicle under section 4D(1); (Added 43 of 1994 s. 2)
- "disabled person" (傷殘人士) means a person who holds a certificate signed by or on behalf of the Director of Health or the Hospital Authority established under the Hospital Authority Ordinance (Cap 113) stating that the person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking and who is able to satisfy the Commissioner that he is fit to drive a motor vehicle; (Replaced 29 of 1996 s. 2)
- "distributor" (分銷商) means a distributor of motor vehicles for use in Hong Kong and includes a retailer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2)
- "driver operated village vehicle" (司機操作的鄉村車輛) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, in addition to the carriage of a driver only; (Added 31 of 1986 s. 8)
- "exempted accessory" (獲豁免配件) means an accessory exempted from first registration tax by regulation made by the Commissioner other than-
- (a) part of such an accessory, or any equipment (including any wiring) connected or to be connected to such an accessory, where that part or equipment, as the case may be, is incapable by itself of performing the function of the accessory; or
 - (b) such an accessory which is not in a working state; (Replaced 11 of 1997 s. 2)
- "fee" (費用) includes charge; (Added 11 of 1997 s. 2)
- "first registration" (首次登記) means first registration in accordance with the provisions of the Road Traffic Ordinance (Cap 374); (Amended 79 of 1979 s. 2)
- "first registration tax" (首次登記稅) or "tax" (稅、稅款) means the tax payable under this Ordinance before a motor vehicle's first registration or otherwise in accordance with this Ordinance; (Added 43 of 1994 s. 2)
- "golf cart" (高爾夫球車) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or intended for use for the carriage of passengers on golf courses, in addition to the carriage of a driver; (Added 80 of 1988 s. 17)
- "goods vehicle" (貨車) means a motor vehicle which is constructed or adapted for use primarily for the carriage of goods, but does not include-
- (a) a motor tricycle or a motor cycle with or without a sidecar attached thereto;
 - (b) a driver operated village vehicle; or
 - (c) a pedestrian controlled village vehicle; (Replaced 31 of 1986 s. 8)
- "importer" (進口者) means an importer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

- "landed value" (抵岸價值) means the value of a motor vehicle landed in Hong Kong calculated by reference to the cost of the motor vehicle plus the insurance and freight paid; (Added 43 of 1994 s. 2)
- "light bus" (小型巴士) means a motor vehicle having a permitted gross vehicle weight not exceeding 4 tonnes which is constructed or adapted for use solely for the carriage of a driver and not more than 16 persons and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (Added 23 of 1983 s. 2. Amended 89 of 1988 s. 4)
- "light goods vehicle" (輕型貨車) means a goods vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes; (Added 39 of 1991 s. 2)
- "locally assembled vehicle" (本地裝配汽車) means a motor vehicle that is a goods vehicle, bus, light bus or special purpose vehicle assembled in Hong Kong by adding specified additions to an imported chassis or to an imported cab and chassis; (Added 43 of 1994 s. 2)
- "manner" (方式) includes format; (Added 11 of 1997 s. 2)
- "market value" (市值) means the price that a motor vehicle would fetch in the open market between a buyer and a seller independent of each other, dealing at arm's length; (Added 43 of 1994 s. 2)
- "model" (型號) includes a specific motor vehicle identified by the distributor, by reference to a chassis number or other identifying feature acceptable to the Commissioner, that may be otherwise the same as other motor vehicles; (Added 43 of 1994 s. 2)
- "motor cycle" (電單車) means a two-wheeled motor vehicle with or without a sidecar; (Replaced 23 of 1983 s. 2)
- "motor tricycle" (機動三輪車) means a three-wheeled motor vehicle other than-
- (a) a motor cycle with a sidecar;
 - (b) a driver operated village vehicle; (Replaced 80 of 1988 s. 17)
 - (c) a pedestrian controlled village vehicle; and (Replaced 80 of 1988 s. 17)
 - (d) a golf cart; (Added 80 of 1988 s. 17)
- (Replaced 31 of 1986 s. 8)
- "motor vehicle" (汽車) means any mechanically propelled vehicle intended or adapted for use on roads, and includes the chassis of such a vehicle but does not include any conveyance for use solely on railways or tramways; (Amended 43 of 1994 s. 2)
- "new motor vehicle" (新汽車) means a motor vehicle which has not been legally used on a road in Hong Kong except by the manufacturer or by an importer, distributor or retailer; (Added 43 of 1994 s. 2)
- "optional accessory" (自選配件) means an accessory-
- (a) which is not fitted to a standard motor vehicle at the time when the vehicle is offered for sale; but
 - (b) which may be fitted to the vehicle for an additional payment; (Added 11 of 1997 s. 2)
- "passenger" (乘客) includes any person carried in a car except 1 driver;
- "pedestrian controlled village vehicle" (由徒步者控制的鄉村車輛) means a motor vehicle controlled by a pedestrian, having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m, constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, and not constructed or adapted for the carriage of a driver or any passenger; (Added 31 of 1986 s. 8)
- "person applying for first registration" (申請首次登記的人) means-
- (a) the purchaser of a motor vehicle; or
 - (b) the importer of a motor vehicle where he is not a registered importer,
- and who applies for the first registration of the motor vehicle; (Added 43 of 1994 s. 2)
- "private bus" (私家巴士) means a bus used or intended for use-
- (a) otherwise than for hire or reward; or
 - (b) for the carriage of passengers who are exclusively-

- (i) the students, teachers and employees of an educational institution; or
 - (ii) disabled persons and persons assisting them,
- whether or not for hire or reward; (Added 23 of 1983 s. 2)

"private car" (私家車) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 7 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, golf cart or taxi; (Added 23 of 1983 s. 2. Amended 80 of 1988 s. 17)

"private light bus" (私家小巴) means a light bus used or intended for use-

- (a) otherwise than for hire or reward; or
- (b) for the carriage of persons who are exclusively-
 - (i) the students, teachers and employees of an educational institution; or
 - (ii) disabled persons and persons assisting them,whether or not for hire or reward; (Added 23 of 1983 s. 2)

"public bus" (公共巴士) means a bus, other than a private bus, which is used or intended for use for hire or reward; (Added 23 of 1983 s. 2)

"public light bus" (公共小巴) means a light bus, other than a private light bus, which is used or intended for use for hire or reward; (Added 23 of 1983 s. 2)

"published retail price" (公布零售價) means the retail price published for a motor vehicle or any part of the published retail price relating to a part of the motor vehicle under section 4A; (Added 43 of 1994 s. 2)

"registered distributor" (註冊分銷商) means a person who has registered as a distributor of motor vehicles with the Commissioner under section 3A(2); (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

"registered importer" (註冊進口者) means a person who has registered as an importer of motor vehicles with the Commissioner under section 3A(1); (Added 43 of 1994 s. 2. Amended 11 of 1997 s. 2)

"registered person" (註冊人) means a person who is registered as an importer or distributor under this Ordinance; (Added 43 of 1994 s. 2)

"relative" (親屬) means the spouse, parent, child, brother or sister of the relevant person and, in determining the relationship, an adopted person is regarded as the child of both the natural parents and the adoptive parents and a step child is the child of both the natural parents and any step parent; (Added 43 of 1994 s. 2)

"retailer" (零售商) means a retailer of motor vehicles for use in Hong Kong; (Added 43 of 1994 s. 2)

"road" (道路) includes every highway, thoroughfare, street, lane, alley, court, square, archway, passage, path, way and place to which the public have access, either continuously or intermittently and either of right or by licence, whether the same is the property of the Government or otherwise, and a private road within the meaning of the Road Traffic Ordinance (Cap 374); (Amended 80 of 1988 s. 17; 29 of 1998 s. 105)

"specified additions" (指明附加物) means additions of a class or type, as the Commissioner specifies by regulation, that are added to the chassis or cab and chassis to form a locally assembled vehicle; (Added 43 of 1994 s. 2)

"special purpose vehicle" (特別用途車輛) means a motor vehicle designed, constructed or adapted primarily for a use other than the carriage on a road of goods, the driver or passengers; (Added 78 of 1988 s. 2)

"stand or ply for hire" (停車候客) means, in respect of any motor vehicle, being on any road in motion or stopped and exhibiting any sign or signal, or having a driver who is exhibiting any sign or signal, indicating that it or any portion of it is available for hire whether on a predetermined route or otherwise;

"standard motor vehicle" (標準汽車) means a motor vehicle offered for sale at a price which does not include the price of any accessories fitted or to be fitted to the vehicle; (Added 11 of 1997 s. 2)

"taxable value" (應課稅價值) means the amount calculated as the taxable value under section 4E; (Added 43 of 1994 s. 2)

"taxi" (的士) means any motor vehicle, constructed or adapted for use solely for the carriage of a driver and not more than 5 persons and their personal effects, which stands or plies for hire and in which the

passengers are carried for hire or reward under a contract express or implied for the use of the vehicle as a whole at a rate indicate by the taximeter; (Amended 23 of 1983 s. 2)

"taximeter" (的士計程錶) means any appliance for measuring the time or distance for which a taxi is used, or for measuring both time and distance, or for recording the fare by time or distance or by a combination of time and distance, which is for the time being approved for the purpose by the Commissioner; (Amended 13 of 1967 s. 2)

"transfer of additions" (轉換附加物) means the transfer of additions that come within classes or types of specified additions from the chassis or cab and chassis of one locally assembled vehicle to another chassis or cab and chassis to form another locally assembled vehicle; (Added 43 of 1994 s. 2)

"van-type light goods vehicle" (客貨車) means a light goods vehicle constructed with a fully enclosed body which is an integral part of the vehicle. (Added 39 of 1991 s. 2)

(Amended 43 of 1994 s. 2; 11 of 1997 s. 2)

(2) The Commissioner may, by notice in the Gazette, and subject to such conditions, if any, as are specified in the notice, declare an accessory, or a class of accessories, including any process or modification relating to a motor vehicle, not to be an accessory, or a class of accessories, as the case may be, for the purposes of this Ordinance. (Added 11 of 1997 s. 2)

(3) It is hereby declared that a notice under subsection (2) is subsidiary legislation. (Added 11 of 1997 s. 2)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4A	Heading:	Publication of retail price	Version Date:	30/06/1997

(1) A registered distributor shall, before offering a motor vehicle for sale for use in Hong Kong or distributing a motor vehicle for use in Hong Kong, publish in writing, in such manner as the Commissioner requires, a retail price of each model of the motor vehicle offered for sale or distributed by him containing-

- (a) the retail price of the model of the motor vehicle including the manufacturer's warranty and any other warranty that is mandatory (but excluding the first registration tax payable) with a description of what is included in the retail price; (Amended 11 of 1997 s. 5)
- (b) the retail price of optional accessories (other than exempted accessories) that are offered in addition to the standard motor vehicle, if any;
- (c) the retail price of warranties other than a manufacturer's warranty and any other warranty that is mandatory that are offered in addition to the standard motor vehicle, if any; and (Amended 11 of 1997 s. 5)
- (d) the retail price of exempted accessories offered for the model; if any.

(2) A registered distributor shall publish the retail price of the motor vehicle as assessed by the Commissioner, or if varied by the Administrative Appeals Board, as so varied, under section 4B as the published retail price of the motor vehicle.

(3) The retail price of a motor vehicle assessed by the Commissioner, or if varied by the Administrative Appeals Board, as so varied, is taken as the published retail price of the motor vehicle.

(4) A registered distributor shall deliver a copy of his retail price list intended for publication to the Commissioner not less than 7 days before publication and shall give the Commissioner not less than 5 working days' notice of an intended change in the published retail price of a model of a motor vehicle.

(5) A person shall not sell a new motor vehicle other than a locally assembled vehicle at a price greater than the taxable value of the motor vehicle calculated under section 4E(2)(a)(i) and (ii) plus the value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle and the value of any exempted accessories fitted to the motor vehicle but excluding that part of the values of exempted accessories and warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C without first obtaining the consent of the Commissioner. (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)

(6) A person shall not, without first obtaining the consent of the Commissioner, sell a new locally assembled vehicle at a price greater than the aggregate of-

- (a) the taxable value calculated under section 4E(2)(b)(i) and (ii);
- (b) the value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle but excluding that part of the value of an exempted warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)
- (c) the value of any exempted accessories fitted to the motor vehicle but excluding that part of the value of exempted accessories which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; and (Amended 29 of 1996 s. 3)
- (d) the value of specified additions to the chassis or cab and chassis.

(7) A person shall not sell a motor vehicle which is not a new motor vehicle or a locally assembled vehicle at a price greater than the taxable value calculated under section 4E(2)(a)(i) and (ii) or (c), the value of any unexpired portion of a warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle and the value of any exempted accessories fitted to the motor vehicle but excluding that part of the values of exempted accessories and warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C and the first registration tax paid or payable on the motor vehicle without first obtaining the consent of the Commissioner. (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)

(8) A person shall not, without first obtaining the consent of the Commissioner, sell a locally assembled vehicle (which is not a new motor vehicle) at a price greater than the aggregate of-

- (a) the taxable value calculated under section 4E(2)(b)(i) and (ii);
- (b) the value of any unexpired portion of warranty (other than a manufacturer's warranty and any other warranty that is mandatory) included in the price of the motor vehicle but excluding that part of the value of an exempted warranty (other than a manufacturer's warranty and any other warranty that is mandatory) which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3; 11 of 1997 s. 5)
- (c) the value of any exempted accessories fitted to the motor vehicle but excluding that part of the value of exempted accessories which is in excess of the maximum exempted value prescribed by the Commissioner under section 4C; (Amended 29 of 1996 s. 3)
- (d) the value of specified additions to the chassis or cab and chassis; and
- (e) the first registration tax paid or payable on the motor vehicle.

(9) For the purposes of subsections (5), (6), (7) and (8), "value of any exempted accessories" (任何獲豁免配件的價值) means the published retail price of the accessories published under this section.

(10) For the purposes of subsections (5) and (6), "value of any warranty (other than a manufacturer's warranty and any other warranty that is mandatory)" (任何保證(製造商的保證及任何其他強制性保證除外)的價值) means the published retail price of the warranty published under this section. (Amended 11 of 1997 s. 5)

(11) For the purposes of subsections (7) and (8), "value of any unexpired portion of a warranty (other than a manufacturer's warranty and any other warranty that is mandatory)" (任何未期滿部分的保證(製造商的保證及任何其他強制性保證除外)的價值) means the value calculated on the basis of the published retail price of the warranty published under this section. (Amended 11 of 1997 s. 5)

(12) The Commissioner shall not refuse to consent to a sale under subsection (5), (6), (7) or (8) unless he is satisfied that the transaction is part of a scheme that avoids payment of first registration tax.

(13) The Commissioner may impose as a condition to a consent under subsection (5), (6), (7) or (8) a requirement for the registered owner, the person applying for first registration or the person applying for change of ownership of a registered motor vehicle, to pay additional first registration tax for the motor vehicle calculated on any increased value reflected in the increase in the purchase price of the motor vehicle. (Amended 11 of 1997 s. 5)

(14) The Commissioner may make public a retail price list delivered to him under this section in the manner he thinks fit.

(15) Subsections (7) and (8) do not apply to a motor vehicle-

- (a) sold under a written agreement with a non-refundable deposit paid; or
- (b) registered,

before the commencement of this section.

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 4B Heading: Commissioner may assess published retail price in certain circumstances Version Date: 30/06/1997

- (1) Where the Commissioner is of the opinion that-
 - (a) a published retail price of the taxable or the exempted elements of a motor vehicle does not reflect the market value of that element of the motor vehicle; or
 - (b) the values of the taxable and the exempted elements of the motor vehicle are constructed in a way to avoid the payment of first registration tax,

the Commissioner may reject the published retail price for the motor vehicle and may assess a retail price that would reflect the market value of the taxable and exempted elements of the motor vehicle.

(2) The Commissioner shall give the registered distributor notice of his refusal to accept the published retail price immediately on his reaching his opinion.

(3) The Commissioner shall, after considering the representations of the registered distributor, give the registered distributor notice of the retail price that he considers reflects the market value of the taxable and exempted elements of the motor vehicle, within 14 days of giving notice under subsection (2) or receipt of any representations from the registered distributor.

- (4) The Commissioner shall give reasons for-
 - (a) his rejection of a published retail price; and
 - (b) his assessment of the retail price under this section,

to the registered distributor at the time of giving notice under subsection (3).

(5) The Commissioner may register a motor vehicle where the full assessment of first registration tax is in dispute under this section if the tax is paid in full as assessed pending the outcome of an appeal to the Administrative Appeals Board.

(6) If the Administrative Appeals Board finds that the registered distributor or a purchaser has paid first registration tax in excess of that properly assessable, the Commissioner shall refund the excess of tax as soon as practicable after the decision of the Administrative Appeals Board is published.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4C	Heading:	Commissioner may regulate exempt value	Version Date:	30/06/1997

(1) The Commissioner may by regulation- (Amended 29 of 1996 s. 4)

- (a) specify the classes or types of additions to the chassis or cab and chassis of locally assembled vehicles that will be taxable under this Ordinance and set the formula by, or specify the amounts at, which they will be valued for the purpose of calculating the taxable value of locally assembled vehicles; (Amended 11 of 1997 s. 6)
- (b) specify classes or types of accessories that are exempted accessories and set the maximum exempted value of the accessories for the different levels of taxable value of motor vehicles for the purpose of assessing first registration tax and, without limiting the foregoing, the Commissioner may set the maximum exempted value as a percentage of the published retail price of the motor vehicle or some other standard specified by the Commissioner;
- (c) prescribe the conditions under which previously taxed chassis, cabs and chassis and additions to the chassis or cabs and chassis of locally assembled vehicles are excluded from first registration tax on the transfer of additions. (Amended 29 of 1996 s. 4)

(2) The Commissioner may, by regulation, specify the class or type of warranty that is an exempted warranty and set the maximum exempted value of the warranty for the different levels of taxable value of motor vehicles for the purpose of assessing first registration tax and, without limiting the foregoing, the Commissioner may set the maximum exempted value as a percentage of the published retail price of the motor vehicle or some other standard specified by the Commissioner. (Added 29 of 1996 s. 4)

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4D	Heading:	Declaration as to price paid	Version Date:	30/06/1997

(1) A registered distributor, if any, and a person applying for first registration shall each sign a declaration, in the form approved by the Commissioner, stating the date and place of purchase of the motor vehicle and-

- (a) for a motor vehicle sold by a registered distributor-
 - (i) the published retail price of the motor vehicle, if applicable;
 - (ii) the published retail price of an optional accessory fitted or to be fitted to the motor vehicle within 3 months after the date of first registration by the registered distributor or an associated person, if any;
 - (iii) the published retail price of any warranty, other than a manufacturer's warranty and any other warranty that is mandatory, attaching to the sale of the motor vehicle; and (Amended 11 of 1997 s. 7)
 - (iv) details of an exempted accessory fitted to the motor vehicle;
- (b) for a motor vehicle that is not sold by a registered distributor, the full price paid by the person applying for first registration for the purchase of the motor vehicle, including-
 - (i) the cost of all materials and work necessary to put the vehicle into the state necessary to meet first registration requirements; (Amended 11 of 1997 s. 7)
 - (ii) the value of accessories (including exempted accessories) included in the purchase of the motor vehicle; (Amended 11 of 1997 s. 7)
 - (iii) any incidental insurance and freight fees relating to the vehicle (but excluding any tax or fee paid to the government of the place from which the vehicle is imported); and (Added 11 of 1997 s. 7)
 - (iv) the cost element of the landed value of the motor vehicle which the importer is required to give under section 3B(2); (Added 11 of 1997 s. 7)
- (c) where paragraph (b)(i), (ii), (iii) or (iv) is applicable, attach to the declaration such documentary evidence as the Commissioner may reasonably require in support of that part of the full price to which that paragraph is applicable. (Added 11 of 1997 s. 7)

(2) The registered owner and a registered distributor shall, if the registered distributor or an associated person fits an accessory to a motor vehicle within 3 months after the first registration of the motor vehicle, not later than 5 working days after the fitting of the accessory, make and deliver a declaration setting out details of the accessory together with payment of the additional first registration tax attributable to the value of the accessory and any additional first registration tax attributable to the increase in total value of the motor vehicle with the accessory fitted.

(3) A registered distributor may authorize his employees and agents to make a declaration under this section and shall notify the Commissioner in writing as to the names of the persons authorized.

(4) In this section "fits an accessory" (安裝任何配件) includes commencing to fit an accessory.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4E	Heading:	Calculation of first registration tax and taxable value	Version Date:	30/06/1997

(1). The Commissioner shall calculate the first registration tax for a motor vehicle as the amount equal to the percentage, specified in column 3 of the Schedule, of the taxable value of the motor vehicle for that class of motor vehicle as at the date of first registration of the motor vehicle or the date of registration of the transfer of the motor vehicle or such other date as may be provided for in this Ordinance.

(2) The Commissioner shall calculate the taxable value of a motor vehicle as follows-

- (a) for a new motor vehicle (other than a locally assembled vehicle), where there is a published retail price, the taxable value shall be the aggregate of-
 - (i) the published retail price of the motor vehicle including any manufacturer's warranty and any other warranty that is mandatory; (Amended 11 of 1997 s. 8)
 - (ii) the published retail price of any optional accessories fitted or to be fitted to the vehicle within 3 months after first registration; (Amended 11 of 1997 s. 8)
 - (iia) where the value of the warranty other than a manufacturer's warranty and any other warranty that is mandatory exceeds the maximum exempted value that the Commissioner specifies under section 4C(2), the excess value of the warranty; (Added 29 of 1996 s. 5. Amended 11 of 1997 s. 8)
 - (iii) where the value of exempted accessories exceeds the maximum exempted value that the Commissioner sets by regulation, the excess value of the accessories;
 - (iv) without prejudice to the generality of subsection (3), any brokerage or agency fee paid or payable in relation to the purchase and importation of the motor vehicle; and (Added 11 of 1997 s. 8)
 - (v) any fee, or any fee belonging to a class of fees, declared in a notice under subsection (3) to be a fee, or a class of fees, as the case may be, for the purposes of this subparagraph; (Added 11 of 1997 s. 8)
- (b) for a new motor vehicle which is a locally assembled vehicle, the taxable value shall be the aggregate of-
 - (i) the published retail price of the chassis or cab and chassis, including any manufacturer's warranty and any other warranty that is mandatory; (Amended 11 of 1997 s. 8)
 - (ii) the published retail price of any optional accessories fitted or to be fitted to the vehicle within 3 months after first registration;
 - (iia) where the value of the warranty other than a manufacturer's warranty and any other warranty that is mandatory exceeds the maximum exempted value that the Commissioner specifies under section 4C(2), the excess value of the warranty; (Added 29 of 1996 s. 5. Amended 11 of 1997 s. 8)
 - (iii) where the value of exempted accessories exceeds the maximum exempted value that the Commissioner sets by regulation, the excess value of the accessories; (Amended 11 of 1997 s. 8)
 - (iv) the value of the specified additions to the chassis or cab and chassis as the Commissioner sets by regulation; (Amended 11 of 1997 s. 8)
 - (v) without prejudice to the generality of subsection (3), any brokerage or agency fee paid

or payable in relation to the purchase and importation of the parts of the motor vehicle; and (Added 11 of 1997 s. 8)

- (vi) any fee, or any fee belonging to a class of fees, declared in a notice under subsection (3) to be a fee, or a class of fees, as the case may be, for the purposes of this subparagraph, (Added 11 of 1997 s. 8)

except where, in the case of subparagraph (iv), it is shown to the satisfaction of the Commissioner that the additions to the motor vehicle were previously taxed and that the prescribed conditions for the transfer of additions are complied with, the value of the additions shall be excluded for the purpose of calculating the taxable value of the motor vehicle; (Amended 11 of 1997 s. 8)

- (c) for a new motor vehicle imported into Hong Kong, where there is no published retail price, the taxable value shall be-
 - (i) the declared value under section 4D less any deduction for the value, as determined by the Commissioner, of the exempted accessories; or
 - (ii) where the Commissioner is not satisfied that the declared value under section 4D reflects the market value of the motor vehicle, including the incidental freight and insurance, such other value as the Commissioner may determine having regard to the age of the motor vehicle, the retail price in the place of origin of the motor vehicle, including the cost of all materials and work necessary to put the vehicle into the state necessary to meet first registration requirements less any deduction for the value, as determined by the Commissioner, of exempted accessories;
- (ca) for a motor vehicle registered in the name of an importer in a place outside Hong Kong before its importation into Hong Kong, the taxable value shall be the depreciation allowed by the Commissioner under subsection (5) of the declared value of the motor vehicle; (Added 11 of 1997 s. 8)
- (d) for a motor vehicle which has been legally used on a road in Hong Kong other than by the manufacturer or by an importer, distributor or retailer or under a movement permit prior to first registration, being a vehicle which has become liable to first registration tax for the first time or additional first registration tax-
 - (i) the taxable value calculated under paragraph (a), (b) or (c), as the case may be, less depreciation at the prescribed rate, for the period from the date when the motor vehicle ceased to be a new motor vehicle until the date on which the motor vehicle became liable to first registration tax or additional first registration tax, excluding a part of a month of less than 15 days but counting a part of a month of 15 days or more as a whole month; or
 - (ii) where the taxable value cannot be ascertained under paragraph (a), (b) or (c), such other value as the Commissioner may determine as the market value of the motor vehicle less any deduction for the value, as determined by the Commissioner, of the exempted accessories.

(3) The Commissioner may, by notice in the Gazette, and subject to such conditions, if any, as are specified in the notice, declare a fee, or a class of fees, to be a fee, or a class of fees, as the case may be, for the purposes of paragraph (a)(v) or (b)(vi) of subsection (2). (Added 11 of 1997 s. 8)

(4) It is hereby declared that a notice under subsection (3) is subsidiary legislation. (Added 11 of 1997 s. 8)

(5) The Commissioner may allow depreciation for the motor vehicle referred to in subsection (2)(ca)-

- (a) at the rate of depreciation prescribed under the Motor Vehicles (First Registration Tax) (Depreciation) Regulations (Cap 330 sub. leg.); and
- (b) from the date of its registration in a place outside Hong Kong to the date of its importation. (Added 11 of 1997 s. 8)

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 4F Heading: Payment of tax Version Date: 30/06/1997

(1) Subject to section 5, before the Commissioner first registers a motor vehicle under the Road Traffic Ordinance (Cap 374)-

- (a) the registered distributor or registered importer who is selling the motor vehicle; or
- (b) where the motor vehicle is imported other than by a registered importer, the person who is applying for first registration,

shall pay a tax calculated by the Commissioner under section 4E.

(2) A registered distributor shall not deliver a motor vehicle to the purchaser until the first registration tax for the motor vehicle, if payable, is paid to the Commissioner.

(3) Where first registration tax is not payable under subsection (1) on the first registration of a motor vehicle and the motor vehicle is subsequently transferred, unless the transferee of the motor vehicle is exempted from paying first registration tax on the motor vehicle, the transferee shall pay first registration tax calculated under section 4E(2)(d) for the motor vehicle before the Commissioner registers the transfer of ownership.

(4) If-

- (a) the class of a motor vehicle is changed by reason of a change of use;
- (b) the status of the registered owner of a motor vehicle is changed to remove an exemption; or
- (c) the class of additions to the chassis or cab and chassis of a locally assembled vehicle is changed,

the registered owner of the motor vehicle, as from the date on which the change of class or status takes place, is liable to pay and shall immediately pay first registration tax calculated under section 4E(2)(d) less any first registration tax previously paid.

(5) A person convicted of an offence under section 4I(1)(a), (b), (c), (d) or (e) shall, in addition to any other penalty, be liable to pay double the amount of tax that would have been payable by him under this Ordinance for that event.

(Added 43 of 1994 s. 3)

Chapter:	330	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE	Gazette Number:	
Section:	4I	Heading:	Offences	Version Date:	30/06/1997

(1) A person who-

- (a) being a registered distributor, delivers a motor vehicle to a purchaser before the first registration tax is paid for the motor vehicle;
- (b) being a registered owner, fails to pay, immediately on change of use to which the motor vehicle is put, first registration tax or additional first registration tax;
- (c) being a registered owner of a locally assembled vehicle, fails to pay, immediately on change of additions to the chassis or cab and chassis, additional first registration tax payable;
- (d) being a registered owner to whom section 4F(4)(b) applies, fails immediately to pay any first registration tax for which he is liable;
- (e) being a registered distributor, registered owner or person applying for first registration, signs a false declaration or fails to include all of the particulars, or to attach to the declaration the documentary evidence, required within the time as required under section 4D(1) or (2); (Amended 11 of 1997 s. 10)
- (f) sells a new motor vehicle (other than a locally assembled vehicle) at a price higher than the amount permitted under section 4A(5) without first obtaining the consent of the Commissioner;
- (g) sells a new locally assembled vehicle at a price higher than the amount permitted under section 4A(6) without first obtaining the consent of the Commissioner;
- (h) sells a motor vehicle which is not a new motor vehicle or a locally assembled vehicle at a price higher than the amount permitted under section 4A(7) without first obtaining the consent of the Commissioner;
- (i) sells a locally assembled vehicle (which is not a new motor vehicle) at a price higher than the amount permitted under section 4A(8) without first obtaining the consent of the Commissioner;
- (j) being the importer of a motor vehicle, fails to file the return as required under section 3B(1) with the Commissioner within 30 days (or such longer period as the Commissioner has permitted under that section in his case) of the importation of a motor vehicle into Hong Kong and not less than 5 working days before delivering that motor vehicle; (Amended 11 of 1997 s. 10)
- (k) being the importer of a motor vehicle, files a false or inaccurate return as required under section 3B(1) with the Commissioner;
- (l) being an importer of motor vehicles, fails to register as an importer as required under section 3A(1) with the Commissioner within 30 days of commencing to carry on that business; (Amended 11 of 1997 s. 10)
- (m) being a distributor of motor vehicles, fails to register as a distributor as required under section 3A(2) with the Commissioner within 30 days of commencing to carry on that business; (Amended 11 of 1997 s. 10)
- (n) being a registered distributor, fails to publish in writing a retail price list as required under section 4A(1);
- (o) being a registered distributor, fails to publish in writing a retail price as required under section

4A(2);

- (p) being a registered distributor, fails to deliver a copy of his retail price list intended for publication as required under section 4A(4) to the Commissioner not less than 7 days before publication; or
- (q) being a registered distributor, fails to give not less than 5 working days' notice to the Commissioner of his intention to change the retail price of a model as required under section 4A(4),

commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 12 months.

(2) A person who-

- (a) obstructs an authorized person;
- (b) fails to comply with a requirement, direction or demand given or made by an authorized person,

in the exercise of a power or the performance of a duty conferred or imposed by this Ordinance, commits an offence and is liable on conviction to a fine of \$10000 and to imprisonment for 6 months.

(3) Any prosecution or other legal proceedings against any person in relation to an offence under this Ordinance shall be instituted within-

- (a) 2 years after the date on which the offence is committed; or
- (b) 6 months after the date on which the Commissioner first has knowledge that the offence has been committed,

whichever is the earlier. (Added 11 of 1997 s. 10)

(Added 43 of 1994 s. 3)

Chapter: 330 Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
 Schedule: Heading: ORDINANCE SCHEDULE Version Date: 30/06/1997

[section 4E]

CLASSES OF MOTOR VEHICLES AND RATE OF TAX

Item	Class of motor vehicle	Rate of tax %
1.	Private cars-	
	(a) where the taxable value of the private car does not exceed \$100000	40
	(b) where the taxable value of the private car exceeds \$100000 but does not exceed \$200000	45
	(c) where the taxable value of the private car exceeds \$200000 but does not exceed \$300000	50
	(d) where the taxable value of the private car exceeds \$300000	60
2.	Taxis	4
3.	Public light buses and private light buses	4
4.	Public buses, except buses which are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Cap 230) or under the Kowloon-Canton Railway Corporation Ordinance (Cap 372) within the North-west Transit Service Area as defined in that Ordinance	4
5.	Private buses, except buses which are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Services Ordinance (Cap 230) or within the North-west Transit Service Area under the Kowloon-Canton Railway Corporation Ordinance (Cap 372)	4
6.	Motor cycles	40
7.	Motor tricycles	40
8.	(a) Goods vehicles, other than van-type light goods vehicles	18
	(b) Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight-	
	(i) where the taxable value of the van-type light goods vehicle does not exceed \$100000	40
	(ii) where the taxable value of the van-type light goods vehicle exceeds \$100000 but does not exceed \$200000	45
	(iii) where the taxable value of the van-type light goods vehicle exceeds \$200000	50
	(c) Van-type light goods vehicle exceeding 1.9 tonnes permitted gross vehicle weight	20
9.	Special purpose vehicles.....	4

(Replaced 43 of 1994 s. 6)

Chapter: 330B Title: MOTOR VEHICLES (FIRST REGISTRATION TAX) Gazette Number:
Section: 1 Heading: Interpretation Version Date: 30/06/1997

In this Regulation-

- "air-conditioner" (冷氣機) means an equipment which produces air flow below ambient temperature but does not include an air warmer, air purifier, dehumidifier or a fan;
- "anti-theft device" (防盜裝置) means a device which is permanently fitted to a motor vehicle and which the Commissioner is satisfied is designed to deter a person from taking the motor vehicle without lawful authority;
- "heavy goods vehicle" (重型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes;
- "medium goods vehicle" (中型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes.

(Enacted 1994)

Chapter:	330B	Title:	MOTOR VEHICLES (FIRST REGISTRATION TAX) REGULATION	Gazette Number:	
Section:	2	Heading:	Exempted accessories	Version Date:	30/06/1997

The following classes of accessories fitted to a motor vehicle prior to or within 3 months of first registration are excluded for calculating the taxable value of the motor vehicle-

- (a) an air-conditioner;
- (b) an anti-theft device; and
- (c) audio equipment.

(Enacted 1994)
