

**立法會**  
**Legislative Council**

LC Paper No. LS144/02-03

**Paper for the House Committee Meeting  
on 3 October 2003**

**Legal Service Division Report on  
Revenue (No. 3) Bill 2003**

**I. SUMMARY**

1. **Object of the Bill** To amend the Inland Revenue Ordinance (Cap. 112) and the Stamp Duty Ordinance (Cap. 117) to give effect to the tax concession proposals relating to debt instruments and unit trust schemes in the Budget for the 2003-04 financial year.
2. **Comments**
  - (a) The current 50% profits tax concession for profits derived from debt instruments with an original maturity period of not less than 5 years is proposed to be extended to debt instruments with an original maturity period of less than 7 years but not less than 3 years.
  - (b) Profits arising from debt instruments having a maturity period of not less than 7 years will be exempted from profits tax.
  - (c) It is proposed that instruments of transfer relating to the issue of units by fund managers or redemption of units under unit trust schemes which are Hong Kong stock be exempt from the fixed stamp duty of \$5 under head 2(4) of the First Schedule to the Stamp Duty Ordinance.
3. **Public Consultation** The Financial Secretary has conducted consultation with LegCo Members during the formulation of the Budget. Proposals of professional bodies and the general public have also been taken into account.
4. **Consultation with LegCo Panel** The policy aspects of the Bill have not been referred to any Panel for discussion.
5. **Conclusion** The legal and drafting aspects of the Bill present no problem.

## **II. REPORT**

### **Object of the Bill**

To implement the budgetary tax concession proposals relating to debt instruments and unit trust schemes.

### **LegCo Brief Reference**

2. FIN CR 4/7/2201/02 dated 25 June 2003 issued by the Financial Services and the Treasury Bureau.

### **Date of First Reading**

3. 9 July 2003.

### **Comments**

4. The Bill amends the Inland Revenue Ordinance (Cap. 112) (IRO) and the Stamp Duty Ordinance (Cap. 117) (SDO) to give effect to the tax concession proposals relating to debt instruments and unit trust schemes in the Budget for the 2003-04 financial year.

#### *Amendments to Inland Revenue Ordinance (Cap. 112)*

5. At present, trading profits and interest income derived from debt instruments issued and traded in Hong Kong are chargeable to profits tax under the IRO. Tax concessions have been granted in respect of profits and income derived from certain debt instruments. Under the IRO, interest income and trading profits in respect of Government bonds, Exchange Fund debt instruments and Hong Kong dollar denominated multilateral agency debt instruments are not chargeable to profits tax. Interest income and trading profits derived from other debt instruments issued in Hong Kong enjoy a 50% concession on profits tax if the debt instruments satisfy the following criteria:

- (a) the debt instruments concerned are in respect of a debt issue lodged with and cleared by the Central Moneymarket Unit operated by the Monetary Authority (HKMA);
- (b) the debt instruments have at all relevant times a credit rating acceptable to HKMA from a credit rating agency recognized by HKMA;
- (c) the debt instruments have an original maturity of not less than 5 years;

- (d) the debt instruments have a minimum denomination of \$50,000 or its equivalent in a foreign currency; and
- (e) the debt instruments are issued to the public in Hong Kong.

6. The Bill proposes to amend the IRO to extend the current 50% profits tax concession for trading profits and interest income derived from qualifying debt instruments (QDIs) with an original maturity period of not less than 5 years to QDIs with an original maturity period of less than 7 years but not less than 3 years. As for trading profits and interest income arising from QDIs with an original maturity period of not less than 7 years, the Bill proposes to enhance the profits tax concession from 50% to 100%.

#### *Amendments to Stamp Duty Ordinance (Cap. 117)*

7. Under the SDO, any person who as principal or agent effects any sale or purchase of stock the transfer of which is required to be registered in Hong Kong (Hong Kong stock) is required to make and execute a contract note and have it stamped with the appropriate stamp duty within 2 days of the transaction. The person also needs to execute an instrument of transfer for registered transfers. At present, a duty at the fixed rate of \$5 is charged on each instrument of Hong Kong stock transfer. In addition, an ad valorem stamp duty at the rate of 0.1% of the consideration per contract note is charged where the transfer is pursuant to a sale and purchase. For unit trust schemes which are Hong Kong stock, most transfers attract only the fixed duty but not the ad valorem duty. This is because most of the transfers are effected by issuing new units and extinguishing existing units by fund managers of unit trust schemes and this is not regarded as sale and purchase under the SDO and hence does not attract the ad valorem duty. For overseas unit trust schemes which are not Hong Kong stock, subscriptions to and redemption of units in Hong Kong from such schemes are exempted from the fixed stamp duty of \$5.

8. The Bill proposes to amend the SDO to extend the exemption applicable to overseas unit trust schemes to unit trust schemes which are Hong Kong stock. The effect of this amendment is that instruments of transfer relating to the issue of units by fund managers or redemption of units under unit trust schemes which are Hong Kong stock will be exempt from the fixed duty of \$5 under head 2(4) of the First Schedule to the SDO.

#### **Public Consultation**

9. According to the LegCo Brief, the Financial Secretary conducted consultation with LegCo Members during the formulation of the Budget. In addition, proposals of professional bodies and the general public have also been taken into account.

### **Consultation with LegCo Panel**

10. The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.

### **Conclusion**

11. The legal and drafting aspects of the Bill present no problem. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Prepared by

FUNG Sau-kuen, Connie  
Assistant Legal Adviser  
Legislative Council Secretariat  
23 September 2003

LS/B/42/02-03