

**立法會**  
***Legislative Council***

LC Paper No. CB(1)193/03-04

Ref: CB1/BC/14/02

**Paper for the House Committee meeting on 31 October 2003**

**Report of the Bills Committee on  
Boundary Facilities Improvement Tax Bill**

**Purpose**

This paper provides a report on the deliberations of the Bills Committee on Boundary Facilities Improvement Tax Bill (the Bill).

**Background to the Bill and the present position**

2. The Financial Secretary (FS) announced in the 2002-03 Budget Speech that the Government intended to introduce a Boundary Facilities Improvement Tax (BFIT) on passengers departing from Hong Kong by land and by sea in order to help finance the improvements to boundary facilities. In his 2003-04 Budget Speech, FS stated that it was necessary to raise additional revenue of \$20 billion between 2003-04 and 2006-07. According to the Administration's estimate, BFIT would generate additional revenue of about \$1 billion each year.

3. The Bill was introduced into the Legislative Council on 11 June 2003. The House Committee decided to form a Bills Committee to scrutinize the Bill on 13 June 2003. The Bills Committee held two meetings on 2 July 2003 and 24 September 2003.

4. In his statement on Hong Kong's economy and the management of public finances made at the Legislative Council meeting on 22 October 2003, FS announced the Administration's decision of not proceeding further with the BFIT at the current juncture. After FS's announcement and on the same day, the Secretary for Financial Services and the Treasury (SFST), the public officer in charge of the Bill, sent a letter to the Bills Committee to further explain the considerations and circumstances leading to the Administration's decision. In the letter, SFST gave confirmation that he would not give notice under Rule 54(5) of the Rules of Procedure to resume Second Reading debate of the Bill within the current term of the Legislative Council, with the result that the Bill would

lapse at the end of this term pursuant to Rule 11 (4) and section 9(4) of the Legislative Council Ordinance (Cap. 542). SFST also proposed that the Bills Committee discontinue its work on the Bill.

5. In light of the development, the Bills Committee agreed that its work on the Bill should be discontinued. At the House Committee meeting on 24 October 2003, the Chairman of the Bills Committee proposed and the House Committee agreed that the Bills Committee should be dissolved.

### **The Bill**

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

7. It was proposed in the Bill that a monthly concessionary tax rate of \$270 be provided to frequent commuters and the following persons be exempted from payment of the tax -

- (a) boundary crossing full-time primary and secondary students;
- (b) children under the age of 12 years old;
- (c) drivers and other persons operating land transport vehicles and crew members of a passenger ship;
- (d) passengers in transit; and
- (e) visiting diplomats, consular members and members of specified international organizations, consulates, and personnel of the three Central People's Government offices.

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

## **The Bills Committee**

9. The House Committee decided to form a Bills Committee to scrutinize the Bill on 13 June 2003. At the first meeting of the Bills Committee held on 2 July 2003, Hon CHAN Kam-lam was elected Chairman of the Bills Committee. The membership list of the Bills Committee is in **Appendix I**.

## **Deliberations of the Bills Committee**

10. The Bills Committee held two meetings on 2 July 2003 and 24 September 2003, and had invited the public to give views on the Bill. The second meeting was dedicated to receiving public views, and a total of 15 deputations attended the meeting. The organizations/individuals which/who had submitted views to the Bills Committee are listed in **Appendix II**. The deliberations of the Bills Committee are recapitulated below.

### Effect of BFIT on tourism and economic relationship with the Mainland

11. Some members raised concern that levying BFIT might discourage the flow of people between the Mainland and Hong Kong and thus queried whether levying BFIT was compatible with the Government's stated policies to promote tourism and closer economic partnership between the Mainland and Hong Kong. In response, the Administration explained that as BFIT would be pitched at a moderate level, it should not have any significant effect on tourism or the linkages between the Mainland and Hong Kong.

12. There was also a concern on the propriety of levying BFIT on travels within one country. In this connection, the Bills Committee had requested the Administration to provide information on overseas examples of similar taxes or charges. The information had not been provided to the Bills Committee.

### Effect of BFIT on cross-boundary passengers using the East Rail

13. Some members were concerned that levying BFIT would cause cross-boundary passengers using the East Rail to be subject to double taxation if there was already a tax element in the existing fare structure of the Kowloon-Canton Railway Corporation (KCRC) for cross-boundary travels. In response, the Administration advised that there had been no tax element in East Rail's fare on cross-boundary travels, and the fare structure of East Rail was KCRC's decision based on its commercial considerations. Having taken note of the Administration's response, the Bills Committee requested the Administration to provide the relevant document(s) which was prepared/considered by the then policy bureau and which led to the implementation of separate fare structures for

domestic and Mainland travels by KCRC in April 1984. The information had not been provided to the Bills Committee.

#### Effect of BFIT on KCRC's cross-boundary passenger flow

14. Some members were concerned that levying BFIT might have significant impact on the cross-boundary passenger flow of the Kowloon-Canton Railway and the fare income of KCRC, with the results that Government's dividend income from KCRC would reduce and there would be a greater pressure on KCRC to raise the fares for its domestic routes. The Administration held the view that the moderate tax rate would not affect cross-boundary passenger flow significantly and it would be difficult to project precisely the extent to which frequent commuters would reduce cross-boundary travels upon implementation of BFIT.

15. On the other hand, at the meeting on 24 September 2003, representatives of KCRC informed the Bills Committee that based on KCRC's market survey conducted in August/September 2003 among some 2 700 passengers, it was estimated that the cross-boundary passenger flow of KCRC might be reduced by about 12.5% with the implementation of BFIT, and as a result the annual profit of KCRC would be reduced by about \$300 million. KCRC's representatives however emphasized that the effect of BFIT on KCRC's cross-boundary passenger flow might be short term only. They also explained that a number of factors were taken into account in determining KCRC's fares, and the competitive environment of the market was one major factor.

#### The tax collection mechanism

16. The Bills Committee noted that a number of deputations, in particular transport operators, had expressed grave concern about the off-site tax collection mechanism. Their major concerns were the practical difficulties in enforcing the various concessions and exemptions of the tax and their legal liabilities arising from the statutory responsibility to collect the tax. In view of the deputations' concerns, the Bills Committee requested the Administration to re-examine the feasibility of on-site collection of the tax.

17. In response, the Administration explained that the primary considerations in proposing the mode of collection for BFIT were that collection and enforcement against evasion should not cause disruption or delay to the flows of people and vehicles, or crowd management problem at the control points; and that it should be convenient to the taxpayers. On-site collection might disrupt or delay passenger and vehicle flows or cause crowd management problems at control points due to space constraints and hiccups in tax payment. Off-site collection was therefore preferred.

18. The Administration further advised that off-site collection was already adopted for the Air Passenger Departure Tax and Passenger Embarkation Fee and the mechanism had worked well. It was proposed in the Bill that a statutory defence be provided in respect of certain offences to operators who had already exercised all due diligence to collect the tax. The Administration also undertook to step up publicity on the tax collection arrangements after the implementation of BFIT, and that before introducing BFIT and after consulting relevant operators, the Administration would draw up manuals/guidance notes on the tax collection arrangements to familiarise operators with the Administration's requirements for enforcing the tax and remove their doubts about their legal liabilities.

### **Advice sought**

19. Members are invited to note this report.

Council Business Division 1  
Legislative Council Secretariat  
30 October 2003

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

**Membership list**

<b>Chairman</b>	Hon CHAN Kam-lam, JP
<b>Members</b>	Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
	Hon SIN Chung-kai
	Hon Andrew WONG Wang-fat, JP
	Hon Howard YOUNG, SBS, JP
	Hon LAU Kong-wah, JP
	Hon Miriam LAU Kin-yee, JP
	Hon Emily LAU Wai-hing, JP
	Hon Andrew CHENG Kar-foo
	Dr Hon TANG Siu-tong, JP
	Hon LI Fung-ying, JP
	Hon WONG Sing-chi
	Hon Audrey EU Yuet-mee, SC, JP
	Hon MA Fung-kwok, JP
	(Total: 14 Members)
<b>Clerk</b>	Ms Anita SIT
<b>Legal Adviser</b>	Miss Anita HO

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

**The Organizations/individuals which/who have submitted views  
to the Bills Committee**

1. Miramar Hotel & Investment Company Limited
2. Barwil Agencies Limited
3. Organizations of Hong Kong Drivers
4. Lok Ma Chau China-Hong Kong Freight Association
5. Hong Kong Container Drayage Services Association Limited
6. Associated Tourist Coach Limited
7. Hoi Tai Tours Limited
8. Dalia Tour Agency Limited
9. 中港私家車主協會
10. Hong Kong Guangdong Boundary Crossing Bus Association
11. 粵港私家車協會
12. Public Omnibus Operators Association Limited
13. Kowloon-Canton Railway Corporation
14. The Sino-Hong Kong Private Cars' Rights Association
15. Mr LI Chun-wah
16. Star Cruises (Hong Kong) Limited
17. Hong Kong Liner Shipping Association
18. East Pacific (Holdings) Limited
19. Sinolink Worldwide Holdings Limited
20. The Goods Vehicle Fleet Owners Association Limited
21. Federation of Hong Kong Industries