

立法會
Legislative Council

Ref : CB2/BC/10/04

LC Paper No. CB(2)2586/04-05
(These minutes have been seen by
the Administration)

**Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005**

**Minutes of the meeting
held on Thursday, 14 July 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC

Members absent : Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Vincent FANG Kang, JP
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man

Public Officers : Mr Martin GLASS
attending Deputy Secretary for Financial Services and the Treasury
(Treasury)

Miss Erica NG
Principal Assistant Secretary for Financial Services and the
Treasury (Treasury)

Mrs Teresa CHU WONG Lai-fun
Assistant Commissioner of Inland Revenue

Mr Allen NG
Deputy Commissioner of Estate Duty of Inland Revenue

Mr Stephen FISHER
Deputy Secretary for Home Affairs

Mrs Nancy HUI
Principal Assistant Secretary for Home Affairs

Mr Gilbert MO
Deputy Law Draftsman
Department of Justice

Ms Vicki LEE
Senior Government Counsel
Department of Justice

Mrs Emme WALLER
Senior Assistant Law Officer (Civil Law)
Department of Justice

Mr M Y CHEUNG
Senior Government Counsel
Department of Justice

Clerk in : Mrs Sharon TONG
attendance Chief Council Secretary (2)1

Staff in : Ms Bernice WONG
attendance Assistant Legal Adviser 1

Mrs Eleanor CHOW

Senior Council Secretary (2)4

I. Meeting with the Administration

(LC Paper Nos. CB(2)2185/04-05(01), CB(2)2248/04-05(01), (02) and (03), CB(2)2267/04-05(01) and CB(2)2292/04-05(01))

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration –

- (a) to consider the proposal of the Law Society of Hong Kong to extend the time limit within which the personal representative (PR) was required to apply for a grant of representation from 6 months to 12 months;
- (b) to explain the changes in the application procedures for grant of representation, summary administration and sealing of a foreign grant after the abolition of estate duty;
- (c) to provide the following statistics –
 - (i) number of local deaths per year;
 - (ii) breakdown of applications for estate duty clearance by Statement in lieu of Affidavit (SILA) (i.e. for estate value below \$400,000) and non-SILA;
 - (iii) breakdown of finalised applications for estate duty clearance by SILA, non-SILA and non-dutiable, and non-SILA and dutiable;
 - (iv) number of applications for summary administration where the estate value was below \$150,000;
 - (v) breakdown of applications for grant of representation by estate value;
 - (vi) total number of applications for sealing of foreign grant;
- (d) to consider the proposal to establish an appeal mechanism against the decision of SHA;
- (e) to consider deleting the proposed section 60G;
- (f) to consider the proposal to exempt PR dealing with small estates from intermeddling provisions;

Action

- (g) to include a warning clause in the form of Schedule of Assets and Liabilities and to consider the wording used to advise on the offence of intermeddling;
- (h) to advise on the practices in dealing with estate of deceased in overseas jurisdictions which did not impose estate duty, in particular the safeguards against intermeddling of estate; and
- (i) to respond to the concerns raised by the Law Society of Hong Kong regarding the arrangement for the inspection of and removal of items from a safe deposit box with joint renters.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. 2355/04-05(01) on 20 July 2005.)

II. Date of next meeting

- 3. The Bills Committee noted that the next meeting would be held on 21 July 2005 at 10:45 am.
- 4. The meeting ended at 4:35 pm.

Council Business Division 2
Legislative Council Secretariat
15 September 2005

**Proceedings of the meeting of the
Bills Committee on
Revenue (Abolition of Estate Duty) Bill 2005
on Thursday, 14 July 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000529	Chairman	<p>Responses of the Administration to the issues raised by members at the meetings on 20 June 2005 and 6 July 2005</p> <p>Submission from the Law Society of Hong Kong</p>	
000530 - 004118	Admin Hon Audrey EU Chairman ALA1 Hon Margaret NG	<p>Function of a schedule of property before and after the abolition of estate duty</p> <p>Penalties on intermeddling before and after the abolition of estate duty, and during the interim period, i.e. on or after 15 July 2005 but before the commencement of the Bill</p> <p>Penalty against persons who, being not the personal representative (PR), intermeddled with the estate</p> <p>Persons eligible to be the PR to apply for a grant of representation after the abolition of estate duty</p> <p>Proposal of the Law Society of Hong Kong to extend the time limit within which the PR was required to apply for a grant of representation from 6 months to 12 months</p> <p>The need to exempt PR dealing with small estates from applying grant of representation and the intermeddling provisions</p>	Admin to consider to proposal

Time marker	Speaker	Subject(s)	Action Required
004119 - 004631	Hon CHAN Yuen-han Chairman Admin	<p>The need to simplify procedure for application of grant by PR dealing with small estates to address the concerns of the grassroots</p> <p>Balance between the aim of safeguarding the interest of the beneficiaries and allowing the Secretary for Home Affairs (SHA) to exercise discretionary power</p> <p>Proposal to exempt PR dealing with small estates from applying grant of representation and the intermeddling provisions</p>	
004632 - 005020	Hon Audrey EU Admin	<p>Offence of intermeddling under sections 23 and 24 of the Estate Duty Ordinance (EDO)</p> <p>Offence of intermeddling for PR dealing with small estates after the abolition of estate duty</p>	
005021 - 005315	Hon Margaret NG Admin Chairman	<p>Concern about the proposed procedure for application of grant by PR dealing with small estates departing from the existing practice</p> <p>Changes in the application procedures for grant of representation, summary administration and sealing of a foreign grant after the abolition of estate duty</p>	Admin to provide the requested information

Time marker	Speaker	Subject(s)	Action Required
005316 - 011104	Hon TONG Ka-wah Chairman Admin Hon Margaret NG Hon James TIEN Hon Audrey EU	<p>Concern about the proposed procedure for application of grant by PR dealing with small estates departing from the existing practice</p> <p>Provision of the following statistics –</p> <ul style="list-style-type: none"> (a) number of local deaths per year; (b) breakdown of applications for estate duty clearance by Statement in lieu of Affidavit (SILA)(i.e. for estate value below \$400,000) and non-SILA; (c) breakdown of finalised applications for estate duty clearance by SILA, non-SILA and non-dutiable, and non-SILA and dutiable; (d) number of applications for summary administration where the estate value was below \$150,000; (e) breakdown of applications for grant of representation by estate value ; (f) total number of applications for sealing of foreign grant <p>Reasons for requiring PR to apply for a grant within six months</p>	Admin to provide the requested information
011105 - 011206	Hon SIN Chung-kai Chairman Admin	Proposal to establish an appeal mechanism against the decisions of SHA	Admin to consider the proposal

Time marker	Speaker	Subject(s)	Action Required
011207 - 011447	Chairman Admin	Proposal on effective dates Fee charging policy for services provided by the Commissioner of Inland Revenue (CIR) and her officers under EDO and the future fee charging policy after SHA took up the residual functions from CIR upon the abolition of estate duty	
011448 - 012514	Chairman Admin Hon Margaret NG Hon Audrey EU	Concern about the fee charging policy for provision of services relating to estate clearance departing from the “user pays” principle Review of the fee charging policy one year after implementation of the abolition of estate duty Person to prepare an inventory of the safe deposit box	
012515 - 012718	Chairman Hon WONG Ting-kwong	Support for the “user pays” principle for provision of services relating to estate clearance	
012719 - 012856	Hon SIN Chung-kai Chairman Admin	Need to review the fee charging policy for provision of services relating to estate clearance in due course Proposal to impose service fees on estates at a specified threshold so as to recover costs Reasons for providing services relating to estate clearance free of charge	
012857 - 013313	Hon Margaret NG Admin Chairman	Whether the abolition of estate duty had brought about an increase in the direct and indirect benefits to the public	

Time marker	Speaker	Subject(s)	Action Required
013314 - 013702	Hon James TIEN Hon Margaret NG Chairman	Benefits of abolishing estate duty and the need to review the fee charging policy in due course Whether estate duty should be abolished	
013703 - 014038	Hon Audrey EU Chairman Admin Hon Margaret NG Hon James TIEN	Proposal to delete the proposed section 60G	Admin to consider the proposal
014039 - 014204	Hon Margaret NG Chairman	Proposal to exempt PR of small estates from intermeddling provisions	Admin to consider the proposal
014205 - 014304	Chairman Admin	Draft form of Schedule of Assets and Liabilities and related documents	
014305 - 015034	Chairman Admin ALA1 Hon Audrey EU	Warning clause in the form of Schedule of Assets and Liabilities Warning to advise on the offence of intermeddling	Admin to consult the Law Society of Hong Kong and the Judiciary Admin to consider the wording used
015035 - 015557	Hon TONG Ka-wah Chairman Hon Margaret NG Hon SIN Chung-kai Hon James TIEN	Practices in dealing with estate of deceased in overseas jurisdictions which did not impose estate duty, in particular the safeguards against intermeddling of estate	Admin to provide the requested information
015558 - 015817	ALA1 Admin	Form for additional Schedule of Assets and Liabilities	
015818 - 020359	Chairman Admin Hon TONG Ka-wah Hon Margaret NG	Concerns of the Law Society of Hong Kong about the arrangement for the inspection of and removal of items from a safe deposit box with joint renters	Admin to respond