

2 June 2005

Mrs Eleanor Chow
Clerk to the Bills Committee on
Revenue (Abolition of Estate
Duty) Bill 2005
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central, Hong Kong

Dear Mrs Chow,

Revenue (Abolition of Estate Duty) Bill 2005

We, the Chinese General Chamber of Commerce, the Chinese Manufacturers' Association of Hong Kong, the Federation of Hong Kong Industries and the Hong Kong General Chamber of Commerce, strongly support the above Bill to abolish estate duty in Hong Kong. It is our shared view that the revocation of the tax is a crucial step to strengthen Hong Kong's status as a premier asset management centre in the Asia-Pacific region.

Our detailed arguments for the abolition have been given in two separate joint letters previously submitted to the Financial Secretary and all Legislative Councillors. We are pleased to attach these two letters for the consideration of the Bills Committee.

We hope the Committee will take our views into full account when deliberating the Bill.

Yours sincerely,

Chinese General Chamber of Commerce
Chinese Manufacturers' Association of Hong Kong
Federation of Hong Kong Industries
Hong Kong General Chamber of Commerce

Encl.

20 October 2004

Mr Henry Tang, GBS, JP
Financial Secretary
12/F, West Wing, Central Government Offices
Lower Albert Road
Central, Hong Kong

Dear Mr Tang,

**Estate Duty Review
Consultation Document**

In response to the Government's Consultation Document on Estate Duty Review, we strongly advocate the complete abolition of this tax.

Estate duty is an unfair and outdated tax which serves no useful purpose. Worse still, it acts as a hindrance to Hong Kong's development as the premier financial and asset management centre of the region. Six OECD countries have abolished estate duty or similar taxes and the USA is on its way to doing the same. Most of Hong Kong's competitors in the race to become the premier asset and private wealth management centre in the region have moved decisively towards abolition of the tax. Singapore has substantially reformed its estate duty legislation while Australia, Macau, India, Malaysia, and New Zealand have abolished the duty altogether. Hong Kong is falling behind in the race.

The Consultation Document mentions two objectives for the introduction of estate duty in Hong Kong, namely "to generate revenue and to enable the whole community to benefit upon the death of persons who had grown very rich partly through the appreciation in value of assets and the progress of Hong Kong to which the whole community contributed."

However, an examination of the facts and figures behind estate duty clearly reveals that neither of these objectives has been fulfilled:-

- i) Estate duty is not a revenue significant tax as on average the revenue collected is only 0.7% of the total Government revenue in the past five years.
- ii) Contrary to common perception, estate duty is not levied on the very rich. In 2002/03, only two cases involved assets worth over \$1 billion. Of the total number of dutiable cases, more than 60% involved duty of less than \$2.5 million, which means these estates had dutiable assets below \$17 million. These figures demonstrate that the richest in the community do not pay estate duty. In reality, the major burden of this tax is falling on a particular section of the community, typically people who have worked hard throughout their lives to save their money, the SMEs & the middle class.

A reason often quoted by the Government as to why estate duty must be retained is that it gives the Inland Revenue Department ("IRD") one last opportunity to identify tax evasion cases. We do not accept this as a valid reason for keeping this tax. Firstly, it is illogical to retain one tax with the purpose of collecting other taxes; where there are loopholes in collection of a tax, the remedy surely must be the tightening of the rules under that particular tax. Secondly, it is unreasonable, and more often than not impossible, for the family of the deceased to be cognisant of every detail of the deceased's activities during his/her lifetime. To impose back tax on the estate simply because the burden of proof rests with the taxpayer and in his/her absence on the executors of the estate is highly unfair. Thirdly, the same information could still be obtained by the IRD by requiring a statement of Hong Kong assets to be provided to the IRD as a condition of obtaining probate or letters of administration; it is not necessary to impose a duty.

Estate duty is unethical because it burdens beneficiaries with taxes and the necessity to handle the associated bureaucracy while they are dealing with the loss of a family member. Interest on the duty is levied from the date of death, there is no statutory requirement for the IRD to settle a case within a reasonable timeframe, the value of assets for estate duty purposes could be much higher in the event of a drastic fall in prices after the date of death, and frequently beneficiaries need to sell assets in order to pay for the tax. The psychological and emotional strain on family members should not be underestimated.

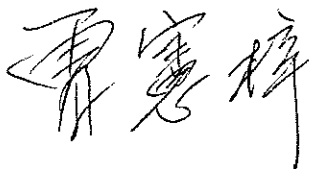
We wish to stress that abolishing estate duty will give Hong Kong an important extra advantage as the region's asset management centre. It will also create more business and employment opportunities for Hong Kong people across different sectors. Hong Kong already has a sound system to regulate and monitor international finances. Without estate duty, Hong Kong will be better able to attract new investments, thus further promoting its status as an international financial hub. The increase in economic activities arising from the abolition of estate duty would benefit other economic sectors as well, most notably the property market. These business activities will give rise to additional stamp duty, profits tax and salaries tax collection, that would be large enough to compensate for any loss in revenue from estate duty. Therefore, the abolition of estate duty could be revenue positive to the Government.

For all these reasons, we urge the Government to abolish estate duty. We believe that abolition is by far the best option over the two other proposals involving amendments to the existing system which would only run the risk of making estate duty even more unfair and complex. If and when estate duty is to be eliminated, we would also like to call upon the Administration to publish a timetable for the abolition. This is important for tax planning purposes and would be helpful to companies wishing to establish or increase their presence in Hong Kong to take advantage of the change.

Our detailed responses to the specific questions raised in the Consultation Document are set out in the attached Appendix.

With best regards.

Yours sincerely,



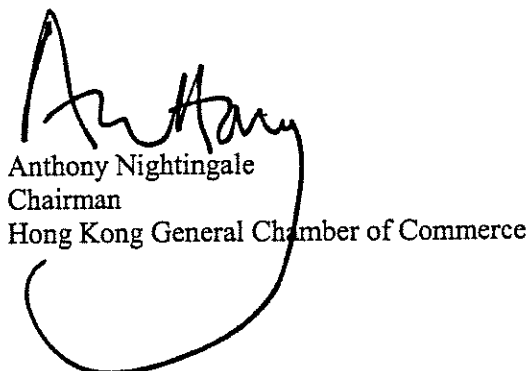
Tsang Hin Chi
Chairman
Chinese General Chamber of Commerce



Jose Yu
President
Chinese Manufacturers' Association of Hong Kong



Kenneth Ting
Chairman
Federation of Hong Kong Industries



Anthony Nightingale
Chairman
Hong Kong General Chamber of Commerce

**Estate Duty Review
Consultation Document**

Detailed response

We respond to the specific questions raised in the Consultation Document on Estate Duty Review as follows:-

Whether the current estate duty regime should be retained?

(a) *Do you think estate duty should be retained? If so, the reasons for this?*

We strongly advocate the complete abolition of estate duty. It is an unfair and outdated tax which serves no useful purpose but acts as a hindrance to Hong Kong's development as the premier financial and asset management centre of the region.

Various social and economic objectives are usually quoted by governments as the reasons for the imposition of death taxes. The Consultation Document mentions two objectives for the introduction of estate duty in Hong Kong in 1915, namely "to generate revenue and to enable the whole community to benefit upon the death of persons who had grown very rich partly through the appreciation in value of assets and the progress of Hong Kong to which the whole community contributed."

However, examination of the facts and figures behind estate duty clearly reveals that the two stated objectives behind the introduction of the tax have not been fulfilled.

On the ability of estate duty to generate revenue, the table provided in paragraph 5 of the Consultation Document demonstrates that estate duty is not a revenue significant tax. On average, the revenue collected is only 0.7% of the total Government revenue in the past five years to 2003/04. Faced with the current persistent fiscal deficit problem, we agree that any stable source of revenue, however small the amount, should not be given up lightly. However, we consider it would be even more remiss if the economic benefits to be gained from the removal of estate duty are ignored. For example, abolition of estate duty would attract investments in Hong Kong real estate and Hong Kong listed shares which would result in more stamp duty revenue for the Government. Abolition would also make Hong Kong a more attractive centre for the location of trust and administrative services in Asia, which would lead to the further expansion of the financial sector and a consequential increase in profits tax and salaries tax collections.

The second stated objective of estate duty is to enable the whole community to benefit upon the death of *the very rich*. However, the figures disclosed in paragraph 16 of the Consultation Document demonstrate that this stated objective has not been fulfilled. According to statistics gathered by the Commissioner of Estate Duty, for the 2002/03 and 2003/04 assessment years,

69% and 47% respectively of the dutiable cases involved assets which were worth over \$10 million, and 11% and 8% respectively of the cases involved assets which were worth over \$50 million. In 2002/03, only two cases involved assets worth over \$1 billion. In other words, the majority of the dutiable cases (69% in 2002/03 and 47% in 2003/04) have assets valued at between \$10 million and \$50 million. Clearly, those who were charged estate duty do not belong to the very rich of our society.

In response to a question raised by a member of the Legislative Council in July 2001, the Secretary for the Treasury provided the following information on the number of cases assessed to estate duty broken down by bands of \$2.5 million each:-

	<u>98/99</u>	<u>99/00</u>	<u>00/01</u>
Duty Assessed	Number of Dutiable Cases		
\$1 - \$ 2,500,000	211	221	215
\$2,500,001 - \$5,000,000	68	73	58
\$5,000,001 - \$7,500,000	19	19	13
\$7,500,001 - \$10,000,000	6	15	8
\$10,000,001 and above	<u>22</u>	<u>26</u>	<u>24</u>
Total number of Dutiable Cases	<u>326</u>	<u>354</u>	<u>318</u>

Of the total number of dutiable cases, more than 60% involved duty of less than \$2.5 million, which means these estates had dutiable assets below \$17 million. Again, this information indicates that the burden of estate duty is not falling on the very rich.

The reality is that through quite legal means, not least of which is the option of taking assets outside of Hong Kong, the richest in the community do not pay estate duty. It is a tax on the ill-informed, typically the middle class who have worked hard throughout their lives but have not sought proper tax advice.

The following table shows that of the total number of cases handled by the Inland Revenue Department ("IRD"), only a very small number is dutiable.

	<u>99/00</u>	<u>00/01</u>	<u>01/02</u>	<u>02/03</u>
New Cases	<u>14,157</u>	<u>13,880</u>	<u>14,574</u>	<u>15,227</u>
Cases finalised				
Dutiable	354	318	302	298
Exempt	<u>13,889</u>	<u>13,246</u>	<u>14,399</u>	<u>15,047</u>
	<u>14,243</u>	<u>13,564</u>	<u>14,701</u>	<u>15,345</u>

Source – IRD annual reports for 1999/2000 to 2002/2003

For example, of the 15,345 cases finalised in the assessment year 2002/03, only 298 were dutiable. A similar situation exists in the earlier years with a declining trend in the number being assessed. Paragraph 25 of the Consultation Document mentions that there were 258 dutiable cases assessed in the year ended 31 March

2004. This means that estate duty is a tax payable by merely 300 or less people each year!

Article 115 of the Basic Law stipulates that the Hong Kong Special Administrative Region shall pursue the policy of free trade and safeguard the free movement of goods, intangible assets and capital. However, estate duty as a tax on property located in Hong Kong that passes on death is a barrier to free trade, investment and movement of capital in Hong Kong and hence should be abolished.

- (b) *If you think the current estate duty regime should be retained, have you any suggestions on how the present regime, including its procedures, charging provisions, exemptions, exemption threshold, rates of duty, and interest and anti-avoidance provisions might be improved?*

We strongly advocate the complete abolition of estate duty rather than tinkering with a tax system that is unfair, outdated and does not fulfil any of its stated objectives.

- (c) *What factors do you think contribute to the investment and retention of capital in Hong Kong? To what extent does estate duty feature in this? How might adjusting the estate duty regime make a difference? Please try to quantify the effects of any proposed adjustment to the estate duty regime and explain the basis for your estimate.*

Many factors contribute to the investment and retention of capital in Hong Kong, including the rule of law, a stable and corruption-free government, quality of the workforce, standard of living, administrative ease in conducting business as well as taxation policy.

At present, estate duty is the only tax on capital in Hong Kong. This is clearly a barrier to the free flow of capital and is contrary to the objective of encouraging investment by not taxing investment income. In particular, estate duty is standing in the way of Hong Kong becoming the preferred centre for private investment and wealth management.

Estate duty drives wealth and people away from Hong Kong as estate duty planning invariably include divestment of control over Hong Kong based assets or their transfer from Hong Kong. On the other hand, if these assets remained in Hong Kong, they would add to economic growth, wealth creation and employment. For example, the abolition of estate duty would stimulate the real estate market in two ways. Firstly, local residents who have decided against investments in Hong Kong properties to avoid estate duty can now re-direct their investments to Hong Kong. Secondly, overseas investors from the Mainland, the region and other places would consider investing in the Hong Kong property market to take advantage of the absence of estate duty as well as capital gains tax.

The increasing wealth of Mainland Chinese, increasing demand from Europe to locate management of Asian based assets within Asia, and the need for investors

and asset portfolio managers to retain assets in a given location are all major opportunities for the further expansion of Hong Kong's financial services sector. Hong Kong should aspire to become the preferred outlet for private investment and wealth management services in the region and look to capitalise on the growing demand of Mainland and other investors in these areas. Government has been working actively to promote investment, including proposals for investment immigration. Abolition of estate duty would provide a further attraction to potential investors.

Whether the estate duty regime should be adjusted through provision of exemption by reference to "domicile" or "residency" (proposal (a) in paragraph 11)?

- (d) *Should exemptions based on "domicile" and "residency" be provided? If so, why, and which basis do you prefer, "domicile" or "residency"? What do you suggest for the definition and test of "domicile" and or "residency"?*

We recommend the complete abolition of estate duty rather than just narrowing the tax incidence by providing exemptions based either on domicile or residency. The fundamental principle underlying taxation in Hong Kong is our territorial concept which has served Hong Kong well and hence should be retained. Introducing exemptions based on domicile or residency coupled with the existing territorial concept which taxes only properties situated in Hong Kong at the time of death would only add to confusion and complexity of the legislation.

- (e) *Would the proposal to provide exemption from estate duty by reference to "domicile" or "residency" create problems for the estate duty regime? What practical difficulties might there be and how best can they be overcome?*

As can be seen from overseas experience, rules for determining domicile and residency are generally complex. We therefore agree with the comments in the Consultation Document that the determination of "domicile/residency" of the deceased for estate duty purposes is a very difficult task, and is likely to be a major source of dispute if full or partial exemption from estate duty is tied to it. The best approach is to refrain from making the estate duty legislation more complex or unfair by introducing exemptions based on status of the deceased.

- (f) *What effects, if any, on the asset management industry and the Hong Kong economy as a whole (eg. in terms of employment level, value of assets managed and inflow of foreign capital) do you think would be brought about by providing exemption by reference to "domicile" or "residency"? Please try to quantify the benefits and describe the basis of your estimate.*

As stated above, we believe that exemptions based on "domicile" or "residency" would cause confusion and dispute and hence we find it difficult to comment on their effects on the asset management industry and the Hong Kong economy as a whole.

Whether the estate duty regime should be adjusted through provision of exemption by reference to asset type (proposal (b) in paragraph 11)?

- (g) *Should exemptions be given to specific assets such as bank deposits, listed securities, and collective investment schemes that are authorised by the the Securities and Futures Commission under the Code on Unit Trust and Mutual Funds? If so, the reasons for this?*

We believe that by far the best approach is to abolish estate duty in its entirety rather than to make piecemeal adjustments in the form of selective asset exemptions.

Furthermore, exemptions of the items mentioned in this question of the Consultation Document, namely bank deposits, listed securities and collective investment schemes, currently account for a substantial portion of the estates liable to estate duty. Accordingly, exemption of these items would substantially reduce the revenue collection from estate duty. The latest publicly available information on the composition of estates is contained in the IRD's 2002/03 annual report (see table below). In the year of assessment 2002/03, quoted shares and bank deposits account for 19.9% and 18.6% respectively of the composition of estates liable to estate duty. The figures for 2001/02 are 26.2% for quoted shares and 18.5% for bank deposits. This indicates that exemption of these items could result in a 40% to 50% reduction in the revenue collections.

<u>Composition of Estates</u>	<u>01/02</u>	<u>02/03</u>
	%	%
Immovable Properties	22.6	15.9
Quoted shares	26.2	19.9
Unquoted shares	18.4	29.1
Bank deposits	18.5	18.6
Others	<u>14.3</u>	<u>16.5</u>
	<u>100</u>	<u>100</u>

Source: IRD annual report 2002/03

Further, a specific item which could be said to be equally deserving of exemption is a deceased's principal place of residence. At present, the only relief available for residential properties is the matrimonial home relief whereby the matrimonial home is exempt from estate duty if ownership passes on death to the surviving spouse. If this relief is to be replaced by a more generic exemption for the principal place of residence of the deceased in Hong Kong, adding this item to the above list of specific asset exemptions could result in a drop of revenue collections by well over 50%.

Since estate duty currently accounts for on average only 0.7% of total Government revenue, we see little merit in introducing exemptions which would lead to a substantial reduction in the revenue take over a complete abolition of the tax.

- (h) *Would the proposal to exempt specific assets create problems for the estate duty regime? What practical difficulties might there be and how best could they be overcome?*

Exemption of specific assets could lead to a substantial drop in revenue but may not necessarily result in a fall in the cost of collection. Paragraph 18 of the Consultation Document states that in the four assessment years from 1999/2000 to 2002/03, the cost of collecting estate duty ranged from 0.95% to 1.36%. The high end of this range already falls within the range for the cost of collecting other IRD taxes for the same period (ranged from 1.31% to 1.39%). If exemption of specific assets lead to a 50% drop in revenue, but the cost of collection remain unchanged, the cost as a percentage of revenue take could increase from 1.36% to 2.72%, making estate duty a very inefficient tax with a cost of collection well above the range of other IRD taxes.

- (i) *What effects, if any, on the asset management industry and the Hong Kong economy as a whole (eg. in terms of employment level, value of assets managed and inflow of foreign capital) do you think would be brought about by providing exemption by reference to asset type? Please try to quantify the benefits and explain the basis of your estimate.*

We recommend complete abolition of estate duty rather than making the tax more complicated by introducing exemption by reference to asset type.

Whether estate duty should be abolished (proposal (c) in paragraph 11)?

- (j) *Do you think estate duty should be abolished? If so, the reasons for this?*

We strongly believe that estate duty should be abolished. It is an outdated, unfair and confusing tax. It contradicts the Government's initiatives in attracting investments in Hong Kong via CEPA or the investor migrant scheme. It acts as a hindrance to Hong Kong becoming an even more attractive centre for location of trust and administrative services, to retain and manage asset portfolios and to establish private holding companies in Asia. These opportunities are much coveted by Hong Kong's neighbours. Singapore has substantially reformed their estate duty legislation while Australia, Macau, India, Malaysia, and New Zealand have abolished the duty altogether. Hong Kong is falling behind in the race.

For these reasons, we urge the Government to take the necessary step of abolishing estate duty without further delay.

- (k) *How would the abolition of estate duty affect different industries (e.g. private wealth management, estate duty planning, the legal, accountancy and surveying professions, investment banks and trustee companies)?*

Our comments on the effects of abolition of estate duty on the asset management industry and the Hong Kong economy as a whole are set out in section (I) below. Personal asset management does not happen in a vacuum. Legal, accountancy and other professional expertise is required to fully appreciate the options and risks on offer. As the premier international corporate business and institutional financial service centre in the region, the SAR has the depth and breadth of

experience and knowledgeable people to expand as Asia's personal financial jurisdiction of choice.

- (1) *What effects, if any, on the asset management industry and the Hong Kong economy as a whole (e.g. in terms of employment level, value of assets managed, repatriation of capital from Hong Kong people and inflow of foreign capital) do you think would be brought about by abolishing estate duty? Please try to quantify the benefits and explain the basis of your estimate.*

Hong Kong's asset management industry – comprising asset management, advisory and private banking activities – was valued by the SFC at \$2.95 trillion in 2003. The survey showed that 63% of assets managed in Hong Kong originate overseas, and 73% are invested in Asia, making Hong Kong by far the most international financial centre in the region. Of the 196 fund houses and banks surveyed, 24% have their regional headquarters in Hong Kong. In 2002, the finance and insurance sector employed over 152,000 people in the SAR.

The SAR is the asset management centre of choice for Mainland funds, and initiatives such as the investor migrant scheme support our belief that this role will only strengthen. The flow, moreover, goes both ways: Hong Kong is the management home to the bulk of the foreign assets invested in China. Among Hong Kong managed assets are \$481 billion invested in Hong Kong and the Mainland, equal to 25% of combined PRC and Hong Kong GDP.

The base exists to move from institutional fund management to a stronger role in personal asset management, if the regulatory environment makes sense. Australia, Canada, Italy, New Zealand, Malaysia and other countries have abolished estate duty in recent years, and Singapore has revised its laws to benefit non-residents. For Hong Kong to position itself as the premier personal asset management centre in the Asian half of the world, similar regulatory rationalization is necessary.

The PRC holds the world's second largest stock of foreign exchange reserves, and is in the process of liberalizing – over several years – capital flows. As personal investment options broaden, Hong Kong will benefit from proximity, language and regulatory competitiveness. However, the more sophisticated investors become, the more important the regulatory environment will be. For Hong Kong to secure its role as the outward investment centre for the rest of China, the regulatory environment must evolve.

In the 1990s, financial sector employment rose from less than 10% of total employment to more than 13%. However, since then it has stagnated, barely keeping pace with overall growth in total employment. To take the industry to the next level, new products and services must be developed, and the rapid rise of wealth in the PRC is a strong indicator of the direction the SAR must move. Abolition of estate duty would go a long way in enhancing Hong Kong's position as the premier asset management centre in Asia.

- (m) *How best may we ascertain and measure the costs and benefits of abolishing the tax in terms of the net employment gains/losses, potential for increased investments and boost to the asset management industry?*

We believe the best approach is for the Government to perform detailed economic modelling using different variables.

Other measures?

- (n) *Do you think Hong Kong needs to adopt any other measures or changes together with or instead of adjustments to estate duty in order to develop its role as the premier asset management centre for Asia?*

We believe that abolition of estate duty is a key measure in assisting Hong Kong to develop its role as the premier asset management centre for Asia. Therefore, other measures or changes must be adopted in conjunction with, but cannot be suitable alternatives to, the abolition of estate duty.

The following are other measures which we believe Hong Kong needs to consider in order to develop its role as the premier asset management centre for Asia:-

- A comprehensive review of the Companies Ordinance with the objective of making Hong Kong more attractive to international investors. For example, introduction of re-domicile provisions should be considered so as to facilitate the migration of overseas corporations to Hong Kong.
- A re-affirmation that the territorial concept remains as the key principle of taxation in Hong Kong. This concept has served Hong Kong well and has often been cited by overseas investors as a major incentive for investment in Hong Kong. However, recent changes in the tax legislation and in the practice of the Inland Revenue Department have caused doubts about the validity of the territorial principle. An example is the newly inserted Section 15(1)(ba) of the Inland Revenue Ordinance which introduced the principle of symmetry between the deductibility of an expense by the payer of a royalty and the taxability of the receipts in the hands of the payee. To achieve symmetry by taxing an entity that may conduct no business in Hong Kong is contrary to the territorial concept of taxation.
- The introduction of appropriate legislation to exempt offshore funds from Profits Tax. This will bring Hong Kong in line with other major international financial centres where offshore funds are generally not subject to tax. Further to the public consultation conducted on this issue earlier in the year, we recommend Government to work closely with the funds management industry to expedite finalisation of the legislative provisions.

(傳真號碼: 2537 1851)

敬啟者：

就取消遺產稅回應湯家驊議員的評論

湯家驊議員最近就廢除遺產稅的建議發表了以『支援遺產稅是「無知」?』為題的文章。由香港中華總商會、香港中華廠商聯合會、香港工業總會、香港總商會組成的遺產稅研究小組(研究小組)認為，湯議員的文章中存在不少不準確甚至有誤導性的地方，值得商榷。

為此，研究小組援引了湯議員文章中的一些觀點，逐一進行討論。隨附上我們的分析，以資參閱。

此致
立法會全體議員

香港中華總商會
香港中華廠商聯合會
香港工業總會
香港總商會

二零零五年五月六日

支持遺產稅是「無知」！ — 回應湯家驊議員的的評論

湯家驊議員最近就廢除遺產稅發表了以『支援遺產稅是「無知」？』為題的文章，其中存在不少欠準確甚至有誤導性的地方：

1. 遺產稅應保留，因為『據 03/04 年數字，近八成遺產稅收入來自少於三成的個案，而該等個案的淨資產總值〔即扣除所有債務外〕均超過 2000 萬港元。』

試看一看遺產稅牽涉的人數。以 2003/04 年度為例，在 37,108 個登記死亡人數中，只有 258 宗須要繳交遺產稅，而當中更只有 80 宗涉及超過 2,000 萬資產值。為了這區區數十個「富翁」，政府要設立專門的稅務部門去負責，更不惜讓近 15,000 個家庭在失去親人的痛苦之際，還要承受報稅的繁瑣手續。很明顯，香港沒有理由為了向 80 個「富翁」徵稅而保留遺產稅，尤其是當這一不合時宜的稅種已成為香港邁向卓越財富管理中心的一個主要障礙。

必須強調的是，取消遺產稅的根本目的乃是改善香港的投資環境，為推動香港發展成為卓越的財富和產業管理中心創造條件；而並不是為了照顧任何一個社會群體的利益。如果將目光放在短期的稅收收入上或者糾纏於局部利益的得失，則無異於「一葉障目，不見森林」；不僅會阻礙香港經濟的長遠發展，亦不利於維護社會的和諧。

2. 『若遺產稅容易避免，又怎會導致富有人家移居海外或阻嚇外資在港投資？』

理由很簡單，遺產稅的徵稅範圍是位於香港的資產；而避免遺產稅的最有效方法當然是將資產遷離香港。

3. 『商業上的大額投資絕少會以個人名義作出。』

即使投資是以公司名義作出，若該等公司在香港註冊或者被視為「受控制公司」的海外公司，則有關股份亦會被納入遺產稅的徵稅資產。

4. 『縱然投資是以個人名義作出，只要投資者去世時並非在港，遺產稅的徵收亦只會局限於死者於香港的不動產。』

這個論點完全不正確。遺產稅的徵收範圍是死者在去世時位於香港的所有資產，與死者去世時的所在地並沒有關係；另一方面，遺產

稅應評稅資產包括動產和不動產，並不只是不動產。

5. 『事實上，唐司長也承認，沒有確實證據顯示，取消遺產稅可吸引外資。』

雖然現階段並沒有準確數據顯示取消遺產稅可帶來的外國資金數目，但這並不代表可以據此而否定它的好處。財政司司長在4月27日的演說中亦指出，取消遺產稅將為香港進一步開拓財富管理業務除去一個主要障礙；他更估計，香港基金管理業務涉及的資產，可望於未來雙倍增長至50,000億港元。而壯大了的資產管理業務不單會為香港帶來就業機會，更可帶動其他相關行業的發展。可見，取消遺產稅的最終受惠者豈只是資產擁有人，很多香港市民包括低收入階層亦會因此而受惠，從而締造「多贏」的局面。

6. 『況且，遺產稅採用漸進式稅率，亦設有750萬免稅額，死者生前自住的房屋亦可獲豁免。筆者實在不明白此稅制有何不公平之處？』

遺產稅的一個不公平之處就是稅務負擔並非由最富有的人承擔，那些一生努力工作、而又沒有尋求避稅建議的中產階層人士反而是這個稅項主要承擔者。遺產稅的另一個不公平之處是勤勞而又節儉的人反而受到「懲罰」，因為有資產的人士在有生之年已繳納了薪俸稅或利得稅，他們累積的財富理應獲得稅務寬免。

另外，不是所有死者的自住居所都可獲得豁免。只有死者的婚姻住所，於去世時轉移給其配偶方可獲得寬免；兼且這項寬免的範圍非常狹窄，並沒有考慮現今香港社會的倫常關係或財務安排。例如，即使符合了以上的條件，只要該物業是由公司持有，則該項寬免便不適用；再者，如該物業被轉移給其他家庭成員，而並非死者配偶，則遺產接受人亦同樣不能享有這個寬免。

7. 『政府不試圖改善徵稅程式以提高效率而索性撤銷整個稅項，無疑是本末倒置。』

如果單單為了徵收80個案的遺產稅，而不惜大費周章對徵收程式作出檢討和改善，絕對是不切實際、不合情理。一來會令香港的稅務制度變得更複雜和不公平，其結果是無法提供誘因吸引外來投資金，甚至會刺激資金撤離本港；二來亦無法讓每年1.5萬個家庭擺脫遺產稅評定的繁複手續。再者，這種治標不治本的方法會導致政府庫房收入減少，同時更會加重稅務局的工作量和行政成本。

8. 『世界上已取消遺產稅的國家中，絕大部分都設有資產增值稅。因為遺產稅是資產增值稅的一種，若兩者並存便會變成雙重徵稅，這便是其他國家撤銷遺產稅的原因之一。但香港沒有資產增值稅，因此不存在雙重徵稅的問題。』

大多數國家取消遺產稅的時候並沒有徵收資產增值稅。舉例說，澳大利亞在 1970 年代取消遺產稅，當時該國尚未有資產增值稅這一稅種存在；馬來西亞、紐西蘭及澳門的情況亦然。

9. 『遺產稅是穩定的經常性稅收。』
『這十多億可能是久旱甘露，怎能輕易放棄。』

我們認同，無論涉及款項多寡，一項穩定的經常性收入並不應被貿然放棄。但是，從長遠看，取消遺產稅預期反而會令庫房收入有增無減。取消遺產稅會吸引有實力的國際投資者購買香港物業和金融資產，或者設立地區辦事處，他們必然會聘用本地會計師、律師、銀行家和資金經理來管理全球的資產，從而增加本地就業機會；而這些活動將會為政府帶來更多印花稅、利得稅和薪俸稅的收入。

10. 『正確做法是改革遺產稅。』
『為什麼政府不考慮此途，而堅持劫貧濟富？』

我們並不同意這個建議。對遺產稅這個過時的稅種作出一些「修修補補」的改動只會令該稅制變得更複雜和不公平。必須再三強調的是，為了向僅僅 80 個「富翁」徵收遺產稅而花費大量的時間和資源去改革稅制，難道不是費時又失事，因小而失大！我們沒有理由為向極少數人徵收遺產稅，而剝奪香港成為卓越產業及財富管理中心的机会。

取消遺產稅絕對不是「劫貧濟富」的做法。數據表明大部份遺產稅個案涉及的資產總值〔扣除寬免後〕都在 2,000 萬港元以下；顯而易見，取消遺產稅的受惠者大部分是中小企和中產階層，而並非少數的富裕人士。事實上，除去這個阻滯本港資產管理業務發展的一大障礙，受惠的將會是整個香港社會。

Supporting the retention of Estate Duty is based on “ignorance”!

-In Response to Mr. Ronny Tong’s Article

The recent article published by Mr. Ronny Tong entitled “Is supporting the retention of Estate Duty based on ignorance?” contains a number of misleading and inaccurate information:

1. 『據 03/04 年數字，近八成遺產稅收入來自少於三成的個案，而該等個案的淨資產總值〔即扣除所有債務外〕均超過 2000 萬港元。』

Let’s take a look at how many people are involved. In 2003/04, only 258 estates out of the total registered deaths of 37,108 were subject to Estate Duty. Of these, only about 80 involved estates with value in excess of \$20 million. So it clearly makes no sense for an outdated tax to be retained just for the sake of taxing 80 “rich guys”.

2. 『若遺產稅容易避免，又怎會導致富有人家移居海外或阻嚇外資在港投資？』

The reason is simple! Estate Duty is imposed only on Hong Kong assets. Therefore one of the most effective avoidance methods is the relocation of assets overseas.

3. 『商業上的大額投資絕少會以個人名義作出。』

Even if investments are made through a corporate vehicle, the shares of those companies will still be subject to Estate Duty on the death of the shareholder if they are Hong Kong shares or shares of an overseas company which falls within the definition of a “controlled company”.

4. 『縱然投資是以個人名義作出，只要投資者去世時並非在港，遺產稅的徵收亦只會局限於死者於香港的不動產。』

This statement is incorrect! Estate Duty is levied on the value of Hong Kong assets passing on the death of an individual. The place of death is not relevant. Further, Estate Duty is imposed on both movable and immovable property, not just on immovable property.

5. 『事實上，唐司長也承認，沒有確實證據顯示，取消遺產稅可吸引外資。』

The lack of an accurate estimate does not mean that the abolition of Estate Duty will fail to attract international investors to Hong Kong. As pointed out by the Financial Secretary in his speech to LegCo on 27 April, abolition of Estate Duty will remove a major obstacle to the further development of our asset management business. He also estimated that the total assets in Hong Kong’s fund management business may double, to more than \$5,000 billion within the next five years. The expanded asset management business will bring additional job opportunities to Hong Kong and will facilitate the development of other related industries, benefiting not only asset owners but also many other citizens.

6. 『況且，遺產稅採用漸進式稅率，亦設有 750 萬免稅額，死者生前自住的房屋亦可獲豁免。筆者實在不明白此稅制有何不公平之處？』

The unfairness is that it is clearly not a tax paid by the very rich. It is a tax on the ill-informed, typically the middle class who have worked hard throughout their lives but have not sought proper tax advice. There is no blanket exemption on the residential property lived in by the deceased. The only relief available is the matrimonial home relief which exempts the property if ownership passes to the surviving spouse. This relief is very narrow and fails to take into account modern day relationships or arrangements. For example, it does not apply where the matrimonial home is held via a company. It also does not apply if the property is passed onto other family members rather than to the spouse.

7. 『政府不試圖改善徵稅程序以提高效率而索性撤銷整個稅項，無疑是本末倒置。』

It makes no sense to waste time and resources on improving the collection mechanism just to impose tax on 80 “rich guys”.

8. 『世界上已取消遺產稅的國家中，絕大部分都設有資產增值稅。因為遺產稅是資產增值稅的一種，若兩者並存便會變成雙重徵稅，這便是其他國家撤銷遺產稅的原因之一。但香港沒有資產增值稅，因此不存在雙重徵稅的問題。』

Most countries which abolished estate duty did not have a capital gains tax at the time of abolition. For example, Australia abolished estate duty in the 1970s when it did not have a capital gains tax. Malaysia, New Zealand and Macau also abolished estate duty in the absence of a capital gains tax.

9. 『遺產稅是穩定的經常性稅收。』
『這十多億可能是久旱甘露，怎能輕易放棄。』

We agree that any stable source of revenue, however small the amount, should not be given up lightly. However, far from being a revenue loss, abolition of Estate Duty could be revenue positive to the Government. It is obvious that abolition will retain and attract wealthy investors who will buy Hong Kong properties and shares, set up regional offices here and employ our people, our lawyers, accountants, bankers and fund managers to look after their global assets. The activities will result in additional stamp duty, profits tax and salaries tax.

10. 『正確做法是改革遺產稅。』
『爲什麼政府不考慮此途，而堅持劫貧濟富？』

We do not agree with this approach. Tinkering with such an outdated tax would only make it more complex and unfair. We reiterate that it makes no sense to waste time and resources in reforming a tax which is imposed only on 80 “rich guys”. More importantly, it makes no sense to forfeit Hong Kong’s chance of being a premier asset management centre just to impose an outdated tax on a handful of people. Abolition is not a measure that “robs the poor to help the rich”. Evidence shows that the majority of the dutiable cases involve assets with an estate value (after exemptions) below \$20 million. Therefore, those who stand to benefit directly are mostly SMEs and the middle class rather than the rich. In fact, the whole community will benefit as abolition will remove a major obstacle to Hong Kong’s further development of our asset management business.