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

Purpose

This paper reports on the deliberations of the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005.

The Bill

2. In his 2005-2006 Budget speech delivered on 16 March 2005, the Financial Secretary announced the proposal to abolish estate duty imposed under the Estate Duty Ordinance (Cap. 111) (EDO). Introduced into the Legislative Council (LegCo) on 11 May 2005, the Bill seeks to amend EDO to give effect to the proposal to abolish estate duty and to make related and consequential amendments.

The Bills Committee

3. At the House Committee meeting on 13 May 2005, Members formed a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

4. Under the chairmanship of Hon Miriam LAU Kin-yee, the Bills Committee has held 16 meetings, including 15 meetings with the Administration. The Bills Committee has also met with 12 organizations and received written submissions from three other organization/individuals. The names of these organizations and individuals are listed in **Appendix II**. In addition, the Bills Committee has considered an article relating to estate duty written by Professor Andrew HALKYARD and Mr Wilson CHOW.

Deliberations of the Bills Committee

General views on the proposal to abolish estate duty

5. Some members are in support of the proposal to abolish estate duty. These members have pointed out that some people, especially the better-off sector, might have made various arrangements, such as overseas investments, to avoid the tax. Abolishing estate duty will encourage them to transfer their overseas investments back to Hong Kong. The proposal, if implemented, will also encourage people, including overseas investors, to hold assets in Hong Kong. This will strengthen Hong Kong's status as a major asset management centre, create more employment opportunities, and in turn make Hong Kong more competitive as an international financial centre.

6. Some other members have, however, expressed concern that the proposed abolition of estate duty will narrow the tax base and reduce the Government's revenue especially when there is still fiscal deficit. They are also concerned that to make up for the loss in estate duty, which is about $1.5 billion as estimated by the Administration, new taxes or increase in other taxes may be imposed. They have asked the Administration to provide in quantitative terms the increase in investment if estate duty is abolished. They have also asked whether exempting deceased persons, who at the time of their death were neither domiciled nor residing in Hong Kong, from estate duty could achieve the same effect as the abolition of estate duty. These members are of the view that estate duty is not a major factor for investment decisions. Some of these members have expressed objection to the proposed abolition. They consider that as the tax is imposed on the better-off sector, the proposed abolition is not in line with the principle of affordability.

7. The Administration has responded that in recent years, the financial markets in the Asia Pacific region have speeded up the pace of their development and Hong Kong is facing increasing competition in the financial sector. A number of countries in the region, including India, Malaysia, New Zealand and Australia, have abolished estate duty over the past 20 years. In Europe, Italy and Sweden have abolished the tax. The United States is also considering a permanent repeal of estate duty. The increasing competition amongst financial centres in the world and the growing trend in other places to remove inheritance taxes means that Hong Kong could lose its business to other financial centres; and this would have an adverse impact on the economy.

8. The Administration has explained that investment decisions are influenced by many factors. It is difficult to give an accurate estimate of the amount of foreign and domestic investment that will be induced if estate duty is abolished. According to the experience in New Zealand, abolition of estate duty brought about a 103% increase in its direct investment from abroad in 1993, i.e. the year after its estate duty was abolished. The increase narrowed to 22% in 1994 and then remained at the 1994 level in 1995. The increase in direct investment in New Zealand coincided with the abolition of its estate duty, although it could be due to a variety of causes. The Administration

believes that with the abolition of estate duty, Hong Kong would become more attractive to investors and the local economy would benefit as a whole.

9. The Administration has further explained that in line with the territorial-source taxing principle, all types of investors and taxpayers are treated alike without having regard to their place of domicile or residency in assessing their estate duty liability. To exempt "non-Hong Kong-domiciles" or "non-Hong Kong-residents" from estate duty would be inequitable to local residents and may discourage people from moving to Hong Kong and bringing with them valuable human and monetary capital. In addition, the application of domicile or residency rules to the taxation of property passing on death is very complex. A determination of the domicile or residency of the deceased by reference to his status or presence in Hong Kong in the year of his death may not be fair and could easily be abused.

Impact of abolition of estate duty on the probate application procedures

Schedule of property

10. Some members share the concern of The Law Society of Hong Kong about the impact of the abolition of estate duty on the probate application procedures. They have pointed out that while the main objective of EDO is to facilitate the Government's collection of estate duty, the estate duty scheme has, over the years, operated side by side with the probate application process to provide an additional layer of protection to beneficiaries and parties having an interest in a deceased's estate.

11. Under the existing scheme in EDO, no grant of probate or letters of administration can be issued until estate duty clearance has been obtained. A personal representative of the deceased, either the executor named in the will or the person entitled in priority to administer the estate, is required to file an Affidavit for the Commissioner with the Estate Duty Office of the Inland Revenue Department showing all assets and liabilities of the deceased in Hong Kong. Where small estates are involved, i.e. estates not exceeding $400,000 in value and which do not involve landed property, a business or share of a business or shares not quoted on The Stock Exchange of Hong Kong Limited, a Statement in lieu of Affidavit is to be filed. To comply with this requirement, the personal representative will need to set out clearly the assets and liabilities held by the deceased and an estimate of their values at the date of death in the Affidavit or a Statement in lieu of Affidavit.

12. Under section 23 of EDO, a schedule of all the property passing on the death of the deceased upon which estate duty has been paid or is payable, and of all the property which, being trust property, is exempt from estate duty should be annexed to the grant of probate or letters of administration. Penalties are imposed on any person who without lawful authority or reasonable excuse in any way deals with any estate of the deceased or any property held by the deceased in trust not set out in the schedule.

13. These members have further pointed out that the schedule of property will, apart from ensuring the payment of estate duty, enable the beneficiaries to know what assets are in the deceased's estate. This will assist in guarding against attempt to intermeddle with the estate. However, the Bill, if enacted, will have an unintended effect of changing the existing scheme, because the schedule of property will no longer be required to be annexed to an application for grant of representation. These members consider that the absence of a mandatory requirement for a schedule of property may give rise to possible intermeddling and misappropriation of estate, and result in more litigation and disputes among beneficiaries. They have expressed concern as to how the interests of beneficiaries could be safeguarded.

14. The Administration has responded that with the abolition of estate duty, there is no longer any revenue protection reason to retain the requirement of annexing the schedule of property to the grant. The Administration does not propose to make it a mandatory requirement for a schedule of property or similar document to be filed with the court on the following grounds –

(a) the personal representatives are, in most cases, trusted persons or the closest relatives of the deceased. Improper administration of the estate would unlikely be the norm;

(b) the cost in maintaining the function to vet the contents of the schedule would not be commensurate with the benefit, given that improper administration may be rare;

(c) the schedule of property merely provides an easier access to information of the estate. Without such a schedule, beneficiaries would still be able to obtain such information by other means, e.g. conduct land and company search. Very often, the schedule is compiled by the personal representative after making enquiries with the beneficiaries;

(d) the preparation of a schedule of property or similar document takes time. Without such a requirement, the personal representative would be able to obtain the grant of representation in a much shorter period of time, and the assets of the deceased could be dealt with much earlier. This could help alleviate the hardship caused to small and medium enterprises (SMEs) due to the freezing of assets; and

(e) the personal representative may, if necessary, be required to file a true and perfect inventory and account to the court under section 56 of the Probate and Administration Ordinance (Cap. 10) (PAO).

15. The Administration has further explained that at present, vetting the contents of the schedule of property constitutes part of the process of the Inland Revenue Department in assessing whether the estate is dutiable. The Department would not vet

any schedule or alike after the estate duty is abolished, as there is no longer a revenue protection purpose to do so. If such a vetting function were to be continued, a processing fee would be imposed in order to recover the costs of the service. The time required for beneficiaries to obtain a grant would also be lengthened because of the considerable time taken to verify the value of the estate. This may cause unnecessary hardship to some families and SMEs.

16. Regarding measures to protect estate beneficiaries, the Administration has advised that under the existing law, intermeddling of properties of an estate may also be dealt with by the following statutory provisions -

(a) section 58 of PAO – Liability of a person fraudulently obtaining or retaining estate of deceased;

(b) section 9 of the Theft Ordinance (Cap. 210) – Theft;

(c) section 32 of the Crimes Ordinance (Cap. 200) - False statements on oaths; and

(d) section 36 of the Crimes Ordinance (Cap. 200) – False statutory declarations and other false statements without oath.

17. Some members have pointed out that the provisions in the Crimes Ordinance quoted by the Administration will not be able to deal with the issue of intermeddling. According to the information provided by the Administration, probate practices in overseas jurisdictions which do not impose estate duty vary. In Australia, New South Wales, Victoria, South Australia and the Northern Territory require the personal representative to file an affidavit of assets and liabilities with the Supreme Court, but there is no such a requirement in Queensland. In Canada, British Columbia, Newfoundland and Labrador, New Brunswick, Saskatchewan, Prince Edward Island, Nova Scotia, Manitoba and Alberta require the applicants to file an affidavit of assets and liabilities or statement of property with the Probate Court. Quebec, however, does not require an inventory of property for application for grant, but requires the person who administers the succession to prepare an inventory of property of the succession after obtaining the grant. In New Zealand, an application for grant does not require any affidavit of assets and liabilities. These members are strongly of the view that the existing requirement for a schedule of property to be annexed to an application for grant of representation should be retained.

18. Having considered members' views, the Administration proposes to make it a mandatory requirement to have a schedule of assets and liabilities as sworn by the personal representative annexed to the grant of representation. This requirement will apply in cases where the deceased dies on or after the commencement date of the Bill, if enacted.

19. Under the new arrangements proposed by the Administration, in applying for grant of representation, the personal representative will be required to file with the Probate Registry a verifying affidavit exhibiting a Schedule of Assets and Liabilities in duplicate. The Schedule should set out the assets and liabilities (without valuation except in respect of the amount of cash) of the deceased in Hong Kong at the time of his death in a specified form, and its contents should be declared by the personal representative. The specified form will state clearly that the Schedule has not been vetted by the Probate Registry or any government authority. The duplicate of the Schedule will be annexed to the grant of representation issued by the court. If the personal representative discovers any inaccuracy or omission in the Schedule of Assets and Liabilities, regardless of whether the discrepancy is discovered before or after a grant is issued by the court, he should file with the Probate Registry a Corrective Affidavit and an Additional Schedule of Assets and Liabilities in duplicate (where applicable), together with the grant in case one has already been issued by the court. The Probate Registry may then amend the grant (if one has been issued) and annex a duplicate of the Additional Schedule of Assets and Liabilities to the grant upon issuance or the amended grant, in addition to the duplicate Schedule of Assets and Liabilities already annexed thereto.

20. The Administration will introduce Committee Stage amendments (CSAs) to give effect to the new arrangements and to empower the Registrar of the High Court to specify by general notice published in the Gazette forms for the Schedule of Assets and Liabilities and related documents.

21. The Administration has provided the draft forms to members for reference. In response to members' suggestion, the Administration has agreed to include in the form for the Schedule of Assets and Liabilities a clause warning members of the public against intermeddling with the estate of the deceased.

22. Hon TONG Ka-wah has suggested that the Schedule of Assets and Liabilities should include the properties of the deceased situated in and outside Hong Kong, in order to better safeguard the interest of the beneficiaries. The Administration has responded that under the existing probate and administration procedures where a schedule of property should be annexed to the grant, only properties of the deceased situated in Hong Kong are included in the Schedule. Some members, including Hon Bernard CHAN, Abraham SHEK, Hon Andrew LEUNG and Hon Jeffrey LAM consider the existing practice acceptable.

Intermeddling provisions

23. To address members' concern that the protection afforded to the beneficiaries might be weakened after estate duty is abolished, the Administration has agreed to add provisions to PAO, similar to the existing sections 23 and 24 of EDO. Any person who, without lawful authority or reasonable excuse, deals with any part of the estate or income thereof, or any property held by the deceased as a trustee or the manager of a

Tso or *Tong* which is not set out in the Schedule annexed to a grant, will be subject to penalty. Any person who is neither the executor nor the person entitled to administer the estate takes possession of or in any way administers any part of the estate or income thereof without lawful authority or reasonable excuse or without first filing an application for summary administration, a grant or resealing of grant also commits the offence of intermeddling. In the case of the executor or the person entitled in priority to the administration of the estate, intermeddling will take place if he deals with any part of the estate or the income thereof –

(a) within six months from the death of the deceased and fails within the said period of six months to file an application to the Official Administrator for summary administration of estates not exceeding $150,000, or for grant supported by a Schedule of Assets and Liabilities verified by affidavit; or

(b) after the expiry of six months from the date of death of the deceased without first filing an application to the Official Administrator for summary administration of estates not exceeding $150,000, or for grant supported by a Schedule of Assets and Liabilities verified by affidavit.

To maintain the existing deterrent effect, the Administration proposes that the penalty will be a fine at level 3 (currently $10,000), with an additional penalty equal to the value of the intermeddled property.

24. Some members share the concern of the Law Society about the proposed six-month time limit. The Law Society has pointed out that the proposed time limit within which the intending personal representative is required to apply for a grant will pose practical difficulties. The Law Society has proposed that the time limit be extended to 12 months, given that it is the period within which a personal representative is presently required under section 16 of EDO to deliver accounts to the Commissioner of Inland Revenue so as to avoid an increase in the rate of duty.

25. The Administration considers the Law Society's proposal reasonable and has agreed to lengthen the exemption period for intermeddling from six months to 12 months for applications for summary administration under section 15 of PAO and grant of representation under section 24 of PAO. As section 16(1A) of EDO further extends the 12-month period to 18 months if the grant is obtained from a competent court outside Hong Kong, the Administration has agreed that the exemption period for applications for sealing of foreign grants under section 49 of PAO will be 18 months. The relevant CSAs will be made by the Administration.

Exemption for small estates

26. The Law Society has pointed out at present, for small estates involving only a bank account with a small sum, say $10,000, some banks are prepared to release the balance to the beneficiary on production of estate clearance paper, proof of the

beneficiary's relationship with the deceased, and an indemnity given by the beneficiary. However, banks will not be able to do so in future with the new intermeddling provisions in place. Members have expressed concern that this would pose difficulties for the beneficiaries of an estate of little monetary value and increase the caseload of the Probate Registry. Members have pointed out that section 24(3A) of EDO provides exemption for executors and administrators of small estates not exceeding $400,000 and that the intermeddling offences under section 24(1), (2) and (3) will not apply to them. They are in support of the Law Society's proposal to exempt personal representatives or third parties dealing with small estates from the new intermeddling provisions to be introduced.

27. The Administration has responded that the existing intermeddling provisions under EDO are for revenue protection purposes. Instead of requiring the intending personal representatives of small estates, i.e. estates not exceeding $400,000 in value and which do not involve landed property, a business or share of a business, or shares in a company not quoted on The Stock Exchange of Hong Kong Limited, to file an Affidavit for the Commissioner, section 14A(1) of EDO requires the intending personal representative concerned to file a Statement in lieu of Affidavit which is a simple return. Applications for grant of representation must be supported by a Certificate of Exemption together with the Statement in lieu of Affidavit. The Administration notes that in practice, some banks would rely on the Statement in lieu of Affidavit and release money deposited with them to the personal representative, without requiring the personal representative to present a grant of representation. Further, under section 15 of PAO, the Registrar of the High Court, in his capacity as the Official Administrator, may, without any legal formality, administer an estate not exceeding $150,000 in value in a summary manner. In practice, these involve estates which are wholly made up of money, for example, bank deposits. The applicant must be a person entitled in priority in terms of his beneficial interest in the estate. The Official Administrator does not require the application to be supported by a Certificate of Exemption issued by the Inland Revenue Department.

28. Having considered members' views, the Administration has agreed to add provisions exempting intending personal representatives of estates of a value not exceeding $50,000 which are wholly made up of money, e.g. bank deposits, from the new intermeddling provisions, so as to strike a balance between safeguarding the interest of the beneficiaries and not imposing unnecessary burden on the estates. The Administration has explained that the definition of a small estate under EDO, i.e. one of a value not exceeding $400,000 is not a small sum to the general public. Its value is set with reference to $7.5 million, which triggers the levying of estate duty. The Administration also does not consider $150,000 a reasonable threshold for exemption from the intermeddling provisions.

29. The Administration has further explained that under the new arrangements, the intending personal representative should file an affidavit with SHA, declaring that the total value of the estate of the deceased does not exceed $50,000 and the estate is wholly

made up of money with details. If the affidavit is in order, SHA will issue a notice confirming receipt of the affidavit, and the personal representative or any third parties dealing with the estate would be exempted from the new intermeddling provisions in the Bill. If banks are prepared to release money deposited with them to the personal representative upon the production of the confirmation notice issued by SHA, the personal representative may not find it necessary to apply for summary administration under section 15 of PAO.

30. The Administration has informed members that the proposed new section 60I of PAO is modelled on section 14A(1) of EDO, which exempts the executor of an estate of a value not exceeding $400,000 from the requirement to file an account of the particulars and value of the estate annexed to an Affidavit for the Commissioner and be accountable for the estate duty involved. Under section 14A(1) of EDO, the personal representative is required to disclose all property held in trust, regardless of the size of the estate, for revenue protection purpose. However, as property held in trust does not form part of the estate of the deceased and is not subject to estate duty, such property is excluded from the $400,000 threshold.

31. Members have asked whether and how any property held in trust by the deceased should be covered in the proposed new section 60I of PAO. The Administration has explained that pursuant to the proposed section, a personal representative of small estate may deal with the estate without having to apply for a formal grant, although the personal representative would need to apply for a confirmation notice from SHA. The provision is to facilitate the handling of small estates in view of the monetary value of the estate involved. Since the handling of property held in trust could be complicated, the Administration considers that the exemption under the proposed section 60I should not be made available to the personal representative of a deceased who held property as a trustee for another person. This would pre-empt personal representatives from bypassing the formality of applying for a grant and attempting to intermeddle with property held in trust by relying on the confirmation notice. The relevant CSAs to be made by the Administration will clarify this point.

32. The proposed new section 60I(6) empowers SHA to cancel the confirmation notice. Members have questioned how the mechanism of cancelling a confirmation notice would work.

33. The Administration has explained that if the value of the whole estate is found to exceed $50,000 after SHA has issued a confirmation notice, in order to lawfully deal with the assets not disclosed to SHA in the affidavit, the personal representative would have to apply for summary administration, grant of representation or sealing of a foreign grant with the court under sections 15, 24 or 49 of PAO respectively, as the case may be. SHA may not need to cancel the notice. If, after SHA has issued a confirmation notice, more property belonging to the deceased are found, but the value of the whole estate does not exceed $50,000, in order to lawfully deal with the assets not disclosed to SHA in the affidavit, the personal representative would have to seek SHA's

cancellation of the original notice and apply for a new confirmation notice with the return of the original notice to SHA. The confirmation notice will include details of the money involved. The personal representative and other parties should know what property they could deal with without being liable for intermeddling.

34. Hon Albert HO has asked the Administration to consider whether the proposed new section 60I should be amended to provide SHA with discretionary power, similar to that provided under section 4(9) of the Intestates' Estates Ordinance (Cap. 73) (IEO) to deal with the residuary estate of an intestate who leaves no issue, spouse, parent and sibling. Section 4(9) of IEO provides that in default of any person taking an absolute interest under the foregoing provisions, the residuary estate of the intestate shall, subject to the Inheritance (Provision for Family and Dependants) Ordinance (Cap. 481), belong to the Government as bona vacantia and the Government may (without prejudice to any other powers), out of the whole or any part of the property devolving on it, provide for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision.

35. The Administration has responded if the power under section 4(9) of IEO is exercised, either –

(a) payment will be made out of the general revenue direct to the claimant, in case the residuary estate has already been transferred to the Government under section 15 of PAO or otherwise; or

(b) consent will be given for the personal representative (in most cases the Official Administrator) to transfer the bona vacantia property, or part thereof, direct to the claimant instead of to the Government where the residuary estate has not yet been transferred to the Government.

In respect of the situation referred to in paragraph 35(a) above, the payment is made direct to the claimant, and does not involve the administration of the estate of the deceased. As regards the situation in paragraph 35(b) above, the personal representative concerned (in most cases the Official Administrator) would be the one effecting the transfer of the bona vacantia property, and there is no need for the claimant to lodge a separate application for exemption for small estates. It is therefore not necessary to extend the eligibility of persons applying for confirmation notice under the proposed section 60I.

<u>Access to deceased's safe deposit box</u>

Members' concerns

36. Under the proposed new section 60C of PAO, SHA may on application issue a certificate to the applicant to allow the inspection of the safe deposit box of the deceased to ascertain if there is any will or similar instrument or any specified document or article

and to permit the person intending to apply for a grant in respect of the estate to take possession of the same.

37. Some members share the concern of the Law Society that the proposed section, if implemented, may reduce the present safeguard to beneficiaries. They have pointed out that under the existing practice, banks will freeze the safe deposit box kept by a deceased, and will only allow it to be opened in the presence of at least four persons, i.e. two officers of the Inland Revenue Department, the personal representative and the bank officer. The estate duty officers will make a record of the inspection and take an inventory of the contents of the safe deposit box. Although the main purpose of opening the safe deposit box is to ascertain the existence of a will, there is no provision in the Bill to require that a list of contents in the safe deposit box should be prepared. Furthermore, there is a risk of a will being released or tampered with or mislaid before legal advice can be obtained. These members have also expressed concern about SHA's power to authorize the removal from the safe deposit box of documents or articles specified in the certificate for inspection (subsequently retitled as "authorization for removal"). They have suggested that the scope of items which can be removed should be narrowed down.

38. Regarding jointly-rented safe deposit box, members and the Law Society have pointed out that while the safe deposit box is in the joint names of the deceased and others, its contents may not belong to the deceased and form part of the deceased's estate. At present, where the lease agreement of the safe deposit box contains a survivorship clause, the bank concerned is obliged by the contract to allow the surviving renter to access the safe deposit box and take possession of its contents upon the death of the other renter. They have expressed concern that the surviving renter may be denied access to the safe deposit box until a grant has been issued. They are particularly concerned that if the surviving renter is not the personal representative, he cannot apply for a grant. Where the personal representative or beneficiary in the deceased's estate have no interest in the contents of the jointly-rented safe deposit box, the box may remain frozen to the detriment of the surviving renter.

The Administration's response

39. The Administration has explained that at present, two officers from the Inland Revenue Department take inventory of the contents of the safe deposit box for revenue protection purpose. Following the abolition of estate duty, there is no revenue protection purpose to require the filing of a schedule of property, including those assets in the safe deposit box. The Administration therefore proposes not to make it a requirement for an inventory to be taken during the inspection of the safe deposit box. The personal representative may, if necessary, be required to filed a true and perfect inventory and account to the court under section 56 of PAO.

40. The Administration is of the view that the mishandling of testamentary instruments could be avoided by administrative measures, for instance, by attaching a

condition to the effect that the bank can release any document purporting to be a will to the holder of the certificate only if the latter is clearly identified as the executor in that purported testamentary instrument as under the current practice. Further, the Administration proposes that the existing practice of making a copy of the will and placing it inside the box upon its removal be retained, given the importance of the will and codicil. This arrangement could also be one of the conditions attached to the certificate for inspection.

41. The Administration has further explained that the purpose of allowing documents or articles other than the will to be released to the holder of the certificate is to retain the existing practice where the Commissioner of Inland Revenue would allow the removal of such documents as marriage certificate, birth certificate and documents belonging to persons other than the deceased, either to support the application for a grant or other purposes, such as transfer of ownership of properties which do not belong to the deceased. So far, almost all such requests were for removal of documents.

42. To address members' concern that there should be adequate measures to assist and protect members of the public, especially those who are not represented by solicitors, the Administration has agreed to retain the existing practice of the Inland Revenue Department regarding the inspection of safe deposit box, i.e. two officers will be sent to witness the inspection of the box. The Administration has also proposed new arrangements for inspection of a safe deposit box, preparation of an inventory of its contents and removal of items therefrom.

43. Under the new arrangements, an application for a certificate for inspection of a safe deposit box may be made by an executor, a person who intends to apply for a grant, or any surviving rentor in the case of jointly-rented safe deposit box. The inspection of a safe deposit box should take place in the presence of the holder of the certificate for inspection, an employee of the bank and two public officers authorized by SHA. If a will or similar instrument is found in the safe deposit box and the holder of the certificate for inspection is the executor named in the will or similar instrument, he should be allowed to remove the will or instrument after making a copy of it and placing the copy in the box. The holder of the certificate or the surviving renter should prepare an inventory of articles and documents contained in the safe deposit box. The public officers present at the inspection may offer assistance, if necessary. The inventory should be verified by the holder of the certificate or the surviving renter (where applicable) who prepares it and the public officers present at the inspection. A copy of such an inventory should be kept by the bank concerned and SHA for a period of six years.

44. If a will of the deceased is found in the safe deposit box, and where an executor is named in the will and the holder of a certificate for inspection is neither the surviving renter nor the executor named therein, or where no executor is named in the will, the holder of the certificate should not be allowed to remove the will or prepare an inventory of the contents. The safe deposit box should be closed or sealed immediately

by the bank employee after a copy of the will is made and handed over to the public officers present. The copy will be kept by SHA for a period of six years.

45. In the event that a will is found in the box but the executor named therein refuses to act, is unable to act or is incapable of acting as executor, or no executor is named therein, flexibility should be given to facilitate the person who intends to apply for a grant to prepare an inventory of the contents in the box and remove the will therefrom. If the applicant could prove to the satisfaction of SHA that the will is not valid, or that the executor or all executors had not survived the deceased concerned, refuses to act, is unable to act or is incapable of acting as executor, or no executor is named in the will, and support his application with affidavit, SHA may issue a certificate for inspection to him. The holder of this certificate should then be allowed to prepare an inventory of the contents in the box, but should not be allowed to remove the will on the same occasion. If he wants to remove the will to facilitate his application for grant, he should later apply for an authorization for removal from SHA.

46. Subsequent to the first inspection of a safe deposit box rented solely by the deceased person, the executor or intending administrator may apply to SHA for removal of documents from the box. SHA should not specify a document in an authorization for removal unless –

(a) the document is necessary for or relevant to an application for grant of representation; or

(b) the document belongs prima facie to a person other than the deceased renter, and SHA is satisfied that the document is urgently needed by the person, and the removal of the document would not prejudice the legitimate interest of any person in the estate of the deceased renter.

The bank should only allow removal of a will or similar instrument when a copy of its has been placed in the safe deposit box.

47. The Administration has informed members that in general, SHA would not authorize the removal of any document of value as well as any article in order to safeguard the interest of the beneficiaries in the estate.

48. Regarding jointly-rented safe deposit box without survivorship arrangement, the Administration has explained that the arrangements would be the same as those applicable to a safe deposit box rented solely by the deceased. However, apart from the executor or intending administrator, the surviving renter may also apply to SHA for removal from the safe deposit box of documents of no value that belong to the surviving renter. Any request for the removal of documents from the box need not be supported by the written consent of the personal representative or the surviving renter, so long as such requests meet the prescribed conditions referred to in paragraph 46 above.

49. As regards jointly-rented safe deposit box with survivorship arrangement, the Administration has explained that where an inventory of the contents of the safe deposit box has been duly prepared under the proposed section 60CA(3) and –

(a) the personal representative is the surviving renter and has shown the bank concerned an authorization for removal issued by SHA; or

(b) the surviving renter has obtained written consent from the personal representative to remove the document and/or articles that belong to the surviving renter in the safe deposit box, has shown the bank concerned an authorization for removal issued by SHA, and both the personal representative and the surviving renter are present at ensuing removal; or

(c) on the expiry of a period of 12 months from the date of death of the deceased renter, the surviving renter shows sufficient proof to the bank concerned that the deceased had passed away for over 12 months,

the bank may follow the survivorship agreement and shall not be liable for intermeddling under the proposed section 60H of PAO. These proposals aim to safeguard the interest of the beneficiaries to a certain extent while not unduly prejudicing the legitimate interest of the surviving renter.

50. The Administration has advised that in applying for an authorization for removal from SHA under the situations referred to in paragraph 49(a) and (b) above, the surviving renter would have to satisfy SHA by filing an affidavit that the items to be removed belong to himself and the removal of such items would not prejudice the legitimate interest of any person in the estate of the deceased renter. If it were subsequently discovered that some of the items listed in the affidavit filed by the applicant actually belonged to the deceased renter, or if the applicant removed any item that belonged to the deceased renter in the process, the applicant could be penalized under criminal sanctions, such as false declaration, theft and deception. The proposed 12-month period referred to in paragraph 49(c) above would help prevent a possible occurrence of "freezing" the safe deposit box for an unlimited period of time, which may cause hardship to the surviving renter, in cases where there is no personal representative, the personal representative refuses or does not care to give written consent or be present at the removal, or the personal representative refuses or does not care to file an application for a grant or summary administration.

51. The Administration has stressed that in all the three situations referred to in paragraph 49 above, the bank concerned and its staff would be exempted from criminal liability for intermeddling so long as they have acted in good faith and have exercised due care in accordance with the authorization for removal, if one is involved.

52. At the request of the Bills Committee, the Administration has specifically consulted the Hong Kong Association of Banks (HKAB), the Law Society and the

Hong Kong Bar Association on the proposed arrangements regarding the inspection of a safe deposit box jointly rented by the deceased with other persons. The Administration has informed members that the Law Society has agreed to the Administration's proposal regarding the arrangements for safe deposit box jointly rented by a deceased person and others and where the lease agreement in question contained a "survivorship" clause. HKAB proposes that a minimum lead time of three months be given to banks to review and amend their procedures and documentations, as well as to notify affected customers. The Administration considers the HKAB's proposal reasonable and will make the necessary amendments in respect of the commencement date of the Bill (paragraph 90 below refers).

53. The Administration will introduce CSAs to put in place the new arrangements referred to in paragraphs 43 to 49 above. Amendments will also be made by the Administration to narrow the scope of items which could be removed from the safe deposit box of the deceased.

Release of warrants from safe deposit boxes

54. Members have asked whether warrant certificates should be specified as one of the items to be removed from a safe deposit box in the authorization for removal to be issued by SHA, as a warrant certificate may become valueless on its expiry.

55. The Administration has pointed out that SHA would not authorize the removal of any document of valuable consideration as well as any article in order to safeguard the interests of the beneficiaries in the estate. A warrant certificate is a document of value. It is an instrument which gives investors the right to buy or sell the underlying asset. However, as the value of the right fluctuates over time, depending on the market value of the underlying asset at the time of exercise, there is no guarantee whether the release of a warrant certificate from the safe deposit box would make a positive or negative impact on the value of the whole estate of the deceased, and consequently the interest of the beneficiaries in the estate. Transfer of warrant certificates requires due process. Even if a warrant certificate were removed from the safe deposit box prior to the issue of a grant of representation, the holder of the warrant certificate might not be able to sell or exercise such warrant since his title to such warrant has yet to be proved or confirmed. The Administration therefore does not see a strong case why warrants should be accorded differential treatment from other documents of valuable consideration.

56. Nevertheless, the Administration would consider making it clear through publicity that members of the public should give careful consideration before placing warrant certificates in a safe deposit box.

Release of funds for burial expenses and maintenance

57. The proposed new section 60B of PAO empowers SHA to issue a Certificate for Necessity of Release of Money to authorize release of money in a bank account of a deceased to cover burial expenses and for the maintenance of any person who was dependant on the deceased immediately before his death. The Law Society considers that there is a need to define clearly in the Bill the types of person that SHA considers to be "fit and proper" in order to apply for a certificate under this section. The Law Society also considers that SHA should only be empowered to authorize the release of a fair amount for these purposes.

58. The Administration has responded that at present, the Commissioner of Inland Revenue would only authorize the release of money from the estate for maintenance of former dependants who would be beneficiaries under the will of the deceased or intestacy. In exercising her power under section 24(4) of EDO, she would normally only authorize the release of money for maintenance of the spouse and unmarried children. The Commissioner of Inland Revenue would require supporting documents such as marriage certificate and birth certificate. As regards other persons claiming to be former dependants such as parents and common law spouses, the Commissioner would require the personal representative to produce proof that such persons have interest in the estate. In the absence of proof, the Commissioner would reject the application and suggest the applicant to apply for a court order under section 3 of the Inheritance (Provision for Family and Dependants) Ordinance. The Administration intends to follow the existing practice after estate duty is abolished, including the condition that the bank concerned shall make maintenance payments to the former dependants by monthly installments. This should help alleviate the hardship of the former dependants of the deceased and protect the interest of other beneficiaries.

59. The Administration has further explained that under the proposed section, SHA is empowered to authorize the release of funds for meeting funeral expenses to any person who appears to SHA to be a "fit and proper person" to be the holder of the certificate. Currently, about 200 to 300 out of 600 applications received each year relating to funeral expenses are made by persons such as siblings, grandchildren, nephews, nieces and friends of the deceased. Most of them are not the executor or intended administrator and have no interest in the estate. They merely help with the funeral service of the deceased. In line with existing practice, the applicant would be required to provide documentary proof of relationship with the deceased and a quotation from the funeral service supplier. The bank concerned would be required to make direct payment to the funeral service supplier specified in the certificate.

60. Regarding the ceiling for release of money from the estate for funeral expenses, the Administration has informed members that if the applicant is the spouse or child of the deceased, the maximum allowed is half the value of the estate of the deceased, but not exceeding $20,000. If the applicant and the deceased are of relationship other than the aforementioned, the maximum allowed is half the value of the estate of the deceased, but not exceeding $10,000.

61. As regards maintenance payment, the Administration has informed members that the amount to be released from the estate for maintenance of former dependants would not exceed the legal entitlement of such applicants under the will or intestacy. The bank concerned would be required to make monthly payments to the applicant for a maximum period of three months. If the grant of representation has not been obtained after three months, the applicant may apply again. The Administration considers that these guidelines and ceilings could guard against abuses and avoid other beneficiaries being adversely affected.

62. At members' suggestion, to better safeguard the interest of beneficiaries, the Administration has agreed to move CSAs to the proposed new section 60E of PAO to the effect that SHA shall not attach a condition in a certificate for release of money, a certificate for inspection of safe deposit box or an authorization for removal if it may likely prejudice the legitimate interest of any person in the deceased's estate.

Liability of the Government under the proposed Part VA of the Probate and Administration Ordinance

63. The proposed Part VA of PAO confers a power on SHA to facilitate the release of money from bank accounts and inspection of bank deposits boxes of the deceased. Members have questioned whether the Government has any liability if SHA has mistakenly issued an authorization for removal under the proposed new section 60C allowing the holder of the certificate to take possession of a document from the safe deposit box kept by a deceased person.

64. The legal adviser to the Bills Committee has advised that it appears that the Bill as amended by the CSAs would create a special relationship between SHA and third parties having an interest in the estate of a deceased person capable of giving rise to a duty of care, and that the proposed powers of SHA might institute a supervision system to warrant protection of their interest in the deceased estate. Hence, a claim for damages for breach of duty is possible. SHA would also be liable if it could be proved that he has unlawfully exercised his power either intentionally in the knowledge that it is beyond his powers and that it would probably cause the claimant to suffer loss, or recklessly because, he willfully chooses to disregard that risk, although he is aware that there is a serious risk that the claimant would suffer loss as a result of his act or omission which he knows to be unlawful.

65. The Administration has agreed that the Government has legal liability on the part of SHA, if he has unlawfully exercised his power either intentionally or recklessly, and is willing to shoulder the liability. The Administration does not consider that the Government should be excluded from liability for breach of duty on the part of SHA if a duty of care arises. The Administration has informed members that a code of practice or guidelines will be issued to avoid negligence on the part of staff.

Residual functions to be taken up by the Secretary for Home Affairs upon the abolition of estate duty and fee charging

66. Upon abolition of estate duty, SHA will take up the following functions for probate administration purpose –

(a) issue Certificates for Release of Money for burial expenses for the deceased and maintenance of the former dependents of the deceased who have an interest in the relevant estate;

(b) issue Certificates for Necessity of Inspection of Bank Deposit Box and Authorizations for Removal from Bank Deposit Box; and

(c) send public officers to attend the inventory-taking of the content of the bank deposit box at its inspection.

67. The Administration has explained that after the abolition of estate duty and enactment of the Bill, there will no longer be any revenue protection reason to retain such powers. However, the Administration considers it necessary to ensure that the deceased persons' families or dependants would not be adversely affected because of the change. The Administration will explore the possibility of having some of the functions related to the residual powers being performed by the private sector. At present, the proposal is that SHA will be empowered to discharge such functions and delegate these to the Commissioner of Inland Revenue administratively for a period, expected to be one year. This will ensure that the facility afforded to the public remains essentially unchanged for a period of time upon the abolition of estate duty. At the Bills Committee's request, the Administration has undertaken to elaborate on the arrangements during the resumption of the Second Reading debate on the Bill.

68. The Administration has explained that the proposed new section 60G in the Bill was introduced to provide that the relevant provisions empowering SHA to perform the residual functions shall cease to have effect on a date appointed by SHA by notice published in Gazette. Some members have suggested that section 60G should be deleted from the Bill to ensure that LegCo could be properly and thoroughly consulted on any proposal to cease the residual functions proposed to be taken up by SHA upon the abolition of estate duty. They consider the changes should be effected through amendments to the main ordinance instead of through subsidiary legislation. In view of members' suggestion, the Administration will propose CSAs to delete the proposed section 60G from the Bill.

69. Members have also asked whether fees would be charged on these services to be taken up by SHA upon the abolition of estate duty.

70. The Administration has responded that in considering whether the services should be charged in the future, it would have to have regard to the following factors –

(a) at present, only about 2% of the estate duty cases assessed by the Inland Revenue Department are dutiable. To the majority of the public, they have all along been receiving the services free of charge. Imposition of fees may not be acceptable to the public;

(b) the Administration's proposal to abolish estate duty is to improve the development of Hong Kong's asset management business, and bring wider economic benefits to Hong Kong as a whole. In so doing, the change will not result in additional financial burden to the public, especially those with limited financial means;

(c) the Certificate for Release of Money is usually applied for by those with immediate financial difficulties. It enables them to get the necessary funds from an estate for burial of the deceased or maintenance of the former dependants of the deceased. Imposition of fees on the services may contradict the purpose of having such a mechanism;

(d) heirs to an estate need to inspect safe deposit boxes for ascertaining whether there is a will and for preparing the schedule of assets and liabilities for application of grant of probate or letters of administration. Imposing a fee would mean that such inspection can only be carried out after making payment. It is possible that those with limited financial means may have difficulty in so doing; and

(e) there are some 620 cases applying for release of money for funeral expenses of the deceased and maintenance of the former dependants of the deceased a year. The total costs involved are estimated to be around $300,000 per annum. Regarding the applications for inspection of safe deposit box, there are about 2 700 cases. The total costs involved are about $2.5 million per annum. Imposing new charges would bring additional revenue of some $2.8 million per annum.

71. The Administration has stated that in implementing the "user pays" principle, it has always taken into account other factors, such as public affordability and acceptability and other policy considerations. As the work proposed to be performed in the future is not more than that currently performed by the Inland Revenue Department, the Administration therefore considers it more appropriate to keep the existing arrangements in respect of fees and charges unchanged and no fee will be charged on the functions to be taken up by SHA. The Administration has undertaken to review the situation after the new arrangements have been in operation for one year and consult the Panel on Financial Affairs in due course.

Liability of executor of deceased taxpayer

72. Under the proposed new section 54(b) of the Inland Revenue Ordinance (Cap. 112) (IRO), no assessment or additional assessment (other than an assessment to additional tax under section 82A) in respect of a period prior to the death of a person who dies on or after the commencement date would be made after the expiry of three years immediately after the year of assessment in which his death occurs.

73. Members have questioned the justifications for imposing the three-year period for raising assessment and the position if no application for grant of probate or letters of administration is made within the three-year period.

74. The Administration has explained that under section 54 of IRO, the expiry date for making assessment of tax on an executor of a deceased person in respect of all periods prior to the date of death of the deceased person is one year after the date of death or one year after the date of filing an estate duty affidavit, whichever is the later. Section 60 of IRO further limits the time for making tax assessment for any year of assessment to within six years for normal cases, and 10 years for willful evasion cases, after the end of the year of assessment concerned. After estate duty is abolished, the intended executors or administrators are no longer required to file any affidavit for estate duty purposes. Therefore, there is a need to modify the existing method of calculating the time limit for making assessments in respect of a period prior to the death of the deceased person.

75. The Administration has informed the Bills Committee that in Singapore, any assessment or additional assessment on the income of a deceased person arising before his death shall be made on the executor not later than the end of the third year of assessment following that in which the individual died. In the United Kingdom (UK), similar assessments cannot be made beyond the end of the period of three years beginning with 31 January next following the year of assessment in which the deceased died. Statistics for 2002-2003 and 2003-2004 in Hong Kong show that about 83% of the estate duty affidavits were filed within two years after the death of the deceased person. In the view of the Administration, it is appropriate to set the time limit for making tax assessments three years after the year of death, which is in line with that of Singapore and similar to that of UK.

76. The Administration has further explained that section 54 of IRO provides that an executor will be chargeable with the tax liability of the deceased person in respect of the income earned before his death. "Executor" is defined in section 2 of IRO to mean "any executor, administrator, or other person administering the estate of a deceased person, and includes a trustee acting under a trust created by the last will of the author of the trust." Tax assessments in respect of a period before death of the deceased can be made on a person who comes within the definition of executor even though probate has not been granted.

Information to be provided by the Probate Registrar to the Commissioner of Inland Revenue

77. The proposed section 24A (to be renumbered as section 24B) of PAO requires the Probate Registry to provide information supplied by the applicant for a grant to the Commissioner of Inland Revenue within one month from the date of receiving the application. The proposed section 49AA (to be renumbered as section 49AB) of PAO requires the Probate Registry to provide the Commissioner with information supplied by the applicant for sealing of a grant by a court outside Hong Kong.

78. The Bills Committee notes that the Inland Revenue Department intends to request the Probate Registrar to provide the following information –

(a) a monthly report in electronic format of all applications for grant and sealing of grant received in the preceding month, showing the particulars (name, identity card number and the latest address) of the deceased person and the person making the application, the date of death of the deceased person, as well as the date of application; and

(b) a monthly report in electronic format of all grants issued or sealed in the preceding month showing the particulars of the deceased person and the executor/administrator.

Commencement date

79. Under the Bill, the estate of a person who dies on or after the commencement of the Bill, if enacted, will not be subject to estate duty. The Bill will come into operation on the day on which it is published in the Gazette as an ordinance.

80. Originally, the Administration informed the Bills Committee of its intention to resume the Second Reading debate on the Bill at the Council meeting on 6 July 2005. In response to members' comments that sufficient time should be allowed so that all involved parties could make preparations for the new probate administration procedures after the abolition of estate duty, the Administration has proposed that the abolition of estate duty and the new arrangements should take effect as from 1 October 2005, that is, EDO will not apply to persons who dies on or after 1 October 2005. However, with a view to extending the benefit of abolition of the estate duty to cases of death occurring on or after the day of gazettal of the Bill as an ordinance but before 1 October 2005, the Administration proposes that only a nominal duty of $100 be charged on such estates if the assessed value of such estates exceeds $7.5 million. Any estate duty overpaid would be refunded. The Administration has explained that the charging of a nominal duty will ensure that all existing legislative provisions and legal documents making reference to actual or payment of estate duty will not be put in doubt.

81. As regards the new probate and administration procedures, the Administration considers it inappropriate for them to take retrospective effect. This is because the estate duty assessment and administration of estates for cases of death occurring during the interim period might have started before the commencement date, and hence retrospective application of the new procedures to such cases would lead to uncertainty and confusion.

82. The Administration has also proposed that the retrospective reduction in estate duty should not affect the level of penalty against intermeddling provided in sections 23 and 24 of EDO, so that the same level of deterrence against intermeddling should apply to cases of death occurring during the interim period. In calculating the penalty in such cases, reference should be made to the amount of estate duty that would otherwise be chargeable under the existing duty rates and bands.

83. Views of members are divided on the original proposed resumption date. Some members consider that as the Bills Committee has discussed in detail the principles of the Bill and the policy issues involved, and has examined the Bill clause by clause, the Bill should be passed at the earliest opportunity.

84. Some other members are strongly opposed to the enactment of the Bill within the 2004-2005 legislative session. These members consider that the Bill should not be enacted in haste, given that the Bill would make fundamental changes to the existing probate application procedures which has been used for over a century, and the public has not been consulted on the proposed changes. These members have also expressed dissatisfaction that not enough time is given for detailed scrutiny of the Bill and its implications. They are of the view that due process should be allowed for scrutiny of bills.

85. A vote was taken at the meeting on 16 June 2005 on whether the Bills Committee should support resumption of the Second Reading debate on 6 July 2005. The Bills Committee decided by a vote of seven to two that the proposed date of resumption be supported. The Bills Committee made a verbal report to the House Committee on 17 June 2005, recommending that the Administration's proposal to resume the Second Reading debate on the Bill on 6 July 2005 be supported. The House Committee, however, decided not to support the Bills Committee's recommendation.

86. Having regard to the House Committee's decision, on 17 June 2005, the Financial Secretary announced that the Administration would resume Second Reading debate of the captioned Bill upon resumption of the LegCo in October but that the Bill would have retrospective effect back to July. Under this latest proposal, upon the commencement of the Ordinance, the estate duty chargeable in respect of deaths occurring on or after 15 July 2005 but before the commencement date would be reduced to $100 for estates of assessed value exceeding $7.5 million with retrospective effect.

87. Some members have queried the rationale for the nominal amount of estate duty to take retrospective effect from 15 July 2005. The Administration has responded that it was the Administration's original intention to resume the Second Reading debate on the Bill at the Council meeting on 6 July 2005. The Administration did not proceed to give notice because the House Committee did not support the resumption date. The date of 15 July 2005 is used as it was the originally intended gazettal date if the Second Reading debate on the Bill was to resume at the Council meeting on 6 July 2005.

88. The Administration has further explained that while it is a general legal principle not to enact legislation with retrospective effect, the legal policy is that, for tax concessionary measures which will confer benefits, not a burden, on the affected class of persons, retrospective provisions should be acceptable. All profits tax and tax concessions enacted in the past five years were applied with retrospective effect. There are some other examples whereby tax concessions were applied on a retrospective basis backdating not only to the commencement of the concerned assessment year, but to some point in time before. For instance, the exemption of the owners of Hong Kong registered ships from profits tax on income derived from the international operations of those vessels implemented by the Inland Revenue (Amendment) (No. 4) Ordinance 1992 enacted on 4 June 1992 took retrospective effect from 3 December 1990. Moreover, in the context of estate duty, all the adjustments to the exemption threshold, duty bands and rates effected in the past 10 years were applied with retrospective effect.

89. To allow sufficient time for the relevant parties to publicize and to get prepared for the new probate administration procedures after estate duty is abolished, the Administration further proposes that the Bill, when passed, should come into operation three weeks after its gazettal.

90. As discussed in paragraph 52 above, having considered HKAB's proposal, the Administration will introduce CSAs so that the Bill will come into operation on the expiry of a period of three months commencing on the date on which the Bill is published in the Gazette as an ordinance.

91. In response to members' query, the Administration has clarified that if it is proved that a person dies at or after 00:00 hours, Hong Kong time, on the commencement date, his estate will not be subject to estate duty. The Administration has undertaken to state this point in the speech to be delivered by the Secretary for Financial Services and the Treasury (SFST) during the resumption of the Second Reading debate on the Bill.

Publicity on the Bill

92. At the request of the Bills Committee, the Administration has agreed to step up publicity on the Bill. The Administration has informed members that besides distributing pamphlets, issuing a press release and providing background briefings for

the media, it will brief HKAB and the Law Society on the change in application procedures for grant of representation and the new arrangements.

Committee Stage amendments

93. Apart from the CSAs mentioned in the above paragraphs, the Administration has proposed to move other amendments to the Bill, including consequential amendments and amendments for the purpose of clarity and consistency.

Follow-up actions by the Administration

94. The Administration has undertaken –

(a) to explain during the resumption of the Second Reading debate the interim arrangements that the Commissioner of Inland Revenue will discharge the relevant powers under delegated authority from SHA for a period, expected to be one year, and thereafter, SHA will take over such responsibilities (paragraph 67 above refers);

(b) to review whether fees should be charged on the new functions to be taken up by SHA after the Bill has been in operation for one year and consult the Panel on Financial Affairs in due course (paragraph 71 above refers);

(c) to state in the speech to be delivered by SFST during the resumption of the Second Reading debate on the Bill that if it is proved that a person dies at or after 00:00 hours, Hong Kong time, on the commencement date, his estate will not be subject to estate duty (paragraph 91 above refers); and

(d) to step up publicity on the Bill (paragraph 92 above refers).

Consultation with the House Committee

95. The Bills Committee consulted the House Committee on 21 October 2005 and sought the latter's agreement that the resumption of the Second Reading debate on the Bill be resumed at the Council meeting on 2 November 2005, subject to the CSAs to be moved by the Administration.

Council Business Division 2
Legislative Council Secretariat
25 October 2005

Appendix I

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

Membership list

Chairman	Hon Miriam LAU Kin-yee, GBS, JP
Members	Hon James TIEN Pei-chun, GBS, JP Hon Albert HO Chun-yan Hon LEE Cheuk-yan Dr Hon David LI Kwok-po, GBS, JP Dr Hon LUI Ming-wah, SBS, JP Hon Margaret NG Hon CHAN Yuen-han, JP Hon Bernard CHAN, JP Hon CHAN Kam-lam, SBS, JP Hon SIN Chung-kai, JP Dr Hon Philip WONG Yu-hong, GBS Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, JP Hon Audrey EU Yuet-mee, SC, JP Hon Vincent FANG Kang, 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 TONG Ka-wah, SC Hon CHIM Pui-chung Hon Patrick LAU Sau-shing, SBS, JP Hon TAM Heung-man Total: 24 Members
Clerk	Mrs Sharon TONG LEE Yin-ping
Legal Adviser	Ms Bernice WONG
Date	2 July 2005

Appendix II

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

A. Organizations which have given oral representation to the Bills Committee

1. The Chinese Manufacturers' Association of Hong Kong
2. Federation of Hong Kong Industries
3. The Chinese General Chamber of Commerce
4. Hong Kong General Chamber of Commerce
5. Hong Kong Small and Medium Enterprises Association
6. The Society of Trust and Estate Practitioners (Hong Kong) Limited
7. The Hong Kong Shipowners Association Ltd.
8. The Hong Kong Exporters' Association
9. The Law Society of Hong Kong
10. Citigroup Private Bank
11. Morgan Stanley
12. UBS AG

B. Organizations and individuals which/who have provided written submissions only

1. Mr Daniel R BRADSHAW
2. The DTC Association
3. Mrs Shirley LAU