

立法會 CB(1)182/04-05(01)號文件

LC Paper No. CB(1)182/04-05(01)

1 November 2004

Mr Ricky Fung
Secretary General
Legislative Council Secretariat
(Fax no.: 2845 2444)

Dear Mr Fung,

Estate Duty Review

In response to the Government's Estate Duty Review, we, the Federation of Hong Kong Industries, the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce, and the Chinese Manufacturers' Association of Hong Kong, strongly advocate the complete abolition of this tax.

We have sent our letter to the Financial Secretary to urge the Government to abolish such duty. We do hope that members of the Legislative Council would support our views and lobby the Government for the abolition.

We attach our letter to the Financial Secretary on 20 October for your reference. Our main standpoints are also summarized in the attached Appendix.

With best regards.

Yours sincerely,

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

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Estate duty is an unfair and outdated tax which serves no useful purpose.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.

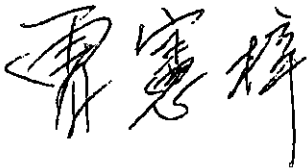
We wish to stress that abolishing estate duty will give Hong Kong an important extra advantage as the region's asset management centre. It will also create more business and employment opportunities for Hong Kong people across different sectors. Hong Kong already has a sound system to regulate and monitor 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,



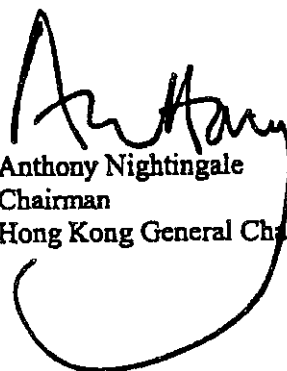
Tsang Hin Chi
Chairman
Chinese General Chamber of Commerce



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

Appendix

Estate Duty – an outdated tax and an obstacle to developing HK as an asset management centre

- 1) Estate duty is an unfair and outdated tax which stands in the way of Hong Kong's development as the premier financial and asset management centre of the region.
- 2) Hong Kong's competitors in the region have moved decisively towards abolition of estate duty. Singapore has substantially reformed their estate duty legislation while Australia, Macau, India, Malaysia, and New Zealand have abolished the duty altogether. 6 OECD countries including USA had already abolished the duty or have planned to do so.
- 3) Abolishing estate duty would make Hong Kong a more attractive location for the management of private asset portfolios. It would create more employment in Hong Kong. The increase in economic activities would give rise to additional stamp duty, profits tax and salaries tax collections.
- 4) On the international aspect, the increasing wealth of the Mainland Chinese, increasing demand from European to locate management of Asia-based assets within Asia, and the needs 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.
- 5) 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.
- 6) 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.
- 7) The major burden of this tax is falling on a particular sector of the middle class. More than 60% of dutiable cases pay duty of less than \$2.5 million, which means this tax is mainly paid by people with dutiable assets of less than \$17 million.
- 8) 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.
- 9) Government claims that estate duty gives the Inland Revenue Department ("IRD") one last opportunity to identify tax evasion cases. This is not a valid reason for keeping this tax. It is illogical to retain one tax with the purpose of collecting other taxes. In any case, 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.
- 10) Estate duty is unethical because it burdens beneficiaries with the necessity to handle bureaucracy while they are dealing with the loss of a family member. The psychological and emotional strain on family members should not be underestimated.

附錄

遺產稅——過時的稅項及香港發展成為資產管理中心的主要障礙

1. 遺產稅是一項過時的稅制，對香港發展成為優越的資產管理中心構成嚴重的障礙。政府應從速全面廢除遺產稅。
2. 香港鄰近的競爭國家已逐步廢除遺產稅；新加坡已修改有關的法例，其他國家或地區如澳洲、印度、馬來西亞、紐西蘭及澳門亦已全面廢除有關稅項。6個OECD國家包括美國已經或有計劃地廢除遺產稅。
3. 廢除遺產稅使本港在個人資產組合管理服務方面更具吸引力，這不但能創造就業機會，而且增進這些經濟活動亦轉而增加釐印稅、利得稅及薪俸稅的收入。
4. 外在環境方面，國內人士逐漸富裕起來、歐洲國家對亞太地區的資產管理需求逐漸增加、以及投資者對在某地區保留資產的需要等等因素，均有助香港金融服務業擴大發展。
5. 遺產稅剝奪了個人對其在本港的資產或有關轉移的控制權，此舉將使財富撤離本港。
6. 基本法列明香港特區有責任維持自由貿易，以及保障商品和無形資產的自由往來。徵收遺產稅實對自由貿易、投資和資金流動造成障礙。
7. 遺產稅主要來源是中產階層人士，超過60%的個案繳稅少於港幣250萬元，故此遺產稅普遍由遺產少於港幣1,700萬元的人士繳納。
8. 遺產稅過去五年的收入只佔全部稅收的0.7%，故並不是主要的稅收來源。
9. 政府強調保留遺產稅的原因是為了識別避稅個案，此說法並不正確。為徵收其他稅項而保留遺產稅實不合邏輯。稅局應考慮其他行政措施以解決避稅問題，例如要求受益人填具資產申報書。
10. 徵收遺產稅對失去了親人的家庭來說實不仁道，政府不能漠視及低估家庭成員在情緒及心理上的困擾。