

立法會
Legislative Council

LC Paper No. LS50/10-11

**Paper for the House Committee Meeting
on 15 April 2011**

**Legal Service Division Report on
Motor Vehicles (First Registration Tax) (Amendment) Bill 2011**

I. SUMMARY

1. **Objects of the Bill** To amend the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to raise the first registration tax for private cars to give effect to the proposal in the 2011-12 Budget speech.

2. **Comments** The Bill seeks to -
 - (a) amend item 1 of the Schedule to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to increase the first registration tax for private cars by about 15%; and
 - (b) bring the Bill into operation with retrospective effect from 11 a.m. on 23 February 2011 as the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 (the Order), under which the increase has already taken effect, took effect from that time.

3. **Public Consultation** The public have not been consulted on the proposed increase.

4. **Consultation with LegCo** No Panel has been consulted.

5. **Conclusion** No difficulties relating to the legal and drafting aspects have been identified. In view of the concerns raised in the course of the scrutiny by the Subcommittee of the Order, Members may wish to consider setting up a Bills Committee to study the Bill in detail.

II. REPORT

Objects of the Bill

To amend the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to give effect to the proposal in the Budget introduced by the Government for the 2011-12 financial year to raise the first registration tax (FRT) for private cars.

LegCo Brief Reference

2. Issued by the Transport Branch of the Transport and Housing Bureau in April 2011 (with no file reference).

Date of First Reading

3. 13 April 2011.

Comments

4. The Bill proposes to amend item 1 of the Schedule to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to increase FRT for private cars by about 15% as follows –

Tax Bands	Existing rates	Proposed rates
(a) On the first \$150,000 of taxable value*	35%	40%
(b) On the next \$150,000	65%	75%
(c) On the next \$200,000	85%	100%
(d) On the remainder (i.e. on taxable value over \$500,000)	100%	115%

5. According to the LegCo Brief, the existing FRT rates have been in place since 2003. The proposed increase of FRT is to control the growth of the newly registered private cars and to ease traffic conditions in Hong Kong.

6. At paragraph 166 of the Budget speech delivered on 23 February 2011, the Financial Secretary proposed to increase the rate of each tax band for

* Under section 4E(2) of Cap. 330, "taxable value" shall be the aggregate of the published retail price of the motor vehicle, any optional accessories fitted or to be fitted to the vehicle within 6 months after first registration; and any warranty other than a manufacturer's warranty, etc.

FRT for private cars by about 15%. On the same day, the Chief Executive, after consultation with the Executive Council, made the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 (L.N. 33 of 2011) (the Order) under section 2 of the Public Revenue Protection Ordinance (Cap. 120) to give immediate effect to the proposed increase. The Schedule to the Order contains a proposed bill to amend the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330), which is identical to the Bill. Members may wish to refer to LC Paper No. LS33/10-11 for our report on the Order.

7. The Order is a temporary measure. Under section 5(2) of the Public Revenue Protection Ordinance (Cap. 120), the Order shall expire and cease to be in force –

- (a) upon the notification in the Gazette of the rejection by the Legislative Council of the Bill; or
- (b) upon the notification in the Gazette of the withdrawal of the Bill or the Order; or
- (c) upon the Bill, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months (i.e. 23 June 2011) from the day on which the Order came into force,

whichever event first happens.

8. A Subcommittee has been formed to study the Order. It has held three meetings with the Administration and received views from the relevant trade associations/organizations and members of the public on the Order.

9. During the deliberations, members of the Subcommittee in general were not convinced that the proposed increase would be an effective measure to curb the growth of private cars and ease traffic conditions of Hong Kong. Members considered that the Administration failed to provide detailed information on the actual situation of the traffic congestion and adequate justifications to support its view that the traffic congestion problem was caused by the growth of private cars. Some members considered that to be fair to buyers who had placed purchasing orders for private cars which had not yet been registered before the Order took effect, these cars should be exempted from the increase, subject to satisfactory documentary proof of the date of the purchase agreement or payment of deposit.

10. Hon KAM Nai-wai has given notice to move a motion to repeal the Order at the Council Meeting on 4 May 2011.

Commencement

11. Clause 2 of the Bill provides that the Bill is deemed to have come into operation at 11 a.m. on 23 February 2011. This brings the commencement of the Bill retrospectively to the commencement of the Order.

Public Consultation

12. According to the LegCo Brief, the public has not been consulted on the proposed increase.

Consultation with LegCo

13. No Panel has been consulted.

Conclusion

14. No difficulties relating to the legal and drafting aspects have been identified. In view of the concerns raised in the course of the scrutiny by the Subcommittee of the Order, Members may wish to consider setting up a Bills Committee to study the Bill in detail.

Prepared by

TAM Shuk-fong, Clara
Assistant Legal Adviser
Legislative Council Secretariat

12 April 2011

LS/B/11/10-11