

立法會
Legislative Council

LC Paper No. CB(1)1436/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/9/11

Subcommittee on Rating (Exemption) Order 2012

Minutes of the second meeting
held on Wednesday, 29 February 2012, at 8:30 am
in Conference Room 2B of the Legislative Council Complex

Members present : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Starry LEE Wai-king, JP
Hon Alan LEONG Kah-kit, SC
Hon Albert CHAN Wai-yip

Public officers attending : Agenda item I

Miss Cathy CHU
Deputy Secretary for Financial Services and the
Treasury (Treasury)

Ms Shirley KWAN
Principal Assistant Secretary for Financial Services
and the Treasury (Treasury)

Ms Joan HUNG
Assistant Secretary for Financial Services and the
Treasury (Treasury)

Mr IP Pak-keung
Assistant Commissioner (Rating and Valuation)
Rating and Valuation Department

Ms Leonora IP
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Miss Rita YUNG
Council Secretary (1)3

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1196/11-12(01) -- List of follow-up actions arising from the discussion at the meeting on 23 February 2012

LC Paper No. CB(1)1196/11-12(02) -- Administration's response to issues raised at the meeting on 23 February 2012

LC Paper No. LS41/11-12 -- Paper on amendment to the Rating (Exemption) Order 2012 prepared by the Legal Service Division

L.N. 14 of 2012 -- Rating (Exemption) Order 2012

LC Paper No. LS26/11-12 -- Legal Service Division Report

LC Paper No. CB(1)1103/11-12(01) -- Paper on Rating (Exemption) Order 2012 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)1103/11-12(02) -- Letter dated 17 February 2012 from Hon Albert CHAN Wai-yip
(*Chinese version only*)

LC Paper No. CB(1)1103/11-12(03) -- Administration's response to questions raised by Hon Albert CHAN Wai-yip as set out in LC Paper No. CB(1)1103/11-12(02))

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

2. The Chairman and Ms Starry LEE declared that they owned properties in Hong Kong and were ratepayers. Ir Dr Raymond HO declared that he owned one property in Hong Kong and was a ratepayer. Mr Alan LEONG declared that he owned not more than three properties in Hong Kong and was a ratepayer.

Admin 3. The Administration was requested to provide the estimated number of private companies which would receive rates concession of over \$1 million in 2012-2013.

(*Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)1291/11-12(05) on 14 March 2012.*)

Legislative timetable and meeting arrangement

4. Members noted that the Chairman would move a motion at the Council meeting on 29 February 2012 to extend the scrutiny period of the Rating (Exemption) Order 2012 (the Order) to 28 March 2012, and give a verbal report on the Subcommittee's deliberation at the meeting of the House Committee on 2 March 2012. Members also noted that the deadline for giving notice of motion to amend the Order and the date of moving the motion to amend the Order at Council meeting were 21 and 28 March 2012 respectively.

5. Members agreed to schedule the next meeting with the Administration to consider Mr Albert CHAN's proposed amendments to the Order which would be submitted to the Subcommittee in due course.

(*Post-meeting note: With the concurrence of the Chairman, the next*

meeting of the Subcommittee had been scheduled for Friday, 16 March 2012, from 8:30 am to 10:30 am.)

II. Any other business

6. There being no other business, the meeting ended at 9:30 am.

Council Business Division 1
Legislative Council Secretariat
28 March 2012

**Proceedings of the second meeting of
Subcommittee on Rating (Exemption) Order 2012
on Wednesday, 29 February 2012, at 8:30 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
001017 – 001100	Chairman	Opening remarks by the Chairman	
001101 – 002219	Chairman Administration	Briefing by the Administration on its response to issues raised at the meeting on 23 February 2012 (LC Paper No. CB(1)1196/11-12(02))	
002220 – 002458	Chairman Assistant Legal Adviser (ALA)	Briefing by ALA on the paper prepared by the Legal Service Division (LSD) on the amendment to the Rating (Exemption) Order 2012 (the Order) which would be proposed by Mr Albert CHAN (LC Paper No. LS41/11-12).	
002459 – 003040	Chairman Mr Albert CHAN Administration	<p>Referring to the information on the top ten private companies which were expected to receive the highest amounts of rates concession in 2012-2013, Mr Albert CHAN enquired about the time required for the Administration to compile such information. He also enquired about the Administration's response to LSD's legal advice on the power of the Legislative Council (LegCo) to amend the Order in particular, the power to impose reasonable conditions subject to which the exemption might be granted by virtue of the application of section 40(2) of the Interpretation and General Clauses Ordinance (Cap. 1).</p> <p>In response to the first question, the Administration clarified that the organization which would receive the highest amount of rates concession in 2012-2013 was a public organization and that this piece of information was given in the paper issued to the Subcommittee for the last meeting. The present information related to the ten companies was given in response to Mr CHAN's request on the amounts of rates concession for private organizations. The Administration also advised that it had taken about 1 to 1.5 days to retrieve the aforesaid information from the billing system of the Rating and Valuation Department (RVD).</p> <p>The Administration also responded that given the issues in the legal, implementation and cost-effectiveness aspects, as set out in the Administration's paper (LC Paper No.</p>	The Administration to follow up as stated in paragraph 3 of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>CB(1)1196/11-12(02)), it was difficult to amend the Order to limit the amount of rates concession or the number of tenements to be exempted from the payment of rates in terms of each individual or company owning properties as proposed by Mr Albert CHAN. The Administration indicated that it did not support Mr CHAN's proposal given the practical difficulties involved. In response to Mr CHAN's enquiry, the Administration advised that it did not have the information to assess the amount of money to be saved under Mr CHAN's proposal as RVD only possessed ratepayers information in its billing system. The Administration further advised that the proposal would entail additional expenditure on the part of the Government in terms of manpower resources and enhancement to the computer system.</p>	
<p>003041 – 005022</p>	<p>Chairman Mr Albert CHAN Ir Dr Raymond HO Ms Starrry LEE Mr Alan LEONG Administration</p>	<p>Declaration of interests</p> <p>Noting that a private company was expected to receive the highest amount of over \$90 million of rates concession in 2012-2013, Mr Albert CHAN opined that the proposed rates exemption was a form of "transfer of benefits" to private consortia and that it was unfair to the so-called "N-nothing" class who did not benefit from any relief measures announced in the Budget. He proposed to amend the Order to limit only a maximum of three tenements to be exempted from the payment of rates in terms of each ratepayer, including owners and tenants, in order to safeguard against the "transfer of benefits" to conglomerates by the Government.</p> <p>In response, the Administration advised that Mr Albert CHAN's proposal to exclude certain tenements from the exemption based on certain criteria would entail difficulties in a number of areas during implementation. For instance, when a ratepayer was responsible for paying the rates of more than three tenements, the Administration would need to consider how the tenements would be selected to enjoy the exemption, and how the share of ownership under different circumstances (e.g. joint ownership, ownership through holding companies or ownership through trustees) would be calculated. Administratively, the proposal would involve substantial adjustments to the billing system of RVD and carry significant implications on manpower, resources and implementation time. Due to the implementation complexity and unclear exclusion criteria involved, it would be difficult to estimate the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>time involved. Furthermore, as explained in the Administration's written response, the personal information provided by property owners to the Land Registry was protected by the Personal Data (Privacy) Ordinance (Cap. 486). RVD would have to obtain the consent of each and every individual data subject for the use of the data and for matching such data with the database owned by RVD. If a single owner did not give consent or did not make any response, RVD could not start the relevant cross-checking process to implement Mr CHAN's proposal.</p> <p>Ir Dr Raymond HO and Ms Starry LEE expressed concern about the difficulty in stipulating the criteria for excluding certain tenements from the exemption in the Order in clear and certain terms, the implications on manpower and resources, and the delay of the commencement date of the Order if Mr Albert CHAN's proposal were to be implemented. Ir Dr Raymond HO said that he inclined not to support Mr Albert CHAN's suggestion to amend the Order.</p> <p>Ms Starry LEE and Mr Alan LEONG noted that Mr Albert CHAN's proposal could not tackle the problem of owners holding properties under different names. Mr Alan LEONG also expressed reservation about Mr Albert CHAN's suggestion to amend the Order as the criteria for exclusion was somewhat arbitrary and it might not achieve the intended purpose to safeguard against the "transfer of benefits" to private consortia.</p> <p>Ms Starry LEE suggested that the Administration might consider Mr Albert CHAN's proposal when it planned to introduce rates concession again in the future. In response, the Administration indicated that a detailed review of the existing mechanism had been carried out and it was concluded that due to the practical difficulties as set out in the Administration's written response, the proposal would not be feasible even in the future.</p> <p>The Administration further pointed out that rates concession was a one-off measure introduced by the Administration after taking into account the overall economic situation, the affordability of the public and the Government's fiscal position in the relevant financial year. It would therefore not be appropriate to assume that rates concession would become a recurrent measure.</p>	

Time marker	Speaker	Subject(s)	Action required
005023 – 005634	Chairman Mr Albert CHAN Mr LEE Cheuk-yan Mr Alan LEONG Ir Dr Raymond HO	Meeting arrangement	
005635 – 005815	Chairman Administration	Scrutiny of the Order	
005816 – 010020	Chairman Clerk	Legislative timetable	

Council Business Division 1
Legislative Council Secretariat
28 March 2012