

# 立法會

## *Legislative Council*

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### **Bills Committee on Betting Duty (Amendment) Bill 2013**

#### **Background brief prepared by the Legislative Council Secretariat**

#### **Purpose**

This paper provides background information on the Betting Duty (Amendment) Bill 2013 ("the Amendment Bill") and summarizes the relevant views and concerns expressed by Members on the legislative proposals.

#### **Background**

##### Horse race betting

2. In accordance with section 6GB of the Betting Duty Ordinance (Cap. 108) ("BDO"), the Secretary for Home Affairs may, by issuing a licence to a company, authorize the company to conduct betting on horse races. Under the prevailing Licence for Horse Race Betting, the Hong Kong Jockey Club ("HKJC") Horse Race Betting Limited as the only licensed horse race betting conductor in Hong Kong may conduct betting on both local and simulcast horse races. At present, local horse races are conducted by HKJC on a maximum of 83 days within a racing season. The quota for simulcast races on which HKJC may accept bets is capped at 10 falling on local race days and that for simulcast days is capped at 15 on non-local race days for each racing season.

3. According to the Administration, under the prevailing norm and practice in the racing industry, a local betting pool may be managed by a horse race betting conductor as a "separate pool". If the local and non-local betting pools concerned are managed as a "commingled pool", the participating jurisdictions follow the same dividend distribution rates for the bet type(s) concerned.

##### Inbound commingling

4. HKJC accepts bets placed by bettors in Hong Kong on local races and manages these bets under a separate betting pool. Under the existing BDO,

betting duty is levied on such local bets based on the progressive betting duty rates<sup>1</sup> of 72.5% to 75%. For some local races which have been broadcasted outside Hong Kong, HKJC may also arrange the local bets and the non-local bets in respect of the same bet type on the same local race(s) to be managed as a commingled pool under its management. Under this arrangement which is referred to as the inbound commingling arrangement, both the local bets and the non-local bets are subject to betting duty charged at the progressive betting duty rates but a discount rate<sup>2</sup> for the non-local bets is stipulated in BDO.

5. According to the Administration, under the prevailing international norm and practice, betting duty would only be levied at source (i.e. by the jurisdiction where the bet is made). Betting duty would not be charged on the non-local bets even if they are arranged to be managed in a commingled pool. The existing practice of levying betting duty on non-local bets is not in line with the international norm and results in such non-local bets being doubly taxed by both the non-local jurisdiction (i.e. tax at source) and Hong Kong. Inbound commingling arrangement is therefore unattractive to non-local betting conductors and they opt for separate non-local pool arrangements domestically in respect of Hong Kong races. The only jurisdiction which maintained an inbound commingling arrangement with HKJC has terminated the arrangement from 2012-2013 racing season onwards. Under separate pool arrangements, the Government charges profits tax under the Inland Revenue Ordinance (Cap. 112) ("IRO") on HKJC's royalty income for "exporting" local horse races to other jurisdictions.

#### Outbound commingling

6. HKJC has been accepting bets of Hong Kong bettors on some non-local races and managing such local bets in separate pools, under an arrangement known as the simulcast arrangement. The Government receives betting duty on these separate pools of local bets in the same manner as local bets placed on local races in accordance with BDO.

7. If these local bets from Hong Kong bettors placed on non-local races are managed in a commingled pool together with other non-local bets accepted by a non-local horse race betting conductor (which is a non-local partner of HKJC) in respect of the same bet type of the same non-local race, the arrangement is called

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<sup>1</sup> Under the current betting duty system for horse race betting, progressive rates of 72.5% to 75% specified in Schedule 1 to BDO are applied to the net stake receipts of both local and non-local bets so long as the bet pools concerned are managed by HKJC, but a discount rate as specified in Schedule 2 to BDO may be further applied on the non-local bets.

<sup>2</sup> The betting duty rates applicable to non-local bets managed by HKJC are results of applying a 50% discount rate (or 40% for Macau bets) as specified in Schedule 2 to BDO to the progressive betting duty rates as specified in Schedule 1 to BDO. According to the Administration, the arrangement with Macau has now ceased.

the outbound commingling arrangement. BDO currently does not provide for a separate and specific taxation structure for the purpose of levying betting duty on local bets that are handled in an outbound commingled pool. Local bets accepted by HKJC under an outbound commingling arrangement are subject to the progressive betting duty rates of 72.5% to 75% stipulated in Schedule 1 to BDO.

8. While pursuing inbound commingling with the non-local jurisdictions, they would expect Hong Kong to offer outbound commingling as a total package (i.e. allowing both outbound and inbound commingling). This type of reciprocal arrangement is a common "fair trade" practice worldwide. However, in the absence of a specific betting duty structure for the outbound commingling arrangement, the current progressive betting duty rates would create uncertainty for HKJC's negotiations with the non-local jurisdictions. In reality, no outbound commingling arrangement has ever been carried out by HKJC.

### **The Amendment Bill**

9. The Amendment Bill seeks to amend BDO so that the current betting duty structure will cease to be applicable to non-local bets placed on horse races held in Hong Kong and a new betting duty structure will be put in place and be applicable to authorized betting conducted in Hong Kong on horse races held outside Hong Kong. The Amendment Bill will come into operation on 1 September 2013, if enacted.

### **Discussion by the Panel on Home Affairs ("the Panel")**

10. The Panel discussed the legislative proposals to amend BDO to facilitate the conduct of two-way commingling at its meeting on 18 February 2013. The views and concerns of Members on the legislative proposals are summarized below.

#### Effects of implementing two-way commingling arrangement on horse race betting

11. Some Members expressed grave concern that the implementation of two-way commingling arrangement would lead to an increase in betting opportunities and encourage more people to participate in gambling activities. Some other Members, however, expressed support for the Administration's legislative proposals, considering that it would not encourage the growth of gambling culture and would also help combat off-shore and illegal bookmaking activities. These Members also held the view that a larger and more stable bet pool as a result of the two-way commingling arrangement should help divert part

of the betting money on unauthorized activities back to the authorized channels, thereby increasing government revenue from betting duty and benefiting the Hong Kong community at large.

12. According to the Administration, under a commingling arrangement, the participating jurisdictions followed the same dividend distribution rates for the bet type(s) concerned. This would reduce the possibility of illegal bookmakers taking advantage of arbitrage of odds differences as a result of the existence of multiple separate pools in various jurisdictions in respect of the same bet type on the same race, thus discouraging off-shore and illegal bookmaking activities. There might be concerns that a larger and more stable bet pool as a result of an outbound commingling arrangement would mean increased attractiveness of non-local races to Hong Kong bettors, and outbound commingling might entice those Hong Kong bettors currently not interested in non-local races to also bet on such races. However, according to the industry's understanding, only a small group of enthusiastic racing fans and major bettors were interested in non-local races, as betting on such races required good knowledge of the races and the competing jockeys and horses. Furthermore, there was a language barrier for the majority of the grass-root local bettors. The time difference between Hong Kong and some of the host countries was another deterrent factor. To ensure that the implementation of the outbound commingling arrangement would not lead to proliferation of betting opportunities, the Administration would restrict it to the existing scale of non-local simulcast races on which HKJC might accept bets, i.e. 10 races on local race days and 15 simulcast days on non-local race days for each racing season.

13. Members were advised that in the absence of a specific taxation structure for the outbound commingling arrangement, the current taxation structure which levied progressive betting duty rates would create uncertainty to HKJC's non-local partners. This was one of the reasons leading to the diminution of inbound commingling activities, as non-local partners of HKJC would expect Hong Kong to offer outbound commingling while conducting inbound commingling as a total package.

14. In response to Members' enquiry about the international norm and practice for commingling arrangement, the Administration advised that many licensed horse race betting conductors in overseas countries, such as Singapore, Ireland, Australia, New Zealand, the United Kingdom and the United States of America, adopted the commingling arrangement to manage the local and non-local bets under a commingled pool. Hong Kong was an exception where all non-local bets placed on Hong Kong races were, at the moment, placed in separate pools managed by non-local partners of HKJC.

15. Some Members expressed concern about the prevalence of problem and pathological gambling. There was a view that the Administration should

consider lifting the age limit for placing bets on gambling activities authorized by the Government from 18 to 21, in order to prevent the development of addictive behaviour in gambling among young people.

16. The Administration advised that it had all along been pursuing a responsible gambling policy and monitoring the impact of authorized betting on the community. The Administration established the Ping Wo Fund in 2003 to finance preventive and remedial measures against problem and pathological gambling.

#### The proposed reduction of betting duty rates

17. Noting that the current progressive betting duty rates on the net stake receipts of local bets on non-local races were from 72.5% to 75%, Members enquired about the rationale for applying a lower betting duty rate at 72.5% and allowing the deduction of a higher amount of fees payable by HKJC to its non-local partners for the betting duty calculation under the proposed arrangement. The Administration explained that the Government supported outbound commingling arrangement from the perspective of combating illegal gambling. The proposal sought to provide a larger degree of certainty for HKJC's negotiations with its non-local partners.

18. Concern was also raised about the possible downside risks of allowing two-way commingling on horse race betting to HKJC and Hong Kong bettors, in particular, whether the new arrangement would put HKJC in a very vulnerable position and at the risk of suffering substantial financial loss. The Administration advised that the legislative proposals were to avoid double taxation, and to align with international practice of reciprocity and fair trade. The objective of the proposed taxation adjustments/structure was to facilitate the conduct of two-way commingling on horse race betting. At present, the Government did not receive any betting duty from non-local bets placed on Hong Kong races because no inbound commingling arrangement existed. All non-local bets placed on Hong Kong races were now placed in separate pools managed by non-local partners of HKJC whereby profits tax was charged on the royalty income earned by HKJC under such arrangements. No outbound commingling arrangement had ever been conducted by HKJC in the absence of a specific taxation structure for such arrangement.

19. In response to Members' enquiry about the effect of the commingling arrangements on the size of horse race bets to be received by HKJC, the Administration advised that it did not envisage a substantial increase in the total size of horse race bets arising from the new commingling arrangement, given the number of local horse races conducted by HKJC and non-local simulcast races on which HKJC might accept bets within a racing season would remain unchanged.

20. On the impact of the commingling arrangement and taxation adjustments on government revenue, Members were advised that given that the Government currently received no betting duty from non-local bets on local races, the proposed elimination of the betting duty for non-local bets under an inbound commingling arrangement would not have any material impact on government revenue. Under the current proposals, some of HKJC's existing royalty income earned out of separate pools of non-local bets placed on local races would be replaced by HKJC's share of gross margin between HKJC and its partners in other jurisdictions under the inbound commingling arrangement in future to which the charging of profits tax would apply. HKJC also envisaged that the proposals would enhance its competitiveness to attract non-local partners to enter into commingling arrangement with HKJC, thus generating more taxable profits for HKJC.

#### The proposed guarantee

21. Members noted that according to the projection of HKJC based on the figures for the 2010-2011 racing season, there would be a decrease of \$12 million in betting duty receipts under the proposed betting duty arrangement for Hong Kong bets on non-local races. The Administration advised that to ensure no revenue loss in the initial period of the new commingling arrangement, a guaranteed amount of the betting duty receipts arising from Hong Kong bets on non-local races should be provided by HKJC. In determining the quantum for the proposed guarantee, the Administration considered it reasonable to pitch the guaranteed amount at the existing level of betting duty receipts arising from the current simulcast arrangement. Under its proposal, during the three-year guarantee period, HKJC should pay a fixed sum of \$175 million a year, which was the average of the preceding three years' betting duty receipts (i.e. from 2009-2010 to 2011-2012 racing seasons) arising from Hong Kong bets on non-local races simulcast by HKJC.

#### **Relevant papers**

22. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

**Relevant paper on the Betting Duty (Amendment) Bill 2013**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Home Affairs	18.2.2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

Council Business Division 2  
Legislative Council Secretariat  
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