

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1404/17-18  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/9/17

**Bills Committee on Inland Revenue (Amendment) (No. 5) Bill 2018**

**Minutes of first meeting  
on Tuesday, 26 June 2018, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon Kenneth LEUNG (Chairman)  
Hon James TO Kun-sun  
Hon WONG Ting-kwong, GBS, JP  
Hon WU Chi-wai, MH  
Hon KWOK Wai-keung, JP  
Hon Dennis KWOK Wing-hang  
Hon IP Kin-yuen
- Public officers attending** : Agenda item II  
Financial Services and the Treasury Bureau  
  
Mr Andrew LAI, JP  
Deputy Secretary for Financial Services and the Treasury  
(Treasury)2  
  
Ms Pecvin YONG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Treasury) (Revenue 1)  
  
Ms Eureka CHEUNG  
Principal Assistant Secretary for Financial Services and  
the Treasury  
(Financial Services)5

Environment Bureau

Mr Paul WONG  
Principal Assistant Secretary for the Environment  
(Energy)

Mr Desmond CHENG  
Assistant Secretary for the Environment (Energy)

Electrical and Mechanical Services  
Department

Mr CHAN Pak-cheung  
Chief Engineer (Energy Efficiency)B

Inland Revenue Department

Mr CHIU Kwok-kit, JP  
Deputy Commissioner (Technical)

Ms CHAN Shun-mei  
Senior Assessor (Special Duty)

Ms LAM Pui-kuen  
Senior Assessor (Research)

Department of Justice

Ms Rayne CHAI  
Senior Assistant Law Draftsman

**Attendance by invitation** : Mr Enoch FUNG  
Head (Market Development)  
Hong Kong Monetary Authority

**Clerk in attendance** : Mr Desmond LAM  
Chief Council Secretary (1)3

**Staff in attendance** : Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Connie HO  
Senior Council Secretary (1)3

Mr Terence LAM  
Council Secretary (1)3

Ms May LEUNG  
Legislative Assistant (1)3

Miss Zoe YIP  
Clerical Assistant (1)3

## **I. Election of Chairman**

Mr James TO, the Member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of the chairmanship of the Bills Committee. Mr TO invited nominations for the chairmanship of the Bills Committee.

2. Mr Kenneth LEUNG was nominated by Mr Dennis KWOK and the nomination was seconded by Mr WONG Ting-kwong. Mr LEUNG accepted the nomination.

3. There being no other nomination, Mr Kenneth LEUNG was elected Chairman of the Bills Committee. Mr LEUNG then took the chair.

4. Members agreed that it was not necessary to elect a Deputy Chairman.

## **II. Meeting with the Administration**

(LC Paper No. CB(3)683/17-18 -- The Bill

LC Paper No. CB(1)1167/17-18(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)

File Ref: TsyB R 183/535-1/6/0 (18-19) (C) -- Legislative Council Brief issued by the Financial Services and the Treasury Bureau

LC Paper No. LS70/17-18 -- Legal Service Division Report

LC Paper No. CB(1)1183/17-18(01) -- Assistant Legal Adviser's letter dated 25 June 2018 to the Administration

LC Paper No. CB(1)1183/17-18(02) -- Administration's reply to Assistant Legal Adviser's letter dated 25 June 2018)

Discussion

5. The Bills Committee deliberated (Index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

6. In respect of the proposed enhancements to the Qualifying Debt Instrument ("QDI") Scheme under Part 4 of the Bill, the Administration was requested to –

- (a) provide justifications of the proposed enhancements to the QDI Scheme, inter alia, the competition from other regional financial centres such as Singapore;
- (b) provide major relevant data of the QDI Scheme in the past years since its implementation in 1996 to illustrate the effectiveness of the Scheme in fostering the development of the local bond market; and
- (c) consider a member's suggestion of reporting to the Panel on Financial Affairs the progress of the proposed enhancements to the QDI Scheme after the implementation for a certain period of time.

*(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(1)1303/17-18(02) on 31 August 2018.)*

**III. Any other business**

Invitation for views

7. Instead of arranging a meeting to receive oral views from deputations on the Bill, the Chairman suggested and members agreed that invitations be issued to relevant organizations and a notice be posted on the Legislative Council ("LegCo") website for written submissions on the Bill.

*(Post-meeting note: On 29 June 2018, invitations were sent to 18 District Councils and relevant organizations (the list of which was tabled at the meeting and agreed by the Bills Committee) for written submissions on the*

Bill. A notice was also posted on the LegCo website on the same day. A total of five written submissions were received by the Bills Committee by the submission deadline on 20 July 2018. The Administration's response to the written submissions was circulated to members vide LC Paper No. CB(1)1303/17-18(08) on 31 August 2018.)

Date of next meeting

8. The Bills Committee completed clause-by-clause examination of the Bill. The Chairman advised that no further meeting be held if members did not have further views on the written submissions received from organizations, and the Administration's responses both to such written submissions and the issues raised by members at the meeting. Members agreed.

*(Post-meeting note: Members were informed via LC Paper No. CB(1)1368/17-18 issued on 5 September 2018 of Mr James TO's proposal to hold a further meeting to discuss the views/suggestions raised by the organizations in their written submissions on the Bill and the Administration's response to such written submissions. Having considered members' availability, the Chairman decided that the next meeting of the Bills Committee be held on Friday, 5 October 2018. )*

9. There being no other business, the meeting ended at 6:22 pm.

**Proceedings of the first meeting of  
the Bills Committee on Inland Revenue (Amendment) (No. 5) Bill 2018  
on Tuesday, 26 June 2018, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000504	Mr Dennis KWOK Mr Kenneth LEUNG Mr WONG Ting-kwong	<u>Election of Chairman</u>  Mr Kenneth LEUNG was elected Chairman of the Bills Committee.	
000505 – 000752	Chairman	Opening remarks	
000753 – 001442	Chairman Administration	Briefing by the Administration on the Inland Revenue (Amendment) (No. 5) Bill 2018 ("the Bill") (LC Paper No. CB(3)683/17-18 and File Ref: TsyB R 183/535-1/6/0 (18-19) (C)).	
001443 – 001958	Chairman Mr James TO Administration	<p>Noting that the current arrangement for separate taxation of a married couple (i.e. a married couple, who were both subject to salaries tax, would be separately assessed unless they elected for joint assessment) under the salaries tax regime was brought in about two decades ago, Mr James TO enquired about the reasons that married persons were required to elect for personal assessment ("PA") jointly under the existing provisions of the Inland Revenue Ordinance (Cap.112) ("IRO").</p> <p>The Administration explained that –</p> <p>(a) the family had all along been referred to as the unit of taxation and the incomes of married couples were aggregated and assessed under salaries tax before the introduction of separate taxation for salaries tax. Under separate taxation, husbands and wives were separately assessed unless they elected for joint assessment; and</p> <p>(b) PA was a tax relief measure and married couples were still required to make the election jointly after the introduction of separate taxation.</p>	
001959 – 002657	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai enquired about the rationale behind the proposed enhancement to the Qualifying Debt Instrument ("QDI") Scheme to allow debt instruments listed on the Stock Exchange of Hong Kong Limited ("SEHK"), in	

Time marker	Speaker	Subject(s)	Action required
		<p>addition to instruments lodged with and cleared by the Central Moneymarkets Unit ("CMU") of the Hong Kong Monetary Authority ("HKMA"), to be qualified for profits tax concessions.</p> <p>The Administration responded that –</p> <p>(a) the QDI Scheme was launched in 1996. One of the requirements for a debt instrument to be qualified for tax concession under the Scheme was that it should be lodged with and cleared by CMU of HKMA. However, with the change of time such a requirement no longer corresponded fully with the landscape of Hong Kong's corporate bond market as most of the debt issuances in Hong Kong were internationally marketed, which tended to be lodged with and cleared by international clearing houses. The said requirement prevented many debt securities from participating in the QDI Scheme;</p> <p>(b) to promote the development of local bond market, the Financial Secretary proposed in the 2018-2019 Budget to enhance the QDI Scheme by scoping in a broader range of instruments with a Hong Kong nexus by relaxing the relevant requirement to also include debt instruments listed on SEHK; and</p> <p>(c) the proposed enhancement would incentivize the use of Hong Kong as a platform for bond investing and trading, and would in turn allow Hong Kong to capture the growing international interest in the Asian bond market. By attracting more investors to issue bonds and expand their bond market operations in Hong Kong, it would also benefit the professional services sector and the wider economy. The further development of local bond market would also enhance Hong Kong's competitiveness as an international financial centre.</p> <p>Mr WU Chi-wai was concerned that only debt instruments held by companies could benefit from the tax concessions under the QDI Scheme. In this connection, Mr WU enquired –</p> <p>(a) whether debt instruments currently lodged</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>with and cleared by CMU of HKMA were mainly those issued by the Government and related statutory organizations (e.g. The MTR Corporation Limited and the Urban Renewal Authority); and</p> <p>(b) whether retail bonds held by individuals would also be eligible for tax concessions under the QDI Scheme.</p> <p>The Administration advised that –</p> <p>(a) in addition to those issued by the Government and statutory organizations, debt instruments lodged with and cleared by CMU of HKMA included bonds issued by corporations, local and overseas banks, etc. Pursuant to the enhancements to the QDI Scheme proposed under the Bill, debt instruments listed on SEHK would also be eligible for tax concessions in the future; and</p> <p>(b) both legal and natural persons were eligible for tax concessions under the QDI Scheme. Individuals who were required to pay profits tax could also apply for tax concessions under the QDI Scheme should the relevant qualifying conditions be met.</p>	
002658 – 002804	Chairman Mr KWOK Wai-keung Administration	In response to Mr KWOK Wai-keung's enquiry, the Administration clarified that a married person and his/her spouse filed returns and tax were assessed separately.	
002805 – 003427	Chairman Mr James TO Administration	<p>Expressing concern about the impact of the proposed separate election of PA by married persons on the tax revenue of the Government, Mr James TO enquired about –</p> <p>(a) the estimated number of cases that would benefit from the proposal of allowing married persons to elect for PA separately; and</p> <p>(b) the estimated amount of tax revenue to be forgone as a result of the proposal.</p> <p>The Administration responded that –</p> <p>(a) the revenue foregone was difficult to estimate</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>because whether a married person would elect for separate or joint PA depended on his or her individual circumstances and income mix of the couple, which would change from year to year;</p> <p>(b) according to the data of the Inland Revenue Department ("IRD") for the year of assessment ("YA") 2016-2017, there were 235 000 PA elected cases (107 000 were exempted cases; 128 000 were taxable cases with tax assessed of \$4.851 billion); and</p> <p>(c) out of the 128 000 taxable cases, about 81 000 cases involved married couples who had jointly elected for PA with tax assessed of \$3.4 billion. On the assumption that 50% of those married couples (i.e. 40 500 cases) would separately elect for PA pursuant to the proposal, the estimated amount of tax revenue to be foregone would be about \$1.7 billion.</p>	
003428 – 003704	Chairman Mr James TO Administration	<p>In response to Mr James TO's enquiry on tax measures in respect of environmental protection installations ("EPIs"), the Administration clarified that –</p> <p>(a) should the relevant proposed amendments to IRO be passed, enterprises would be allowed to claim tax deductions for capital expenditure incurred for procuring EPIs in full in one year instead of over five years. The proposed shortening of the depreciating period to one year was the most beneficial way of tax deductions for enterprises since any losses could be carried forward to next year; and</p> <p>(b) if EPIs formed a commercial building, the enterprises concerned might choose to deduct the relevant capital expenditure under the profits tax deductions provided for buildings, which was currently at 4%.</p>	
003705 – 004245	Chairman Mr James TO Administration	Mr James TO enquired why only debt instruments lodged with and cleared by CMU of HKMA were eligible for profits tax deduction under the QDI Scheme.	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that CMU of HKMA was a major infrastructure of local bond market. The said criterion aimed at attracting overseas issuers to Hong Kong while at the same time encouraging them to use the services provided by CMU. At the request of Mr TO, the Administration undertook to provide information on the number of debt instruments lodged with and cleared by CMU after the implementation of the QDI Scheme.</p> <p>Expressing concern over the impact of the proposed enhancements to the QDI Scheme on the Government's tax revenue, Mr James TO enquired about the estimated amount of tax revenue to be forgone pursuant to the proposal.</p> <p>The Administration advised that –</p> <p>(a) the estimated tax revenue to be forgone would be about \$73 million for 2018-2019, \$147 million for 2019-2020 and \$220 million annually thereafter; and</p> <p>(b) notwithstanding the anticipated loss in tax revenue, the relevant enhancements were expected to bring in new revenue as they might incentivize local and overseas bond issuers to expand their operations and engage professional services in Hong Kong. It was however difficult to estimate the additional revenue so generated from these secondary activities at this stage, which might off-set part of the potential reduction in tax revenue.</p>	<p>The Administration to follow up as stated in paragraph 6(b) of the minutes.</p>
004246 – 005729	Chairman Mr James TO Administration	<p>Mr James TO enquired whether the QDI Scheme could achieve its intended policy objective of promoting the development of local bond market. He asked about the justifications of making the proposed enhancements to the Scheme, say in terms of new bond issuances to be attracted to Hong Kong.</p> <p>Mr TO also enquired whether the proposed enhancements would contradict the Administration's policy direction of broadening the tax base. He requested the Administration to demonstrate the effectiveness of the proposed tax concessionary measures concerning the QDI Scheme for promoting the development of local</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>bond market.</p> <p>The Chairman and Mr James TO enquired whether competition from other regional financial centres, such as Singapore, would be among one of the considerations of the Administration in making the proposed enhancements to the QDI Scheme. The Chairman further suggested that relevant statistics such as the volume and number of debt instruments issued in Singapore's bond market against that of Hong Kong and the relevant tax concessionary measures offered by the Singaporean Government might be useful to illustrate the case.</p> <p>The Administration advised that as the proposed enhancement of the QDI Scheme was among an array of measures implemented by the Government to incentivize development of the local bond market, it would be difficult to estimate with accuracy the number of new bond issuances to be generated solely as a result of the proposed enhancements to the QDI Scheme. Nevertheless, the Administration undertook to –</p> <ul style="list-style-type: none"> <li>(a) provide justifications of the proposed enhancements to the QDI Scheme, inter alia, the competition from other regional financial centres such as Singapore;</li> <li>(b) provide major relevant data of the QDI Scheme in the past years since its implementation in 1996 to illustrate the effectiveness of the Scheme in fostering the development of the local bond market; and</li> <li>(c) consider the Chairman's suggestion of reporting to the Panel on Financial Affairs the progress of the proposed enhancements to the QDI Scheme after the implementation for a certain period of time.</li> </ul>	<p>The Administration to follow up as stated in paragraph 6 of the minutes.</p>
005730 – 010543	Chairman Administration	<p>In response to the Chairman's enquiries in relation to the proposed enhancements to the QDI Scheme, the Administration clarified that –</p> <ul style="list-style-type: none"> <li>(a) pursuant to Hong Kong's tax regime, proceeds generated from the sale of debt instruments were taken as "debt capital" which was not subject to tax;</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) in gist, under the proposed enhancements to the QDI Scheme, interest receipts and profits from the sale or disposal of QDIs issued on or after 1 April 2018 would be eligible for profits tax exemption if certain conditions were satisfied; and</p> <p>(c) the applications for tax concessions for QDIs were considered on a transaction basis. The treatment of and the tax concession to be enjoyed by each case would be the same irrespective of the identities of the tax payers concerned.</p> <p>In respect of the proposal of allowing married persons to elect for PA separately, the Chairman was concerned that members of the public might not be aware of such option and enquired about the Administration's publicity strategy in this regard. The Administration advised that –</p> <p>(a) IRD would update its website and the Departmental Interpretation and Practice Notes to provide more information on separate PA election by married persons; and</p> <p>(b) the relevant part of the tax return would be updated to reflect the change.</p> <p>On the proposed shortening of the depreciation period for renewable energy and energy efficiency installations from five years to one year, the Chairman had enquired whether the relevant capital expenditure should be incurred after 1 April 2018.</p> <p>The Administration advised that –</p> <p>(a) as a transitional arrangement, any remaining part of the capital expenditure on EPIs which had not been deducted under section 16I of IRO might be deducted in full in YA 2018-2019; and</p> <p>(b) in this connection, clause 14 of the Bill sought to amend section 16I of IRO by adding a new subsection (3A) to give effect to allow any remaining part of the capital expenditure incurred but not yet deducted under section 16I(3) to be fully deducted in</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the YA commencing on 1 April 2018 so long as the EPI concerned had not been sold on or before that date.</p> <p>The Administration's reply to the Chairman's enquiry on the views received by the Administration in respect of the proposals under the Bill.</p> <p>The Chairman advised that instead of arranging a meeting to receive oral views from deputations on the Bill, the Bills Committee would invite written submissions on the Bill.</p>	
010544 – 010921	The meeting was suspended due to a lack of quorum.		
<p><i>Clause-by-clause examination of the Bill (LC Paper No. CB(3)683/17-18)</i>  <i>Marked-up copy of the Bill prepared by the Legal Service Division(LC Paper No. CB(1)1167/17-18(01))</i></p>			
010922 – 011456	Chairman Administration	<p>The Administration took members through the Bill clause-by-clause by referring to the English version of the marked-up copy of the Bill.</p> <p><b>Long title of the Bill</b></p> <p><b>Part 1: Preliminary</b></p> <p><u>Clause 1: Short title</u></p> <p><u>Clause 2: Inland Revenue Ordinance amended</u></p> <p>Members raised no questions.</p> <p><b>Part 2: Amendments Relating to Personal Assessment</b></p> <p><u>Clause 3: Application</u></p> <p><u>Clause 4: Section 19C amended</u> (treatment of losses after 1 April 1975)</p> <p>Members raised no questions.</p> <p><u>Clause 5: Section 26C amended (approved charitable donations (Part 4A))</u></p> <p>The Administration's response to the Chairman's enquiry on how the rental income of a property held by a couple as joint tenants would be</p>	

Time marker	Speaker	Subject(s)	Action required
		apportioned under PA.	
011457 – 012001	Chairman Administration	<p><u>Clause 6: Section 29 amended (married person's allowance)</u></p> <p>In response to the Chairman's enquiry, the Administration clarified that the election for PA was to be made by taxpayers year by year.</p> <p><u>Clause 7: Section 31 amended (child allowance)</u></p> <p>In response to the Chairman's enquiry, the Administration advised that all child allowances should be claimed entirely by either the husband or the wife.</p> <p><u>Clause 8: Section 31A amended (disabled dependant allowance)</u></p> <p>Members raised no questions.</p>	
012002 – 013310	Chairman Assistant Legal Adviser ("ALA10") Administration	<p><u>Clause 9: Section 41 amended (election for personal assessment)</u></p> <p>ALA10 sought clarification on whether a married individual would be eligible for election for PA if the individual satisfied the relevant conditions set out in the proposed section 41(1). The Administration replied in the affirmative.</p> <p>The Administration's reply (LC Paper No. CB(1)1183/17-18(02)) to ALA10's enquiries (LC Paper No. CB(1)1183/17-18(01)) on –</p> <p>(a) the reason for not providing explicitly under the proposed section 41 that each of a married couple might separately make an election for PA to better reflect the policy objective of the Bill, which was to provide for the option for married persons to elect for PA separately, and</p> <p>(b) how the tax in relation to a married individual and the individual's spouse who had jointly elected for PA under the proposed section 41(1A) would be assessed where</p> <p>(i) only one of them was eligible for PA and</p> <p>(ii) both of them were eligible for PA.</p>	

Time marker	Speaker	Subject(s)	Action required
013311 – 013907	Chairman Administration	<p><u>Clause 10: Section 42 amended (calculation of total income)</u></p> <p><u>Clause 11: Section 51 amended (returns and information to be furnished)</u></p> <p><u>Clause 12: Section 59 amended (assessor to make assessments)</u></p> <p><u>Clause 13: Schedule 4 amended (allowances)</u></p> <p>Members raised no questions.</p>	
013908 – 014244	Chairman Administration	<p><b>Part 3: Amendments Relating to Environmental Protection Installations</b></p> <p><u>Clause 14: Section 16I amended (deductions for specified capital expenditure incurred in relation to environmental protection facilities)</u></p> <p>Members raised no questions.</p> <p><u>Clause 15: Section 16J amended (proceeds of sale of environmental protection facilities to be treated as trading receipts)</u></p> <p>The Administration's response to the Chairman's enquiry in relation to the proposed section 16J(3A).</p>	
014245 – 014412	Chairman Administration	<p><u>Clause 16: Section 16K amended (environmental protection facilities owned as at commencement date)</u></p> <p><u>Clause 17: Section 16L added</u></p> <p>Members raised no questions.</p>	
014413 – 014824	Chairman Administration	<p><b>Part 4: Amendments Relating to Qualifying Debt Instruments</b></p> <p><u>Clause 18: Section 14A amended (qualifying debt instruments)</u></p> <p>In response to the Chairman's enquiry, the Administration advised that only those debt instruments meeting the relevant conditions would become eligible for tax concessions upon implementation of the proposed enhancements to the QDI Scheme. The list of QDIs would be</p>	

Time marker	Speaker	Subject(s)	Action required
		publicized on the websites of IRD, SEHK and HKMA respectively for the public's information.	
014825 – 015039	Chairman Administration	<u>Clause 18(3)</u>  The Administration's response to the Chairman's enquiry in respect of the proposed section 14A(4).	
015040– 015300	Chairman Administration	<u>Clause 18(7)</u>  The Administration's response to the Chairman's enquiry on the proposed section 14A(7).	
015301 – 015409	Chairman Administration	<u>Clause 19: Section 19CA amended (treatment of losses: concessionary trading receipts)</u>  <u>Clause 20: Section 26A amended (exclusion of certain profits from tax)</u>  Members raised no questions.  The Bills Committee completed clause-by-clause examination of the Bill.  ALA10 advised that she had no comments on the Chinese text of the Bill.	
015410 – 015603	Chairman Administration	Meeting arrangement.	