

立法會
Legislative Council

LC Paper No. CB(1)1047/17-18
(These minutes have been seen
by the Administration)

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Subcommittee on Rating (Exemption) Order 2018

**Minutes of the first meeting on
Tuesday, 27 March 2018, at 2:45 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon Paul TSE Wai-chun, JP
Hon WU Chi-wai, MH
Hon CHAN Chi-chuen
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon CHEUNG Kwok-kwan, JP
Hon Tony TSE Wai-chuen, BBS

Public officers attending : 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)(R1)

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

Ms Rayne CHAI
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Miss Sharon LO
Senior Council Secretary (1)9

Ms Sharon CHAN
Legislative Assistant (1)4

Ms Vivian CHAN
Clerical Assistant (1)4

Admin

I Election of Chairman (and Deputy Chairman)

Election of Chairman

Mr James TO, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr CHAN Chi-chuen was nominated by Dr KWOK Ka-ki and the nomination was seconded by Mr CHU Hoi-dick. Mr CHAN accepted the nomination.

3. Mr WONG Ting-kwong was nominated by Mr SHIU Ka-fai and the nomination was seconded by Mr CHEUNG Kwok-kwan. Mr WONG accepted the nomination.

4. Mr James TO announced a vote by secret ballot. After all members present had cast their votes, Mr TO invited Dr KWOK Ka-ki and Mr SHIU

Action

Ka-fai who had nominated the two candidates to oversee the counting of votes. Of the members present for voting, four members voted for Mr CHAN Chi-chuen and seven voted for Mr WONG Ting-kwong. Mr TO declared that Mr WONG Ting-kwong was elected the Chairman of the Subcommittee. Mr WONG took the chair.

5. Members agreed that there was no need to elect a Deputy Chairman.

II Meeting with the Administration

(LC Paper No. CB(1)730/17-18(01) — Administration's paper on Rating (Exemption) Order 2018)

Relevant papers

(L.N. 37 of 2018 — Rating (Exemption) Order 2018

LC Paper No. LS39/17-18 — Legal Service Division Report

LC Paper No. CB(1)730/17-18(02) — Background brief prepared by the Legislative Council Secretariat)

Discussion

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

Follow-up actions to be taken by the Administration

Commencement of the Rating (Exemption) Order 2018

7. Section 1 of the Rating (Exemption) Order 2018 ("the Order") provided that the Order would come into operation on 1 April 2018. According to the Government, the Rating and Valuation Department ("RVD") would start issuing on 28 March 2018 the demand notes for rates payment for the quarter of 1 April to 30 June 2018 ("the first quarter"), and the rates concession amount for the first quarter would be reflected in the demand notes. The Administration was requested to explain:

Action

- (a) why the demand notes for rates payment for the first quarter were to be issued before commencement of the Order on 1 April 2018, in particular whether such arrangement was legally acceptable and appropriate; and
- (b) the follow-up actions to be taken by the Government in the event that the Order was amended/repealed by the Legislative Council resulting in changes in the rates concession amount or no rates concession.

Assessment of rates for properties

8. The Administration was requested to provide:

- (a) information on the top 10 ratepayers who were expected to receive the largest amounts of rates concession, including a breakdown on the number of rateable properties and the amount of rates concession in respect of each of these ratepayers; and
- (b) a sample of the questionnaire issued by RVD to collect information from ratepayers on rental particulars and other related information for assessing the rateable values of properties.

Improvement to the rates concession measure

9. Members of the Subcommittee had made a number of proposals to achieve a more equitable distribution of the rates concessions so as to ensure the concession would benefit the needy more, including:

- (a) limiting the number of rateable properties per ratepayer eligible for rates concession;
- (b) confining the rates concession measure to tenants and owners of self-occupied properties;
- (c) providing rates concession to ratepayers of residential properties only; and
- (d) requiring the ratepayers to apply to RVD for claiming rates concession.

Action

In this connection, the Administration was requested to:

- (a) provide information on the necessary adjustments to be made to the existing rates collection system and operation of RVD (e.g. requiring owners of the properties to pay rates and register their own names with RVD ("業主實名登記"), amending the Rating Ordinance (Cap. 116), adjusting the accounting and computer systems of RVD, etc.) for implementing the above proposals and the costs involved, as well as the Administration's considerations on the proposals; and
- (b) explain how the Government would follow up members' proposals above, including whether it would conduct an impact assessment study on the proposals and the timing for completing the study.

(Post meeting note: The Administration's written response was issued to members vide LC Paper No. CB(1)775/17-18(01) on 9 April 2018.)

III Any other business

Legislative timetable

10. The Chairman concluded that the Subcommittee had completed the scrutiny of the Order and would not propose any amendment to the Order.

11. The Subcommittee noted that the scrutiny period of the Order would expire at the Council meeting of 11 April 2018. To allow sufficient time for the Subcommittee to report its deliberations to the House Committee, members agreed that the Chairman would move a motion at the Council meeting of 11 April 2018 to extend the scrutiny period of the Order to the Council meeting of 9 May 2018. Members noted that, upon extension of the scrutiny period, the deadline for giving notice of motion to amend the Order would be 2 May 2018. The Chairman would report the deliberations of the Subcommittee to the House Committee at its meeting on 27 April 2018.

(Post-meeting note: At the Council meeting of 11 April 2018, the motion to extend the scrutiny period of the Order to 9 May 2018 was passed).

Action

Invitation of views

12. Mr CHAN Chi-chuen said that some community organizations had strong views on the Order and asked whether the Subcommittee would consider holding a public hearing on the Order. Mr CHU Hoi-dick supported that the Subcommittee should hear public views on the Order. The Chairman said that he would consider members' views and inform the Subcommittee in due course.

(Post-meeting note: Members were informed vide LC Paper No. CB(1)755/17-18 issued on 29 March 2018 that a notice had been posted on the website of the Legislative Council to invite interested parties to give written views on the Order.)

13. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
30 May 2018

**Proceedings of the first meeting of the Subcommittee
on Rating (Exemption) Order 2018
on Tuesday, 27 March 2018, at 2:45 pm
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Election of Chairman (and Deputy Chairman)			
000405 – 000951	Mr James TO Dr KWOK Ka-ki Mr CHAN Chi-chuen Mr CHU Hoi-dick Mr SHIU Ka-fai Mr WONG Ting-kwong Mr CHEUNG Kwok-kwan	Election of Chairman	
Agenda item II — Meeting with the Administration			
000952 – 001307	Chairman Administration	Briefing by the Administration on the Rating (Exemption) Order 2018 ("the Order") and the financial implications of the Order. [LC Paper No. CB(1)730/17-18(01)]	
001308 – 001927	Chairman Mr James TO Administration	Noting that the Order would come into operation on 1 April 2018, Mr TO enquired about the follow-up actions to be taken by the Government in the event that the Order was amended/repealed by the Legislative Council ("LegCo"). The Government explained that – (a) the Order aimed to provide rates concession for four quarters for the period from 1 April 2018 to 31 March 2019, and was subject to negative vetting by LegCo; (b) the Rating and Valuation Department ("RVD") would start issuing on 28 March 2018 the demand notes for rates payment for the quarter of 1 April to 30 June 2018 ("the first quarter") and the rates concession amount for the first quarter would be reflected in the demand notes.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>RVD's work plan was similar to that of previous years when rates concessions were offered; and</p> <p>(c) if the Order was amended/repealed by LegCo resulting in changes in the rates concession amount or no rates concession, RVD would recover the overpaid rates concession by adjusting the amount of rates payment in the remaining quarter(s) of 2018-2019.</p> <p>Mr TO queried why RVD had to issue the demand notes for rates payment for the first quarter before the commencement date of the Order on 1 April 2018, and questioned the legality and appropriateness of RVD's arrangement. He requested the Administration to provide a written response to his concerns.</p>	<p>The Administration to take action as per paragraph 7 of the minutes</p>
<p>001928 – 002519</p>	<p>Chairman Dr Fernando CHEUNG Administration</p>	<p>Dr CHEUNG requested the Administration to provide information on –</p> <p>(a) the top 10 ratepayers who were expected to receive the largest amounts of rates concession, including a breakdown on the number of rateable properties and the total amount of rates concession in respect of each of these ratepayers; and</p> <p>(b) an estimate on the amount of revenue forgone if each property owner could only be entitled to rates concession for one rateable property held.</p> <p>The Government said that –</p> <p>(a) for the 2018-2019 financial year, the total rates concession to be received by the top 10 ratepayers would amount to about \$250 million, involving about 40 000 rateable properties in total;</p> <p>(b) most of the top 10 ratepayers were owners of non-residential properties; and according to RVD's information collected from these ratepayers, more than 82% of</p>	<p>The Administration to take action as per paragraph 8(a) of the minutes</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>the tenancy agreements of the top 10 ratepayers were of rates exclusive basis (i.e. the tenants concerned were liable for the payment of rates under these agreements), and these property owners had to rebate the concession amount to the tenants concerned in accordance with the provisions of tenancy agreements although for the sake of management convenience, the owners remained as ratepayers;</p> <p>(c) in accordance with the Rating Ordinance (Cap. 116) ("RO"), the valuation and collection of rates were based on tenements. The ratepayers of tenements could be the owners, the occupiers or the agents of the owners or occupiers; and</p> <p>(d) RVD did not collect information relating to the identity of the property owner of each rateable property.</p> <p>Dr CHEUNG urged the Administration to study the feasibility of providing rates concession for only one rateable property per property owner.</p>	
002520 – 003256	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN said that the People Power was against the proposed rates concession measure as it benefited mainly the rich. He expressed views/concerns as follows –</p> <p>(a) the amount of rates concession as proposed in the Order was much higher than that of the Rating (Exemption) Order 2017;</p> <p>(b) the Administration should consider imposing restrictions on the rates concession measure so as to ensure that the concession would benefit the needy more, such as confining the concession to tenants and owners of properties for self-use, and excluding vacant properties from the concession;</p> <p>(c) during the examination of the Rating (Exemption) Order 2012 ("the 2012</p>	

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		<p>Order"), the then Hon Albert CHAN had proposed amendments to limit the number of rateable properties to be eligible for rates concession to three per ratepayer in each quarter. The Administration however explained that implementation of the proposed amendments would create a new and distinct function for RVD to cross-check its records of ratepayers of all tenements which would entail an additional expenditure of \$48 million and such amount was not nominal or negligible; and</p> <p>(d) the President of LegCo ruled that the proposed amendment had a charging effect within the meaning of Rule 31(1) of the Rules of Procedure and required the consent in writing of the Chief Executive for it to be moved. As a result, the proposed amendment could not be moved.</p> <p>The Government responded that –</p> <p>(a) the rates concession measure had been implemented continuously since the 2007-2008 financial year and the work plan for RVD for implementing the measure was broadly the same in these years;</p> <p>(b) the concession amount in the 2008-2009 financial year was the highest so far which exempted all tenements from the payment of rates up to a maximum of \$5,000 for each of the four quarters in that financial year;</p> <p>(c) the rates concession did not only benefit property owners and was implemented on an equal-footing basis in that the measure benefited all ratepayers including tenants of public rental housing ("PRH") estates;</p> <p>(d) imposing restrictions on the rates concession measure could involve fundamental changes in the collection of rates by RVD, which was based on</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>tenements and was efficient; and</p> <p>(e) introducing fundamental changes to rates collection might risk implication on the effectiveness of the rates collection system and excluding some of the tenants from rates concession they would otherwise receive.</p>	
003257 – 004045	Chairman Mr WU Chi-wai Administration	<p>Mr WU suggested that the Administration should consider imposing restrictions on rates concession for rateable properties held by business establishments for renting purpose. He also shared Mr TO's concern about RVD's arrangement of issuing the demand notes for the first quarter rates payment before the commencement date of the Order on 1 April 2018.</p> <p>The Government advised that –</p> <p>(a) it usually tabled the Rating (Exemption) Order at LegCo in early to mid-March with 1 April as the commencement date (i.e. the beginning of the first quarter of a financial year);</p> <p>(b) RVD would start issuing the demand notes at the end of the previous quarter or at the beginning of each quarter requesting ratepayers to settle the bill by the last day of the first month of each quarter. This had been the practice in past years;</p> <p>(c) RVD required about seven to eight working days to arrange for the printing and posting of some 2 million demand notes;</p> <p>(d) given that there were public holidays in late March and early April 2018, the arrangement to start issuing the demand notes for the first quarter on 28 March 2018 could allow sufficient time for ratepayers to prepare for the payment that would be due on 30 April 2018; and</p> <p>(e) similar arrangement had been in place for every rates concession measure introduced</p>	

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		in the past years.	
004046 – 004558	Chairman Mr Holden CHOW Administration	<p>Mr CHOW considered that the Government should explore imposing restrictions on the rates concession measure so as to better utilize the fiscal surplus for relieving the financial hardships of the grassroots and the needy.</p> <p>The Government responded as follows –</p> <ul style="list-style-type: none"> (a) it understood the views expressed by members and the public that the current rates concession mechanism should be improved; (b) to implement the proposals suggested by members would require substantial adjustments to the existing rates collection system and operation of RVD (e.g. requiring owners of the properties to pay rates and register their own names with RVD ("業主實名登記"); amendments to RO; and adjustment to the accounting and computer systems of RVD, etc.); and (c) the Government appealed for members' support for the Order while it would undertake an impact assessment of the improvement proposals made by members. 	
004559 – 005240	Chairman Mr Tony TSE Administration	<p>Mr TSE expressed support for the Order as the rates concession measure would benefit small and medium enterprises ("SMEs") and professionals. He sought clarification on whether the tenants who were responsible for paying rates would benefit from the rates concession, and asked how RVD would assess the ratable value of a commercial property if it was divided into units for rental purpose, and how RVD would calculate the rates concession amount to be eligible by the owner and the tenants if the owner retained some units for self-use and rented out the rest of the units.</p> <p>The Government said that –</p> <ul style="list-style-type: none"> (a) the valuation and collection of rates were based on tenements, and the ratepayers 	

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		<p>could be the property owners, the tenants, or the agents of the owners or tenants;</p> <p>(b) whether the owners or tenants would be entitled to the rates concession would depend on the provisions of individual tenancy agreements;</p> <p>(c) a commercial property used for a single purpose, e.g. a bank building, would be regarded as one tenement and eligible for rates concession of \$2,500 at maximum for each quarter in the 2018-2019 financial year;</p> <p>(d) when a commercial property had been divided into units for rental purpose, e.g. a shopping centre with retail shops, RVD would take this into account in assessing the rateable value of the property, and in general each unit would be assessed as a tenement; and</p> <p>(e) RVD would not split a demand note for rates payment upon request of the property owner concerned. Whether a property was to be assessed as one single assessment or to be split into several individual assessments would base on the physical state and actual usage of the property. If a property had been subdivided into units for rental purpose, RVD would need to re-assess the rateable values of the subdivided units after the alteration.</p>	
005241 – 010252	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK enquired whether RVD's database had information on the number of properties owned by an individual or a company. If so, restrictions on rates concession could be imposed on an individual or a company owning a large number of properties.</p> <p>The Government explained that RVD only collected information on the names and mailing addresses of the ratepayers. Ratepayers were not required to provide their Hong Kong Identity Card ("HKID") numbers or Business</p>	

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		<p>Registration numbers to RVD. The Government reiterated that substantial adjustments would need to be made if restrictions on rates concession were to be imposed, and cautioned that limiting the number of rateable properties per ratepayer for rates concession might render some individuals or business establishments renting properties and responsible for paying rates under the tenancy agreements concerned unable to benefit from the rates concession measure.</p> <p>Dr KWOK requested the Administration to provide information on the time required for making the adjustments, the cost involved, and Administration's considerations on the improvement proposals raised by members.</p> <p>The Chairman remarked that imposing restrictions on rates concession on jointly-owned properties could be complicated and problematic.</p>	<p>The Administration to take action as per paragraph 9 of the minutes</p>
<p>010253 – 010835</p>	<p>Chairman Mr CHAN Chi-chuen Administration</p>	<p>Mr CHAN suggested restricting rates concession to ratepayers of residential properties only and requiring the ratepayers to apply for the rates concession from RVD. He referred to the proposed amendment made by the then Hon Albert CHAN to the 2012 Order and enquired how the additional expenditure of \$48 million was worked out.</p> <p>The Government responded that substantial costs would be involved if significant changes were to be made to the operation and computer system of RVD, in particular taking into account the time and manpower required for processing and verifying the documents submitted by ratepayers.</p> <p>Upon request of Mr CHAN and the Chairman, the Government would undertake an impact assessment on requiring ratepayers to apply to RVD for claiming rates concession.</p>	<p>The Administration to take action as per paragraph 9 of the minutes</p>
<p>010836 – 011528</p>	<p>Chairman Mr CHU Hoi-dick Administration</p>	<p>Mr CHU enquired if RVD's database had information on the number of properties owned by an individual, a company, or an</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>organization.</p> <p>The Government reiterated that –</p> <ul style="list-style-type: none"> (a) the valuation and collection of rates were based on tenements; (b) RVD's database only maintained the names of the ratepayers; (c) RVD could compile a list of properties under the name of the same ratepayer but the ratepayer could be the owner, occupier or agent of the owner or occupier. Besides, ratepayers with the same name could be different individuals since RVD did not have the HKID numbers of ratepayers for cross-checking; (d) RVD issued some 300 000 questionnaires each year to collect the necessary up-to-date information relating to the tenements for assessing the rateable values of properties for the next general revaluation. The information collected mainly related to rents and key terms of tenancy agreements; and (e) according to RVD's latest information, about 82% of the tenancy agreements of the top 10 ratepayers had specified tenants as the ratepayers, and hence the bulk of rates concession would be rebated to the tenants concerned in accordance with the provisions of tenancy agreements although for the sake of management convenience, the owners remained as ratepayers. <p>The Chairman requested the Administration to provide a sample of RVD's questionnaire issued to ratepayers for collecting information on rental particulars of properties.</p>	<p>The Administration to take action as per paragraph 8(b) of the minutes</p>
011529 – 011912	Chairman Mr Tony TSE Administration	<p>In response to Mr TSE's enquiry about the situation regarding rates payment by property owners or tenants after implementation of the rates concession measure, the Government said that –</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(a) at present, over 90% of the rates of residential properties were paid by the owners, whereas over 50% of the rates of non-residential properties were paid by the tenants;</p> <p>(b) among the non-residential properties, the rates of properties of lower value, such as car parking spaces and advertisement spaces, were usually paid by the owners; and</p> <p>(c) over 80% of the rates of non-residential properties of higher value, such as offices and shops, were paid by the tenants.</p>	
011913 – 012512	Chairman Dr Fernando CHEUNG Administration	<p>Dr CHEUNG urged the Administration to study the impact of confining rates concession to properties for self-use, which could be implemented through adjusting the computer systems of RVD, or requiring the owners of properties to apply to RVD for rates concession.</p> <p>The Government reiterated that the rates concession was implemented on an equal-footing basis in that the measure would benefit all ratepayers including tenants of PRH estates. The Government would study the impact of proposals raised by members.</p>	The Administration to take action as per paragraph 9 of the minutes
012513 – 013028	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN suggested excluding properties like advertisement spaces and spaces used for installing ATM machines from the rate concession measure. He opined that the proposal could address the Administration's concern that imposing restrictions on rates concession might exclude ratepayers, in particular individuals and SMEs owning or renting one property for self-use, from enjoying the concession.</p> <p>The Government reiterated that it would undertake an impact assessment of the proposals raised by members.</p> <p>As regards the Caring and Sharing Scheme under the 2018-2019 Budget as mentioned by</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Dr CHEUNG and Mr CHAN, the Government said that as announced by the Financial Secretary on 23 March 2018, for eligible persons who would have received salaries tax rebate for year of assessment ("YA") 2017/2018 and rates concession in 2018-2019 of less than \$4,000 in aggregate, he/she might apply for payment to make up the difference.</p>	
<p>013029 – 013909</p>	<p>Chairman Administration Assistant Legal Adviser 10 ("ALA10")</p>	<p>The Chairman sought clarification on whether the following arrangements were legally in order and appropriate –</p> <ul style="list-style-type: none"> (a) issuing the demand notes for rates payment for the first quarter before the commencement of the Order on 1 April 2018; and (b) making the Order before the passage of the Appropriation Bill by LegCo. <p>The Government advised that to implement the various measures announced in the 2018-2019 Budget, the following actions had been or would be taken –</p> <ul style="list-style-type: none"> (a) introducing the Appropriation Bill into LegCo; (b) introducing a bill to amend the Inland Revenue Ordinance (Cap. 112) to give effect to the proposed adjustments for salaries tax and tax under personal assessment, and the proposed one-off tax reduction for YA 2017/2018; and (c) tabling the Order at LegCo for negative vetting. <p>ALA10 advised that the Order was made by the Chief Executive in Council pursuant to section 36(2) of RO. Section 36(2) of RO provided that the Chief Executive in Council might, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part.</p>	

Time Marker	Speaker	Subject(s)	Action Required
013910 – 014029	Chairman Mr CHAN Chi-chuen	Mr CHAN said that some community organizations had expressed concerns over the Order and asked if the Subcommittee would hold a public hearing on the Order. The Chairman took note of Mr CHAN's views.	
Clause-by-clause examination of the subsidiary legislation			
014030 – 014130	Chairman Administration	Rating (Exemption) Order 2018 (L.N. 37 of 2018) <u>Section 1 – Commencement</u> <u>Section 2 – Interpretation</u> <u>Section 3 – Exemption from payment of rates</u> <i>Explanatory Note</i>	
Agenda item III — Any other business			
014131 – 014300	Chairman	Legislative timetable	
014301 – 014737	Chairman Mr CHAN Chi-chuen Mr CHU Hoi-dick Administration	Discussion on the need for the Subcommittee to invite public views on the Order	
014738 – 014855	Chairman ALA10 Mr CHAN Chi-chuen	Mr CHAN urged the Administration to provide written responses to issues raised by members at the meeting.	