立法會
Legislative Council

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by the Administration)

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Bills Committee on Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018

Minutes of first meeting held on
Friday, 11 January 2019, at 9:00 am
in Conference Room 3 of the Legislative Council Complex

Members present	**:**	Hon WONG Ting-kwong, GBS, JP (Chairman) Hon Starry LEE Wai-king, SBS, JP Hon CHAN Kin-por, GBS, JP Hon WU Chi-wai, MH Hon YIU Si-wing, BBS Hon LEUNG Che-cheung, SBS, MH, JP Hon Kenneth LEUNG Dr Hon KWOK Ka-ki Dr Hon Fernando CHEUNG Chiu-hung Hon CHUNG Kwok-pan Hon Holden CHOW Ho-ding Hon LUK Chung-hung, JP Hon Jeremy TAM Man-ho Hon Vincent CHENG Wing-shun, MH
Public Officers attending	**:**	Agenda item II Financial Services and the Treasury Bureau Mr Eddie CHEUNG, JP Deputy Secretary for Financial Services and the Treasury (Financial Services) 2

Ms Noel TSANG
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) Insurance and Retirement Scheme

Mr Oscar WONG
Assistant Secretary for Financial Services and the Treasury (Financial Services) (Mandatory Provident Fund Reform) 2

<u>Inland Revenue Department</u>

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

Ms Florence LAM
Senior Assessor (Research)5

<u>Department of Justice</u>

Mr Jonathan LUK
Senior Government Counsel

<u>Insurance Authority</u>

Mr Marty LUI
Associate Director (Long Term Business)

<u>Mandatory Provident Fund Schemes Authority</u>

Ms LEE Cheung-mei
Senior Manager (Policy Development)

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Anki NG
Council Secretary (1)5

Ms Michelle NIEN
Legislative Assistant (1)5

Action

I. Election of Chairman

Mr WONG Ting-kwong, the member who had the highest precedence in the Council among members of the Bills Committee present at the meeting, presided over the election of Chairman of the Bills Committee. He invited nominations for the chairmanship.

2. Ms Starry LEE nominated Mr WONG Ting-kwong and the nomination was seconded by Mr Vincent CHENG. Mr WONG accepted the nomination. There being no other nomination, Mr WONG Ting-kwong was elected Chairman of the Bills Committee. Mr WONG then took over the chair. Members agreed that there was no need to elect a Deputy Chairman.

II. Meeting with the Administration

(LC Paper No. CB(3)242/17-18	—	The Bill
File Ref: INS/2/18C	—	Legislative Council Brief issued by the Financial Services and the Treasury Bureau
LC Paper No. LS29/18-19	—	Legal Service Division Report
LC Paper No. CB(1)430/18-19(01)	—	Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members)
LC Paper No. CB(1)430/18-19(02)	—	Paper on Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)430/18-19(03) — Assistant Legal Adviser's letter dated 8 January 2019 to the Administration)

3. The Bills Committee deliberated (index of proceedings in the **Appendix**).

Invitation of views

4. Members agreed to invite views on the Bill from interested parties and members of the public by placing an invitation on the website of the Legislative Council ("LegCo") and issuing invitation letters to the 18 District Councils.

(*Post-meeting note*: An invitation for public submissions on the Bill was uploaded onto the LegCo website on 11 January 2019. Invitation letters for views on the Bill from the District Councils were also issued.)

Dates of next meeting

5. The Chairman said that the next meeting of the Bills Committee might be held on Tuesday, 28 January 2019 at 4:30 pm to receive public views on the Bill.

(*Post-meeting note*: As directed by the Chairman, the next meeting of the Bills Committee would be held on Friday, 25 January 2019 at 10:45 am to receive public views on the Bill. The notice and agenda of the meeting were issued to members vide LC Paper No. CB(1)449/18-19 on 11 January 2019.)

III. Any other business

6. There being no other business, the meeting ended at 10:27 am.

Council Business Division 1
Legislative Council Secretariat
21 May 2019

Appendix

Proceedings of first meeting of the Bills Committee on Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018 on Friday, 11 January 2019, at 9:00 am in Conference Room 3 of the Legislative Council Complex

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000403 – 000556	Mr WONG Ting-kwong Ms Starry LEE Mr Vincent CHENG	Election of Chairman	
Agenda item II – Meeting with the Administration			
000557 – 002741	Chairman Administration	Briefing by the Administration on the Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018 ("the Bill") with the aid of PowerPoint (LC Paper No. CB(1)458/18-19(01)). The Chairman declared that he had been a non-executive director of the Management Board of the Mandatory Provident Fund ("MPF") Schemes Authority and the Chairman of the MPF Schemes Advisory Committee ("MPFSAC"). He had vacated from both offices.	
002742 – 003426	Chairman Dr KWOK Ka-ki Administration	Dr KWOK Ka-ki expressed dissatisfaction about the introduction of tax incentive to encourage taxpayers to purchase deferred annuities or make MPF Voluntary Contributions ("MPF VCs"), and opined that this initiative would only benefit fund managers and insurance companies. He considered that the minimum guaranteed payment amount at 70% in general for eligible deferred annuities was too low, and the Administration should implement universal retirement protection. He enquired about – (a) the protective measures to be taken by the Administration against investment risks of taxpayers in making MPF VCs or purchasing deferred annuity products for tax deductions; (b) the reasons for not implementing universal retirement protection; and (c) the reasons for not allowing tax deductions for contributions and savings in other retirement plans and financial products, such as long-term bank deposits.	

Time marker	Speaker	Subject(s)	Action required
		The Administration advised that – (a) the decisions of taxpayers to make MPF VCs or purchase deferred annuities were entirely voluntary in nature. In fact, many countries also encouraged the public to have additional retirement savings, apart from basic retirement protection. As a matter of concept and principle, the implementation of universal retirement protection and the choice of having voluntary additional retirement savings were not mutually exclusive; (b) Some international organizations, including the International Monetary Fund and the Organization for Economic Co-operation and Development suggested that deferred annuities, with the elements of both accumulation and annuitization, were appropriate tools for retirement planning. It was because such products would help inculcate a culture of financial discipline to save regularly for a stable stream of post-retirement income to mitigate longevity risk. Meanwhile, some saving arrangements such as time deposits could only serve the accumulation purpose but not the annuitization purpose. The Administration was open to suggestions about providing tax incentives for other retirement financial products genuinely serving effective retirement planning purpose; and (c) investment under MPF schemes was subject to investment risks.	
003427 – 003953	Chairman Mr LUK Chung-hung Administration	Mr LUK Chung-hung considered that private annuities were not popular in the past mainly due to their low return with high administrative fees and commission charges. In view of the higher return and lower administrative fees and charges of the public annuity offered by the Hong Kong Mortgage Corporation ("HKMC") when compared to private annuities, he enquired about – (a) whether the Administration would consider providing tax concessions to premiums paid for deferred annuity products if they were launched by HKMC; and (b) measures to be taken by the Administration in lowering the fees and charges of MPF funds and the fee cap of the Default Investment Strategy ("DIS") and the implementation timetable .	

Time marker	Speaker	Subject(s)	Action required
		The Administration advised that – (a) the Internal Rate of Return ("IRR") of HKMC's immediate life annuity was about 4%, which was among the highest in the market. With a view to achieving balanced market development of public and private annuities, the Administration did not consider it appropriate for HKMC to offer deferred annuity products with high IRR of about 4% as this might crowd out private annuities. With the increase in popularity of annuity products, the Administration would take into account the community's response to the proposed tax concessions for MPF VCs and deferred annuity premiums before considering more measures to encourage the development of appropriate retirement planning products; (b) the Government had undertaken to review the fee cap with a view to further lowering the cap within three years after the implementation of DIS. It would report to the Legislative Council ("LegCo") in due course; and (c) the Government and the Mandatory Provident Fund Schemes Authority ("MPFA") were developing a Centralized Platform ("CP") to facilitate standardization, streamlining and automation of MPF scheme administration processes. As the CP would help lower the operating costs and increase efficiency of MPF service providers, there would be room for further fee reduction. Mr LUK commented that IRR of HKMC's public annuity could serve as a yardstick against which private annuities could benchmark. Mr WU Chi-wai shared Mr LUK's view. The Administration responded that it was unlikely that insurers were able to issue a product with as high IRR as the annuity offered by HKMC.	
003954 – 004651	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai sought clarification on – (a) whether the contributions to funds under DIS would also be tax deductible in addition to MPF VCs and deferred annuity products; and	

Time marker	Speaker	Subject(s)	Action required
		(b) whether accrued benefits in Tax Deductible Voluntary Contribution ("TVC") accounts could have the same status as MPF Mandatory Contributions ("MPF MCs") in the means-tests in applying for welfare benefits, as the accrued benefits in MPF MCs would not be regarded as scheme members' assets for the purpose of applying for social assistance (e.g. Comprehensive Social Security Allowance). Mr WU opined that since the benefits in the TVC accounts and MPF MCs would both be subject to preservation requirements, they should receive the same treatment in the means-tests for public services and welfare schemes. Moreover, the benefits accrued in the public annuity launched by HKMC had also been excluded as assets of the welfare applicants. The Administration advised that – (a) the funds under DIS were part of the existing MPF schemes, and the contributions for such products would be tax deductible if the accrued benefits were placed in the TVC accounts; (b) TVCs were a new type of contributions and were different from MPF MCs and VCs. On the one hand, same as MPF MCs by employees, TVCs were subject to the preservation requirements, i.e. withdrawal allowed only upon retirement at the age of 65 or on statutorily permissible grounds. On the other hand, unlike the present MPF MCs, for which there were statutory requirements in respect of the timing, frequencies or amount of contributions, employees could make TVCs flexibly in terms of amount and timing; and (c) each of the means-tested public services or welfare schemes had its unique respective policy objectives, targets to be covered by the policy and implementation details (such as how assets should be defined, etc.). There might not be a one-size-fits-all treatment of accrued benefits from TVCs for all these means-tested public services or schemes. The relevant bureaux or departments would consider how TVCs would be treated under different means-tested public services or schemes.	

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004652 – 005422	Chairman Mr Kenneth LEUNG Administration	Mr Kenneth LEUNG declared that he was a member of the MPFSAC. Mr LEUNG sought clarification on – (a) whether premiums for immediate annuities would qualify for the proposed tax deduction; (b) which department or authority (i.e. the Inland Revenue Department ("IRD"), the Insurance Authority ("IA") or MPFA) was responsible for certifying eligible deferred annuities, and whether additional resources and staff would be deployed for conducting such certification; (c) the number of existing deferred annuities with structure and design that satisfied the criteria set down by IA; (d) whether any requirement had been set down for the amount of premiums to be charged by eligible deferred annuities; and (e) whether IRR as disclosed in the sales brochure of eligible deferred annuities would be a guaranteed return rate which would enable purchasers to have the expected return, and whether there would be any prescribed minimum IRR for eligible deferred annuities. The Administration and IA advised that – (a) only premiums for deferred annuities which satisfied the relevant criteria set down by IA would qualify for tax deductions under the proposed scheme. Premiums for immediate annuities were not eligible for the proposed tax deduction; (b) IA was responsible for certifying eligible deferred annuities and it would deploy internal resources for the certification; (c) the number of existing deferred annuities available for sales in the market was 44 but, for the time being, there was only one which satisfied the proposed criteria to be finalized by IA. IA was consulting the industry on the details of the criteria for eligible deferred annuities. Upon confirmation of the guideline, it was expected that there would be more qualifying products as insurers were likely to adjust some existing products to meet the qualifying criteria;	

Time marker	Speaker	Subject(s)	Action required
		(d) the purchase of deferred annuities was governed by insurance contracts, and the amount of premiums to be charged under such contracts was to be agreed by the parties to the contract after taking into account the individual circumstances of the insured. It would be impossible for IA to prescribe a unified premium for all such contracts. The respective IRRs of the guaranteed payouts and total payouts of eligible annuities had to be clearly stated in the sales brochures and relevant communications with the holder of the eligible annuities to enable him to evaluate and compare eligible products before making an informed decision to purchase; and (e) annuities sold under regulated insurance contracts were subject to asset-liability matching by insurance companies. IRR of eligible deferred annuities would also be subject to regulation and certification by IA based on calculations and scenarios specified in the guideline. There would be no prescribed minimum IRR for eligible deferred annuities as the return would depend on various factors including individual circumstances of purchasers and the terms of the annuities.	
005423 – 010104	Chairman Mr CHUNG Kwok-pan Administration	Mr CHUNG Kwok-pan did not subscribe to the view that the high IRR of the public annuity of HKMC would crowd out the private annuities. On the contrary, this would assist in setting a target return rate for such products. He enquired about – (a) whether the Administration would consider possible changes in the daily-calculation mechanism of DIS products in order to reduce the fee caps of DIS from 0.95% to, say, 0.75% during the three-year review to be conducted on the effectiveness of DIS; (b) whether the maximum tax deductible limit would double the amount of $60,000 per year if a taxpayer claimed deductions for both eligible deferred annuity premiums and TVCs; and (c) whether there were any basic criteria for eligible deferred annuities under the proposed tax concession scheme. The Administration advised that – (a) it could further explore with MPFA on changing the daily calculation mechanism of DIS upon review of the effectiveness of such scheme;	

Time marker	Speaker	Subject(s)	Action required
		(b) the Administration would keep in view the need to adjust the maximum tax deductible limit. Under the current proposal, taxpayer might claim tax deductions for both eligible deferred annuity premiums and TVCs in aggregate up to a maximum of $60,000 per year; and (c) IA would specify the following basic criteria for eligible deferred annuities under the proposed scheme: (i) minimum total premium of $180,000, minimum payment period of five years and minimum annuity period of 10 years; (ii) annuitization at the age of 50 or beyond; (iii) IRR must be clearly stated in the sales brochure and relevant communications with the holder of an eligible annuity; (iv) clear presentation of the guaranteed payment amount (minimum at 70% of the total projected payment in general) and non-guaranteed payment amount; and (v) clear separation of premiums of all riders from eligible annuity premiums. The major criterion which some deferred annuities in the market was unable to satisfy at present was the minimum guaranteed payment amount at 70% in general, as some insurers revealed that some members of the public preferred deferred annuities with higher percentage of non-guaranteed payment. The Administration considered that deferred annuities with higher percentage of non-guaranteed payment would mean investment in higher risk products, which might not be appropriate for retirement purposes. IA would continue to consult the insurance industry in this regard.	
010105 – 010617	Chairman Mr Holden CHOW Administration	Mr Holden CHOW considered that the Administration should uphold the requirement of minimum guaranteed payment amount at 70% in general so as to encourage retirement savings, but not investments. He enquired about – (a) measures to draw public attention that an deferred annuity had a guaranteed payment amount below 70% in general; and	

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<tr><th>Time marker</th><th>Speaker</th><th>Subject(s)</th><th>Action required</th></tr>
<tr><td></td><td></td><td>(b) whether the eligible deferred annuity premiums could be confined solely to deferred annuity purposes without carrying riders to avoid disputes.

The Administration advised that –

(a) the guideline would set the minimum guaranteed payment amount at 70% in general for deferred annuities for IA's approval. IA would then publish the list of eligible deferred annuity products on its website for public information. Some members of the public considered that deferred annuities with higher percentage of non-guaranteed payment would generate higher return to counter inflation during the accumulation period. IA might allow some flexibility and was consulting the insurance industry on measures, including the issue of explicit notices or warnings, to draw public attention to deferred annuities with non-guaranteed payment; and

(b) some long-term annuities often came with optional riders such as critical illness and hospitalization cash for extra protection during the accumulation period. To enable consumers to make their own choices, the guideline intended to require a clear separation of premiums of riders from the premiums for the eligible annuity. Premiums of such riders were not tax deductible.</td><td></td></tr>
<tr><td>010618 – 011107</td><td>Chairman
Mr YIU Si-wing
Administration</td><td>Mr YIU Si-wing enquired about –

(a) whether there was any cap or age limit for claiming tax deductions for eligible deferred annuity premiums;

(b) measures to monitor and regulate the insurance industry in promoting the relevant eligible deferred annuities in relation to possible breach of competition rules or regulations; and

(c) the Administration's role in promoting the development of deferred annuities.

The Administration advised that –

(a) there was no cap or age limit for claiming tax deductions for eligible deferred annuity premiums. As long as the taxpayers continued to work and pay premiums for eligible deferred annuities, they could claim tax deductions for such premiums;</td><td></td></tr>
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Time marker	Speaker	Subject(s)	Action required
		(b) IA would continue to monitor and regulate the insurance industry on asset allocation, asset-liability matching, etc. In terms of regulation of insurance intermediaries, IA would closely monitor the sales process and implement the new licensing regime for insurance intermediaries in June 2019 which would further enhance regulation; (c) the Administration was collaborating with the Investors and Financial Education Council ("IFEC"), IA and MPFA to prepare a publicity and public education campaign to enhance public understanding of how to evaluate different financial planning tools to suit one's retirement needs, since annuities might not be suitable for all retirees; and (d) with reference to studies made by overseas organizations on annuity markets, the promotion of deferred annuities would focus on the nature of and the factors to be considered in choosing such products. IFEC had already formulated a promotion plan for the Administration's consideration.	
011108 – 011158	Chairman Mr CHUNG Kwok-pan Administration	In response to Mr CHUNG Kwok-pan's enquiry, the Administration advised that according to clause 1(2) of the Bill, the Bill, if passed, would come into operation on 1 April 2019.	
011159 – 011702	Chairman Mr CHAN Kin-por Administration	Mr CHAN Kin-por did not subscribe to the view that the proposed tax deduction on deferred annuity premiums scheme was to favour insurance companies. Mr CHAN pointed out that the various proposed disclosure requirements, including IRR and the minimum guaranteed payment amount, would enhance consumer protection by enabling individuals to make informed decisions on choosing annuity products. Mr CHAN agreed that some members of the public preferred deferred annuities with higher percentage of non-guaranteed payment with a view to increasing the product returns, and the industry expressed some concern on the minimum guaranteed payment amount to be set at 70% in general, which had been addressed by including the requirement in the guidelines setting out the eligible criteria for deferred annuity products. The products would be subject to IA's approval. He enquired about whether there were other issues which the insurance industry had expressed concern about or difficulty in compliance, and the Administration had difficulty to resolve.	

Time marker	Speaker	Subject(s)	Action required
		The Administration and IA advised that – (a) IA was discussing with the insurance industry on introducing reasonable flexibility on the minimum guaranteed payment amount requirement for eligible deferred annuities, and considered that explicit notice or warning should be given to individuals if such minimum amount requirement could not be met; (b) the industry had expressed that they would prefer raising the maximum tax deductible limit to $100,000 per year, but the Administration considered that after taking into account the maximum tax deductible limit of other comparable tax concessions, raising the maximum tax deductible limit from $36,000 to $60,000 per year had already addressed the industry's concern. The Administration would consider the maximum deductible limit in future in view of the response to the proposed tax concessions scheme; and (c) IA was working with the industry on the technicalities and changing the design of certain existing annuity products with a view to enabling such products to comply with IA's intended guideline requirements. The Administration and IA would continue to liaise with the industry on the proposed scheme during the consultation period and prepare the relevant guideline as appropriate.	
011703 – 012001	Chairman Mr CHUNG Kwok-pan Administration	In response to Mr CHUNG Kwok-pan's enquiry about the reasons for not raising the aggregate maximum tax deductible limit to $100,000 per year, the Administration advised that in determining the revised limit of $60,000 per year, it had made reference to the maximum tax deductible limit of other deduction items under the salaries tax regime and new measures under contemplation. The Administration would make reference to the market response and LegCo Members' views when reviewing and considering the maximum deductible limit in due course.	
012002 – 012711	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai called upon the Administration to consider providing tax deduction for one-off payment of single premiums for deferred annuities, as some individuals might prefer paying a lump sum for annuities for their own retirement planning and they should also be entitled to tax concessions on such premiums. He also enquired about the types of taxes under which deferred annuity premiums were deductible under the proposed scheme.	

Time marker	Speaker	Subject(s)	Action required
		The Administration advised that – (a) immediate annuities were different from deferred annuities in that they did not have an accumulation element. Hence they might not promote the objective of encouraging taxpayers to save early for retirements. Meanwhile, since insurance intermediaries would get higher commission for initial years under the usual front-loaded commission structure, providing the tax deduction to deferred annuities with short payment period might encourage insurance intermediaries to promote annuities with aggressive selling strategies, and induce policy holders to pay one-off lump sum premiums which might not be the best financial arrangements for a policy holder. In fact, taxpayers would be entitled to more concessions on the overall payable tax if such premiums were paid over a longer period because there was no time limit for the annual tax deductions; (b) premiums paid for deferred annuity products that satisfied a set of criteria set out in the guidelines to be issued by IA would be eligible for tax deduction under salaries tax and personal assessment (which included profits from sole-proprietorships, partnerships, rental income from properties, etc.); and (c) the Administration and IA would consider Mr WU's suggestions and the market needs in finalizing the eligibility criteria in the guidelines to be set down by IA. Extension of meeting time by the Chairman.	
012712 – 012902	Chairman Mr CHAN Kin-por Administration	Mr CHAN Kin-por expressed support for Mr WU Chi-wai's suggestion of not setting a minimum five year payment period as one of the eligibility criteria for deferred annuities in future. Regarding the Administration's concern that some insurance intermediaries might induce policy holders to pay single permiums with aggressive selling strategies, Mr CHAN opined that they were only a minority. The insurance intermediaries would need to assess the needs of customers before recommending annuity products to them. If deferred annuities with one-off premium payments were made tax deductible, in order to provide full tax concession, the maximum tax deductible limit for those products should be revised accordingly to take into account the one-off tax deduction.	

Time marker	Speaker	Subject(s)	Action required
012903 – 013100	Chairman Mr CHAN Kin-por Mr CHUNG Kwok-pan Administration	Invitation of public views and meeting arrangement	
Agenda item III – Any other business			
013101 – 013117	Chairman	Closing remarks	

Council Business Division 1
Legislative Council Secretariat
21 May 2019