

立法會
Legislative Council

LC Paper No. CB(1)1093/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/BC/5/18

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

**Minutes of second meeting held on
Friday, 25 January 2019, at 10:45 am
in Conference Room 1 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 YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon CHUNG Kwok-pan
Hon LUK Chung-hung, JP
Hon Jeremy TAM Man-ho
- Member attending** : Dr Hon Junius HO Kwan-yiu, JP
- Members absent** : Hon WU Chi-wai, MH
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Dr Hon Fernando CHEUNG Chiu-hung
Hon Holden CHOW Ho-ding
Hon Vincent CHENG Wing-shun, MH

**Public Officers
attending**

: Agenda item I

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

Inland Revenue Department

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

Ms Florence LAM
Senior Assessor (Research)5

Department of Justice

Mr Jonathan LUK
Senior Government Counsel

Insurance Authority

Mr Marty LUI
Associate Director (Long Term Business)

Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Executive Director (Policy)

- Attendance by invitation** : Agenda Item I
Mr LEUNG Kwok-hung
Miss CHAN Po-ying
Mr 馮家亮
Member
Liberal Party
Miss Sister Reasonable
- 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. Meeting with deputations and the Administration

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

LC Paper No. CB(1)490/18-19(01) — Administration's response to Assistant Legal Adviser's letter dated 8 January 2019)

Relevant papers

(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)

Presentation of views by deputations/individuals

The Chairman reminded the deputations that their written submissions provided to the Bills Committee and views presented at the meeting would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). At the invitation of the Chairman, four deputations attending the meeting presented their views on the Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018 ("the Bill"). The Administration provided a consolidated response to the views expressed by the deputations.

(Post-meeting note: The Administration's written response to the views expressed by the deputations was issued to members vide LC Paper No. CB(1)545/18-19(01) on 1 February 2019.)

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

3. The Bills Committee completed scrutiny of the Bill and would not propose any amendments to the Bill.

Legislative timetable

4. The Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 20 March 2019. The Chairman informed members that he would report the Bills Committee's deliberations at the House Committee meeting on 1 March 2019. He also informed members that the deadline for giving notice to move amendments to the Bill, if any, was 11 March 2019.

II. Any other business

5. There being no other business, the meeting ended at 12:16 pm.

Council Business Division 1
Legislative Council Secretariat
21 May 2019

**Proceedings of second 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, 25 January 2019, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with deputations and the Administration			
000554 – 000805	Chairman	Opening remarks	
000806 – 001211	Chairman Mr LEUNG Kwok-hung	Presentation of views	
001212 – 001617	Chairman Miss CHAN Po-ying	Presentation of views	
001618 – 002027	Chairman Liberal Party	Presentation of views	
002028 – 002446	Chairman Miss Sister REASONABLE	Presentation of views	
002447 – 002809	Chairman Administration	<p>The Chairman commented that some of the submissions from the deputations were related to policy issues which should be considered by the relevant panels of the Legislative Council ("LegCo") instead of the Bills Committee.</p> <p>In response to the views provided by deputations, the Administration advised that –</p> <p>(a) to address aging population, the World Bank had advocated a multi-pillar conceptual framework for reforming pension systems worldwide. Many recent pension reforms in overseas economies involved improvements to or development of a voluntary "third-pillar" which might take many forms but was essentially flexible and discretionary in nature to compensate for the rigidities in the design of other pillars;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the Government attached great importance to public education and the point-of-sale conduct of intermediaries, and encouraged insurers to enhance training on annuity products for intermediaries. The Insurance Authority and the Mandatory Provident Fund Schemes Authority ("MPFA") would continue to closely monitor the point-of-sale conduct of intermediaries; and</p> <p>(c) tax deductible limits were usually based on individual taxpayers and if a married couple elected for joint assessment or personal assessment, the incomes and tax deductions of the couple would be aggregated. Under joint assessment or personal assessment, the maximum tax deductible limit for qualifying annuity premiums of a married couple would be \$120,000. The current proposal had already provided flexibility to allow a taxpaying couple to allocate tax deductions for deferred annuity premiums among themselves in order to claim the total deductions of \$120,000, provided that the deductions claimed by each taxpayer did not exceed the individual limit of \$60,000.</p>	
002810 – 003523	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK Ka-ki said that the annualized rate of return of the Mandatory Provident Fund ("MPF") Schemes last year was about -8.83%. He expressed concern about the high management fees charged by MPF schemes trustees and enquired about the estimated amount of management fees under MPF schemes which would benefit the banks, insurance companies and intermediaries, and the estimated accumulated amount which would fall into the employees' accounts in the coming five, 10 and 20 years respectively.</p> <p>The Chairman also enquired about the highest and lowest internal rate of return of the MPF System since its inception in 2000.</p> <p>The Administration advised that –</p> <p>(a) the fund expense ratio ("FER") of the MPF schemes was about 1.52%. The Administration and MPFA had been implementing initiatives to reduce fees and charges of MPF schemes, including rolling out the Default Investment Strategy at a fee capped at 0.95% per annum;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the proposed tax deduction was to encourage extra voluntary retirement savings, and annuities might not be suitable for everyone. Deferred annuity was recommended by many countries and international organizations such as the Organization for Economic Co-operation and Development as an appropriate tool for additional retirement savings given its very nature of annuitization of savings;</p> <p>(c) the substantial increase in the number of in-force annuity policies and the annuity premiums from 2012 to 2017 referred to on page 2 of LC Paper No. CB(1)458/18-19(01) had indicated increasing consumer interest in annuities as public awareness of retirement planning increased, even without any tax incentives; and</p> <p>(d) the annualized internal rate of return of the MPF System since its inception in 2000 to 30 September 2018 was 4.1%, which was higher than the annualized inflation rate of the same period (i.e. 1.8%). Retirement savings under MPF schemes were long term investments, and the investment returns of MPF would inevitably be affected by financial market cycles.</p>	
003524 – 003915	Chairman Mr LEUNG Kwok-hung Administration	<p>Mr LEUNG Kwok-hung presented views on setting up a Government fund with guaranteed return to replace MPF schemes for reduction of management fees charged by intermediaries and dispensing with mandatory contributions made by employers and employees.</p> <p>The Administration advised that the annualized internal rate of return of the MPF System since inception was about 4.1%, which was higher than the annualized inflation rate of 1.8% of the same period. The lowest internal rate of return of the MPF System was -25.9% in the year 2008-2009 owing to the Financial Tsunami, and the highest internal rate of return was 30.1% in the year 2009-2010. The Administration took note of Mr LEUNG's views.</p>	
003916 – 004213	Chairman Miss CHAN Po-ying	<p>Miss CHAN Po-ying presented views on the definitions of "spouse" and "couple" for the purposes of tax deductions under the proposed deductions scheme.</p> <p>The Administration advised that taxpaying couples might elect for joint assessment or personal assessment under the Inland Revenue Ordinance (Cap. 112) ("IRO"). Under the proposed deductions scheme, a taxpayer would be allowed to claim tax deductions for deferred annuity premiums covering the couple as a joint annuitant, or either the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>taxpayer or the taxpayer's spouse as a sole annuitant. Under the IRO, marriage was intended to refer to a heterosexual marriage between a man and a woman. The definitions of "spouse" and "couple" were outside the scope of the proposed deductions scheme under the Bill.</p>	
004214 – 004450	<p>Chairman Dr KWOK Ka-ki Administration</p>	<p>Dr KWOK Ka-ki referred to the Fiscal Reserves managed by the Hong Kong Monetary Authority ("HKMA") and said that the annualized internal rate of return of the Investment Portfolio since 2007 was about 6.1% on average, and about 13.5% for the Long Term Growth Portfolio since its inception in 2009 up to the end of September 2017. He considered that the above returns were much higher than those from the MPF schemes and urged the Administration to consider establishing a fund to be managed by HKMA to reduce the management fees and charges and increase the return.</p> <p>The Chairman said that the suggestion was outside the scope of the proposed deductions scheme under the Bill, and should be considered by the relevant LegCo panels. The Administration took note of Dr KWOK's views.</p>	
004451 – 004621	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p>Mr CHUNG Kwok-pan considered that the 4.1% annualized internal rate of return of the MPF System since inception together with FER of MPF schemes of about 1.52% would be almost comparable to a total annualized internal rate of return of HKMA's Investment Portfolio of about 6%. The management fees of MPF schemes had in fact taken up a large portion of the return since inception. He urged the Administration to implement measures to reduce the management fees and charges of the MPF schemes.</p>	
004622 – 004915	<p>Chairman Mr Jeremy TAM Administration</p>	<p>In response to Mr Jeremy TAM's enquiry on examples to illustrate the average tax savings arising from the proposed deductions, the Administration referred to Annex B of its paper (File Ref. INS/2/18C) and explained the relevant deductions.</p> <p>Mr TAM also enquired about the estimated effectiveness of the proposed tax deduction such as the number of persons who could benefit from it.</p> <p>The Administration advised that –</p> <p>(a) all the MPF scheme members (currently about 2.8 million) and members of the MPF-exempted Occupational Retirement Schemes ("ORSO schemes") (currently about 200 000) would be entitled to the proposed tax deduction; and</p>	

Time marker	Speaker	Subject(s)	Action required
		(b) the substantial increase in the number of in-force annuity policies and the annuity premiums from 2012 to 2017 without any tax incentives (as stated in page 2 of LC paper No. CB(1)458/18-19(01)) had already demonstrated the increase in public awareness of long-term retirement planning.	
004916 – 005245	Chairman Mr CHAN Kin-por, Administration	<p>Mr CHAN Kin-por considered that with the increase in the MPF fund size, there was room for further fee reduction. Taking into account the MPF rebate, the management fees charged by MPF schemes trustees were about 1.3%, and could be further reduced. He recalled that the internal rate of return of the MPF System in 2017 was about 22.3% after deduction of the fees and charges, which was very high.</p> <p>The Chairman shared the view on further reducing the management and administrative fees charged by MPF schemes trustees and pointed out that MPFA had not charged any fees on MPF schemes.</p>	
005246 – 005431	Chairman Administration	The Administration briefed LC Paper No. CB(1)490/18-19(01) which set out the Administration's reply to the letter of the Legal Adviser to the Bills Committee ("ALA9"). The Administration highlighted that under clause 19, the notice to be made under the proposed section 56A(5) to amend the number of days within which the approved trustee of a registered scheme must provide a scheme member with a contribution summary would be subsidiary legislation.	
Clause-by-clause examination of the Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018			
005432– 005622	Chairman ALA9 Administration	<p><u>Part 1 – Preliminary</u></p> <p><i>Clause 1 – Short title and commencement</i></p> <p>ALA 9 drew members' attention that an amendment might be necessary under clause 1(2) of the Bill in order that the Bill would take retrospective effect from 1 April 2019 if it would not be dealt with at a Council meeting before 1 April 2019, the commencement date. The Administration took note of the point.</p> <p><i>Clause 2 – Enactments amended</i></p> <p>Members raised no queries.</p>	

Time marker	Speaker	Subject(s)	Action required
005623 – 010030	Chairman Mr CHUNG Kwok-pan Administration	<p><u>Part 2 – Amendments to Inland Revenue Ordinance</u></p> <p><i>Clause 3 – Part 4A, Division 7 added</i></p> <p><u>Division 7 – Annuity Premiums and MPF Voluntary Contributions Subdivision 1 – Qualifying Annuity Premiums</u></p> <p><i>Clause 3 – Section 26N added</i></p> <p>In response to Mr CHUNG Kwok-pan's enquiry, the Administration provided examples of riders of eligible deferred annuities with premiums which were not tax deductible.</p> <p><i>Clause 3 – Section 26O added</i></p> <p>In response to the Chairman's enquiry, the Administration explained the identity of and the relationship between the eligible annuitants under section 26O.</p>	
010031– 010845	Chairman ALA9 Administration	<p><i>Clause 3 – Section 26P added</i></p> <p>In response to the Chairman's enquiry about the tax deduction arrangements for spouses, the Administration referred members to page 13 of LC Paper No. CB(1)458/18-19(01) and explained the flexible allocation of tax deduction for qualifying deferred annuity premiums amongst spouses to enjoy a maximum tax deductible limit of \$120,000 by way of examples.</p> <p>ALA 9 said that the new section 26P(5)(b)(ii) referred to the power of the Commissioner of Inland Revenue ("CIR") to make additional assessments under section 60 of Cap.112 in consequence of the married person and his spouse's failure to reach an agreement within a reasonable time, she enquired about the possible duration of a "reasonable time" for the purpose of proposed section 26P. The Administration advised that the time limit for making additional assessments under section 60 would be six years.</p> <p><i>Clause 3 – Section 26Q added</i></p> <p><i>Clause 3 – Section 26R added</i></p> <p>Members raised no queries.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Subdivision 2 – Tax Deductible MPF Voluntary Contributions</u></p> <p><i>Clause 3 – Section 26S added</i></p> <p>Members raised no queries.</p> <p><u>Subdivision 3 – Administrative Provisions</u></p> <p><i>Clause 3 – Section 26T added</i></p> <p>Members raised no queries.</p> <p><i>Clause 3 – Section 26U added</i></p> <p>In response to ALA9's enquiry on the new section 26U(2), the Administration explained that the deduction order under the proposed new section 26U(2) (i.e. deductions were to be firstly allowed for tax deductible voluntary contributions ("TVCs") and secondly allowed for qualifying annuity premiums) ensured that married couples would have a more favourable taxation position. Qualifying annuity premiums exceeding the reduced cap (i.e. \$60,000 reduced by TVCs) could be claimed by the taxpayer's spouse. In case the deduction order was reversed, TVCs exceeding the reduced cap (i.e. \$60,000 reduced by qualifying annuity premiums) could not be claimed by the taxpayer's spouse.</p> <p><i>Clause 4 – Section 63CA amended (calculating net chargeable income for computing provisional salaries tax: meaning of certain references)</i></p> <p>Members raised no queries.</p>	
010846 – 011605	Chairman Mr CHUNG Kwok-pan Administration	<p><i>Clause 5 – Section 63E amended (holding over of payment of provisional salaries tax)</i></p> <p>In response to Mr CHUNG Kwok-pan's enquiry about holding over of payment of provisional salaries tax, the Administration advised that in general, the deadline for payment of salaries tax (including provisional salaries tax) was from January to March for the first instalment, and from April to June for the second instalment, and by that time taxpayers would be able to provide details concerning contributions to MPF schemes and premiums for annuities made or paid for the year of assessment for holdover purposes.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p><i>Clause 6 – Section 80 amended (penalties for failure to make returns, making incorrect returns, etc.)</i></p> <p>Members raised no queries.</p> <p><i>Clause 7 – Section 82A amended (additional tax in certain cases)</i></p> <p>In response to Mr CHUNG Kwok-pan's enquiry about the taxpayer's notifying obligation, the Administration advised that if a taxpayer was allowed deduction for qualifying annuity premiums paid but the premiums were refunded, the taxpayer had to notify CIR of the refund within three months after the date of refund. Additional assessment would be made on the deductions allowed.</p>	
011606– 013150	Chairman Administration	<p><i>Clause 8 – Schedule 3F added</i></p> <p><i>Clause 9 – Schedule 46 amended (transitional provisions relating to provisional salaries tax in respect of year of assessment 2019/20)</i></p> <p>Members raised no queries.</p> <p><u>Part 3 – Amendments to Mandatory Provident Fund Schemes Ordinance</u></p> <p><i>Clause 10 – Section 2 amended (interpretation)</i></p> <p>In response to the Chairman's enquiry, the Administration advised that members of MPF-exempted ORSO schemes could also open a TVC account with an MPF scheme of their own choice for making TVCs and enjoy the proposed tax deduction. Currently, employees could only make contributions to the MPF trustee chosen by their employers. To enhance competition among trustees, under the TVC proposal, scheme members were free to choose an MPF scheme to open their TVC accounts. To meet the purpose of encouraging extra savings for retirement, the tax incentivized MPF Voluntary Contributions would be subject to the preservation requirements.</p> <p><i>Clause 11 – Section 5 amended (members of certain occupational retirement schemes to be exempted from this Ordinance)</i></p> <p><i>Clause 12 – Section 11 amended (voluntary contributions)</i></p> <p><i>Clause 13 – Section 11A added</i></p>	

Time marker	Speaker	Subject(s)	Action required
		<p><i>Clause 14 – Section 13 amended (preservation of accrued benefits derived from contributions)</i></p> <p><i>Clause 15 – Section 14 amended (portability of accrued benefits)</i></p> <p>Members raised no queries.</p> <p><u>Part 4 – Amendments to Mandatory Provident Fund Schemes (General) Regulation</u></p> <p><i>Clause 16 – Section 2 amended (interpretation)</i></p> <p><i>Clause 17 – Section 31 amended (non-refusal of scheme applicants and notice of participation)</i></p> <p><i>Clause 18 – Section 56 amended (approved trustee to provide scheme members with annual benefit statements)</i></p> <p>Members raised no queries.</p> <p><i>Clause 19 – Section 56A added</i></p> <p>In response to the Chairman's enquiry, the Administration advised that the TVC summary provided to the scheme member was for the member's reference of tax filing only, not to CIR as proof of the assessable tax deduction during the financial year.</p> <p><i>Clause 20 – Section 78 amended (separate account for each scheme member)</i></p> <p><i>Clause 21 – Sections 149A and 149B added</i></p> <p><i>Clause 22 – Section 153 amended (duty of approved trustee on being notified of election)</i></p> <p><i>Clause 23 – Section 154 amended (approved trustee to give transfer statement to scheme member)</i></p> <p><i>Clause 24 – Schedule 4 amended (financial penalties)</i></p> <p>Members raised no queries.</p>	

Time marker	Speaker	Subject(s)	Action required
Agenda item II – Any other business			
013151 – 013255	Chairman Administration	Legislative timetable and closing remarks	

Council Business Division 1
Legislative Council Secretariat
21 May 2019