

(譯文)

來函檔號：FIN CR 1/3321/91  
本函檔號：LS/B/20/98-99  
電話：2869 9209  
圖文傳真：2877 5029

圖文傳真號碼：2801 4023

香港中區雪廠街  
中區政府合署中座及東座 4 樓  
庫務局  
庫務局首席助理局長（收入）  
謝雲珍女士

謝女士：

**《1998 年法律適應化修改（第 6 號）條例草案》**

本人正研究上述條例草案在法律及草擬方面的事宜，以便向議員提供意見。現謹按照觀察所得，提出以下各點，希望閣下予以澄清：

1. 《博彩稅條例》及其附屬法例（條例草案附表 1）

在此條例第 4E 條的“政府獎券基金”定義中，“立法局”一詞並未作出修改。

2. 《應課稅品條例》及其附屬法例（條例草案附表 2）

此條例第 3(4)條訂明：“任何貨品如屬英國政府或香港政府的財產，或是為英國政府或香港政府而進口或購買的，則本條例對該等貨品並不適用”。此項條文的內容應否作出修改？

3. 《遺產稅條例》及其附屬法例（條例草案附表 3）

在《根據第 28 條對表格的訂明》的附屬法例中，仍出現“總督會同行政局”一詞。

4. 《稅務條例》（條例草案附表 4）

(a) 第 8(2)(d)條訂明：“英聯邦成員國政府（香港政府除外）支付給英軍成員及在香港永久為該等政府服務的人員在其職位所得的薪酬”獲豁免繳交香港的薪俸稅。此項條文的內容應否作出適應化修改？

- (b) 請解釋第 5 項在修訂第 8(2)(h)條方面的目的及作用。
- (c) 在第 16B(6)條中，有關“香港政府”的提述應否更改為“香港特別行政區政府”？（附表 3 第 4 項有類似的修訂）
- (d) 在第 77(1)及(7)條中，“人民入境事務處處長”應否改為“入境事務處處長”？（1998 年法律適應化修改（第 5 號）條例草案附表 4 第 4 項有類似的修訂。）

5. 《差餉條例》（條例草案附表 5）

- (a) 在此條例第 36(1)(f)條，“立法局行政管理委員會”一詞未有作出適應化修改。
- (b) 在 36(4)條，“軍事用地”一詞指“由女皇陛下部隊…並由總督指定…所佔用的土地及其上的建築物”的定義仍出現。政府當局有否考慮就此詞作出適應化修改？
- (c) 在附屬法例中，“立法局決議”仍未改為“立法會決議”。

6. 《印花稅條例》（條例草案附表 6）

多項條文均加入“中央人民政府”一詞。請解釋第 12、13 及 14 項所作修訂的目的。

7. 《飛機乘客離境稅條例》（條例草案附表 7）

- (a) 此條例中有關“機場”的定義是“香港國際機場”。在《香港機場（規例）條例》（第 292 章）中，“機場”是指“…在獲批准圖則劃定界線內位於九龍和新九龍的香港國際機場…”，即啓德機場。在《機場管理局條例》（第 483 章）中，“機場”指第 5(1)(a)條所提述的機場，即赤鱸角附近的機場。而此條例中並無使用“香港國際機場”一詞。在《香港機場（障礙管制）條例》（第 301 章）中，“香港機場”指位於九龍半島的香港國際機場以及建於及將建於新界大嶼山赤鱸角和其附近範圍內的機場。在《飛機乘客離境稅條例》此一條例中，“機場”一詞的定義並不清晰。究竟該詞是指舊的啓德機場，還是新的赤鱸角機場？政府當局有否考慮重新整理各有關條例中“機場”的定義？
- (b) 附表 2 第 5 段訂明：“乘搭民航飛機離開香港的英軍人員…”及其家庭成員可獲豁免繳稅款的法律責任。此項條文的內容應否作出修訂？

8. 《商業登記條例》(條例草案附表 10)

第 16(d)條中，“總督會同行政局”一詞未有作適應化修改。

9. 《汽車(首次登記)條例》(條例草案附表 11)

此條例第 5(1)條訂明：“由屬皇家海陸空三軍部隊成員的人輸入香港的汽車，若已在任何英聯邦任何國家繳付稅款或其他徵費…即無須就該輛汽車而繳稅。”此項條文的內容是否也應作出修訂？

謹奉上有關條文的節錄本，以方便閣下參考。希望閣下可於 1998 年 11 月 10 日前以中英文回覆，以便將答覆提交議員，供他們在內務委員會會議上考慮。

助理法律顧問

(何瑩珠)

連附件

副本致： 律政司（經辦人：政府律師鍾婉怡小姐）  
律政司（經辦人：政府律師梁東華先生）  
法律顧問馬耀添先生

1998 年 11 月 5 日

## 就立法會助理法律顧問一九九八年十一月五日來信提出的意見

### 1. 《博彩稅條例》及其附屬法例（條例草案附表 1）

在條例第 4E 條有關“政府獎券基金”的定義中，“立法局”一詞屬過去的提述，因此無須作適應化修改。

### 2. 《應課稅品條例》及其附屬法例（條例草案附表 2）

由於條例第 3(4)條提述英國政府，英軍不列入《應課稅品條例》的適用範圍。條例第 3(4)條的適應化修改將涉及駐軍事項，因此會納入與駐軍有關的法律適應化修改條例草案。該條例草案的目的是修改在香港法例中，約八十條條例或附屬法例有關英軍的提述，以便與基本法和駐軍法的規定一致。此條例草案會在適當時間提交立法會審議。

### 3. 《遺產稅條例》及其附屬法例（條例草案附表 3）

在“根據第 28 條對表格的訂明”項下出現的“總督會同行政局”一詞，屬過去的提述，因此無須作適應化修改。

### 4. 《稅務條例》（條例草案附表 4）

(a) 條例第 8(2)(d)條的適應化修改牽涉駐軍事項，因此會納入上述第 2 段中提及與駐軍有關的法律適應化修改條例草案。

(b) 在一九九七年七月一日以前，有關聯合王國政府支付給為聯合王國提供臨時服務的人的薪酬，如該等人是根據聯合王國訂定的條款在香港服務的，或是在聯合王國特別受聘前來香港服務的，該等薪酬皆可免稅。現在作出修訂的目的，是就回歸後中央人民政府在類似情況下支付的薪酬給予免稅待遇。有關修訂實施後，中央人民政府支付給符合經修訂的第 8(2)(h)條所列條件的人的薪酬，在香港將可免稅。

(c) “香港政府”一詞一般無須作適應化修改。條例草案附表 3 第 4 項提及抬頭人為“香港政府”的支票，則屬特殊情況。

- (d) “人民入境事務處處長”的職稱，已因 1997 年宣布更改職稱及名稱（一般適應）公告（1997 年第 362 號法律公告）而改為“入境事務處處長”；條例第 77 條可無須經立法程序而直接作出修訂。

5. 《差餉條例》（條例草案附表 5）

- (a) 《立法局行政管理委員會（修訂）條例》（1997 年第 115 號條例）第 12 條已把所有對“立法局行政管理委員會”的提述，改為“立法會行政管理委員會”，而這些提述會在適當時間直接作出修改，無須經過立法程序。
- (b) 條例第 36(4)條全文會由上述第 2 段中提及與駐軍有關的法律適應化修改條例草案處理。
- (c) 我們同意附屬法例內“立法局決議”的提述需作適應化修改。我們建議在適當時機把這項修改當作《差餉條例》的一項雜項修訂來處理。

6. 《印花稅條例》（條例草案附表 6）

根據《印花稅條例》第 V 部（第 38、41(1)、42(1)及 43(2)條），聯合王國政府獲豁免印花稅。這項修訂實施後，中央人民政府將可同樣豁免印花稅。

7. 《飛機乘客離境稅條例》（條例草案附表 7）

- (a) 赤鱗角新機場的正式名稱是“香港國際機場”。基於本條例內“機場”一詞是指“香港國際機場”，故其定義無須作出修訂。由於種種原因，“機場”一詞在不同法例中有不同的定義。例如，《香港機場（規例）條例》（第 292 章）原是適用於舊的啓德機場，而機管局條例（第 483 章）中的“機場”是指在赤鱗角的新機場。另一方面，《香港機場（障礙管制）條例》（第 301 章）賦予有關方面權力，其中一項是當局可就舊的啓德機場和赤鱗角新機場及其附近範圍規定建築物的高度。當局認為在有關的條例中，就“機場”一詞應用有不同的定義是有其實際理由的，但當局將樂於在有需要時，檢討這一詞在任何特定條例中出現的定義。

- (b) 附表 2 第 5 段的適應化修改涉及駐軍事項，因此會納入上述第 2 段中提及與駐軍有關的法律適應化修改條例草案。

8. 《商業登記條例》(條例草案附表 10)

條例第 16(d)條內“總督會同行政局”一詞已於 1998 年商業登記(修訂)條例草案中作出適應化修改，而該條例草案已於一九九八年十月三十日在憲報公布。

9. 《汽車(首次登記稅)條例》(條例草案附表 11)

條例第 5(1)條的適應化修改涉及駐軍事項，因此會納入上述第 2 段中提及與駐軍有關的法律適應化修改條例草案。

(2) Any licence granted under subsection (1) may relate to more than one lottery.

(3) The Chief Secretary may, when granting a licence under subsection (1), impose such conditions as he thinks fit, and may at any time add to or vary such conditions.

(Added 51 of 1975 s. 5)

### 3. Interpretation

In sections 4A, 4B, 4C, 4D and 6—  
“board” (管理局) means the Hong Kong Lotteries Board established under section 4A;

“club” (馬會) means the Royal Hong Kong Jockey Club;

“Lotteries Fund” (政府獎券基金) means the Lotteries Fund established by resolution made and passed by the Legislative Council on 30 June 1965 (Cap. 2 sub. leg.) and published in the Gazette;

“lottery” (獎券活動) means any lottery conducted by the Board under a licence granted under section 4D;

“proceeds of a lottery” (獎券收益) means the total or aggregate amount of the bets made on a lottery.

(Added 51 of 1975 s. 5)

### Restriction on sale of tickets

No tickets, lists, receipts, or other substitutes for tickets recording the numbers of the chances allocated for any cash-sweep, totalizator or pari-mutuel may be made, printed, issued, sold or offered for sale except by or on behalf of a club which has received the permission of the Chief Secretary under this Ordinance.

(Replaced 6 of 1949 s. 2. Amended 51 of 1975 s. 3)

### Duty on bets and cash-sweeps

(1) On every bet made on any totalizator or pari-mutuel authorized by this Ordinance, there shall be charged a duty—

- (a) in the case of a win bet, a place bet, a double bet, a quinella bet, a forecast bet and a quinella place bet, at the rate of 12% of the amount of every such bet, except where such bet is an overseas bet in which case the duty shall be at the rate of one half of that rate; and

(2) 根據第 (1) 款發給的牌照，可與超過一項獎券活動有關。

(3) 布政司可在根據第 (1) 款發給牌照時施加他認為適宜的條件，並可在任何時間增補或更改該等條件。

(由 1975 年第 51 號第 5 條增補)

### 4E. 釋義

在第 4A、4B、4C、4D 及 6 條內——  
“政府獎券基金” (Lotteries Fund) 指藉立法局於 1965 年 6 月 30 日所作出及通過並在憲報刊登的決議 (第 2 章，附屬法例) 而設立的政府獎券基金；

“馬會” (Club) 指英皇御准香港賽馬會；

“獎券收益” (proceeds of a lottery) 指獎券活動所接受的投注的總計或合計金額；

“獎券活動” (lottery) 指管理局根據第 4D 條下所發給的牌照舉辦的任何獎券活動；

“管理局” (Board) 指根據第 4A 條設立的香港獎券管理局。

(由 1975 年第 51 號第 5 條增補)

### 5. 售賣彩票的限制

任何人不得製造、印製、發行、售賣或提供出售載有現金彩票、電算機投注或彩池投注中彩機會的號碼的彩票、表單、收據或其他彩票代替物，但根據本條例已獲布政司准許的會社或其代表則屬例外。

(由 1949 年第 6 號第 2 條代替。由 1975 年第 51 號第 3 條修訂)

### 6. 對投注及現金彩票的課稅

(1) 對獲本條例批准的電算機或彩池作出的每項投注，均須課稅，稅率如下——

- (a) 如屬獨贏投注、位置投注、孖寶投注、連贏投注、科加上投注及位置連贏投注，稅率為每項投注金額的 12%，但上述投注如屬海外投注，則稅率為上述稅率的一半；及

(2) 立法局可不時藉在憲報刊登的決議，使決議所指明的本條例任何條文，於作出其顧及該決議所關乎的物質的性質而認為合宜的變通(如有的話)後，適用於該物質。

(3) 如關乎任何物質的決議正根據本條有效，則因此而適用的本條例條文即具效力，猶如該物質本為本條例適用的貨品一樣，但須作出該決議所規定的任何變通(如有的話)。

(4) 任何貨品如屬英國政府或香港政府的財產，或是為英國政府或香港政府而進口或購買的，則本條例對該等貨品並不適用。(由 1996 年第 46 號第 3 條修訂；由 1997 年第 131 號第 2 條修訂)

(5) 除規例另有訂明外，本條例中關於貨品的進口、出口及移動的條文，不適用於《郵政署條例》(第 98 章)所界定的郵包。

第 II 部

一般條文

4. 稅款

(1) 應課稅貨品稅款的評定及繳付，以及該等貨品稅款的退還，均須按照附表 1 所列的稅率及方式進行。

(2) 立法局可藉決議修訂附表 1，尤其可作出修訂以——

- (a) 對任何應課稅貨品或任何類別的應課稅貨品徵稅；
- (b) 一般地或就個別情況將該附表內任何徵收的稅款作出任何程度的增加、減少、重訂、取消、更改、寬免或免除；
- (c) 對任何應課稅貨品或任何類別的應課稅貨品(包括徵收新稅時已在香港的貨品)徵收新稅；或
- (d) 賦權總監——
  - (i) 就任何個別情況或一般地退還稅款；
  - (ii) 對任何並無在附表 1 指明的應課稅貨品評稅；或
  - (iii) 對附表 1 所指明數量的應課稅貨品，按該附表指明的稅率評稅。

(由 1986 年第 66 號第 5 條代替。由 1996 年第 46 號第 4 條修訂)

(2) The Legislative Council may from time to time by resolution published in the Gazette apply to any substance any of the provisions of this Ordinance specified in the resolution with such modifications, if any, as may to them seem desirable, having regard to the nature of the substance to which the resolution relates.

(3) While any resolution relating to any substance is in force under this section the provisions of this Ordinance thereby applied shall have effect as if the substance were goods to which this Ordinance applies, but subject to such modifications, if any, as may be provided by the resolution.

(4) This Ordinance does not apply to goods which are the property of or imported or purchased for the Government of the United Kingdom or of Hong Kong. (Amended 46 of 1996 s. 3; 131 of 1997 s. 2)

(5) Except as may be prescribed by regulations, the provisions of this Ordinance relating to the importation, exportation and movement of goods shall not apply to postal packets as defined in the Post Office Ordinance (Cap. 98).

PART II

GENERAL

4. Duty

(1) Duty shall be assessed and payable on dutiable goods and refunded in respect of such goods at the rates and in the manner set out in Schedule 1.

(2) The Legislative Council may by resolution amend Schedule 1 and in particular, may amend it—

- (a) to impose any duty on any dutiable goods or any class of dutiable goods;
- (b) to increase, decrease, recast, abolish, vary, waive or remit whether generally or particularly any duty imposed therein to any extent whatever;
- (c) to impose new duties on any dutiable goods or class of dutiable goods, including goods that are already in Hong Kong at the time such new duties are imposed; or
- (d) to empower the Commissioner—
  - (i) to make refunds of duty in any particular case or generally;
  - (ii) to assess duty on any dutiable goods not specified in Schedule 1; or
  - (iii) to assess duty on a quantity, as specified in Schedule 1, of dutiable goods at a rate so specified.

(Replaced 66 of 1986 s. 5. Amended 46 of 1996 s. 4)

[Subsidiary]

PRESCRIPTION OF FORMS UNDER SECTION 28

[26 February 1932] 27 of 1968 s. 2(2)

Pursuant to section 28 of the Estate Duty Ordinance and in conjunction with section 14(12) and section 3 of that Ordinance, the Governor in Council has prescribed the forms set out below as being respectively the Form of Certificate of Assessment and the Form of Corrective Affidavit.

I.R. Form E.D. 3

INLAND REVENUE DEPARTMENT, ESTATE DUTY OFFICE, 5th Floor, Wanchai Tower 3, 5, Gloucester Road, Wai Chai, Hong Kong.

No. ....

Hong Kong, .....

CERTIFICATE OF ASSESSMENT

Estate Duty Ordinance, Cap. 111

GENTLEMEN,

....., deceased.

In accordance with Section 14(12) of Cap. 111, I have now assessed the value of the above estate at \$ ..... or under \$ ..... and shall, on payment of the sum set out below, deliver to you or your authorized representative my certificate of receipt of Estate Duty for presentation to the Probate Registrar.

Deputy Commissioner of Estate Duty.

[附屬]

根據第 28 條對表格的訂明

[1932 年 2 月 26 日] 1968 年第 27 號第 2(2) 條

依據《遺產稅條例》第 28 條，並連同該條例第 14(12) 條及第 3 條，總督會同行政局訂明以下的表格分別為評稅證明書表格及修正遺產申報暫章表格。

I.R. 表格 E.D. 3

香港灣仔告士打道 5 號 灣仔政府綜合大樓第 3 座 5 樓 香港稅務局遺產稅處

編號 .....

香港, .....

評稅證明書

遺產稅條例，第 111 章

運啟者：

已故的, .....

按照第 111 章第 14(12) 條，本人現已評定上述遺產的價值為 \$ ..... 或低於 \$ .....，在下列款項繳付後本人會將遺產稅收訖證明書發給你或你所授權的代表，以交付主理遺產事務司法常務官。

遺產稅署副署長。

- (d) the emoluments payable by the Governments of the members of the Commonwealth, other than the Government of Hong Kong, to members of Her Majesty's forces and to persons in the permanent service of those Governments in Hong Kong in respect of their offices under those Governments;
- (e) wound and disability pensions granted to members of Her Majesty's forces;
- (f) gratuities granted to members of Her Majesty's forces in respect of services rendered during war;
- (fa) the Hong Kong War Memorial Pensions and additional benefits paid under the Hong Kong War Memorial Pensions Ordinance (Cap. 386); (Added 51 of 1991 s. 24)
- (g) any amount arising from a scholarship, exhibition, bursary, or other similar educational endowment held by that person where he is receiving full time instruction at a university, college, school, or other similar educational establishment; (Replaced 26 of 1969 s. 9. Amended 1 of 1991 s. 2)
- (h) the emoluments payable by the Government of the United Kingdom to persons in the temporary service of that Government who are in the opinion of the Commissioner serving in Hong Kong on United Kingdom based terms whereby they are normally employed in the United Kingdom but are liable for overseas service or are recruited in the United Kingdom specially for service in Hong Kong; (Added 26 of 1969 s. 9)
- (i) any amount received by way of periodical payments in the nature of alimony or maintenance by a person from his or her spouse or former spouse; (Added 35 of 1965 s. 5. Amended 2 of 1971 s. 5; 19 of 1991 s. 2)
- (j) income derived from services rendered as master or member of the crew of a ship or as commander or member of the crew of an aircraft by a person who was present in Hong Kong on not more than—
- (i) a total of 60 days in the basis period for that year of assessment; and
  - (ii) a total of 120 days falling partly within each of the basis periods for 2 consecutive years of assessment, one of which is that year of assessment; (Added 2 of 1971 s. 5. Amended 7 of 1986 s. 3)
- (k) any salary or other remuneration paid by another person who is chargeable to profits tax under Part IV which, but for section 17(2), would be deductible in computing the profits or losses of such other person for the purposes of that Part. (Added 7 of 1986 s. 3)

- (d) 英聯邦成員國政府(香港政府除外)支付給英軍成員及在香港永久為該等政府服務的人員在其職位所得的薪酬;
- (e) 發給英軍成員的傷殘撫恤金;
- (f) 發給英軍成員的戰時服務酬金;
- (fa) 根據《香港太平洋戰爭紀念撫恤金條例》(第386章)而付給的香港太平洋戰爭紀念撫恤金及附加的利益; (由1991年第51號第24條增補)
- (g) 在任何大學、學院、學校或其他相類似的教育機構全日就讀的人,從任何獎學金、助學金或其他相類似的教育基金所產生的任何款項; (由1969年第26號第9條代替。由1991年第1號第2條修訂)
- (h) 聯合王國政府支付給為該政府提供臨時服務的人的薪酬,而局長認為該等人是根據聯合王國訂定的條款在香港服務的,而憑藉該等條款,該等人通常在聯合王國受僱工作但須接受被派往海外服務,或是在聯合王國特別受聘前來香港服務的; (由1969年第26號第9條增補。由1971年第2號第5條修訂; 由1991年第19號第2條修訂)
- (i) 任何人從其配偶或前任配偶處定期領取的屬生活費或贍養費性質的款項; (由1965年第35號第5條增補。由1971年第2號第5條修訂; 由1991年第19號第2條修訂)
- (j) 任何人作為船舶的船長或船員或飛機的機長或機員而提供服務所得的入息,而該人在香港的期間——
- (i) 在有關的課稅年度的評稅基期內總共不超過60天;及
  - (ii) 分散在連續兩個課稅年度(其中一個須為有關的課稅年度)的評稅基期內,而總共不超過120天; (由1971年第2號第5條增補。由1986年第7號第3條修訂)
- (k) 由根據第IV部應徵收利得稅的人所支付的任何薪金或其他報酬,而若非因第17(2)條的規定,則在為該部的施行而計算該人的利潤或虧損時,該薪金或其他報酬是須予扣除的。 (由1986年第7號第3條增補)

↑, profession 32/78

- (6) For the purposes of this section—
- (a) expenditure shall not be regarded as incurred by a person in so far as it is, or is to be, met directly or indirectly by the Government of Hong Kong or by any government or public or local authority, whether in Hong Kong or elsewhere, or by any person other than the first-mentioned person; and (*Amended 7 of 1986 s. 12; 19 of 1996 s. 5*)
- (b) any expenditure of a capital nature incurred on scientific research related to any trade or business by a person about to carry on that trade or business shall be treated as if it had been incurred by that person on the first day upon which he does carry on that trade or business.
- (7) The same sums paid, or expenditure incurred, shall not be taken into account for any of the purposes of this section in relation to more than one trade or business.

*(Added 35 of 1965 s. 10)***16C. Payments for technical education**

- (1) Notwithstanding anything in section 17, where a person carrying on a trade or business in Hong Kong makes any payment to be used for the purposes of technical education related to that trade or business at any university, university college, technical college or other similar institution which is approved in writing for the purposes of this section by the Commissioner (being an amount which is not otherwise allowable as a deduction under this Ordinance), the payment shall be deducted as an expense in ascertaining the profits from that trade or business for the year of assessment in the basis period of which the payment was made. (*Amended 7 of 1986 s. 12; 24 of 1996 s. 6*)
- (2) For the purposes of this section, technical education shall be deemed to be related to a trade or business, if, and only if, it is technical education of a kind specially requisite for persons employed in the class of trade or business to which that trade or business belongs.

- (3) An approval for the purposes of subsection (1) may—
- (a) operate as from a date, whether before or after the date of approval, specified in the instrument of approval; and
- (b) be withdrawn at any time.

*(Added 35 of 1965 s. 10)***16D. Approved charitable donations**

- (1) Subject to subsection (2), a person chargeable to tax under this Part may deduct the aggregate of approved charitable donations made by that person in the basis period for a year of assessment, if such aggregate is not less than \$100, from what would otherwise have been the assessable profits of such person for that year of assessment.

↑, 專業 32/78

- (6) 為施行本條——
- (a) 任何開支中如有部分是由香港政府、在香港或在其他地方的任何政府、公共主管當局或地區主管當局，或由某人以外的任何其他人直接或間接支付或將會支付，則該部分開支不得被視為某人所招致的開支；及 (*由 1986 年第 7 號第 12 條修訂；由 1996 年第 19 號第 5 條修訂*)
- (b) 任何屬資本性質的開支，如是由任何行將經營某行業或業務的人在與該行業或業務有關的科學研究中所招致，則須被視為該人在經營該行業或業務的第一天所招致的。
- (7) 就超過一個行業或業務而支付的同一筆款項或招致的同一筆開支，為本條的施行均不獲考慮。

*(由 1965 年第 35 號第 10 條增補)***16C. 工業教育方面的付款**

- (1) 即使第 17 條另有規定，凡任何人在香港經營某行業或業務而作出任何付款，以供在任何大學、大學學院、工業學院或其他由局長為本條的施行而以書面批准的相類似機構，進行與該行業或業務有關的工業教育（倘若非如此則該筆付款不得根據本條例可容許予以扣除者），則在確定該行業或業務在該課稅年度所得的利潤時，該筆付款須作為在其付出的評稅基期內的開支而予以扣除。 (*由 1986 年第 7 號第 12 條修訂；由 1996 年第 24 號第 6 條修訂*)
- (2) 為施行本條，工業教育如果是並僅如果是某行業或業務所屬的某類行業或業務所僱用的人所特別需要的一種工業教育，則須當作是與該行業或業務有關。
- (3) 為第 (1) 款的施行而作出的批准——
- (a) 可自批准文書內所指明的日期起生效，不論該日期是在該批准日期之前或之後；及
- (b) 可隨時撤回。

*(由 1965 年第 35 號第 10 條增補)***16D. 認可慈善捐款**

- (1) 除第 (2) 款另有規定外，根據本部應課稅的人在任何課稅年度的評稅基期內作出的認可慈善捐款總額如不少於 \$100，則該人可從其在該課稅年度的原本屬應評稅利潤中扣除該總額。

the Commissioner may give the third party notice in writing (a copy of which shall be sent by post to the taxpayer) requiring him to pay such moneys not exceeding the amount of tax in default or charged, as the case may be, to the officer named in the notice. The notice shall apply to all such moneys which are in the third party's hands or due from him or about to be paid by him at the date of receipt of such notice or which come into his hands or become due from him or about to be paid by him at any time within a period of 30 days thereafter. (*Replaced 26 of 1969 s. 36*)

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the person by whom the tax was payable or on whom it was charged and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings civil or criminal notwithstanding the provisions of any written law, contract or agreement.

(3) Any person to whom notice has been given under subsection (1) who is unable to comply therewith shall within 14 days of the expiration of the period of 30 days from the date of receipt of such notice give notice in writing to the Commissioner acquainting him with the facts.

(4) Any person to whom a notice has been given under subsection (1) who could have complied therewith but failed to do so within 14 days after the expiration of the period referred to in subsection (1), shall be personally liable for the whole of the tax which he was required to pay, and such tax may be recovered from him by all means provided in this Ordinance for the recovery of tax from a person who has made default in payment.

(*Replaced 49 of 1956 s. 56*)

#### 77. Recovery of tax from persons leaving Hong Kong

(1) If the Commissioner, or an officer of the Inland Revenue Department not below the rank of chief assessor authorized in writing by the Commissioner for the purpose ("authorized officer"), satisfies a District Judge, by statement made on oath—

- (a) that a person has not paid all tax assessed upon him; and
- (b) that there are reasonable grounds for believing that the person intends to depart, or has departed, from Hong Kong to reside elsewhere,

and if the District Judge is satisfied that it is in the public interest to ensure that the person does not depart from Hong Kong or, if he returns, does not depart again, without first paying the tax or furnishing security to the satisfaction of the Commissioner for payment of that tax, he shall issue a direction ("departure prevention direction") to the Director of Immigration and the Commissioner of Police directing them to prevent the person from departing from Hong Kong without paying such tax or furnishing such security.

則局長可以書面通知該第三者(該通知書文本一份須以郵遞方式送交該納稅人),規定該第三者將不超出有關的拖欠稅額或徵收稅額(視屬何情況而定)的款項,繳付給該通知書內所指名的人員。對於該第三者在接獲該通知書之日在其手上的金錢、他到期應繳的金錢或行將由他支付的金錢、或該第三者在其後 30 天內任何時間到達其手上的金錢、或為由他到期應繳的金錢或行將由他支付的金錢,該通知書一概適用。(由 1969 年第 26 號第 36 條代替)

(2) 凡任何人依據本條作出付款,須被當作是在該名須繳稅的人或被徵稅的人以及所有其他有關人士的授權下行事,而即使任何成文法、合約或協議中另有規定,該人可在一切民事或刑事法律程序中藉本款就此付款而獲得彌償。

(3) 任何人接獲根據第(1)款向其發出的通知書,而不能遵照辦理,則須在接獲該通知書之日起 30 天屆滿時起計的 14 天內,將事實情形以書面通知局長。

(4) 任何人接獲根據第(1)款向其發出的通知書,能夠遵照辦理而沒有在第(1)款所提述的期間屆滿後 14 天內照辦,則須個人負上他被規定繳付的全部稅款的法律責任,並可被追討稅款,而追討方法是依循本條例所訂定向拖欠繳稅的人追討稅款的一切方法。

(由 1956 年第 49 號第 56 條代替)

#### 77. 向正在離開香港的人追討稅款

(1) 如局長或局長為以下目的而以書面授權的職級不低於總評稅主任的稅務局人員("獲授權人員"),藉着經宣誓而作的陳述而令地方法院法官信納——

- (a) 某人沒有繳清其獲評定的所有稅款;及
- (b) 有合理理由相信該人意圖離開或已離開香港往其他地方居住,而地方法院法官信納,除非該人首先繳付稅款或提交令局長滿意的繳稅保證,否則確保該人不離開香港或在其返回香港後不再離開對公眾利益有利,則須向人民入境事務處處長及警務處處長發出指示("阻止離境指示"),指示他們阻止該人在沒有繳付該稅款或提交該保證的情況下離開香港。

- (ii) a dwelling house, built before 16 August 1945, of a type which was normally built for New Territories residents; or (*Amended 60 of 1987 s. 14*)
- (iii) a building in respect of which a certificate of exemption in respect of building works has been issued under section 4 or 5(a), (b) or (d) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121); (*Added 60 of 1987 s. 14*)
- (d) those built for the purpose of public religious worship and used wholly or mainly for such purpose; (*Replaced 33 of 1981 s. 22*)
- (e) any cemetery or crematorium within the meaning of section 2 of the Public Health and Municipal Services Ordinance (Cap. 132); (*Amended 10 of 1986 s. 32(1)*)
- (f) those owned and occupied for public purposes by the Government, The Legislative Council Commission, the Urban Council, the Regional Council or the Financial Secretary Incorporated; (*Replaced 33 of 1981 s. 22. Amended L.N. 235 of 1985; 1 of 1986 s. 7; 22 of 1995 s. 17*)
- (g) those owned by the Government or the Financial Secretary Incorporated (except as a mortgagee) and occupied or to be occupied as dwellings by public officers—
  - (i) by virtue of their employment; or
  - (ii) with the consent of the Government or the Financial Secretary Incorporated, solely for the term of their employment and otherwise than pursuant to a scheme or arrangement whereby any right or interest in the tenements is or may be acquired by them or by any other person; (*Replaced 33 of 1981 s. 22. Amended L.N. 235 of 1985*)
- (h) those owned by the Hong Kong Housing Authority and occupied for public purposes by the Government; (*Added 33 of 1981 s. 22*)
- (i) military land; (*Added 33 of 1981 s. 22*)
- (j) those made available by the Government within resited villages in exchange for land resumed by the Government to the former owners of such land, other than those deemed to be separate tenements for rating purposes under section 9; (*Added 33 of 1981 s. 22*)
- (k) those occupied primarily for domestic purposes in cottage areas or temporary housing areas; and (*Added 33 of 1981 s. 22*)
- (l) those in respect of which the estimated rateable value would not exceed the prescribed amount. (*Added 33 of 1981 s. 22. Amended 9 of 1984 s. 7*)

(*Replaced 82 of 1975 s. 3*)

- (ii) 1945年8月16日前建成的新界居民常用款式的住宅；或 (*由1987年第60號第14條修訂*)
- (iii) 已獲根據《建築物條例(新界適用)條例》(第121章)第4或5(a)、(b)或(d)條發給建築工程豁免證明書的建築物； (*由1987年第60號第14條增補*)
- (d) 為供公眾作宗教崇拜之用而建成，並完全或主要作該用途的物業單位； (*由1981年第33號第22條代替*)
- (e) 《公眾衛生及市政條例》(第132章)第2條所指的墳場及火葬場； (*由1986年第10號第32(1)條修訂*)
- (f) 政府、立法局行政管理委員會、市政局、區域市政局或財政司法團所擁有並佔用作公共用途的物業單位； (*由1981年第33號第22條代替。由1985年第235號法律公告修訂；由1986年第1號第7條修訂；由1995年第22號第17條修訂*)
- (g) 政府或財政司法團(作為承按人除外)所擁有並由公職人員在下列情況下佔用或行將佔用作住宅的物業單位——
  - (i) 憑藉其受僱而佔用或行將佔用；或
  - (ii) 獲得政府或財政司法團同意，並只在其受僱期佔用或行將只在其受僱期佔用，並且並非依據一項使他們或其他人獲取或可能獲取物業單位上的任何權利或權益的計劃或安排而佔用或行將佔用； (*由1981年第33號第22條代替。由1985年第235號法律公告修訂*)
- (h) 由香港房屋委員會擁有並由政府佔用作公共用途的物業單位； (*由1981年第33號第22條增補*)
- (i) 軍事用地； (*由1981年第33號第22條增補*)
- (j) 政府因收地而向土地原擁有人提供作為交換的重建村落的物業單位，但不包括第9條所訂就差餉而言被當作獨立物業單位的物業單位； (*由1981年第33號第22條增補*)
- (k) 平房區或臨時房屋區內基本上佔用作住宅用途的物業單位；及 (*由1981年第33號第22條增補*)
- (l) 其評估應課差餉租值不超過訂明款額的物業單位。 (*由1981年第33號第22條增補。由1984年第9號第7條修訂*)

(*由1975年第82號第3條代替*)

(2) The Governor in Council may, by order, declare any class of tenements, or parts thereof, or any part of the Urban Council area or Regional Council area to be exempted from the payment of rates wholly or in part. (Replaced 33 of 1981 s. 22. Amended 54 of 1990 s. 19; 22 of 1995 s. 17)

(3) The Governor may exempt any tenement, or part of any tenement, from the payment of rates, wholly or in part. (Replaced 33 of 1981 s. 22. Amended 22 of 1995 s. 17)

(3A) The Commissioner may, for the purposes of subsections (1) to (3), ascertain the rateable value of any tenement, or part of any tenement in the Urban Council area or Regional Council area. (Added 22 of 1995 s. 17)

(4) In this section—  
“agricultural land” (農地) means land used as farm land, a fish pond, a market garden, a nursery ground, an orchard or for animal husbandry; (Amended 11 of 1987 s. 11)

“building” (建築物) includes any structure; (Added 11 of 1987 s. 11)  
“cottage areas” (平房區) and “temporary housing areas” (臨時房屋區) mean such areas managed by the Hong Kong Housing Authority as may be designated by the Governor as cottage areas or temporary housing areas for the purposes of subsection (1)(k);

“military land” (軍事用地) means any land and any building thereon occupied by Her Majesty's forces, or by any body or organization established primarily for defence purposes and designated by the Governor for the purposes of this section, but not any land or building thereon rented for public purposes by any such force, body or organization unless such land or building is rented directly from the Government;

“New Territories resident” (新界居民) means any person descended through the male line from a person who was in 1898 a resident of a village or town certified by the Secretary for Home Affairs for the purposes of this section as an established village or town in the New Territories (except New Kowloon); (Amended L.N. 370 of 1981; L.N. 14 of 1983; L.N. 262 of 1989)

“resited villages” (重建村落) means such areas in the New Territories as may be designated by the Governor as resited villages for the purposes of subsection (1)(j). (Replaced 33 of 1981 s. 22)

## PART IX

### PROPOSALS, OBJECTIONS AND APPEALS

#### 37. Proposal for alteration of valuation list

- (1) Any person who is aggrieved on any of the following grounds—  
(a) that a tenement for which he is liable to pay rates has been valued above its proper rateable value;

(2) 總督會同行政局可發出命令，宣布任何類別或其部分的物業單位，或市政局地區或區域市政局地區的任何部分，獲豁免繳交全部或部分差餉。(由 1981 年第 33 號第 22 條代替。由 1990 年第 54 號第 19 條修訂；由 1995 年第 22 號第 17 條修訂)

(3) 總督可豁免任何物業單位或其部分，使該單位或該部分免繳全部或部分差餉。(由 1981 年第 33 號第 22 條代替。由 1995 年第 22 號第 17 條修訂)

(3A) 為施行第 (1) 至 (3) 款，署長可釐定市政局地區或區域市政局地區的任何物業單位或其部分的應課差餉租值。(由 1995 年第 22 號第 17 條增補)

(4) 在本條中——

“平房區”(cottage areas)及“臨時房屋區”(temporary housing areas)指由總督為施行第 (1)(k) 款而指定作為平房區或臨時房屋區，並由香港房屋委員會管理的地區；

“軍事用地”(military land)指由女皇陛下部隊或基本上成立作防衛用途並由總督為施行本條而指定的團體或組織所佔用的土地及其上的建築物，但該等部隊、團體或組織租用作公共用途的土地或其上的建築物，則不包括在內，除非該等土地或建築物乃直接向政府租得；

“重建村落”(resited villages)指總督為施行第 (1)(j) 款而指定作重建村落的新界地區；(由 1981 年第 33 號第 22 條代替)

“建築物”(building)包括任何構築物；(由 1987 年第 11 號第 11 條增補)

“農地”(agricultural land)指用作耕地、魚塘、菜園、苗圃、果園或禽畜飼養場的士地；(由 1987 年第 11 號第 11 條修訂)

“新界居民”(New Territories resident)指其人的父系祖先於 1898 年乃鄉村或城鎮居民，而該等鄉村或城鎮乃政務司為施行本條而核證為在新界(新九龍除外)業已建立的鄉村或城鎮。(由 1981 年第 370 號法律公告修訂；由 1983 年第 14 號法律公告修訂；由 1989 年第 262 號法律公告修訂)

## 第 IX 部

### 建議、反對及上訴

#### 37. 修改估價冊的建議

- (1) 任何人如因下述理由而感到受屈——  
(a) 其有法律責任繳交差餉的物業單位的估價，比物業單位的恰當應課差餉租值為高；

## RESOLUTIONS OF THE LEGISLATIVE COUNCIL

(Cap. 116, section 2, 18(1), 18(2), 19(1) and 36(1)(f))

Resolutions made and passed by the Legislative Council—

(a) under section 18(1) of the Rating Ordinance on 14 February 1979:

RESOLVED in exercise of the powers conferred by section 18(1) of the Rating Ordinance, that with effect from 1 April 1979—

- (1) the resolution made and passed by the Legislative Council on 15 March 1978 and published in the Gazette of 17 March 1978 as Legal Notice No. 58 of 1978, which determined the percentages of the rateable values of tenements for the purpose of computing general rates and Urban Council rates, be revoked;
- (2) for every tenement in a specified area set out in the first column of the Schedule, the general and Urban Council rates shall be computed on the basis of the respective percentage of the rateable value of such tenement set out opposite that area in the second and third columns of the Schedule.

## SCHEDULE

Specified Area	General Rates	Urban Council Rates
A	7½%	4%
BC	7½%	4%
D	11%	Nil
E	11%	Nil
F1, F2, F3, F4, F5, F6 and F7	9%	Nil
G1, G2, G3, G4 and G5	9%	Nil
H1, H2, H3, H4 and H5	9%	Nil
J1, J2 and J3	9%	Nil
K1 and K2	9%	Nil
L1, L2, L4 and L5	9%	Nil
M1, M2, M3, M4 and M5	9%	Nil
N1, N2 and N3	8%	Nil

(L.N. 44 of 1979)

## 立法局決議

(第116章第2、18(1)、18(2)、19(1)及36(1)(f)條)

立法局作出並通過的決議——

(a) 於1979年2月14日根據《差餉條例》第18(1)條：

在行使《差餉條例》第18(1)條所賦予的權力下，議決由1979年4月1日起——

- (1) 撤銷立法局於1978年3月15日作出並通過且於1978年3月17日在憲報作為1978年第58號法律公告刊登的決議；該決議釐定物業單位應課差餉租值的百分率，以供計算一般差餉及市政局差餉；
- (2) 位於附表第1欄所列指明地區內的物業單位，其一般差餉及市政局差餉須分別按附表第2及3欄相對列明的物業單位應課差餉租值百分率計算。

## 附表

指明地區	一般差餉	市政局差餉
A	7½%	4%
BC	7½%	4%
D	11%	無
E	11%	無
F1、F2、F3、F4、F5、F6及F7	9%	無
G1、G2、G3、G4及G5	9%	無
H1、H2、H3、H4及H5	9%	無
J1、J2及J3	9%	無
K1及K2	9%	無
L1、L2、L4及L5	9%	無
M1、M2、M3、M4及M5	9%	無
N1、N2及N3	8%	無

(1979年第44號法律公告)

## CHAPTER 140

## AIR PASSENGER DEPARTURE TAX

To impose a tax on passengers departing by air from Hong Kong and for purposes connected therewith.

[9 June 1983]

## 1. Short title

This Ordinance may be cited as the Air Passenger Departure Tax Ordinance.

## 2. Interpretation

In this Ordinance, unless the context otherwise requires—  
 “aircraft” (飛機) includes both fixed wing and rotary wing aircraft;  
 “airport” (機場) means the Hong Kong International Airport;  
 “authorized person” (獲授權人) means a person authorized under section 17A(1); (Added 100 of 1995 s. 2)  
 “Director” (處長) means the Director of Civil Aviation;  
 “operator” (經營商) means, in relation to any aircraft, the person for the time being having control over the management of the aircraft, and includes an agent of such person appointed under section 11;  
 “passenger” (乘客) means any person carried or to be carried on an aircraft other than a bona fide member of the flight crew or cabin staff operating the aircraft flight;  
 “tax” (稅·稅款) means the air passenger departure tax imposed under section 3;  
 “tax coupon” (稅券) means a tax coupon issued by the Director under section 17A(4). (Added 100 of 1995 s. 2)

## 第 140 章

## 飛機乘客離境稅條例

本條例旨在向乘搭飛機離開香港的乘客徵稅，以及就相關事宜訂立條文。

[1983年6月9日]

## 1. 簡稱

本條例可引稱為《飛機乘客離境稅條例》。

## 2. 釋義

在本條例中，除文意另有所指外——  
 “飛機” (aircraft) 包括定翼式或旋翼式飛機；  
 “乘客” (passenger) 指飛機所載運或將會載運的人，但不包括負責航程操作的真正機組人員及艙務人員；  
 “處長” (Director) 指民航處處長；  
 “稅”、“稅款” (tax) 指根據第 3 條徵收的飛機乘客離境稅；  
 “稅券” (tax coupon) 指處長根據第 17A(4) 條發出的稅券； (由 1995 年第 100 號第 2 條增補)  
 “經營商” (operator)，就飛機而言，指當其時對該飛機的管理有控制權的人，並包括該人根據第 11 條所委任的代理人；  
 “機場” (airport) 指香港國際機場；  
 “獲授權人” (authorized person) 指根據第 17A(1) 條獲授權的人。 (由 1995 年第 100 號第 2 條增補)

## FIRST SCHEDULE [s. 3]

## AIR PASSENGER DEPARTURE TAX

	Amount of Tax
1. Passenger 12 years of age or above.....	\$100
2-3. (Repealed L.N. 193 of 1991) (Amended L.N. 64 of 1985; L.N. 157 of 1988; L.N. 193 of 1991; L.N. 294 of 1994; 30 of 1996 s. 2)	

## SECOND SCHEDULE [s. 12]

## PASSENGERS EXEMPTED FROM LIABILITY TO PAY THE TAX

- Direct transit passengers, that is to say passengers arriving at the airport by aircraft from a place outside Hong Kong who —
  - do not, otherwise than for reasons which are, to the satisfaction of the Director, beyond the passengers' control, pass through arrival immigration controls; and
  - subsequently depart from Hong Kong on the same aircraft or, by reason of that aircraft being declared unserviceable, on a substituted aircraft.
- Connecting airside transfer passengers, that is to say passengers arriving at the airport by aircraft from a place outside Hong Kong who —
  - do not, otherwise than for reasons which are, to the satisfaction of the Director, beyond the passengers' control, pass through arrival immigration controls; and
  - subsequently depart from Hong Kong on another aircraft,
 not being direct transit passengers.
- Passengers who —
  - arrive on an aircraft landing in Hong Kong solely by reason of distress, emergency or adverse weather; and
  - subsequently depart from Hong Kong by aircraft as soon as practicable.
- Passengers departing from Hong Kong by aircraft being used at the time of departure —
  - for official or ceremonial purposes of the Government;
  - for military, diplomatic or ceremonial purposes of the government of any country; or
  - for official or diplomatic purposes of the United Nations or any Specialized Agency thereof.
- Passengers departing from Hong Kong by civilian aircraft, who —
  - are members of Her Majesty's forces or are civilians sponsored by the Ministry of Defence of Her Majesty's Government in the United Kingdom; and
  - are present in Hong Kong with or in connexion with Her Majesty's forces in Hong Kong,
 and members of their families forming part of their households, if their passages have been arranged by the appropriate authority or with the approval of the appropriate authority, as evidenced by a certificate issued by or on behalf of the Commander British Forces. (Amended L.N. 207 of 1985)
- Passengers who are Vietnamese refugees as defined by section 2 of the Immigration Ordinance (Cap. 115), and who are permanently departing from Hong Kong for resettlement elsewhere.

附表 1 [第 3 條]  
飛機乘客離境稅

	稅款數額
1. 12 歲或以上的乘客.....	\$100
2-3. (由 1991 年第 193 號法律公告廢除) (由 1985 年第 64 號法律公告修訂; 由 1988 年第 157 號法律公告修訂; 由 1991 年第 193 號法律公告修訂; 由 1994 年第 294 號法律公告修訂; 由 1996 年第 30 號第 2 條修訂)	

## 附表 2 [第 12 條]

## 獲豁免繳付稅款的法律責任的乘客

- 直接過境乘客，即由香港以外的地方乘搭飛機抵達機場的直接過境乘客，而此類乘客——
  - 不經過入境檢查，但如由於非乘客所能控制並獲處長信納的原因而經過入境檢查者則屬例外；並
  - 於其後乘搭同一架飛機離開香港，或由於該架飛機被宣布不能提供服務而乘坐另一架飛機離開香港。
- 轉機過境乘客，即從香港以外的地方乘搭飛機抵達機場的過境乘客，而此類乘客既不是直接過境乘客，亦——
  - 不經過入境檢查，但如由於非乘客所能控制並獲處長信納的原因而經過入境檢查者則屬例外；並
  - 於其後乘坐另一架飛機離開香港。
- 屬以下類別的乘客——
  - 純粹由於所乘搭的飛機遭遇危難、緊急情況或惡劣天氣降落香港而抵達；並
  - 於其後在切實可行範圍內盡快乘搭飛機離開香港者。
- 乘搭在當時作以下用途的飛機離開香港的乘客——
  - 作政府的公務或禮儀用途；
  - 作任何國家政府的軍事、外交或禮儀用途；或
  - 作聯合國或其屬下專門組織的公務或外交用途。
- 乘搭民航飛機離開香港並屬下述類別的乘客——
  - 英軍人員或英皇聯合王國政府國防部所資助的平民；及
  - 由於與駐守香港的英軍一起或由與駐守香港的英軍的關係而身在香港者，及與其同住的家庭成員，而他們的旅費是由有關當局安排或獲有關當局批准，且其備駐英軍總司令或其代表所簽發的證明書作為證據。(由 1985 年第 207 號法律公告修訂)
- 離開香港往外國永久定居，並屬根據《入境條例》(第 115 章)第 2 條所界定的越南難民的乘客。(由 1997 年第 80 號第 103 條修訂)

- (d) such other businesses as the Governor in Council may from time to time exempt by regulation made under section 14.

### 17. Appeals

Any person wishing to appeal under section 3(4A) or 9(5) may—

- (a) in the case of an appeal under section 3(4A), within 28 days of the Commissioner informing him that the Commissioner is not satisfied that that person is not carrying on business; and  
(b) in the case of an appeal under section 9(5), within 28 days of the Commissioner informing him that the Commissioner will not grant an exemption under section 9(1),

appeal to the Administrative Appeals Board.

(Replaced 6 of 1994 s. 56)

### 18. Amendment of Schedules

(1) The Legislative Council may by resolution amend Schedule 1.

(2) The Financial Secretary may by order published in the Gazette amend Schedule 2.

(Replaced 33 of 1994 s. 6)

### 19. Certification and issue of documents

(1) The Commissioner shall, upon request by any person and on payment of the prescribed fee, certify and issue to that person as soon as practicable—

- (a) a copy of a valid business registration certificate or a valid branch registration certificate;  
(b) an extract of any information on the register. (Replaced 79 of 1992 s. 8)

(1A) An extract of information for the purpose of subsection (1)(b) may be supplied in any or any combination of the following—

- (a) where the information is contained in a form submitted to the Commissioner under this Ordinance or the Business Regulation Ordinance 1952 (14 of 1952), by supplying a copy of the form;  
(b) where the information is contained in a microfilm image of a form referred to in paragraph (a), by supplying a copy of the microfilm image in printed form; or  
(c) where the information is recorded on a computer, by supplying such information in printed form,

as the Commissioner sees fit, and where an extract of information is supplied under paragraph (c) the Commissioner's certificate for the purpose of subsection (1) shall state that the information supplied corresponds to

- (d) 總督會同行政局藉根據第 14 條訂立的規例所不時准予豁免的其他業務。

### 17. 上訴

任何人如欲根據第 3(4A) 或 9(5) 條提出上訴——

- (a) 如屬根據第 3(4A) 條提出的上訴，可在局長通知他局長並不信納他並非是在經營業務起計的 28 天內；及  
(b) 如屬根據第 9(5) 條提出的上訴，可在局長通知他局長不會根據第 9(1) 條批給豁免起計的 28 天內，

向行政上訴委員會提出上訴。

(由 1994 年第 6 號第 56 條代替)

### 18. 附表的修訂

(1) 立法局可藉決議修訂附表 1。

(2) 財政司可藉在憲報刊登命令修訂附表 2。

(由 1994 年第 33 號第 6 條代替)

### 19. 文件的核證及發給

(1) 在有人提出要求及繳付訂明的費用後，局長須在切實可行的範圍內，盡快核證及向該人發出——

- (a) 有效的商業登記證副本或有效的分行登記證副本；  
(b) 登記冊內任何資料的摘錄。(由 1992 年第 79 號第 8 條代替)

(1A) 就第 (1)(b) 款而言，資料的摘錄可用以下的任何一種或多種形式提供——

- (a) 凡資料是載於根據本條例或《1952 年商業管制條例》\*(1952 年第 14 號) 呈交的表格時，可提供該表格的副本；  
(b) 凡資料是載於 (a) 段所提述的表格的微縮影片影像內時，可提供該微縮影片影像的印本；或  
(c) 凡資料是記錄於電腦內時，可提供該資料的印本，

以局長認為適當者為準；又凡資料的摘錄是根據 (c) 段而提供時，局長為施行第 (1) 款而發出的證明書須述明所提供的資料與根據本條例向其呈交的資料相符，並須述明該等資料是依據條例的何條條文而如此呈交。(由 1992 年第 79 號第 8 條增補)

\* “《1952 年商業管制條例》”乃 “Business Regulation Ordinance 1952” 之譯名。

**4K. Official secrecy**

(1) A person who is employed in carrying out or assisting persons in carrying out the provisions of this Ordinance—

- (a) shall preserve secrecy in all matters relating to the affairs of a person that may come to his knowledge in the performance of a duty under this Ordinance; and
- (b) shall not communicate any matter relating to the affairs of a person that may come to his knowledge in the performance of a duty under this Ordinance,

other than in the performance of a duty under this Ordinance.

(2) The Commissioner or an authorized person is not required—

- (a) to produce a return, document or assessment; or
- (b) to divulge information coming to his notice in the performance of his duties under this Ordinance,

to a court or in proceedings before a magistrate or other tribunal except as may be necessary to carry out the provisions of this Ordinance.

(3) The Commissioner may disclose information, returns, documents and assessments—

- (a) to the Financial Secretary;
- (b) relevant to a prosecution or other legal proceedings taken in relation to activities of a person in making a declaration, filing a return or obtaining an assessment under this Ordinance, to the Attorney General;
- (c) to the Director of Audit or an officer of his department authorized to have access under this section as is necessary for the Director to carry out his official duties.

(4) Nothing in this section shall prevent the Commissioner from making public a published retail price under section 4A(14).

(5) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$50,000.

(Added 43 of 1994 s. 3)

**5. Tax not payable in respect of certain motor vehicles**

(1) Tax shall not be payable in respect of any motor vehicle imported into Hong Kong by a person who is a member of Her Majesty's naval, military or air force service, being a motor vehicle in respect of which there has been paid in any country of the Commonwealth a tax or other charge which is the same as or similar to the tax payable under this Ordinance, whether such tax or charge was payable in the form of import duty or in the form of purchase tax or otherwise, so long as such person continues to be a member of such service and such motor vehicle continues to be owned by such person. (Amended 43 of 1994 s. 7)

(2) (Repealed 43 of 1994 s. 4)

**4K. 官方保密**

(1) 任何受僱執行或協助他人執行本條例條文的人，除在根據本條例執行職責時——

- (a) 須對他根據本條例執行職責時獲悉的與任何人的事務有關的所有事宜保密；及
- (b) 不得將他根據本條例執行職責時獲悉的與任何人的事務有關的任何事宜傳達他人。

(2) 除為執行本條例的條文所需外，署長或獲授權人無須向法院或在裁判官或其他審裁處席前進行的法律程序中——

- (a) 交出申報表、文件或評估書；或
- (b) 洩露他根據本條例執行職責時獲悉的資料。

(3) 署長可——

- (a) 向財政司披露資料、申報表、文件及評估書；
- (b) 就與某人根據本條例作出聲明、提交申報表或取得評估書有關的活動而提出的檢控或其他法律程序，向律政司披露有關該等檢控或法律程序的資料、申報表、文件及評估書；
- (c) 將核數署署長為執行其公職所需的資料、申報表、文件或評估書向核數署署長或該署屬下獲授權根據本條例將其取用的人員披露。

(4) 本條並不阻止署長根據第 4A(14) 條將公布零售價公布。

(5) 任何人違反第 (1) 款的規定，即屬犯罪，一經循簡易程序定罪，可處罰款 \$50,000。

(由 1994 年第 43 號第 3 條增補)

**5. 某些汽車無須繳稅**

(1) 由皇家海陸空三軍部隊成員的人輸入香港的汽車，若已在任何英聯邦任何國家繳付稅款或其他徵費，而該稅款或徵費又屬與根據本條例須予繳付的稅款相同或相近者，則不論該筆稅款或徵費是以進口稅的形式繳付，或以購物稅或其他形式繳付，只要該人仍然是該部隊的成員而該輛汽車仍然由該人擁有，即無須就該輛汽車而繳稅。(由 1994 年第 43 號第 7 條修訂)

(2) (由 1994 年第 43 號第 4 條廢除)

