

For meeting on  
19 February 2003

## **Legislative Council Panel on Financial Affairs**

### **Boundary Facilities Improvement Tax**

#### **PURPOSE**

This paper seeks Members' views on the proposed arrangements for the Boundary Facilities Improvement Tax (BFIT).

#### **BACKGROUND**

##### Announcement in the 2002-03 Budget

2. In the 2002-03 Budget Speech, the Government announced its intention to impose a tax on persons departing Hong Kong by land and by sea to help finance the improvement of boundary facilities.

3. Subsequent to this announcement, we have examined the details for implementing such a tax, including various options of charging, exemptions and collection methods. We have also been giving thought to the bill, which is necessary for the implementation of the tax.

##### Boundary facilities improvements

4. At present, passengers departing Hong Kong by air and at marine ferry terminals (the China Ferry Terminal and Macau Ferry Terminal) are already required to pay either a tax or a fixed fee to the Government. It should be equitable to apply the tax to all persons departing Hong Kong by land and by sea.

5. Furthermore, as our economic links with the Mainland strengthen, we have various plans to improve our boundary crossing facilities to minimise constraints on the flows of people and trade between the two places. Examples of such improvement measures being carried out or planned include the expansion of facilities at Lok Ma Chau boundary crossing, improvement works at Lo Wu Terminal Building and Lo Wu Footbridge, construction of boundary-crossing facilities at Shenzhen Western Corridor under the “Co-location” Arrangement, construction of the essential public infrastructural works for the Lok Ma Chau Spur Line Project etc. Total investment in these projects exceeds \$14 billion.

6. The collection of a BFIT at a reasonable rate will help finance the improvement of boundary facilities and mitigate the fiscal deficit.

## **PROPOSED ARRANGEMENTS FOR THE TAX**

### Level of tax

7. It is proposed that BFIT should be charged at \$18 per person for all persons departing Hong Kong via the land or sea departure points or harbour control points, except for passengers departing by private cars. At present, the Passenger Embarkation Fee payable by persons departing Hong Kong at the two marine ferry terminals is set at \$18 per passenger. \$18 per person for BFIT should be broadly affordable. The Passenger Embarkation Fee would be replaced by BFIT upon the latter’s implementation.

8. For private cars departing via the land departure points, it is proposed that the tax be levied on the car owners on a per vehicle basis. The level of the tax is proposed to be \$100 per car, having regard to affordability.

### Exemptions and concessions

9. It is proposed that the following persons should be exempted from the payment of BFIT:-

- (a) Boundary crossing full-time students. We intend to exempt from payment of BFIT, upon application, all students who reside in either Hong Kong, Macau or Guangdong Province and need to enter and depart Hong Kong frequently in pursuance of full-time primary, secondary, post-secondary, tertiary education or any technical/vocational training courses;
- (b) Children under the age of twelve years old. As with the Air Passenger Departure Tax, we intend to exempt all children below the age of twelve years from the payment of BFIT;
- (c) Drivers, crew members and other persons operating the land transport vehicles, ferries or cruise ships. This will be in line with the arrangements for the Air Passenger Departure Tax; and
- (d) Passengers who have arrived in Hong Kong by reason of adverse weather or emergency and depart via the land or sea departure points as well as transiting passengers for ships. This will be in line with the arrangements for the Air Passenger Departure Tax.

10. Apart from the above, it is considered appropriate to exempt visiting diplomats, consular members, members of specified International Organisations, etc. from payment of BFIT.

11. We also propose that a monthly concessionary tax rate pitched at a level equivalent to the tax payable for 15 trips (\$270) be provided for frequent commuters. The concessionary rate represents roughly a maximum of 50% discount on the full tax payable in one month by commuters who travel across the boundary every day. People would be free to decide whether to go for the monthly tax concession or the per trip-based tax. It is proposed that the concessionary tax does not apply to cruise ships including casino vessels.

## Collection mechanism

12. In 2002, there were 58.4 million passenger departures and 6.2 million vehicle departures at the five land boundary points (namely Lo Wu, Lok Ma Chau, Man Kam To, Sha Tau Kok and Hung Hom). As regards the sea side, there were 10.9 million sea passenger departures at the two sea departure points (namely the Macau Ferry Terminal and China Ferry Terminal) and other control points. In total, there were about 69 million passengers departing by land and sea control points in 2002. It is important that any collection mechanism should not cause obstruction to the very busy passenger and traffic flows thereat.

13. In devising the mode of collection of the tax, we have carefully considered various options. These options include on-site collection by way of machines which can accept Octopus cards and single tickets after customs clearance points inside the departure halls of the various control points as well as off-site collection by way of collecting the tax together with the transport fare. For on-site collection, we are concerned that during the busier days, on-site collection would create a bottleneck or tailback thus affecting the passenger flows. Given the fast increase in the number of passengers crossing the boundary during the past decade or so (annual passenger departure trips at the five land boundary points of Lo Wu, Hung Hom, Lok Ma Chau, Man Kam To and Sha Tau Kok increased by 38 million from 1992 to 2002), it would be very difficult to avoid bottlenecks at all times and all seasons. Besides, on-site collection would bring inconvenience to passengers especially visitors who may not have Octopus cards or cash in Hong Kong dollars with them when departing the territory.

14. As the primary concern is for smooth passenger and traffic flows at the departure points, it is recommended that off-site collection should be used as the main means of collection. It is also the method currently adopted for the collection of the Air Passenger Departure Tax and the Passenger Embarkation Fee. It is also recommended that on-site collection be used only when off-site collection is not feasible or would cause greater inconvenience or obstruction.

15. We recognise that under off-site collection mode, more agents will be involved in the handling of the tax and the chance of error and abuse may be higher; and that there may be more enforcement difficulties. However, because of the considerations set out above, on balance, we recommend to adopt off-site collection by way of collecting the tax together with the transport fare as the main method of collection. We will put in place appropriate monitoring and risk-management systems to minimise the risk of revenue leakage.

16. As regards private cars, having considered various options, we are currently inclined to collect BFIT through billing in arrears using the existing Automatic Vehicle Recognition System (AVRS). The AVRS option has the advantage of being cost-effective and will not adversely affect traffic flow.

#### The bill

17. It is proposed that new legislation should be enacted to implement BFIT. It is also proposed that the provisions for the new legislation should be similar to those provided for in the Air Passenger Departure Tax Ordinance (Cap. 140) and should contain the following:-

- (a) Subject to certain exemption, all persons who intend to depart from Hong Kong at a land or sea departure point as well as owners of private cars departing Hong Kong shall have to pay a boundary facilities improvement tax (the tax) to their transport operator or to the Government;
- (b) The tax is \$18 per person and \$100 per private car;
- (c) A concessionary tax rate at \$270 per month is offered in the form of a monthly ticket; any person may purchase these monthly tickets;
- (d) Transport operators shall collect the tax from their passengers on behalf of the Government unless otherwise specified. They shall maintain proper records of the passengers and the tax collected. They shall furnish returns to the Government in a

form and at intervals as the Government may specify;

- (e) Transport operators shall deposit the tax collected into a Government bank account on a regular basis or pay the tax within a period from the date of issue of a notice of demand as specified by the Government. Private car owners shall pay to the Government the amount of the tax specified in the notice and/or due within a specified period;
- (f) Transport operators may appoint agents to collect the tax on their behalf; in cases where agents are appointed, the operators and agents shall be jointly and severally liable for the amount of the tax payable by the operators;
- (g) Students who reside in either Hong Kong, Macau or Guangdong Province and need to enter and depart Hong Kong frequently in pursuance of full-time primary, secondary, post-secondary, tertiary education or any technical/vocational training courses; children under the age of twelve years old; drivers, crew members and other persons operating land transport vehicles, ferries or cruise ships; transiting passengers for ships and passengers arriving Hong Kong by reason of adverse weather or emergency; as well as other persons such as visiting diplomats, consular members, members of specified International Organisations, etc. are exempted from the tax;
- (h) Transport operators may refuse to allow boarding of passengers who fail to produce evidence of having paid the tax or of exemption;
- (i) A surcharge of 5% will be imposed on any amount of the tax in default and another surcharge of 10% will be imposed on any outstanding tax and surcharge not paid after 6 months. The Government may recover tax payable from the passengers, the transport operators or their agents as a debt due to the Government;

- (j) Offences will be imposed on persons liable to pay the tax who fail to pay the tax or make a false statement with intent to evade payment of the tax. Offences will be imposed on operators and agents who fail to keep proper records; fail to file returns as required or file incorrect returns; or permit passengers not having paid the tax to board the ship/vehicle. The penalty levels will range from a fine at level 4 to level 6 and imprisonment from 6 months to 2 years;
- (k) In proceedings for an offence concerning the furnishing of returns, it is a defence to show that the accused person has exercised all due diligence to avoid commission of the offence;
- (l) The Government may refuse to grant port clearance or issue or renew a vehicle licence or international circulation permit to ship or vehicle owners/holders who owe any amount of the tax to the Government; and
- (m) Government officers may detain any individual reasonably suspected of committing an offence.

## **ADDITIONAL REVENUE**

18. Assuming BFIT is levied at the rates proposed above, additional recurrent revenue exceeding \$1 billion per annum would be brought in for the General Revenue.

## **CONSULTATION WITH TRANSPORT OPERATORS**

19. Under the proposed off-site collection arrangements, the assistance of some 149 transport operators is required for collecting the tax on the Government's behalf. They include 126 operators of land transport (trains, shuttle buses, coaches, private buses and light buses and hire cars) and 23 operators of sea transport (ferries to the Mainland and Macau, cruise ships).

20. We have embarked on discussions with the concerned transport

operators over the collection arrangements. They include, for the land transport side, the Kowloon-Canton Railway Corporation (KCRC), New Hong Kong Bus Company Limited which operates the Lok Ma Chau/Huanggang Shuttle Bus (Yellow Bus), Hong Kong Guangdong Boundary Crossing Bus Association (HKGBCBA), Public Omnibus Operators Association Limited (POOA), individual cross-boundary coach operators, cross-boundary private bus/light bus operators, as well as cross-boundary hire car operators. As regards the sea transport side, we have consulted the individual ferry operators and cruise ship operators.

21. The ferry operators, the cruise ship operators, and the New Hong Kong Bus Company Limited do not foresee major difficulties with the proposed off-site collection. The sea transport operators considered that the existing arrangements for collecting the existing Passenger Embarkation Fee are appropriate and suggested that the arrangements under BFIT should follow those under the Passenger Embarkation Fee as far as possible. They have raised some concern over the difficulties and additional resources required in enforcing the exemptions and concessions. They have also made various suggestions regarding the enforcement of the tax and on the detailed procedures. The KCRC has commented that there are a fair amount of mismatches between their existing system design and Government's requirements, and that a long lead time may be required to modify its ticketing systems and introduce any new systems for the collection of BFIT.

22. KCRC, HKGBCBA, POOA, individual cross-boundary operators, private bus/light bus operators as well as hire car operators have raised concern over the proposed off-site collection arrangements, the difficulties in enforcing the exemptions and concessions, provision of accurate returns for assessment of the tax, as well as on the related responsibilities and offences. Some of them have expressed the view that the responsibilities placed on drivers to check exemptions and concessions and to file manifests would be too onerous. Some were concerned that they might not be in a position to detect fraudulence by their employees. It has been therefore suggested that the operators should not be subject to any offences and that responsibilities on employees and operators should be separately provided for in the legislation. Some of them have suggested that on-site collection instead



of off-site collection should be adopted.

23. The majority of the transport operators consulted have expressed the view that they would incur additional administrative expenses, if they were to collect the tax on behalf of the Government.

24. We have examined the concerned transport operators' views and discussed with them at consultative sessions the enforcement difficulties that they envisage encountering.

25. We have explained to them that the off-site collection method is considered more appropriate, given the heavy passenger flows at the various land and sea departure points. Having regard to the enforcement difficulties envisaged by the operators, the Government would, upon implementation of the tax, step up publicity with a view to educating the public on the need to pay the operator a tax on departure by land and by sea. The Government will also strengthen support at various high-risk boarding spots to help enforce the tax so as to minimise the enforcement difficulties on the part of the operators. We are considering the provision of an administrative fee for the operators to collect the tax on Government's behalf. Any such fee shall be determined by the Financial Secretary. We will continue to liaise with the transport operators with a view to securing their co-operation and refining the collection procedures.

## **ADVICE SOUGHT**

26. Members' views on the proposed BFIT charging and collection arrangements as outlined above are sought.

Treasury Branch  
Financial Services and Treasury Branch  
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