

**Procedural Guide for
Taxation / Determination of Bills of
Provisional Liquidators or Liquidators
by Masters**

Part I – Introduction

1.1 This Guide applies to the taxation / determination of the remuneration of Provisional Liquidators or Liquidators. It is expected to be followed by all Provisional Liquidators or Liquidators. In cases of non-compliance, the Court may issue appropriate directions to the person lodging the bill requiring him to remedy the default before proceeding with the taxation / determination. Unless the Court otherwise directs, this Guide does not apply to summary liquidation cases under Section 227F of the Companies Ordinance.

1.2 For the purpose of this Procedural Guide, the term “Liquidator” in the following paragraphs includes liquidator and provisional liquidator unless expressly stated otherwise.

Part II – Procedure

2.1 Any bill representing the remuneration of the Liquidator (the “Bill”) shall be **lodged** by the Liquidator with the High Court Registry (counter no. 8 at LG1) instead of being sent to the Judiciary Administrator.

2.2 The Registry shall for each winding-up case open a separate file bearing the same High Court winding-up case number as the main proceeding but with a suffix “-L” to hold the bills. Each bill lodged shall be assigned a bill number in accordance with the time it is lodged.

Part III - Documents

3.1 Any Bill for taxation / determination shall be lodged with the Court in duplicate (or in two copies) duly signed by the Liquidator. The Bill shall be lodged together with the following documents:

- (A) A Notice of Appointment for Taxation / Determination in the form as set out in Attachment 1.
- (B) For each case if it is the **first** bill lodged for taxation / determination after this procedural guide has come into operation:
 - (i) a copy of the Court Order for the appointment of the Liquidator together with any other order relating to his remuneration;
 - (ii) a source document prepared and duly signed by the Liquidator in the form of a report containing the following information:
 - (a) a brief paragraph containing an introduction to the company in question, e.g. incorporation, size, etc;
 - (b) a brief paragraph stating the main business activities carried on by the company before liquidation;
 - (c) the ground for winding-up (e.g. insolvency, just & equitable, etc.);
 - (d) if a provisional liquidator has been appointed, the grounds given for such appointment of the provisional liquidator;
 - (e) an "Assets Schedule" showing

- the nature
- location
- estimated value and
- likelihood of recovery

of each of the assets of the company (other than those with minimal value) at the commencement of the liquidation.

Please note that the above (B) documents are required to be lodged once only and the lodging of all subsequent bills for taxation need not be accompanied by such documents unless there are changes. In such case lodging an update relevant document to highlight the changes is necessary.

(C) The following documents are required for every bill lodged:

- (i) A written confirmation as to whether a Committee of Inspection has been appointed for the Liquidation, and if so, whether the bill has been submitted to the Committee of Inspection for approval. In the case where the Committee of Inspection has refused to approve the bill, the Liquidator is required to set out the items disallowed and the reasons given, if any, by the Committee of Inspection;
- (ii) a brief running narrative of the nature of work covered by the bill and the costs incurred with a short explanation as justification;
- (iii) if the bill relates to work done for recovery of assets, a list setting out the estimated value of the assets, the likelihood of recovery and an explanation for pursuing or abandoning recovery efforts, giving an update to the "Assets Schedule" in (B)(ii)(e) above. The "Assets Schedule update" should also include the following particulars:

- a) the estimated value of the assets recovered since the lodging of the last bill; and
 - b) the costs incurred for recovering the assets in (a);
- (iv) a list of the items of work done divided into different categories with the time spent (chargeable / non-chargeable) by the fee earners concerned in each item, their hourly charged-out rates and the amount charged;
- (v) a brief statement on whether there have been any write-offs, and whether disbursements have been charged at a mark-up, and if so, on which disbursements and at what rate of mark-up;
- (vi) a schedule of the **total** amount charged by each fee earner with the time spent and their charged-out rates in respect of the different categories of work undertaken.

Please note that the above (C) requirement is designed to provide the Master with an overview of the liquidation. For expedience and cost saving, documents in support of the information lodged with the bill (e.g. time sheets or documents proving assets and realizations) are not to be produced unless expressly required.

Part IV – Listing & Hearing

4.1 After the documents referred to in paragraph 3 have been lodged, the Listing Officer shall designate a hearing time for the taxation / determination of the bill lodged. At the hearing, the master will hear representation and deal with the bill summarily if possible. The representative attending the hearing is expected to be familiarized with the bill lodged for taxation / determination and be able to answer queries raised by the Court. If the taxation / determination is unlikely to be finished

For Liquidators' Bills

within the allotted time, the hearing will be adjourned to a date to be fixed with such estimated length of time as the master may consider appropriate.

4.2 Upon taxation / determination of a bill, the master will endorse at the back of the bill the following:

Amount claimed	:	\$
Amount deducted	:	\$
Amount allowed	:	\$
Court fee	:	\$ _____
Amount allowed with Court fee :		_____

Dated the day of 200

(Master)

A copy of the bill with the endorsement will be returned to the Liquidator. Upon receipt of the said duly endorsed copy bill, the Liquidator shall forthwith pay the Court fee.

Part V – After Taxation / Determination

5.1 The fee is calculated in accordance with item 19 in the First Schedule to the High Court Fees Rules.

Registrar, High Court
April 2004

**For Liquidators' Bills
Attachment 1**

(Title)

Notice of Appointment for Taxation/Determination of the

Bill of Liquidator or Provisional Liquidator

I hereby appoint _____ day, the _____ day of _____, 200() at _____ o'clock in the fore / after noon before Master _____ in Chambers at the High Court of Hong Kong to tax/determine the Bill of Costs (the particulars of which are contained in Schedule hereto) pursuant to [(the Order of _____ dated _____) / (Section _____ of the Companies Ordinance) / (Rule _____ of the Companies (Winding-up) Rules)].*

Dated this _____ day of _____ 200().

Registrar
High Court

To: The Official Receiver / Provisional Liquidators / Liquidators

Schedule

<u>Date of Bill / Invoice</u>	<u>Bill / Invoice No.</u>	<u>Period Covered</u>	<u>Amount</u>

*Delete the inapplicable and complete the appropriate part.

**Procedural Guide for
Taxation of Bills in Liquidation
(other than bills of Provisional Liquidators and Liquidators)
before Taxing Officers**

Part I – Introduction

1.1 This Guide applies to taxation pursuant to Rule 169 of the Companies (Winding-up) Rules and is expected to be observed. In cases of non-compliance, the Court may issue appropriate directions to the person lodging the bill requiring him to remedy the default before proceeding with the taxation.

1.2 For the purpose of this procedural guide, the term “Liquidator” includes the Official Receiver, Provisional Liquidator and Liquidator unless expressly stated otherwise and the term “Agent” means all persons engaged by the Liquidator as his agent including a solicitor, manager, accountant, auctioneer or broker but excluding the staff of the Liquidator.

Part II – Procedure

2.1 All bills of costs issued by a Liquidator’s Agent shall be **lodged** by the Liquidator with the High Court Registry (counter no. 8 at LG1) instead of being sent to the Judiciary Administrator.

2.2 The Registry shall for each winding-up case open a separate file bearing the same High Court Winding Up Case Number as the main proceedings but with a suffix “-A” to hold the bills. Each bill lodged shall be assigned a bill number in accordance with the time it is lodged.

Part III - Documents

3.1 A bill of costs for taxation shall be lodged with the Court in duplicate (or in two copies) duly signed by the Agent. The bill of costs shall be lodged by the Liquidator together with the following documents:

- (A) A Notice of Appointment for Taxation in the form as set out in Attachment 1 together with such number of copies for service as may be required.
- (B) For each case if it is the **first** bill lodged for taxation after this procedural guide has come into operation:
 - (i) a copy of the Court Order for the appointment of the Liquidator;
 - (ii) a source document prepared and duly signed by the Liquidator in the form of a report containing the following information:
 - (a) a brief paragraph containing an introduction to the company in question, e.g. incorporation, size, etc;
 - (b) a brief paragraph stating the main business activities carried on by the company before liquidation;
 - (c) the ground for winding-up (e.g. insolvency, just & equitable, etc.);
 - (d) if a provisional liquidator was appointed, the grounds given for such appointment of the provisional liquidator;
 - (e) an "Assets Schedule" showing
 - the nature
 - location
 - estimated value and

- likelihood of recovery
of each of the assets of the company (other than those with minimal value) at the commencement of the liquidation.

Please note that the above (B) documents are required to be lodged once only and the lodging of all subsequent bills for taxation need not be accompanied by such document unless there are changes. In such case lodging an update relevant document to highlight the changes is necessary.

- (C) For every Agent's bill of costs or charges lodged, the following documents are required:
- (i) a certificate of employment in writing, signed by the Liquidator, setting forth whether any, and if so what, special terms of remuneration have been agreed to pursuant to Rule 175 of the Companies (Winding-up) Rules;
 - (ii) a brief running narrative of the nature of the work covered by the bill and the costs incurred with a short explanation as justification;
 - (iii) if applicable, the estimated value of the asset which forms the subject matter of the bill, the likelihood of recovery and an explanation for pursuing or abandoning recovery efforts, giving an update to the "Assets Schedule" in (B)(ii)(e) above as and when required. The "Assets Schedule update" should also include the following particulars:
 - a) the estimated value of the assets recovered since the lodging of the last bill; and
 - b) the costs incurred for recovering the assets in (a);

- (iv) if applicable, a list of the items of work done in chronological order with the time spent by the fee earners concerned in each item, their hourly charge-out rates and the amount charged.
- (v) a brief statement on whether there have been any write-offs, and whether disbursements have been charged at a mark-up, and if so, on which disbursements and at what rate of mark-up; and
- (vi) a certificate of scrutiny duly signed by the Liquidator together with evidence that he has scrutinized the bill of costs lodged including but not limited to setting out the queries raised by the Liquidator together with explanations received, if any. The Liquidator shall also state his decisions on such queries raised.

Please note that the above (C) requirement is designed to provide the taxing officer with an overview of the liquidation administration. For expedience and cost saving, documents in support of the information lodged with the bill (e.g. time sheets or documents proving assets and realizations) are not to be produced unless expressly required.

- (D) In case it is a solicitor's bill of costs or charges, in addition to the documents mentioned in (C) above, the following documents are required:
 - (i) a copy of the resolution or other authority sanctioning the employment as required under Rule 175. If no such resolution or authority is produced, the bill of costs or charges of the solicitor would be disallowed;
 - (ii) the instructions given in writing to the solicitor as required under Rule 175;
 - (iii) the year of admission of the solicitors concerned; and

- (iv) a schedule of the **total** amount charged by each fee earner with the time spent and their charged-out rates.

Part IV – Listing & Taxation

4.1 After the documents referred to in paragraph 3 have been lodged, the Listing Officer shall designate a time for hearing the taxation. At the hearing, the taxing officer will hear representation and deal with the bill summarily if possible. Any representative attending the hearing is expected to be familiarized with the bill lodged for taxation and be able to answer queries raised by the taxing officer. If the taxation is unlikely to be finished within the allotted time, the hearing will be adjourned to a date to be fixed with such estimated length of time as the taxing officer may determine.

4.2 Upon conclusion of the taxation of a bill, the taxing officer will endorse at the back of the bill the following:

Amount claimed	:	\$
Amount deducted	:	\$
Amount allowed after taxation	:	\$
Taxing fee	:	\$ _____
Amount allowed with taxing fee :		_____
Dated the	day of	200

Taxing Officer

A copy of the bill with the endorsement will be returned to the party presenting the bill for taxation.

Part V – After Taxation

5.1 The Liquidator shall prepare a draft Certificate of Taxation in Form 91 (Attachment 2). The draft Certificate together with the bill of costs endorsed by the taxing officer shall be lodged with the Registry for approval.

5.2 If the papers are in order, the taxing officer shall issue the certificate and return the papers to the Liquidator. The Liquidator shall pay the taxing fee and file the certificate together with the bill of costs pursuant to Rule 174.

Registrar, High Court
April 2004

**For Agents' Bills
Attachment 1**

(Title)

Notice of Appointment to Tax Agents' Bills

I hereby appoint _____ day, the _____ day of _____, 200() at _____ o'clock in the fore / after noon before Master _____ in Chambers at the High Court of Hong Kong to tax the Bill of Costs (the particulars of which are contained in Schedule hereto) pursuant to [(the Order of _____ dated _____) / (Section _____ of the Companies Ordinance) / (Rule _____ of the Companies (Winding-up) Rules)].*

Dated this _____ day of _____ 200().

Registrar
High Court

- To: (1) The Provisional Liquidator / Liquidator
Official Receiver (in case of winding-up by Court)
- (2) Person to or by whom the bill is to be paid

(Note: Please state the full name and address of the persons to be served with this Notice)

Schedule

<u>Date of Bill / Invoice</u>	<u>Bill / Invoice No.</u>	<u>Period Covered</u>	<u>Amount</u>

*Delete the inapplicable and complete the appropriate part.

CERTIFICATE OF TAXATION

(Title)

I hereby certify that I have taxed or assessed the bill of costs [or charges] [or expenses] of Mr. C.D, [here state the capacity in which employed or engaged] [where necessary add "pursuant to an order of the court dated the _____ day of _____, 200 ____"], and have allowed the same at the sum of \$_____ [where necessary add "which sum is to be paid to the said C.D. by _____ as directed by the said order"].

Dated this _____ day of _____ 200().

Registrar / Deputy Registrar
High Court

Amount claimed	:	\$
Amount deducted	:	\$
Amount allowed after taxation	:	\$
Taxing fee	:	\$ _____
Amount allowed with taxing fee	:	_____