

**For meeting on
5 July 2002**

**LEGISLATIVE COUNCIL
PANEL ON FINANCIAL AFFAIRS**

**NEW METHOD OF STAMPING
WITHOUT PRESENTATION OF ORIGINAL INSTRUMENT**

INTRODUCTION

This paper seeks Members' views on the plan of the Stamp Office of the Inland Revenue Department ("IRD") to introduce an alternative option for stamping chargeable instruments, without presentation of the original instruments. This method will facilitate automation by electronic means of the existing stamping system.

BACKGROUND

2. The Stamp Duty Ordinance (Cap. 117) provides that every instrument chargeable with stamp duty shall be presented to the Collector of Stamp Revenue ("the Collector") for stamping and, upon payment of the requisite stamp duty, the Collector shall stamp such instrument or cause it to be stamped. Under the current requirements, all documents presented to the Collector for stamping must be original instruments.

3. For leases and contract notes, the Stamp Office will examine the original document and calculate the amount of stamp duty payable. Upon payment of the duty, the instrument will be stamped.

4. The same applies to the stamping of an agreement for sale of a residential property and a conveyance on sale of immovable property (both residential and non-residential) in Hong Kong. However, the solicitor handling the transaction is also required to complete and submit

a questionnaire that contains an abstract of the particulars of the instrument and other information to facilitate the computation of the stamp duty payable. This questionnaire will be passed to the Rating and Valuation Department for post-stamping valuation review to ascertain the adequacy of the consideration. Copies of the questionnaire will also be passed to other divisions of the IRD to update the property owners record and for initiating any necessary tax enquiries.

5. The existing stamping process has been in operation for over 20 years. With advances in technology and changes in the business environment, we consider that the current process can be improved to provide a speedier and more convenient service to the public. In particular, we intend to reduce the burden of processing bulky paper documents, which is laborious to the duty payers and related parties in the concerned business sector as well as to the Stamp Office.

PROPOSALS

6. In order to streamline the stamping process with a view to removing the need to handle the original instruments as far as possible, we propose to introduce an *alternative* method of stamping. Under the proposed alternative system, for specified documents, instead of presenting the original document to the Stamp Office, a person may submit an application for stamping. Upon receipt of the application and payment of stamp duty, the Collector may issue a certificate of stamping which is to be attached to the original instrument as evidence. The existing stamping method will remain in use after the alternative method of stamping has been introduced.

7. The main features of the proposed alternative stamping system are as follows:-

- (a) Any person who wishes to stamp a specified instrument may submit an application in a form, which may be paper or electronic, that is prescribed by the Collector and make payment of the stamp duty chargeable thereon. There is no need to present the original document unless that person is required to do so by the Collector.

- (b) The application form prescribed by the Collector will provide a correct abstract of the salient information of the instrument that may affect its liability to stamp duty similar to the questionnaire currently in use.
- (c) Upon receiving the application and the proper amount of stamp duty, the Collector will issue a certificate of stamping in respect of the instrument manually or via a new electronic stamping system. The issuance of the certificate will replace the conventional method of stamping on the instrument. The certificate of stamping will have the same legal status as the conventional stamp on the original instrument. The Collector may issue a certificate of stamping even where an instrument is presented for stamping in the traditional way, unless the duty payer specifically requests a conventional stamp on the instrument.
- (d) The Collector will decide the format and form (i.e. paper or electronic) of the certificate of stamping. He may record, denote or endorse on the certificate the particulars and matters which he is required or empowered by the Ordinance to do so on the instrument.
- (e) If any user of the instrument doubts the authenticity of a certificate of stamping, he may check this with the Stamp Office.

IMPLEMENTATION

8. We propose that the new alternative method of stamping should apply to instruments relating to property transfer and simple tenancy agreements. Such instruments already account for over 90% of all landed property transaction-related instruments handled by the Stamp Office. We do not propose to extend this new method to the remaining 10% of landed property transaction instruments because these cases normally involve complicated computations of stamp duty and the Stamp Office very often would require the applicants to submit supporting

documents in the stamping process. It would not be effective to apply the new stamping method to such cases.

9. As regards contract notes, the stamping of instruments is currently also administered by parties other than the Stamp Office, including the Hong Kong Stock Exchange and authorised brokers. We will consider the need for and merits of providing them with the alternative method of stamping in future, taking into account the experience gained in the first phase which will focus on landed property transactions.

10. A new electronic Property Stamping System (PSS) will be developed by IRD under its Information System Strategic Plans Project to cater for the alternative method of stamping.

11. Subject to Members' views on the above initiative, we plan to introduce a legislative proposal to give it effect in the 2002-03 legislative session. Pending the passage of the legislative proposal, IRD will proceed to develop the PSS. Target implementation date for the new stamping method is mid-2004.

JUSTIFICATIONS AND BENEFITS

12. The alternate stamping method will have the following benefits:
- (a) It will not be necessary for duty payers and their representatives to deliver bulky original instruments and supporting documents to the Stamp Office. There will be substantial savings on photocopying charges, certification fees, delivery costs etc. The additional costs for the preparation of an application form in electronic mode are minimal. For property transfer cases, solicitors will no longer be required to fill in the questionnaire as at present.
 - (b) The PSS will provide a convenient service to users. They will no longer need to go to the Stamp Office in person and can use the stamping service at any time of the day on their own

premises.

- (c) If the electronic stamping process is adopted, overall stamping time may be shortened from the current six working days to immediately after the duty is received by the Stamp Office.
- (d) Without the submission of bulky original documents to the Stamp Office, the risk of losing or damaging the original documents in the stamping and delivery processes will be reduced.
- (e) With the streamlining and automation of the stamping process, we expect there would be some savings in staff cost in overall terms.
- (f) The proposal, insofar as it relates to the PSS, is in line with the e-government policy. It will provide speedy and efficient transmission of property transaction data to internal and external users. The electronic data will also facilitate early compilation of statistical data for multi purposes, such as economic analysis, budget planning etc.

13. We have consulted the real estate industry and the Law Society, who are supportive of our proposal.

THE WAY FORWARD

14. Subject to any comments which Members may have, we plan to introduce the relevant legislative amendments to the Stamp Duty Ordinance in the next legislative session.

Finance Bureau
June 2002