

立法會
Legislative Council

LC Paper No. CB(1) 2405/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/09/2

Bills Committee on Stamp Duty (Amendment) Bill 2010

Minutes of third meeting
held on Tuesday, 8 June 2010, at 4:30 pm
in Conference Room B of the Legislative Council Building

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon Miriam LAU Kin-yee, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS, JP
Hon CHIM Pui-chung
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun
- Public officers attending** : Transport and Housing Bureau

Mr Eugene FUNG
Principal Assistant Secretary for Transport and Housing
(Housing)(Private Housing)

Miss Alice YEUNG
Senior Administrative Officer (Private Housing)
- Financial Services and the Treasury Bureau

Ms Shirley KWAN
Principal Assistant Secretary for Financial Services and
the Treasury (Treasury) (Revenue)

Inland Revenue Department

Mrs Brenda LEE
Assistant Commissioner 3

Ms Mary WONG
Senior Assessor

Department of Justice

Mr Sunny CHAN
Senior Assistant Law Draftsman

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I. Confirmation of minutes

(LC Paper No. CB(1) 2125/09-10 — Minutes of the meeting held on
17 May 2010)

The minutes of the meeting held on 17 May 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 2172/09-10(01) — List of follow-up actions arising
from the discussion at the meeting
on 26 May 2010

LC Paper No. CB(1) 2172/09-10(02) — Administration's response to
CB(1) 2172/09-10(01)

LC Paper No. CB(1) 2172/09-10(03) — Revised marked-up copy of the
Bill (Restricted to Members))

Relevant papers

(LC Paper No. CB(3) 624/09-10 — The Bill
Ref: HD (CR)42/213 — The Legislative Council Brief
LC Paper No. LS60/09-10 — Legal Service Division Report

LC Paper No. CB(1) 1901/09-10(01) — Background brief on Stamp Duty
(Amendment) Bill 2010)

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Bills Committee had completed the clause-by-clause examination of the Bill. Mr James TO indicated his intention to move Committee Stage amendments (CSAs) to impose additional stamp duty on confirmor sales, and would consider adjusting the rate of marginal relief under the proposed new sub-head (1A)(j) of the First Schedule to the Stamp Duty Ordinance (Cap. 117). The draft CSAs would be submitted for consideration by the Bills Committee at the next meeting.
4. Members agreed to hold the next meeting on Tuesday, 15 June 2010 at 10:45 am.

II. Any other business

5. There being no other business, the meeting ended at 5:30 pm.

Council Business Division 1
Legislative Council Secretariat
29 June 2010

**Bills Committee on
Stamp Duty (Amendment) Bill 2010**

**Proceedings of the third meeting
on Tuesday, 8 June 2010, at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000404 - 000435	Chairman	The minutes of the meeting held on 17 May 2010 (LC Paper No. CB(1) 2125/09-10) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000436 - 001844	Chairman Administration	Administration's explanation on its response to the list of follow-up actions arising from the discussion at the meeting on 26 May 2010 (LC Paper No. CB(1) 2172/09-10(01)).	
001845 - 002324	Mr James TO Administration Chairman	Mr James TO's remarks - (a) additional stamp duty on confirmer sales would increase the transaction cost and should be able to curb speculative activities; and (b) he was prepared to move Committee Stage amendments (CSAs) to impose additional stamp duty on confirmer sales. The draft CSAs would be submitted for consideration by the Bills Committee at the next meeting.	
002325 - 003404	Administration Mr James TO Chairman	Clause-by-clause examination of the Bill (Mark-up copy of the Bill (LC Paper No. CB(1) 2172/09-10(03))) Clause 3 - Chargeable agreement for sale Mr James TO's concern and enquiry - (a) there might be circumstances where the transaction value was deliberately lowered to just below \$20 million to circumvent the additional stamp duty, and to exploit the deferment of payment of stamp duty; and (b) the feasibility of lowering the threshold for deferment of payment of stamp duty	

Time marker	Speaker	Subject(s)	Action required
		<p>to property transactions valued below \$20 million to curb speculation.</p> <p>Administration's explanation -</p> <p>(a) at present, payment of stamp duty could be deferred until completion of assignment. Deferment was no longer allowed for property transactions the stated consideration for which exceeded \$20 million under the Bill; and</p> <p><i>(Post-meeting notes: The Administration advised that, at present, stamping applications (including deferment cases) took less than five working days for completion. Given the limited time, it was not possible for the Inland Revenue Department (IRD) to obtain property valuation before granting deferment. In a case where the stated transaction value was below \$20 million while the market value of the property concerned was subsequently assessed to be higher than that amount, IRD would not be able to withdraw the grant of such deferment as the Stamp Duty Ordinance did not provide for such withdrawal. In such cases, the duty payer would still have to pay the stamp duty based on the property valuation subsequently. Cases with transaction value deliberately lowered to exploit the deferment of payment of stamp duty were rare. Any person who with intent to defraud the Government by failing to declare the full consideration would commit an offence which might result in criminal proceedings. It was not considered cost-effective to put in place a withdrawal mechanism which would make both the law and stamping procedures complicated.)</i></p> <p>(b) IRD would refer agreements for sale of property to the Rating and Valuation Department for valuation. Actions would be taken if it was found that the transaction value was deliberately reduced to enable deferment of payment of stamp duty.</p>	

Time marker	Speaker	Subject(s)	Action required
003405 - 005956	Administration Mr James TO Chairman Ms Miriam LAU Mr WONG Ting-kwong	<p>Clause 4 - First Schedule amended</p> <p>Discussion on marginal relief under the First Schedule</p> <p>Mr James TO's views -</p> <p>(a) the Financial Secretary (FS) only announced in his Budget speech to increase the rate of stamp duty on property transactions valued more than \$20 million from 3.75% to 4.25%, and to disallow deferment of payment of stamp duty for such transactions, without mentioning the provision for marginal relief;</p> <p>(b) FS should have been more specific on the provision of marginal relief; and</p> <p>(c) would consider moving Committee Stage amendments (CSAs) to adjust the rate of marginal relief of stamp duty under the proposed new sub-head (1A)(j) of the First Schedule to the Stamp Duty Ordinance (Cap. 117).</p> <p>Administration's explanation -</p> <p>(a) the proposed marginal relief was consistent with other provisions in the First Schedule of the Bill to allow for a progressive rate of change; and</p> <p>(b) the application of marginal relief under the proposed new sub-head (1A)(j) of the First Schedule would provide for progressive rate of increase from 3.75% to 4.25% in respect of properties valued between \$20 million to \$21,739,120.</p> <p>Ms Miriam LAU's support for adopting the marginal relief as proposed in the Bill as this had been used in other budgetary proposals and well received by the relevant trades.</p> <p>Mr WONG Ting-kwong's support for the proposed marginal relief which was consistent with other provisions in the First Schedule of the Bill</p>	

Time marker	Speaker	Subject(s)	Action required
005957 - 010150	Chairman Ms Miriam LAU Mr WONG Ting-kwong Mr James TO	Next meeting would be held on Tuesday, 15 June 2010, at 10:45 am to consider the CSAs to be proposed by Mr James TO.	

Council Business Division 1
Legislative Council Secretariat
29 June 2010