

立法會
Legislative Council

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Tel : 2869 9640
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From : Clerk to the Legislative Council
To : All Members of the Legislative Council

Council meeting of 14 July 2010

Stamp Duty (Amendment) Bill 2010

Committee stage amendments

The Second Reading debate on the above Bill will be resumed at the Council meeting of 14 July 2010. Subject to the Bill receiving a Second Reading, the President has given permission for Hon James TO Kun-sun to move amendments to the Bill at its Committee stage.

2. As directed by the President, the amendments are attached for Members' consideration.

(Desmond LAM)
for Clerk to the Legislative Council

Encl.

STAMP DUTY (AMENDMENT) BILL 2010

COMMITTEE STAGE

Amendments to be moved by the Honourable James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>By deleting the clause and substituting-</p> <p>"2. Commencement</p> <p>(1) Subject to subsections (2) and (3), this Ordinance is deemed to have come into operation on 1 April 2010.</p> <p>(2) Sections 2A, 3(1A) and 4(5), (6) and (7) come into operation on the day on which this Ordinance is published in the Gazette.</p> <p>(3) For the avoidance of doubt, sections 2A, 3(1A) and 4(5), (6) and (7) only apply to an agreement for a sub-sale or a further agreement for a sub-sale as referred to in those provisions executed on or after the day on which this Ordinance is published in the Gazette."</p>
New	<p>By adding-</p> <p>"2A. Charging of, liability for, and recovery of stamp duty</p> <p>Section 4(3) of the Stamp Duty Ordinance (Cap. 117) is amended by adding "(except the persons specified in Note 3B to head 1(1A) in that Schedule)" after "and any person who uses such instrument".</p>
3	<p>By adding before subclause (1)-</p> <p>"(1A) Section 29C is amended by adding-</p> <p>" (2A) If a purchaser under a chargeable agreement for sale makes a chargeable agreement for a sub-sale before a conveyance on sale of the property is made in pursuance of the chargeable agreement for sale, then (subject to the notes to head 1(1A) in the First Schedule) the chargeable</p>

agreement for a sub-sale must be chargeable with an additional stamp duty in a sum of 2% of the amount or value of the consideration for the chargeable agreement for a sub-sale provided that the amount or value of the consideration for the chargeable agreement for a sub-sale exceeds \$20,000,000.

(2B) The principle in subsection (2A) applies, with necessary modifications, if there is a series of more than 1 chargeable agreement for a sub-sale in respect of the same immovable property; for example if a purchaser under a chargeable agreement for sale makes a chargeable agreement for a sub-sale, and the sub-purchaser makes a further chargeable agreement for a sub-sale, then (subject to the notes to head 1(1A) in the First Schedule) the chargeable agreement for the sub-sale or further chargeable agreement for the sub-sale must be chargeable with an additional stamp duty in a sum of 2% of the amount or value of the consideration for the-

- (a) chargeable agreement for the sub-sale provided that the amount or value of the consideration for the chargeable agreement for the sub-sale exceeds \$20,000,000; or
- (b) further chargeable agreement for the sub-sale provided that the amount or value of the consideration for the further chargeable agreement for the sub-sale exceeds \$20,000,000."."

3(1) By deleting "of the Stamp Duty Ordinance (Cap. 117) ".

4

By adding-

"(5) The First Schedule is amended, in head 1(1A), by repealing paragraph (B) and substituting-

"*(B) 30 days after the relevant date (within the meaning of section 29B(3)); but see section 29C(11) and Notes 2, 3 and 3A to this sub-head".

(6) The First Schedule is amended, in head 1(1A), by repealing paragraph (C) and substituting-

"(C) All parties, except a party who on the relevant date (within the meaning of section 29B(3)) does not know that the agreement affects him, and all other persons executing; but see Note 3B to this sub-head".

(7) The First Schedule is amended, in head 1(1A), by adding-

"Note 3A

In the case of a chargeable agreement for a sub-sale under section 29C(2A), the person liable to pay the additional stamp duty as referred to in Note 3B must pay the additional stamp duty within 30 days after the execution of that chargeable agreement

In the case of a chargeable agreement for a sub-sale or further chargeable agreement for a sub-sale under section 29C(2B), the person liable to pay the additional stamp duty as referred to in Note 3B must pay the additional stamp duty within 30 days after the execution of that chargeable agreement or further chargeable agreement

Note 3B

In the case of a chargeable agreement for a sub-sale under section 29C(2A), the person liable

is the purchaser under the chargeable agreement for sale provided that the amount or value of the consideration for the chargeable agreement for the sub-sale exceeds \$20,000,000

In the case of a chargeable agreement for a sub-sale under section 29C(2B), the person liable is the purchaser under a chargeable agreement for sale provided that the amount or value of the consideration for the chargeable agreement for the sub-sale exceeds \$20,000,000

In the case of a further chargeable agreement for a sub-sale under section 29C(2B), the person liable is the purchaser under a chargeable agreement for a sub-sale provided that the amount or value of the consideration for the further chargeable agreement for the sub-sale exceeds \$20,000,000".