

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1887/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/2/10/2

**Bills Committee on Stamp Duty (Amendment) (No. 2) Bill 2010**

**Minutes of seventh meeting**  
**held on Thursday, 10 March 2011, at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)  
Hon Albert HO Chun-yan  
Dr Hon Margaret NG  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Paul TSE Wai-chun  
Hon Alan LEONG Kah-kit, SC
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon CHAN Kam-lam, SBS, JP  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Starry LEE Wai-king, JP  
Hon Paul CHAN Mo-po, MH, JP
- Public officers attending** : **For item II**  
Transport and Housing Bureau  
  
Ms Annette LEE  
Deputy Secretary for Transport and Housing (Housing)

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

Inland Revenue Department

Mr WONG Kuen-fai  
Deputy Commissioner of Inland Revenue (Technical)

Mr HONG Wai-kuen  
Senior Superintendent of Stamp Office

Department of Justice

Ms Phyllis KO  
Senior Assistant Law Draftsman

Mr CHEUNG Man-yiu  
Senior Government Counsel

Mr Manuel NG  
Government Counsel

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

**Staff in attendance** : Miss Winnie LO  
Assistant Legal Adviser 7

Mrs Mary TANG  
Senior Council Secretary (1)1

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**I. Confirmation of minutes**

(LC Paper No. CB(1) 1483/10-11 — Minutes of the meeting held  
on 21 January 2011)

The minutes of the meeting held on 21 January 2011 were confirmed.

## II. Meeting with the Administration

(LC Paper No. CB(1) 1536/10-11(01) — Further submission from Mr David WEBB

LC Paper No. CB(1) 1536/10-11(02) — List of follow-up actions arising from the discussion at the meeting on 23 February 2011

LC Paper No. CB(1) 1536/10-11(03) — Draft Committee Stage amendments provided by the Administration)

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).

3. The Administration was requested to -

- (a) provide a paper explaining the rationale behind the proposed Committee Stage amendments (CSAs). This would also apply to major subsequent CSAs to be submitted for consideration by the Bills Committee;
- (b) advise whether relevant stakeholders had been consulted on the proposed CSAs and if so, their preliminary views so far;
- (c) advise, with illustrations, the application of stamp duty and special stamp duty (SSD) to circumstances where a vendor had made a Provisional Agreement for Sale and Purchase with a Mr A who later nominated Mr B as an additional purchaser in the Agreement for Sale and Purchase or the assignment. To also advise whether exemptions were applicable to such nomination under the Stamp Duty Ordinance (Cap. 117);
- (d) explain why SSD was not applicable to options, and whether consideration would be given to applying SSD to options so as to prevent property speculation through such means; and
- (e) provide a written response to the submission as set out in LC Paper No. CB(1) 1536/10-11(01).

4. Members agreed that deputations should be invited to express views on the draft CSAs proposed by the Administration at the next meeting scheduled for Thursday, 24 March 2011, at 10:45 am in the Chamber of the Legislative Council.

**III. Any other business**

5. There being no other business, the meeting ended at 10:15 am.

Council Business Division 1  
Legislative Council Secretariat  
12 April 2011

**Bills Committee on Stamp Duty (Amendment) (No. 2) Bill 2010**

**Proceedings of seventh meeting  
held on Thursday, 10 March 2011, at 8:30 am  
in Conference Room A of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Confirmation of minutes</i>			
001229 - 011249	Chairman	The minutes of the meeting held on 21 January 2011 (LC Paper No. CB(1) 1483/10-11) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
001250 - 002020	Chairman Administration	Administration's explanation on its draft Committee Stage amendments (CSAs) which set out the original proposal in more explicit terms as to how the dates of acquisition or disposal of ownership for the purpose of charging of the Special Stamp Duty (SSD) should be determined (LC Paper No. CB(1) 1536/10-11(03)).	The Administration to provide a paper explaining the rationale behind the proposed CSAs. This would also apply to major subsequent CSAs to be submitted for consideration by the Bills Committee
002021 - 004811	Chairman Ms Audrey EU Administration	<p>Ms Audrey EU's enquiries -</p> <p>(a) whether relevant stakeholders had been consulted on the proposed CSAs;</p> <p>(b) the changes brought about by the proposed CSAs; and</p> <p>(c) the time frame for review of the scope of exemptions under the Bill since further delay would adversely affect the progress of scrutiny by the Bills Committee.</p> <p>Administration's response -</p> <p>(a) preliminary views had been sought from the Law Society of Hong Kong which supported the proposed CSAs in general;</p> <p>(b) the main changes were set out in the proposed amendments to clauses 8 and 10 of the Bill; and</p> <p>(c) would revert back to the Bills Committee regarding the Administration's position on the various proposals received from members and deputations for more exemptions.</p>	The Administration to advise whether relevant stakeholders had been consulted on the proposed CSAs and if so, their preliminary views so far.

Time marker	Speaker	Subject(s)	Action required
004812 - 005005	Chairman Mr Albert HO Ms Audrey EU	<p>Discussion on section 29D(4) of the Stamp Duty Ordinance (Cap. 117) (the Ordinance).</p> <p>Members' request for clarification on the situation where agreement/conveyance on sale of residential property was executed in pursuance of a chargeable agreement for sale, and was in favour of a person named in the agreement as the purchaser and another person who was not so named.</p> <p>Administration's explanation-</p> <p>(a) if a vendor had executed a chargeable agreement for sale with a Mr A but in the assignment, another person, say, Mr B, was named as an additional purchaser, Mr A would be regarded as having disposed 50% of the ownership of the property to Mr B;</p> <p>(b) apart from stamp duty on the chargeable agreement between the vendor and Mr A, the assignment would also be subject to stamp duty by reference to the consideration for the agreement/conveyance, less a fraction of the stamp duty representing the proportion of the residential property that was vested in the person named in the agreement as the purchaser (i.e. Mr. A);</p> <p>(c) SSD would also be applicable to the assignment as appropriate if such transfer of ownership occurred within 24 months; and</p> <p>(d) exemptions from stamp duty or SSD would be applied for agreement/conveyance where the additional persons were husband/wife and parents/children.</p>	<p>The Administration to advise, with illustrations, the application of stamp duty and SSD to circumstances where a vendor had made a Provisional Agreement for Sale and Purchase with a Mr A who later nominated Mr B as an additional purchaser in the Agreement for Sale and Purchase or the assignment. To also advise whether exemptions were applicable to such nomination under the Stamp Duty Ordinance (Cap. 117).</p>
005006 - 005732	Chairman Mr Paul TSE Administration Ms Audrey EU	<p>Mr Paul TSE's requests -</p> <p>(a) deputations should be invited to give views on the proposed CSAs; and</p> <p>(b) explanation on the different scenarios involving the nomination in Provisional Agreement for Sale and Purchase (PASP), Agreement for Sale and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Purchase (ASP), and assignment.</p> <p>Ms Audrey EU's view that nomination was a common practice among relatives and business partners rather than a speculative means which SSD was targeted at.</p> <p>Administration explained the operation of sections 29(C)5 and 29D(4).</p>	
005733 - 010251	<p>Chairman Mr WONG Ting-kwong Administration</p>	<p>Mr WONG Ting-kwong's views -</p> <p>(a) speculative activities involving nomination were uncommon; and</p> <p>(b) the levy of SSD on nomination would have impact on normal business activities.</p>	
010252 - 010724	<p>Chairman Mr Albert HO</p>	<p>Mr Albert HO's views -</p> <p>(a) without sections 29(C)5 and 29(D)4, a speculator could avoid the stamp duty by first disposing part of his interest in the property and the remaining part later. Tax provisions and exemptions should be clear to avoid possible exploitation;</p> <p>(b) SSD could be evaded by way of setting up of a trust; and</p> <p>(c) there was a need for early enactment of the Bill on account of its retrospective effect.</p>	
010725 - 011514	<p>Chairman Ms Audrey EU Administration</p>	<p>Ms Audrey EU's enquiries on the levy of stamp duty under section 29D(4), and the scope of exemptions under the Ordinance.</p> <p>Administration's further elaboration on the operation of section 29D(4).</p>	
011515 - 012325	<p>Chairman Mr Paul TSE Administration</p>	<p>Discussion on the application of section 29D(4).</p>	
012326 - 013634	<p>Chairman Administration Mr Albert HO Mr Paul TSE</p>	<p>Discussion on the proposed exclusion of option or a right to purchase immovable property from the application of SSD.</p>	<p>The Administration to explain why SSD was not applicable to options, and whether consideration would be given to applying</p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
			SSD to options so as to prevent property speculation through such means.
013635 - 013859	Chairman Administration Mr Albert HO	Members' agreement to invite deputations to express views on the draft CSAs at the next meeting scheduled for Thursday, 24 March 2011, at 10:45 am.	
013900 - 013911	Chairman Mr Paul TSE	Mr Paul TSE's request for a written response to the submission as set out in LC Paper No. CB(1) 1536/10-11(01).	The Administration to provide a written response to the submission as set out in LC Paper No. CB(1) 1536/10-11(01)

Council Business Division 1  
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12 April 2011