

財經事務及庫務局

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28 February 2012

Ms YUE Tin-po  
Clerk to Subcommittee  
Subcommittee on Rating (Exemption) Order 2012  
Legislative Council Secretariat  
Legislative Council Complex  
Legislative Council Road  
Central, Hong Kong

Dear Ms YUE,

**Subcommittee on Rating (Exemption) Order 2012  
Second meeting on 29 February 2012**

Thank you for your letter of 24 February 2012. Our responses to the follow-up actions arising from the first meeting of the subcommittee are set out in the following paragraphs.

**(A) Information on the top ten private companies which received the highest amounts of rates concession in the years 2003-2004, 2007-2008 to 2010-2011**

2. As the billing system of the Rating and Valuation Department (“RVD”) only maintains records of accounts of which payment has yet to be settled and accounts in the past three quarters of which payment has been settled, we are unable to provide information on the ratepayers who received the highest amounts of rates concession in previous years. Excluding organisations providing public housing, the top ten organisations which are expected to receive the highest amounts of rates concession in 2012-13 are as follows -

| <b>Ratepayers</b> | <b>Amounts of Rates Concession<br/>(\$ million)</b> |
|-------------------|---|
| A                 | 90.6  |
| B                 | 20.1  |
| C                 | 19.6  |
| D                 | 19.5  |
| E                 | 16.7  |
| F                 | 15.4  |
| G                 | 12.4  |
| H                 | 11.7  |
| I                 | 10.7  |
| J                 | 8.0   |
| <b>Total</b>      | <b>224.7</b>  |

As it involves the information of ratepayers, according to legal advice, RVD cannot disclose the identity of individual organisations without the latter's consent.

**(B) Total number of domestic properties and non-domestic properties five years ago and the breakdown by rates payable by the landlord or the tenant**

3. Whether the rent is inclusive of rates only reflects the trend of the prevailing property rental market. In particular, for ease of management, owners of domestic premises generally tend to rent out their properties under rates-inclusive terms. Even though the owners request to include rates-inclusive terms in the tenancy agreements, we have no information on the considerations of both sides when drawing up the tenancy agreements, and it cannot be precluded that, to protect their interests, the tenants may have requested for separate provisions under the tenancy agreements to reflect the benefits of any rates concessions.

4. RVD would send out the Requisition for Particulars of Tenements (the requisition forms) to individual properties to collect rental information. The information collected by the requisition forms reveals the liabilities for payment of rates under the tenancy agreements, but it does not necessarily mean that the party concerned is a ratepayer in RVD's billing system. According to the information collected by the requisition forms, for tenancy agreements commencing from the period of 1 January 2007 to 31 December 2007 with respect to private domestic premises and non-domestic premises, the liabilities for the payment of rates are as follows -

| Property types            | Liabilities for the payment of rates under tenancy agreements |                |                           | Total                     |
|---------------------------|---|----------------|---------------------------|---------------------------|
|                           | Paid by tenants   | Paid by owners | Information not available | No. of tenancy agreements |
| Private domestic premises | 9 100   | 140 400        | 3 800                     | 153 300                   |
| Non-domestic premises     | 56 400  | 42 700         | 6 400                     | 105 500                   |
| Total                     | 65 500  | 183 100        | 10 200                    | 258 800                   |

**(C) Amending the Rating (Exemption) Order 2012 (“the Order”) made under the Rating Ordinance (Cap. 116) to limit the amount of rates concession or the number of tenements to be exempted from the payment of rates in terms of each individual or company owning properties**

5. Same as the rating systems in other jurisdictions, under the Rating Ordinance, the valuation and collection of rates are conducted on the basis of individual tenements. Section 36(2) of the Rating Ordinance provides that, the Chief Executive may, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates. It follows that an exemption order made under section 36(2) is on the basis of tenements.

6. The scheme proposed by Hon Albert Chan is to exclude certain tenements from the exemption based on some criteria, i.e. whether the owners of the tenements own more than a certain number of units or receive more than a certain amount of rates concession. As these criteria are legal provisions, they need to be couched in the Order in clear and certain terms. However, given the operational considerations as explained in the following paragraphs, our legal advice confirms that the criteria cannot be stipulated in the Order in clear and certain terms. It is therefore considered that Hon Chan’s proposed scheme cannot be implemented by amending the Order.

7. The proposal to exclude certain tenements from the exemption would entail difficulties in a number of areas during implementation. Firstly, when an owner owns more than a certain number of tenements, the Administration needs to consider how to select the tenements that will enjoy the exemption, whether it will simply choose the tenements with the highest rateable values or whether the selection will be based on the owners' preference. Moreover, the Administration has to clearly articulate in the Order how to calculate the share of ownership under different circumstances, e.g. joint ownership, ownership through holding companies or ownership through trustees. Furthermore, the Administration has to specify the date to determine the ownership of a property for the purpose of rates concession in each quarter and to set out the arrangements for rates concession when there is a change in ownership after the specified date. As the scope of exemption depends on the above different considerations, the criteria cannot be readily stipulated in the Order in clear and certain terms.

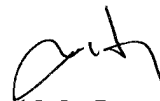
8. In addition, it is not uncommon that individuals or business establishments renting properties would have tenancy agreements under which the tenants are liable for the payment of rates. If the owners were only allowed to enjoy rates concession for a certain number of tenements or up to a certain amount of rates concession, there would be occasions where the tenants could not benefit from the rates concession. Furthermore, the proposal cannot tackle those owners holding properties under different names.

9. Administratively, Hon Chan's proposal will give rise to great difficulties during implementation. It is also not cost-effective and will delay the commencement date of the Order from 1 April 2012 to at least a few months later. Under section 21 of the Rating Ordinance, both the owner and the occupier of a tenement shall be liable for payment of the rates assessed thereon. RVD currently only maintains records on ratepayers (who can be owners, tenants or their agents) and does not have information to verify whether a ratepayer is the owner of the property concerned or not. In order to impose the said restrictions on the owners for receiving rates concession up to a certain number of tenements or to a maximum amount, before rates concession is given out in each quarter, RVD would need to cross-check some 3 million property records with those at the Land Registry so as to identify the owner(s) of each property. This will carry significant implications on manpower, resources and implementation time. Furthermore, according to legal advice, as the personal information provided by property owners to the Land Registry is for the purpose of property transaction, the information is protected by the Personal Data (Privacy) Ordinance (Cap. 486). RVD would have to obtain the consent of each and every individual data subject for the use of the data and for matching such data with the database owned by RVD. The process will take a long time and the situation will be more

complicated in case of joint ownership as described in the foregoing paragraphs. If a single owner does not give consent or does not make any response, RVD cannot start the whole cross-checking process to implement Hon Chan's proposal. Thereafter, the cross-checking also needs to be conducted from time to time to reflect the latest changes in ownership.

10. In short, rates concession is a one-off measure introduced by the Administration after taking into account the overall economic situation, the affordability of the public and the Government's fiscal position in the relevant financial year. Given the above issues in the legal, implementation and cost-effectiveness aspects, it is difficult to amend the Order in accordance with Hon Albert Chan's proposal.

Yours sincerely,



( Ms Joan Hung )

for Secretary for Financial Services  
and the Treasury

c.c. RVD (Attn: Mr P K IP)  
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