

立法會 CB(1)1580/13-14(01)號文件  
LC Paper No. CB(1)1580/13-14(01)



中華人民共和國香港特別行政區立法會  
LEGISLATIVE COUNCIL  
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION  
OF THE PEOPLE'S REPUBLIC OF CHINA

梁繼昌議員 **Hon Kenneth Leung**

6 June 2014

BY HAND

The Honourable Starry LEE Wai-king, JP  
Chairman, Bills Committee on Stamp Duty (Amendment) Bill 2013  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Starry

**Stamp Duty (Amendment) Bill 2013**  
**Committee Stage Amendment ("CSA")**

I write to withdraw the committee stage amendment to the Stamp Duty (Amendment) Bill 2013 contained in my letter of 30 May 2014 (LC Paper No. CB(1)1545/13-14(02)). In addition, I will move the attached new CSA at the Legislative Council meeting of 9 July 2014.

Yours sincerely,

**Kenneth Leung**

Encl.

《2013 年印花稅 (修訂) 條例草案》

委員會審議階段

由梁繼昌議員動議的修正案

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建議修正案

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加入—

**“29DI.** 在若干情況下就有關非住宅物業的文書可獲退還部分從價印花稅

(1) 在本條中 —

**行業、生意 (trade)** 包括每一行業及製造業，亦包括屬生意性質的所有投機活動和項目，及由根據《稅務條例》(第 112 章)第 88 條獲豁免繳稅的任何屬公眾性質的慈善機構或慈善信託經營的生意，但不包括出租及分租任何處所或其部分予任何人士，及分租根據租約或批租契約持有的任何處所或任何處所的部分；

**指明款項 (specified amount)** —

(a) 在有印花稅按照附表 1 第 1(1)類第 1 標準而就某適用文書繳付的情況下，就該文書而言，指等於以下兩款項之間的差額的款項：已繳付的印花稅，以及假使該文書須根據附表 1 第 1(1)類第 2 標準予以徵收印花稅的話，便須就它繳付的印花稅；或

(b) 在有印花稅按照附表 1 第 1(1A)類第 1 標準而就某適用文書繳付的情況下，就該文書而言，指等於以下兩款項之間的差額的款項：已繳付的印花稅，以及假使該文書須根

據附表 1 第 1(1A)類第 2 標準予以徵收印花稅的話，便須就它繳付的印花稅；

**業務 (business)** 包括所有業務，及由根據《稅務條例》(第 112 章)第 88 條獲豁免繳稅的任何屬公眾性質的慈善機構或慈善信託經營的業務，但不包括出租及分租任何處所或其部分予任何人士，及分租根據租約或批租契約持有的任何處所或任何處所的部分；

**適用文書 (applicable instrument)** 指有關非住宅物業 (**該物業**) 的文書，就該文書已按照附表 1 第 1(1)類第 1 標準或第 1(1A)類第 1 標準繳付印花稅；

- (2) 如 –
- (a) 某人根據附表 1 第 1(1)類第 1 標準或第 1(1A)類第 1 標準，就某適用文書繳付印花稅；及
  - (b) 就該物業而言，第(3)款指明的條件獲符合，
- 則署長可在接獲該人(**申請人**)的申請後，退還指明款項予該人。
- (3) 有關條件是 –
- (a) 申請人必須是在香港註冊的公司或香港永久性居民；
  - (b) 自該適用文書的日期起計，申請人純為在港經營其生意、專業或業務的用途而持續使用該物業不少於三年(**相關時期**)；
  - (c) 申請人的退款申請必須在相關時期屆滿後不多於兩年內提出。

# Stamp Duty (Amendment) Bill 2013

## Committee Stage

### Amendments to be moved by the Honourable Kenneth LEUNG Kai-cheong

#### Clause

#### Amendment Proposed

18

By adding—

**“29DI. Partial refund of ad valorem stamp duty on instruments relating to non-residential property in certain circumstances**

(1) In this section—

*applicable instrument* (適用文書) means an instrument relating to non-residential property (*the subject property*) on which stamp duty had been paid according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

*business* (業務) includes every type of businesses and a business carried on by any charitable institution or trust of a public character which is exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112), but excludes the letting or sub-letting to any person of any premises or portion thereof, and the sub-letting of any premises or portion of any premises held under a lease or tenancy;

***specified amount*** (指明款項) means —

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1) in the First Schedule - an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1) in the First Schedule; or
- (b) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1A) in the First Schedule - an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule.

***trade*** (行業、生意) includes every trade and manufacture, every adventure and concern in the nature of trade, and a trade carried on by any charitable institution or trust of a public character which is exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112), but excludes the letting or sub-letting to any person of any premises or portion thereof, and the sub-letting of any premises or portion of any premises held under a lease or tenancy;

(2) If—

- (a) a person has paid stamp duty on an applicable instrument according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule; and
- (b) the conditions specified in subsection (3) are satisfied in relation to the subject property,

the Collector may, on an application made by the person (*applicant*), refund to the person the specified amount.

(3) The conditions are—

- (a) the applicant is a Hong Kong incorporated company or a Hong Kong permanent resident;
- (b) the applicant has continuously used the subject property solely for the purpose of carrying on the applicant's trade, profession or business in Hong Kong for not less than 3 years from the date of the applicable instrument (*the relevant period*);
- (c) the application for refund is made by the applicant not later than 2 years after the date of the expiry of the relevant period.