



敬啟者：

提出修正案

本人就《2013 年印花稅（修訂）條例草案》提出的修正案稍作修訂，簡介如下：

1. 修訂第 18 條提出的修正案，以確保本人修正案如獲通過，也不會影響政府建議的減辣方案。

有關修正案是修正第 18 條，以刪除草案建議的第 29DF 條，並代以新的條文。經修訂的修正案內容主要參照政府於相關條文建議提出的修正案，但唯一不同的地方是讓「先買後賣」的換樓港人，即是購買新住宅物業的香港永久性居民，如在購入新置物業後的 12 個月內，而非政府建議的 6 個月內，簽立買賣協議以出售或以售賣轉易契轉讓其在香港原有唯一的住宅物業給他人，便可受惠於為他們而設的退回稅款機制，即獲退回反映新舊稅率差額的印花稅稅款。

2. 另一個修正案修正第 23 條，為修訂條例增設「日落條款」。本人現提交的最新修正案，主要內容不變，即是訂於 2015 年 2 月 23 日午夜，有關修訂條例即自動失效，但由原來的運輸及房屋局局長改為財政司司長，可在立法會批准下藉憲報就「日落條款」另訂日期。

兩個修正案請看附件，並懇請各位議員支持。

此致

立法會《2013 年印花稅（修訂）條例草案》委員會

立法會議員張宇人  
謹啟

2014 年 6 月 11 日

《2013 年印花稅(修訂)條例草案》

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刪除建議的第 29DF 條而代以—

**“29DF. 處置住宅物業在若干情況下可獲退還部分從價印花稅**

(1) 在本條中 —

**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，以及假使按照第 IIIA 部第 2 分部，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，以及假使按照第 IIIA 部第 3 分部，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；

**原物業** (original property) 就根據適用文書取得某標的物業的人而言，指符合以下說明的另一住宅物業(不論是否連同擬用作停泊 1 輛汽車的泊車位)：該人於其取得該標的物業的日期，是該另一物業的實益擁有人；

**標的物業** (subject property) 指根據適用文書取得的住宅物業或住宅物業連泊車位；

**適用文書** (applicable instrument)指符合以下描述的文書 —

- (a) 有人根據該文書取得某住宅物業(不論是否連同擬用作停泊 1 輛汽車的泊車位)；及
  - (b) 有印花稅已按照附表 1 第 1(1)類第 1 標準或第 1(1A)類第 1 標準，就該文書繳付。
- (2) 如任何人已就任何適用文書繳付印花稅，則署長可在接獲該人(申請人)的申請後，退還指明款項予申請人，前提是 —
- (a) 第(3)或(4)款適用於該申請人的原物業的處置；及
  - (b) 假使在取得標的物業之前，原物業已被處置的話，該適用文書便會須根據附表 1 第 1(1)類第 2 標準或第 1(1A)類第 2 標準，予以徵收印花稅。
- (3) 如 —
- (a) 有證明令署長信納，某原物業是申請人根據某買賣協議處置，而該協議是在第(5)款指明的限期內訂立的；
  - (b) 有證明令署長信納，該申請人根據某售賣轉易契將該原物業轉讓或歸屬他人，而該轉易契是依循該協議簽立的；而且
  - (c) 退還指明款項的申請，是該申請人於有關適用文書的日期後的 2 年內作出的，或於據以將該原物業轉讓或歸屬他人的售賣轉易契的日期後的 2 個月內作出的(兩者以較遲者為準)，
- 本款即屬適用於該申請人處置該原物業一事。
- (4) 如 —
- (a) 有證明令署長信納，申請人在第(5)款指明的限期內，根據某售賣轉易契將某原物業轉讓或歸屬他人；而且
  - (b) 退還指明款項的申請，是該申請人於有關適用文書的日期後的 2 年內作出

的，或於據以將該原物業轉讓或歸屬他人的售賣轉易契的日期後的 2 個月內作出的(兩者以較遲者為準)，  
本款即屬適用於該申請人處置該原物業一事。

- (5) 就第(3)(a)及(4)(a)款指明的限期如下 —
- (a) 如有關適用文書是售賣轉易契 — 該文書的日期後的 12 個月；或
  - (b) 如有關適用文書是買賣協議 — 依循該協議簽立的售賣轉易契的日期後的 12 個月。”。

《2013 年印花稅(修訂)條例草案》

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在建議的第 71 條，加入 —

- “(5) 除第 29DE、29DF、29DG 及 29DH 條及為實施此等條款而必要的本條例其他條款外，《修訂條例》將於 2015 年 2 月 23 日午夜停止生效，而《未經修訂條例》將於同日午夜恢復生效。
- (6) 財政司司長可在立法會批准下藉憲報刊登公告修訂第(5)款，於公告內可指明另一日期，以取代該款所指明的日期。”。

Stamp Duty (Amendment) Bill 2013

**Committee Stage**

Amendments to be moved by the Honourable Tommy Cheung Yu-yan

Clause

Amendment Proposed

18 By deleting the proposed section 29DF and substituting –

**“29DF. Partial refund of ad valorem stamp duty on disposal of residential property in certain circumstances**

(1) In this section—

***applicable instrument*** (適用文書) means an instrument—

(a) under which a residential property (whether or not together with a car parking space intended for the parking of 1 motor vehicle) is acquired; and

(b) 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;

***original property*** (原物業), in relation to a person who acquires a subject property under an applicable instrument, means another residential property (whether or not together with a car parking space intended for the parking of 1 motor vehicle) of which the person is a beneficial owner on the date of that acquisition;

***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 in accordance with Division 2 of Part IIIA; 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 in accordance with Division 3 of Part IIIA;

***subject property*** (標的物業) means the residential property, or the residential property and car parking space, acquired under an applicable instrument.

- (2) The Collector may, on an application made by a person (***applicant***) who had paid stamp duty on an applicable instrument, refund to the applicant the specified amount if—
  - (a) subsection (3) or (4) applies to the disposal of an original property of the applicant; and
  - (b) had the original property been disposed of before the subject property was acquired, the applicable instrument would have been chargeable with stamp duty under Scale 2 of head 1(1), or Scale 2 of head 1(1A), in the First Schedule.
- (3) This subsection applies to the disposal of an original property of the applicant if—
  - (a) it is shown to the satisfaction of the Collector that the original property is disposed of by the applicant under an agreement for sale that is made within the period specified in subsection (5);
  - (b) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance

on sale executed in conformity with that agreement; and

- (c) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (4) This subsection applies to the disposal of an original property of the applicant if—
- (a) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance on sale within the period specified in subsection (5); and
  - (b) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (5) For subsection (3)(a) and (4)(a), the following period is specified—
- (a) if the applicable instrument is a conveyance on sale—12 months after the date of that instrument; or
  - (b) if the applicable instrument is an agreement for sale—12 months after the date of the conveyance on sale executed in conformity with the agreement for sale.”.



Stamp Duty (Amendment) Bill 2013

**Committee Stage**

Amendments to be moved by the Honourable Tommy Cheung Yu-yan

Clause

Amendment Proposed

- 23        In the proposed section 71, by adding –
- “ (5) Save and except sections 29DE, 29DF, 29DG and 29DH and other provisions of this Ordinance in so far as they are necessary to give effect to those sections, the Amendment Ordinance shall cease to have effect at midnight on 23 February 2015 and the pre-amended Ordinance shall be reinstated at midnight on the same date.
- (6) Financial Secretary may, subject to the approval of the Legislative Council, by notice in the Gazette amend subsection (5) by substituting for the date specified in that subsection such date as may be specified in the notice.”.