

**The Administration's response to the issues raised at
the meeting of the Bills Committee on the Stamp Duty (Amendment)
Bill 2012 held on 18 February 2013**

Members of the Bills Committee, at the meeting on 18 February 2013, requested a summary of the Administration's responses to the major comments on the Stamp Duty (Amendment) Bill 2013 ("the Bill") expressed by the deputations and the written submissions received. The requested summary, which also responds to the issues raised in the letter from the Legislative Council Secretariat of 19 February 2013 (LC paper no. CB(1)598/12-13(03)), is attached at **Annex**.

2. In drafting the Bill, we have taken into account various views expressed in the community, including those from the Legislative Council Members and stakeholders such as the Consuls-General, the Law Society of Hong Kong, the Real Estate Developers' Association of Hong Kong, the Estate Agents Authority, the estate agency trade, local and international chambers of commerce, and associations of small and medium enterprises, etc. The Administration will continue to listen to the public's views on the Bill.

3. Given the more legal and technical nature of the submissions from the Law Society of Hong Kong, the Hong Kong Conveyancing & Property Law Association Limited and the Hong Kong Association of Banks, we will provide separate response to issues raised therein.

**Transport and Housing Bureau
March 2013**

Annex

**The Administration's responses to comments expressed by the deputations, written submissions received, and issues listed in letter dated 19 February 2013 from the Legislative Council Secretariat
[LC paper no. CB(1)598/12-13(03) refers]**

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| <i>General issues</i> | | |
| 1. In recent ten years any change in property prices has led to significant change in the consumer price index. | ♦ Dr Yip Kwok-chung | ♦ Noted. |
| 2. The current market situation is also caused by the low exchange rate and interest rate of the US dollars. | ♦ Estate Agents Management Association ♦ Hong Kong Institute of Real Estate Administrators | ♦ We are of the view that the current exuberant market situation is the combined result of various factors, including the overall demand and supply imbalance, the influx of capital, the ultra-low interest rate environment, etc. |
| 3. Welcomes the Government's initiatives and measures taken to cool down property prices and prevent a property bubble | ♦ The French Chamber of Commerce and Industry in Hong Kong ♦ Federation of Hong Kong Industries ♦ The Swiss Chamber of | ♦ Noted. |

| Comments / issues raised | Organisation / individual | The Administration's responses |
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| | Commerce in Hong Kong | |
| 4. Supports further initiative from the Government which will have the object or effect of cooling the Hong Kong property market. | <ul style="list-style-type: none"> ♦ The French Chamber of Commerce and Industry in Hong Kong ♦ Federation of Hong Kong Industries ♦ The Swiss Chamber of Commerce in Hong Kong | <ul style="list-style-type: none"> ♦ Noted |
| 5. The demand-side management measures will increase the cost of acquiring new properties, and discourage existing residential property owners from disposing of their properties. | <ul style="list-style-type: none"> ♦ Hong Kong Chamber of Professional Property Consultants Limited ♦ Estate Agents Management Association ♦ Hong Kong Institute of Real Estate Administrators ♦ Item (d) raised in LC paper no. CB(1)598/12-13(03) | <ul style="list-style-type: none"> ♦ The enhanced Special Stamp Duty ("SSD") and the Buyer's Stamp Duty ("BSD") will help ensure the healthy and stable development of the private residential property market, and accord priority to Hong Kong permanent residents ("HKPRs") in addressing their home ownership needs in the midst of the tight supply situation. ♦ The objective of the SSD is to help maintain the healthy and stable development of the property market through combating short-term speculative activities. ♦ The SSD will reduce the impact of short-term speculative activities immediately, which will in turn reduce the risk of a property bubble. With most speculators driven out of the market, the number of |

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| | | <p>flats held by speculators will gradually decrease. As to the genuine homebuyers, we believe that in general most will not resell residential properties acquired within a short period in the first place, therefore the introduction/enhancement of the SSD should not have a significant effect on the supply of flats held by these end-users. Furthermore, there are many properties that are not subject to the SSD in the market. Overall, the end result will be a more healthy market of end-users.</p> <ul style="list-style-type: none"> ♦ Through increasing the cost of acquiring residential properties by non-HKPRs, the BSD will accord priority to HKPRs in addressing the home ownership needs. |
| <p>6. Concerns about the effectiveness of the SSD and BSD in addressing the overheated residential property market, and the continued surge in residential property prices despite their launch.</p> | <ul style="list-style-type: none"> ♦ Item (e) raised in LC paper no. CB(1)598/12-13(03) | <ul style="list-style-type: none"> ♦ We are of the view that the current exuberant market situation is the combined result of various factors, including the overall demand and supply imbalance, the influx of capitals, the ultra-low interest rate environment, etc. ♦ The objectives of the SSD are to, through combating short-term speculative activities, prevent even further exuberance in the housing market which may pose significant risks to our macro economic and financial sector stability, and to ensure the healthy and stable |

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| | | <p>development of the residential property market which is crucial to the sustainable development of Hong Kong as a whole.</p> <ul style="list-style-type: none">♦ While the SSD has been effective in combating short-term speculative activities, we have reviewed the SSD in view of the continued exuberant state of the property market, and see a need to provide a stronger disincentive for speculators and short-term investors by enhancing the SSD.♦ The objective of the BSD is to accord priority to HKPR buyers over non-HKPR buyers under the current tight supply situation.♦ There is no single silver bullet which can address all the issues. The Administration will continue to closely monitor the property market and will introduce appropriate measures where necessary. |

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| <i>Enhancement to the SSD</i> | | |
| <p>7. Queries on the rationale of enhancing the SSD.</p> | <ul style="list-style-type: none"> ♦ Hong Kong Real Estate Agencies General Association ♦ Hong Kong Chamber of Professional Property Consultants Limited | <ul style="list-style-type: none"> ♦ We have reviewed the SSD in view of the continued exuberant state of the property market. ♦ In the first nine months of 2012, i.e. before the announcement of the new demand-side management measures in October 2012, on average there were a total of 15 cases per month for resale within 12 months (including confirmor transactions) which were subject to the SSD. During the same period, the monthly average number of transactions for resale between 12 to 24 months subject to the SSD was higher, at 102 cases. Moreover, the number of such cases has been on the rise, from 83 in March 2012 to 218 in September 2012, as properties bought in the early months after the introduction of the SSD reach the end of the first year of the higher SSD rates. ♦ Given the current tight supply, we see a need to provide a stronger disincentive for speculators and short-term investors. ♦ In fact, we note that other jurisdictions have also formulated measures on property market with reference to their specific circumstances. For instance, Singapore has enhanced its Seller's Stamp Duty (similar to the SSD in Hong Kong) to cover |

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| | | resale of residential properties within four years. |
| <p>8. Considers that the SSD lacks legitimate purpose and is unconstitutional and prohibited by Article 105 of the Basic Law.</p> | <p>♦ Mr David Webb</p> | <ul style="list-style-type: none"> ♦ We consider that the SSD is constitutional and, being a legitimate form of taxation, is governed by Article 108 instead of by Article 105 of the Basic Law. Legitimate taxation under Article 108 is not subject to an overriding requirement of proportionality. Even if taxation were subject to such an overriding requirement of proportionality, the collection of SSD is a proportionate measure. ♦ The objectives pursued by the SSD are legitimate. The objectives of the SSD are, through combating short-term speculative activities, to prevent further exuberance in the housing market which may pose significant risks to our macro economic and financial sector stability, and to ensure the healthy and stable development of the residential property market which is crucial to the sustainable development of Hong Kong as a whole. ♦ The SSD is rationally connected to the stated objectives. Figures suggest that the SSD has been effective in combating short-term speculative activities since its introduction in November 2010. ♦ That said, we have reviewed the SSD in view of the continued exuberant state of the property market. |

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| | | <p>We consider that there is a need to further enhance the SSD with a view to strengthening its effectiveness to combat speculative activities. In the first nine months of 2012, i.e. before the announcement of the new demand-side management measures in October 2012, on average there were a total of 15 cases per month for resale within 12 months (including confirmor transactions) which were subject to the SSD. During the same period, the monthly average number of transactions for resale between 12 to 24 months subject to the SSD was much higher, at 102 cases. Moreover, the number of such cases has been on the rise, from 83 in March 2012 to 218 in September 2012, as properties bought in the early months after the introduction of the SSD reach the end of the first year of the higher SSD rates. Given the current tight supply, we see a need to provide a stronger disincentive for speculators and short-term investors. We consider that the SSD and the enhancement to the SSD are no more than necessary to achieve the stated objectives.</p> <ul style="list-style-type: none"> ♦ We would like to emphasise that the demand-side management measures, including the SSD, are extraordinary measures introduced in response to the present exceptional circumstances. We will continue |

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| | | to closely monitor the private residential property market and consider withdrawing these measures after the demand-supply situation of the property market has regained its balance. |
| 9. Proposes that the SSD should cover industrial and commercial properties. | <ul style="list-style-type: none"> ♦ Hong Kong Economic Development Strategy Studies Centre ♦ Dr Yip Kwok-chung | <ul style="list-style-type: none"> ♦ We are aware that non-residential properties have also registered a substantial rise in prices. To address the issue, the Government announced on 22 February 2013 that the ad valorem stamp duty would be increased, which covers both residential and non-residential properties; and the charging of the ad valorem stamp duty on non-residential property transactions would also be advanced from the conveyance on sale to the agreement for sale, to tally with the existing arrangement for residential properties. Subject to the enactment of the relevant legislative amendments, the above measures shall take effect on 23 February 2013,. |
| 10. Coverage of the SSD should be increased to four years. | <ul style="list-style-type: none"> ♦ Hong Kong Economic Development Strategy Studies Centre | <ul style="list-style-type: none"> ♦ The Bill proposes extending the coverage of the SSD from the current 24 months to 36 months. We consider that the enhanced SSD should be effective in combating short-term speculative activities and strike a right balance in achieving this objective. ♦ The Administration will continue to closely monitor the property market and will introduce appropriate |

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| | | measures where necessary. |
| <p>11. SSD should be exempted if at some point in the 365 days before the transaction, the vendor owned only one residential property and at all times in the period he did not own more than two.</p> | <p>♦ Mr David Webb</p> | <ul style="list-style-type: none"> ♦ Legislation should be clear and unambiguous. Exemptions considered should be fair and granted on grounds measurable in an objective manner without compromising the effectiveness of SSD. The existing Stamp Duty Ordinance has already stipulated appropriate SSD exemptions under the aforesaid principles. ♦ Under the current regime, exemption from the payment of SSD is granted under circumstances arising from actual needs, such as the resale of a property to spouse, parents, children, brothers or sisters, and the resale of a property within the holding period due to bankruptcy / involuntary winding-up, etc. |
| <i>Introduction of the BSD</i> | | |
| <p>12. Concerns that the proportion of Mainland buyers to local buyers has increased to 37.5% to 62.5%, and supports the BSD which accords priority to HKPR buyers.</p> | <p>♦ Green Sense</p> | <ul style="list-style-type: none"> ♦ Following its announcement on 26 October 2012, the BSD has significantly curtailed demand from non-local buyers. Stamp duty statistics from IRD indicate that purchases of residential property by non-local individuals and companies (local and non-local) plunged to 318 cases or 4.5% of total transactions in Jan 2013, markedly below the |

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| | | <p>respective monthly averages of 1 089 cases or 13.6% in Jan to Oct 2012 (the period before the announcement of the BSD).</p> |
| <p>13. BSD should be effective in the short-term given the increasing proportion of Mainland buyers even in the secondary market.</p> | <p>♦ Hong Kong Chamber of Professional Property Consultants Limited</p> | <p>♦ Ditto</p> |
| <p>14. Queries the need and justification for the BSD given the latest figures on non-local buyers.</p> | <p>♦ Mr David Webb</p> | <ul style="list-style-type: none"> ♦ The objective of the BSD is to accord priority to HKPR buyers over non-HKPR buyers under the current tight supply situation. ♦ Following its announcement on 26 October 2012, the BSD has significantly curtailed demand from non-local buyers. Stamp duty statistics from IRD indicate that purchases of residential property by non-local individuals and companies (local and non-local) plunged to 318 cases or 4.5% of total transactions in Jan 2013, markedly below the respective monthly averages of 1 089 cases or 13.6% in Jan to Oct 2012 (the period before the |

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| | | announcement of the BSD). |
| <p>15. Concerns about the potential impact of the BSD on Hong Kong's reputation as a free market economy and non-HKPRs who hold a valid Hong Kong working permit.</p> | <ul style="list-style-type: none"> ♦ The Australian Chamber of Commerce in Hong Kong and Macau ♦ KPMG Tax Limited ♦ Hong Kong Institute of Real Estate Administrators ♦ The Swiss Chamber of Commerce in Hong Kong | <ul style="list-style-type: none"> ♦ We would like to emphasize the Government's unwavering determination to uphold free market principles and the market mechanism. While some may criticize that the measures will affect the status of Hong Kong as one of the world's freest economies, we would like to point out that Hong Kong's long-standing free-market economy reputation is built on multiple institutions, policies and practices that protect private property, market freedom and free flow of information and capital. ♦ Notwithstanding this, land and property are finite in supply, and we must first of all meet local needs and demands to ensure the stable development of the property market which is in the best interest of the community. ♦ Furthermore, in the present globalized environment, Hong Kong's small and open economy is vulnerable to fluctuations in the external environment. Measures such as "quantitative easing" adopted by major economies have a direct impact on our economic situation. In view of the global liquidity glut and exceptionally low interest rates, it is necessary for us to introduce extraordinary measures. |

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| <p>16. The BSD is unconstitutional and prohibited by Article 105 of the Basic Law as it discriminates against Hong Kong residents who are not HKPRs.</p> | <ul style="list-style-type: none"> ♦ Mr Leung Fan-hung ♦ Hong Kong Institute of Estate Agents ♦ Mr David Webb ♦ Hong Kong Institute of Real Estate Administrators | <ul style="list-style-type: none"> ♦ We consider that the BSD is constitutional and, being a legitimate taxation, is governed by Article 108 instead of by Article 105 of the Basic Law. ♦ In the midst of a continuously exuberant state in the residential property market, arising from a tight supply of flats, extremely low interest rates and the influx of capital from overseas, it is apparent that the residential property market is out of step with the real economy. Property prices are rising beyond the affordability of the general public and the risk of a property bubble has increased substantially. ♦ In view of the above, the Financial Secretary announced on 26 October 2012 the new demand-side management measures, including the introduction of the BSD. The objectives of the BSD are to accord priority to HKPR buyers over non-HKPR buyers under the current tight supply situation; prevent even further exuberance in the housing market which may pose significant risks to our macro economic and financial sector stability; and to ensure the healthy and stable development of the residential property market which is crucial to the sustainable development of Hong Kong as a whole. The proposed exemption for HKPR buyers pursues the legitimate aim of meeting the housing needs of |

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| | | <p>HKPRs who have a close connection with Hong Kong. Exempting buyers who are HK residents but are not HKPRs would undermine the effectiveness of the measures. The exemption is rationally connected to the legitimate aim and is no more than is necessary to accomplish that aim.</p> <ul style="list-style-type: none"> ♦ We would like to emphasise that the demand-side management measures, including the BSD, are extraordinary measures introduced in response to the present exceptional circumstances. We will continue to closely monitor the private residential property market and consider withdrawing these measures after the demand-supply situation of the property market has regained its balance. |
| <p>17. Proposes that acquisitions of residential properties by companies that are able to meet certain criteria can be exempted from the BSD. One suggestion (from the Real Estate Developers Association of Hong Kong) is to allow companies owned by no more than five HKPR shareholders and aided with a</p> | <ul style="list-style-type: none"> ♦ The Real Estate Developers Association of Hong Kong ♦ Property Agencies Association ♦ Hong Kong Institute of Real Estate Administrators ♦ Society of Hong Kong Real Estate Agents Ltd ♦ The Hong Kong Institute of | <ul style="list-style-type: none"> ♦ It is the policy intent that all companies, regardless of whether the shareholder(s) or director(s) is / are HKPR(s), should be subject to the BSD. We do not consider it appropriate to exempt company buyers from the BSD. In law, a company is an entity independent of its shareholder(s). Under the legal framework of Hong Kong, we have all along distinguished companies by whether they are established locally or overseas, instead of making reference to the HKPR status of shareholders. |

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| self-declaration mechanism to be exempted. | <p>Surveyors</p> <ul style="list-style-type: none"> ♦ Hong Kong Real Estate Agencies General Association ♦ Mr Ip Kwok-wai ♦ KPMG Tax Limited ♦ The Australian Chamber of Commerce in Hong Kong and Macau | <ul style="list-style-type: none"> ♦ Besides, even if a self-declaration mechanism is in place as some have proposed, this approach would fail to tackle the problem that the HKPR shareholders can circumvent the BSD through transferring property entitlement to non-HKPR shareholders by ways of nomination, declaration of trust or authorisation, allotment of new shares, or issue of new class of shares, etc. Upon the completion of entitlement transfer, the original shareholders may appear to remain as shareholders of the company. In reality, however, the control of the company has been transferred to someone else. ♦ Moreover, the self-declaration mechanism some have proposed may also result in innocent shareholders being held accountable in an unfair manner. Taking the suggestion to exempt companies with only five individual HKPR shareholders as an example. If one of the shareholders, without keeping the other four shareholders in the know, disposes of all his/her shares to a non-HKPR after the company has successfully obtained the BSD exemption, since the company and its shareholders are held jointly and severally liable for the payment of the BSD and the late stamping penalty, if any, such payment(s) would have to be shouldered by the other four shareholders. |

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| | | <p>Such an arrangement of subjecting all other shareholders to the payments and penalties would no doubt be controversial and open to challenge.</p> <ul style="list-style-type: none"> ♦ In view of the above, our current view is that it is inappropriate to exempt companies from the BSD simply on the basis that their shareholders are HKPRs. |
| <p>18. Proposes that acquisitions of residential properties by companies whose shareholders are all HKPRs should be exempted from the BSD on the condition that the properties acquired are not sold within three years.</p> | <ul style="list-style-type: none"> ♦ Item (b) raised in LC paper no. CB(1)598/12-13(03) | <ul style="list-style-type: none"> ♦ It is the policy intent that all companies, regardless of whether the shareholder(s) or director(s) is / are HKPR(s), should be subject to the BSD. We do not consider it appropriate to exempt company buyers from the BSD. In law, a company is an entity independent of its shareholder(s). Under the legal framework of Hong Kong, we have all along distinguished companies by whether they are established locally or overseas, instead of making reference to the HKPR status of shareholders. ♦ Under this proposal, HKPR shareholders can still circumvent the BSD through transferring property entitlement to non-HKPR shareholders by ways of nomination, declaration of trust or authorisation, allotment of new shares, or issue of new class of shares, etc. Upon the completion of entitlement transfer, the original shareholders may appear to |

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| | | <p>remain as shareholders of the company. In reality, however, the control of the company has been transferred to someone else.</p> <ul style="list-style-type: none"> ♦ In view of the above, our current view is that it is inappropriate to exempt companies whose shareholders are all HKPRs from the BSD on the condition that the properties acquired are not sold within three years. |
| <p>19. Proposes an additional BSD for companies and individuals acquiring the second or more property.</p> | <ul style="list-style-type: none"> ♦ Hong Kong Economic Development Strategy Studies Centre | <ul style="list-style-type: none"> ♦ Private residential property market continues to be exuberant amidst a low interest rate and abundant liquidity environment. Meanwhile, the non-residential properties have also registered a substantial rise in prices. The Government announced on 22 February 2013 that the ad valorem stamp duty would be increased, which covers both residential and non-residential properties; and the charging of the ad valorem stamp duty on non-residential property transactions would also be advanced from the conveyance on sale to the agreement for sale, to tally with the existing arrangement for residential properties. Subject to the enactment of the relevant legislative amendments, the above measures shall take effect on 23 February 2013. |

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| | | <ul style="list-style-type: none"> ♦ The Administration will continue to closely monitor the property market and will introduce appropriate measures where necessary. |
| <p>20. Agrees that it would be impossible to devise a scheme which exempt companies owned by HKPRs from the BSD without creating any loophole.</p> | <ul style="list-style-type: none"> ♦ Mr David Webb | <ul style="list-style-type: none"> ♦ Noted. |
| <p>21. Religious and / or charitable corporations exempted from tax under section 88 of the Inland Revenue Ordinance should be exempted from the BSD.</p> | <ul style="list-style-type: none"> ♦ Hong Kong Christian Council | <ul style="list-style-type: none"> ♦ Under the existing Stamp Duty Ordinance, charitable bodies exempted from tax under section 88 of the Inland Revenue Ordinance are still subject to stamp duty, which includes the ad valorem stamp duty and the SSD, unless the properties are gifts to charitable bodies. Exempting charitable bodies from the BSD is contrary to the policy intention of according priority to HKPRs in addressing their home ownership needs. ♦ Having made reference to the existing ad valorem stamp duty and SSD regimes, the Bill has already proposed to grant exemption from BSD for gift of residential properties to charitable institutions exempted from tax under section 88 of the Inland Revenue Ordinance. We consider that the Bill has |

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| | | <p>struck a right balance in addressing the needs of charitable institutions.</p> <ul style="list-style-type: none"> ♦ We would like to emphasise that the demand-side management measures are extraordinary measures introduced in response to the present exceptional circumstances. We will continue to closely monitor the private residential property market and consider withdrawing these measures after the demand-supply situation of the property market has regained its balance. |
| <p>22. High-value properties should not be subject to the BSD.</p> | <ul style="list-style-type: none"> ♦ Estate Agents Management Association ♦ Mr David Webb | <ul style="list-style-type: none"> ♦ We do not agree to this proposal. First of all, figures indicate a state of exuberance not only in single type of market but the property market as a whole. In fact, as at end 2012, the prices of large units (saleable area equal to or above 100sqm) and small and medium sized units (saleable area below 100sqm) had increased respectively by 82% and 117% as compared with the trough in 2008. They are respectively 35% and 30% higher when compared with the peak in 1997. To accord priority to all HKPR buyers in meeting their housing and home ownership needs, we consider it necessary to levy BSD based on a clear criterion with no ambiguity, i.e., the HKPR status. ♦ More importantly, if we were to exempt the luxury |

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| | | <p>market, developers might well be more inclined to develop land into luxury properties, which would further affect the supply in the mass market of residential properties.</p> |
| <p>23. Proposes that all identity card holders and companies with business registration in Hong Kong should be exempted from the BSD.</p> | <p>♦ Mr David Webb</p> | <ul style="list-style-type: none"> ♦ The objective of the BSD is to accord priority to HKPR buyers over non-HKPR buyers under the current tight supply situation. ♦ We are not subjecting HKPRs to the BSD because HKPR status is only accorded to individuals who can demonstrate a close connection with Hong Kong, which is an appropriate basis for the Government to accord priority to their housing demand amid the tight supply of residential flats. ♦ Exempting identity card holders who are not HKPRs and companies from the BSD would dilute the intent and undermine the effectiveness of the BSD. |
| <p>24. The Buyer's Stamp Duty (BSD) will hinder redevelopment.</p> | <p>♦ The Real Estate Developers Association of Hong Kong</p> | <ul style="list-style-type: none"> ♦ A refund mechanism has been proposed under the Bill so that acquisitions of residential properties for redevelopment purpose (whether the residential property acquired is for redevelopment into a residential or a non-residential property) will be exempted from the BSD, provided that the immovable properties being constructed are completed within six years, with extension allowed in specific |

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| | | <p>circumstances. For BSD purposes, our proposal is that the “six-year period” will start counting when the relevant developer has become the owner of the entire lot of the redevelopment concerned. The developer will be considered to have completed the construction if it has obtained, within six years thereafter, the Occupation Permit (OP) in respect of the redevelopment, or the first OP if there is more than one for the entire redevelopment.</p> <ul style="list-style-type: none"> ♦ We would like to emphasise that the proposed “six-year” period is not set on an arbitrary basis. In formulating the mechanism, we have made reference to the redevelopment timeframe set out under the Land (Compulsory Sale for Redevelopment) Ordinance, which stipulates that the redevelopment of the lot sold under an order granted under that Ordinance shall be completed and made fit for occupation within six years after the date on which the purchaser of the lot became the owner of the lot. We have also made reference to the building covenants stipulated in the land grants, which require the lot owners to complete the developments concerned within the specified periods, generally four to six years ♦ To facilitate redevelopment, once the development |

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| | | <p>has acquired its first Occupation Permit within the “six-year period”, this will be regarded as satisfying the refund requirement and a full refund will be granted for all phases in the redevelopment. In short, we consider that the proposed mechanism will not block redevelopment. Indeed, it should be flexible enough to cater for the actual operation of redevelopment.</p> |

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| <p>25. Proposes that refund of the BSD should be made when the Lands Tribunal has made an order for compulsory sale; for other redevelopment cases, refund should be made when the original property has been demolished.</p> | <p>♦ The Hong Kong Institute of Surveyors</p> | <p>♦ It would be difficult to give any exemption from the BSD before the IRD can obtain solid proof that an acquisition is indeed for the purpose of redevelopment and that the developer can subsequently fulfill the various conditions for exemption. While the site or the property concerned may be acquired for redevelopment purposes, there is equal chance that it can be acquired for trading. Therefore, under the mechanism as proposed in our Bill, the person or company pursuing redevelopment has to pay the BSD upfront as and when individual units are acquired. However, once the development has acquired the first OP within the “six-year period”, it will be regarded as satisfying the refund requirement. We consider that our proposed arrangement under the Bill could avoid any risk of abuse, has struck the right balance between maintaining the integrity of the BSD regime while not interfering with practical aspects of redevelopment projects.</p> |

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| 26. Proposes that the winners of the compulsory auctions under the Land (Compulsory Sale for Redevelopment) Ordinance should be exempted from the BSD. | ♦ Mr David Webb | ♦ Ditto |
| 27. Proposes that refund of the BSD should be made at the time when an investor / developer has accumulated an interest of not less than 80% in a residential building. | ♦ The Real Estate Developers Association of Hong Kong | ♦ Ditto |

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| <p>28. Proposes that there should be an exemption for the purchase of an entire multiple-dwelling building.</p> | <p>♦ Mr David Webb</p> | <ul style="list-style-type: none"> ♦ The proposed BSD refund mechanism under the Bill covers redevelopment projects, rather than the renovation of buildings, as redevelopment projects are considered conducive to an increased supply of residential stock which will help prevent the further exuberance in the housing market in line with the policy objective behind the introduction of BSD. It is not apparent to us how the acquisition and wholesale renovation of properties by investors will support the policy objective concerned. That said, the Administration attaches importance to the safety of our existing housing stock and welcomes private sector initiatives to rehabilitate old buildings. ♦ Over the last few years, the Administration has introduced a host of measures in collaboration with the Urban Renewal Authority and the Hong Kong Housing Society, to provide professional advice and financial support to eligible owners to help them rehabilitate and improve their buildings, such as the Operation Building Bright initiative and the Integrated Building Maintenance Assistance Scheme. |

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| <i>Other issues</i> | | |
| 29. Supports that the Financial Secretary may by notice amend the SSD and BSD rates. | <ul style="list-style-type: none"> ♦ Hong Kong Institute of Real Estate Administrators | <ul style="list-style-type: none"> ♦ This mechanism provides the necessary flexibility to adjust the applicable rates (to zero if necessary) in a timely manner with reference to the market situation. |
| 30. Suggests that the Government should have in place an exit plan in case of a sudden reverse in property market. | <ul style="list-style-type: none"> ♦ Estate Agents Management Association ♦ Hong Kong Real Estate Agencies General Association ♦ Item (c) raised in LC paper no. CB(1)598/12-13(03) | <ul style="list-style-type: none"> ♦ We will continue to closely monitor the property market by making reference to a basket of indicators, including property prices, the housing affordability for the general public, the volume of property transactions, the supply of residential properties, mortgage payments, rent-to-income ratio, etc. We will consider withdrawing these measures after the demand-supply situation of the property market has regained its balance. ♦ Accordingly, we have proposed in the Bill that adjustments to the SSD and BSD rates should be made by means of subsidiary legislation subject to negative vetting by LegCo, in order to have the necessary flexibility to adjust the applicable rates (to zero if necessary) in a timely manner with reference to the market situation. |

| Comments / issues raised | Organisation / individual | The Administration's responses |
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| 31. Proposes a sunset clause for the new measures. | <ul style="list-style-type: none"> ♦ Hong Kong Institute of Real Estate Administrators | <ul style="list-style-type: none"> ♦ We do not consider it possible for us to pre-determine a date on which the BSD would be deemed no longer necessary. We will continue to closely monitor the property market by making reference to a basket of indicators, including property prices, the housing affordability for the general public, the volume of property transactions, the supply of residential properties, mortgage payments, rent-to-income ratio, etc. The demand-side management measures are extraordinary measures introduced under the current exceptional circumstances. We would consider withdrawing these measures after the demand-supply situation of the property market has regained its balance. ♦ Accordingly, we have proposed in the Bill that adjustments to the SSD and BSD rates should be made by means of subsidiary legislation subject to negative vetting by the Legislative Council, in order to have the necessary flexibility to adjust the applicable rates (to zero if necessary) in a timely manner with reference to the market situation. |
| 32. Suggests that the Government should further increase land supply. | <ul style="list-style-type: none"> ♦ Dr Yip Kwok-chung ♦ Property Agencies Association | <ul style="list-style-type: none"> ♦ The 2013 Policy Address has set out an overall blueprint for increasing land supply in the short, medium and long term through a multi-pronged |

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| | <ul style="list-style-type: none"> ♦ Federation of Hong Kong Industries ♦ Liberal Party ♦ Hong Kong Institute of Real Estate Administrators | <p>approach involving both optimizing the use of developed land and identifying new land for development. Ten initiatives have been put forward to increase land supply for housing in the short to medium term, seven of which will make available over 300 hectares of housing land. The Government is also determined to develop new land extensively and build up an abundant "land reserve" so as to respond more flexibly to the society's future needs for land. To this end, a series of long-term projects, including the North East New Territories New Development Areas and development of the New Territories North will be expeditiously taken forward.</p> <ul style="list-style-type: none"> ♦ The Government is also conscious of the need to address the shortage of commercial land supply in a holistic, innovative and decisive manner. The Policy Address has also set out a series of measures, including converting government office buildings and "Government, Institution or Community" (GIC) sites in Central and Wan Chai to commercial use, expediting plans to develop Kowloon East as another central business district, reviewing the planning of the sites in the Kai Tak Development Area to explore the possibility of increasing office and housing supply, etc. The Financial Secretary now chairs a |

| Comments / issues raised | Organisation / individual | The Administration's responses |
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| | | re-organized Steering Committee on Land Supply to co-ordinate the overall plans for development and supply of land in Hong Kong for various uses. |
| 33. Suggests that the SSD should be replaced by capital gains tax as the former would affect those who need to dispose of their properties within 36 months for non-speculation reasons. | <ul style="list-style-type: none"> ♦ Property Agencies Association | <ul style="list-style-type: none"> ♦ We have undergone careful and thorough consideration in formulating targeted measures to address the current exuberant state of the residential property market. The suggestion of introducing capital gains tax on transactions of residential property would not only involve complicated legislation, but also imply a fundamental change to the simple tax regime of Hong Kong. We consider that the proposed enhanced SSD and BSD could tackle the problem of short-term speculative activities and alleviate the immediate demand for residential properties in the most effective and targeted manner, hence addressing the mismatch in demand and supply. ♦ We will continue to closely monitor the property market and will introduce appropriate measures where necessary. |
| 34. The purchasing power has shifted from the residential property market to other markets, such as industrial and commercial properties. | <ul style="list-style-type: none"> ♦ Hong Kong Chamber of Professional Property Consultants Limited ♦ Hong Kong Institute of Real | <ul style="list-style-type: none"> ♦ We are aware that non-residential properties have also registered a substantial rise in prices. The Government announced on 22 February 2013 that the ad valorem stamp duty would be increased, which covers both residential and non-residential properties; |

| Comments / issues raised | Organisation / individual | The Administration's responses |
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| | Estate Administrators | <p>and the charging of the ad valorem stamp duty on non-residential property transactions would also be advanced from the conveyance on sale to the agreement for sale, to tally with the existing arrangement for residential properties. Subject to the enactment of the relevant legislative amendments, the above measures shall take effect on 23 February 2013.</p> <ul style="list-style-type: none"> ♦ The Government will continue to closely monitor the land supply for commercial properties. In the long run, we will ensure a stable and adequate supply of land for business and commercial uses to tie-in with the sustainable development of the Hong Kong economy and maintain the status of Hong Kong as a business hub and financial centre. |
| 35. Suggests the Government to introduce suitable measures to address the increase in rental of industrial, commercial and retail premises. | ♦ Federation of Hong Kong Industries | <ul style="list-style-type: none"> ♦ We are aware that non-residential properties have also registered a substantial rise in prices. The Government announced on 22 February 2013 that the ad valorem stamp duty would be increased, which covers both residential and non-residential properties; and the charging of the ad valorem stamp duty on non-residential property transactions would also be advanced from the conveyance on sale to the agreement for sale, to tally with the existing arrangement for residential properties. Subject to |

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| | | <p>the enactment of the relevant legislative amendments, the above measures shall take effect on 23 February 2013.</p> <ul style="list-style-type: none">♦ The Administration will continue to closely monitor the property market and will introduce appropriate measures where necessary. |
| 36. Shares that in Switzerland only Swiss can buy properties, and that there are specific guidelines for the purchase. | <ul style="list-style-type: none">♦ The Swiss Chamber of Commerce in Hong Kong | <ul style="list-style-type: none">♦ Noted. The Administration will continue to listen to the public's views on the Bill and engage the stakeholders. |