

**Bills Committee on Stamp Duty (Amendment) Bill 2012**

**List of follow-up actions arising from the discussion  
at the meeting on 18 November 2013**

The Administration was requested to provide written response on the following issues:

Follow-up to the Administration's response to the issues raised at the meeting on 28 October 2013 (LC Paper No. CB(1)291/13-14(02))

*Issues in relation to "guardians" and "trustees"*

- (a) to explain whether exemption from the Buyer's Stamp Duty (BSD) would be granted in the following scenarios of acquisition of residential property involving trust arrangements for minors as the beneficiaries –
  - (i) the trustee is entitled to the right to enjoyment of the residential property acquired (including the income derived from the direct use, letting or use in any other form of such right to enjoyment) before the beneficiary become 18 or 21 years of age;
  - (ii) there are more than one beneficiaries, including Hong Kong permanent residents (HKPRs) and non-HKPRs;
  - (iii) the beneficiary is a HKPR, and the trustee is a non-HKPR or a company;
  - (iv) the beneficiary is a non-HKPR, and the trustee is a HKPR; and
  - (v) there are more than one beneficiaries and trustees, both including HKPRs and non-HKPRs.
- (b) to consider Hon WONG Ting-kwong's suggestion that only the biological parent or legal guardian of a HKPR minor or mentally incapacitated person would be granted BSD exemption; and
- (c) to consider Hon Kenneth LEUNG's suggestion that only a HKPR can claim BSD exemption in the capacity as the trustee of a HKPR minor or mentally incapacitated person.

*Acquisition of a residential property jointly by HKPR and non-HKPR as tenants in common*

- (d) to advise whether there is any anti-tax avoidance provisions in the local and overseas taxation or stamp duty regime similar to the proposed section 29CB(10) and section 29DB(11) of the Bill.

*Exempting certain acquisitions of a replacement property by non-HKPRs from the BSD*

- (e) to consider Hon James TO Kun-sun's suggestion of restricting the size of the replacement property (such as to a maximum of two or three times of the size of the property replaced) for the replacement purchase by a non-HKPR property owner who is made to sell a residential property under the specified legislation;
- (f) to provide the legal justifications for its response in relation to the resumption of underground strata as set out in paragraph 10 in LC Paper No. CB(1)291/13-14(02); and
- (g) to provide the legal justifications for the inconsistency between granting BSD exemption for replacement property to a company which is made to sell a residential property under the proposed section 29CB(4) of the Bill, while refusing to exempt HKPR companies from BSD on the rationale that "a company was an entity independent of its shareholders" under the company law.