

Bills Committee on Stamp Duty (Amendment) Bill 2013

**The Administration's responses to
the written questions raised by Hon James TO**

This paper sets out the Administration's responses to the written questions raised by Hon James TO (LC Paper No. CB(1)1650/13-14(01)) concerning the revised draft Committee Stage Amendments ("CSAs") proposed by the Government for the exemption arrangement in respect of acquisition of residential property together with a car parking space, as enclosed to the letter of 19 June 2014 from the Legislative Council Secretariat.

Exemption arrangement in respect of acquisition of residential property together with a car parking space

2. According to the doubled ad valorem stamp duty ("AVD") regime proposed under the Stamp Duty (Amendment) Bill 2013, Hong Kong permanent residents ("HKPRs") who are not beneficial owners of any other residential property in Hong Kong on the date of acquisition will be exempted from doubled AVD for their transactions on residential properties (irrespective of whether the acquisitions are made jointly with close relatives and whether the close relatives are HKPRs), so as to be consistent with the Government's policy objective of according priority to the home ownership needs of HKPRs. All non-residential property transactions will not be exempted.

3. As regards transactions on residential property together with a car parking space, we put forward in May 2014 a technical modification proposal, indicating the Government's agreement to uphold the spirit of providing exemption for residential properties and to cater also to the home ownership needs of those who acquire residential property together with a car parking space by a single instrument by exempting the car parking space from the doubled AVD. However, we set out clearly at the same time that given the non-residential nature of car parking space, any special exemption arrangement for car parking space should be drawn up in a stringent manner and the relevant conditions include -

- (a) the buyer must be a HKPR acting on his/her own behalf;
- (b) the buyer is not a beneficial owner of any other residential property and car parking space in Hong Kong on the date of acquisition of the residential property and car parking space concerned; and

- (c) if the transaction concerned involves more than one car parking space, all the car parking spaces will not be exempted even if they are purchased together with residential property.

In the light of the aforesaid stance of drawing up the special exemption in a stringent manner, we do not intend to extend the special exemption arrangement in respect of car parking space to cover transactions involving joint acquisitions by HKPRs and their close relatives who are non-HKPRs. The Government's draft CSAs have clearly reflected our legislative intent.

4. Separately, Hon James TO has also asked about the stamp duty treatment if a HKPR, who acts on his/her own behalf and does not own any other residential property and car parking space in Hong Kong, executes an instrument to acquire two residential properties and two car parking spaces with each permitted for the parking of one vehicle.

5. If the concerned residential properties and car parking spaces are not separate properties, the car parking spaces will be regarded as part of the residential properties and the whole instrument will be treated as a transaction of residential property. Accordingly, the AVD payable will be computed at the old rates on the basis of the total consideration of the relevant transaction. If the concerned residential properties and car parking spaces are separate and distinct properties, the AVD chargeable to the relevant instrument will be calculated according to the respective considerations of the residential properties and the car parking spaces separately, but the applicable rate will be determined on the basis of the total consideration of the entire instrument and the nature of the property. Specifically, based on the aforesaid stringent exemption arrangement in respect of acquisition of residential property together with a car parking space, the two car parking spaces involved in the relevant transaction under the scenario raised by Hon James TO will not be exempted from the doubled AVD.