

立法會 *Legislative Council*

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Subcommittee on Rating (Exemption) Order 2014

Background brief

Purpose

This paper provides background information on the Rating (Exemption) Order 2014 ("the 2014 Order"). It also summarizes the discussions by Members when a similar order was made in 2012.

Background

2. In the 2014-15 Budget, the Financial Secretary ("FS") announced five one-off relief measures, one of which is the proposal to waive rates for the first two quarters of 2014-2015¹, subject to a ceiling of \$1,500 per quarter for each rateable property. The Administration has estimated that the proposal would benefit around 3.1 million properties, and will cost the Government \$6.1 billion.

Rating (Exemption) Order 2014

3. The 2014 Order was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) ("RO") to give effect to the rates concession proposed in the 2014-15 Budget.

4. The 2014 Order declares that all tenements are exempted from the payment of rates in respect of any quarter in the period from 1 April 2014 to 30 September 2014 wholly, if the amount of rates payable for the quarter is \$1,500 or less, or up to \$1,500 if the amount is more than \$1,500.

¹ Paragraph 147 of the 2014-15 Budget Speech has set out the five one-off relief measures.

5. The 2014 Order was gazetted on 26 February 2014 and will be tabled at the Legislative Council ("LegCo") meeting of 19 March 2014, and will come into operation on 1 April 2014. At the meeting of the House Committee held on 28 February 2014, Members agreed that a subcommittee should be formed to study the 2014 Order.

Recent cases of rates exemption and deliberations by Members

6. Recent cases of rates exemption implemented as relief measures in the last four LegCo sessions are as follows:

| | Rating (Exemption) Order 2010 | Rating (Exemption) Order 2011 | Rating (Exemption) Order 2012 | Rating (Exemption) Order 2013 |
|--|--|--|--|--|
| Date of gazettal | 26 February 2010 | 23 February 2011 | 3 February 2012 | 1 March 2013 |
| Date of tabling in LegCo | 3 March 2010 | 2 March 2011 | 8 February 2012 | 20 March 2013 |
| Commencement date | 1 April 2010 | 1 April 2011 | 1 April 2012 | 1 April 2013 |
| Concession period | 1 April 2010 to 31 March 2011 | 1 April 2011 to 31 March 2012 | 1 April 2012 to 31 March 2013 | 1 April 2013 to 31 March 2014 |
| Ceiling (per quarter for each rateable property) | \$1,500 | \$1,500 | \$2,500 | \$1,500 |

7. Of the above four Orders, Members formed a subcommittee to consider the Rating (Exemption) Order 2012 ("the 2012 Order"). The major views and concerns raised by Members during the scrutiny of the 2012 Order are summarized in the ensuing paragraphs.

Impact on ratepayers and the needy

8. Noting that some 180 organizations were expected to receive rates concession of over \$1 million in 2012-2013 and that the total sum of the highest amounts of rates concession expected to be received by the top ten

organizations (excluding organizations providing public housing) was about \$224.7 million, some Members criticized that the proposed measure benefited mainly the property developers and investors who owned the majority of properties in Hong Kong. They urged the Administration to introduce more relief measures to support the disadvantaged groups, such as the low-income earners renting partitioned rooms in old buildings.

9. The Administration advised that rates were one of Hong Kong's indirect taxes levied on properties and the rates exemption would benefit all ratepayers, including the owner or tenant of a property. The basket of initiatives announced by FS in the 2012-13 Budget would help ease the pressure of the economic downturn, benefitting people from all sectors of the community, including the disadvantaged. For the proposed rates concession, it was estimated that about 94% of ratepayers would be relieved from the burden of paying rates in the financial year 2012-13.

10. Some members considered that the "unused" amount of rates concession under the ceiling of \$2,500 per quarter for each rateable property should be allowed to carry forward for paying the rates in the future within a certain time limit, similar to the arrangement for the electricity charges subsidy introduced by the Government in recent years. They called on the Administration to consider introducing a carry-forward arrangement for rates concession in the future, in particular for individuals and small and medium enterprises owning one property for self-use.

11. The Administration explained that the carry-forward arrangement for electricity charges subsidy was based on environmental concerns, which would allow users to have sufficient time to fully utilize the subsidy to avoid the need for them to increase normal electricity consumption in order to exhaust the subsidy. Rates concession was a one-off measure proposed in the light of the overall economic situation, the livelihood burden of the people, and the Government's fiscal situation of the relevant financial year. The Government did not intend to introduce a carry-forward arrangement as it would entail additional cost of a recurrent nature. Moreover, such an arrangement might involve substantial adjustments to the accounting system of the Rating and Valuation Department ("RVD") over a period of at least six months, thus delaying the commencement of the 2012 Order.

12. In response to members' concern that the rates exemption did not benefit the tenants in cases where the rent payable to landlords included an element of the rates payable on the property, the Administration advised that whether the rent was inclusive of rates only reflected the trend of the prevailing property rental market, and that the terms of tenancy agreements might vary. The owner and the tenant might negotiate and agree on whom the liability to pay rates would fall on. If rates were to be paid by the owner,

whether the owner was required to pass on any rates concession to the tenant would depend on the terms of the tenancy agreement. As rates concession was not an entirely new measure, the Administration considered that owners and tenants should have acquired experience over the years to work out mutually acceptable arrangements.

Proposed amendments to the 2012 Order

13. Hon Albert CHAN considered that the proposed rates exemption was a form of "transfer of benefits" to private consortia. In order to safeguard against the "transfer of benefits" by the Government, he proposed to amend the 2012 Order to provide that the number of tenements in respect of which any one person is liable for payment of rates under RO (whether he was the owner or occupier) to be exempted from payment of rates should not exceed three ("the proposed amendments").

14. The Administration advised that the 2012 Order was made under section 36(2) of RO on the basis of tenements. Same as the rating systems in other jurisdictions, the valuation and collection of rates were also conducted on the basis of individual tenements. The proposed amendments would entail difficulties in a number of areas during implementation. The Administration also pointed out that under the existing system and arrangement, RVD did not have the information to estimate the amount of rates concession to be saved under the proposed amendments. If the proposed amendments were to be implemented, RVD needed to put in place a new computer system to store and process registrations and identity information collected during the verification process. The existing billing system of RVD would need to be substantially revamped as well to cope with the complicated arrangement proposed. In view of the relevant implementation difficulties, the Administration considered that the proposed amendments would cause delay to the commencement of the 2012 Order, thus rendering it impossible for all ratepayers to obtain rates concession with effect from 1 April 2012. It was also for certain that the rates concession could not be implemented in the financial year 2012-2013.

15. While the majority of members of the Subcommittee were not in favour of the proposed amendments, they suggested that the Administration should review the intended purpose of the rates concession taking into account the views expressed by members when it planned to introduce the measure again in the future. The Administration responded that the concerns expressed by members might have impact on the fundamentals of the rates concession arrangement affecting the public, and this would need careful considerations by all concerned.

16. To take forward his proposed amendment, Hon Albert CHAN gave notice to move a proposed resolution to amend the 2012 Order. The proposed resolution was subsequently ruled by the President to have a charging effect within the meaning of Rule 31(1) of the Rules of Procedure, and was ultimately not moved.

Council Question

17. At the Council meeting on 18 January 2012, Hon CHAN Kam-lam raised an oral question regarding the payment of Government rent. Details of the LegCo question and the Administration's reply are given in the hyperlink in **Appendix**.

Latest Development

18. At the meeting of the Finance Committee on 27 February 2014 in which FS and the Secretary for Financial Services and the Treasury briefed members on the 2014-2015 Budget, some members pointed out that the rates of some properties were lower than \$1,500 per quarter and households of such properties could not fully utilize the rates concession (i.e. \$3,000 in total). They called on the Administration to amend the proposed rates concession by waiving rates in respect of all quarters in the period from 1 April 2014 to 31 March 2015, subject to a ceiling of \$750 per quarter for each rateable property so that more households could fully utilize the rates concession.

References

19. A list of relevant papers is in the **Appendix**.

List of relevant papers

| Date | Event | Papers/Minutes of meeting |
|----------------------------|---|---|
| 3 March 2010 | The Rating (Exemption) Order 2010 was tabled in the Legislative Council | The Order Legal Service Division Report (LC Paper No. LS51/09-10) |
| 2 March 2011 | The Rating (Exemption) Order 2011 was tabled in the Legislative Council | The Order Legal Service Division Report (LC Paper No. LS33/10-11) |
| 18 January 2012 | Hon CHAN Kam-lam raised an oral question regarding the payment of Government rent | Hansard |
| February 2012 – March 2012 | The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2012 | The Order Legal Service Division Report (LC Paper No. LS26/11-12) President's Ruling Report of the Subcommittee (LC Paper No. CB(1)1353/11-12) |
| 20 March 2013 | The Rating (Exemption) Order 2013 was tabled in the Legislative Council | The Order Legal Service Division Report (LC Paper No. LS29/12-13) |
| 19 March 2014 | Tabling of the Rating (Exemption) Order 2014 in the Legislative Council | The Order Legal Service Division Report (LC Paper No. LS31/13-14) |