

**立法會**  
**Legislative Council**

LC Paper No. CB(1)766/14-15

Ref: CB1/SS/6/14

**Paper for the House Committee meeting on 24 April 2015**

**Report of the Subcommittee on Rating (Exemption) Order 2015**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Rating (Exemption) Order 2015 ("the Subcommittee").

**Background**

2. In the 2015-2016 Budget, the Financial Secretary announced five one-off relief measures, one of which is the proposal to waive rates for the first two quarters of 2015-2016, with a cap at \$2,500 per quarter for each rateable property. The provision of waiver for two quarters follows the practice last year, whereas the ceiling of \$2,500 per quarter is higher than last year's ceiling of \$1,500. The Administration estimates that the proposed rates exemption measure will benefit about 3.15 million properties liable to rates payment and result in one-off revenue forgone of about \$7.7 billion.

**Rating (Exemption) Order 2015**

3. The Rating (Exemption) Order 2015 ("the Order") was made by the Chief Executive in Council under section 36(2)<sup>1</sup> of the Rating Ordinance (Cap. 116) ("RO") to give effect to the rates concession announced in the 2015-2016 Budget.

4. The Order declares that all tenements are exempted from the payment of rates in respect of any quarter in the period from 1 April 2015 to 30 September 2015 wholly, if the amount of rates payable for the quarter is \$2,500 or less, or up to \$2,500 if the amount is more than \$2,500. The amount of \$2,500 is reduced on a pro

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<sup>1</sup> Section 36(2) of Cap.116 provides that the CE in Council may, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part.

rata basis if rates are payable for only part of the concession period.

5. The Order was gazetted on 25 February 2015 and tabled at the Legislative Council ("LegCo") meeting of 18 March 2015 for negative vetting. Under section 1 of the Order, the Order comes into operation on 1 April 2015.

### **The Subcommittee**

6. At the House Committee meeting held on 27 February 2015, Members agreed to form a subcommittee to study the Order. The membership list of the Subcommittee is in **Appendix**.

7. Under the chairmanship of Hon Andrew LEUNG, the Subcommittee held one meeting on 17 March 2015 with the Administration to examine the Order.

8. To allow sufficient time for the Administration to provide supplementary information pursuant to members' requests made at the meeting on 17 March 2015 and for the Subcommittee to compile a report to the House Committee, a resolution was passed at the Council meeting of 25 March 2015 to extend the period for amending the Order to 6 May 2015.

### **Deliberations of the Subcommittee**

9. The majority of Subcommittee members do not in principle object to providing rates concession to ease the financial burden of the public. Hon Albert CHAN and Hon CHAN Chi-chuen have however opposed to using rates exemption as a one-off relief measure for helping the public cope with short-term financial pressure. Some Subcommittee members have urged the Administration to consider adjusting the rates exemption measure such that more ratepayers, especially those of properties with lower rateable value, could fully utilize the total rates concession amount. The deliberations of the Subcommittee and the Administration's views are set out in the ensuing paragraphs.

#### Benefits to the grassroots and needy

10. Some Subcommittee members, including Hon WU Chi-wai, Hon SIN Chung-kai, Hon Cyd HO and Hon CHUNG Shu-kun, have criticized that the rates concession measure benefits mainly the rich, such as property developers, owners of properties of high rateable values and owners with many rateable properties in Hong Kong. They have questioned the effectiveness of the measure in achieving the purpose of benefitting the grassroots and the needy. Hon Albert CHAN and Hon CHAN Chi-chuen are of the view that the measure cannot relieve the hardships of the

grassroots, in particular those "five have-nots", and has in fact widened the disparity between the rich and the poor since individuals and corporations who own many properties could reap most benefits from the measure whereas the poor who are without any property cannot benefit from it. Hon Cyd HO considers that the Government should dedicate more resources to help the grassroots and the needy given the huge Government fiscal surplus.

11. Ir Dr Hon LO Wai-kiwok and Hon TSE Wai-chuen, on the other hand, consider the rates concession measure fair and reasonable. In their view, rates exemption can relieve the financial burden of the public since 85% of private domestic properties would be exempted from paying rates in the first two quarters of 2015-2016. They have also pointed out that the Government has concurrently introduced other relief measures to alleviate the financial hardships faced by the disadvantaged who cannot benefit from the rates concession measure.

12. On some members' concern that the proposed rates concession measure favours the rich, the Administration has explained that rates concession is implemented on an equal-footing basis, in that the measure benefits all ratepayers, regardless of the types (domestic or non-domestic) and the rateable value of the relevant properties and whether the ratepayer is the owner or the tenant. It is also an effective way for the Government to provide one-off relief to a wide spectrum of Hong Kong people. The Administration estimates that the proposed rates concession will benefit about 3.15 million properties liable to rates payment. During the two quarters with rates concession, about 86% (about 2.72 million) of all domestic and non-domestic properties need not pay any rates. The Administration stresses that setting a ceiling for rates concession can achieve a regressive effect, i.e. the higher the rateable value of a property, the smaller the magnitude of benefit arising from the concession for the property.

13. The Administration has further explained that the rates concession is one of the \$34 billion package of relief measures<sup>2</sup> introduced by the Government in the 2015-2016 Budget to relieve the financial burden of the public and to stimulate Hong Kong's economic growth, having regard to the fiscal position of the Government. Apart from rates concession, other one-off relief measures include reducing salaries tax and profits tax, providing one-month rent exemption for public housing tenants, and providing extra two-month allowance to Comprehensive Social Security Assistance, Old Age Allowance, Old Age Living Allowance and Disability Allowance recipients. The Administration highlights that one-off relief measures

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<sup>2</sup> Including 15.8 billion for reducing salaries tax, \$7.7 billion for rates concession, \$1.9 billion for reducing profits tax, \$1.1 billion for paying one-month rent for public housing tenants, \$5.5 billion for providing extra two-month allowance to Comprehensive Social Security Assistance, Old Age Allowance, Old Age Living Allowance and Disability Allowance recipients, and \$2 billion for increasing the basic and additional child allowances from \$70,000 to \$100,000 from 2015-2016 onwards.

primarily serve counter-cyclical objectives to provide cushioning effects for the economy and alleviate imminent economic hardships. Unlike recurrent measures, one-off relief measures are necessarily subject to adjustment in the light of the fiscal and economic position of the year. The Administration also points out that in 2015-2016, the overall Government expenditure has increased by 11% of which 6% is dedicated to education, health care and social welfare services that would benefit people from different walks of life on a recurrent basis.

### Benefits to tenants

14. Some members including Hon Albert CHAN, Hon CHAN Chi-chuen and Hon CHUNG Shu-kun have expressed doubt on whether the rates exemption can benefit tenants in cases where the rents are rates-inclusive as their landlords will unlikely refund the concession amount to them. Hon CHUNG Shu-kun suggests that properties that are not owner-occupied should not be exempted from the payment of rates.

15. The Administration has advised that the rates concession measure benefits all ratepayers, regardless of whether the ratepayer is the owner or the tenant of the relevant property. In accordance with the RO (Cap. 116), the valuation and collection of rates are based on tenements, rather than individual landlord/occupier/agent of the rateable tenements. The owner and the occupier shall both be liable for the payment of rates and the arrangement of whether rates are paid by the owner or the tenant depends on the provisions of individual tenancy agreements. Whether the rental is rates inclusive or whether the tenants are required to make rates payment through the owners are subject to the considerations of the owners and the tenants when drawing up the tenancy agreements. Individual tenants may stipulate separate provisions under the tenancy agreements to set out who will benefit from the rates concession, so as to protect their own interest.

16. According to the Administration, for ease of management, many owners of non-domestic properties collect the amount for rates payment from the tenants in one go when collecting rent payments and then pay the rates on behalf of the tenants. Under such an arrangement, depending on the provisions of the tenancy agreements, the actual beneficiaries of the rates concession measure should still be the tenants. The Administration has further advised that according to the information on the leasing arrangements of properties collected from the Requisition for Particulars of Tenements issued by the Rating and Valuation Department, rates for about 54% of the leased non-domestic properties in 2014-2015 are paid by tenants. Furthermore, among the top ten ratepayers that receive the largest amounts of rates concession, over 85% of the relevant tenancy agreements are rates exclusive, i.e. the tenants pay the rates. In other words, according to the provisions of the tenancy agreements, these tenants should benefit when there is rates concession. As such, members' suggestion of excluding non-owner-occupied tenements from the rates exemption

might render some domestic and non-domestic tenants who are responsible for paying rates under their tenancy agreements unable to benefit from the rates concession.

#### Rates concession period and ceiling per quarter

17. Some Subcommittee members, including Hon WU Chi-wai, Hon Cyd HO, Hon SIN Chung-kai and Hon CHUNG Shu-kun, have expressed concern that rates concession for the first two quarters of 2015-2016 with a cap at \$2,500 per tenement per quarter cannot benefit ratepayers of small properties with lower rateable value. As rates payable in respect of small properties should largely be lower than the proposed concession ceiling of \$2,500 per quarter, ratepayers of small properties may not enjoy the full concession amount. Some members have called on the Administration to consider extending the rates concession period from two quarters to four quarters with a lower concession ceiling per quarter such that ratepayers of properties of lower rateable value can fully utilize the total rates concession amount. Some other members have suggested setting the concession ceiling per tenement at \$5,000 in total so that all ratepayers, regardless of the rateable value of their tenements, will benefit from the same amount of rates concession. In this connection, Hon Cyd HO has requested the Administration to consider allowing the "unspent" rates concession amount in a quarter for each rateable property to be carried forward to the remaining quarters in the same financial year for rates payment.

18. The Administration has advised that members' proposals will incur additional financial commitment for the Government. According to the Administration, if the concession ceiling of \$5,000 is spread over four quarters (i.e. \$1,250 per tenement per quarter), the Government's financial commitment in 2015-2016 will be increased by \$4 billion, from about \$7.7 billion to about \$11.7 billion. If \$5,000 is provided to each tenement regardless of its rateable value, the Government will forgo \$15.7 billion, which is \$8 billion more when compared with the Government's original proposal. The Administration stresses that rates exemption involves significant financial implications given its broad-based nature. The Government's proposed rates concession arrangement will already involve a financial implication of \$7.7 billion. The Government does not intend to incur additional financial commitment for the rates exemption measure. As regards some members' concern that the grassroots and needy may not fully utilize the rates concession due to their lower rates payments, the Administration has explained that if the amount of rates payable equals to or is below the concession ceiling, the ratepayers will have the whole amount of rates payable waived. Hence, there is no question of "unspent" rates concession.

19. Hon Cyd HO and Hon CHAN Chi-chuen do not subscribe to the Administration's explanation. They hold the view that the additional revenue forgone can be well absorbed by the Government's fiscal surplus.

20. The Administration reiterates that rates is a broad-based and stable source of government revenue. According to the Government's revised estimates for 2014-2015, rates revenue amounts to \$22.3 billion and accounts for 4.7% of the total government revenue. The Administration therefore needs to strike a balance between the provision of relief for the public by means of rates concession and preserving the fiscal position of the Government.

21. On the basis of maintaining the financial commitment unchanged at \$7.7 billion and extending the rates exemption period to four quarters, Hon CHAN Chi-chuen has requested the Administration to explore setting an appropriate concession ceiling per quarter per tenement so as to enable more households to fully utilize the total rates concession amount.

22. According to the Administration, Hon CHAN Chi-chuen's proposal would mean that the rates concession ceiling has to be adjusted downwards to a level below \$700 per quarter. This will in turn affect the total full-year amount of rates concession enjoyed by private domestic properties and non-domestic properties under the Government's original proposal. Whilst the total rates concession amount enjoyed by public domestic properties will increase, the total amount of rates concession received by all private domestic properties (including small, medium and large units) and non-domestic properties will drop. For instance, if the ceiling is set at \$670 per quarter, the total amount of rates concession enjoyed by private domestic properties will be reduced by 11% when compared with the original rates concession proposal, and the total amount of rates concession enjoyed by non-domestic properties will be reduced by 27%. The Administration considers that the rates concession measure as announced in the 2015-2016 Budget is more favourable to most ratepayers while preserving the financial position of the Government.

### **Recommendation**

23. The Subcommittee has no objection to the Order. The Subcommittee does not propose any amendment to the Order.

### **Advice sought**

24. Members are invited to note the deliberations of the Subcommittee as set out above.



**Subcommittee on Rating (Exemption) Order 2015**

**Membership List**

<b>Chairman</b>	Hon Andrew LEUNG Kwan-yuen, GBS, JP
<b>Members</b>	Hon Vincent FANG Kang, SBS, JP Hon Cyd HO Sau-lan, JP Hon Starry LEE Wai-king, JP Hon IP Kwok-him, GBS, JP Hon Albert CHAN Wai-yip Hon WU Chi-wai, MH Hon YIU Si-wing Hon CHAN Chi-chuen Dr Hon Kenneth CHAN Ka-lok Hon Christopher CHEUNG Wah-fung, SBS, JP Hon SIN Chung-kai, SBS, JP Ir Dr Hon LO Wai-kwok, BBS, MH, JP Hon Christopher CHUNG Shu-kun, BBS, MH, JP Hon Tony TSE Wai-chuen, BBS
	(Total : 15 members)
<b>Clerk</b>	Ms Annette LAM
<b>Legal Adviser</b>	Ms Clara TAM