

**Legislative Council Panel on Housing
meeting on 2 March 2015**

Supplementary Information

PURPOSE

This paper provide supplementary information requested by Members at the Panel meeting held on 2 March 2015 to consider the Review of Special Stamp Duty and Buyer's Stamp Duty and Review of Income and Asset Limits for Public Rental Housing (PRH) for 2015/16.

REVIEW OF SPECIAL STAMP DUTY AND BUYER'S STAMP DUTY

2. At the meeting, Members pointed out that since a Hong Kong company owned by another company incorporated overseas (such as a British Virgin Islands company) may circumvent stamp duty and profits tax by effecting property transaction through the transfer of shares of the overseas company, Members requested the Government to provide the following information –

- (a) the number of such transactions and the corresponding percentage represented in the past 12 months; and
- (b) the measures in place to tackle the problem and to recover the stamp duty and profits tax that have been circumvented.

3. Under the Inland Revenue Ordinance (Cap. 112), any person carrying on any trade, profession or business in Hong Kong is chargeable to tax on all profits (excluding profits arising from the sale of capital assets) arising in or derived from Hong Kong from such trade, profession or business. If the transfer of the shares in an overseas company amounts to a trade or business, and the profits are arising in or derived from Hong Kong, the profits derived therefrom will be subject to profits tax. The Inland Revenue Department (IRD) does not have the statistical information about the transfers of shares of overseas companies which are subject to profits tax.

4. According to the existing Stamp Duty Ordinance (Cap. 117), stamp duty is not chargeable on transfers of non-Hong Kong stocks (including transfers of shares which are not required to be registered in Hong Kong). This being the case, IRD does not have information regarding the transfers of shares of overseas companies which do not maintain their share registers in Hong Kong.

5. For the stamping of property transfer documents involving company purchasers, the applicants are not required to declare the identities of the shareholders of the company purchasers when submitting the stamping applications. Therefore, IRD has no information showing whether the shareholders of these companies are overseas companies or not.

6. Effecting property transfers through transfers of shares of overseas companies involve risks such as uncertainties with respect to other assets and liabilities of the relevant overseas companies as well as the Hong Kong companies which hold the properties. We therefore believe that the general public would not disregard such possible hidden risks and acquire properties through such means.

REVIEW OF INCOME AND ASSET LIMITS FOR PRH FOR 2015/16

7. Members asked for supplementary information on the number of PRH applicants who are themselves family members of PRH households. According to the results of the 2014 Survey on PRH Applicants, as at end March 2014, 30% of applicants were living in PRH.

**Transport and Housing Bureau
May 2015**