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Paper for the House Committee meeting on 15 April 2016

Report of the Subcommittee on Rating (Exemption) Order 2016

Purpose

This paper reports on the deliberations of the Subcommittee on Rating (Exemption) Order 2016 ("the Subcommittee").

Background

2. In the 2016-2017 Budget, the Financial Secretary announced three one-off relief measures, one of which is the proposal to waive rates for four quarters of 2016-2017 subject to a ceiling of \$1,000 per quarter for each rateable property. The Administration estimates that the proposed rates exemption will benefit about 3.17 million properties liable to rates payment and reduce government revenue by \$11 billion.

Rating (Exemption) Order 2016

3. The Rating (Exemption) Order 2016 ("the Order") was made by the Chief Executive in Council under section 36(2)¹ of the Rating Ordinance (Cap. 116) ("RO") to give effect to the rates concession proposed in the 2016-2017 Budget.

4. The Order declares that all tenements are exempted from the payment of rates up to a maximum of \$1,000 for each quarter in the period from 1 April 2016 to 31 March 2017. The amount of \$1,000 is reduced proportionately if rates are payable for only part of a concession period.

¹ 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.

5. The Order was gazetted on 24 February 2016 and tabled at the Legislative Council meeting of 2 March 2016 for negative vetting. Under section 1 of the Order, the Order comes into operation on 1 April 2016.

The Subcommittee

6. At the House Committee meeting on 26 February 2016, 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 WONG Ting-kwong, the Subcommittee held one meeting on 7 March 2016 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 7 March 2016 and for the Subcommittee to compile a report to the House Committee, the Subcommittee agreed to move a proposed resolution at the Council meeting of 16 March 2016 to extend the period for amending the Order to 20 April 2016. As the proposed resolution was not dealt with at the Council meeting of 16 March 2016, the scrutiny period of the Order had expired after the said Council meeting.

Deliberations of the Subcommittee

9. The majority of Subcommittee members do not object to the rates exemption measure to provide rates concession to help ease the financial burden of the public. Hon Albert CHAN and Hon LEUNG Kwok-hung have however expressed objection to using rates concession as a measure to ease the financial pressure on the public. Some Subcommittee members are of the view that the Administration should consider adjusting the rates exemption measure such that more ratepayers, especially the lower middle class of properties with lower rateable values ("RVs"), could fully utilize the total rates concession amount. The major views and deliberations of the Subcommittee and the Administration's responses are set out in the ensuing paragraphs.

Benefits to the grassroots and needy

10. Some Subcommittee members, including Hon Albert CHAN, Hon LEUNG Kwok-hung, Dr Hon Fernando CHEUNG Chiu-hung and Hon Christopher CHUNG Shu-kun, are concerned about the effectiveness of the rates exemption measure in achieving the purpose of benefitting the grassroots and the needy. They have queried that the measure may benefit mainly the rich, such as property developers, owners of properties of high RVs and owners with many rateable properties in Hong Kong.

11. Hon Albert CHAN considers that the rates exemption measure has lopsided to the rich and failed to benefit people without property. He suggests that to relieve the financial burden of the underprivileged, the Administration should consider distributing cash handouts to the needy instead. Hon LEUNG Kwok-hung strongly objects to the measure as it would only benefit well-off property owners, instead of the grassroots in public housing and owners of self-occupied properties, thus aggravating the disparity between the rich and the poor. To achieve the goal of relieving financial burden of the needy, Mr LEUNG opines that rental payments for tenants living in public rental housing should be waived; progressive profits tax on property owners of more than one property should be introduced; and the rates payment should be deployed to relieve the financial burden of the poor. Dr Hon Fernando CHEUNG is of the view that rates concession as a relief measure should target the grassroots, such as the tenants in public housing. He considers that property owners who own more than one property (especially involving non-domestic property) should not be benefited from the rates exemption measure, so that the measure will only benefit tenants and owners of self-occupied properties to avoid widening the wealth gap.

12. Quite a number of Subcommittee members, including Hon James TIEN Pei-chun, Ir Dr Hon LO Wai-ki, Hon Tony TSE Wai-chuen and Dr Hon CHIANG Lai-wan on the other hand, are supportive of the rates exemption measure. In their view, rates concession can ease the financial pressure on the public as according to the Administration, in 2016-2017, about 45% of all the properties will be exempted from paying rates, which involve about 90% of public domestic properties, 20% of private domestic properties and 30% of non-domestic properties.

13. As regards some members' concern that the rates concession measure favours the rich, the Administration has explained that rates concession benefits all ratepayers, regardless of the types (domestic or non-domestic) and the RV of the relevant properties and whether the ratepayer is the owner or the tenant. The measure can also provide relief to a wide spectrum of Hong Kong people. The Administration estimates that the rates exemption measure this year will reduce government revenue by about \$10.6 billion. The magnitude of revenue forgone exceeds that for the rates exemption measure in the past two years, which reduced government revenue by \$6.1 billion (for 2014-2015) and \$7.7 billion (for 2015-2016) respectively. The Administration has added that when compared with the measure in the past two years, the measure this year will bring more benefits to properties with lower RVs. Under the proposal this year, 78% of rateable properties in Hong Kong (which have RVs below \$160,000) will pay less rates in 2016-2017, after taking into account the rates concession, when compared with the past two years. The Administration has also advised that setting a ceiling for rates concession can achieve a regressive effect, i.e. the higher the RV of a property, the smaller the magnitude of benefit arising from the concession.

14. Referring to Dr Hon Fernando CHEUNG's suggestion mentioned in paragraph 11 above, the Administration considers that rates are a source of government revenue, and rates concession should not be regarded as a form of government expenditure. The Administration has reiterated that the rates exemption measure is introduced as one of the measures to ease the financial pressure on the public, and to confine the rates exemption measure to tenants and owners of self-occupied properties will involve fundamental changes in the collection of rates, which are based on tenements. Moreover, under the RO, both the property owner and the tenants are liable to pay rates. Introducing fundamental changes to rates collection might risk implication on the effectiveness of the rates collection system and excluding these tenants from rates concession they would otherwise receive.

15. Dr Hon Fernando CHEUNG has further suggested that the Administration could request the ratepayers to declare their respective status so that the eligibility of rates concession could be confined to certain categories of ratepayers. To ensure public resources are appropriately distributed and to prevent abuse, the Administration could conduct random checks for verification and prosecute ratepayers making false declarations. In response, the Administration considers that valuation and collection of rates are based on tenements. Requesting the ratepayers to make declaration on their eligibility for rates concession may involve determination and verification of titles which will unnecessarily complicate the existing system and add to the burden of the ratepayers. Moreover, verifying declarations and conducting random checks will incur substantial administrative cost, which is disproportionate to the implementation of a one-off relief measure.

Benefits to tenants

16. Some Subcommittee members, including Hon Albert CHAN, Dr Hon CHIANG Lai-wan and Hon Christopher CHUNG Shu-kun, are concerned whether the rates concession can benefit tenants in cases where the rents are rates-inclusive as their landlords will unlikely refund the concession amount to them. For a comprehensive view of the distribution of rates concession among tenants and ratepayers, Hon Albert CHAN has requested the Administration to provide information on whether the top ratepayer had returned the respective amount of rates concession to its tenants, particularly those small tenants, and whether that ratepayer will do the same for the rates concession proposed in the 2016-2017 Budget, as well as the respective amounts of rates concession to be received by the top 10 ratepayers under the rates concession measure proposed in the 2016-2017 Budget.

17. The Administration has advised that the rates exemption measure benefits all ratepayers, regardless of whether the ratepayer is the owner or the tenant of the relevant property. In accordance with the RO, the valuation and collection of rates are based on 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. The Administration has also advised that 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 tenancy agreements may also set out who will benefit from rates concession, if any, for clarity. In response to Hon Albert CHAN's enquiry mentioned in paragraph 16, the Administration has advised that according to the information of the Rating and Valuation Department ("RVD"), each shop within the properties of that top ratepayer is a separate rateable tenement, which is subject to rates payment and is entitled to rates concession in 2016-2017. Accordingly, in the rates demand notes issued to that ratepayer, RVD sets out the amount of rates payable (after deducting the amount of rates concession) for each of the relevant tenements. The amount is also reflected in the rental demand notes issued by that ratepayer to its tenants. Details provided by the Administration to Hon Albert CHAN's enquiry are set out in LC Paper No. CB(1)684/15-16(02).

18. The Administration has further advised that for ease of management, many owners of non-domestic properties collect the amount of rates payable in one go when collecting rent from the tenants, and then make rates payment on behalf of the tenants who are liable for the payment of rates under the tenancy agreements. Under such an arrangement, the tenants themselves will remain to be the actual beneficiaries of the rates concession, in accordance with the provisions of the tenancy agreements.

Ceiling of rates exemption per tenement per quarter

19. Some Subcommittee members, including Hon Christopher CHUNG Shu-kun, have expressed concern that the rates exemption measure cannot be fully utilized by the ratepayers of properties with low RVs as their rates payments are less than \$1,000 per quarter. Hon Christopher CHUNG Shu-kun has requested the Administration to consider allowing the "unspent" rates concession amount to be carried forward in the next financial year for rates payment. Some other Subcommittee members including Hon James TIEN have suggested raising the ceiling of rates exemption per tenement per quarter to \$2,000 for all quarters so that some ratepayers (especially the lower middle class) can benefit more from the rates concession.

20. The Administration has advised that it has no plan to arrange for "unspent" rates concession to be carried forward to the next financial year for rates payment. Such proposals will incur additional financial commitment for the Government. Moreover, if the amount of rates payable is within the concession ceiling, the ratepayers will have the whole amount of rates payable waived in 2016-2017. Hence, there is no question of "unspent" rates concession.

21. The Administration stresses that the proposal of raising the ceiling of rates exemption per tenement per quarter to \$2,000 for all quarters will involve significant financial implications given the broad-based nature of rates. Under the current rates exemption measure, about 45% of all the properties will be exempted from paying rates and about 78% of rateable properties in Hong Kong will pay a lower amount of rates in 2016-2017 compared to the previous two years. Moreover, apart from rates concessions, there are other relief measures in the 2016-2017 Budget which can relieve the financial burden of the middle class, such as one-off reduction of salaries tax and profits tax. The Administration considers that the package of tax and short-term relief measures has struck a balance, and has taken into account the overall needs of the community including the middle class.

Recommendation

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

Advice sought

23. Members are invited to note the deliberations of the Subcommittee.

Subcommittee on Rating (Exemption) Order 2016

Membership List

Chairman	Hon WONG Ting-kwong, SBS, JP
Members	Hon CHAN Hak-kan, JP
	Hon Alan LEONG Kah-kit, SC
	Hon LEUNG Kwok-hung
	Hon Albert CHAN Wai-yip
	Hon James TIEN Pei-chun, GBS, JP
	Dr Hon Fernando CHEUNG Chiu-hung
	Hon SIN Chung-kai, SBS, JP
	Dr Hon CHIANG Lai-wan, JP
	Ir Dr Hon LO Wai-kwok, SBS, MH, JP
	Hon Christopher CHUNG Shu-kun, BBS, MH, JP
	Hon Tony TSE Wai-chuen, BBS
	(Total : 12 members)
Clerk	Mr Desmond LAM
Legal Adviser	Ms Clara TAM