

立法會
Legislative Council

LC Paper No. CB(1)874/15-16
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by the Administration)

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Subcommittee on Rating (Exemption) Order 2016

**Minutes of the first meeting
on Monday, 7 March 2016, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
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
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

Member absent : Hon SIN Chung-kai, SBS, JP

**Public officers
attending** : Agenda item II

Ms Mable CHAN, JP
Deputy Secretary for Financial Services and the
Treasury (Treasury)

Mr Gary POON
Principal Assistant Secretary for Financial Services
and the Treasury (Treasury) (Revenue)

Mr IP Pak-keung
Assistant Commissioner (Rating and Valuation)
Rating and Valuation Department

Miss Shandy LIU
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Miss Judy YEE
Council Secretary (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Election of Chairman

Mr WONG Ting-kwong, the member who had the highest precedence in Council among members of the Subcommittee present at the meeting, presided at the election of chairman of the Subcommittee and invited nominations for the chairmanship of the Subcommittee.

2. Ir Dr Hon LO Wai-kwok nominated Mr WONG Ting-kwong, and the nomination was seconded by Mr James TIEN Pei-chun. Mr WONG accepted the nomination.

3. There being no other nominations, Mr WONG Ting-kwong was declared Chairman of the Subcommittee.

4. The Chairman sought members' views on the need for a deputy chairman. It was agreed that the election of deputy chairman was not required.

II. Meeting with the Administration

- (L. N. 36 of 2016 -- Rating (Exemption) Order 2016
- LC Paper No. LS39/15-16 -- Legal Service Division Report
- LC Paper No. CB(1)643/15-16(01) -- Administration's paper on Rating (Exemption) Order 2016
- LC Paper No. CB(1)643/15-16(02) -- Paper on Rating (Exemption) Order 2016 prepared by the Legislative Council Secretariat (background brief))

5. The Subcommittee deliberated (Index of proceedings attached at **Annex**).

Disclosure

6. Mr James TIEN Pei-chun declared that he had business in the property industry and owned rateable properties.

Follow-up actions by the Administration

7. In relation to the rates exemption measures taken forward in recent years, the Administration was requested to inform the Subcommittee of whether the top ratepayer, which is understood to be an owner of properties for letting to tenants, had returned the respective amounts of rates concession to its tenants (particularly those small tenants), and whether that ratepayer would do the same for the rates concession proposed in the 2016-2017 Budget.

8. The Administration was also requested to provide information on the respective amounts of rates concession to be received by the top 10 ratepayers under the rates exemption measure proposed in the 2016-2017 Budget.

(Post-meeting note: The Administration's responses to the issues as detailed in paragraphs 7 and 8 were circulated to members vide LC Paper No. CB(1)684/15-16(02) on 15 March 2016.)

III. Any other business

Legislative timetable

9. The Subcommittee completed the scrutiny of the Rating (Exemption) Order 2016 ("the Order"). Subject to members' views on the need to meet again and discuss the Administration's response to members' requests as detailed in paragraphs 7 and 8 above, the Chairman would decide whether a further meeting was necessary. The Subcommittee would not propose any amendment to the Order.

10. The Subcommittee agreed that the Chairman would move at the Council meeting of 16 March 2016 a proposed resolution to extend the scrutiny period of the Order to the Council meeting of 20 April 2016.

(Post-meeting note: Members were informed vide LC Paper No. CB(1)711/15-16 on 22 March 2016 that –

- (a) no request had been received from members for holding a further meeting to discuss the Administration's responses;
- (b) the proposed resolution to extend the scrutiny period of the Order was not dealt with at the Council meeting of 16 March 2016; hence, the scrutiny period of the Order had expired after the said Council meeting; and
- (c) the Chairman would report the deliberations of the Subcommittee to the House Committee on 15 April 2016.)

11. There being no other business, the meeting ended at 12:06 pm.

**Proceedings of the first meeting of
the Subcommittee on Rating (Exemption) Order 2016
on Monday, 7 March 2016, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
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| 000000 – 000235 | Mr WONG Ting-kwong Ir Dr Hon LO Wai-kwok Mr James TIEN Pei-chun | Election of Chairman Mr WONG Ting-kwong was elected Chairman of the Subcommittee. | |
| 000236 – 000630 | Chairman Administration | Briefing by the Administration on Rating (Exemption) Order 2016 ("the Order"). | |
| 000631 – 001048 | Chairman Mr James TIEN Pei-chun Administration | <p>Declaration of interests by Mr James TIEN.</p> <p>Mr TIEN's views that –</p> <p>(a) compared to the rates exemption measure implemented in the previous year, the current proposal would benefit more ratepayers, including those of small properties. Yet, since the Administration failed to take into account the falling property price and overestimated the rateable values ("RVs") of properties, some owners of smaller properties who would otherwise be fully exempted from rates payments still had to pay rates;</p> <p>(b) the Administration should consider raising the ceiling of rates exemption per tenement per quarter to \$2,000 for all quarters to benefit the lower middle class who benefited least from the proposed rates exemption measure; and</p> <p>(c) regarding future rates concession, would the Administration be inclined to introduce rates concession for all quarters with a ceiling of \$1,000 per tenement per quarter as in the current proposal, or for two quarters but with a higher ceiling of rates concession per tenement per quarter as in previous years.</p> <p>The Administration's response that –</p> <p>(a) when considering one-off relief measures,</p> | |

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| | | <p>such as rates concession, the Administration would have to take into account the prevailing circumstances, including the macro environment, Government's fiscal capacity and the need to boost the economy in the short term;</p> <p>(b) regarding the rates exemption implemented in previous years, there were seven occasions when rates were exempted for four quarters, one of which was in 2008-2009 when the ceiling of rates concession was the highest (i.e. \$5,000 per tenement per quarter). Consistent with the approach taken by the Administration all along, the package introduced in that year had taken into account the economic downturn caused by the worldwide financial crisis; and</p> <p>(c) apart from rates concession, there were other relief measures in the 2016-2017 Budget which could relieve the financial burden of the middle class, such as one-off reduction of salaries tax and profits tax. The package had struck a balance and had taken into account the needs of the community including the middle class .</p> | |
| 001049 – 001830 | Chairman Mr Albert CHAN Wai-yip Administration | <p>Mr Albert CHAN opposed to the rates exemption measure and tax rebates proposed in the 2016-2017 Budget because rates exemption measure lopsided to the rich and failed to benefit people without property. To relieve the financial burden of the underprivileged, Mr CHAN suggested distributing cash handouts instead.</p> <p>In relation to the current proposed rates concession, the Administration was requested to provide information on –</p> <p>(a) the respective amounts of rates concession to be received by the top 10 ratepayers under the rates exemption measure this year;</p> <p>(b) given that the ceiling of rates concession was set at \$1,000 per tenement per quarter in the current proposal, the respective percentage of rateable properties subject to rates payment higher and lower than the ceiling of rates concession; and</p> | The Administration to follow up as stated in paragraph 8 of the minutes. |

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| | | <p>(c) the additional administrative cost expected to be incurred as the rates concession period was extended to four quarters from two quarters compared to the previous year.</p> <p>The Administration's response that –</p> <p>(a) rates concession was proposed as a one-off relief measure and it would relieve the financial burden of all ratepayers;</p> <p>(b) 45% would be fully exempted from rates payment while 55% would still have to pay rates under the proposed rates exemption measure for 2016-2017. The Administration considered that setting a ceiling for rates concession per tenement per quarter would achieve a regressive effect;</p> <p>(c) the ratepayer expected to receive the largest amount of rates concession in 2016-2017 (other than organisations providing subsidised housing) would receive \$51.1 million as rates concession. It was understood that this ratepayer was paying rates to Rating and Valuation Department ("RVD") on behalf of its tenants and the rates concession would be reflected in the amount it would collect from the tenants. The tenants could therefore enjoy the rates concession; and</p> <p>(d) the estimated administrative costs would be \$460,000 this year for printing pamphlets reminding members of the public of the rates exemption measure. Since the same billing arrangement and system would be used for the measure this year, no additional manpower would be required.</p> | |
| 001831 – 002316 | Chairman Mr Christopher CHUNG Shu-kun Administration | <p>Mr Christopher CHUNG criticized that rates exemption measure could not relieve the financial burden of the grassroots and only benefited the rich property owners. Moreover, ratepayers of properties with low RVs could not fully utilize the rates concession as their rates payments were less than \$1,000 per quarter.</p> <p>Mr CHUNG's enquiry on –</p> | |

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| | | <p>(a) whether the "unspent" rates concession could be carried forward for rates payment in the next year; and</p> <p>(b) given rates concession was returned to the property owners, how the Administration would ensure that property owners of rates-inclusive tenancy agreements would return the rates concession to their tenants.</p> <p>The Administration's response that –</p> <p>(a) if the amount of rates payable did not exceed the rates concession ceiling, the amount of rates payable would be fully waived. There was in essence no question of "unspent" rates concession;</p> <p>(b) regarding the benefits of the current proposal, about 45% of rateable properties in Hong Kong would be fully exempted from rates payment. When compared with the rates exemption measures in the past two years, about 78% of all rateable properties (which included all public domestic properties, 70% of private domestic properties and 50% of non-domestic properties) would pay less rates under the current proposal;</p> <p>(c) among the 10 organisations expected to receive the largest rates concession amounts this year, about 80% of the tenancy agreements were rates exclusive i.e. the rates were borne by the tenants themselves. In other words, the tenants would be the actual beneficiaries of the rates concession, in accordance with the provisions of the tenancy agreements; and</p> <p>(d) It would not be appropriate for the Government to intervene in the private contractual agreements between property owners and their tenants.</p> | |
| 002317 – 002838 | Chairman Dr CHIANG Lai-wan Administration | Dr CHIANG Lai-wan's view that the current proposal would benefit the middle class, especially the property-owning retirees. She echoed Mr Christopher CHUNG's concern and urged the Administration to ensure that property | |

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| | | <p>owners of domestic properties would return the rates concession to their respective tenants. Her enquiry that –</p> <p>(a) how much of the \$11 billion government revenue forgone would benefit ratepayers of public domestic properties and private properties respectively; and</p> <p>(b) of the private properties benefited from the proposed rates exemption measure, the number of properties were rented out and the number of those were owner-occupied.</p> <p>The Administration's response that –</p> <p>(a) out of the \$10.6 billion government revenue forgone, \$2.2 billion were rates waived from public domestic properties, \$6.7 billion from private properties and \$1.4 billion from non-domestic properties;</p> <p>(b) out of the private domestic properties and non-domestic properties known for leasing, the rates of over 20% of these properties were paid by the tenants, while the rest by the landlords; and</p> <p>(c) since rates exemption measure was a one-off relief measure, the Administration saw fit to implement it in a simple and cost-effective manner to ensure the benefits could reach members of the public as soon as possible.</p> | |
| 002839 – 003252 | Chairman Ir Dr LO Wai-kwok Administration | <p>Ir Dr LO Wai-kwok's support for the rates exemption measure. His enquiry was that –</p> <p>(a) whether the Administration might have given the public an impression that rates concession was a recurrent and regular measure, so much so that the public would be surprised if rates concession was not provided in a particular year; and</p> <p>(b) when rates exemption measure was first introduced and the details of previous rates exemption measures.</p> <p>The Administration's response that –</p> | |

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| | | <p>(a) it was the 15th year that rates exemption measure was introduced; and</p> <p>(b) in considering the ceiling of rates concession and the number of quarters when concession provided, the Administration would take into account the prevailing circumstances, including the macro environment, Government's fiscal capacity and the need to boost the economy in the short term. It was necessary for the Government to maintain rates as a broad-based and stable source of government revenue.</p> | |
| 003253 – 003710 | Chairman Mr Tony TSE Wai-chuen Administration | <p>Mr Tony TSE's support for the proposed rates exemption measure. As the ratepayer of the office he rented, Mr TSE commented that the measure would relieve the financial burden of the middle class, as well as small and medium enterprises. Apart from benefiting tenants and property owners who paid rates, he opined that the current proposal would create a rippling effect to benefit the public as a whole. Mr TSE's enquiry on whether –</p> <p>(a) the RVs of properties in paragraph 4 of the Administration's paper (LC Paper No. CB(1)634/15-16(01)) were based on the latest valuation;</p> <p>(b) the RVs had risen or fallen compared to that of the previous year. In case of a rise, what was the percentage; and</p> <p>(c) the percentage of the "total number of the relevant type of properties" in the table of said paragraph 4 was calculated based on the latest RVs in 2016-2017.</p> <p>The Administration's response that –</p> <p>(a) office premises were included in non-domestic premises and covered by the proposed rates exemption measure. Office premises made up 2.4% of all properties in Hong Kong. The rise of RVs in 2016-2017 for all properties was 4.2% on average and non-domestic properties 3.1% on average. The magnitude of change in RV was smaller</p> | |

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| | | <p>than that of the previous two years. The Administration conducted revaluation of RVs annually to reflect the latest market situation; and</p> <p>(b) the number of properties exempted from rates as a percentage of the "total number of the relevant type of properties" was calculated based on the RVs in 2016-2017.</p> | |
| 003711 – 004324 | Chairman Dr Fernando CHEUNG Chiu-hung Administration | <p>Dr Fernando CHEUNG's comment that rates exemption measure as a relief measure should target the grassroots, such as the tenants in public housing. While the current proposal would mainly benefit the tenants in private domestic properties, he criticized that the scope remained narrow.</p> <p>Dr CHEUNG's suggestion that property owners who owned more than one property, especially involving non-domestic property should not be benefited from the rates exemption measure, so that the relief measure would only benefit tenants and owners of self-occupied properties to avoid a regressive effect in narrowing the wealth gap.</p> <p>The Administration's reply that –</p> <p>(a) rates was a source of government revenue, and rates concession should not be regarded as a form of government expenditure. Having regard to the various factors mentioned (including the Government's fiscal capacity), the Administration proposed to introduce rates exemption measure as one of the measures to relieve the financial burden of the public;</p> <p>(b) the ratepayer expected to receive the largest amount of rates concession in 2016-2017 (excluding organisations providing subsidized housing) is an owner of a large number of non-domestic properties for leasing. As it was paying rates on behalf of the tenants and the rates concession would be reflected in the amount it would collect from the tenants, the tenants could enjoy the rates concession; and</p> <p>(c) the proposal of confining rates concession to</p> | |

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| | | <p>owners of self-occupied properties only would involve fundamental changes in rates collection, which was currently conducted on the basis of tenements. Moreover, under the Rating Ordinance, both the property owner and the tenants were responsible for rates payments. Introducing fundamental changes to the rating system would risk undermining the effectiveness of the rates collection system and the proposal would render certain tenants who would otherwise be eligible for rates concession not being able to be benefited.</p> <p>Dr CHEUNG's view that his suggestion was feasible. Instead of designing a new system, the Administration could require the ratepayers to declare their respective status so that the eligibility of rates concession could be confined to certain categories of ratepayers. To ensure the information provided was reliable, the Administration could conduct random checks for verification and prosecute applicants for any false declaration.</p> <p>The Administration assured that it would review the system regularly but the changes proposed by Dr CHEUNG to the rating system, including the introduction of self-declaration and verification, would not only complicate the existing system, but would also add to the burden of the ratepayers. The work involved would be disproportionate to a one-off relief measure.</p> | |
| 004325 – 004914 | Chairman Mr LEUNG Kwok-hung | <p>Mr LEUNG's criticism on the rates exemption measure that it would benefit well-off property owners, instead of the grassroots in public housing and owners of self-occupied properties, thus driving a wedge deeper between the rich and the poor. Moreover, there was no guarantee the rates concession would be returned to the tenants via the property owners. Mr LEUNG also questioned whether rates should be charged. Rates payment was first introduced to support municipal services provided by the Urban Council which was subsequently abolished.</p> <p>To achieve the goal of relieving financial burden of the needy, Mr LEUNG's views that –</p> | |

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| | | <p>(a) rental payments for tenants living in public rental housing should be waived;</p> <p>(b) progressive profit tax and salary tax on property owners of more than one property should be introduced; and</p> <p>(c) the sum of rates payment should be deployed to relief the financial burden of the poor.</p> | |
| 004915 – 005714 | Chairman Mr James TIEN Pei-chun Administration | <p>Mr James TIEN's views that there was an impression that rates exemption measure favoured owners of a large number of properties when it also benefited owners of small properties. In view of this, he enquired about the calculation of rates concession to owners of large properties, in particular of shopping malls, whether the rates concession was calculated in terms of the number of shopping malls an owner held or the number of tenants in the said malls. Noting that management fees and rates were usually paid to property owners separately, Mr TIEN also asked whether rates concession could benefit the tenants or be pocketed by the landlord under such circumstances.</p> <p>The Administration's reply that each tenement in a shopping mall was a rateable property. Most of the tenancy agreements in non-domestic properties were normally rates exclusive, i.e. tenants were required to pay rates. For the convenience of management, most of the tenants would make rates payments via the property owners. Hence, the rates exemption measure would also benefit the tenants in accordance with the tenancy provisions. Furthermore, while a shopping mall might be owned by a single landlord, it would normally be divided into many tenements with individual tenancy agreements. RVD would assess individual tenements to rates payable and each tenement would enjoy rates concession.</p> <p>The Administration also replied that it was understood that, for non-domestic properties, the landlord usually paid rates on behalf of the tenants. The rates concession would be reflected in the rental demand notes. Hence, the tenants could benefit from the rates concession.</p> | |

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| | | <p>The Chairman commented that in actual operation, the demand notes were sent to the property owners for the payment of both government rents and rates. After making the payment, the property owners would usually claim the rates payments against the tenants. Where there was rates concession, the property owners would claim the balance of rates payment after concession was made.</p> | |
| 005715 – 010139 | <p>Chairman Dr Fernando CHEUNG Chiu-hung Administration</p> | <p>Dr Fernando CHEUNG's reiteration that the rates exemption measure as a relief measure should alleviate the needy, including tenants and the middle class living in self-occupied properties, rather than returning money to well-off property owners.</p> <p>Dr CHEUNG's suggestion that tenants and property owners should be requested to make declaration in applying for rates concession. To ensure that public resources were appropriately distributed and prevent abuse, the Administration could conduct random checks and penalize false declarations.</p> <p>The Administration's reiteration that –</p> <p>(a) valuation and collection of rates were conducted on the basis of tenements; and</p> <p>(b) requesting the ratepayers to make declaration on their eligibility for rates concession might involve determination and verification of titles which would unnecessarily complicate the existing system and add to the burden of the ratepayers.</p> | |
| 010140 – 010810 | <p>Chairman Mr LEUNG Kwok-hung Administration</p> | <p>Mr LEUNG Kwok-hung's views that the Administration should continue to collect rates and taxes rather than proposing rates exemption measures and tax rebates, and deploy the sum collected to relieve the grassroots. Mr LEUNG elaborated that taxpayers and ratepayers could afford to contribute part of their income to the Administration for poverty relief.</p> <p>Mr LEUNG's request for the Administration to provide the following information –</p> <p>(a) the government expenditure for paying one</p> | |

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| | | <p>month's rent for tenants living in public housing in 2015-2016;</p> <p>(b) the revenue forgone this year under the rates exemption measure for tenants in public domestic properties;</p> <p>(c) a comparison of (a) and (b) above; and</p> <p>(d) the number of car parking spaces liable to rates payment in domestic premises and non-domestic premises respectively.</p> <p>The Administration's reply that –</p> <p>(a) \$1.1 billion was spent on paying one month's rent for tenants living in public housing in 2015-2016;</p> <p>(b) the government revenue forgone this year under the rates exemption measure for tenants in public domestic properties amounted to \$2.2 billion;</p> <p>(c) an additional amount of \$1.1 billion was incurred this year under the rates exemption measure compared to the relief measure in the previous year; and</p> <p>(d) there were 232 000 car parking spaces and about 40 000 car parking spaces liable to rates payment in domestic premises and non-domestic premises respectively. The number of car parking spaces in domestic premises had been indicated in the table in paragraph 4 of the Administration's paper (LC Paper No. CB(1)634/15-16(01)) whereas, given the relatively small number of such facilities in non-domestic premises, the figure was included in the 409 000 properties liable to rates payment under all non-domestic premises in the same table.</p> | |
| 010811 – 011349 | Chairman Dr Fernando CHEUNG Chiu-hung Administration | <p>Dr Fernando CHEUNG's reiteration that it was most important for public policies to have an intention, with that the Administration had the responsibility to resolve technical difficulties in its implementation.</p> <p>Dr CHEUNG's views that previous rates</p> | |

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| | | <p>exemption measures already revealed that a property owner of over 10 000 properties had received as much as hundreds of millions of dollars as rates concession, which reflected that the relief measure primarily benefited the wealthy property owners rather than the grassroots. Therefore, the Administration should improve the rates collection system to ensure rates exemption measure could achieve the intention of relieving financial burden.</p> <p>Dr CHEUNG's request for the Administration to provide the following information–</p> <ul style="list-style-type: none"> (a) how many years had the Administration introduced rates exemption measure, and whether such measure had become structural; (b) given that the rates exemption measure was introduced for many years, whether the Administration considered this source of revenue negligible and could be dispensed with; and (c) given that rates were a form of property tax, would the Administration make reference of neighbouring countries such as Singapore which had introduced progressive element to their land tax and consider introducing progressive property tax and rates payments in Hong Kong, so that the Administration would not have to rely heavily on one-off relief measures to ease the financial burden of the public. <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) it was the 15th year that rates exemption measure was introduced; and (b) a progressive effect of rates has been achieved as rates were charged at 5% of the RV of a property. This ensured property with a higher RV would pay higher rates and vice versa. RVs were reviewed and updated annually. <p>Dr CHEUNG's clarification that by progressive effect, he meant waiving rates for properties with RVs below a certain level, for example,</p> | |

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| | | <p>\$2 million, instead of implementing rates exemption measure as a one-off relief measure every year.</p> <p>The Chairman's advice that the Subcommittee would not be an appropriate setting for considering Dr CHEUNG's suggestions .</p> | |
| 011350 – 011744 | Chairman Mr James TIEN Pei-chun Administration | <p>Mr James TIEN's request for clarification on whether any property owners had ever received rates concession amounting to \$100 million.</p> <p>The Administration's response that of the 10 ratepayers expected to receive the largest amount of rates concession, excluding the organisations providing subsidized housing, the top ratepayer owned 16 000 rateable properties and was expected to receive \$51.1 million of rates concession. As explained earlier at the meeting, the ratepayer concerned would reflect the amount of rates concession in full in the amount it would collect from its tenants.</p> <p>The Administration supplemented that whether the rental is rates inclusive and whether the tenants were required to make rates payment through the owners were a matter for the owners and the tenants when drawing up the terms of the tenancy agreements.</p> | |
| 011745 – 011910 | Chairman Mr Albert CHAN Wai-yip Administration | At Mr Albert CHAN's request, the Administration's undertaking to inform the Subcommittee of whether the top ratepayer had returned the respective amount of rates concession to its tenants (particularly those small tenants), and whether that ratepayer would do the same for the rates concession proposed in the 2016-2017 Budget. | The Administration to follow up as stated in paragraph 7 of the minutes. |
| <u>Examination of provisions of the Order</u> | | | |
| 011911 – 012055 | Chairman Administration Mr Albert CHAN Wai-yip | <p><u>Rating (Exemption) Order 2016 (L.N. 36 of 2016)</u></p> <p>Section 1 – Commencement</p> <p>Section 2 – Interpretation</p> <p>Section 3 – Exemption from payment of rates</p> | |

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| | | Mr Albert CHAN's opposition to the Order. | |
| 012056 – 012220 | Chairman Administration | The Subcommittee completed the scrutiny of the Order, and confirmed that no amendment would be proposed to the Order. Extension of the scrutiny period and legislative timetable. | |

Council Business Division 1
Legislative Council Secretariat
5 May 2016