

**Government's response to the issues raised at
the meeting of the Bills Committee on
Stamp Duty (Amendment) Bill 2017 held on 28 February 2017**

This paper provides the information requested by Members at the above meeting as set out in LC Paper No. CB(1)706/16-17(01).

Statistics on residential property transactions

2. To address the overheated property market, the Government announced the doubled ad valorem stamp duty (DSD) measure on 22 February 2013. Under the DSD regime, unless otherwise specified in the Stamp Duty Ordinance (Cap. 117), transactions in respect of residential and non-residential properties acquired on or after 23 February 2013 are subject to ad valorem stamp duty (AVD) rates at Scale 1 (i.e. DSD rates). The major exception is where the subject property is a residential property and the buyer is a Hong Kong permanent resident (HKPR) acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition. Under such circumstances, the lower AVD rates at Scale 2 will be applicable.

3. In view of renewed signs of exuberance in the residential property market, the Government announced on 4 November 2016 the New Residential Stamp Duty (NRSD) measure, i.e. to increase the AVD rates chargeable on residential property transactions to a flat rate of 15%. The new measure came into effect on 5 November 2016. The Government proposes to adopt the exemption arrangements provided for under the DSD regime, including the major exemption concerning HKPR-buyer as mentioned above.

4. The number of residential property transactions where the buyer was a HKPR acting on his/her own behalf and was not a beneficial owner of any other residential property in Hong Kong at the time of acquisition during the period from March 2013 to November 2016¹ (i.e. after the introduction of DSD but before the introduction of NRSD), and the period from December 2016 to February 2017 (i.e. after the introduction of NRSD) is set out at **Annex A**.

¹ Due to time-lag of data, transaction figures for a particular month reflect in general market situation in the previous month.

5. It can be seen from Annex A that amongst residential property transactions where buyers are HKPRs, the percentage of buyers who do not own any other residential property in Hong Kong at the time of acquisition reached 94% on average during the period from December 2016 to February 2017, much higher than the average of 76% during the period from March 2013 to November 2016. This demonstrates that NRSD has been rather effective in reducing demand from HKPR-buyers who already owned one or more residential properties in Hong Kong.

6. In introducing NRSD, the Government also proposes to maintain the refund mechanism under the DSD regime for a HKPR-buyer who acquires a new residential property for the purpose of replacing his/her only other residential property. The number of applications for partial refund of stamp duty in relation to replacement of residential property is set out at **Annex B**. Since it is not necessary for a buyer to indicate whether acquisition of new residential property is for the purpose of replacing his/her original residential property when presenting relevant instruments for stamping, we do not have record of replacement transactions that do not involve applications for partial stamp duty refund (e.g. cases where the HKPR-buyer disposes of his/her original residential property before acquiring a new residential property).

7. With the introduction of NRSD, acquisition of residential property in Hong Kong by a non-HKPR is subject to both Buyer's Stamp Duty (BSD) and NRSD (both at a flat rate of 15%), i.e. a stamp duty of 30% in aggregate. The number of residential property transactions involving non-local individual² and non-local company buyers is set out at **Annex C**. Data shows that BSD, which was introduced in October 2012, has been effective in curbing external demands. For the first two months of 2017, purchases by non-local buyers accounted for only 1.8% of the total residential property transactions, much lower than 4.7% in 2012.

8. The respective number and consideration of primary and secondary residential property transactions are set out at **Annex D**.

² Refers to non-Hong Kong identity card holders.

Stamp duty appeal cases

9. A list of stamp duty appeal cases lodged at the District Court and the Court of Appeal in relation to Special Stamp Duty (SSD), BSD and DSD, together with the respective grounds of appeal, is set out at **Annex E**.

Transport and Housing Bureau
March 2017

**Residential property transactions –
Portfolio of HKPR-buyers**

	March 2013 – November 2016 (after introduction of DSD but before introduction of NRSD)		December 2016 – February 2017 (after introduction of NRSD)	
	Monthly average	Percentage	Monthly average	Percentage
HKPR-buyers who are beneficial owners of other residential property in Hong Kong	1 127	24%	220	6%
HKPR-buyers who are not beneficial owners of any other residential property in Hong Kong	3 598	76%	3 260	94%

Source: Inland Revenue Department (IRD)

Note: The figures above reflect the position as at 28 February 2017.

**Number of applications for partial refund of stamp duty
in relation to replacement of residential property**

	25 July 2014 – November 2016 (after introduction of DSD but before introduction of NRSD)	December 2016 – February 2017 (after introduction of NRSD)
Monthly average of refund applications	182	161
Monthly average of total residential property transactions by HKPR-buyers	4 683	3 480
Percentage	4%	5%

Source: IRD

Note: The refund mechanism under the DSD regime only came into effect after gazettal of the Stamp Duty (Amendment) (No.2) Ordinance, which implements DSD, on 25 July 2014. Hence, there is no application received before 25 July 2014.

Residential property transactions involving non-local buyers

	2012	2013	2014	2015	2016	2017 (Jan and Feb)
Non-local individuals						
Not exceed \$2 million	1 854	65	45	50	35	7
Exceeds \$2 million to \$3 million	1 055	101	76	32	37	2
Exceeds \$3 million to \$4 million	282	159	101	64	109	2
Exceeds \$4 million to \$6 million	125	252	206	193	249	19
Exceeds \$6 million to \$20 million	105	437	594	366	554	79
Exceeds \$20 million	103	65	134	73	101	9
Total	3 524	1 079	1 156	778	1 085	118
Percentage of total residential property transactions	3.9%	1.9%	1.6%	1.3%	1.7%	1.4%
Non-local companies						
Not exceed \$2 million	280	5	1	-	3	-
Exceeds \$2 million to \$3 million	114	-	-	1	3	-
Exceeds \$3 million to \$4 million	61	10	6	2	1	-
Exceeds \$4 million to \$6 million	37	14	27	52	8	1
Exceeds \$6 million to \$20 million	56	28	53	104	26	32
Exceeds \$20 million	147	14	36	12	6	1
Total	695	71	123	171	47	34
Percentage of total residential property transactions	0.8%	0.1%	0.2%	0.3%	0.1%	0.4%

Source: IRD

Note: Non-local individuals refer to non-Hong Kong identity card holders.

**Number and consideration of agreements for sale and purchase (ASPs)
of residential units received by the Land Registry**

Year	Number of ASPs					Consideration		
	Primary Sales		Secondary Sales		Total	Primary Sales	Secondary Sales	Total
	Number	Percentage	Number	Percentage	Number	(\$ million)	(\$ million)	(\$ million)
2010	13 646	10%	122 132	90%	135 778	129,703	430,983	560,686
2011	10 880	13%	73 582	87%	84 462	130,885	311,638	442,527
2012	12 968	16%	68 365	84%	81 333	130,968	321,308	452,275
2013	11 046	22%	39 630	78%	50 676	95,872	203,070	298,942
2014	16 857	26%	46 950	74%	63 807	176,157	257,260	433,418
2015	16 826	30%	39 156	70%	55 982	161,028	255,493	416,520
2016	16 793	31%	37 908	69%	54 701	186,589	241,452	428,041
2017 (Jan & Feb)	2 138	29%	5 227	71%	7 365	25,629	38,270	63,899

Source: Land Registry

List of appeal cases in relation to SSD, BSD and DSD

Grounds of appeal	SSD	BSD	DSD	Total
Chargeability of instrument				
1. Whether a nomination is a chargeable instrument	2	-	-	2
Applicability of exemptions				
2. Whether the instrument is exempted if the property is acquired by a parent on behalf of a minor who is a HKPR	-	1	-	1
3. Whether the whole of the instrument is subject to lower stamp duty rates if residential property is acquired together with more than one car parking spaces	-	-	6	6
4. Whether each of the transferors and transferees must be closely related for relevant exemptions for close relatives to be applicable	-	1	1	1 (under the same case)
5. Whether the relevant exemptions for close relatives are applicable in relation to distribution of estate by deed of family arrangement and assent	-	1	2	2 (one of the cases involves both BSD and DSD)
6. Whether the instrument is exempted if the buyer acts as trustee thereunder	-	16	-	16
Applicability of partial refund of AVD in relation to replacement of residential properties				
7. Whether partial refund of AVD is allowed if the applicant owns more than one original properties	-	-	3	3

Grounds of appeal	SSD	BSD	DSD	Total
8. Whether partial refund of AVD is allowed if the single original property is disposed of by two agreements	-	-	3	3
9. Whether partial refund of AVD is allowed if the buyer is not a HKPR on the date of the acquisition of the new property	-	-	1	1
Others				
10. Whether partial refund of stamp duty inadvertently paid under Scale 1 rates can be allowed on application beyond the statutory time limit	-	-	1	1
11. Whether the date of conveyance on sale for Home Ownership Scheme flat of the Hong Kong Housing Authority should be taken as the date of acquisition	1	-	-	1
12. Whether the date of transfer of property by close relative inherited from estate should be taken as the date of acquisition	1	-	-	1
Total	4	19	17	38

Source: IRD

Note: The list above does not include appeal cases that are not concerned about provisions relating to SSD, BSD or DSD, e.g. those solely involve disputes over valuation of the property concerned.