

香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

運輸及房屋局

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本局檔號 Our Ref. () in HDCR4-3/PH/1-10/0-1 Pt.31
來函檔號 Your Ref. LS/B/8/16-17

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17 March 2017

Miss Winnie LO
Assistant Legal Adviser 7
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss LO,

Stamp Duty (Amendment) Bill 2017

Thank you for your letter dated 27 February 2017. We set out below our clarification on the issues raised in your letter.

Clause 5 – section 29AI and Clause 7 – section 29BA

2. The proposed amended sections 29AI(a) and 29BA(a) provide that an instrument is chargeable with ad valorem stamp duty under Part 2 of Scale 1 of head 1(1) (or head 1(1A)) in the First Schedule if the property concerned is non-residential property. The term “non-residential property” is defined under section 29A of the Stamp Duty Ordinance (Cap. 117) (SDO). Under the same section, “residential property” is defined as “immovable property other than non-residential property”. Thus, it is unequivocal that “any other case” under the proposed amended sections 29AI(b) and 29BA(b) refers to situation where the property concerned is residential property, or that involves exchange between residential property and non-residential property (i.e. the example quoted in our letter dated 24 February 2017). We have taken a holistic approach in drafting the Stamp Duty (Amendment) Bill 2017 (the Bill), and we

consider that the phrase “in any other case” can best reflect our policy intention of leaving no uncertainty at the time of enforcement.

Clause 6 – section 29AIA and Clause 8 – section 29BAB

3. Under the existing AVD regime, there is no limitation on the number of residential property or non-residential property in an exchange. We have no intention to make any changes to this existing arrangement. The proposed new sections 29AIA and 29BAB are drafted in a manner similar to the existing sections 29AO and 29BG, where the article “a” in front of “residential property” and “non-residential property” in these sections is generic and does not indicate the number of residential property and non-residential property in an exchange. In other words, “a” residential property / non-residential property as provided for under these sections can be interpreted as “more than one” residential properties / non-residential properties.

4. Please feel free to contact the undersigned at 2761 5117 should you have further inquiries on the Bill.



(Joyce KOK)

for Secretary for Transport and Housing

c.c.

Secretary for Justice

(Attn : Ms Françoise LAM)

(Attn : Miss Wendy HO)

Commissioner of Inland Revenue (Attn : Ms TSE Yuk-yip)