

**Legislative Council Finance Committee
Follow-up to the meeting on 3 November 2017**

**Recommendation of the Establishment Subcommittee
made on 26 April 2017
FCR(2017-18)18**

During the discussion of the item FCR(2017-18)18 at the Finance Committee meeting on 3 November 2017, the Government was requested to provide the following information –

- (a) A breakdown of the stamp duty appeal cases on property transactions, including those arising from the ambiguity of legislative provisions relating to demand-side management measures, and the number of appeals allowed; and
- (b) When the demand-side management measures are withdrawn, the schedule of responsibilities of Chief Assessor (Stamp Office) (“CA(SO)”) and the change of his/her duties, including additional responsibilities to make up for the reduced workload due to the withdrawal of such measures.

Government’s Response

(a) Stamp duty appeal cases

2. Between 1 April 2011 to 31 October 2017, over 10 million of documents were stamped by the Inland Revenue Department (“IRD”). 316 stamp duty appeal cases were received and 52 of these were related to Special Stamp Duty (“SSD”), Buyer’s Stamp Duty (“BSD”) and doubled ad valorem stamp duty (“DSD”). A breakdown of these cases is at **Annex**. No appeals had been allowed for cases related to SSD, BSD and DSD.

(b) Schedule of responsibilities of CA(SO)

3. The Stamp Office (“SO”) of the IRD oversees, among others, the collection of stamp duty and betting duty. In recent years, the SO has not only handled the rapidly increasing workload arising from property transactions, but also an escalating number of appeal cases. As the head of the SO, CA(SO) is responsible for handling these appeal cases, making

the submissions to courts, and preparing for the appeal hearings in consultation with the Department of Justice.

4. Volume aside, the stamp duty cases dealt with by the SO have become increasingly complicated. In some cases, the stamp duty payers and the SO held different views on the interpretation of provisions under the Stamp Duty Ordinance (Cap. 117) (“SDO”). There is a practical need to provide directorate leadership in considering these complex cases so as to ensure that the stamp duty provisions under the SDO are properly and consistently administered.

5. The SO is also required to provide technical support to other policy bureaux in implementing various new policy initiatives. These include the stamp duty arrangement for the new open-ended fund company structure and the uncertificated securities market regime. The initiatives pertaining to the SO are highly specialised and time-critical. Most of them involve legislative amendments to the SDO. Hence it is imperative to have a directorate officer leading the SO for its smooth and effective operation.

6. Implementing the demand-side management measures is only one of the duties of CA(SO). If the Government were to withdraw those measures in future, we will review the prevailing duties of CA(SO). Having said that, the SO will have to provide technical support for the necessary legislative amendments to the SDO. In addition, the demand-side management measures (even if withdrawn) would still apply to the property transfer cases which took place before the withdrawal of the measures. Further, the SO will continue to review and enhance its stamping services provided to the public, including the extension of the scope of e-Stamping service. All these work will be overseen by CA(SO) who will continue to have a substantial policy portfolio.

**Financial Services and the Treasury Bureau
Inland Revenue Department
January 2018**

**Number of stamp duty appeal cases received by
the Inland Revenue Department from 1 April 2011 to 31 October 2017**

Type of appeal cases	Number of cases
(1) Relating to SSD, BSD and DSD	52
(2) Relating to property valuation	105
(3) Relating to series of transaction	134
(4) Others	25
Total	316

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

Grounds of appeal	Number of cases
(a) Whether the instrument is chargeable with BSD if the purchaser acted as trustee	28
(b) Whether partial refund of ad valorem stamp duty is allowed in relation to replacement of residential properties	8
(c) Whether the whole of the instrument is subject to lower stamp duty rates if residential property is acquired together with two car parking spaces	7
(d) Whether the transferors and the transferees are close relatives	3
(e) Whether a nomination is a chargeable instrument	2
(f) How to ascertain the date of acquisition of property for the purpose of SSD	2
(g) Others	2
Total	52

Note: The above breakdown of stamp duty appeal cases received does not include any judicial review cases.