

財經事務及庫務局
(庫務科)

香港下亞厘畢道
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FINANCIAL SERVICES AND THE
TREASURY BUREAU
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Legislative Council Building
8 Jackson Road, Central
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(Fax: 2877 5029)

Dear Ms LAI,

Stamp Duty (Amendment) Bill 2002

Thank you for your letter of 24 February 2003. The Administration's response to your questions is set out in the ensuing paragraphs.

The power of the Collector of Stamp Revenue ("the Collector") to cancel a stamp certificate if it is subsequently found to contain any error and his power to issue a new stamp certificate to rectify the error [proposed sections 18J(1)(c) and 18J(4)/(5)] is provided mainly for the benefit of the duty payers. A stamp certificate is a preliminary evidence of stamping. Where there is an error in the stamp certificate such that the particulars shown therein do not match those in the relevant instrument, the certificate will not be regarded as a stamp certificate issued in respect of that instrument.

The proposed section 18J(5) is to cater only for the situation where the error concerns an undercharge of duty. It provides that the Collector may only issue a new stamp certificate after payment of the undercharged stamp duty has been made. For example, in a case where a duty payer finds that he has understated the amount of consideration in completing the application form for stamping, the stamp certificate originally issued will not match with the instrument and cannot be accepted as evidence of stamping. The duty payer may then notify the Collector of this error and pay the duty undercharged. Pursuant to

section 18J, the Collector may cancel the original stamp certificate and issue a correct one. If a time limit is set, the Collector has no power to rectify the situation if the duty payer only finds out the error after any time bar.

For cases where the Collector is of the view that stamp duty paid in respect of an instrument is not sufficient (e.g. the market value of a property is substantially greater than the stated consideration), the Collector will adjudicate the instrument and issue an assessment under section 13 of the Stamp Duty Ordinance (Cap 117). Recovery actions will be taken within the 6 years' time limit under section 4(5) of the Ordinance. This is not a case of error contained in a stamp certificate as envisaged in the proposed section 18J.

Please feel free to contact me if you have any questions related to this reply.

Yours sincerely,



(Ivanhoe Chang)

for Secretary for Financial Services and the Treasury

c.c. S for J (Attn.: Ms Lonnie NG)
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