

**Bills Committee on Stamp Duty (Amendment) Bill 2002**

**The Administration's Response and Follow-up Actions  
on Issues Arising from the Discussion at  
the Meeting on 11 April 2003**

The Administration's response to the following issues raised during the Bills Committee's meeting on 11 April 2003 is set out below:-

**(a) To clarify who may register as users of the new electronic stamping system and whether it is intended to place any restriction on the users when they access the new system**

There will be two groups of users, namely "Registered Users" and "Non Registered Users". Any person may apply for an account with the Stamp Office as a Registered User and he can access the new electronic Property Stamping System ("PSS") using a password. Frequent users of the stamping services such as solicitor firms, property agents are likely to be Registered Users. For the general public who only occasionally use the stamping service, they can access the PSS as "Non Registered Users" by using either digital certificates or the passwords of their Taxpayers' Identification Numbers (TIN) previously given by the Inland Revenue Department.

There is no restriction on the users to access the PSS after authentication by using either one of the abovementioned three means. For security purpose, all access to the PSS will be logged for audit trail.

Apart from using the electronic stamping service, both types of users can also check the genuineness of a stamp certificate on hand via the certificate checking function provided by the PSS. After authentication, the user has to input certain data unique to the stamp certificate for verification before the PSS can display the relevant stamp certificate on the screen. Apart from the data of the specific stamp certificate under enquiry, the user cannot gain access to other certificates stored in the PSS. When developing this certificate checking function, we shall balance the need for security and convenience of the service to the public.

**(b) To consider whether it is feasible for applicants for stamp certificates to pay stamp duty by credit card**

We will consider which modes of payment to allow regarding payment of stamp duty under the new stamping system, including credit card. We will consider different factors including whether Government is required to pay any transaction charge.

**(c) To consider how the proposed electronic stamping system can indicate the validity of stamp certificates in respect of stamp duty that is paid by cheques, given that cheques may not be honoured upon clearance**

If a cheque is bounced, IRD will immediately notify the duty payer or his representative of the matter and it is to his interest to rectify it as soon as possible. If we wait for clearance of all the cheques received before issuing stamp certificates, as it will take several days before notification of dishonoured cheques from the bank, is received our purpose of shortening the stamping, processing time will be defeated. According to past experiences, cases involving dishonoured cheques not subsequently rectified are rare.

We will draw to the attention of parties concerned that a payment will not be considered as received if it is paid by cheque that is not honoured, so that the concerned parties may confirm the validity of stamp certificates at an appropriate time.

**(d) To consider whether it is feasible to use the proposed stamping system to issue stamp certificates for instruments in respect of properties that are being transferred as gifts**

Section 27(3) of the Stamp Duty Ordinance, Cap. 117, provides that a conveyance or transfer operating as a voluntary disposition inter vivos shall not be duly stamped unless the Collector has adjudicated and stamped it under section 13(3)(b). The current practice is for the Collector to examine the instrument in each and every adjudication case. As such, the duty payers are still required to present the original instruments to the Stamp Office and wait for the valuation results. Hence, to allow the submission of stamping applications for deed of gift cases and issuance of stamp certificates bearing a “pending adjudication” denotation electronically will not save the solicitors’ any time or efforts in the process of stamping. On the other hand, to provide for the service

will increase the development costs of the PSS and might not be justifiable in view of the small number of gift cases.

**(e) To consider again the need to define in the Bill “error” in stamp certificates**

Where a stamp certificate is subsequently found to contain any error, it shall be cancelled by the Collector under section 18J(1)(c). It should be noted that such power to cancel the stamp certificate is not to be read on its own but, rather, to be read in conjunction with the power to issue a new stamp certificate under section 18J(4) and (5). After all, the dual power to cancel and re-issue a stamp certificate is to be exercised for the benefit of the duty payers and for keeping of accurate record.

A stamp certificate will contain a variety of information including particulars of the instrument, stamping denotations etc. An error can occur due to various reasons including input error, clerical mistake, computational fault etc. It will be impracticable to define “error” in the Stamp Duty Ordinance by listing all the circumstances which may give rise to an error in a stamp certificate.

**(f) To reply to the letter dated 10 April 2003 from Assistant Legal Adviser**

A copy of the reply to the Assistant Legal Adviser is attached.

**(g) To update the response to the “Summary of concerns/comments raised in submissions” by incorporating those of the Hong Kong Real Estate Agencies General Association at the meeting**

A copy of the Administration’s response to concerns/comments raised by the Hong Kong Real Estate Agencies General Association is attached.