

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2125/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/7/09/2

**Bills Committee on Stamp Duty (Amendment) Bill 2010**

**Minutes of first meeting  
held on Monday, 17 May 2010, at 8:30 am  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LEE Wing-tat  
Hon WONG Ting-kwong, BBS, JP  
Hon WONG Kwok-kin, BBS  
Hon Paul TSE Wai-chun
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP  
Hon CHIM Pui-chung
- Public officers attending** : Transport and Housing Bureau  
  
Mr Eugene FUNG  
Principal Assistant Secretary for Transport and Housing  
(Housing)(Private Housing)  
  
Miss Alice YEUNG  
Senior Administrative Officer (Private Housing)
- Financial Services and the Treasury Bureau  
  
Ms Shirley KWAN  
Principal Assistant Secretary for Financial Services and  
the Treasury (Treasury) (Revenue)

Inland Revenue Department

Mrs Brenda LEE  
Assistant Commissioner 3

Ms Mary WONG  
Senior Assessor

Department of Justice

Mr Sunny CHAN  
Senior Assistant Law Draftsman

**Clerk in attendance** : Miss Becky YU  
Chief Council Secretary (1)1

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Mrs Mary TANG  
Senior Council Secretary (1)2

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**I. Election of Chairman**

Ir Dr Raymond HO, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Bills Committee. Ir Dr Raymond HO invited nominations for the chairmanship of the Bills Committee.

2. Mr WONG Ting-kwong nominated Mr CHAN Kam-lam, and the nomination was seconded by Mr WONG Kwok-kin. Mr CHAN Kam-lam accepted the nomination.

3. There being no other nominations, Mr CHAN Kam-lam was declared Chairman of the Bills Committee.

**II. Meeting with the Administration**

(LC Paper No. CB(1) 1901/09-10(01) — Background brief on Stamp Duty (Amendment) Bill 2010

LC Paper No. CB(1) 1901/09-10(02) — Marked-up copy of the Bill (Restricted to Members))

Background information on the Bill

(LC Paper No. CB(3) 624/09-10

Ref: HD (CR)42/213

— The Bill

— The Legislative Council Brief

4. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
5. The Administration was requested to -
  - (a) advise the justifications for targeting at transactions of properties valued more than \$20 million, and increasing the rate of stamp duty payable in relation to transactions of these properties from 3.75% to 4.25%;
  - (b) provide details of transactions of properties of different price ranges over the past 12 to 18 months. To also advise whether systematic analysis had been conducted to ascertain the prevalence of speculation of properties of certain price ranges before deciding to increase the rate of stamp duty;
  - (c) provide a paper explaining the roles of different departments in regulating property transactions, including speculations, confirmor sales, and stamp duty etc.;
  - (d) provide statistics on confirmor sales, including the number of property transactions, the number of demand notes for profit tax issued, the amount of tax collected etc, over the past five years. To also advise how the Inland Revenue Department could recoup profit tax from confirmors who were not local citizens, and whether consideration would be given to restricting confirmor sales with a view to curbing property speculation;
  - (e) consider extending the proposed disallowance for deferment of payment of stamp duty chargeable on an agreement for sale made in respect of residential property to properties valued more than \$10 million. To also consider refunding a certain percentage of stamp duty for properties sold after a certain period say two years; and
  - (f) advise whether consideration would be given to introducing capital gains tax on property sales.

*(Post-meeting note: After consulting members vide LC Paper No. CB(1) 1934/09-10, the Chairman decided that the next meeting would be held on Wednesday, 26 May 2010, at 8:30 am.)*

### **III. Any other business**

6. There being no other business, the meeting ended at 9:30 am.

**Bills Committee on  
Stamp Duty (Amendment) Bill 2010**

**Proceedings of the first meeting  
on Monday, 17 May 2010, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000039 - 000310	Ir Dr Raymond HO Mr WONG Ting-kwong Mr WONG Kwok-kin Mr CHAN Kam-lam	Mr CHAN Kam-lam was elected Chairman of the Bills Committee.	
<i>Agenda Item II - Meeting with the Administration</i>			
000311 - 000913	Chairman Administration Mr WONG Ting-kwong	Administration's explanation on the Bill.  Mr WONG Ting-kwong's enquiries -  (a) justifications for increasing the rate of stamp duty payable in relation to transactions of properties valued more than \$20 million to 4.25%, instead of 4.5% as suggested by the Democratic Alliance for the Betterment and Progress of Hong Kong; and  (b) whether consideration had been given to introducing capital gains tax on property sales.  Administration's response -  (a) the increase in rate of stamp duty aimed to increase the transaction cost of property speculation, thereby reducing the risk of a property bubble;  (b) the increase from 3.75% to 4.25% was considered appropriate and had taken effect on 1 April 2010 under the Public Revenue Protection Order 2010;  (c) would closely monitor the latest development of the property market, and would consider further increasing the rate of stamp duty if	The Administration to advise whether consideration would be given to introducing capital gains tax on property sales.

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		<p>situation warranted; and</p> <p>(d) the proposed introduction of capital gains tax would imply a fundamental change to the tax system in Hong Kong and would require very careful consideration.</p>	
000914 -001612	Mr James TO Chairman Administration	<p>Mr James TO's enquiry/request -</p> <p>(a) whether any statistics or analysis had been conducted to justify the need to increase the rate of stamp duty payable in relation to transactions of properties valued more than \$20 million from 3.75% to 4.25%; and</p> <p>(b) provide details of transactions of properties of different price ranges over the past 12 to 18 months.</p> <p>Administration's response -</p> <p>(a) speculative activities covered flats of all price ranges. However, generally speaking, investors were more interested in investing in properties at the higher end of the market;</p> <p>(b) the threshold for increasing the rate of stamp duty in relation to transactions of properties valued more than \$20 million aimed to strike a balance between increasing the transaction cost of property speculation and protecting the interest of genuine home buyers;</p> <p>(c) reference had also been made to the Hong Kong Monetary Authority (HKMA)'s guidelines to banks in October 2009 to reduce the loan-to-value ratio from 70% to 60% which applied to residential properties valued at \$20 million or more;</p> <p>(d) the two proposals pertaining to the Bill were only part of a package of measures to curb speculative</p>	<p>The Administration to -</p> <p>(a) advise the justifications for targeting at transactions of properties valued more than \$20 million, and increasing the rate of stamp duty payable in relation to transactions of these properties from 3.75% to 4.25%; and</p> <p>(b) provide details of transactions of properties of different price ranges over the past 12 to 18 months.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>activities; and</p> <p>(e) consideration would be given to extending the two measures to transactions of properties valued less than \$20 million if speculative activities were found to be more rampant in the lower price ranges of properties.</p>	
001613 - 002159	Ir Dr Raymond HO Administration	<p>Ir Dr Raymond HO's views and enquiries -</p> <p>(a) justifications for setting the threshold for stamp duty increase at properties valued more than \$20 million;</p> <p>(b) a higher threshold, say properties valued more than \$30 million, should be set to avoid impact on genuine middle-class home buyers; and</p> <p>(c) provision of sufficient land for residential development was a more effective measure to curb property speculation than the proposed increase in stamp duty.</p> <p>Administration's response -</p> <p>(a) the threshold was set with reference to HKMA guidelines to banks in October 2009 to reduce the loan-to-value ratio from 70% to 60% which applied to residential properties valued at \$20 million or more;</p> <p>(b) transactions of properties valued more than \$20 million only comprised 1.5% of total property transactions in Hong Kong. The coverage would be further limited if the threshold was to be raised to properties valued at \$30 million or more and might not be effective in curbing property speculation;</p> <p>(c) apart from the two proposals in the Bill, the Financial Secretary had</p>	

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		<p>announced in his 2010-2011 Budget speech that various measures would be adopted to address the fundamental issue of land and flat supply; and</p> <p>(d) additional measures would be taken as appropriate to curb speculative activities.</p>	
002200 - 002749	Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's views that banning of confirmor sales would be more effective in curbing property speculation than increasing stamp duty. Unlike the increase in stamp duty, the ban would not have impact on genuine home buyers.</p> <p>Administration's response -</p> <p>(a) in the past, the Government had taken various measures to curb speculative activities. These included prohibiting subsale, imposing restrictions on the target groups for sale of uncompleted residential flats, and requiring developers to put up for sale all flats within a certain period. The Government would continue to closely monitor market developments. Where necessary, the Government would consider reinstating appropriate measures to ensure a healthy and stable development of the property market; and</p> <p>(b) the proposed increase in stamp duty and disallowance for deferment of payment of stamp duty would increase the transaction cost, reduce the cash flow of speculators, and make speculators act more prudently.</p>	
002750 - 003632	Ms Miriam LAU Administration	<p>Ms Miriam LAU's views and enquiries -</p> <p>(a) the proposed threshold of properties valued at \$20 million or more was appropriate as most middle-class</p>	<p>The Administration to provide statistics on confirmor sales, including the number of property transactions, the</p>

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		<p>families could not afford properties above this price range;</p> <p>(b) whether statistics on confirmor sales were available;</p> <p>(c) consideration should be given to imposing tax on confirmor sales to reduce property speculation; and</p> <p>(d) publicity should be stepped up to alert the public that confirmor sales would be subject to profit tax in an attempt to deter speculative activities.</p> <p>Administration's response -</p> <p>(a) demand notes for profit tax would be issued to cases which the Inland Revenue Department (IRD) regarded as involving property speculation;</p> <p>(b) IRD did not collect information specifically on speculation of properties by means of confirmor; and</p> <p>(c) IRD's computer programme had identified some 13 000 suspected property speculation cases with no existing profits tax files in 2008-2009. Of these, about 4 000 cases required follow-up action after initial processing.</p>	<p>number of demand notes for profit tax issued, the amount of tax collected etc, over the past five years. To also advise how IRD could recoup profit tax from confirmors who were not local citizens, and whether consideration would be given to restricting confirmor sales with a view to curbing property speculation.</p>
003633 - 004121	Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's requests -</p> <p>(a) an information paper to explain the roles of different departments in regulating property transactions, including speculations, confirmor sales, and stamp duty; and</p> <p>(b) efforts should be stepped up to recover profit tax from confirmor sales and property speculators involved in frequent property trading.</p>	<p>The Administration to provide a paper explaining the roles of different departments in regulating property transactions, including speculations, confirmor sales, and stamp duty etc.</p>

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		<p>Administration's response -</p> <p>(a) property speculators were generally regarded as carrying on a business and had to pay tax under the Inland Revenue Ordinance (Cap.112);</p> <p>(b) some of the property speculators had opened tax files, and they were requested to report profits in their tax returns; and</p> <p>(c) IRD would take into account the number of transactions, the duration of property held, the background, motive, financial arrangements and mode of operation etc, in determining whether the person/company should be treated as carrying on a property dealing business and had to pay tax for the profits earned.</p>	
004122 - 005248	Mr James TO Administration	<p>Mr James TO's enquiries -</p> <p>(a) whether consideration could be given to extending the proposed disallowance for deferment of payment of stamp duty chargeable on an agreement for sale made in respect of residential property to properties valued more than \$10 million;</p> <p>(b) whether consideration could be given to refunding a certain percentage of stamp duty for properties sold after a certain period say two years; and</p> <p>(c) whether there was evidence to suggest that speculative activities were more rampant for properties valued more than \$20 million than that for those valued \$10 million or above.</p> <p>Administration's response -</p> <p>(a) the two proposals in the Bill were simpler and more straight-forward to administer;</p>	<p>The Administration to consider extending the proposed disallowance for deferment of payment of stamp duty chargeable on an agreement for sale made in respect of residential property to properties valued more than \$10 million. To also consider refunding a certain percentage of stamp duty for properties sold after a certain period say two years.</p>

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		<p>(b) Mr TO's proposals might involve a fundamental change to the simple tax regime practiced in Hong Kong;</p> <p>(c) there were administrative complications involved in refunding stamp duty. Also, flat buyers would find it troublesome in having to pay a higher stamp duty at the outset for refund in future;</p> <p>(d) application of the two proposals in the Bill to properties valued at \$20 million or more aimed to strike a balance between curbing speculation and protection of interest of genuine home buyers; and</p> <p>(e) the Government did not rule out the possibility of extending the two tax measures to properties in the lower end in the event of rampant speculative activities.</p>	
005249 - 005601	Ms Miriam LAU Administration	<p>Ms Miriam LAU's views -</p> <p>(a) did not support extending the proposed disallowance for deferment of payment of stamp duty chargeable on an agreement for sale made in respect of residential property to properties valued more than \$10 million as this might have impact on genuine middle-class home buyers; and</p> <p>(b) need to work out measures to collect tax from foreign investors involved in confirmor sales.</p> <p>Administration's response that demand notes for profit tax would also be issued to foreign investors involved in confirmor sales. Arrangements would also be made to notify the solicitors concerned for the collection of tax.</p>	The Administration to advise how IRD could recoup profit tax from confirmors who were not local citizens,, and whether consideration would be given to restricting confirmor sales with a view to curbing property speculation.
005602 - 005720	Ir Dr Raymond HO Administration	Ir Dr Raymond HO's enquiry on whether systematic analysis had been conducted to ascertain the prevalence of speculation of properties of certain	The Administration to advise whether systematic analysis had been conducted to

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		price ranges before deciding to increase the rate of stamp duty.	ascertain the prevalence of speculation of properties of certain price ranges before deciding to increase the rate of stamp duty.
005721 - 005830	Chairman Mr WONG Ting-kwong	Discussion on the date of next meeting.	

Council Business Division 1  
Legislative Council Secretariat  
3 June 2010