

立法會
Legislative Council

LC Paper No. CB(1) 2243/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/09/2

Bills Committee on Stamp Duty (Amendment) Bill 2010

Minutes of second meeting
held on Wednesday, 26 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 Abraham SHEK Lai-him, SBS, 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
- Member absent** : 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

I. Meeting with the Administration

- (LC Paper No. CB(1) 2022/09-10(01) — List of follow-up actions arising from the discussion at the meeting on 17 May 2010
- LC Paper No. CB(1) 2022/09-10(02) — Administration's response to CB(1) 2022/09-10(01))

Relevant papers

- (LC Paper No. CB(3) 624/09-10 — The Bill
Ref: HD (CR)42/213 — The Legislative Council Brief
LC Paper No. LS60/09-10 — Legal Service Division Report
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)

The Bills Committee deliberated (Index of proceedings attached in **Annex**).

2. The Administration was requested to -

- (a) advise the code of practice which the Inland Revenue Department adopted in assessing and collecting stamp duty as well as combating tax evasion in relation to property transactions;
- (b) advise the number of property speculators who had opened tax files and if not, the difficulties involved in providing such information;
- (c) provide a rough estimate on the transfer of properties through acquisition of shares of companies;

- (d) advise the feasibility of imposing an additional stamp duty on the seller of subsale through confirmor or resale of properties within a certain period of time;
 - (e) advise the number of suspected property dealing cases requiring follow-up actions after initial processing in the Annex which required payment of profits tax; and
 - (f) provide a paper advising the common types of speculative activities (apart from confirmor sales) and the measures which the Administration had taken or would take to curb these activities.
3. Members agreed that the next meeting would be held on Friday, 4 June 2010, at 8:30 am.

(Post-meeting note: On the instruction of the Chairman, the next meeting had been re-scheduled for Tuesday, 8 June 2010 at 4:30 pm.)

II. Any other business

4. There being no other business, the meeting ended at 10:07 am.

Council Business Division 1
Legislative Council Secretariat
14 June 2010

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

**Proceedings of the second meeting
on Wednesday, 26 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 - Meeting with the Administration</i>			
000129 - 001255	Chairman Administration	Administration's explanation on its response to the list of follow-up actions arising from the discussion at the meeting on 17 May 2010 (LC Paper No. CB(1) 2022/09-10(02)).	
001256 - 002308	Mr James TO Administration	<p>Mr James TO's concerns/views -</p> <p>(a) the proposed increase in stamp duty for property transactions valued \$20 million or more might not be effective in curbing speculation, given that the record in 2009 revealed that over 90% of these did not involve resale within two years of purchase. In other words, almost all purchasers of properties valued \$20 million or more would have to pay additional stamp duty even if they were not involved in property speculation;</p> <p>(b) confirmor cases were more prevalent in property transactions valued between \$10 million to \$20 million;</p> <p>(c) "target specific" measures should be introduced to curb property speculators, particularly confirmors, so that genuine home buyers would not be affected; and</p> <p>(d) consideration could be given to adopting a progressive approach in refunding stamp duty such that a higher rebate would be given to those who held the properties for an extended period of time.</p> <p>Administration's explanation -</p> <p>(a) apart from stamp duty, profits tax</p>	

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		<p>would be imposed on profits from property speculation;</p> <p>(b) the Inland Revenue Department (IRD) would recover profits tax from speculative activities;</p> <p>(c) confirmor cases were found in transactions of properties of all price ranges; and</p> <p>(d) the two measures in the Bill aimed to strike a balance between curbing property speculation and protecting the interest of genuine home buyers. Consideration would be given to extending the measures to all property transactions in the event of rampant speculative activities.</p>	
002309 - 002924	Mr Paul TSE Administration	<p>Mr Paul TSE's enquiries on -</p> <p>(a) apart from the Hong Kong Monetary Authority's guidelines to banks in October 2009 to reduce the loan-to-value ratio from 70% to 60% for residential properties valued at \$20 million or more, the other considerations which had been taken into account for setting the threshold at \$20 million; and</p> <p>(b) whether the statistics on property transactions as set out in the Administration's paper included transfer of properties through acquisition of shares of companies, which was a common tool for property speculation.</p> <p>Administration's response -</p> <p>(a) the setting of the threshold at \$20 million aimed to strike a balance between curbing property speculation and protecting the interest of genuine home buyers, given that the number of transactions of properties valued \$20 million or more comprised less than 2% of the total number of property transactions;</p>	

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		<p>(b) if the threshold had been reduced to \$10 million, 4% of property transactions would be included. This might affect genuine middle-class home buyers;</p> <p>(c) the statistics provided by the Administration did not include transfer of properties through acquisition of shares of companies. Besides, stamp duty had still to be paid in respect of transfer of properties through acquisition of Hong Kong stock of companies;</p> <p>(d) transfer of properties through acquisition of shares of companies would entail very complicated procedures involving the setting up of a company; and</p> <p>(e) introduction of additional taxes to curb property speculation would imply a fundamental change to the tax system in Hong Kong, which had all along been simple and direct.</p>	
002925 - 003318	Mr WONG Ting-kwong	<p>Mr WONG Ting-kwong's views -</p> <p>(a) the proposed increase in stamp duty would dampen speculation in the higher end of the market;</p> <p>(b) the cost incurred in setting up a limited company for transfer of properties through acquisition of shares of the company would be much less than the stamp duty charged for property transactions;</p> <p>(c) IRD should step up efforts to recover profit tax from companies which were set up to hold properties for speculation; and</p> <p>(d) consideration could be given to imposing tax on profits from property speculation, given Hong Kong's narrow tax base.</p>	

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003319 - 004310	Ms Miriam LAU Chairman Administration	<p>Ms Miriam LAU's views/enquiries -</p> <p>(a) confirmor sales were not a crime, and there were cases where a person had a genuine need to re-sell his property before assignment was completed;</p> <p>(b) whether IRD could differentiate between subsale through confirmor and other cases where there was a genuine need for resale before completion of assignment;</p> <p>(c) whether there were means to recover tax from confirmors who were non-local citizens; and</p> <p>(d) whether IRD could provide statistics on confirmor sales.</p> <p>Administration's response -</p> <p>(a) the Annex to the paper had set out the cases identified by IRD's computer programme as suspected property speculation cases without profits tax files;</p> <p>(b) property speculators engaged in frequent property transactions usually had opened files with IRD and hence not included in the Annex;</p> <p>(c) IRD did not collect information specifically on speculation of properties by means of confirmor; and</p> <p>(d) profits tax from property speculation by non-locals could be recovered through civil proceedings, prohibition for departure at control points etc. Surcharges for late payment would also be levied.</p>	
004311 - 004944	Ms Audrey EU Chairman Administration	<p>Ms Audrey EU's requests/views -</p> <p>(a) need to provide a rough estimate on the transfer of properties through</p>	<p>The Administration to</p> <p>(a) provide a rough estimate on the</p>

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		<p>acquisition of shares of companies, and the number of property speculators who had opened tax files;</p> <p>(b) the prevalence of speculative activities involving transfer of properties through acquisition of shares of companies;</p> <p>(c) the criteria for assessing whether speculation was involved in property transactions; and</p> <p>(d) the increase in stamp duty would only increase the transaction cost of properties at the higher end, rather than achieving the intended purpose of curbing speculative activities.</p> <p>Administration's response -</p> <p>(a) purchasers involved in transfer of properties through acquisition of Hong Kong stock of private companies were required to provide audited accounts to IRD and to pay stamp duty;</p> <p>(b) cases of suspected property speculation would be referred to IRD's Assessing Sections for profits tax assessment;</p> <p>(c) IRD did not have separate statistics on speculative activities involving transfer of properties through acquisition of shares of companies as these might form part of the normal business of these companies; and</p> <p>(d) the duration within which the property was held would be taken into consideration in assessing whether speculative activities were involved.</p> <p>Chairman's views -</p> <p>(a) confirmor sales involved transfer of</p>	<p>transfer of properties through acquisition of shares of companies; and</p> <p>(b) advise the number of property speculators who had opened tax files and if not, the difficulties involved in providing such information.</p>

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		<p>properties through acquisition of shares of companies might not be prevalent given the time and complication involved in setting up a company; and</p> <p>(b) IRD should be able to monitor the frequent transfer of properties through acquisition of shares of companies.</p>	
004945 - 010535	Mr LEE Wing-tat Chairman Administration	<p>Mr LEE Wing-tat's views/concerns -</p> <p>(a) IRD should be able to provide information on speculative activities involving confirmor cases, without which it would be very difficult to ascertain the effectiveness of the measures to curb speculative activities; and</p> <p>(b) need to revise the IRD's computer programme such that the requisite information on speculative activities could be provided.</p> <p>Administration's response -</p> <p>(a) the two measures in the Bill were part of a package of measures to curb speculative activities;</p> <p>(b) consideration would be given to introducing additional measures if the two measures were not effective in curbing speculative activities; and</p> <p>(c) there were difficulties in quantifying speculative activities, given that many factors would need to be taken into account when considering whether a property transaction involved speculation.</p>	
010536 - 011322	Mr James TO Administration Chairman	<p>Mr James TO's concerns/enquiries -</p> <p>(a) need for IRD to adjust its computer system so that relevant information on speculative activities could be easily retrieved for reference;</p>	<p>The Administration to advise the feasibility of imposing an additional stamp duty on the seller of subsale through confirmor or resale of</p>

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		<p>(b) it would be fairer and more target specific to increase the transaction cost of all confirmor sales than the stamp duty of property transactions valued \$20 million or more, given that over 90% of the latter did not involve resale within two years of purchase; and</p> <p>(c) whether consideration could be given to imposing additional stamp duty on the seller of subsale through confirmor or resale of properties within a certain period of time.</p> <p>Administration's response-</p> <p>(a) the two measures in the Bill were part of a package of measures to curb speculative activities; and</p> <p>(b) other additional measures would be considered as and when necessary to curb property speculation.</p>	<p>properties within a certain period of time.</p>
<p>011323 - 012036</p>	<p>Ms Miriam LAU Administration Chairman</p>	<p>Ms Miriam LAU's views-</p> <p>(a) speculators could get round measures targeting at subsale through confirmor by other forms of transactions, such as nomination and cancellation, to evade payment of stamp duty;</p> <p>(b) IRD should be able to provide more information on property speculation, and the number of tax files opened; and</p> <p>(c) speculation involving transfer of properties through acquisition of shares of companies was not common based on her experience, given the complications involved, particularly in the valuation of property.</p> <p>Administration's response-</p> <p>(a) suspected cases of property speculation would be referred to</p>	

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		<p>the IRD's Assessing Sections for profits tax assessment; and</p> <p>(b) stamp duty would be imposed for acquisition of Hong Kong stock.</p>	
012037 - 012408	Mr WONG Ting-kwong Chairman	<p>Mr WONG Ting-kwong's views -</p> <p>(a) attention should be focused on the impact of proposed measures on the property market rather than the measures to curb property speculation; and</p> <p>(b) there were many factors, other than the duration within which the property was held, which had to be taken into account when considering whether a property transaction involved speculation. These factors could not be analyzed by computer programmes and would require careful consideration by IRD staff.</p>	The Administration to advise the code of practice which IRD adopted in assessing and collecting stamp duty as well as combating tax evasion in relation to property transactions.
012409 - 013559	Mr LEE Wing-tat Administration Chairman	<p>Mr LEE Wing-tat's requests/views -</p> <p>(a) a paper advising the common types of speculative activities (apart from confirmor sales) and the measures which the Administration had taken or would take to curb these activities;</p> <p>(b) the number of suspected property dealing cases requiring follow-up actions after initial processing in the Annex which required payment of profit tax; and</p> <p>(c) profits tax should be levied on confirmor cases even if the tax incurred was minimal.</p> <p>Administration's response -</p> <p>(a) the suspected property speculation cases in the Annex had excluded those which had opened tax files with IRD and those without net profit; and</p>	<p>The Administration to -</p> <p>(a) provide a paper advising the common types of speculative activities (apart from confirmor sales) and the measures which the Administration had taken or would take to curb these activities; and</p> <p>(b) advise the number of suspected property dealing cases requiring follow-up actions after initial processing in the Annex which required payment</p>

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		(b) profits tax would not be required if there was no net profit gained in the transaction.	of profits tax.
013600 - 013640	Chairman	Date of next meeting.	

Council Business Division 1
Legislative Council Secretariat
14 June 2010