

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2152/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/2/10/2

**Bills Committee on Stamp Duty (Amendment) (No. 2) Bill 2010**

**Minutes of ninth meeting**  
**held on Friday, 1 April 2011, at 3:00 pm**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon James TO Kun-sun (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon Margaret NG  
Hon CHAN Kam-lam, SBS, JP  
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  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Starry LEE Wai-king, JP  
Hon Paul CHAN Mo-po, MH, JP  
Hon Paul TSE Wai-chun  
Hon Alan LEONG Kah-kit, SC

**Members absent** : Hon Albert HO Chun-yan  
Hon WONG Kwok-hing, MH  
Hon WONG Ting-kwong, BBS, JP  
Hon CHIM Pui-chung

**Public officers** : **For item II**  
**attending**

Transport and Housing Bureau

Ms Annette LEE  
Deputy Secretary for Transport and Housing (Housing)

Mr Eugene FUNG  
Principal Assistant Secretary for Transport and  
Housing (Housing)(Private Housing)

Inland Revenue Department

Mr WONG Kuen-fai  
Deputy Commissioner of Inland Revenue (Technical)

Mr HONG Wai-kuen  
Senior Superintendent of Stamp Office

Department of Justice

Ms Phyllis KO  
Senior Assistant Law Draftsman

Mr CHEUNG Man-yiu  
Senior Government Counsel

Mr Manuel NG  
Government Counsel

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

**Staff in attendance** : Miss Winnie LO  
Assistant Legal Adviser 7

Mrs Mary TANG  
Senior Council Secretary (1)1

---

**I. Confirmation of minutes**

(LC Paper No. CB(1) 1770/10-11 — Minutes of the meeting held  
on 23 February 2011)

The minutes of the meeting held on 23 February 2011 were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(1) 1772/10-11(01) — List of follow-up actions  
arising from the discussion at  
the meeting on 24 March 2011

- LC Paper No. CB(1) 1772/10-11(02) — Marked-up copy of the Bill incorporating the draft Committee Stage amendments received so far
- LC Paper No. CB(1) 1784/10-11(01) — Administration's response to CB(1) 1772/10-11(01)
- LC Paper No. CB(1) 1784/10-11(02) — Submission from The Law Society of Hong Kong)

Relevant papers

- (LC Paper No. CB(3) 278/10-11 — The Bill  
Ref: HD(CR)5/50/1/177 — The Legislative Council Brief  
LC Paper No. CB(1) 1536/10-11(02) — List of follow-up actions arising from the discussion at the meeting on 23 February 2011
- LC Paper No. CB(1) 1672/10-11(05) — List of follow-up actions arising from the discussion at the meeting on 10 March 2011)

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
- (a) provide (in tabular form) its response to submissions from The Law Society of Hong Kong and the Hong Kong Association of Banks on the revised Committee Stage amendments (CSAs);
  - (b) consider making it clear in CSAs that all involuntary sales of properties under orders of court should be exempted from payment of special stamp duty (SSD);
  - (c) further explore with the Development Bureau the feasibility of exempting only genuine minority owners who had unknowingly purchased a property which was subsequently put to compulsory sale within 24 months of the purchase rather than an outright exemption for both majority and minority owners;
  - (d) seriously consider further extending the scope of exemptions from SSD to cover -
    - (i) those who had to sell their properties within 24 months after acquisition due to severe illness;

- (ii) bare sites/units in an existing old building disposed of for the purpose of redevelopment/units acquired by a party pursuant to a joint development agreement/transfer of units or bare sites owned by different members of the same group as set out in the submission from The Real Estate Developers Association of Hong Kong (LC Paper No. CB(1) 991/10-11(01)); and
  - (e) include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill that the Administration will undertake regular review of the continued need for SSD and revert the findings to the Legislative Council.
4. Members agreed to continue clause-by-clause examination of the Bill and the relevant CSAs at the next meeting on Monday, 18 April 2011, at 8:30 am.

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

5. There being no other business, the meeting ended at 4:10 pm.

Council Business Division 1  
Legislative Council Secretariat  
11 May 2011

## Bills Committee on Stamp Duty (Amendment) (No. 2) Bill 2010

**Proceedings of ninth meeting  
held on Friday, 1 April 2011, at 3:00 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000308 - 000419	Chairman	The minutes of the meeting held on 23 February 2011 (LC Paper No. CB(1) 1770/10-11) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000420 - 001311	Chairman Administration	Administration's explanation on its response to issues raised by members at the meeting on 24 March 2011 (LC Paper No. CB(1) 1784/10-11(01)).	
001312 - 002040	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's views/enquiries -</p> <p>(a) while welcoming the additional exemptions from payment of special stamp duty (SSD) as set out in LC Paper No. CB(1) 1784/10-11(01), consideration should be given to further exempting those who had to sell their properties within 24 months after acquisition due to severe illness; and</p> <p>(b) whether payment of provisional tax could be held over in the event of a drop in income of the tax payer due to serious illness and if so, whether the same could apply to SSD.</p> <p>Administration's explanation -</p> <p>(a) it was very important that the law should be clear and without ambiguity. Hence, any exemptions to be considered should not affect the effectiveness of SSD, and should be fair and measurable in an objective manner; and</p> <p>(b) payment of provisional tax could be held over if the tax payer could demonstrate that there would be a loss of income due to health or other reasons. However, provisional tax was quite different from SSD as the former was based on projected future income while the latter was taxed</p>	The Administration to seriously consider further extending the scope of exemptions from SSD to cover those who had to sell their properties within 24 months after acquisition due to severe illness.

Time marker	Speaker	Subject(s)	Action required
		on the basis of a transaction that had taken place.	
002041 - 002812	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views/enquiries -</p> <p>(a) the additional exemptions should have been earlier discussed with relevant bureaux;</p> <p>(b) support for exemption from SSD for those who had to sell their properties within 24 months after acquisition due to severe illness;</p> <p>(c) rationale for not responding to The Real Estate Developers Association of Hong Kong (REDA)'s requests for certain exemptions as set out in LC Paper No. CB(1) 991/10-11(01); and</p> <p>(d) need for a sunset clause for SSD and if not, the Administration should undertake regular reviews of the need for SSD.</p> <p>Administration's response -</p> <p>(a) there had all along been close liaison with relevant bureaux on the application of exemptions under the Bill;</p> <p>(b) exemptions from SSD had already been provided for transfers between associated companies. It would be difficult to apply exemptions to all possible kinds of transfers as too many exemptions would create loophole for speculation; and</p> <p>(c) would continue to monitor the property market, and review the need for SSD as appropriate.</p>	<p>The Administration to -</p> <p>(a) seriously consider further extending the scope of exemptions from SSD to bare sites/units in an existing old building disposed of for the purpose of redevelopment/units acquired by a party pursuant to a joint development agreement/transfer of units or bare sites owned by different members of the same group as set out in the submission from REDA (LC Paper No. CB(1) 991/10-11(01); and</p> <p>(b) include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill that the Administration will undertake regular review of the continued need for SSD and revert the findings to the Legislative Council.</p>
002813 - 003949	Chairman Ms Audrey EU Administration	<p>Ms Audrey EU's views/enquiries -</p> <p>(a) need to clarify the scope of exemptions from SSD in respect of involuntary sale of properties due to winding up of business;</p>	<p>The Administration to provide (in tabular form) its response to submissions from The Law Society of Hong</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) whether involuntary sale of properties through foreclosures by money lenders or financial institutions fell outside the meaning of section 2 of the Inland Revenue Ordinance (Cap.112)(IRO) would be exempted; and</p> <p>(c) need to respond to the latest submission from the Hong Kong Association of Banks.</p> <p>Chairman's concern that the system would be open to abuse if involuntary sale of properties through foreclosures by money lenders would be exempted from SSD.</p> <p>Administration's response -</p> <p>(a) as far as winding up of business was concerned, exemptions from SSD would apply to the sale of properties due to involuntary winding up of the business. Also, the sale of properties due to bankruptcy would be exempted; and</p> <p>(b) foreclosure by financial institutions which fell outside the meaning of section 2 of IRO would not be exempted from SSD.</p>	<p>Kong and the Hong Kong Association of Banks on the revised Committee Stage Amendments (CSAs).</p>
003950 - 005223	<p>Chairman Ms Miriam LAU Ms Audrey EU Mr LEE Wing-tat Administration</p>	<p>Ms Miriam LAU's concern/enquiries -</p> <p>(a) the Bill was overly-stringent, particularly in the absence of exemptions from SSD for those with genuine hardships such as serious illness and law suits; and</p> <p>(b) consideration should be given to exempting involuntary sales of properties under judgment debt and orders of court from SSD.</p> <p>Administration's explanation that under the proposed section 29CA(8)(a) in CSAs, exemptions from SSD would apply to sale of property by or pursuant to orders of court, with the exception of foreclosure orders obtained by financial institutions not within the meaning of section 2 of IRO.</p>	<p>The Administration to consider making it clear in CSAs that all involuntary sales of properties under orders of court should be exempted from payment of SSD.</p>

Time marker	Speaker	Subject(s)	Action required
005224 - 005336	Chairman Mr Ronny TONG	<p>Mr Ronny TONG's views -</p> <p>(a) supported that all involuntary sales of properties under orders of court should be exempted from SSD;</p> <p>(b) it might not be worthwhile for members to spend too much time in scrutinizing the Bill since its effect in curbing speculation had diminished over time; and</p> <p>(c) members who did not support the Bill could vote against it.</p>	
005337 - 010102	Chairman Administration	<p>Chairman's concerns -</p> <p>(a) it might not be appropriate to exempt majority owners involved in compulsory sale within 24 months of the purchase from SSD, given that the sale could be speculative in nature;</p> <p>(b) the proposed outright exemption for both majority and minority owners might have encouraged speculation of aged developments; and</p> <p>(c) consideration should be given to exempting the transfer of properties among brothers and sisters from ad valorem duty to bring it in line with SSD.</p> <p>Administration's explanation -</p> <p>(a) the original proposed arrangement was to let the Lands Tribunal to prescribe conditions, including payment of SSD, in the compulsory sale order, but members found the arrangement not acceptable. Having taken careful and due regard of members' views, and having regard to the Administration's overall policy direction that exemption be granted to involuntary sale or transfer of properties made by the courts or pursuant to court orders, the Development Bureau agreed to the extension of the exemption to cover also Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (LCSRO) cases.; and</p>	<p>The Administration to further explore with the Development Bureau the feasibility of exempting only genuine minority owners who had unknowingly purchased a property which was subsequently put to compulsory sale within 24 months of the purchase rather than an outright exemption for both majority and minority owners.</p>



Time marker	Speaker	Subject(s)	Action required
		(b) The Development Bureau considered that the exemption to LCSRO cases should be outright and applicable to both majority and minority owners, as majority owners might be made up of individual small owners coming together for a compulsory sale.	
010103 - 011355	Chairman Administration	Clause-by-clause examination of the Bill (LC Paper Nos.CB(1) 822 and 1772/10-11)  Chairman's proposal to proceed with the clause-by-clause examination of the Bill at the next meeting on 18 April 2011 pending the availability of the marked-up version of the Bill incorporating all draft CSAs proposed by the Administration.	