

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

**List of follow-up actions arising from the discussion
at the meeting on 21 December 2010**

- (1) To advise (with illustrations) the existing revenue ordinances which have retrospective effect.
- (2) To provide a flowchart on the application of stamp duty in respect of property transactions. To advise the differences in the application of stamp duty and special stamp duty (SSD).
- (3) To compare the effectiveness of SSD and punitive profits tax (say 90%) in curbing property speculation while minimizing the impact on genuine home buyers.
- (4) To advise whether a Provisional Agreement for Sale and Purchase (PASP) is binding, and whether a person is assumed to have “acquired” a property upon signing of PASP. To provide relevant court cases on disputes over PASP, and advise the application of the term “acquire” and SSD in these cases. For the sake of clarity, there may be a need to provide a definition for the term “acquire”. Consideration may also be given to dispensing with the term “acquire” by back-dating the period of 24 months from the date of disposal of the property to ascertain the presence of an instrument chargeable with SSD.
- (5) To advise whether it is a usual practice for an Agreement for Sale and Purchase to be completed 14 days after the signing of PASP. If so, the application of SSD to PASP signed 14 days before the announcement of SSD on 19 November 2010.
- (6) To advise the number of property transactions through transfer of shares of property-holding shell companies, including those registered overseas, for the period between April and November 2010. To also advise whether the anti-tax evasion measures under the existing tax legislation can be invoked if the setting up of shell companies was to evade SSD. To consider the feasibility of applying SSD to property transactions through transfer of shares of companies.

- (7) To clarify whether there is a question of double taxation if property transactions will be subject to both SSD and profits tax.
- (8) To provide a paper explaining the application of SSD in respect of mortgaged properties, including those subject to foreclosure orders.
- (9) To provide a written response to LC Paper No. CB(1) 822/10-11(03), particularly on the question of conformity with the Basic Law if SSD amounts to a partial confiscation of the value of property sold within 24 months.

Council Business Division 1
Legislative Council Secretariat
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