



中華人民共和國香港特別行政區立法會  
LEGISLATIVE COUNCIL  
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION  
OF THE PEOPLE'S REPUBLIC OF CHINA

立法會CB(1)1496/13-14(02)號文件  
LC Paper No. CB(1)1496/13-14(02)

梁繼昌議員 **Hon Kenneth Leung**

26 May 2014

BY HAND

The Honourable Starry LEE Wai-king, JP  
Chairman, Bills Committee on Stamp Duty (Amendment) Bill 2013  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Starry

**Stamp Duty (Amendment) Bill 2013  
Committee Stage Amendment (“CSA”)**

I intend to move a committee stage amendment to the Stamp Duty (Amendment) Bill 2013. The bilingual texts of the proposed amendment are attached.

I would be grateful if you could allow a time slot in the next bills committee meeting (27 May 2014) for me to explain the contents of the CSA.

Yours sincerely,

**Kenneth Leung**

Encl.

《2013年印花稅(修訂)條例草案》

委員會審議階段

由梁繼昌議員動議的修正案

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加入—

“29DI. 在特定情況下非住宅物業相關文書的從價印花稅退還事宜

(1) 在本條中 —

**行業、生意**(trade) 包括每一行業及製造業，亦包括屬生意性質的所有投機活動及項目；

**指明款項**(specified amount) 指 —

- (a) 在有印花稅按照附表 1 第 1(1) 類第 1 標準而就某適用文書繳付的情況下，就該文書而言，指等於以下兩款項之間的差額的款項：已繳付的印花稅，以及假使該文書須根據附表 1 第 1(1) 類第 2 標準予以徵收印花稅的話，便須就它繳付的印花稅；或
- (b) 在有印花稅按照附表 1 第 1(1A) 類第 1 標準而就某適用文書繳付的情況下，就該文書而言，指等於以下兩款項之間的差額的款項：已繳付的印花稅，以及假使該文書須根據附表 1 第 1(1A) 類第 2 標準予以徵收印花稅的話，便須就它繳付的印花稅；

**業務**(business) 包括所有業務，但不包括出租及分租任何處所或其部分予任何人士，及以租約或租賃形式分租任何處所或任何處所的部分；

**適用文書**(applicable instrument) 指有關非住宅物業(該物業)的文書，就該文書已按照附表 1 第 1(1) 類第 1 標準或第 1(1A) 類第 1 標準繳付印花稅；

- (2) 在第(4)款的規限下，如 –
- (a) 某人根據附表 1 第 1(1) 類第 1 標準或第 1(1A) 類第 1 標準，就某適用文書繳付印花稅；及
  - (b) 就該物業而言，第(3)款指明的條件獲符合，則署長可在接獲該人的申請後，退還指明款項予該人。
- (3) 有關條件是 –
- (a) 申請人必須是在香港註冊的公司或香港永久性居民；
  - (b) 由該適用文書的日期起不少於兩年內(“**相關時期**”)，申請人純為在港經營生意、專業或業務的用途而持續使用該物業；
  - (c) 申請人的退款申請必須在相關時期屆滿後不多於兩年內提出。
- (4) 當某申請人已根據本條款提交退款申請(**申請**)及在申請日期後的六個月內停止於該物業營運其生意、專業或業務(**停止營運事宜**) –
- (a) 申請人必須在停止營運日期起三十天內通知署長有關停止營運事宜及停止營運的日期；
  - (b) 申請人已提出的申請將被視為被拒絕；
  - (c) 如署長已就相關申請退還指明款項予申請人，申請人有責任於停止營運的日期起三十天內將該指明款項償還給署長。”。

**Stamp Duty (Amendment) Bill 2013**

**Committee Stage**

Amendments to be moved by Hon Kenneth Leung

Clause

Amendment Proposed

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By adding—

**“29DI. Refund of ad valorem stamp duty on instruments relating to non-residential property in certain circumstances**

(1) In this section—

*applicable instrument* (適用文書) means an instrument relating to non-residential property (*the subject property*) on which stamp duty had been paid according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

*business* (業務) includes every type of businesses but excludes the letting or sub-letting to any person of any premises or portion thereof, and the sub-letting of any premises or portion of any premises held under a lease or tenancy;

**specified amount** (指明款項) means –

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1) in the First Schedule - an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1) in the First Schedule; or
- (b) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1A) in the First Schedule - an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule.

**trade** (行業、生意) includes every trade and manufacture and every adventure and concern in the nature of trade;

(2) Subject to subsection (4), if –

- (a) a person has paid stamp duty on an applicable instrument according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule; and
  - (b) the conditions specified in subsection (3) are satisfied in relation to the subject property,
- the Collector may, on an application made by the person, refund to the person the specified amount.

- (3) The conditions are—
- (a) the applicant is a Hong Kong incorporated company or a Hong Kong permanent resident;
  - (b) the applicant has continuously used the subject property solely for the purpose of carrying on the applicant's trade, profession or business in Hong Kong for not less than 2 years from the date of the applicable instrument (*the relevant period*);
  - (c) the application for refund is made by the applicant not later than 2 years after the date of the expiry of the relevant period.
- (4) Where an applicant has made an application for refund under this section (*the application*) and ceases to carry on a trade, profession or business at the subject property before the expiry of 6 months after the date of the application (*the cessation*)—
- (a) the applicant shall notify the Collector of the cessation and of the date of the cessation within 30 days after the date of the cessation;
  - (b) the application made by the applicant shall be deemed to be rejected; and
  - (c) if any specified amount has been refunded by the Collector to the applicant pursuant to the application, the applicant is liable to repay to the Collector, within 30 days after the date of the cessation, the specified amount.” .