



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

梁繼昌議員 **Hon Kenneth Leung**

30 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 would like to withdraw the committee stage amendment to the Stamp Duty (Amendment) Bill 2013 contained in my letter of 26 May 2014 (LC Paper No. CB(1)1496/13-14(02)) discussed at the meeting of 27 May 2014. A new proposed CSA is attached to this letter.

I would be grateful if you could allow a time slot in the next bills committee meeting (3 June 2014) to discuss 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

條次

建議修正案

18

加入—

“29DL. 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和項目，及由根據《稅務條例》(第 112 章) 第 88 條獲豁免繳稅的任何屬公眾性質的慈善機構或慈善信託經營的生意；

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，及由根據《稅務條例》(第 112 章) 第 88 條獲豁免繳稅的任何屬公眾性質的慈善機構或慈善信託經營的業務，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) 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三年內(**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。

Stamp Duty (Amendment) Bill 2013

Committee Stage

Amendments to be moved by Hon Kenneth Leung

Clause

Amendment Proposed

18

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 and a business carried on by any charitable institution or trust of a public character which has been exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112) 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, every adventure and concern in the nature of trade and a trade carried on by any charitable institution or trust of a public character which has been exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112);

(2) 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 3 years from the date of the applicable instrument (*the relevant period*);
- (c) the application for refund is made by the applicant in a format specified by the Collector not later than 2 years after the date of the expiry of the relevant period.