

**The Administration's response to the issues
raised at the meetings of the Bills Committee on
the Stamp Duty (Amendment) Bill 2012 held on 20 December 2013**

This paper serves as a response to the issues set out in the letter dated 23 December 2013 from the Legislative Council Secretariat (LC Paper No. CB(1)623/13-14(02) refers).

2. In pursuance of the policy intention to accord priority to the home ownership needs of Hong Kong permanent residents (HKPRs), under the proposed Buyer's Stamp Duty (BSD) regime, acquisitions of residential properties made by holders of permanent identity card (PIC) on their own behalf will be exempted from the BSD.

3. According to paragraph 2(c) of Schedule 1 to the Immigration Ordinance (Cap.115), a person of Chinese nationality born outside Hong Kong before or after the establishment of the Hong Kong Special Administrative Region (HKSAR) to a parent who, at the time of birth of that person, is already a HKPR by being a Chinese citizen born in Hong Kong before or after the establishment of the HKSAR (paragraph 2(a) of the Schedule) or being a Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR (paragraph 2(b) of the Schedule), is a HKPR. Such persons (including minors) falling under paragraph 2(c) of the Schedule shall have the right of abode in Hong Kong and shall be qualified to obtain PIC in accordance with the law. As explained in paragraph 2 above, acquisitions of residential properties made by PIC holders on their own behalf will be exempted from the BSD.

4. Under the Stamp Duty (Amendment) Bill 2012 (the Bill), having regard to the fact that minors lack the capacity to enter into legally binding agreements and in practice require another person to act on his or her behalf in acquiring a residential property, the Bill has included a provision that if a trustee or a guardian acquires a residential property on behalf of a minor, the minor will be treated as a purchaser under the agreement for sale in place of the trustee or guardian. However, as explained in the Government's response to the Hon Regina IP's committee stage amendment (CSA) which seeks to remove the above mentioned BSD exemption arrangement in respect of minors (LC Paper No. CB(1)623/13-14(04) refers), having considered that the Hon Regina IP's CSA would result in tightening up of the BSD regime thus enhancing its effectiveness in achieving the policy objectives of according priority to the home ownership needs of HKPRs, and in light of Members' views that minors are expected to be taken care of and stay with their parents or guardians and that their housing needs would not be prejudiced *per se*, on balance, the Government

considers that the Hon Regina IP's CSA is acceptable from both the policy and legal perspectives, and considers it appropriate for the Government to take it over. As a result, acquisitions of residential properties made on behalf of HKPR minors will no longer be exempted from the BSD.

Transport and Housing Bureau
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