



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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1 February 2013

Mrs Vicki Kwok
Principal Assistant Secretary (Housing) (Private Housing)
Housing Department
Private Housing Sub-division
Housing Authority Headquarters
33 Fat Kwong Street
Ho Man Tin
Kowloon

Dear Mrs Kwok,

Stamp Duty (Amendment) Bill 2012

I refer to our telephone conversation on the proposed section 63A of the Stamp Duty (Amendment) Bill 2012.

The proposed section 63A of the Bill seeks to provide that the Financial Secretary may, by notice published in the Gazette, amend a percentage specified in the second column of head 1(1AA) (conveyance on sale chargeable with special stamp duty), (1AAB) (conveyance on sale chargeable with buyer's stamp duty), (1B) (agreement for sale chargeable with special stamp duty) or (1C) (agreement for sale chargeable with buyer's stamp duty) in the First Schedule to the Stamp Duty Ordinance (as to be amended by the Bill).

The effect of this provision seems to be that in the future, the specification of the substantive rates of special stamp duty and buyer's stamp duty, which are matters of taxation in the Hong Kong Special Administrative Region, will be subject to the "negative vetting" of the Legislative Council under the Interpretation and General Clauses Ordinance (Cap. 1).

You may note that under the Basic Law, the Legislative Council shall exercise the powers and functions to, amongst other things, approve taxation and public expenditure (Article 73(3)).

I would be grateful if you could explain how the proposed section 63A of the Bill reconciles with Article 73(3) of the Basic Law. Your reply in bilingual form before 8 February 2013 will be appreciated.

Yours sincerely,



(Kitty Cheng)
Assistant Legal Adviser

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