

The Chairman
Bills Committee on Stamp Duty (Amendment) Bill 2012
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Hong Kong

8 February 2013

Dear Sir/ Madam,

Re: Bills Committee on Stamp Duty (Amendment) Bill 2012

The Australian Chamber of Commerce appreciates the Government's concerns about the affordability of the residential property market and is supportive of initiatives to address housing affordability. However, we do have some concerns about the potential impact of the Buyer's Stamp Duty (BSD) and its scope.

The Chamber is particularly concerned about the potential for a BSD to impact Hong Kong's reputation as a free market economy without any restrictions on persons wishing to invest here. The proposed BSD will directly impact potential investors in the Hong Kong residential property and will apply to all companies and persons who are not Hong Kong Permanent Residents (HKPRs). The draft legislation only proposes to exempt permanent residents from BSD. This may be viewed by some persons as discriminatory and contrary to a free and open market. In particular, the Chamber is concerned about the impact of the BSD on persons who hold a valid Hong Kong working permit who, whilst they intend to make Hong Kong their permanent home, have yet to qualify as HKPRs. These persons may have an aspiration to acquire residential property in Hong Kong for their own long-term personal use.

In addition, it is quite common for HKPRs to use a company for asset protection and estate planning. However, the proposed Bill proposes that the use of a company by a HKPR to purchase residential property will also be subject to BSD at the rate of 15 percent. This appears to be unduly harsh and the Chamber considers that the proposed legislation should be amended to allow a company wholly owned or controlled by HKPRs to enjoy exemption from BSD. To the extent the Government has concerns that such an exemption may be manipulated, appropriate safeguards can be included in the legislation to prevent this. Members of the Chamber's Finance, Legal and Taxation Committee would welcome the opportunity to further discuss the issue.

Yours faithfully



Kirsty Boazman
Chief Executive