

**The Government's response to the issues
raised at the meetings of the Bills Committee on
the Stamp Duty (Amendment) Bill 2012 held on 3 October 2013**

This paper sets out the Government's response to the issues raised in the letter from the Legislative Council Secretariat of 4 October 2013 (LC Paper No. CB(1)15/13-14(01) refers).

Information in relation to companies

2. The statistics in relation to local companies incorporated in Hong Kong and the residential property transactions involving company buyers are provided at **Annexes A** and **B** respectively for reference.

Impact of the demand-side management measures on the estate agency trade

3. As the Government has explained to the Bills Committee examining the Stamp Duty (Amendment) Bill 2013 (LC Paper No. CB(1)1503/12-13(02) refers), the employment situation in the property-related sectors, including the real estate sector, generally improved over the past few years, with the unemployment rates showing a noticeable decline amid a generally tight labour market with full employment. While the Government's measures to curb the housing market exuberance may have affected the estate agency trade, the impact has been cushioned by a vibrant domestic sector and the overall tightness in the labour market so far. The relevant statistics for the real estate sector are at **Annex C**.

4. The Government considers that the demand-side management measures are necessary to curb market exuberance with a view to ensuring the stable and healthy development of the property market. These measures are intended to help protect Hong Kong's macroeconomic and financial stability, which will benefit the overall economy in the long run. Owing to excessive external liquidity, should the Government have failed to contain the risk of a property market bubble in a timely manner, the property market would have been exposed to a higher risk of an asset bubble. This would be to the detriment of the macro economy, and would, in all probability, impact on all trades and thus people's livelihood. Hence, the Government believes that it is in the best interest of our overall economy to ensure the health and stable development of the property market.

The Government's proposed Committee Stage Amendments (CSAs) in respect of the refund mechanism for redevelopment

5. As the Government has explained in LC Paper No. CB(1)1367/12-13(02) and LC Paper No. CB(1)1719/12-13(01), having considered the views expressed by Members and deputations that the refund mechanism under the Stamp Duty (Amendment) Bill 2012 (the Bill) could be enhanced to further facilitate redevelopment, the Government has agreed to revise the BSD refund mechanism with a view to advancing the timing of BSD refund. The revised refund mechanism for redevelopment is premised on two major principles i.e. (a) the developer concerned has obtained ownership of the entire lot to be redeveloped; and (b) there is proof that the developer concerned will use the site for redevelopment purpose. Under the revised refund mechanism, a developer may apply for a refund of the BSD paid **after the developer has become the owner of the entire lot to be redeveloped, AND** –

(a) EITHER has obtained, from the Building Authority (BA) under the Buildings Ordinance (Cap.123), the consent to commence any foundation work for the lot;

(b) OR has -

- (i) demolished any building existing on the lot, other than a building the demolition of which is prohibited under any Ordinance; and
- (ii) obtained the approval of the BA in respect of the general building plan for the redevelopment.

6. The revised BSD refund mechanism for redevelopment is consistent with the stated policy intention that the BSD should not hinder redevelopment. The two alternative conditions to prove that the developer concerned will use the site for redevelopment purpose (paragraph 5(a) and (b) refers) are meant to cater for different redevelopment scenarios and to provide developers with greater flexibility in applying for the refund of the BSD paid with reference to the actual situation of their redevelopment projects, while at the same time require developers to demonstrate their intention to carry out the redevelopment projects concerned. For instance, 5(a) above enables redevelopment carried out in phases to obtain BSD refund in a timely manner. In the case of 5(b), developers may apply for BSD refund right after they have demolished **all** properties on the lot and have obtained an approved general building plan for the redevelopment without the need to obtain BA's consent to commence foundation

work on the lot.

7. If a developer wishes to redevelop the residential properties it has acquired, it may apply for refund of the BSD paid during the acquisitions of the residential properties concerned after it has fulfilled the relevant conditions under the BSD refund mechanism. The refund history of the residential properties concerned is irrelevant to the determination whether or not the developer is eligible for the BSD refund. Acquisitions of bare sites in the private market that are permitted for residential development are also subject to the BSD. The relevant buyers may apply for BSD refund if the relevant conditions for redevelopment as detailed above are satisfied.

8. Under the existing stamp duty regime, transfer of residential properties between associated bodies corporate are exempted from stamp duty as provided for in section 45 of the Stamp Duty Ordinance (Cap.117) (SDO). Having considered the market practice in carrying out redevelopment, we consider it appropriate to extend the same mechanism to redevelopment cases and allow eligible developer to apply for BSD refund solely or jointly with an associated body corporate within the meaning of section 45 of the SDO in order to facilitate redevelopment activities carried out by developers and their subsidiaries.

**Transport and Housing Bureau
October 2013**

**Number of local companies incorporated in Hong Kong before and after
the introduction of BSD in October 2012**

	No. of local companies incorporated in Hong Kong*	
	Total	Monthly average
Jan to Oct 2012	124,154	12,415
Nov 2012 to Sep 2013	155,007	14,092

* It refers to the number of certificates of incorporation issued by the Registrar of Companies within the relevant period. The number of companies newly incorporated is affected by different factors such as the macroeconomic situation, business environment, etc.

Source: Company Registry

Residential property transactions involving company buyers before and after the introduction of the BSD in October 2012

	Total no. of agreements for sale *	No. of agreements for sale involving company buyers	Proportion to overall transactions	Monthly average
Jan to Oct 2012	80,349	7,782	9.7%	778
Nov 2012 to Sep 2013**	54,964	2,392	4.4%	217

* It refers to the number of stamping applications received by the IRD within the particular period.

** For the period from Nov 2012 to Jan 2013, some of the agreements for sale relate to transactions which took place prior to 27 October 2012 and are not subject to the BSD.

Source: Inland Revenue Department

Economic data on the real estate sector

	Unemployment rate of the real estate sector	Year-on-year rate of changes in the business receipts of the real estate sector (in value terms)¹
Q2, 2013	1.9%	-2.8%
Q2, 2012	1.9%	2.5%

Note : Real estate sector includes real estate development and leasing, property holding and resale, brokerage and agency and maintenance management.

Source: Census and Statistics Department

¹ It refers to service receipts, receipts from sales of goods, commissions, rental interest and other income of the real estate sector