

**The Government's response to the letter from  
Wong, Hui & Co. Solicitors**

This paper serves to respond to the submission dated 9 January 2014 from Wong, Hui & Co. Solicitors and referred to us by the LegCo Secretariat on 13 January 2014 (LC Paper No. CB(1)719/13-14(01) refers).

2. The Government has already explained in detail in LC Paper No.CB(1)623/13-14(04) and LC Paper No.CB(1)698/13-14(02) the rationale behind our acceptance of the Hon Regina Ip's committee-stage amendment (CSA) which seeks to remove the Buyer's Stamp Duty (BSD) exemption for acquisitions of residential properties made by minors who are Hong Kong permanent residents (HKPRs) through their trustees or guardians. In gist, it is to address the Bills Committee's grave concern that the BSD exemption arrangement in respect of HKPR minors might be vulnerable to abuse and would undermine the effectiveness of the BSD. Having considered the fact that the Hon IP's CSA would result in tightening up of the BSD regime, thus enhancing its effectiveness to achieve the policy objectives to accord priority to the home ownership needs of HKPRs; and in light of Members' views that minors are expected to be taken care of by and stay with their parents or guardians, hence their housing needs would not be prejudiced per se, on balance, the Government considers that the Hon IP's CSA is acceptable from both the policy and the legal perspectives, and considers it appropriate for the Government to take over the CSA.

3. Wong, Hui & Co., Solicitors considers that the public has made acquisitions in reliance on the original Bill and suggests that the relevant CSA should not apply to acquisitions made before the announcement by the Government to take over the CSA or the date when the Bill is passed by the Legislative Council. The Government does not consider this arrangement to be acceptable.

4. As a matter of principle, the exemption arrangement concerned as set out in the original Bill represents the Government's original proposal on how the BSD should be implemented. As with all bills, the Bill is a proposed piece of legislation, which is invariably subject to deliberations and alterations during the legislative process before it is enacted as law. The Government has also mentioned on many occasions

that the Bill is subject to the scrutiny of the Legislative Council (LegCo) and that the Government would work closely with the relevant Bills Committee and would listen to the views of stakeholders to ensure that the BSD regime could effectively achieve its policy objectives. In fact, in addition to the CSA on the exemption arrangement for HKPR minors, the Government has also proposed other CSAs in response to the comments and feedbacks of LegCo Members and other stakeholders, such as the introduction of an enhanced BSD refund mechanism for redevelopment.

5. As a matter of fact, the Inland Revenue Department (IRD) stated clearly in the foreword of the “Frequently Asked Questions” section relating to the BSD on its website that the BSD regime is subject to the enactment of the Bill. Right after the Government decided and informed the LegCo that it would take over the Hon IP’s CSA, the IRD updated its website to inform the public of the latest proposed arrangement. The suggestion from Wong, Hui & Co., Solicitors **not** to apply the relevant CSA to acquisitions of residential properties made by HKPR minors through their trustees or guardians before the Government’s announcement to take over the Hon IP’s CSA or the date when the Bill is passed would not only be contradictory to the principle of the processing of bills, but would also cause unnecessary confusion to the public regarding the BSD regime.

**Transport and Housing Bureau**  
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