

The Administration's Responses to Matters Arising from the Meeting of the Bills Committee on Stamp Duty (Amendment) Bill 2013 held on 13 December 2013

This paper sets out responses to the matters raised at the meeting held on 13 December 2013, covering mainly -

- (a) the salient points of the trends of property prices and transaction volumes as well as the effectiveness of demand-side management measures highlighted in the introductory remarks in writing;
- (b) provision of further statistics on residential and non-residential properties;
- (c) provision of statistics on the unemployment rate of property-related sectors for 2013;
- (d) provision of monthly statistics on rental changes in respect of retail, office (by grades) and flatted factory space from 2012 to 2013;
- (e) whether quantitative targets had been set for the indicators to be taken into consideration for withdrawal of the demand-side management measures and information on the changes of these indicators in recent years; and
- (f) provision of a copy of the reply to the Law Society of Hong Kong ("the Law Society") in response to its comments on the Bill.

Development of the property market and effectiveness of the measures

2. There are signs of cooling down in the property market since the introduction of the latest round of measures in end February 2013. On the residential property market, the overall flat prices increased by an average 0.2% per month during March to November 2013, a notable deceleration from the monthly average increase of 2.7% in the first two months of 2013. On the non-residential property market, prices of retail, office and flatted factory space increased by an average of 0.04%, 0.3% and 0.2% respectively per month during March to November 2013, a notable deceleration from the monthly average increases of 1.9%, 2.6% and 4.1% respectively in the first two months of 2013. The above shows that the various demand-side management measures have eased the irrational property market exuberance, which is in line with our policy objective.

Statistics on residential and non-residential properties

3. In response to the request by the Bills Committee, the relevant statistics on residential and non-residential properties since 2008 are at **Annex A**.

Unemployment rate of property-related sectors

4. The property-related sectors include the real estate sector, the decoration, repair and maintenance for the building sector, as well as the cleaning and similar services sector. Although the Government’s measures to curb the housing market exuberance may have affected the various property-related sectors to different extents, the impact has been cushioned by a vibrant domestic sector and the overall tightness in the labour market. The published quarterly unemployment rates of relevant sectors are largely the same as the corresponding figures in 2012. Relevant figures are summarized below -

	Real estate sector		Decoration, repair and maintenance for the building sector		Cleaning and similar services sector	
	2012	2013	2012	2013	2012	2013
1 st quarter	2.5%	2.3%	9.5%	7.8%	4.4%	2.2%
2 nd quarter	1.9%	1.9%	7.6%	7.2%	2.9%	2.7%
3 rd quarter	2.3%	2.5%	6.0%	6.2%	2.5%	1.7%

Rental changes in respect of non-residential properties

5. The rental level of non-residential properties has been on the rise in 2012 and that the rents of retail, office and flatted factory space increased by 12.59%, 7.68% and 12.89% respectively. During March to November 2013, the rents of retail, office and flatted factory space increased by a monthly average of 0.4%, 0.6% and 0.8% respectively, a deceleration from the monthly average increases of 0.7%, 0.8% and 0.8% respectively in the first two months of 2013 and the monthly average increases of 1.0%, 0.6% and 1.0% respectively in 2012. The rental changes of non-residential properties are set out at **Annex B**.

Indicators considered in totality

6. The property market is influenced by a host of factors, including macro-economic conditions, interest rate and capital movements, and market demand and supply. The Government has been monitoring the residential property market closely with reference to different indicators. These factors

include, but not limited to, property prices, home purchase affordability, property transactions, demand-supply balance, and mortgage loan growth. The development of the property market is a complicated and dynamic process involving the interplay of various factors. No single indicator can serve to reflect the whole picture of the property market. The Government will conduct the overall assessment by making reference to all relevant indicators in totality, and not individual indicators only. The Government will continue to closely monitor the market situation and take appropriate measures to ensure the healthy and stable development of the property market.

7. In February 2013, the Administration introduced a new round of demand-side management measures. The main considerations and justifications are as follows -

- (i) Following the introduction of the enhanced Special Stamp Duty (“SSD”) and Buyer’s Stamp Duty (“BSD”) in October 2012, the upward momentum in flat prices of residential property market had been temporarily arrested. However, on entering 2013, there were renewed signs of exuberance in the residential property market amidst the supply-demand imbalance, exceptionally low interest rate and abundant liquidity environment. The residential property market was moving away from economic fundamentals. There were also signs of overheating in the non-residential property market. The hectic trading activities and soaring prices for non-residential properties affected the business environment.
- (ii) To accord priority to the home ownership needs of Hong Kong permanent residents (“HKPRs”) amidst the tight supply situation, the Government saw the need to enhance demand management in respect of the residential property market. At the same time, to forestall the shifting of the exuberance condition in the residential property market to the already overheated non-residential property market, we should also introduce demand-side management measures for the non-residential property market.
- (iii) If the Government does not contain the risk of property bubble, flat prices will be susceptible to enormous downward pressure in the event of an outflow of funds, bringing significant impact on the macro-economy and the society.

8. Relevant indicators and their changes (**Annex C**) are briefly discussed below -

(i) Property prices¹

On the residential property market, amidst a tight demand-supply balance of residential flats and low interest rate environment, the property market was buoyant with rapid rising prices in the past few years. Flat prices rose by 21% and 11% in 2010 and 2011 respectively, before a further surge of 26% in 2012 (details at Table 1).

The non-residential property market has also been booming in the past few years. Prices of retail, office and flatted factory space rose consecutively in 2010, 2011 and 2012 respectively, with surges of cumulative 41%, 25% and 46% respectively in 2012 (details at Table 4).

After the announcement of the doubling of ad valorem stamp duty (“AVD”) measure in late February 2013, the exuberant residential property market has cooled down. The gains in overall flat prices tapered significantly from an average monthly increase of 2.7% in the first two months of 2013 to a monthly average of 0.2% between March and November 2013. On the non-residential property market, the monthly average increases in prices of retail, office and flatted factory space during March to November 2013 decelerated notably from the monthly average increases in the first two months of 2013.

(ii) Short-term resale activities and transactions of non-local buyers²

The number of short-term resale (comprising confirmor transactions and resale within 24 months after assignment) was an average of 2 661 cases, representing 20% of total transactions between January and November 2010 (i.e. before the introduction of SSD). In October 2012, the Government enhanced SSD to further suppress speculative activities and introduced BSD to accord priority to the home ownership needs of HKPRs. In January 2013, the number of short-term resale dropped to 245 cases, representing 3.4% of total transactions. Purchases by non-local individuals and non-local companies went down to only 90 cases or 1.3% of total transactions

¹ The trend and rate of change in property prices, and their performance against the peaks and troughs can serve as a reference to the development of the property market.

² The number of short-term resale activities (confirmor transactions and resale within 24 months after assignment) and the number of transactions involving non-local buyers can be used to monitor the level of speculative activities and involvement of non-local buyers in the residential property market.

in January 2013, lower than the monthly average of 365 cases or 4.5% of total transactions between January and October 2012.

Since the introduction of the doubled AVD, on speculative activities, the number of short-term resale declined further to an average of 131 cases between April and December 2013, representing 3.0% of total transactions. Purchases by non-local individuals and non-local companies were kept at low level with monthly average of 95 cases, representing 2.2% of total transactions in the same period. Details are at Tables 2 and 3.

(iii) Home purchase affordability³

Flat prices are still out of tune with the economic environment and beyond the affordability of the general community, although the property market has experienced some moderation since March 2013. Flat prices in November 2013 recorded a substantial increase of 134% over the trough in 2008, and surpassed the 1997 level by 42%. With flat prices rising beyond the income growth, the home purchase affordability deteriorated to 52% in the fourth quarter of 2012, from the recent trough of 31.7% in the fourth quarter of 2008. The home purchase affordability worsened to 54% in the third quarter of 2013, much higher than the long-term average of 48% over 1993-2012. If interest rates were to go up by three percentage points to a more normal level, the affordability ratio would shoot up to 71%.

(iv) Demand-supply balance for residential properties

Against the tight supply in housing and exceptionally low interest rate in recent years, the property market transactions have maintained at a high level and prices has risen rapidly. The Government reckons that a fundamental solution to the tight supply in the residential property market lies in the increase in housing and land supply. As top policy priority, the Government is determined to increase flat supply with a view to resolving the housing problem.

9. Overall, it is essential for the Government to maintain the demand-side management measures introduced so far, taking account of the external environment where prevailing interest rates are relatively low and the tight housing supply.

³ To gauge whether property prices are in line with the underlying economic fundamentals, home purchase affordability is one of the indicators taken into consideration. Excessive expansion in mortgage lending would fuel the property market bubble. Low interest rate would also encourage speculative activities and hence increase the potential risk in the property market.

The Law Society

10. Further to the exchange of views with the Law Society over the implementation issues of the measures in December 2013, the Government issued a written reply to the Law Society on 24 January 2014. A copy of the reply (English only) is at **Annex D**.

Financial Services and the Treasury Bureau
January 2014

Statistics on residential and non-residential properties

Residential properties

Year/ Month	Total number of agreements for sale & purchase [#]	Number of residential property transactions where buyers are holders of Hong Kong Identity Card ("HKIC") (percentage of the total)	Primary market			Secondary market		
			Number of transactions where buyers are HKIC holders (percentage of the total)	Number of transactions where buyers are non-HKIC holders (percentage of the total)	Number of transactions where buyers are companies (percentage of the total)	Number of transactions where buyers are HKIC holders (percentage of the total)	Number of transactions where buyers are non-HKIC holders (percentage of the total)	Number of transactions where buyers are companies (percentage of the total)
2008	110 474	93 919 (85.0%)	7 498 (75.6%)	520 (5.2%)	1 901 (19.2%)	86 421 (85.9%)	2 511 (2.5%)	11 623 (11.6%)
2009	132 775	113 952 (85.8%)	12 421 (79.2%)	1 051 (6.7%)	2 209 (14.1%)	101 531 (86.7%)	3 560 (3.0%)	12 003 (10.3%)
2010	155 723	128 230 (82.3%)	8 675 (68.5%)	1 635 (12.9%)	2 361 (18.6%)	119 555 (83.6%)	4 521 (3.2%)	18 976 (13.3%)
2011	96 034	79 805 (83.1%)	6 547 (63.2%)	1 879 (18.1%)	1 939 (18.7%)	73 258 (85.5%)	3 315 (3.9%)	9 096 (10.6%)
2012	91 264	78 951 (86.5%)	8 980 (73.2%)	1 484 (12.1%)	1 809 (14.7%)	69 971 (88.6%)	2 040 (2.6%)	6 980 (8.8%)
January - March 2013 [^]	18 700	17 899 (95.7%)	3 020 (95.2%)	137 (4.3%)	16 (0.5%)	14 879 (95.8%)	133 (0.9%)	515 (3.3%)
April - December 2013	38 800	36 736 (94.7%)	7 171 (92.7%)	388 (5.0%)	178 (2.3%)	29 565 (95.2%)	421 (1.4%)	1 077 (3.5%)

[#] It refers to the number of stamping applications received by the IRD within the relevant period. IRD cannot provide breakdown on the age profile of non-company buyers because applicants are not required to provide the relevant information when submitting stamping applications.

[^] The doubled AVD measure was introduced with effect from 23 February 2013. Since buyers can submit for stamping within 30 days from the date of the agreements for sale and purchase, the figures in March broadly reflect the number of agreements for sale and purchase signed in February.

Non-residential properties

Year/Month	Total number of conveyances on sale [*]	Number of transactions where buyers are HKIC-holders (percentage of the total)	Number of transactions where buyers are non-HKIC holders (percentage of the total)	Number of transactions where buyers are companies (percentage of the total)
2008	26 132	15 101 (57.8%)	430 (1.6%)	10 601 (40.6%)
2009	22 370	14 330 (64.1%)	477 (2.1%)	7 563 (33.8%)
2010	32 939	20 583 (62.5%)	861 (2.6%)	11 495 (34.9%)
2011	33 772	20 634 (61.1%)	1 158 (3.4%)	11 980 (35.5%)
2012	34 002	22 150 (65.1%)	819 (2.4%)	11 033 (32.4%)
Jan-Mar 2013	13 305	9 166 (68.9%)	272 (2.0%)	3 867 (29.1%)
Apr-Dec 2013	18 314	11 601 (63.3%)	515 (2.8%)	6 198 (33.8%)

^{*} It refers to the number of stamping applications received by the IRD within the relevant period. At present, there is no need to stamp on the agreements for sale for non-residential properties. IRD cannot provide breakdown on the age profile of non-company buyers because applicants are not required to provide the relevant information when submitting stamping applications.

Annex B

Monthly changes of rentals in respect of non-residential properties

2012	Retail	Office				Flatted Factory Space
		Grade A	Grade B	Grade C	All grades	
January	0.28%	0.95%	0.00%	0.78%	0.78%	0.98%
February	1.91%	1.05%	2.52%	1.10%	1.43%	0.57%
March	0.97%	-1.76%	0.78%	3.00%	-0.60%	2.09%
April	1.79%	2.17%	0.22%	0.99%	1.53%	2.36%
May	2.30%	1.03%	0.22%	-0.74%	0.54%	1.46%
June	-0.07%	0.31%	1.16%	1.18%	0.59%	0.23%
July	1.13%	1.53%	1.58%	0.92%	1.33%	0.76%
August	1.11%	0.00%	0.00%	0.12%	0.05%	0.68%
September	1.04%	1.11%	1.24%	0.42%	1.00%	-0.07%
October	0.58%	0.55%	0.21%	0.78%	0.47%	1.19%
November	0.70%	-0.10%	0.00%	0.36%	0.00%	1.03%
December	0.19%	0.05%	1.01%	0.71%	0.31%	0.95%
2012 whole year	12.59%	7.04%	9.29%	10.02%	7.68%	12.89%
2013						
January	0.57%	0.05%	0.89%	0.65%	0.36%	0.79%
February	0.88%	1.43%	1.25%	1.53%	1.34%	0.72%
March	0.50%	1.02%	1.28%	1.68%	1.32%	0.71%
April	1.05%	1.74%	0.61%	1.76%	1.45%	1.41%
May	2.15%	0.05%	0.15%	1.17%	0.30%	2.02%
June	0.54%	0.90%	1.46%	0.88%	1.08%	1.37%
July	0.30%	0.47%	0.55%	1.37%	0.63%	0.94%
August	-0.06%	1.31%	1.23%	1.84%	1.36%	0.67%
September	0.36%	-0.88%	-0.15%	-0.53%	-0.62%	0.13%
October	-0.71%	-0.98%	-0.83%	-0.53%	-0.91%	-0.53%
November	-0.30%	0.47%	0.59%	0.54%	0.49%	0.53%

Table 1: Overall residential property price

	Cumulative price change	Monthly average change
2010	+21%	+1.6%
2011	+11%	+0.9%
2012	+26%	+1.9%
January - October	+24%	+2.1%
November - December	+2%	+0.9%
2013		
January - February	+5%	+2.7%
March - November	+2%	+0.2%
November as compared with the peak in 1997	+42%	

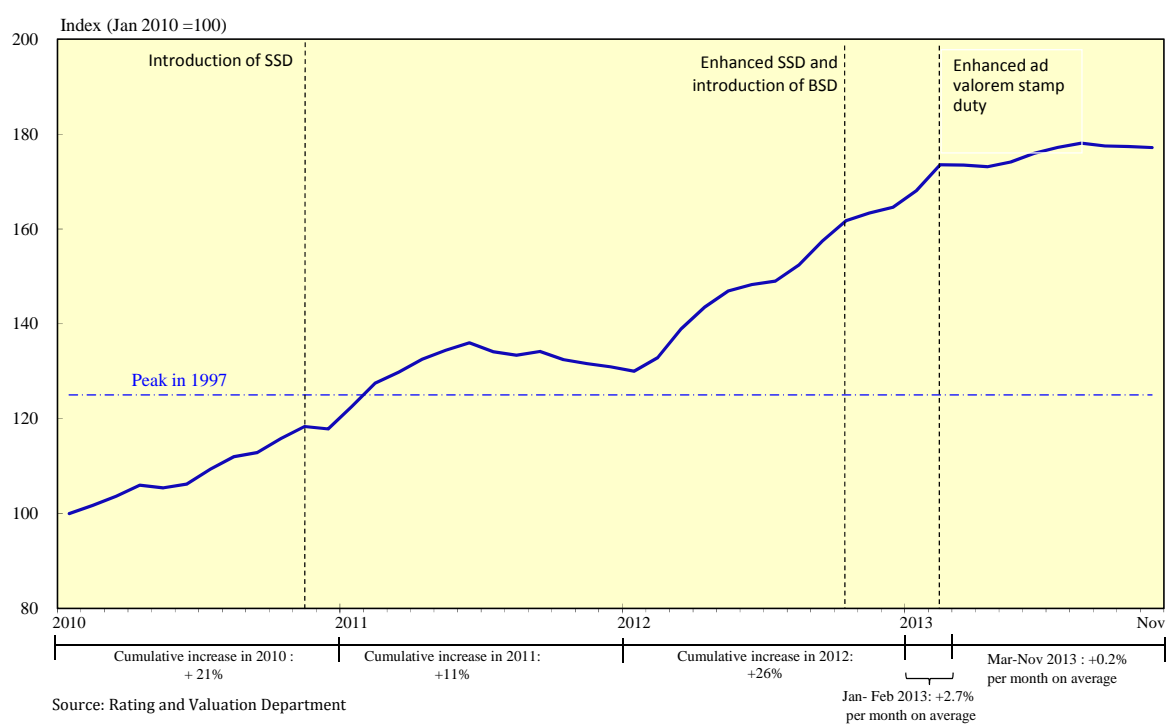
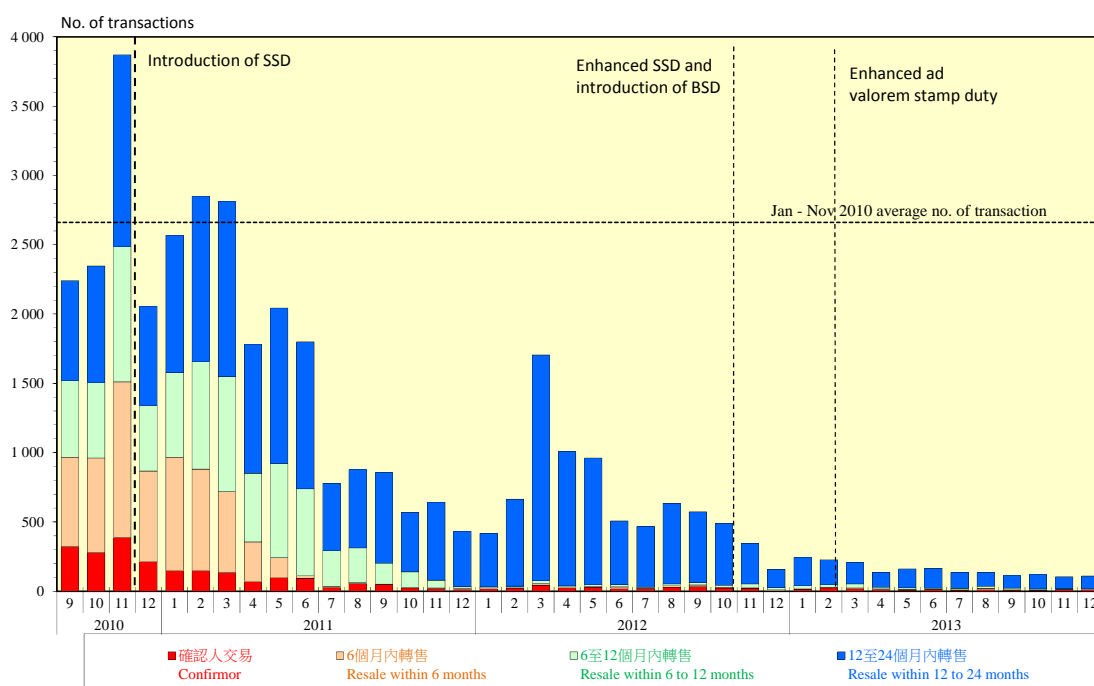
Chart 1: Overall residential property price

Table 2: Short-term resale transactions

	Number of monthly average of short-term resale (including confirmor and resale within 24 months) and its proportion out of total transactions	As compared with January-November 2010
January - November 2010	2 661 (20%)	Not applicable
2011	1 501 (19%)	-44%
2012	661 (9%)	-75%
2013	155 (3%)	-94%
April - December	131 (3%)	-95%

Chart 2 : Short-term resale transactions

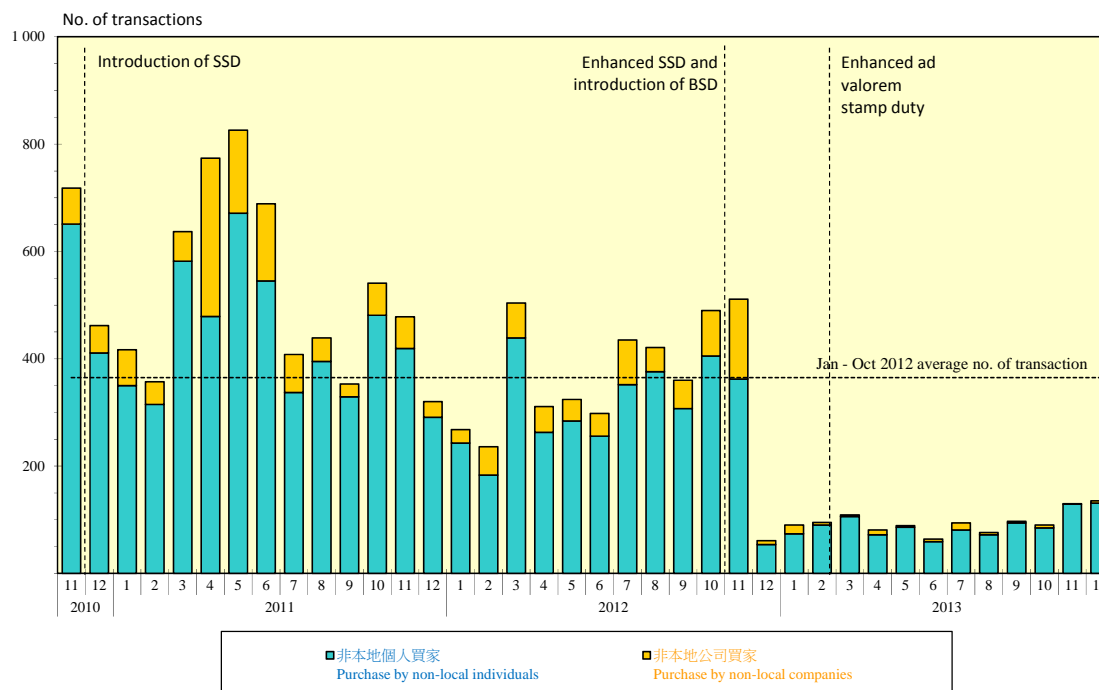


Source: Inland Revenue Department

Table 3: Non-local buyers transactions

	No. of monthly average transactions of non-local buyers (individuals and companies) and its proportion	As compared with January - October 2012
January - October 2012	365 (4.5%)	Not applicable
2013	96 (2.0%)	-74%
April - December	95 (2.2%)	-74%

Chart 3 : No. of non-local buyers transactions

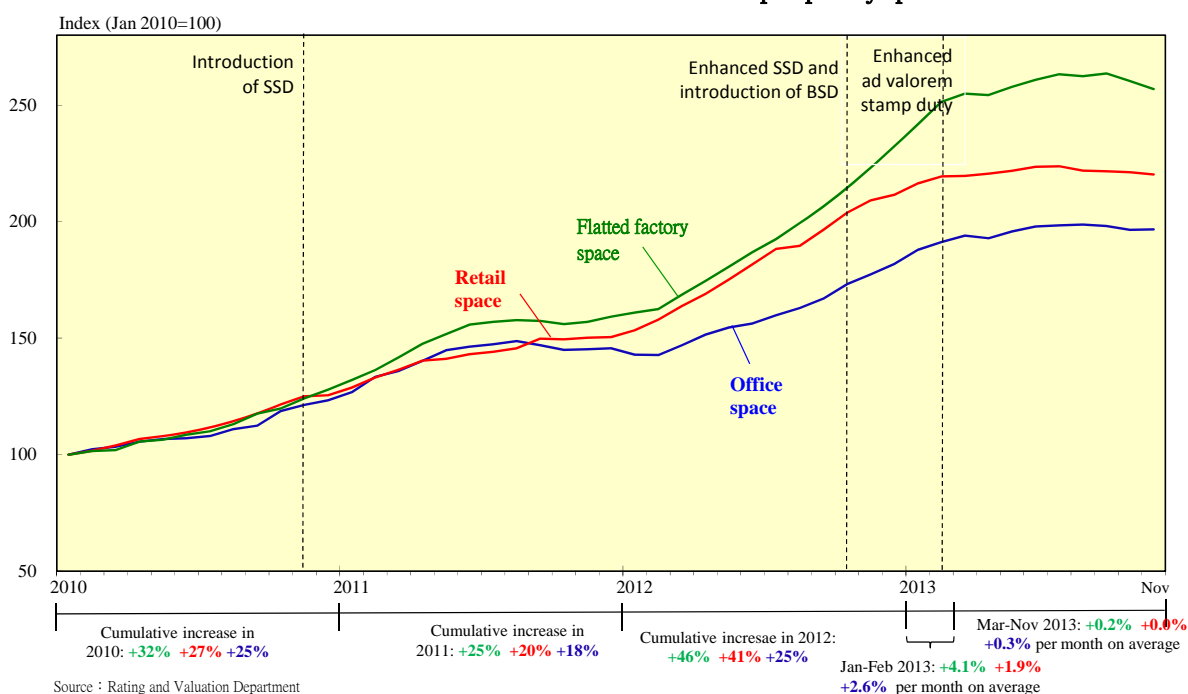


Source: Inland Revenue Department

Table 4: Prices of non-residential properties

	Retail		Office		Flatted Factory Space	
	Cumulative Price Change	Average Monthly Change	Cumulative Price Change	Average Monthly Change	Cumulative Price Change	Average Monthly Change
2010	+27%	+2.0%	+25%	+1.9%	+32%	+2.3%
2011	+20%	+1.5%	+18%	+1.4%	+25%	+1.8%
2012	+41%	+2.9%	+25%	+1.9%	+46%	+3.2%
2013						
January - February	+4%	+1.9%	+5%	+2.6%	+8%	+4.1%
March - November	+0%	+0.0%	+3%	+0.3%	+2%	+0.2%
November as compared with the peak in 1997	+149%		+77%		+252%	

Chart 4 : Non-residential property price



財經事務及庫務局
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24 January 2014

Dear Mr Lee,

Stamp Duty (Amendment) Bill 2013

Further to our letter dated 20 November 2013, we were pleased to have a useful discussion session with members of the Property Committee/Revenue Law Committee of the Law Society of Hong Kong (“the Law Society”) on 6 December 2013 on matters relating to the Stamp Duty (Amendment) Bill 2013 (“the 2013 Bill”). Our detailed responses to the major issues raised at the meeting are set out in the ensuing paragraphs please.

Effectiveness of the Stamp Duty Measures to Address the Overheated Property Market

To recapitulate, in the light of the overheated property market, the Government introduced stamp duty measures to manage demand amidst tight housing supply, thereby according priority to the home ownership needs of Hong Kong permanent residents (“HKPRs”). Both speculative activities and purchases of residential properties by non-HKPR individuals and companies have diminished since the announcement of the proposed enhancement of Special Stamp Duty (“SSD”) and introduction of Buyer’s Stamp Duty (“BSD”). The property market has also cooled down since the announcement of the across-the-board increases in ad valorem stamp duty rates in end February 2013 (or more commonly known as doubled stamp duties (“DSD”). Overall residential flat prices increased by an average 0.2% per month during March to November 2013, a notable deceleration from the monthly average

increase of 2.7% in the first two months of 2013. On the non-residential property market, prices of retail, office and flatted factory space increased by an average 0.04%, 0.3% and 0.2% respectively per month during March to November 2013, a notable deceleration from the monthly average increases of 1.9%, 2.6% and 4.1% respectively in the first two months of 2013. The above situation is in line with the Government's policy objective of introducing various demand-side management measures.

That said, we need to remain vigilant of the property market conditions and to maintain the relevant demand-side management measures for the time being since the risk of a property bubble has yet to vanish against the backdrop of tight supply in the short run and excessive liquidity.

Major Issues Raised at the Meeting Held on 6 December 2013

Acquiring residential and non-residential properties in a single purchase

We clarified at the meeting the stamp duty treatment of a single agreement for sale involving both residential and non-residential properties (such as carparking space) under different scenarios (with a single amount as the whole consideration vs respective considerations set out). The Inland Revenue Department ("IRD") will follow the established practice of processing each and every transaction based on the relevant facts of the case concerned. The IRD will update the Stamp Office Interpretation and Practice Notes ("SOPN") to reflect the different treatment as appropriate upon passage of the 2013 Bill.

Acquiring multiple flats under a single agreement

Under the Stamp Duty Ordinance (Cap. 117) ("SDO"), stamp duty is chargeable on an instrument basis. Acquisition of several residential properties by the execution of one agreement is regarded as one single transaction for the purposes of stamp duty. The instrument, i.e. the agreement for sale, will be charged at the applicable rate on the total consideration of the residential properties concerned. This approach has been consistently adopted and the Government follows such approach for the purpose of DSD.

Transfer of beneficial interest of a residential property between HKPR co-owners who are not closely related

If a HKPR buyer acquires from the other co-owner the partial ownership of the residential property jointly owned by them, provided that the transferee/purchaser is not a beneficial owner of any other residential property in Hong Kong, DSD will **not** be applicable to the relevant transaction, irrespective of whether or not the concerned

parties are closely related¹. Sections 29AJ(2) and 29BB(2) of the 2013 Bill provide for such exemption.

Refund arrangement for owners having acquired a new residential property before disposing of the original one

The 2013 Bill has provided for a refund mechanism for replacement of properties, with due regard to the practical needs of changing properties and overseas practice, whilst safeguarding the effectiveness of the demand-side management measures.

At the Bills Committee meeting held in December 2013, the Government had outlined its considerations from different perspectives in responding to the view that if buyers acquire uncompleted flats as replacement, the six-month timeframe should commence from the issue date of an occupation permit of that property -

(a) Stringent approach in drawing up the exemption rules

The timeframe so specified for the buyers replacing properties to sell their original one is to prevent individuals from acquiring another residential property under the guise of replacement of the original one, which in effect let them hold more than one residential property for a long period of time;

(b) Clear definition and objective criteria to facilitate effective implementation

Given the many procedures involved in processing uncompleted flats under different situations, the Government has to be careful in formulating objective criteria that can be fairly fitted in all different situations; and

(c) Effectiveness of the measures or the reception of the message by the market should not be compromised

If the timeframe for disposing of the original residential property for buyers acquiring uncompleted flats is to be relaxed, we need to consider the read-across implication, i.e. how to handle similar request for relaxing the timeframe because of some unforeseeable reasons for other buyers who acquire existing stocks. Given that DSD is an exceptional measure under exceptional circumstances, the principle of proportionality in handling the problem concerned has to be considered.

We will continue to hear views on the matter at the Bills Committee and examine the issues involved.

Mortgagee

Modelling on the existing SSD and BSD regime, section 29AM(c) of the

¹ Two persons are closely related if one of them is the parent, spouse, child, brother or sister of the other.

2013 Bill provides for DSD exemption to the transfer of a mortgaged property to the mortgagee if it is a financial institution within the meaning of section 2 of the Inland Revenue Ordinance (Cap. 112). Although the exemption provided under section 29AM(c) does not cover foreign banks or mortgagees of staff loans, DSD exemption will be available under section 29AM(b) of the 2013 Bill if the mortgaged property is vested in the mortgagee by means of a foreclosure order. On the other hand, the assignment of a bona fide mortgage or charge in respect of immovable property from one mortgagee to another will not be chargeable with stamp duty and hence no DSD will be involved. This follows the established practice in handling the assignment of a bona fide mortgage or charge as laid down in SOPN.

Adjudication/review of outstanding cases

In relation to the transfer of immovable property between associated bodies corporate, the IRD is now processing applications for section 45 relief as usual. If the conditions as specified in section 45 of the SDO are satisfied², the instruments will be adjudicated as not chargeable with stamp duty. In respect of other adjudication cases, if the relevant instrument is potentially chargeable with DSD, the adjudication of the instrument will be withheld pending the passage of the 2013 Bill.

Succession of estate and distribution in specie

On the question of entitlement to beneficial ownership in residential properties in the case of succession of estate or distribution in specie, we take the view that in the case of application for succession to the estate of a deceased person under section 17 of the New Territories Ordinance (Cap. 97) and section 12 of the New Territories Land (Exemption) Ordinance (Cap. 452), the successor(s) will only be regarded as a beneficial owner of a residential property when the application has been approved by the District Office and the succession has been registered with the Land Registry.

In the case of liquidation of a company, a shareholder will be regarded as becoming a beneficial owner of the residential property previously owned by the company on the date of execution of an instrument to effect the distribution in specie of the property to him/her.

² The section 45 relief applies to any instrument which is shown to the satisfaction of the Collector of Stamp Revenue ("the Collector") that the effect thereof is to convey a beneficial interest in immovable property, or to transfer a beneficial interest in Hong Kong stock, from one associated body corporate to another, and also applies to any instrument that is a contract note in respect of a sale or purchase of Hong Kong stock made between one associated body corporate and another, where in each case the bodies are associated, that is to say, one is beneficial owner of not less than 90 per cent of the issued share capital of the other, or a third such body is beneficial owner of not less than 90 per cent of the issued share capital of each.

Assignment of tenancy

Where a tenant is to assign the remaining tenancy to another tenant, the tenants concerned execute an assignment of tenancy, which will not give effect to a transfer of property ownership in its ordinary meaning. The IRD will stamp the instrument in accordance with the existing ad valorem stamp duty rates. The instrument will not be subject to DSD after the passage of the 2013 Bill.

Payment of additional stamp duty within 30 days upon passage of legislation

The new section 71 in the 2013 Bill provides for the payment of additional stamp duty within 30 days commencing immediately after the gazettal date of the 2013 Bill passed. Under section 9(2) of the SDO, the Collector has the discretion to remit penalty in whole or in part. If circumstances so warrant and on the merits of each case, the Collector may exercise his discretion to remit the penalty in part or in whole.

Stamp Duty (Amendment) Bill 2012 (“the 2012 Bill”)

In the context of the 2012 Bill, the Law Society has made the following suggestions-

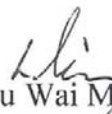
- (a) enlargement of specified exemption situations in the purchase of replacement properties because of land resumption by legislation;
- (b) improvement to the refund mechanism for redevelopment projects; and
- (c) improvement to the admissibility of an instrument not properly stamped so that any failure to pay BSD by the buyer would not affect the innocent parties’ ability to present the relevant document in civil proceedings.

The Government has introduced relevant Committee Stage Amendments (“CSAs”) to effect the above suggestions while ensuring that the policy objective is kept intact. Having considered the concerns expressed by the Law Society, the Government has further refined the CSAs on admissibility of an instrument in civil proceedings in order to cater for cases where a buyer ran away after signing an agreement for sale without paying the BSD nor making a statutory declaration confirming his HKPR status and that he acquired the property on his own behalf. Subject to the scrutiny by the Legislative Council (“LegCo”) on the proposed CSAs to the 2012 Bill, we intend to propose corresponding CSAs to the 2013 Bill in handling similar situations under the DSD regime.

Looking Ahead

We note the concern expressed by the Law Society on the progress of scrutiny of the 2012 Bill and 2013 Bill. It will only be in the interest of the market and parties concerned to have the early completion of the legislative exercise to facilitate the conduct of relevant business in respect of the property transactions on a clear basis. We are pleased that the relevant Bills Committee has finished its scrutiny of the 2012 Bill earlier this month and the Government will resume the second reading of the 2012 Bill on 19 February 2014. The Government will continue to listen to the views of the community and work closely with the LegCo with a view to completing the scrutiny of the 2013 Bill as soon as possible.

Yours sincerely,



(Lau Wai Ming)

for Secretary for Financial Services
and the Treasury

c.c.

Secretary for Transport and Housing
Commissioner of Inland Revenue
Department of Justice

(Attn: Mrs Vicki Kwok)
(Attn: Mr Tam Tai-pang)
(Attn: Miss Shandy Liu
Mr Manuel Ng)