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(English version only)

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By Fax (2978 7569) and Post

Ms. Annette Lam, Clerk to Bills Committee
The Bills Committee on Stamp Duty (Amendment) Bill 2013
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms Lam

Stamp Duty (Amendment) Bill 2013 (Bill)

We wish to make certain representations to the Bills Committee in relation to the Bill, having spoken to certain commercial clients and a number of other interested parties in the real estate market.

All are supportive of the Government's objectives in introducing the Bill, which we understand to be as follows:

- To further control residential prices by suppressing demand;
- To support Hong Kong permanent residents in buying one residential property, enabling owner occupation;
- To deter speculative investment (meaning investment purely for short term capital appreciation) in an over-heated residential property market until the Government has increased land supply. The Special Stamp Duty (SSD) introduced with effect from 20 November 2010 and the Buyer's Stamp Duty (BSD) introduced with effect from 27 October 2012, are further measures aimed at curbing speculation in the residential property market; and
- To curb speculation in the non-residential property market as a result of speculators moving from the residential property market due to the introduction of SSD and BSD. The Legco briefing paper expressly stated that one of the justifications for the new measures was to combat short-term resale activities in respect of non-residential properties.

However, we are aware of widespread concern in the business community about the impact of doubling the stamp duty payable on commercial property transactions in cases where the acquisition is clearly not speculative in nature. Should the final legislation penalize genuine investors in non-residential property (either as a long term investment and/or for their own use) this could have an unintended adverse impact on occupancy costs, diversity of supply and the market perception of Hong Kong as a location for a regional business headquarters.

In particular, commercial occupiers operate within the following market constraints, which detract from Hong Kong's aim to be the main destination for regional headquarters:

(i) Despite falls in rental levels over the past 12 months, Hong Kong remains, by a considerable margin, the most expensive office market in the world. By way of contrast, rental levels in Singapore are less than half those in Hong Kong (Singapore is 19th on the list)[1].

(ii) The current vacancy rate for office space is lower than it has been for the past 18 years, at around 3%, with insufficient supply being projected for the remainder of this decade[2]. Limited commercial sites are currently available for sale in the Government's land programme.

In Hong Kong, entities that want to purchase new commercial premises for their own use, so as to control occupancy costs and secure their own commercial future in Hong Kong, are being strongly discouraged from doing so by the new measures. Investment into long term rental property is also likewise discouraged, thus limiting diversification of ownership and occupier choice and exacerbating the commercial effects of the above-mentioned constraints. The potential consequences for Hong Kong's economy are self-evident.

The competitive advances made by Singapore as an alternative location for regional headquarters over the past 10 years are at least partly due to more affordable occupancy costs. Although Singapore has also recently extended special stamp duty to industrial (non-residential) properties[3] in order to deal with an over-heated residential property market spilling over into industrial, Singapore included an exemption for non-residential properties held for more than 3 years thus protecting genuine investors and owner/occupiers and potentially giving Singapore a further competitive advantage.

In order to deal with the concerns outlined above, we would suggest including a carve out in the final legislation so that the new ad valorem stamp duty rates do not apply to non-speculative acquisitions of non-residential property. The carve out could follow the approach taken by the Government for SSD, where the amount of SSD payable varies depending on the period for which the non-residential property has been held e.g. the new ad valorem stamp duty rates for non-residential property would not be payable in a situation where a non-residential property was acquired for non-speculative purposes (as to which appropriate declarations could be made) and held for a period of more than, say, 3 years.

We believe that a carve out of this nature would meet the Government's aim of combatting short-term re-sale activities in respect of non-residential properties (as referred to in the Legco briefing paper) by strongly discouraging speculative activity. Importantly however it would also ensure that Hong Kong continues to attract genuine long term investors into the non-residential property market and would encourage owner occupation, supporting Hong Kong's position as the location of choice for regional business headquarters.

We would be happy to discuss the above further with you in more detail if this would be of assistance.

Yours sincerely

Hilary Cordell
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Copy to Mr Dennis Kwok

[1] CBRE Prime Office Market Costs report
[2] CBRE Hong Kong Office Market data
[3] With effect from 13 January 2013