

Bills Committee on Stamp Duty (Amendment) Bill 2013

**The Administration's responses to the matters raised in
Hon James TO's written submission**

This paper sets out the Administration's responses to the matters raised in Hon James TO's written submission (LC Paper No. CB(1)1280/13-14(02)), as enclosed to the letter of 16 April 2014 from the Legislative Council Secretariat.

2. Hon James TO has raised a number of matters covering different areas, in respect of which we have issued papers and explained the relevant policy intent, considerations and proposed arrangements. The key matters raised and relevant LC papers issued are set out below for ease of reference -

	Matters	Relevant LC papers
(a)	Arrangements for charging ad valorem stamp duty ("AVD") in respect of acquisition of immovable properties under different scenarios according to the instrument-based regime	LC Paper No. CB(1)1219/13-14(02)
(b)	Handling of replacement property and exchange of properties	LC Paper No. CB(1)1219/13-14(02) LC Paper No. CB(1)1060/13-14(02)
(c)	Proposed exemption for transfer of non-residential property between closely related persons	LC Paper No. CB(1)1219/13-14(02)
(d)	Proposed exemption in respect of acquisition of public housing units under the "Tenants Purchase Scheme"	LC Paper No. CB(1)1219/13-14(02)
(e)	Exemption arrangement for Hong Kong Permanent Residents who are minors or mentally incapacitated persons in the acquisition of residential properties through trustees or guardians	LC Paper No. CB(1)1060/13-14(02) LC Paper No. CB(1)1219/13-14(03)
(f)	Proposed exemption for charitable bodies	LC Paper CB(1)1219/13-14(03)

3. Our responses to Hon James TO's areas of concern, questions on treatment under different scenarios and enquiries on statistics are at **Annex**.

Timeframe allowed for owners having acquired a new residential property before disposing of their original one

4. In our earlier response to Hon James TO's submission (LC Paper No. CB(1)1219/13-14(03)), we have provided our preliminary views on the specified timeframe for buyers changing residential properties to dispose of their original ones. Subsequently, in responding to the draft Committee Stage Amendments ("CSAs") proposed by Hon Tony TSE Wai-chuen (LC Paper No. CB(1)1280/13-14(03)), we further elaborated on the factors that we should take into consideration, including -

- (a) Necessity for a tailor-made refund mechanism for acquisition of uncompleted flats for the purpose of changing properties

According to the statistics compiled by the Inland Revenue Department ("IRD") based on its database of stamping applications, the majority of transactions on residential properties involve the sales and purchases of existing stocks. There are relatively few transactions on uncompleted flats;

- (b) Whether the definition of uncompleted flats is specific and clear, and whether the coverage is comprehensive

With reference to the Residential Properties (First-hand Sales) Ordinance, the CSAs propose that the date of issuance of different instruments by relevant authorities in respect of different types of uncompleted flats be taken as the starting point of the six-month timeframe for changing properties for the purpose of implementing the AVD refund arrangements. However, since the Residential Properties (First-hand Sales) Ordinance is effective only from 29 April 2013, before which date there was no legislation requiring the vendor to notify the purchaser in writing of the completion of the sale and purchase within a specified timeframe. Therefore, the CSAs could not clearly deal with cases where the new residential properties being uncompleted flats were acquired between 23 February 2013 (when the doubled AVD measure was introduced) and 28 April 2013; and

- (c) Whether the six-month timeframe for changing properties drawn up for different types of uncompleted flats is consistently applied from the perspective of those changing their properties

Since different types of instruments are used as the basis for calculating the six-month timeframe for uncompleted flats of different development projects, under the existing relevant regulatory regimes, the time available for changing properties would appear to be inconsistent from the perspective of those changing their properties.

5. In short, we must examine the matter from different angles with a view to assessing whether the proposed amendment is necessary, clear, fair and easy for public understanding and could be effectively implemented by IRD. In addition, we note that Members are also concerned about how to respond to the request for relaxing the timeframe for changing properties for buyers acquiring existing stocks. We are studying the matter in detail in a comprehensive manner and will report to the Committee on the Administration's overall views.

Financial Services and the Treasury Bureau
May 2014

The Administration’s response to the issues raised in Hon James TO’s written submission

Question	The Administration’s Responses
(I) Charging of stamp duty on an instrument basis	
<p>1. A Hong Kong permanent resident (“HKPR”), who has no other residential property in Hong Kong, acts on his/her own behalf in acquiring a residential unit valued at \$8 million and a car parking space valued at \$0.8 million covered by the same instrument. What are the respective amounts of stamp duty payable when the properties are held under a single or different title deeds? How will the stamp duty be charged if the residential property and the car parking space are covered by different instruments?</p>	<p>The stamp duty payable by a HKPR who acts on his/her own behalf and does not own any other residential property in Hong Kong is computed as follows -</p> <p><u>By executing one instrument</u></p> <p>If the residential property and the car parking space are separate and distinct properties and the car parking space is regarded as a non-residential property according to the definition under the Stamp Duty Ordinance (“SDO”), the residential property can be exempted from the doubled ad valorem stamp duty (“AVD”) but not the car parking space under the existing proposed regime. The AVD chargeable to the relevant instrument will be calculated according to the respective considerations of the residential property and car parking space separately but the applicable rate is determined on the basis of the total consideration (\$8.8 million) of the whole instrument (the applicable old rate for the total consideration of \$8.8 million is 3.75% while the new rate is 7.5%). The AVD on acquisition of the residential property will be computed at the old rate and the stamp duty payable is \$300,000 (\$8 million x 3.75%). The AVD on acquisition of the car parking space will be computed at the new rate and the stamp duty payable is \$60,000 (\$0.8 million x 7.5%).</p>

Question	The Administration's Responses
	<p>If the car parking space and the residential property are not separate properties, the car parking space will be regarded as part of the residential property. The whole instrument is treated as the transaction of the residential property and the AVD payable will be computed at the old rate which amounts to \$330,000 (\$8.8 million x 3.75%).</p> <p><u>By executing two separate instruments</u> (i.e. for the residential property and the car parking space which are separate and distinct properties and the car parking space is regarded as a non-residential property according to the definition under SDO, the residential property can be exempted from the doubled AVD but not the car parking space under the existing proposed regime.)</p> <ul style="list-style-type: none"> ♦ If the two transactions form a larger transaction or series of transactions (e.g. the purchaser cannot acquire either the residential property or the car parking space only but the two properties altogether), the applicable rate of the stamp duty is determined on the basis of the total considerations (\$8.8 million) for the two instruments (the applicable rate for the total consideration of \$8.8 million is 3.75% while the new rate is 7.5%). The AVD on acquisition of the residential property will be computed at the old rate and the stamp duty payable is \$300,000 (\$8 million x 3.75%). The AVD on acquisition of the car parking space will be computed at the new rate and the stamp duty payable is \$60,000 (\$0.8 million x 7.5%). ♦ If the transactions do not form a larger transaction or series of transactions, the applicable rate and the AVD payable for the two

Question	The Administration's Responses
	<p>transactions are determined separately according to their respective considerations. With the consideration of the residential property at \$8 million and the applicable rate at 3.75%, the AVD on acquisition of the residential property is \$300,000 (\$8 million x 3.75%). The AVD on acquisition of the car parking space is \$12,000 (\$0.8 million x 1.5%).</p>
<p>2. Collection of stamp duty for properties held under a single or different title deeds. Please give an account of the collection and computation of stamp duty under the existing stamp duty regime when an instrument covers two residential properties, or two non-residential properties, or a residential and a non-residential properties held under a single or different title deeds.</p>	<p><u>Where a single instrument covers two residential properties or two non-residential properties</u></p> <p>Under the existing regime, where a single instrument covers either two residential properties or two non-residential properties, even though the properties are separate ones, the Inland Revenue Department (“IRD”) will regard the instrument as one single instrument and the applicable stamp duty rate will be determined on the basis of the total consideration of that instrument.</p> <p><u>Where a single instrument covers a residential property and a non-residential property</u></p> <p>If the two properties are separate and distinct properties, the AVD payable for the instrument is charged on the respective considerations of the residential property and the non-residential property separately, but the applicable rate is determined on the basis of the total consideration of the whole instrument and having regard to the nature of the property.</p>
<p>3. For a transaction involving more than one property held under a single or different title deeds, what are the restrictions on property disposal in the future? If a residential unit and a car parking space</p>	<p>As far as the administration of SDO is concerned, if the residential property and the car parking space are separate and distinct properties and can be sold separately, the instrument for disposal of the car parking space</p>

Question	The Administration's Responses
covered by a single instrument are held by an owner under a single title deed, what will be the deed arrangement involved if the owner no longer needs the car parking space and disposes of it in the future? In what ways will this be different from the scenario in which the residential unit and the car parking space are initially held under different title deeds?	shall be subject to AVD at the applicable rate normally based on the consideration or value of the car parking space (whichever is the higher).
4. How many "whole transactions" were involved in multiple properties covered by a single instrument in each of the past 3 years? How many of them covered both residential and non-residential properties, as well as both a residential unit and a car parking space? Among them, how many involved properties held under a single or different title deeds?	In the financial years of 2011-12, 2012-13 and 2013-14, there were 5,511, 6,622 and 3,448 transactions respectively involving multiple properties by a single instrument. IRD does not have statistical information showing whether such instruments involve residential property or non-residential property (including car parking space).
5. Will the Government consider exempting a HKPR, who has no car parking space in Hong Kong, from doubled AVD if he/she purchases one for own use on his/her own behalf at or in the vicinity of the estate he/she is living in?	The Administration notes Members' concerns and comments. Yet, the Administration needs to study the issues carefully by examining the impact of any changes on the effectiveness of the measures, whether and if so how "a car parking space at or in the vicinity of the estate where the person resides" can be clearly defined in the law and whether the provisions can be enforced.
6. How many transactions were involved in multiple properties covered by a single instrument in each of the past 3 years? How many of them involved properties held under a single or different title deeds? What is the largest number of residential properties covered by a single instrument?	For stamping requests involving multiple residential properties, applicants are not required to declare whether the concerned properties are held under the same title deeds. IRD also has not compiled statistics on the largest number of residential properties covered by a single instrument. Hence, IRD cannot provide the requested information.
7. A HKPR, who is not a beneficial owner of any other residential property in Hong Kong, acts on his/her own behalf in acquiring a residential unit valued at \$8 million and another one valued at \$5 million	Where a HKPR, who is acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong, acquires a residential property valued at \$8 million and another residential

Question	The Administration's Responses
<p>covered by the same instrument. How will stamp duty be charged respectively when the properties are held under a single or different title deeds? What are the amounts of stamp duty payable in each case and the difference in payment? How will stamp duty be charged if the purchaser first acquires the residential unit valued at \$8 million covered by an instrument, followed by another residential unit valued at \$5 million covered by another instrument? How will stamp duty be charged? What are the amounts of stamp duty payable and the difference in payment?</p>	<p>property valued at \$5 million under one instrument, under the currently-proposed regime, even though the two properties are separate properties, IRD will regard that instrument as one instrument and AVD will be chargeable on the basis of the total consideration of the two properties at the old rate. The AVD payable is \$487,500 (\$13 million x 3.75%).</p> <p>If the HKPR first acquires the residential property valued at \$8 million by an instrument and then acquires another residential property valued at \$5 million under another instrument, the first instrument can be exempted from the doubled AVD and chargeable at the old rate while the second instrument cannot be exempted and is chargeable at the new rate -</p> <ul style="list-style-type: none"> ♦ If the two transactions form a larger transaction or series of transactions (e.g. the purchaser must acquire the two properties altogether but not any one of them in accordance with the agreement reached between the purchaser and the seller), the two instruments shall be charged at the applicable rate on the basis of the total consideration (\$13 million) of the two transactions (the applicable old rate for the total consideration of \$13 million is 3.75% while the new rate is 7.5%). The AVD payable on the first instrument will be computed at the applicable old rate which amounts to \$300,000 (\$8 million x 3.75%) while the AVD on the second instrument will be computed at the applicable new rate which amounts to \$375,000 (\$5 million x 7.5%). ♦ If the transactions do not form a larger transaction or series of transactions, the AVD payable on the first instrument will be computed based on the consideration of the first property transaction (\$8 million) at the old rate which amounts to \$300,000 (\$8 million x

Question	The Administration's Responses
	3.75%). The AVD payable on the second instrument will be based on the consideration of the second property transaction (\$5 million) at the new rate which amounts to \$300,000 (\$5 million x 6%).
8. It is proposed in the Bill that if the transactions of multiple residential properties covered by a single instrument are eligible for exemption, all the residential properties will be exempted from doubled AVD. Will it prompt a series of transactions, even if chargeable at the highest stamp duty rates, be grouped under a single instrument to avoid doubled AVD?	Under the existing instrument-based AVD regime, the use of one instrument to cover multiple properties will be regarded as one transaction. Under the existing regime, even though the properties concerned are separate properties, IRD will regard that instrument as one instrument and the applicable AVD rate is determined on the basis of the total consideration of the instrument.
9. Why could a purchaser be exempted from doubled AVD in acquiring a series of residential properties covered by a single instrument at one go? Will there be different exemption arrangements when several residential properties, covered by a single instrument, are held under a single or different title deeds?	The Administration notes Members' concerns and comments. As any change may affect the existing regime and cause unnecessary impact to the public, we need to study carefully.
10. When a developer puts up a new residential development for sale with full stamp duty concession, can arrangements be made so that the provisional/formal agreements for sale and purchase, as well as conveyances on sale of multiple residential properties covered by a single instrument are handled at one go, e.g. what if 5 residential units put up for sale are sold to 5 different purchasers or a single purchaser, and both HKPRs and non-HKPRs are involved? If feasible, how will the stamp duty be charged in different cases? If 5 residential units are arranged to be covered by 5 different instruments and sold to 5 different purchasers or a single purchaser, and both HKPRs and non-HKPRs are involved, how will the stamp duty be charged in different cases?	Such practice is uncommon and IRD has never processed a stamping request in connection with such instrument. If the 5 residential units are sold by one instrument to a single purchaser who is a HKPR acting on his/her own behalf in acquiring the properties and does not own any other residential property in Hong Kong, the AVD will be chargeable on the instrument at old rates. Otherwise, the new AVD rates will apply. If the 5 residential units are covered by 5 different instruments and sold to 5 different purchasers, whether the new AVD or old AVD rates will apply depends on the residency status of individual purchasers; whether he/she

Question	The Administration's Responses
	is acting on his/her own behalf in acquiring the property and whether he/she owns any other residential property in Hong Kong on the date of acquisition of the property.
(II) Replacement property	
<p>11. What is the total amount of stamp duty payable if a non-HKPR directly acquires a residential property valued at \$20 million in Hong Kong under the proposals in the Bill? However, if he/she first acquires a residential property valued at \$3 million (it is a property disposed of under certain ordinances as specified under the Bill) as an original property, and then acquires a property valued at \$20 million as a replacement property, what is the amount of stamp duty payable?</p>	<p>On the assumption that the sale and purchase of the residential property is not subject to Special Stamp Duty (“SSD”), a non-HKPR who purchases a residential property valued at \$20 million has to pay stamp duty of \$4.5 million (including the Buyer’s Stamp Duty (“BSD”) at 15% which amounts to \$3 million and the doubled AVD at 7.5% which amounts to \$1.5 million).</p> <p>If he/she acquires a residential property of \$3 million first, the amount of stamp duty payable is \$540,000 (including BSD at 15% which amounts to \$450,000 and the doubled AVD at 3% which amounts to \$90,000). If the original property is acquired or resumed pursuant to certain ordinances and he/she acquires a replacement property valued at \$20 million, the stamp duty payable on the replacement property will be \$750,000 (\$20 million x 3.75%) based on the old rates.</p>
<p>12. Will the Government consider imposing restrictions on the time interval between purchasing the original and replacement properties, which must not be too short to prevent or minimise speculation activities?</p>	<p>The exemption from the doubled AVD for replacement properties is proposed under the Bill with reference to the corresponding arrangements under the BSD regime. The policy intent is to cater for the replacement purchases of the affected owners (irrespective of whether they are HKPRs) who have been made to sell their original properties not of their own volition; and to facilitate the smooth implementation of acquisitions under the specified scenarios which serve public purposes. The Bill has</p>

Question	The Administration's Responses
	stipulated that the date of disposal of the original property must be before the date of acquisition of the replacement property and the replacement property must belong to the same category as the original property in order to qualify for the proposed exemption. Since there is no objective standard or basis to stipulate the appropriate interval between the respective acquisitions of the original property and the replacement property, we have no intention to impose additional restriction in this regard.
13. If an original property designated for “commercial / residential” use is currently used for residential purpose, will IRD regard it as a residential or a non-residential property under the conditions of the relevant instrument? Will the occupier be exempted according to the arrangements for replacement property under the Bill and be required to pay stamp duty at the old rates only in acquiring a replacement property?	As far as the administration of SDO is concerned, whether a property is a “residential property” or “non-residential property” is determined by reference to the permitted use provided in the specified documents in the definition of “non-residential property” under SDO, rather than having regard to the actual use of the property. If the property may not be wholly or partly used for residential purposes under the specified documents (such as the Government lease, occupation permit or deed of mutual covenant), the property is regarded as a non-residential property. Otherwise, it is a residential property. In the case of a property for commercial / residential use, it will be regarded as a residential property if it could be used for residential purposes according to the specified documents. The owner who acquires a residential property to replace his/her original residential property which is acquired or resumed under certain ordinances will only be subject to AVD at the old rates.
(III) Application for exemption	
14. Will the Government consider making amendments to the effect that transfer of non-residential property between closely related persons	The Bill proposes that exemption from doubled AVD only applies to transfer of residential property between closely related persons. We

Question	The Administration's Responses
will be charged at the old rates only, thereby according priority to cater for the needs of passing on small family businesses between them?	have no intention to extend the relevant exemption in respect of residential property to cover transactions involving transfer of non-residential property between closely related persons.
(IV) Exchange of properties	
15. A HKPR, who has no other residential property in Hong Kong, acts on his/her own behalf in exchanging a small shop valued at \$8 million for a residential unit valued at \$8 million. How will the stamp duty be charged and what is the amount?	If the value of a non-residential property is the same as that of a residential property, the transaction will not incur any "equality money". Accordingly, the instrument for the exchange is not chargeable with any stamp duty.
(V) Buying a public housing flat under the Tenants Purchase Scheme ("TPS")	
16. Under the TPS, the Housing Department ("HD") allows tenants in public housing estates to purchase their flats and introduces a 5-year alienation restriction period. Please explain the reasons for subjecting the selling of HD's public housing units to tenants to the demand-side management measures. Since 23 February 2013, how many transactions of this kind have taken place and of which, how many are required to pay stamp duty at new rates?	Flats acquired under TPS are subject to the doubled AVD, same as all other residential properties. From the introduction of the doubled AVD on 23 February 2013 up to 15 April 2014, there were a total of 3,900 completed transactions under TPS. As to the number of buyers that are subject to the doubled AVD, IRD will determine whether a transaction instrument is chargeable with the doubled AVD in accordance with the finalised doubled AVD regime after passage of the Bill and the actual circumstances of each and every stamping application. As such, IRD is not able to confirm the actual number of cases that are subject to the doubled AVD at this stage.
17. With respect to families renting public housing, if all the tenants at the age of 18 or above are new immigrants who, though have no other residential property in Hong Kong, have not obtained Hong Kong Permanent Identity Cards yet, can they be exempted from doubled AVD for acquisition of their public housing flats? If there is a minor child in	According to the existing policy of the Housing Authority, sitting tenants

Question	The Administration's Responses
<p>the family, can a tenant at the age of 18 or above acting as a trustee to purchase the public housing flat for the minor child be exempted from the doubled AVD?</p>	<p>in self-contained flats in the selected estates under TPS may purchase their own flats provided that there is no breach of the existing tenancy agreement. TPS purchasers, regardless of whether it is a joint acquisition of the flat concerned, must be 18 years old or above and are occupants of the relevant flat. It is also required under TPS that the purchasers have to be acting on their own behalf in purchasing the relevant TPS flats. If someone acquires a TPS unit jointly with a closely related person, with the eligibility criteria for purchase of the TPS flat fulfilled, the relevant transaction will be exempted from the doubled AVD under the Bill, and the original AVD rates will apply, provided that one of the purchasers is a HKPR and all of them are not a beneficial owner of any other residential property in Hong Kong. However, minors of tenants of TPS estates are not able to fulfill the TPS requirement that eligible purchasers have to be 18 years old or above, and thus cannot become a purchaser under TPS.</p>
<p>(VI) Acting in the capacity of a trustee</p>	
<p>18. The Government states that a HKPR who is a minor or mentally incapacitated person may be exempted from doubled AVD for acquisition of a residential property through his/her trustee or guardian unless he/she has already owned other residential property. However, according to the answer to Question 11 of the Frequently Asked Questions on AVD on IRD's website, where a trustee of a trust signs an agreement for sale and purchase on behalf of another person who is a HKPR and does not have any other residential property in Hong Kong, the trustee shall also be chargeable with the new AVD. Can the Government clarify whether a HKPR, no matter whether he/she owns any other residential property in</p>	<p>The circumstances as referred to in Question 11 of the Frequently Asked Questions on AVD are the general principles of the Bill. If any person acquires a residential property by signing an agreement for sale and purchase as a trustee for another person, the relevant agreement is chargeable with doubled AVD. On the other hand, the proposed section 29AH of the Bill provides that if a person as a trustee or guardian acquires a residential property for a HKPR who is a minor or mentally incapacitated person, the latter will be treated as the executing party of the instrument in place of the trustee or guardian. If the beneficiary is a HKPR minor or a mentally incapacitated HKPR who is not a beneficial</p>

Question	The Administration's Responses
<p>Hong Kong, may be exempted from doubled AVD for acquisition of a residential property in Hong Kong in the capacity of a trustee on behalf of another HKPR who does not have any other residential property in Hong Kong, in particular, where that other HKPR is a minor or mentally incapacitated person? Will a HKPR who acquires a residential property in Hong Kong as a replacement in the capacity of a trustee on behalf of a minor or mentally incapacitated person be also exempted from doubled AVD?</p>	<p>owner of any other residential property in Hong Kong on the date on which the residential property concerned was acquired by the trustee or guardian, he/she can pay AVD at the old rates. If a person as a trustee or guardian acquires a property for a HKPR minor or a mentally incapacitated HKPR to replace the beneficiary's original property which has been purchased or acquired under specified ordinances, the exemption from doubled AVD also applies.</p>
<p>(VII) Ownership of residential property</p>	
<p>19. According to the answer to Question 6 of the Frequently Asked Questions on AVD as provided on IRD's website, a person will be taken as "owning" a residential property even if the title is registered in the name of a trustee. Under this principle, for a HKPR who, other than having held a residential property in Hong Kong in the capacity of a trustee for a mentally incapacitated person, does not have any other residential property in Hong Kong, can he/she be exempted from doubled AVD in acquiring a property on his/her own behalf for the first time?</p>	<p>The circumstances as referred to in Question 6 of the Frequently Asked Question on AVD are that for the purposes of the doubled AVD, a person is regarded as having owned a residential property if he/she is the beneficial owner of a residential property; or owns any share or interest of that property. Therefore, if a residential property is registered under the name of the trustee instead of that person, the latter will still be regarded as having owned a residential property. At the same time, the trustee will not be regarded as the beneficial owner of the residential property concerned. If the trustee is a HKPR who acts on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition of a residential property, he/she is liable to pay the AVD at the old rates only despite that he/she has held a residential property in his/her capacity as a trustee for a mentally incapacitated person.</p>
<p>20. According to the answer to Question 6 of the Frequently Asked Questions on AVD on IRD's website, "a person owns a residential</p>	<p>If a person inherits a residential property from the estate and owns the property jointly with a closely related person(s) either as a co-owner or as</p>

Question	The Administration's Responses
<p>property if he jointly owns the property with another person/other persons, or is a co-owner thereof.” Under this principle, if a HKPR, by inheriting an estate, owns a residential property jointly with a closely related person(s) either as a co-owner or as a joint owner, will he/she not be exempted from doubled AVD when he/she, acting on his/her own behalf, acquires his/her own property for the first time? Will the Government consider relaxing the definition of “ownership of residential property” in the Bill to allow a HKPR, who owns a residential property jointly with a closely related person(s) either as a co-owner or as a joint owner by inheriting an estate, to be unaffected in obtaining exemption from doubled AVD in respect of acquiring a residential property on his/her own behalf for the first time?</p>	<p>a joint owner, he/she will be regarded as a beneficial owner of that property according to the Bill. If he/she acquires another residential property, the instrument for acquiring the new property is chargeable with doubled AVD. For sake of consistency of the measures, the Administration has no intention to exempt those people owning residential property due to inheritance from the doubled AVD.</p>
<p>(VIII) Persons residing in Hong Kong for not less than seven years</p>	
<p>21. Anyone who has been a resident in Hong Kong for not less than 7 years is entitled to be issued a Hong Kong Permanent Identity (HKID) card if he/she has filed such an application to the Immigration Department (“ImmD”). However, such an identity card may not be issued for various reasons. How many cases of this kind are there? What are the categorised reasons for not issuing a HKID card and how many such cases are there? Generally speaking, under what circumstances will such people be eventually issued a HKID card?</p>	<p>Paragraph 2 of Schedule 1 to the Immigration Ordinance stipulates that six categories of persons are permanent residents of the Hong Kong Special Administrative Region (“HKSAR”), and in which paragraphs 2(b) and 2(d) both include the requirement of ordinary residence in Hong Kong for a continuous period of not less than 7 years. Paragraph 2(b) stipulates that a Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than 7 years before or after the establishment of the HKSAR is a permanent resident of the HKSAR. Paragraph 2(d) stipulates that a person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than 7 years and has taken Hong Kong as his place of permanent residence before or after the establishment of the HKSAR is a permanent resident of the HKSAR.</p>

Question	The Administration's Responses
	<p>Any person in Hong Kong who considers that he/she is among any of the categories of permanent residents of the HKSAR in paragraph 2 of the Schedule may apply for verification of eligibility for a permanent identity card. ImmD will conduct assessment in accordance with the requirements under relevant ordinances and actual circumstances of the case. In 2013, there were 1,329 and 1,830 rejected applications for verification of eligibility for a permanent identity card under paragraphs 2(b) and 2(d) of the Schedule respectively.</p> <p>ImmD does not maintain statistical breakdown of the reasons for rejection of applications for verification of eligibility for a permanent identity card.</p>
(IX) Exemption of charitable bodies	
<p>22. Can the Government re-examine the issue of exempting charitable bodies from doubled AVD in respect of acquisition of a residential property for carrying out the charitable business in compliance with the requirements of the Inland Revenue Ordinance (“IRO”)?</p>	<p>Section 88 of the IRO stipulates that only the profits from primary purpose trading carried out by a charitable body (i.e. trading in the course of the actual carrying out of its expressed charitable objects or trading that is mainly carried out by the beneficiaries of the charity) are exempted from profits tax. The IRO does not prohibit charitable bodies from engaging in activities other than those carried out in pursuit of their charitable objects, but the profits generated from such activities will be subject to profits tax. With reference to the existing AVD, SSD and BSD regimes, we consider that the proposed exemption for charitable bodies from doubled AVD in acquisition of properties is inconsistent with our policy intent of according priority to the housing needs of HKPRs amidst the current tight supply situation. Therefore, we do not intend to exempt charitable bodies from doubled AVD in acquisition of properties under the Bill.</p>