



26 May 2014

Ms Starry LEE
Chairman of Bills Committee on Stamp Duty (Amendment) Bill 2013
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Hong Kong

Dear *Starry,*

Committee Stage Amendments (“CSA”) to the Stamp Duty (Amendment) Bill 2013

Further to my letter dated 7 May 2014, I write to provide a brief explanation of the differences between the following:-

- (a) the CSA (LC Paper No.CB(1)1847/12-13(01)) submitted by me on 30 September 2013; and
- (b) the revised CSA (LC Paper No.CB(1)1380/13-14(02)) submitted by me on 7 May 2014.

CSA (LC Paper No.CB(1)1847/12-13(01)) submitted on 30 September 2013

The aim of the my proposed CSA was to achieve 2 things:-

- (1) To exclude the application of the doubled *ad valorem* stamp duty (“DSD”) to agreements for sale of non-residential property. The time for charging DSD on non-residential property transactions was to follow the existing regime, i.e. at the time of the conveyance on sale.
- (2) The timeframe within which a Hong Kong Permanent Residence (“HKPR”) must sell his/her old residential property after acquisition of a new residential property in order to be eligible for refund of the difference between the DSD and the *ad valorem* stamp duty at existing rates was to be extended from 6 to 12 months.

Revised CSA (LC Paper No.CB(1)1380/13-14(02)) submitted on 7 May 2014

The aim of the revised CSA is to exclude the application of DSD to non-residential property transactions altogether. Specifically the existing regime relating to non-residential property transactions will be kept intact so that (i) DSD will not be applied to non-residential properties and the existing rates of *ad valorem* stamp duty will remain unchanged; and (ii) the time for charging *ad valorem* stamp duty will remain to be the time of the conveyancing on sale.

The objective is implemented mainly by amending Clauses 10 and 13 of the Bill:-



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石禮謙 議員 Hon Abraham Shek Lai-Him J.P.

- (1) Clause 10 is amended such that the proposed section 29AI specifies clearly that a conveyance on sale of non-residential property is chargeable at the existing rates (i.e., what are to be Scale 2 rates under the Bill) of *ad valorem* stamp duty.
- (2) Clause 13 is amended such that an agreement for sale of non-residential property is not chargeable with DSD. Note that:-
 - (i) The existing section 29A(5) of the Stamp Duty Ordinance provides that “*Head 1(1A), (1B) and (1C) in the First Schedule does not apply to an agreement for sale in respect of non-residential property.*”
 - (ii) It is proposed to delete Clause 8(5) of the Bill which seeks to amend section 29A(5).
- (3) The other amendments proposed are consequential in nature.

Opening Remarks by the Secretary for Financial Services and the Treasury (LC Paper No.CB(1)1409/13-14(01))

At the meeting of the Bills Committee on 13 May 2014, the Government announced certain proposed adjustments to the Bill:-

- (1) Relaxation of the 6-month timeframe for a HKPR to sell his/her old residential property after acquisition of a new residential property.
- (2) The period within which the refund of the difference between the DSD and the *ad valorem* stamp duty at existing rates must be applied for.

The proposed relaxation on the time within which a HKPR must sell/her old residential property recognizes the reality that in many cases the replacement property is yet uncompleted. If the Government's proposed adjustments are to be implemented, I shall consider withdrawing my proposed amendment to Clause 18 of the Bill as set out in the CSA (LC Paper No.CB(1)1847/12-13(01)) submitted on 30 September 2013.

Yours sincerely,

Abraham SHEK Lai Him