



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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Ms Shirley KWAN
PAS(Treasury)(R)
Secretary for Financial Services and the Treasury
Financial Services and the Treasury Bureau
The Treasury Branch
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2 Tim Mei Road, Tamar
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By Fax (2179 5848)

21 May 2014

Dear Ms KWAN

Stamp Duty (Amendment) Bill 2013

Upon consideration of the CSAs proposed by the Administration, I have some observations on the CSAs. The observations are set out in the attached Schedule for your consideration. I would be most grateful if you would let me have the response of the Administration in writing in both English and Chinese at your earliest convenience.

Yours sincerely

(KAU Kin-wah)
Senior Assistant Legal Adviser

Encl (2 pages)

cc LA

Mr Allen LAI SGC (Fax No. 2869 1302)

Schedule

Proposed section 29AM(2)

- (a) The provision has assumed that every assignment of lease is a conveyance on sale. Please consider whether this assumption is valid and please provide legal authorities in support of the view.
- (b) If the lease, to which the proposed section 29AM(2) is applicable, is not limited in its term, the proposed provision would provide a way to avoid the double stamp duty and the buyer's stamp duty.
- (c) The observation in (b) above also applies to the proposed section 29AM(3).
- (d) Please note that in the proposed section 29AM(3), whilst it is provided that a lease and an agreement for lease are to be stamped as conveyance on sale, only an agreement for lease is to be stamped according to Scale 2 of head 1(1) in the First Schedule.

Proposed section 29BJ

- (a) It is very doubtful that an agreement for the assignment of lease is a chargeable agreement for sale if it is not so provided in section 29C. The proposed section 29BJ is inconsistent with section 29C.
- (b) The observations on the proposed section 29AM(2) also apply to this provision.

Proposed section 29BBA

In order that section 29C applies and the provision retains the same drafting style as sections 29CA and 29CB, please consider reformulating the proposed section 29BBA(1) so that the first main clause is as follows:-

"Scale 2 of head 1(1A) in the First Schedule applies to a chargeable agreement for sale if—"

Proposed CSAs to section 29DF

- (a) Since the introduction of the residential property whether or not together with a car parking space would give rise to multiple scenarios, e.g. the original property does not include car parking space but the subject property does; the original property does not

include car park space but the subject property includes more than one car park space, the original property includes one car park space but the subject property includes more than one car park space, please review whether the definition of specified amount should be accordingly modified to cater for different scenarios.

- (b) Please also consider whether the disposition of the original property should include divestment and transfer by way of gift inter vivos.
- (c) Please consider whether it would be more precise if the last part of the proposed section 29DF(5)(b) is reformulated as follows:-
"6 months after the date of the conveyance on sale of the subject property executed in conformity with that agreement."