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27 May 2014

Hon Starry LEE Wai-king, JP
Chairman
Bills Committee on Stamp Duty (Amendment) Bill 2013
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Chairman,

Stamp Duty (Amendment) Bill 2013

First of all, I would like to thank the Bills Committee for inviting me to attend its meeting so as to exchange views with Members on key areas of concern and to reiterate the Government's position.

Upholding the policy and safeguarding the healthy and stable development of the property market

At the meeting held on 13 May, I proposed two technical modifications to the Stamp Duty (Amendment) Bill 2013 ("the Bill"), i.e. to relax the "six-month" timeframe for owners having acquired a new residential property before disposing of their original one and to provide exemption from the doubled ad valorem stamp duty ("AVD") in respect of transactions for acquisition of residential property together with a car parking space. The proposed modifications are drawn up in positive response to concerns raised by Members and relevant stakeholders.

The two modification proposals, which are technical in nature, are in line with our prevailing policy, i.e. to address the home ownership needs of Hong Kong permanent residents. I would like to emphasize that the two modification proposals do not represent any relaxation by the Government on the existing demand-side management measures. We are determined to uphold the existing policy in order to safeguard the healthy and stable development of the property market.

I am pleased to note that the Bills Committee welcomed in principle the two aforesaid modification proposals. Early last week, the Government also submitted to the Bills Committee relevant draft Committee Stage Amendments (“CSAs”) to implement the modification proposals for Members’ reference.

Adjustment mechanism for demand-side management measures

As the Government has stressed on various occasions, the demand-side management measures on the property market are extraordinary measures under exceptional circumstances. We will consider adjusting the measures as appropriate after the demand-supply situation of the property market has regained its balance. As such, we have made arrangements under the Bill, proposing that adjustments to the value bands and duty rates of AVD (including the doubled AVD) be made by way of subsidiary legislation subject to negative vetting, which combines the merits of promptness and certainty.

At the meeting held on 13 May, I explained in detail that the proposed doubled AVD is built upon the AVD regime and AVD is chargeable by reference to the consideration of immovable properties at progressive rates. The regime comprises both Scale 1 rates chargeable in respect of general transactions of immovable properties (i.e. the doubled AVD rates) and Scale 2 rates chargeable in respect of transactions under exempted circumstances (i.e. the original AVD rates). In the light of the characteristics of the Bill, if we were to introduce, under the negative vetting mechanism, a “hybrid” mode (known as “difficult to increase but easy to reduce”) or to suggest that the notice as published in the Gazette should cease to have effect once the relevant resolution is not passed by the Legislative Council (“LegCo”) or upon expiration of a specified period from the date of publication of the notice in the Gazette, this will create chaos to the community and the market. Parties to property transactions will have difficulties to grasp the actual situation. Such

ideas cannot help achieve the objective of making timely adjustments in response to market changes. Accordingly, the Government will not take on board the ideas.

Critical review for the overall interest of the society

I understand Members' concerns about the matter as expressed at past meetings and reckon that the adjustment mechanism by way of the negative vetting approach as proposed in the Bill is controversial. At the meeting held on 13 May, I indicated that the Government would seriously re-visit the matter having regard to Members' views.

After having duly considered the Bills Committee's concerns and striking a balance with in mind the overall interest of the society, the Government **agrees not to insist on the adjustment mechanism by way of the negative vetting approach** in relation to AVD (including the doubled AVD) **as introduced by the Bill**, on the basis of seeking common grounds and accommodating differences. To this end, the Government will put forward CSAs later to delete the relevant provision in the Bill (i.e. the proposed section 63B added by Clause 22). In other words, for any intended adjustments to AVD (including the doubled AVD) in future, the Government will, as usual, do so by way of introducing a Bill into LegCo for the latter's scrutiny.

Implementing the measures as a matter of urgency

I believe the various aforementioned modification proposals have demonstrated the utmost sincerity of the Government. For the Bills Committee's concerns and views in relation to policy or technical issues raised at over a dozen of past meetings, my colleagues and I have made our best endeavours to provide our responses. I earnestly hope that the Bills Committee will, in the interest of the general public, adopt a pragmatic approach in completing the scrutiny of the Bill as soon as possible such that the demand-side management measures can be implemented early with a view to achieving the effect of stabilizing the property market. The Government undertakes to conduct a review within a year after the passage of the Bill and report to LegCo accordingly.

Once again, I thank you and Members for the hard work in scrutinizing the Bill.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K.C. Chan', with a long horizontal flourish extending to the right.

(Professor K C Chan)
Secretary for Financial Services and the Treasury