

**Bills Committee on Stamp Duty (Amendment) Bill 2013
Meeting on 31 May 2013**

**Opening remarks by Deputy Secretary for
Financial Services and the Treasury (Treasury)**

Purpose

- The Stamp Duty (Amendment) Bill 2013 (the Bill) is to implement the demand-side management measures relating to the use of ad valorem stamp duty (AVD) to further address the overheated property market as announced by the Government on 22 February 2013.
- By implementing the new round of demand-side management measures, we aim to forestall the risk of the property market bubble from further increasing which would affect the macroeconomic and financial stability, and to accord priority to the housing needs of Hong Kong Permanent Residents (HKPRs).

New Round of Measures

- The new round of demand-side management measures includes the following –
 - (a) to largely double across the board the rates of AVD applicable to transactions for both residential and non-residential properties. The new rates applicable range from 1.5% to 8.5% of the consideration or market value of the property;
 - (b) to advance the charging of AVD on non-residential property transactions from the conveyance on sale to the agreement for sale, so as to tally with the existing arrangement for residential properties.

Applicability of the Measures

- The enhanced AVD rates are applicable to all transactions for

residential and non-residential properties. Having regard to the Government's prevailing policy of according priority to the housing needs of HKPRs, we propose to put in place an exemption mechanism on the basis of the following two requirements –

- (a) the buyers of residential properties are HKPRs; and
 - (b) they are not beneficial owners of any other residential property in Hong Kong on the date of acquisition.
- When submitting relevant transaction documents to the Inland Revenue Department (IRD) for stamping, HKPR buyers will need to declare that they are HKPRs and that they are not beneficial owners of any other residential property in Hong Kong. The qualified HKPR buyers can pay the old AVD rates after their declarations have been verified by IRD.
 - The Bill recommends that where the AVD is underpaid on the basis of the declarations made by the buyers, and the buyers have subsequently been found to be non-HKPRs or found to be the beneficial owners of other residential properties in Hong Kong at the time of acquiring the residential properties, the liability to pay for the difference between the old and the enhanced AVD rates shall rest with the buyers only (i.e. not jointly and severally liable by both the sellers and buyers).
 - To cater for the situation where HKPRs may own more than one residential property in the process of replacing their old property by a new one, we propose to provide for a refund mechanism to address their needs. If HKPRs acquire a new residential property before disposing of their original one (must be their only other residential property in Hong Kong) (“先買後賣”), they have to pay stamp duty for the newly acquired property at the enhanced AVD rates in the first instance. If they have entered into an agreement to dispose of their old property within six months from the date of acquiring the new property, and after completion of the disposal transaction apply to the IRD within two years from the date of acquiring the new property, IRD will refund the stamp duty for the difference between the enhanced and the old AVD rates on the newly acquired property.

Other Exemptions

- When drafting the Bill, we have made reference to the various exemptions given under the existing Special Stamp Duty and the proposed Buyer's Stamp Duty regimes. We propose to grant exemptions or refunds of stamp duty for the difference between the enhanced and the old AVD rates for specified circumstances in line with the aforesaid stamp duty regimes.

Implementation

- IRD has recorded all the property transactions starting from 23 February 2013 (the day immediately following the announcement of the measures). IRD will issue demand notes for AVD underpaid after the gazettal of the Amendment Ordinance, if enacted.

Timely Adjustment

- The property market is influenced by various changing factors, including the external and local economic conditions. Hence, we will continue to monitor the market development and make appropriate adjustments to the demand-side management measures when necessary. In order that adjustments can be made in a timely manner as and when necessary, we propose to empower the Financial Secretary to adjust the value bands and rates of both the existing and proposed AVD by means of subsidiary legislation subject to LegCo's negative vetting.
- As regards the advancement of the timing for charging AVD for non-residential property transactions, since its purpose is to align with the existing practice for residential properties, the arrangement will remain even if there is adjustment to the AVD rates with reference to the market situation in future.

Timetable

- My colleagues and I will fully cooperate with the Bills Committee so as to facilitate its work. We look forward to the early enactment of

the Bill by the LegCo for implementation of the demand-side management measures. Now, I would like to invite Mrs Kwok, Principal Assistant Secretary of the Transport and Housing Bureau to brief members on the latest development of the private residential property market.

Financial Services and the Treasury Bureau
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