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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
Hong Kong

3 June 2013

Dear Ms. Lee,

Bills Committee on Stamp Duty (Amendment) Bill 2013

I refer to the Bills Committee formed to consider the Stamp Duty (Amendment) Bill 2013 (the Bill). The Bill seeks to amend the Stamp Duty Ordinance (SDO) to increase *ad valorem* stamp duty rates to a top rate of 8.5% payable on the value of both residential and non-residential property).

The Chamber understands that the proposal has been put forward by the Government with the objective of further controlling residential prices by suppressing demand. At the same time the proposal aims to help Hong Kong permanent residents in buying one residential property, enabling owner occupation.

Moreover, the proposal aims to deter speculative investment (meaning investment purely for short term capital appreciation) in an over-heated residential property market until such time as the Government can increase land supply. The Special Stamp Duty (SSD) introduced with effect from 20 November 2010 and the Buyer's Stamp Duty (BSD) introduced with effect from 27 October 2012, are also aimed at curbing speculation in the residential property market.

In addition, the measures seek to curb speculation in the non-residential property market. This reflects the movement of speculators into the non-residential property market as a result of the introduction of SSD and BSD. The Chamber notes that the Legco briefing paper expressly states that one justification for the new measures is to combat short-term resale activities in non-residential properties.

The chamber understands that there is a general level of public acceptance of the measures in respect of residential property particularly as Hong Kong permanent residents without an existing residential property will not be affected as they will still be able to purchase one property at the previous Stamp Duty rates.

However, members of the Chamber in the commercial sector have raised concerns about the impact of doubling the *ad valorem* stamp duty payable on commercial property transactions

The Australian Chamber of Commerce in Hong Kong and Macau
4/F, Lucky Building, 39 Wellington Street, Central, Hong Kong
Tel: (852) 2522 5054 Fax: (852) 2877 0860 Email: austcham@austcham.com.hk Web Site: www.austcham.com.hk

However, members of the Chamber in the commercial sector have raised concerns about the impact of doubling the *ad valorem* stamp duty payable on commercial property transactions in cases where the purchase is clearly not speculative in nature. In particular, if the legislation was to penalize genuine investors in non-residential property (either as a long term investment and/or for their own use)the Chamber perceives that this would have an adverse impact on occupancy costs, diversity of supply and the market perception of Hong Kong as a location for a regional business headquarters.

Moreover, commercial occupiers operate within the following market constraints, which detract from Hong Kong's aim to be the main destination for regional headquarters:

(i) Notwithstanding falls in rental levels over the past 12 months, Hong Kong remains, by a considerable margin, the most expensive office market in the world. By way of contrast, rental levels in Singapore are less than half those in Hong Kong (Singapore is 19th on the list)[1].

(ii) The current vacancy rate for office space is lower than it has been for the past 18 years, at around 3%, with insufficient supply being projected for the remainder of this decade[2]. Limited commercial sites are currently available for sale in the Government's land programme.

The new measures strongly discourage Hong Kong entities, who wish to purchase new commercial premises for their own use so as to control occupancy costs and secure their own commercial future in Hong Kong, from doing so. Investment in long term rental property is also discouraged, thus limiting diversification of ownership and occupier choice and will only exacerbate the commercial effects of the above-mentioned constraints. The potential consequences for Hong Kong's economy should be self-evident.

It should also be borne in mind that Singapore has made competitive advances as an alternative location for regional headquarters over the past 10 years – this is at least in part due to more affordable occupancy costs. Whilst Singapore recently extended special stamp duty to industrial (non-residential) properties[3] in order to deal with an over-heated residential property market spilling over into the industrial sector, Singapore has provided <u>an exemption for non-residential properties held for more than 3 years</u> thus protecting genuine investors and owner/occupiers and potentially giving Singapore a further competitive advantage.

[1] CBRE Prime Office Market Costs report
[2] CBRE Hong Kong Office Market data
[3] With effect from 13 January 2013

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Reflecting the concerns outlined above, the Chamber would strongly urge the Government to provide an exemption in the final legislation so that the new *ad valorem* stamp duty rates do not apply to non-speculative acquisitions of non-residential property.

This exemption could usefully follow the approach taken by the Government for SSD, where the amount of SSD payable varies depending on the period for which the non-residential property has been held e.g. the new *ad valorem* stamp duty rates for non-residential property would not be payable in situations where a non-residential property was acquired for non-speculative purposes (as to which appropriate declarations could be made) and held for a period of more than, say, 3 years.

This would ensure that Hong Kong continues to attract genuine long term investors into the non-residential property market and would encourage owner occupation, whilst strongly discouraging speculative activity.

Yours faithfully,

Kirsty Boazman

Chief Executive

The Australian Chamber of Commerce in Hong Kong and Macau
4/F, Lucky Building, 39 Wellington Street, Central, Hong Kong
Tel: (852) 2522 5054 Fax: (852) 2877 0860 Email: austcham@austcham.com.hk Web Site: www.austcham.com.hk