

立法會

Legislative Council

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Tel : 3919 3308

Date : 3 July 2014

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 9 July 2014

Stamp Duty (Amendment) Bill 2013

Committee stage amendments

Members were informed vide LC Paper No. CB(3) 782/13-14 issued on 2 July 2014 that the President had given permission for the Secretary for Financial Services and the Treasury to move proposed amendments to the above Bill at the Council meeting of 9 July 2014.

2. Members are invited to note that the President has also given permission for the following Members, subject to the Bill receiving a Second Reading, to move their proposed amendments:

Mover of amendment(s) (set out in the order of receipt)	Appendix
Hon Tommy CHEUNG	1
Hon Abraham SHEK	2
Hon WU Chi-wai	3

3. As directed by the President, the proposed amendments are attached for Members' consideration.

(Ms Doris LO)
for Clerk to the Legislative Council

Encl.

Stamp Duty (Amendment) Bill 2013

Committee Stage

Amendments to be moved by the Honourable Tommy CHEUNG Yu-yanClauseAmendment Proposed

18 By deleting the proposed section 29DF and substituting—

“29DF. Partial refund of ad valorem stamp duty on disposal of residential property in certain circumstances

(1) In this section—

applicable instrument (適用文書) means an instrument—

- (a) under which a residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) is acquired; and
- (b) on which stamp duty had been paid according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

original property (原物業), in relation to a person who acquires a subject property under an applicable instrument, means another residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) of which the person is a beneficial owner on the date of that acquisition;

specified amount (指明款項) means—

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1) in the

First Schedule in accordance with Division 2;
or

- (b) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1A) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule in accordance with Division 3;

subject property (標的物業) means the residential property, or the residential property and car parking space, acquired under an applicable instrument.

- (2) The Collector may, on an application made by a person (***applicant***) who had paid stamp duty on an applicable instrument, refund to the applicant the specified amount if—

- (a) subsection (3) or (4) applies to the disposal of an original property of the applicant; and
- (b) had the original property been disposed of before the subject property was acquired, the applicable instrument would have been chargeable with stamp duty under Scale 2 of head 1(1), or Scale 2 of head 1(1A), in the First Schedule.

- (3) This subsection applies to the disposal of an original property of the applicant if—

- (a) it is shown to the satisfaction of the Collector that the original property is disposed of by the applicant under an agreement for sale that is made within the period specified in subsection (5);
- (b) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance on sale executed in conformity with that agreement; and

- (c) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (4) This subsection applies to the disposal of an original property of the applicant if—
- (a) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance on sale within the period specified in subsection (5); and
 - (b) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (5) For subsections (3)(a) and (4)(a), the following period is specified—
- (a) if the applicable instrument is a conveyance on sale—12 months after the date of that instrument; or
 - (b) if the applicable instrument is an agreement for sale—12 months after the date of the conveyance on sale executed in conformity with the agreement for sale.
- (6) For the definitions of *applicable instrument* and *original property* in subsection (1), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—

- (a) a Government lease or an agreement for a Government lease;
- (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
- (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
- (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.”.

23 In the proposed section 71, by adding—

- “(5) Save and except sections 29DE, 29DF, 29DG and 29DH and other provisions of this Ordinance in so far as they are necessary to give effect to those sections, the Amendment Ordinance must cease to have effect at midnight on 23 February 2015 and the pre-amended Ordinance must be reinstated at midnight on the same date.
- (6) The Financial Secretary may, subject to the approval of the Legislative Council, by notice published in the Gazette amend subsection (5) by substituting for the date specified in that subsection such date as may be specified in the notice.”.

Stamp Duty (Amendment) Bill 2013

Committee StageAmendments to be moved by the Honourable Abraham SHEK Lai-him

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)	By deleting “3,”.
3	By deleting the clause.
8	By deleting subclause (5).
10	<p>(a) By deleting the proposed section 29AI and substituting—</p> <p style="padding-left: 40px;">“29AI. Conveyances on sale chargeable with ad valorem stamp duty at Scale 1 rates and Scale 2 rates</p> <p style="padding-left: 80px;">(1) Except as provided in subsection (2) and sections 29AJ to 29AQ, a conveyance on sale is chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule.</p> <p style="padding-left: 80px;">(2) A conveyance on sale of non-residential property is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule.”.</p> <p>(b) In the proposed section 29AL(3)(b), by deleting “, or both non-residential properties”.</p>
13	<p>(a) By deleting the proposed section 29BA and substituting—</p> <p style="padding-left: 40px;">“29BA. Agreements for sale of residential property generally chargeable with ad valorem stamp duty at Scale 1 rates</p> <p style="padding-left: 80px;">Except as provided in sections 29A(5) and sections 29BB to 29BI, an agreement for sale of residential property is chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule.”.</p> <p>(b) In the proposed section 29BD(3)(b), by deleting “, or both non-residential properties”.</p>
16	<p>(a) By deleting subclauses (2), (3), (4), (5), (6), (7), (8) and (9).</p> <p>(b) In subclause (12), by deleting the proposed section 29D(8).</p>

23 In the proposed section 71(1), in the definition of *additional stamp duty*—

- (a) in paragraph (b), by deleting “; and” and substituting a semicolon;
- (b) by deleting paragraph (c).

24

- (a) By deleting subclause (9).
- (b) By deleting subclause (15) and substituting—
“(15) First Schedule, head 1(1A)—

Repeal Note 1

Substitute

“Note 1

This sub-head does not apply to an agreement for sale in respect of non-residential property (see section 29A(5)). This sub-head applies to an agreement for sale according to sections 29BA to 29BI”.

Stamp Duty (Amendment) Bill 2013

Committee StageAmendments to be moved by the Honourable WU Chi-wai

<u>Clause</u>	<u>Amendment Proposed</u>
10	<p>By adding—</p> <p>“29AR. Certain conveyances on sale of residential property related to Public Rental Housing Flats under Tenants Purchase Scheme to tenants or authorized occupants chargeable with ad valorem stamp duty at Scale 2 rates</p> <p>(1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head1(1) in the First Schedule if—</p> <p style="padding-left: 40px;">(a) the property concerned is residential property;</p> <p style="padding-left: 40px;">(b) the acquisition of the property is made under the Tenants Purchase Scheme of the Housing Authority; and</p> <p style="padding-left: 40px;">(c) it is shown to the satisfaction of the Collector that subsection (2) applies to the conveyance.</p> <p>(2) This subsection applies to the conveyance if, on the date of acquisition of the property—</p> <p style="padding-left: 40px;">(a) the transferee, or each of the transferees, under the conveyance is a tenant or an authorized occupant of the Housing Authority in respect of the property acting on his or her</p>

own behalf; and

- (b) that transferee, or each of those transferees, is not a beneficial owner of any other residential property in Hong Kong.”.

13 By adding—

“29BJ. Certain agreements for sale of residential property related to Public Rental Housing Flats under Tenants Purchase Scheme to tenants or authorized occupants chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head1(1A) in the First Schedule if—
 - (a) the property concerned is residential property;
 - (b) the acquisition of the property is made under the Tenants Purchase Scheme of the Housing Authority; and
 - (c) it is shown to the satisfaction of the Collector that subsection (2) applies to the agreement.
- (2) This subsection applies to the agreement if, on the date of acquisition of the property—
 - (a) the purchaser, or each of the purchasers, under the agreement is a tenant or an authorized occupant of the Housing Authority in respect of the property acting on his or her own behalf; and

(b) that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property in Hong Kong.”.

24 By deleting subclause (1) and substituting—

“(1) First Schedule, within the square brackets, after “29A,”—

Add

“29AB, 29AC, 29AD, 29AE, 29AH, 29AI, 29AJ, 29AJA, 29AK, 29AL, 29AM, 29AN, 29AO, 29AP, 29AQ, 29AR, 29BA, 29BB, 29BBA, 29BC, 29BD, 29BE, 29BF, 29BG, 29BH, 29BI, 29BJ,”.”.