

**Government's response to the issues raised at
the meeting of the Bills Committee on
Stamp Duty (Amendment) Bill 2017 held on 15 May 2017**

At the meeting held on 15 May 2017, Members asked the Government to consider their suggestions with regard to the refund mechanism provided for Hong Kong permanent residents (HKPRs) in replacing their only residential property, including (a) easing the financial burden of HKPRs who acquire a new residential property before disposing of their only original property by allowing them to pay the basic ad valorem stamp duty (AVD) at Scale 2 in the first instance, with bank guarantee to cover the remaining balance (which equals to the difference between stamp duty payments calculated at the New Residential Stamp Duty (NRSD) rate of 15% and Scale 2 rates); and (b) extending the statutory time limit for disposal of the original property under the existing refund mechanism from six months to nine or 12 months (LC Paper No. CB(1)1050/16-17(02) refers). This paper sets out the Government's response to these suggestions.

2. We appreciate Members' concerns and have carefully reviewed the existing refund mechanism and relevant statistics. The table below sets out the breakdown of refund applications received by the Inland Revenue Department (IRD) since the implementation of the doubled ad valorem stamp duty (DSD) measure by time of executing the agreement for sale and purchase for disposal of the original residential property (in relation to the executing of assignment for the new residential property)¹.

¹ The number of refund applications as set out in the table below is different from the figures set out in Table 2 of the Government's reply to the written question raised by the Hon James TO at the Legislative Council meeting on 31 May 2017. In responding to the question raised by the Hon James TO, in accordance with the criteria set out in the question, Table 2 of the reply only includes the refund applications submitted **in the 7th month or later** after executing the agreement for sale and purchase of the new residential property; whereas the table below sets out all refund applications received in the relevant periods, regardless of when the refund applications were submitted after executing the agreement for sale and purchase of the new residential property.

Time to execute the agreement for sale and purchase for disposal of the original residential property	Number of refund applications received from 25 July 2014 to November 2016	Number of refund applications received from December 2016 to February 2017
Before executing the assignment of the new residential property	3 757	420
Within 3 months after executing the assignment of the new residential property	834	78
In the 4 th or 5 th month after executing the assignment of the new residential property	355	22
In the 6 th month after executing the assignment of the new residential property	153	6
More than 6 months after executing the assignment of the new residential property ^{Note 1}	7	1
Total ^{Note 2}	5 106	527

Source: IRD

Note 1: Since the applicants had not disposed of the original property within the six-month statutory time limit, IRD rejected these refund applications.

Note 2: Among the refund applications received by IRD, buyers in some cases did not own any other residential property in Hong Kong at the time of acquisition of the new residential property. In other words, these are not cases where a new residential property is acquired prior to disposing of the original property, and thus cannot be classified by the time of disposing of the original residential property. Therefore, the table above does not contain these cases.

3. The statistics above shows that about 90% of persons who applied for refund executed the agreement for sale and purchase for disposal of the original residential property before, or within three months after, they had executed the assignment of the new residential property. Only a few refund applications were rejected by IRD because the original property had not been disposed of within the six-month statutory time limit.

4. In addition, we gather from the market that bridging loans are currently provided by local banks for customers who replace their properties to cater for their financial needs during property replacement. The repayment period of these bridging loans is six months in general. As for property mortgage loans, according to guidelines issued by the Hong Kong Monetary Authority (HKMA) on its prudential supervisory measures, if the applicant has not borrowed or guaranteed other outstanding property mortgage loans at the time of applying for a mortgage loan, banks can approve the application with a higher loan-to-value ratio, and can adopt a higher debt-servicing ratio when assessing the applicant's repayment ability. As for persons replacing their properties who have borrowed outstanding mortgage loan for the original property, if they would like the banks to adopt a less stringent standard when approving mortgage loan application of the new residential property, according to the HKMA's guidelines, they have to repay the outstanding mortgage loan of the original property within six months upon the drawdown of the mortgage loan for the new property.

5. It can be seen from the information and statistics above that setting the statutory time limit for disposal of the original property at six months after the date of executing the assignment of the new residential property is a practicable and appropriate arrangement. Such arrangement is also in line with the current practice adopted by banks in providing bridging loans and the guidelines on property mortgage loans issued by HKMA.

6. Nevertheless, we understand that the existing mechanism of paying NRSD in the first instance and claiming partial refund of stamp duty paid after disposing of the original property will increase the acquisition costs for persons replacing their residential properties. It may also lead to cash flow problem for individual families who wish to replace their properties. However, in considering whether certain requirements under the existing refund mechanism should be relaxed, we have to take into account impacts of such proposals on the property market as a whole, and to strike a right balance between taking care of the practical needs of HKPRs in replacing their properties and safeguarding the effectiveness of the demand-side management measures.

7. We appreciate that the proposals to relax requirements under the refund mechanism aims to facilitate genuine users in replacing their residential properties. However, since we are unable to identify who are genuine buyers who wish to replace their properties, allowing persons replacing their properties to pay stamp duty with bank guarantee may invite some owners without genuine

intention to dispose of their original properties to, under the guise of property replacement, defer payment of stamp duty (for as long as three years under some circumstances) or profit from holding more than one residential property for a longer period of time. This goes against the policy intent of introducing NRSD and may create loopholes, thereby undermining the effectiveness of the new measure in reducing investment demand. If we extend the statutory time limit for disposal of the original property from six months to nine months or even 12 months, it may result in a situation where more property owners may delay disposal of their original residential property under the guise of property replacement, which in effect allows them to hold more than one residential property for a long period of time. This is also inconsistent with the policy objective of implementing the NRSD measure.

8. Furthermore, past experiences indicate that any move to relax the prevailing exemption arrangements or refund mechanism may be speculated by the market as a signal from the Government to “water down” the demand-side management measures, thereby resulting in a more exuberant market. In view of the current buoyancy in the property market, we have to act prudently and to avoid sending a wrong message to the market. Hence, after careful consideration, the Government considers that it is not an appropriate timing to adjust the refund mechanism, lest this will undermine the effectiveness of NRSD and further aggravate the risk of a bubble. As always, the Government will continue to closely monitor the property market development and review various arrangements under the stamp duty regime, with a view to responding to the market development as well as addressing concerns from Legislative Council Members and the public as and when appropriate.

Transport and Housing Bureau
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