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致:《2017年印花稅(修訂)條例草案》委員會
黃定光主席

就《2017年印花稅(修訂)條例草案》而言，草案的目的是就住宅物業交易引入新從價印花稅稅率，把稅率劃一為15%，以取代《印花稅條例》現有的從價印花稅第1標準稅率，一般稱為「雙倍從價印花稅」。

政府在建議增加至劃一15%稅率的同時，亦建議維持現行雙倍從價印花稅下「先買後賣」的退稅機制，即當一名香港永久性居民購入一住宅物業以取代其唯一擁有的其他原有住宅物業，他可申請退回部分印花稅，計算方法是按劃一15%新稅率須繳付的從價印花稅，扣減按第2標準稅率計算的從價印花稅的差額。

增加至劃一15%稅率對「換樓者」增加沉重經濟壓力

在討論增加至劃一15%稅率的建議之時，不少委員都認為是次調整，由於稅率加幅之大，會大大增加真正住宅買家的置業負擔，尤其是對「換樓者」而言，因為他們多數是想換一個大些或新些的單位居住，樓價相對較高，大大調高印花稅率會嚴重地加重他們的經濟壓力。以早前在荃灣開售的新樓盤為例，一個以實用面積計算(以下相同)的750平方呎住宅單位，售價約1,500萬元，就算以差餉物業估價署最近4月公布的住宅物業平均售價作參考，700平方呎的住宅單位，售價由750多萬至1,300多萬元不等。若以劃一15%稅率計算，在簽訂買賣協議時，就要支付近110多萬至220多萬元的從價印花稅。對「換樓」買家而言，買家仍須在購入住宅物業之時，先要按建議的劃一15%稅率繳付新稅款，這會構成嚴重的經濟壓力。因此，在審議《草案》時，理應同時考慮設定一些相應的紓緩措施，以減輕「換樓者」受劃一15%稅率的影響。

以銀行擔保取代劃一稅率與第2標準稅率的差額

草案委員會主席在會上曾建議，以銀行擔保取代退稅差額，以減低因應調高劃一15%稅率而對「換樓者」的額外經濟負擔；況且在退稅機制之下，稅款差額最終會退還給買家。多名委員及本人均支持主席的建議。

因此，本人建議提出修正案，以修訂《草案》第5及7條，使在需要按劃一15%稅率繳付新稅款之情況下，針對「換樓者」而言，只要稅務署署長有證明信納買家打算會按現有退稅機制，處置原有物業及申請退還差額，差額部分的稅款可先由銀行擔保取代，直至在退稅申請獲批准之時，該銀行擔保便予以取消，又或在退稅申請不獲批准之時或在退稅申請期限屆滿而仍未有提出申請退稅的情況下，買家就需要兌現銀行擔保，以繳付稅款的差額。修正案的草擬文本，見附件一。

給稅務署署長的證明可以是買家作出宣誓證明，或是買家以通知形式，並夾附買家透過地產代理出售原有物業的委託文件等，以供稅務署署長考慮和信納。

這項修正案是因應《草案》建議新劃一稅率而就有關支付稅款的行政措施作出相應安排，沒有超越《草案》所涵蓋的事宜，更沒有違反《草案》的目的。

稅務署署長須延長「處置原有物業期限」

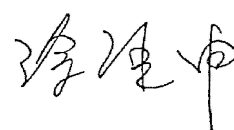
在草案委員會上，有委員亦提出，在建議新劃一 15%稅率之下，「換樓者」需要面對更大的置業負擔，因而有需要較長的時間，希望能以較高價錢出售原有物業，以應付購入新住宅的高昂開支。

在現行的「換樓」退稅機制下，買家要在簽訂新物業的售賣轉易契之後的 6 個月內，處置原有物業(即出售原有物業)，買家才符合申請退稅的資格。會上，有委員建議延長這「處置原有物業期限」，由 6 個月增加至 9 個月或 12 個月。

本人亦支持這建議，認為可給予「換樓者」多些時間放售原有物業，以增加買家放售原有物業之議價能力，若原有物業能以較高價格出售，就可減輕買家因「換樓」及應付調高劃一 15%稅率的額外稅務負擔。

因此，本人建議提出修正案，以修訂《草案》第 5 及 7 條，使在訂定劃一稅率之同時，針對「換樓者」而言，對現有退稅機制作出改善，使稅務署署長在收到申請時，可就受新劃一稅率影響的個案而批准延長「處置原有物業期限」，延長 3 個月或 6 個月。本人提供兩個修正案的版本，內容相若，一個是延長 3 個月，另一個是延長 6 個月，修正案的草擬文本，見附件二。

正如上文所述，這項修正案是因應《草案》建議新劃一稅率而提出，目的是針對「換樓者」受《草案》的嚴重影響而提出，以期減輕他們因建議新劃一稅率而承受沉重的置業負擔，故應屬於就訂立劃一稅率的相關事宜，因而在《草案》的涵蓋範圍之內，修訂亦沒有原則上違背政府的需求管理政策原意，希望能獲得委員予以支持。



立法會議員涂謹申

2017 年 6 月 9 日

Stamp Duty (Amendment) Bill 2017

Committee Stage

Amendments to be moved by the Honourable James TO Kun-sun

Clause

Amendment Proposed

5

by deleting the clause and substituting –

“ 5. Section 29AI substituted

Section 29AI—

Repeal the section

Substitute

“29AI. Scales of rates applicable to conveyances on sale chargeable with ad valorem stamp duty

- (1) Except as provided in sections 29AIA, 29AJ, 29AK, 29AL, 29AM, 29AN, 29AO, 29AP, 29AQ, 29AR and 29AS and Notes 1B and 1C to head 1(1) in the First Schedule, a conveyance on sale is chargeable with stamp duty—
 - (a) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1) in the First Schedule; or
 - (b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1) in the First Schedule.
- (2) If it is shown to the satisfaction of the Collector that there would be an intention to apply for refund of specified amount within the meaning of section 29DF(1) by a person in

accordance with section 29DF upon disposal of an original property after acquisition of a subject property, the specified amount could be paid by a bank guaranteed issued by a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155) until—

- (a) application of the refund for the specified amount is approved, then the bank guarantee shall be dismissed; or
- (b) application of the relevant refund is rejected or when the application period is due and there was no application of the relevant refund, then the bank guarantee shall be honoured.”.”.

7

by deleting the clause and substituting –

“ 7. Section 29BA substituted

Section 29BA—

Repeal the section

Substitute

“29BA. Scales of rates applicable to agreements for sale chargeable with ad valorem stamp duty

- (1) Except as provided in sections 29BAB, 29BB, 29BC, 29BD, 29BE, 29BF, 29BG, 29BH, 29BI, 29BJ and 29BK and Note 1A to head 1(1A) in the First Schedule, an agreement for sale is chargeable with stamp duty—
 - (a) if the property concerned is non-residential property,

under Part 2 of Scale 1 of head 1(1A) in the First Schedule; or

- (b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1A) in the First Schedule.

(2) If it is shown to the satisfaction of the Collector that there would be an intention to apply for refund of specified amount within the meaning of section 29DF(1) by a person in accordance with section 29DF upon disposal of an original property after acquisition of a subject property, the specified amount could be paid by a bank guarantee issued by a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155) until—

- (a) application of the refund for the specified amount is approved, then the bank guarantee shall be dismissed; or
- (b) application of the relevant refund is rejected or when the application period is due and there was no application of the relevant refund, then the bank guarantee shall be honoured.”.”.

Stamp Duty (Amendment) Bill 2017

Committee Stage

Amendments to be moved by the Honourable James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
5	<p>by deleting the clause and substituting –</p> <p>“ 5. Section 29AI substituted Section 29AI— Repeal the section Substitute</p> <p>“29AI. Scales of rates applicable to conveyances on sale chargeable with ad valorem stamp duty</p> <p>(1) Except as provided in sections 29AIA, 29AJ, 29AK, 29AL, 29AM, 29AN, 29AO, 29AP, 29AQ, 29AR and 29AS and Notes 1B and 1C to head 1(1) in the First Schedule, a conveyance on sale is chargeable with stamp duty—</p> <p>(a) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1) in the First Schedule; or</p> <p>(b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1) in the First Schedule.</p> <p>(2) If there is an application for extending the period mentioned in section 29DF (5) in relation to the conveyance on sale, the Collector shall extend the period for 3 months.”.”.</p>

by deleting the clause and substituting –

“ 7. Section 29BA substituted

Section 29BA—

Repeal the section

Substitute

“29BA. Scales of rates applicable to agreements for sale chargeable with ad valorem stamp duty

- (1) Except as provided in sections 29BAB, 29BB, 29BC, 29BD, 29BE, 29BF, 29BG, 29BH, 29BI, 29BJ and 29BK and Note 1A to head 1(1A) in the First Schedule, an agreement for sale is chargeable with stamp duty—
 - (a) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1A) in the First Schedule; or
 - (b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1A) in the First Schedule.
- (2) If there is an application for extending the period mentioned in section 29DF (5) in relation to the agreement for sale, the Collector shall extend the period for 3 months.”.”.

Stamp Duty (Amendment) Bill 2017

Committee Stage

Amendments to be moved by the Honourable James TO Kun-sun

<u>Clause</u>	<u>Amendment Proposed</u>
5	<p>by deleting the clause and substituting –</p> <p>“ 5. Section 29AI substituted Section 29AI— Repeal the section Substitute</p> <p>“29AI. Scales of rates applicable to conveyances on sale chargeable with ad valorem stamp duty</p> <p>(1) Except as provided in sections 29AIA, 29AJ, 29AK, 29AL, 29AM, 29AN, 29AO, 29AP, 29AQ, 29AR and 29AS and Notes 1B and 1C to head 1(1) in the First Schedule, a conveyance on sale is chargeable with stamp duty—</p> <p>(a) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1) in the First Schedule; or</p> <p>(b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1) in the First Schedule.</p> <p>(2) If there is an application for extending the period mentioned in section 29DF (5) in relation to the conveyance on sale, the Collector shall extend the period for 6 months.”.”.</p>

by deleting the clause and substituting –

“ 7. Section 29BA substituted

Section 29BA—

Repeal the section

Substitute

“29BA. Scales of rates applicable to agreements for sale chargeable with ad valorem stamp duty

- (1) Except as provided in sections 29BAB, 29BB, 29BC, 29BD, 29BE, 29BF, 29BG, 29BH, 29BI, 29BJ and 29BK and Note 1A to head 1(1A) in the First Schedule, an agreement for sale is chargeable with stamp duty—
 - (a) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1A) in the First Schedule; or
 - (b) in any other case, subject to subsection (2), under Part 1 of Scale 1 of head 1(1A) in the First Schedule.
- (2) If there is an application for extending the period mentioned in section 29DF (5) in relation to the agreement for sale, the Collector shall extend the period for 6 months.”.”.