

Question raised by Hon Dennis Kwok at the meeting of the Bills Committee Stamp Duty (Amendment) (No.2) Bill 2017 on 29 January 2018:

According to the Bill, acquisition of more than 1 residential property under a single instrument executed will be subject to the proposed new ad valorem stamp duty rate at 15%. The uncertainty lies at the definition of a single residential property.

The Bureau has helpfully provided common examples of what are considered as a single residential property for this specific purpose. For example, a unit and a roof situated immediately above the unit. However, I have come to know that some developers sell residential unit together with a portion of the roof that is not situated immediately above the unit, but are still intended to be held as a whole. The Apple Daily reported a case on 4 January of a residential precinct in Sha Tin. According to that news article, the purchaser of a unit with 2 roof tops cancelled the transaction and had the deposit forfeited after finding out that the roof top was considered a separate property, and is thus subject to the new ad valorem stamp duty. I do not have further details of the case. In another case that was brought to my attention, the IRD deemed a unit with a roof not situated immediately above the unit as a single residential property.

It is noted that IRD may take into account various documents to make the determination. However, the different outcomes in the above mentioned cases seem to show that the definition of what constitute a single residential property is perhaps ambiguous, and could cause economic loss not intended by the IRD. A consistent standard needs to be seen to be applied.

I therefore seek the Bureau's explanation of what constitute a single residential property, especially for cases where the roof is not situated immediately above the unit. And if an amendment of the definition of single residential property would be necessary.