

**Bills Committee on Stamp Duty (Amendment) Bill 2017
and Stamp Duty (Amendment) (No. 2) Bill 2017**

**List of follow-up actions arising from the discussion in respect of
the Stamp Duty (Amendment) (No. 2) Bill 2017
at the meeting on 29 January 2018**

In respect of the Stamp Duty (Amendment) (No. 2) Bill 2017 ("the No. 2 Bill"), the Administration was requested to –

- (a) elaborate further on the circumstances under which residential and non-residential properties involved in an instrument would be considered inseparable for trade by the Inland Revenue Department ("IRD"), thereby being treated as an instrument of acquiring a single residential property; and whether factors such as relevant provisions in the deed of mutual covenant ("DMC") concerned and the fact that there are undivided shares in the non-residential property concerned at the time of transaction would be IRD's considerations in determining the applicable rates of ad valorem stamp duty ("AVD");
- (b) apart from the general principle of what constituted a "single residential property" as set out in the Administration's paper (LC Paper No. CB(1)522/17-18(03)) which included, among others, that the residential and non-residential properties under an instrument should be inseparable for trade, advise whether IRD would take into account other factors in considering an instrument covering both residential and non-residential properties (e.g. a unit and part of the external wall, a unit and a roof where it was not situated immediately above the unit or a unit and two car parking spaces) to be a "single residential property";
- (c) in respect of a scenario where the shares of the roof of a building might be held by a unit on the lower floor given that there was no specific provision in the DMC of the building which confined that the shares of the roof were bundled with a particular unit, advise whether the roof and the unit concerned under such a scenario would be regarded as inseparable for trade by IRD;
- (d) in respect of a scenario where a buyer acquired a unit and a roof immediately above the unit which was owned by two different vendors but under a single conveyance on sale, advise whether such a scenario would be regarded as a "single residential property";

- (e) consider a member's suggestion of relaxing the interpretation of a "single residential property" under clause 3(1) of the No.2 Bill to include the following examples:
 - (i) a unit and a roof situated in the same building; and
 - (ii) a unit and a garden space situated within the same development or building for the exclusive use of the owner of the unit;
- (f) consider setting an upper limit on the total floor area or value of a unit that became a single unit following the demolition of the internal walls, and any part of the walls, separating two adjacent units, which was considered by IRD as a "single residential property" and subject to the lower AVD rates at Scale 2 so as to avoid abuse of the relevant exemption arrangement; and
- (g) consider a member's suggestion of revising (a) of the definition of "single residential property" under clause 3(1) of the No.2 Bill from "a unit and a roof situated immediately above the unit;" to "a unit and a roof situated immediately above or inseparable for trade from the unit;", to the effect that the acquisition of a unit and a roof not situated immediately above the unit but they were inseparable for trade would be regarded as a "single residential property".