立法會
Legislative Council

LC Paper No. CB(1)730/17-18(02)

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Subcommittee on Rating (Exemption) Order 2018

Background Brief

Purpose

This paper provides background information on the Rating (Exemption) Order 2018 ("the 2018 Order"). It also summarizes the discussions by the relevant subcommittees when scrutinizing similar orders in 2014, 2015 and 2016.

Background

2. In the 2018-2019 Budget, the Financial Secretary announced a number of one-off concessionary measures, one of which is the proposal to waive rates for four quarters of 2018-2019 subject to a ceiling of $2,500 per quarter for each rateable property. The Government estimates that the proposed rates exemption will benefit about 3.25 million properties liable to rates payment and reduce government revenue by $17.8 billion.[1]

Rating (Exemption) Order 2018

3. The 2018 Order was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) ("RO") to give effect to the rates concession proposed in the 2018-2019 Budget.[2]

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1 Paragraph 187(c) of the 2018-2019 Budget Speech.

2 Section 36(2) of the Rating Ordinance (Cap.116) provides that the Chief Executive in Council may, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part.

4. The 2018 Order declares that all tenements are exempted from the payment of rates up to a maximum of $2,500 for each quarter in the period from 1 April 2018 to 31 March 2019. The amount of $2,500 is reduced proportionately if rates are payable for only part of a concessionary period.

5. The 2018 Order was gazetted on 28 February 2018 and tabled at the Legislative Council ("LegCo") meeting of 21 March 2018 for negative vetting. Under section 1 of the 2018 Order, the 2018 Order comes into operation on 1 April 2018.

Rates exemption measures implemented in recent years and deliberations by Members

6. Rates exemption measures implemented in the last five financial years are summarized as follows:

	Rating (Exemption) Order 2013	**Rating (Exemption) Order 2014**	**Rating (Exemption) Order 2015**	**Rating (Exemption) Order 2016**	**Rating (Exemption) Order 2017**
Date of gazettal	1 March 2013	26 February 2014	25 February 2015	24 February 2016	22 February 2017
Date of tabling in LegCo	20 March 2013	19 March 2014	18 March 2015	2 March 2016	1 March 2017
Commencement date	1 April 2013	1 April 2014	1 April 2015	1 April 2016	1 April 2017
Concession period	1 April 2013 to 31 March 2014 (4 quarters)	1 April 2014 to 30 September 2014 (2 quarters)	1 April 2015 to 30 September 2015 (2 quarters)	1 April 2016 to 31 March 2017 (4 quarters)	1 April 2017 to 31 March 2018 (4 quarters)
Ceiling (per quarter for each rateable property)	$1,500	$1,500	$2,500	$1,000	$1,000

7. Subcommittees have been formed to consider the Rating (Exemption) Order 2014 ("the 2014 Order"), the Rating (Exemption) Order 2015 ("the 2015 Order") and the Rating (Exemption) Order 2016. The major views and concerns raised by

Members during the scrutiny of the relevant Orders are summarized in the ensuing paragraphs.

Benefits to the grassroots and needy

8. While some Members considered that rates concession could ease the financial pressure on the public, some Members criticized that the rates concession measures benefited mainly the rich (such as property developers, owners of properties subject to higher rates payment and owners with many rateable properties in Hong Kong), and queried its effectiveness in achieving the purpose of benefitting the grassroots and the needy. Some Members further queried that the rates concession measure could not relieve the hardships of the grassroots, in particular those "five have-nots", nor could the measure help narrow the disparity between the rich and the poor, since individuals and corporations who owned many properties could reap most benefits from the measure whereas the poor who were without any property could not benefit from it. In view of the above, some Members suggested excluding property owners who own more than one property (especially involving non-domestic property) from the rates concession measure, so that the measure would only benefit tenants and owners of self-occupied properties and avoid widening the wealth gap.

9. The Government explained that rates concession was implemented on an equal-footing basis in that the measure benefited all ratepayers, regardless of the types (domestic or non-domestic) and rateable value of the relevant properties, and whether the ratepayer was the owner or the tenant. The Government considered that rates concession was an effective way to provide one-off relief to a wide spectrum of Hong Kong people. As regards the suggestion of confining the rates concession measure to tenants and owners of self-occupied properties, the Government pointed out that it would involve fundamental changes in the collection of rates, which were based on tenements. Moreover, under RO, both the property owner and the tenants were liable to pay rates. Introducing fundamental changes to rates collection might risk implication on the effectiveness of the rates collection system and excluding these tenants from rates concession they would otherwise receive.

10. Some Members expressed concern that as rates payable in respect of small properties were generally lower than the prescribed concession ceiling per quarter, it was likely that low-income earners who lived in small properties with lower rates payment would not fully benefit from the rates concession. These Members called on the Government to consider allowing ratepayers, in particular individuals and small and medium enterprises ("SMEs") owning one property for self-use, to carry forward the "unspent" amount of rates concession per quarter for each rateable property for future rates payment within a certain time limit.

11. The Government explained that if the amount of rates payable per quarter equaled to or was below the concession ceiling, ratepayers would have the whole amount of rates payable waived. Hence, there should be no question of "unspent" rates concession. The Government further advised that rates concession was a one-off measure proposed in the light of the overall economic situation, the livelihood burden of the people, and the Government's fiscal situation of the relevant financial year. A carry-forward arrangement for rates concession would entail additional cost of a recurrent nature and might involve substantial adjustments to the accounting system of the Rating and Valuation Department which would delay the implementation of the rates concession measure. Moreover, setting a ceiling for rates concession could already achieve a regressive effect, i.e. the higher the rateable value of the properties, the smaller the magnitude of benefit arising from the concession.

12. Some Members also suggested excluding non-residential properties from the rates concession measure so as to make available more resources for providing rates exemption to ratepayers of residential properties. Some other Members however did not support the suggestion and pointed out that excluding non-residential properties from the rates concession would adversely affect SMEs.

<u>Benefits to tenants</u>

13. Some Members expressed concern that the rates exemption would not benefit the tenants in cases where the rents were rates-inclusive as it was unlikely that their landlords would refund the concession amount to them. The Government advised that in accordance with RO, the valuation and collection of rates were based on tenements. The owner and the occupier should both be liable for the payment of rates and the arrangement of whether rates were paid by the owner or the tenant depended on the provisions of individual tenancy agreements.

14. The Government further advised that for ease of management, many owners of non-domestic properties collected the amount of rates payable in one go when collecting rent from the tenants, and then made rates payment on behalf of the tenants who were liable for the payment of rates under the tenancy agreements. Under such an arrangement, the tenants themselves would remain to be the actual beneficiaries of the rates concession, in accordance with the provisions of the tenancy agreements. Individual tenancy agreements might set out who would benefit from rates concession, if any, for clarity.

Limiting the number of rateable properties per ratepayer for rates concession

15. Considering that the rates concession measure mainly benefited property developers and investors who owned many properties, some Members called on the Government to limit the number of rateable properties in respect of which any one ratepayer would be eligible for rate concession. Some other Members, on the other hand, were against the suggestion on the grounds that certain ratepayers such as SMEs might be excluded from the rates concession measure.

16. The Government advised that the suggestion of limiting the number of properties per any one ratepayer for rates concession would be controversial and would entail practical difficulties in determining objectively the number of properties that should be capped, and which properties pertaining to the same ratepayer should benefit from rates concession if he/she held more than the specified number of properties under his/her name. The Government further pointed out that the suggestion might render some individuals or business establishments renting properties and responsible for paying rates under the relevant tenancy agreements unable to benefit from the rates concession.

Rates concession period and ceiling per quarter

17. On the basis of keeping the financial commitment of the Government unchanged, some Members of the Subcommittee on the 2014 Order and Subcommittee on the 2015 Order had respectively requested the Government to consider lowering the concession ceiling or setting an appropriate ceiling per quarter while extending the rates exemption period from two quarters to four quarters so that more households could fully utilize the total rates concession amount for each rateable property.

18. According to the Government, the above suggestion would result in further revenue foregone, and reduce the total full-year amount of rates concession enjoyed by all private domestic properties (including small, medium and large units) and non-domestic properties. Moreover, additional administrative expenses would be incurred if new rates concession arrangement was introduced. The Government stressed that rates exemption involved significant financial implications given its broad-based nature and it was important to strike a balance between the provision of relief for the public by means of rates concession and preserving the fiscal position of the Government.

19. In this connection, the Subcommittee on the 2014 Order had requested the Legal Service Division ("LSD") to provide information on (a) whether Rule 31(1) of

the Rules of Procedure[3] ("RoP") was inconsistent with Article 74 of the Basic Law[4] ("BL74"); and (b) whether a Member's proposed amendment to the 2014 Order that would not affect the amount of rates to be forgone (i.e. $6,135 million) as proposed by the Government would have any charging effect for the purposes of Rule 31(1) of RoP.

20. According to LSD in its paper (LC Paper No. LS37/13-14) submitted to the Subcommittee on the 2014 Order, BL74 only applied to bills but not subsidiary legislation or motions (including motions to amend subsidiary legislation). On this basis, no issue of inconsistency with BL74 should arise in considering whether an amendment to the 2014 Order might be proposed under Rule 31(1) of RoP.[5] As regards the possible charging effect of a Member's proposed amendment in relation to Rule 31(1) of RoP, LSD held that the admissibility of a Member's proposed amendment to the 2014 Order was ultimately a matter for the President of LegCo to decide. It might be argued that an amendment to the 2014 Order would have no "charging effect" under Rule 31(1) of RoP if the amendment would not (a) result in any additional loss of rates beyond the $6,135 million already envisaged to be forgone under the 2014 Order; or (b) impose a new and distinct function on the Government, the performance of which would require the spending of an amount of public money that was not nominal or negligible.[6]

Latest development

21. At the House Committee meeting on 16 March 2018, Members agreed to form a subcommittee to study the 2018 Order.

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3 Rule 31(1) of the Rules of Procedure provides that –
"A motion or amendment, the object or effect of which may, in the opinion of the President or Chairman, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong shall be proposed only by -
(a) the Chief Executive; or
(b) a designated public officer ; or
(c) a Member, if the Chief Executive consents in writing to the proposal."

4 Article 74 of the Basic Law provides, among others, that "Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council".

5 Paragraph 8 of LC Paper No. LS37/13-14.

6 Paragraph 18 of LC Paper No. LS37/13-14.

References

22. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
26 March 2018

Appendix

List of relevant papers

Date	Event	Papers/Minutes of meeting
20 March 2013	The Rating (Exemption) Order 2013 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS29/12-13)
March – April 2014	The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2014	The Order Legal Service Division Report (LC Paper No. LS31/13-14) Report of the Subcommittee (LC Paper No. CB(1)1202/13-14) Administration's paper on "Rates Exemption Proposal in the 2014-15 Budget" (LC Paper No. CB(1)1068/13-14(01)) Paper on Rating (Exemption) Order 2014 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)1068/13-14(02)) Administration's response to issues raised at the meeting on 13 March 2014 (LC Paper No. CB(1)1133/13-14(02)) Paper for the Subcommittee on Rating (Exemption) Order 2014 prepared by the Legal Service Division (LC Paper No. LS37/13-14)

Date	Event	Papers/Minutes of meeting
March – May 2015	The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2015	The Order Legal Service Division Report (LC Paper No. LS46/14-15) Report of the Subcommittee (LC Paper No. CB(1)766/14-15) Administration's paper on "Rating (Exemption) Order 2015 (LC Paper No. CB(1)642/14-15(01)) Paper on Rating (Exemption) Order 2015 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)642/14-15(02)) Administration's reponse to issues raised at the meeting on 17 March 2015 (LC Paper No. CB(1)708/14-15(02))
March – April 2016	The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2016	The Order Legal Service Division Report (LC Paper No. LS39/15-16) Report of the Subcommittee (LC Paper No. CB(1)787/15-16) Administration's paper on "Rating (Exemption) Order 2016 (LC Paper No. CB(1)64315-16(01)) Paper on Rating (Exemption) Order 2016 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)643/15-16(02))

Date	Event	Papers/Minutes of meeting
1 March 2017	The Rating (Exemption) Order 2017 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS39/16-17)
21 March 2018	The Rating (Exemption) Order 2018 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS39/17-18)