



LC Paper No. CB(1)758/19-20(01)

# Rating (Amendment) Bill 2019

Transport and Housing Bureau  
May 2020



# Background

- ◆ The Chief Executive announced on 29 June 2018 the proposal to amend the Rating Ordinance -
  - To introduce Special Rates on vacant first-hand private residential units
  - Special Rates chargeable at **two times** (i.e. 200%) of the **rateable value** of the units concerned
- ◆ Objective: to encourage more timely supply of first-hand private residential units in the market
- ◆ The Government subsequently introduced the Rating (Amendment) Bill 2019 into the Legislative Council (LegCo) for scrutiny on 23 October 2019



# Key features of the Bill





# Application of Special Rates (1)

- ◆ Target units -
  - **First-hand** private residential units with Occupation Permit (OP) issued for 12 months or more
  - Do not include bare sites, non-residential units or second-hand residential units
- ◆ Residential units with OP issued are referred to as “specified tenements” in the Bill



## Application of Special Rates (2)

- ◆ Special Rates regime does not apply to premises set out in the newly added Schedule 1 to the Ordinance (e.g. hotels, student quarters, residential care homes for the elderly and subsidised housing, etc.)
- ◆ Subject to the negative vetting mechanism, the Secretary for Transport and Housing (STH) may amend Schedule 1 by notice published in the Gazette





## Application of Special Rates (3)

- ◆ “First-owner” of a specified tenement -
  - The person who holds the specified tenement on its OP date, i.e. developer
- ◆ If a first-owner assigns a specified tenement to its related party on or after 29 June 2018, the **related party will become the first-owner**



## Application of Special Rates (4)

- ◆ “Related party” -
  - If the first-owner is a **body corporate** -
    - a subsidiary of the body corporate;
    - a holding company of the body corporate; and
    - a subsidiary of such a holding company
  - If the first-owner is an **individual** -
    - an immediate family member of the individual;
    - a body corporate controlled by the individual; and
    - a body corporate controlled by an immediate family member of the individual





# Submission of returns (1)

- ◆ If a first-owner holds any specified tenements at any time during a 12-month reporting period, the first-owner has to submit a return to the Rating and Valuation Department (RVD) **within 28 days** after the end of the reporting period
  
- ◆ Key information to be provided in the return -
  - whether the specified tenement was **let at market rent** or above for **not less than 183 days** in aggregate and, if so, whether the tenant was a related party;
  
  - whether the specified tenement was provided by the first-owner as an employer to its employee as a place of residence (i.e. **staff quarter**) for **not less than 183 days** in aggregate;





## Submission of returns (2)

- whether any **agreement for sale and purchase (ASP) or assignment has been made** and, if so, whether the purchaser/assignee is a related party;
- whether the first-owner holds any other first-hand specified tenements during the reporting period
- ◆ RVD may require the first-owner or other persons to provide information or documents (e.g. stamped tenancy agreement, ASP and assignment) for verification of the details in the returns



# Liability for Special Rates (1)

- ◆ A first-owner who holds a specified tenement on the last day of a reporting period is liable for payment of Special Rates, unless the specified tenement -
  - is **let** to a person (other than a related party) under a stamped tenancy agreement at **market rent** or above for **not less than 183 days** in aggregate;
  - is provided by the first-owner as an employer to his employee as a **place of residence** for **not less than 183 days** in aggregate;





## Liability for Special Rates (2)

- has been sold to a person (other than a related party) under an ASP, and such ASP remains in force on the last day of the reporting period;
  - is the only first-hand specified tenement held by the first-owner during the reporting period; or
  - falls within the description of excluded premises during any part of the reporting period
- 
- ◆ Under the circumstances set out above, the first-owner need not pay Special Rates
  - ◆ However, if the signed ASP is subsequently cancelled, depending on the circumstances, the first-owner may need to make back payment of Special Rates





## Rate of Special Rates

- ◆ 200% (i.e. two times) of the rateable value of the specified tenement
- ◆ Roughly equal to 5% of property value
- ◆ Subject to the negative vetting mechanism, STH may amend the rate of Special Rates by notice published in the Gazette
- ◆ Allows the Government to respond quickly to changes in market situation



# Offences and Penalties (1)

- ◆ Proposed offences include -
  - failure to submit returns or provide information/documents to RVD - a fine at level 4 (**\$25,000**); RVD may **compound the offence**;
  - providing incorrect information to RVD - a fine at level 5 (**\$50,000**);
  - knowingly or recklessly making false or misleading statement/representation - a fine at level 6 (**\$100,000**) and **imprisonment** for one year;





## Offences and Penalties (2)

- making use of any fraud, art or contrivance with intent to evade Special Rates -  
a fine at level 6 (**\$100,000**) and **imprisonment** for one year
- ◆ If the first-owner is a body corporate, and the more serious offences concerning fraud are committed with the consent of its officer (e.g. director), the officer concerned also commits the offence and shall be liable to the penalty
- ◆ For all offences, in addition to the penalties above, the person convicted is liable to a **fine of treble the amount of Special Rates** that has been undercharged because of the offence





# Objections and Appeals

- ◆ Should a first-owner disagree with -
  - the liability for the payment of Special Rates; or
  - RVD's assessment of the notional rateable value of the specified tenement

the first-owner may raise objection within 28 days of having been served the demand note

- ◆ RVD must consider the objection and inform the aggrieved person of its decision within 6 months
- ◆ If the aggrieved person is not satisfied with RVD's decision, the aggrieved person may appeal to the Lands Tribunal within 28 days of service of the notice of RVD's decision<sup>15</sup>



# Consequential Amendments

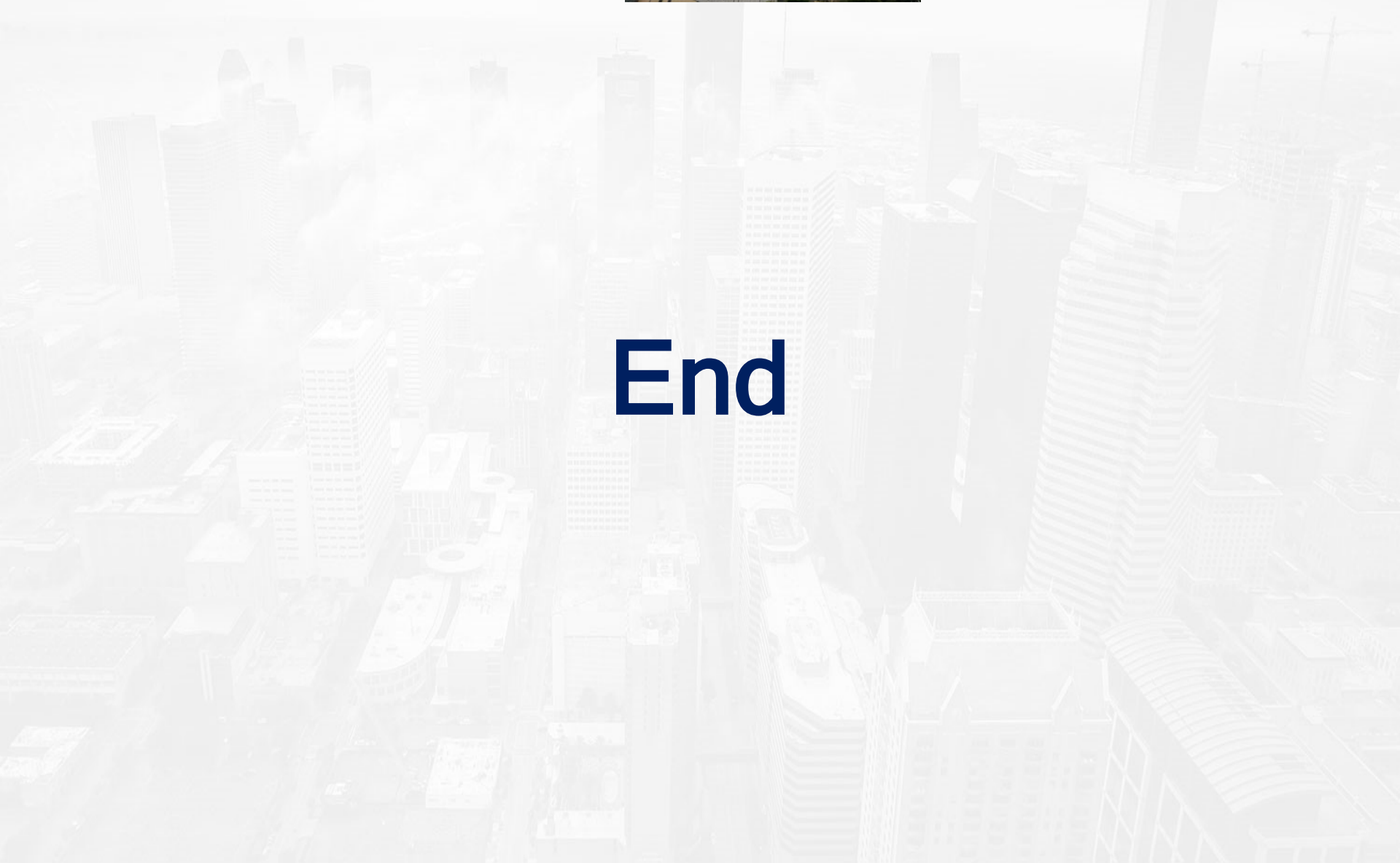
- ◆ To amend section 17 of the Inland Revenue Ordinance (Cap.112) -
  - specify that Special Rates paid or payable should **not be regarded as deductible expenses** under the profits tax regime



## Effective Date

- ◆ The Bill, subsequent to its passage in LegCo, should come into operation **3 months after its gazettal**
- ◆ To allow sufficient time for RVD and the trade to get prepared for the submission of the first return





**End**