

**立法會**  
***Legislative Council***

LC Paper No. CB(1)599/20-21  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/3/20

**Bills Committee on Stamp Duty (Amendment) Bill 2020**

**Minutes of the second meeting held on  
Monday, 18 January 2021, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon SHIU Ka-fai, JP  
Hon Tony TSE Wai-chuen, BBS

**Public officers attending** : Financial Services and the Treasury Bureau  
  
Mr Maurice LOO, JP  
Deputy Secretary for Financial Services and the Treasury (Treasury)<sup>2</sup>  
  
Miss Helen CHUNG  
Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(R1)  
  
Inland Revenue Department  
  
Mr LEUNG Kin-wa  
Deputy Commissioner (Operations) (Acting)  
  
Mr Benjamin CHAN  
Assistant Commissioner 3 (Acting)

Mr HONG Wai-kuen  
Chief Assessor (Stamp Office)

Department of Justice

Mr Henry CHAN  
Acting Senior Assistant Law Draftsman

**Clerk in attendance** : Mr Derek LO  
Chief Council Secretary (1)5

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Mr Joey LO  
Senior Council Secretary (1)8

Ms Michelle NIEN  
Legislative Assistant (1)5

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Action

**I. Meeting with the Administration**

(LC Paper No. CB(3)183/20-21 — The Bill

File Ref: TsyB R 183/700-6/11/0 (C) — Legislative Council Brief  
issued by the Financial  
Services and the Treasury  
Bureau

LC Paper No. LS16/20-21 — Legal Service Division Report

LC Paper No. CB(1)466/20-21(01) — Marked-up copy of the Bill  
prepared by the Legal Service  
Division (Restricted to  
members only))

Action

Discussion

The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

Follow-up actions

2. The Administration was requested to provide the annual breakdown of transaction figures and stamp duty receipts in respect of residential and non-residential properties respectively since the introduction of the demand-side management measures on the property market in 2010.

*(Post-meeting note: The relevant information was provided to members vide LC Paper No. CB(1)478/20-21 on 20 January 2021.)*

**II. Any other business**

Legislative timetable

3. The Chairman concluded that the Bills Committee had completed the scrutiny of the Stamp Duty (Amendment) Bill 2020 ("the Bill"). The Bills Committee would not propose any amendments to the Bill.

4. The Bills Committee noted the Administration's intention to resume the Second Reading debate on the Bill at the earliest possible Council meeting which was 17 March 2021. The Chairman of the Bills Committee would report the deliberations of the Bills Committee to the House Committee on 19 February 2021.

*(Post-meeting note: Members were informed of the above vide LC Paper No. CB(1)477/20-21 on 18 January 2021.)*

5. There being no other business, the meeting ended at 11:47 am.

Council Business Division 1  
Legislative Council Secretariat  
22 February 2021

**Proceedings of the second meeting of the  
Bills Committee on Stamp Duty (Amendment) Bill 2020  
held on Monday, 18 January 2021, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
<b>Agenda item I — Meeting with the Administration</b>			
000740 – 000836	Chairman	Opening Remarks	
000837 – 001152	Chairman Administration	Briefing by the Administration on the Stamp Duty (Amendment) Bill 2020 ("the Bill") (LC Paper No. CB(3)183/20-21 and File Ref: TsyB R 183/700-6/11/0(C))	
001153 – 001810	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE's enquiry about whether the abolition of the Doubled Ad Valorem Stamp Duty ("DSD") on non-residential properties:</p> <p>(a) had achieved the intended objective of facilitating enterprises to cash out by selling non-residential properties to address their financial predicaments or liquidity needs because of the economic downturn; and</p> <p>(b) had helped stimulate the transaction of car parking spaces (which were a type of non-residential properties) which had seen signs of speculative activities in recent months.</p> <p>The Administration advised that:</p> <p>(a) at present, relevant consolidated figures compiled by the Rating and Valuation Department on the transactions of non-residential properties since the abolition of DSD on non-residential properties had yet to be released. According to the figures from the Stamp Office of the Inland Revenue Department, transaction volume and value of non-residential properties had remained stable since the abolition of DSD on non-residential properties took effect in end November 2020; and</p>	

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		(b) the rate of decrease in transaction volume of car parking spaces amidst the current economic downturn was similar to that of other non-residential properties. As such, the Administration did not see the need to adopt a different treatment for car parking spaces vis-à-vis other types of non-residential properties.	
001811 – 002400	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK supported the introduction of the Bill to abolish DSD imposed on non-residential properties. He said that the sluggish non-residential property market would not only affect the holders of such properties, but would create a chain effect affecting the supply of employment opportunities in the job market and the economy. Mr SHEK urged the Administration to be proactive by relaxing the demand-side management measures in respect of residential property transactions, in order to prevent the imminent surge of negative equity cases amidst the economic downturn. He also enquired whether the Administration had achieved its stated objective of introducing DSD in 2013 to dampen local demand for residential and non-residential properties and to narrow the supply-demand gap, and to contribute to the stable development of the property market.</p> <p>The Administration advised that DSD on residential and non-residential property transactions was introduced in 2013 in response to the then overheated residential and non-residential property markets. For the non-residential property market, transaction volume rose sharply from about 26 000 in 2009-2010 to around 41 000 in 2012-2013. The imposition of DSD on non-residential property transactions had an immediate dampening effect on the market, with transaction volume by and large returning to the 2009-10 level. The volume of transactions had remained stable thereafter until 2019-20, when it dropped below</p>	

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		<p>20 000. In view of the said decline in transaction volume as well as falling prices, the Administration considered that the basis for implementing DSD in the non-residential property market was no longer evident in the prevailing economic climate and decided to abolish DSD for transactions involving such properties.</p> <p>As regards the residential property market, the adjustments in price and transaction volume during the same period were not as obvious as that for the non-residential property market. As such, the Chief Executive announced in the 2020 Policy Address that the Government had no plan to adjust any of the stamp duty rates concerning residential properties.</p>	
002401 – 002814	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong supported the introduction of the Bill to abolish DSD imposed on non-residential properties. He urged the Administration to also abolish the demand-side management measures in respect of residential property transactions, in order to facilitate the selling of residential properties by business owners who were encountering financial predicaments or liquidity needs amidst the economic downturn.</p> <p>The Administration advised that in considering whether demand-side management measures in respect of residential property transactions should be adjusted, the Administration had to take into account a basket of factors, including property prices, transaction volumes and the affordability of the general public.</p>	
002815 – 003405	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK urged the Administration to adopt the same principles and rationale for abolishing DSD on non-residential property transactions in respect of residential property transactions. He noted that transaction volume of second-hand residential units had dropped from about 120 000 in 2010 to around 50 000 in 2020. It was evident that the demand-side</p>	

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		<p>management measures had hard hit the second-hand property market by raising transaction cost, thereby shrinking the supply of second-hand residential properties while boosting the transaction volume of the first-hand property market.</p> <p>The Administration advised that it would continue to monitor the development of the property market to ensure that the measures currently in place were necessary to ensure the stable development of the market.</p>	
003406 – 004856	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE declared that he was a property owner. He opposed to the demand-side management measures imposed on the property market, and said that the key to solving the problem of inadequate supply of housing was to increase supply. He urged the Administration to adopt a proactive approach to abolish the demand-side management measures imposed on the residential market before a large number of cases of bankruptcy, negative equity and winding up of businesses occurred.</p> <p>Mr TSE raised the following concerns/enquiries:</p> <p>(a) given that the reduced stamp duty rates proposed under clause 6 of the Bill would apply to an instrument effecting the exchange of a residential property for a non-residential property if consideration for equality was paid by the person to whom the non-residential property was transferred,</p> <p>(i) whether it would represent a relaxation of demand-side management measures imposed on residential property transactions; and</p> <p>(ii) if so, the reasons for and implications of such relaxation; and</p>	

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		<p>(b) in view that as a transitional arrangement, the new section 74 of the Stamp Duty Ordinance (Cap. 117) ("Ordinance") provided that the pre-amended Ordinance (i.e. the Ordinance as in force immediately before 26 November 2020) would continue to apply to an agreement for sale that superseded another agreement for sale made between the same parties and on the same terms before 26 November 2020, what measures, if any, the Administration would take to prevent the parties from easily circumventing such transitional arrangement by entering into a new agreement for sale on different terms (such as by slightly varying the amount of consideration for the property) to supersede the original agreement for sale.</p> <p>The Administration advised that:</p> <p>(a) clause 6 of the Bill proposed to change the scale of rates applicable to an instrument effecting the exchange of a residential property for a non-residential property where consideration for equality was paid or given by the person to whom the non-residential property was transferred only;</p> <p>(b) the transitional arrangement under the new section 74 of the Ordinance provided that Part 2 of Scale 1 of head 1(1) in the First Schedule to the Ordinance would continue to apply to an instrument executed before 26 November 2020; an agreement for sale that superseded another agreement for sale made between the same parties on the same terms before 26 November 2020; or a conveyance on sale executed in conformity with an agreement for sale made before 26 November 2020;</p>	



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		<p>(c) proposed section 29A(4) of the Ordinance provided that an agreement for sale was made on "the same terms" as a previous agreement if, but only if, the agreement for sale and the previous agreement (i) were made in respect of the same immovable property; and (ii) specified the same consideration for the conveyance on sale; and</p> <p>(d) any attempt by the same buyer and seller to enter into a new agreement for sale on different terms to supersede the original agreement for sale executed before 26 November 2020 would generate two stamp duty-chargeable instruments. In other words, the parties concerned would not be able to benefit from an overall smaller stamp duty liability through such an arrangement.</p> <p>In response to the Chairman's enquiry, the Administration advised that no time limit was provided for under the new section 74 of the Ordinance regarding the application of the transitional arrangements.</p>	
004857 – 005733	Chairman Mr Tony TSE Administration	<p>In addition to abolishing DSD for non-residential property transactions to prop up the market, Mr Tony TSE urged the Administration to consider:</p> <p>(a) relaxing the loan-to-value ratio in mortgage to enable property-owning businesses to cope with short-term financial needs without having to sell the property concerned. Such a move could, to some extent, revive the property market; and</p> <p>(b) relaxing the demand-side management measures which had distorted the residential property market, as evident in the disproportionate transaction volumes between first-hand and second-hand property units due to the shrinking second-hand property market.</p>	

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		<p>The Administration advised that:</p> <p>(a) as announced in the Chief Executive's 2019 Policy Address, the cap on the value of the properties eligible for a mortgage loan of maximum cover of 90% loan-to-value ratio under the Mortgage Insurance Programme of the HKMC Insurance Limited had been raised from \$4 million to \$8 million for first-time home buyers; and</p> <p>(b) the Administration would relay members' views on the need for relaxation of the mortgage ratio and demand-side management measures on the residential property market to the relevant bureaux/departments for consideration.</p>	
005734 – 005804	Chairman Mr Abraham SHEK Administration	At Mr Abraham SHEK's request, the Administration undertook to provide the annual breakdown of transaction figures and stamp duty receipts in respect of residential and non-residential properties respectively since the introduction of the demand-side management measures on the property market in 2010.	The Administration to follow up as per paragraph 2 of the minutes
<u>Clause-by-clause examination of the Stamp Duty (Amendment) Bill 2020</u>			
005805 – 010127	Chairman Mr Abraham SHEK Administration Assistant Legal Adviser 6 ("ALA6")	<p>Examination of clauses 1 to 10</p> <p>Clause 1 – Short title and commencement</p> <p>Clause 2 – Stamp Duty Ordinance amended</p> <p>Clause 3 – Section 2 amended (interpretation)</p> <p>Clause 4 – Section 29A amended (interpretation and application of Part IIIA)</p> <p>Clause 5 – Section 29AI amended (scales of rates applicable to conveyances on sale chargeable with ad valorem stamp duty)</p> <p>Clause 6 – Section 29AIA amended (scales of rates applicable to instruments effecting exchange between residential property and non-residential property)</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Clause 7 – Section 29BA amended (scales of rates applicable to agreements for sale chargeable with ad valorem stamp duty)</p> <p>Clause 8 – Section 29BAB amended (scales of rates applicable to agreements for exchange between residential property and non-residential property)</p> <p>Clause 9 – Section 74 added</p> <p>Clause 10 – First Schedule amended</p> <p>Members raised no question on the clauses of the Bill.</p> <p>ALA6 advised that no difficulties had been identified in relation to the legal and drafting aspects of the Bill.</p>	
<b>Agenda item II — Any other business</b>			
010128 – 010518	Chairman Mr Abraham SHEK Administration	Legislative timetable and concluding remarks	