

立法會 *Legislative Council*

LC Paper No. CB(1)112/20-21

Ref : CB1/SS/1/20

Paper for the House Committee

Report of the Subcommittee on Rating (Exemption) Order 2020 (Amendment) Order 2020

Purpose

This paper reports on the deliberations of the Subcommittee on Rating (Exemption) Order 2020 (Amendment) Order 2020 ("the Subcommittee").

Background

2. In the 2020-2021 Budget, the Financial Secretary announced a number of one-off concessionary measures including a proposal to waive rates for four quarters of 2020-2021. The exemption ceiling for domestic tenements was \$1,500 per tenement per quarter for all four quarters. For non-domestic tenements, the exemption ceiling was \$5,000 per tenement per quarter for the first two quarters and \$1,500 for the remaining two quarters.¹ According to the Administration, the higher concession for non-domestic tenements in the first two quarters was to provide a stronger financial relief to businesses during the economic downturn.

3. The Chief Executive in Council ("CE in C") made the Rating (Exemption) Order 2020 under section 36(2) of the Rating Ordinance (Cap. 116) ("RO")² to give effect to the rates concession proposed in the 2020-2021 Budget and the Order came into operation on 1 April 2020.³

¹ The concession caps for domestic and non-domestic tenements will be provided on a pro-rata basis if rates are payable for only part of a concessionary period.

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.

³ The Rating (Exemption) Order 2020 was gazetted on 6 March 2020 and tabled at the Legislative Council ("LegCo") meeting of 18 March 2020 for negative vetting. No Subcommittee has been formed by LegCo to scrutinize the Order.

Rating (Exemption) Order 2020 (Amendment) Order 2020

4. In order to enhance the rates concession for non-domestic tenements for the third and fourth quarters of 2020-2021, CE in C made the Rating (Exemption) Order 2020 (Amendment) Order 2020 ("the 2020 Amendment Order") under section 36(2) of RO to give effect to the enhancement. The 2020 Amendment Order declares that the concession cap for each non-domestic tenement is adjusted from \$1,500 to \$5,000 per quarter for the third and fourth quarters of 2020-2021 (i.e. from 1 October 2020 to 31 March 2021).⁴ According to the Administration, the enhanced rates concession is part of the package of Government's relief measures announced on 15 September 2020 with a view to sustaining the support for enterprises amid the very challenging economic conditions brought about by the coronavirus disease 2019 ("COVID-19") epidemic.

5. The 2020 Amendment Order was gazetted on 18 September 2020 and tabled at the Legislative Council meeting of 14 October 2020 for negative vetting. The 2020 Amendment Order came into operation upon gazettal on 18 September 2020.

The Subcommittee

6. At the House Committee meeting on 16 October 2020, Members agreed to form a subcommittee to study the 2020 Amendment Order. The membership list of the Subcommittee is in the **Appendix I**. Under the chairmanship of Mr Tommy CHEUNG Yu-yan, the Subcommittee has held one meeting with the Administration to examine the 2020 Amendment Order.

Deliberations of the Subcommittee

7. Members of the Subcommittee in general do not object to the 2020 Amendment Order which aims to provide enhanced rates concession for non-domestic properties for the third and fourth quarters of 2020-2021. The major deliberations of the Subcommittee are set out in the ensuing paragraphs.

Beneficiaries of the enhanced rates concession for non-domestic tenements

⁴ Rates concession for domestic tenements remains unchanged to be capped at \$1,500 per tenement per quarter.

8. Dr Fernando CHEUNG has pointed out that while the 2020 Amendment Order provides enhanced rates concession for non-domestic properties in the third and fourth quarters and hence helps relieve the hardship of various businesses, he considers that rates concession should target the small and medium-size enterprises ("SMEs") which are mostly tenants of non-domestic properties and hard hit under the extremely difficult business environment arising from the COVID-19 epidemic. He is of the view that the Administration should introduce measures to ensure SME tenants would benefit from the rates concession. For instance, he opines that for tenancies of non-domestic properties which are of rates exclusive basis,⁵ the Administration should require the owners concerned to provide documents showing that the tenants are actually responsible for paying rates before the owners can claim the rates concession. Furthermore, the owners who have received the rates concession must rebate the concession to the tenants concerned.

9. The Administration has responded that rates concession is implemented on an equal-footing basis in that the measure benefits all ratepayers, regardless of the types (domestic or non-domestic) and rateable value of the relevant properties, and whether the ratepayer is the owner or the tenant. While the Administration is aware of members' concern on the distribution of the rates concession among ratepayers, members' suggestions may not be practicable and may entail fundamental changes to the current rates regime for which rates are collected on tenement basis.

10. As regards the distribution of rates concession between owners and tenants of non-domestic properties, the Administration has advised that in accordance with RO, the owner and the occupier of a tenement should both be liable for rates payment. For ease of management, many owners of non-domestic properties collect the rent as well as the amount of rates payable, and then make rates payment on behalf of the tenants who are liable for the payment of rates under the tenancies. Under such an arrangement, the owners remain as ratepayers of the properties for the sake of management convenience. The tenants themselves remain to be the actual beneficiaries of the rates concession as the rates concession would be rebated to the tenants concerned in accordance with provisions of the tenancies. Such tenants are mostly SMEs.

11. The Administration has further pointed out that it conducted a review of the rates concession mechanism in 2018. Among the options explored for modifying the mechanism, the Administration considered that the option of providing rates concession to one rateable property (either domestic or

⁵ The tenancies state rent is exclusive of rates and tenants have to pay rates separately. The owners concerned remain as ratepayers only for the sake of management convenience.

non-domestic) for each owner a more feasible option in achieving a more equitable distribution of the rates concession. However, during consultation with the Panel on Financial Affairs, most Panel members expressed reservations towards the option. One of the main concerns was that under the option, tenants who were required to pay rates under the tenancies, including many SMEs and small business operators renting non-domestic properties, would no longer be able to benefit from rates concession. Panel members subsequently passed a motion to request the Administration to shelve the option for the time being. Noting the diverse views and reservations expressed by Panel members, the Administration therefore shelved the proposal to modify the rates concession mechanism. The Administration has stressed that it understands the concerns raised by Subcommittee members. The Administration also welcomes further views from members to improve to the rates concession mechanism.

12. In response to Mr WU Chi-wai's request, the Administration has provided information on the 10 ratepayers who are estimated to receive the largest amounts of rates concession in 2020-2021 in relation to their non-domestic properties. The information is set out in **Appendix II**. The Administration has explained that over 90% of the non-domestic tenancies of the top 10 ratepayers are rates exclusive, meaning that the rates concessions concerned are rebated to the tenants and are not received by owners, notwithstanding that the owners remain as ratepayers for the sake of management convenience. There is no breakdown on the business nature of the 10 ratepayers as the Rating and Valuation Department does not maintain such statistics. Moreover, there are 113 000 non-domestic properties for which the amount of rates payable is equal to, or exceeds the concession cap of \$5,000 for 2020-2021.

Further measures to relieve the hardship of various businesses affected by coronavirus disease-2019 epidemic

13. Some Subcommittee members including Dr Fernando CHEUNG and Mr Tommy CHEUNG have expressed concern that the COVID-19 epidemic has dealt a heavy blow to various enterprises especially SMEs, and enquired if the Administration would consider implementing other measures besides providing enhanced rates concession for non-domestic properties. Mr Tommy CHEUNG has urged the Administration to make reference to other jurisdictions, such as Singapore, in introducing measures to provide for temporary relief to alleviate the hardship and loss suffered by SMEs. The measures considered or introduced by other jurisdictions include requiring owners to reduce or freeze rents of their non-domestic properties, and imposing temporary stay on certain legal actions, such as recovery of owed rents and forced eviction, against SMEs in financial difficulties. Mr Tommy CHEUNG has indicated that he is preparing a Member's Bill to amend the Prevention and Control of Disease

Ordinance (Cap. 599) with the aim to provide for temporary relief to alleviate the hardship and loss suffered by SMEs caused by the application of Public Health Emergency Regulation, and will consult the relevant Panel on the draft bill in due course.

14. The Administration has responded that different jurisdictions have been considering or implementing various measures to combat the adverse effects the COVID-19 epidemic has on their respective economies taking into account their own circumstances. In Hong Kong, the Administration has established the Anti-epidemic Fund ("AEF") in February 2020, among others, to provide relief to enterprises and members of the public hard hit by the COVID-19 epidemic or affected by the anti-epidemic measures. Various measures have been implemented under AEF including three rounds of relief measures for various sectors of businesses and the community, the Employment Support Scheme to subsidize employers in paying employee wages, and rental waivers for tenants of Government premises. Furthermore, the Administration has encouraged public bodies and the private sectors to deploy their resources and work together with the community to combat the epidemic and provide assistance to those in need.

Recommendation

15. The Subcommittee has completed scrutiny of the 2020 Amendment Order. Both the Subcommittee and the Administration will not propose amendments to the Order.

Advice sought

16. The Subcommittee Chairman gave a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 30 October 2020. Members are requested to note this written report.

**Subcommittee on
Rating (Exemption) Order 2020 (Amendment) Order 2020**

Membership list

Chairman Hon Tommy CHEUNG Yu-yan, GBS, JP

Members Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Paul TSE Wai-chun, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Alvin YEUNG
Hon SHIU Ka-fai, JP

(Total : 9 members)

Clerk Ms Connie SZETO

Legal Adviser Miss Joyce CHAN

Rates concession received by the 10 ratepayers who are estimated to receive the largest amounts of rates concession in 2020-2021

| Ratepayer (excluding organizations providing subsidized housing) | Amount of Rates Concession (\$ million) | Number of Non-domestic Rateable Properties Involved |
|-------------------------------------------------------------------------------------|--------------------------------------------------------|--------------------------------------------------------------------|
| 1 | 135.5 | 12 559 |
| 2 | 63.7 | 3 882 |
| 3 | 36.0 | 3 357 |
| 4 | 30.8 | 1 882 |
| 5 | 29.8 | 1 666 |
| 6 | 24.7 | 1 747 |
| 7 | 15.8 | 947 |
| 8 | 15.3 | 1 451 |
| 9 | 7.1 | 588 |
| 10 | 3.8 | 471 |
| Total | 362.6 [#] | 28 550 |

[#] Individual figures may not add up to the total due to rounding