

**立法會**  
**Legislative Council**

LC Paper No. LS14/20-21

**Paper for the House Committee Meeting  
on 4 December 2020**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 25 November 2020**

**Tabling in LegCo** : Council meeting of 2 December 2020

**Amendment to be made by** : Council meeting of 16 December 2020 (or that of 20 January 2021 if extended by resolution)

**Public Revenue Protection (Stamp Duty) Order 2020** (L.N. 231)

L.N. 231 is made by the Chief Executive ("CE") under section 2 of the Public Revenue Protection Ordinance (Cap. 120) after consultation with the Executive Council to give immediate effect to the proposal in paragraph 71 of the 2020 Policy Address delivered by CE on 25 November 2020.<sup>1</sup>

2. Section 2 of Cap. 120 provides, among other things, that if CE approves of the introduction into the Legislative Council ("LegCo") of a bill whereby, if the bill were to become law any duty, tax, fee, rate or other item of revenue would be imposed, removed or altered, CE may make an order giving full force and effect of law to all the provisions of the bill.

3. L.N. 231, which came into force at the beginning of 26 November 2020, is made to give full force and effect to all the provisions of the bill set out in the Schedule to L.N. 231 ("Bill"). The Bill proposes to amend the Stamp Duty Ordinance (Cap. 117) to revert the ad valorem stamp duty chargeable on certain instruments dealing with non-residential properties from the rates under Part 2 of Scale 1 of head 1(1) or (1A)<sup>2</sup> to the rates under Scale 2 of that head ("Scale 2 Rates") in the First Schedule, i.e. back to the levels before 23 February 2013.

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<sup>1</sup> According to paragraph 71 of the Policy Address, since prices and demand for non-residential properties have been dropping over a period of time as a result of the economic downturn and uncertainties surrounding the COVID-19 pandemic, the Administration considers it the right time to abolish the Doubled Ad Valorem Stamp Duty imposed on non-residential properties.

<sup>2</sup> The Stamp Duty (Amendment) (No. 2) Ordinance 2014 was enacted in 2014 to impose a higher rate of ad valorem stamp duty on certain instruments dealing with residential and non-residential properties acquired on or after 23 February 2013.

4. A comparison of the stamp duty rates under Cap. 117 (in force before 26 November 2020) and the proposed stamp duty rates under the Bill (with effect from 26 November 2020) is set out below:

<b>Stamp duty rates in force before 26 November 2020</b>		<b>Proposed stamp duty rates under the Bill with effect from 26 November 2020</b>	
<b>Amount or value of consideration of non-residential property</b>	<b>Part 2 of Scale 1 Rates</b>	<b>Amount or value of consideration of non-residential property</b>	<b>Scale 2 Rates</b>
Up to \$2,000,000	1.50%	Up to \$2,000,000	\$100
\$2,000,001 to \$2,176,470	\$30,000+20% of the excess over \$2,000,000	\$2,000,001 to \$2,351,760	\$100+10% of the excess over \$2,000,000
\$2,176,471 to \$3,000,000	3.00%	\$2,351,761 to \$3,000,000	1.50%
\$3,000,001 to \$3,290,330	\$90,000+20% of the excess over \$3,000,000	\$3,000,001 to \$3,290,320	\$45,000+10% of the excess over \$3,000,000
\$3,290,331 to \$4,000,000	4.50%	\$3,290,321 to \$4,000,000	2.25%
\$4,000,001 to \$4,428,580	\$180,000+20% of the excess over \$4,000,000	\$4,000,001 to \$4,428,570	\$90,000+10% of the excess over \$4,000,000
\$4,428,581 to \$6,000,000	6.00%	\$4,428,571 to \$6,000,000	3.00%
\$6,000,001 to \$6,720,000	\$360,000+20% of the excess over \$6,000,000	\$6,000,001 to \$6,720,000	\$180,000+10% of the excess over \$6,000,000
\$6,720,001 to \$20,000,000	7.50%	\$6,720,001 to \$20,000,000	3.75%
\$20,000,001 to \$21,739,130	\$1,500,000+20% of the excess over \$20,000,000	\$20,000,001 to \$21,739,120	\$750,000+10% of the excess over \$20,000,000
\$21,739,131 and above	8.50%	\$21,739,121 and above	4.25%

The date of First Reading of the Bill is 2 December 2020. Members may refer to our report on the Bill (LC Paper No. LS16/20-21) for further details of the Bill.

5. L.N. 231 is a temporary measure. By virtue of section 5(2) of Cap. 120, L.N. 231 shall expire and cease to be in force upon:

- (a) the notification in the Gazette of the rejection by LegCo of the Bill;
- (b) the notification in the Gazette of the withdrawal of the Bill or L.N. 231;
- (c) the Bill, with or without modification, becoming law in the ordinary manner; or
- (d) the expiration of four months from the day on which L.N. 231 came into force,

whichever event first happens.

6. Pursuant to section 7 of Cap. 120, where L.N. 231 ceases to be in force and is not replaced, with or without modification, by the Bill, the stamp duty which was payable immediately before the coming into force of L.N. 231 shall become payable in full again.

7. According to paragraph 19 of the LegCo Brief (File Ref: TsyB R 183/700-6/11/0 (C)) issued by the Financial Services and the Treasury Bureau in November 2020, public consultation on the legislative proposal is neither appropriate nor practicable owing to the market sensitivity of the proposal.

8. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 231.

9. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 231.

Prepared by

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