

立法會
Legislative Council

LC Paper No. LS52/20-21

**Paper for the House Committee Meeting
on 19 March 2021**

**Legal Service Division Report on
Revenue (Stamp Duty) Bill 2021**

I. SUMMARY

- 1. The Bill**

The Bill seeks to amend the Stamp Duty Ordinance (Cap. 117) to give effect to the proposal in the Budget introduced by the Government for the 2021-2022 financial year to increase the rate of stamp duty payable on the sale or purchase or transfer of Hong Kong stock by 30%.
- 2. Public Consultation**

The Administration launched the public consultation exercise for the 2021-22 Budget on 20 December 2020. According to the Administration, the views received from stakeholders during the Budget consultation process have been taken into account in formulating the legislative proposal.
- 3. Consultation with LegCo Panel**

The Panel on Financial Affairs has not been consulted on the Bill.
- 4. Conclusion**

No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

II. REPORT

The date of First Reading of the Bill is 17 March 2021. Members may refer to the Legislative Council ("LegCo") Brief (File Ref: SF&C/1/2/57C) issued by the Financial Services and the Treasury Bureau on 3 March 2021 for further details.

Object of the Bill

2. The Bill seeks to amend the Stamp Duty Ordinance (Cap. 117) to give effect to the proposal in the Budget introduced by the Government for the 2021-2022 financial year to increase the stamp duty on certain instruments in respect of Hong Kong stock.

Provisions of the Bill

Amendments to increase the rate of stamp duty

3. The rate of stamp duty on stock transfers is prescribed under head 2(1)(A) in the First Schedule to Cap. 117. Currently, the rate of stamp duty payable on a contract note for the sale or purchase of any Hong Kong stock (not being jobbing business¹) is 0.1% of the amount of the consideration or of its value at the date on which the contract note falls to be executed.

4. According to paragraphs 4 to 6 of the LegCo Brief, as the combined result of the COVID-19 pandemic and economic downturn, coupled with the launch of counter-cyclical measures to support the public and businesses and the need to sustain recurrent expenditure, fiscal deficit has already been recorded in two consecutive financial years (i.e. 2019-20 and 2020-21) and is forecast for the next five consecutive years from 2021-22 in the Operating Account. The 2020-21 Budget highlighted the need to consider revising tax rates and seeking new revenue sources to address the fiscal needs in the short to medium term. In the 2021-22 Budget, the Financial Secretary announced the proposal of raising the rate of stamp duty on stock transfers from the current 0.1% to 0.13% of the consideration or value of each transaction payable by buyers and sellers respectively.²

5. Clause 3 of the Bill seeks to amend head 2(1)(A) in the First Schedule to Cap. 117 to increase the rate of stamp duty chargeable in respect of every contract note for the sale or purchase of any Hong Kong stock (not being jobbing business) from 0.1% to 0.13% of the amount of the consideration or of the value of the

¹ Under section 2(1) of Cap. 117, "jobbing business" means any business carried on by an exchange participant which is specified as jobbing business by the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation (Cap. 117A) (e.g. the sale or purchase of Hong Kong stock by an options market maker through a recognized stock market directly pursuant to the hedging of a transaction in an options contract).

² Paragraph 176 of the 2021-22 Budget Speech.

transaction.

6. Clause 3 also seeks to amend head 2(3)(A) in the First Schedule to Cap. 117 to increase the rate of stamp duty chargeable in respect of a transfer operating as a voluntary disposition *inter vivos*³ or made for the purpose of effectuating a transaction whereby the beneficial interest in Hong Kong stock passes otherwise than on sale and purchase from 0.2% to 0.26% of the value of the stock.

7. According to paragraph 13 of the LegCo Brief, it is estimated that the proposed increase in the rate of stamp duty on stock transfer would bring in an additional \$8 billion revenue in the eight months in the 2021-22 financial year starting from 1 August 2021. The full-year financial implications would be \$12 billion.

Commencement

8. The Bill, if passed, would come into operation on 1 August 2021. According to paragraph 10 of the LegCo Brief, this would allow time for the legislative process and for the Hong Kong Exchanges and Clearing Limited and the industry to make necessary adjustments to their operation systems.

Public Consultation

9. According to paragraph 14 of the LegCo Brief, the Administration launched the public consultation exercise for the 2021-22 Budget on 20 December 2020. According to the Administration, the views received have been taken into account in formulating the legislative proposal.

Consultation with LegCo Panel

10. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on the Bill.

Conclusion

11. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Prepared by

Rachel DAI
Assistant Legal Adviser
Legislative Council Secretariat
17 March 2021

³ The Latin term "*inter vivos*" means between living persons (especially of a gift as opposed to a testamentary disposition).