LC Paper No. CB(1)156/2022(03)

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Panel on Financial Affairs

Meeting on 4 April 2022

Background brief on rating system

Purpose

This paper provides background information on the Administration's proposals to revise the current rating system and the rates concession measure as announced by the Financial Secretary ("FS") in the 2022-2023 Budget. It also summarizes the relevant discussions by the Panel on Financial Affairs ("FA Panel") on possible modifications to the rates concession mechanism in 2018, and during the scrutiny of subsidiary legislation on rates concession in the recent years.

Background

2. According to the Administration, rates is a broad-based and stable source of government revenue. In accordance with the Rating Ordinance (Cap. 116) ("RO"), the valuation and collection of rates is based on tenements, and the owner and the occupier shall both be liable for the payment of rates. The Administration has been implementing rates concession measures since the 2007-2008 financial year, and a summary of the measures implemented from the 2018-2019 to 2022-2023 financial years is provided in **Appendix 1**.

Review of the rates concession mechanism in 2018

3. When the Subcommittee on Rating (Exemption) Order 2018 ("Subcommittee on the 2018 Order") discussed the rates concession proposal under the 2018-2019 Budget, some Members expressed concern that a small number of ratepayers (such as property developers and owners with multiple rateable properties) might receive a considerable amount of rates concession under the current mechanism. These Members urged the Administration to review the rates concession measure to achieve a more equitable distribution of the concession, and consider suggestions such

as limiting the number of rateable properties per ratepayer eligible for rates concession and confining the rates concession measure to tenants and owners of self-occupied properties.

4. In response to the request of the Subcommittee on the 2018 Order, the Administration conducted a review of the rates concession mechanism in 2018. Amongst the options explored, the Administration considered that providing rates concession to one rateable property (either domestic or non-domestic) for each owner a more feasible approach to vary the rates concession mechanism in achieving a more equitable distribution of the rates concession.[1] Special treatment would be accorded to the tenants of public rental housing ("PRH") units of the Housing Authority, the Housing Society and the Hong Kong Settlers Housing Corporation Limited so that they could continue to benefit from rates concession. The Rating and Valuation Department ("RVD") would need to build up a property ownership database and collate information from property owners in order to implement the changes. However, during the consultation with FA Panel in 2018, most Panel members expressed reservations towards the option. The Administration subsequently shelved the proposal to modify the rates concession mechanism.

Proposals to revise the rating system as announced in the 2022-2023 Budget

5. FS announced in his 2022-2023 Budget speech of the Government's proposals to revise the rating system as follows:

(a) for future rates concession for domestic properties, only those eligible owners who are natural persons can apply for rates concession for one domestic property under their name; and

(b) introducing a progressive rating system for domestic properties[2] to better reflect the "affordable users pay" principle.

The Government plans to implement the above proposals in phases with the proposal regarding rates concession mechanism for domestic properties to be rolled out in the first phase in 2023-2024, and the proposed progressive rating system for domestic properties be introduced in the second phase in 2024-2025.

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[1] The possible options studied by the Administration are provided in the information paper LC Paper No. CB(1)309/18-19(08).

[2] For domestic properties with rateable value of $550,000 or below, it is proposed that rates be charged at the present level of 5% of the rateable value. For domestic properties with rateable value over $550,000, it is proposed that rates be charged at 5% of the rateable value on the first $550,000 and at 8% of the rateable value on the next $250,000, and then at 12% on rateable value exceeding $800,000.

Major views and concerns expressed by Members

6. The Administration consulted FA Panel at the meeting on 18 December 2018 on possible modifications to the current mechanism for providing rates concession. Subcommittees have been formed to scrutinize the Rating (Exemption) Order 2018, the Rating (Exemption) Order 2019 ("the Subcommittee on the 2019 Order") and the Rating (Exemption) Order 2020 (Amendment) Order 2020. The major views and concerns expressed by Members during the above discussions are summarized in the ensuing paragraphs.

Distribution of the concession amount among ratepayers

7. As rates concession could ease the financial pressure on the public, including PRH tenants and small and medium-sized enterprises ("SMEs"), some Members considered that it was reasonable to provide rates concession on the basis of tenement because it was fair for ratepayers to benefit from rates concession based on the amount of rates they paid, subject to a cap on the concession.

8. Some other Members expressed concern that given one-off rates concession was available to all ratepayers, a small number of ratepayers, such as property developers, owners of properties subject to higher rates payment and owners with many rateable properties (especially owners with many non-domestic properties, such as office premises and shopping malls), would reap a large proportion of the total rates concession. These Members were of the view that the rates concession measure was lopsided to the rich and returning wealth to the rich, thus ran counter to the Government's objectives of targeting the concessionary measure at the grassroots and the needy. They further suggested excluding property owners who owned more than one property (especially involving non-domestic properties), and completed but unsold domestic properties held by developers from the rates concession measure, so that the measure would only benefit tenants and owners of self-occupied properties. There were also views that certain properties, such as automatic teller machines or advertising light boxes, should be excluded from the rates concession measure as providing rates concession for these properties could not help achieve the objective of relieving people's burden.

9. The Administration explained that rates concession was implemented on an equal-footing basis in that the measure benefited all ratepayers, regardless of the types (domestic or non-domestic) and rateable value of the relevant properties, and whether the ratepayer was the owner or the tenant. Rates concession was an effective way to provide one-off relief to a wide spectrum of Hong Kong people. As regards the suggestion of confining the rates concession measure to tenants and owners of self-occupied properties, it would involve fundamental changes in the collection of rates, which were based on tenements. Moreover, under RO, both the property owner

and the tenants were liable to pay rates. Introducing fundamental changes to rates collection might risk implication on the effectiveness of the rates collection system and excluding these tenants from rates concession they would otherwise receive.

10. Some Members expressed concern that the rates exemption would not benefit the tenants in cases where the rents were rates-inclusive as it was unlikely that their landlords would refund the concession amount to them. Moreover, there were suggestions that the Administration should introduce measures to ensure SME tenants would benefit from the rates concession. For instance, for tenancies of non-domestic properties which were of rates exclusive basis,[3] the Administration should require the owners concerned to provide documents showing that the tenants were actually responsible for paying rates before the owners could claim the rates concession. Furthermore, the owners who had received the rates concession must rebate the concession to the tenants concerned.

11. The Administration reiterated that in accordance with RO, the valuation and collection of rates were based on tenements. The owner and the occupier should both be liable for the payment of rates and the arrangement of whether rates were paid by the owner or the tenant depended on the provisions of individual tenancy agreements. For ease of management, many owners of non-domestic properties collected the rent as well as the amount of rates payable, and then made rates payment on behalf of the tenants who were liable for the payment of rates under the tenancies. Under such an arrangement, the owners remained as ratepayers of the properties for the sake of management convenience. The tenants themselves remained 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. A lot of such tenants were SMEs.

Possible modifications to the rates concession mechanism

12. During the discussion of FA Panel in 2018 on possible modifications to the current mechanism for providing rates concession, most Panel members expressed grave concerns on the option of providing rates concession to one rateable property (either domestic or non-domestic) for each owner. Such concerns included (a) tenants who were required to pay rates under the tenancy agreements, like many SMEs and small business operators renting non-domestic properties, would no longer be able to benefit from rates concession; (b) it was unfair to restrict owners with a number of properties to rates concession for only one of their properties while they paid rates for all; and (c) some people might hold more than one property for meeting various needs (e.g. one for self-use and another for use by family members, one for residential use and one for doing business, elderly people who relied on rental income to support their

[3] The tenancies stated rent was exclusive of rates and tenants had to pay rates separately. The owners concerned remained as ratepayers only for the sake of management convenience.

living, etc.) and the proposed change would significantly reduce their benefits from rates concession. The Panel subsequently passed a motion requesting 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. Nevertheless, the Administration stressed that it welcomed further views from Members to improve the rates concession mechanism.

13. Noting the high set-up and maintenance costs involved for RVD to establish a property ownership database and considering that rates concession was a one-off budget measure that might not be granted every year, members of the Subcommittee on the 2019 Order expressed reservation on investing vast amount of resources to develop the property ownership database. Subcommittee members suggested that RVD should modify the existing "Requisition for Particulars of Tenements" (i.e. Form R1A), which it issued from time to time to obtain information relating to tenements, in order to capture information on the ownership of properties. RVD should also explore with the Land Registry on the feasibility of using the latter's database on property ownership. Subcommittee members further suggested that RVD should consider using big data in the collection and collation of information to help develop a comprehensive database on property ownership.

14. The Administration explained that for the purpose of issuing quarterly demand notes for rates payment, RVD only maintained basic information including the names of the ratepayers and their mailing addresses, without collecting other identification information (such as their Hong Kong Identity Card numbers, the Business Registration numbers, or information of the owners of the tenements). Form R1A mainly collected information relating to the rents and key terms of the tenancy agreement of a tenement to facilitate the assessment of rateable value of the tenement. Any changes to the current rates concession approach might imply the need for a fundamental change to the rates collection system. RVD would require resources to set up a new computer system for capturing the property ownership information and to update the information on an on-going basis. RVD would also need to obtain property owners' consent for it to verify the owners' information provided by the Land Registry.

15. On the suggestions for the Land Registry or other relevant departments to share their property ownership database with RVD, the Administration pointed out that due to concern about protection of privacy of personal data, there were legal restrictions for departments to share their data collected from the public when discharging their duties. In particular, departments were under statutory requirement to specify the purpose(s) of collecting information from the public, and were prohibited from using the information collected for other purposes.

Latest development

16. The Administration will brief the FA Panel at the meeting on 4 April 2022 on Government's proposals to introduce a progressive element to the rating system and implement a new rates concession mechanism.

References

17. A list of relevant papers is in **Appendix 2**.

Council Business Division 1
Legislative Council Secretariat
30 March 2022

Appendix 1

Rates exemption measures implemented in recent years

	Rating (Exemption) Order 2018	**Rating (Exemption) Order 2019**	**The Rating (Exemption) Order 2020**	**The Rating (Exemption) Order 2020 (Amendment) Order 2020***	**The Rating (Exemption) Order 2021**	**The Rating (Exemption) Order 2022**
Date of gazettal	28 February 2018	8 March 2019	6 March 2020	18 September 2020	5 March 2021	4 March 2022
Date of tabling in LegCo	21 March 2018	20 March 2019	18 March 2020	14 October 2020	17 March 2021	16 March 2022
Commencement date	1 April 2018	1 April 2019	1 April 2020	18 September 2020	1 April 2021	1 April 2022
Concession period	1 April 2018 to 31 March 2019 (4 quarters)	1 April 2019 to 31 March 2020 (4 quarters)	1 April 2020 to 31 March 2021 (4 quarters)	1 October 2020 to 31 March 2021 (2 quarters)	1 April 2021 to 31 March 2022 (4 quarters)	1 April 2022 to 31 March 2023 (4 quarters)
Ceiling (per quarter for each rateable property)	$2,500	$1,500	1st & 2nd Quarter Domestic: $1,500 Non-domestic: $5,000 3rd & 4th Quarter Domestic: $1,500 Non-domestic: $1,500	Domestic: $1,500 Non-domestic: $5,000	1st & 2nd Quarter Domestic: $1,500 Non-domestic: $5,000 3rd & 4th Quarter Domestic: $1,000 Non-domestic: $2,000	1st & 2nd Quarter Domestic: $1,500 Non-domestic: $5,000 3rd & 4th Quarter Domestic: $1,000 Non-domestic: $2,000

* The Rating (Exemption) Order 2020 (Amendment) Order 2020 amends the Rating (Exemption) Order 2020 to the effect that the exemption ceiling for non-domestic tenements is adjusted from $1,500 to $5,000 per tenement for each of the third and fourth quarters of the 2020-2021 financial year. Rates concession for domestic tenement remains unchanged which is capped at $1,500 per tenement per quarter in the 2020-2021 financial year.

Appendix 2

List of relevant papers

Date	Event	Papers/Minutes of meeting
21 March 2018	The Rating (Exemption) Order 2018 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS39/17-18) Report of the Subcommittee (LC Paper No. CB(1)861/17-18) Administration's paper on Rating (Exemption) Order 2018 (LC Paper No. CB(1)730/17-18(01)) Background brief (LC Paper No. CB(1)730/17-18(02))
18 December 2018	Meeting of the Panel on Financial Affairs	Administration's paper (LC Paper No. CB(1)309/18-19(07)) Background brief (LC Paper No. CB(1)309/18-19(08))
20 March 2019	The Rating (Exemption) Order 2019 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS54/18-19) Report of the Subcommittee (LC Paper No. CB(1)848/18-19) Administration's paper on Rating (Exemption) Order 2019 (LC Paper No. CB(1)759/18-19(01)) Background brief (LC Paper No. CB(1)759/18-19(02))

Date	Event	Papers/Minutes of meeting
18 March 2020	The Rating (Exemption) Order 2020 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS47/19-20)
14 October 2020	The Rating (Exemption) Order 2020 (Amendment) Order 2020 was tabled in the Legislative Council	The Order Legislative Council Brief (File ref.: TsyB R 183/535-1/7/0 (20-21) (C)) Legal Service Division Report (LC Paper No. LS124/19-20) Report of the Subcommittee (LC Paper No. CB(1)112/20-21) Background brief (LC Paper No. CB(1)55/20-21(01))
17 March 2021	The Rating (Exemption) Order 2021 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS47/20-21)
16 March 2022	The Rating (Exemption) Order 2022 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS14/2022)