

Speech
SFST's opening remarks at meeting of Bills Committee on Stamp Duty
(Amendment) Bill 2013

Tuesday, May 13, 2014

Following is the English translation of the opening remarks by the Secretary for Financial Services and the Treasury, Professor K C Chan, at the meeting of the Bills Committee on Stamp Duty (Amendment) Bill 2013 of the Legislative Council today (May 13):

Chairman,

First of all, I would like to thank the Chairman Hon Starry Lee and Members of the Bills Committee for their hard work since May last year in holding more than a dozen of meetings to scrutinise the Stamp Duty (Amendment) Bill 2013 (the Bill).

I have been paying attention to the discussions by the Bills Committee and understand Members' concerns. By attending today's meeting, I can not only listen to Members' views in person but also allow me to reiterate the Government's policy intent and elaborate on the Government's position in respect of areas that Members have concerns.

Policy intent

Before focusing on specific aspects of the Bill, I would like to briefly outline the policy background and intent of the Bill. Under the influence of exceptionally low interest rates and abundant liquidity, as well as the tight supply of residential properties, the property market in Hong Kong has shown signs of an irrational state of exuberance over the past few years. Although the rise in residential property prices was temporarily arrested upon the introduction of the enhanced Special Stamp Duty and Buyer's Stamp Duty in end October 2012, there were signs of spreading of overheating situation to the non-residential property market.

To address the overheating situation in the property market, the Government announced on February 22, 2013 the introduction of a new round of measures, i.e. to double the ad valorem stamp duty (AVD) rates on transactions for residential and non-residential properties and to advance the timing for charging of AVD on non-residential property transactions, in order to

reinforce demand management on those who have already acquired residential properties and to prevent the overheating situation from spreading to the non-residential property market. The Bill reflects the above-mentioned new round of measures.

When introducing the doubled AVD, we have the following major considerations:

(a) the measures should uphold the current stamp duty regime on properties by charging AVD on the basis of the considerations of property transactions in the instrument on a progressive scale;

(b) the measures should, having regard to the situation in the property market, enhance the extent of demand-side management with a view to cooling down the overheated property market immediately so as to reverse the market expectation that property prices will only rise; and

(c) the measures should be consistent with the Government's policy directive, i.e. to accord priority to the home ownership needs of Hong Kong Permanent Residents (HKPRs) and take a stringent approach in drawing up the exemption rules at the same time to ensure the effectiveness of the measures.

Effectiveness of the measures

Since the introduction of the doubled AVD measures, as reflected by statistics, the property market has shown signs of cooling down with dwindled transactions and stabilised prices. Overall flat prices increased by an average of 0.1% per month during March 2013 to March 2014, a notable deceleration from the monthly average increase of 2.7% in the first two months of 2013. The rental prices increased by an average of 0.1% per month during March 2013 to March 2014, a reduction from the monthly average increase of 0.4% in the first two months of 2013 and a notable deceleration from the monthly average increase of 1.9% in 2012.

For the non-residential property market, the prices of office and flatted factory space increased by an average of 0.3% and 0.1% respectively per month during March 2013 to March 2014, a notable deceleration from the monthly average increases of 2.6% and 4.1% respectively in the first two months of 2013. The prices of retail space between March 2013 and March 2014 showed

virtually no change further to the monthly average increase of 1.9% in the first two months of 2013. During the same period, the monthly average increase of rental prices of retail, office and flatted factory space continued to decelerate. For example, in the case of retail space, the increase was reduced to 0.4% from 0.7%, with an obvious drop when compared with the monthly average increase of 1.0% in 2012.

The above shows that the successive rounds of demand-side management measures introduced by the Government have addressed the overheating situation in the property market effectively, which is in line with our policy objective. Despite the preliminary results, uncertainty still prevails in the market and the supply of properties remains tight. Hence, we consider it necessary to maintain the measures.

Next, I will respond to the major concerns that Members have expressed on the Bill during past meetings, including whether the measures should be applicable to non-residential properties, the stipulated period for changing properties, the handling of acquisition of a residential property together with a car parking space and the sunset clause.

Scope of the Bill

According to the Bill, the doubled AVD shall apply to all transactions in respect of residential and non-residential properties. That said, for consistency with the Government's policy directive to accord priority to the home ownership needs of HKPRs, the Bill proposes to exempt residential property acquired by a HKPR, provided that he or she is not a beneficial owner of any other residential property in Hong Kong at the time of acquiring the concerned residential property.

I understand some Members have proposed that similar exemption arrangement should be available for non-residential property transactions by citing the above exemption. However, I would like to point out that given their differences in nature, they should not be treated in the same way. The policy considerations for non-residential properties are not on a par with addressing the home ownership needs of HKPRs. To ensure the effectiveness of the measures and prevent the spread of overheating situation to the non-residential property market, we do not propose to provide exemption for non-residential property transactions.

Modified proposals

On the residential properties, having regard to the policy objective, legislative intent and under the principle of not undermining the effectiveness of the measures and after having fully considered the views of Members and relevant stakeholders, we are willing to make adjustments to the proposed measures in the following two aspects.

First, we propose to relax the "six-month" timeframe for owners having acquired a new residential property before disposing of their original one. Specifically, the Bill currently proposes that if the HKPR who acquires a new residential property has entered into an agreement for sale to dispose of his or her original and only other residential property in Hong Kong within six months from the date of acquiring the new property, he or she can benefit from the refund mechanism purposely drawn up to cater for the replacement needs of HKPRs, i.e. the difference in AVD payment between the old and new rates will be refunded. Striking a balance between addressing the practical needs of the public and safeguarding the effectiveness of the measures, we propose to specify the "six-month" timeframe under the current arrangement in the Bill be adjusted to commence from the conveyance on sale instead of the agreement for sale and purchase of the newly acquired property. We believe the above formulation can address the replacement needs of both owners who acquire existing stocks and uncompleted flats. The refund criterion is applicable across the board, clear and fair. It is easy for public understanding and facilitates effective administration by the Inland Revenue Department (IRD).

In the light of the above arrangement, we also propose a slight modification to the "two-year" timeframe for application to IRD for stamp duty refund as specified in the Bill. While maintaining the two-year application timeframe after the execution of an agreement for sale and purchase of the newly acquired property, we propose to include a new clause to allow for application within two months from the conveyance on sale of the original residential property, whichever is the later. This is meant to enable buyers of changing properties, including those who acquire uncompleted flats, to apply for refund after completion of transactions to cater for actual circumstances.

Acquisition of a residential property with a car parking space

The second adjustment is related to the exemption arrangement in respect of acquisition of a residential property with a car parking space. In accordance with the Bill and the prevailing practice by the Stamp Office, when a HKPR acting on his or her behalf in acquiring a residential property and a car parking space by a single instrument, the concerned residential property in the transaction can be exempted from the doubled AVD while the car parking space will not be exempted given that it is a non-residential property.

Striking a balance between the prevailing stamp duty regime on property, addressing the home ownership needs of the public and safeguarding the effectiveness of the measures, we consider the need to uphold the spirit of providing the current exemption to residential properties and in doing so to cater along the need of those in acquiring a residential property and a car parking space by a single instrument by exempting the car parking space from the doubled AVD. The exemption shall be stringently drawn up with the following conditions:

- (a) the buyer is a HKPR who is acting on his or her behalf and is not a beneficial owner of any other residential property and car parking space in Hong Kong at the time of acquisition of the concerned residential property and car parking space;
- (b) the concerned exemption is restricted to one car parking space, irrespective of whether the car parking space is acquired for self-use or by a first-time buyer; and
- (c) the concerned car parking space must be acquired together with the residential property in a single instrument, irrespective of whether the car parking space is located in the same residential development. If the single instrument involves more than one car parking space, all the car parking spaces will not be exempted even if they are purchased jointly with the residential property.

To implement the above two adjustment proposals, the Government will submit Committee Stage Amendments in due course.

The two adjustment proposals mentioned just now are only technical in nature which are meant to address the home ownership needs of HKPRs, and are consistent with our policy and intent. The proposed two adjustment proposals do

not represent any relaxation on the existing demand-side management measures. I do not wish to see any speculation by the public or market players. Neither should they doubt the Government's determination in this regard. We are determined to uphold the existing policy and safeguard the healthy and stable development of the property market.

Sunset clause

The Government does not agree to include a sunset clause in the Bill as proposed by individual Members. As the Government has pointed out repeatedly, we cannot willfully predict future market changes and various external factors and come up with a date as to when the demand-side management measures would no longer be applicable. Therefore, any prescribed sunset clause will only disseminate erroneous messages to the market and fuel demand, thus affecting the effectiveness of the measures.

Having said that, the absence of sunset clause does not mean that we will ignore the market situation. The Government will continue to closely monitor the property market and changes in the external factors, take appropriate measures, including making timely adjustment to the measures with a view to safeguarding the healthy and stable development of the property market. Thus, I undertake that the Government will conduct a review and report to the Legislative Council one year after the enactment of the legislation.

Conclusion

Chairman, I will stop at here first. I and my colleagues will be pleased to listen to the views of Members and respond to Members' questions. Thank you.

Ends