



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

3 April 2017

Clerk to Bills Committee on
Stamp Duty (Amendment) Bill 2017
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Attention: Mr. Desmond Lam

Dear Sir,

Stamp Duty (Amendment) Bill 2017

We thank you for your letter of 1 March and as requested, would like to present the following as our comments on the subject Bill for the consideration of the Bills Committee.

Since the first round of Special Stamp Duty introduced in 2010, REDA has pointed out repeatedly to successive Bills Committees the fallacies of these demand management measures but regrettably our voice so far has turned out to be that proverbial lone voice in the wilderness, falling on deaf ears. We believe history is the best arbiter -- should any one of those "extraordinary measures under exceptional circumstances" be effective in any way, there should be no need for a second round, then a third round and now this fourth round!

We found it perplexing to see our Government being so determined to risk Hong Kong's hard-earned reputation as one of the freest economies of the world by applying over and over a wrong medicine, in the form of these demand management measures, to an ailment caused by excessive liquidity on a global scale fuelling a rush from cash holdings to brick and mortar, and on the homefront a shortage of housing supply resulting from Government's failure to deliver an adequate supply of land to the market in the recent past. To any unbiased observer, a reversal of both trends is beginning to take shape as there are clear writings to



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

that effect on the wall. Introducing a new round of interventionist measures at this juncture is not very prudent, to say the least.

Under successive rounds of demand management measures and with a restrictive mortgage lending policy prevailing, first time buyers have effectively been barred from entering the housing market. This cannot be an intended outcome as our Government is keen on encouraging home ownership. Instead of putting up another round of demand management measures which from past experience only proved to be distorting the market, should the Government be seriously considering a special concessionary rate in the ad valorem stamp duty payable by those first time buyers who are Hong Kong Permanent Residents, trusting this is a segment to which there is consensus in the community to lend a helping hand?

We acknowledge the legitimate concern that any concessionary measure is liable to abuse but believe this can be overcome by setting a reasonably low threshold for the consideration for the property to be eligible. We would even venture to propose that the loan-to-value ratio of the mortgages for the group of buyers can be relaxed to 90%, with the excess portion from the normal HKMA lending parameters to be covered by mortgage insurance at a nominal premium, which is perfectly do-able if the Government is prepared to back it up with just a fraction of the windfall in stamp duty collected through these “extraordinary” measures.

Having commented on the principles, we now turn to some of the technical issues.

1. Exemptions

We would propose that those exemptions provided under the existing DSD regime shall be maintained:

- Under the DSD regime, the transfer of a mortgaged residential property to the mortgagee which is a financial institution according to the definition under section 2 of the Inland Revenue Ordinance (“IRO”) will only be subject to payment of AVD at Scale 2. This exemption should be maintained.
- Further, to assist purchasers with their upfront financing, developers would usually offer them first mortgage and/or second mortgage, yet due to the definition of “financial institution” under section 2 of IRO, finance companies associated with developers are excluded and therefore fall beyond the scope



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

of exemption. We would propose that exemption should be provided for all the mortgagees regardless of whether they fall within the definition of financial institution under IRO.

2. Refund Mechanism

We would propose that the existing DSD refund mechanism for HKPR-purchasers replacing their single residential property shall be maintained and that some refinements should be introduced to ease purchasers of their burden:

- Under the current DSD regime, a HKPR-purchaser who is acquiring a residential property ("2nd Property") to replace his only other residential property ("1st Property") can apply for partial refund of AVD paid for acquiring the 2nd Property provided that the 1st Property has been disposed of within 6 months from the date of acquisition of the 2nd Property. This 6-month window is too short and will subject purchasers to undue time pressure, thereby limiting their range of choices. A longer period of say 24 months should be allowed for disposal of the 1st Property.
- It is common for a purchaser to own more than one residential property for occupation of all family members. Such purchasers are not eligible for the partial refund of AVD for purchasing a new residential property for replacement of all his existing residential properties. To account for this genuine need, we propose that partial refund should be allowed for this type of purchasers, provided that he shall dispose of all his existing residential properties within the time limit after acquisition of the new residential property.
- As well, a HKPR-purchaser must pay the proposed new flat rate AVD at the outset for acquiring the 2nd Property and can only apply for the partial refund after disposal of the 1st Property within the time limit. In order to ease the financial burden, deferred payment of AVD should be allowed such that the HKPR-purchaser will only need to pay AVD at Scale 2 at the time of acquisition of the 2nd Property, and the payment of the remaining balance of AVD (i.e. difference of the AVD computed at the new flat rate and Scale 2) shall be deferred to such time when the 1st Property is not disposed within the prescribed timeframe.



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

3. Incorrect Declaration by Purchasers

Under the Stamp Duty Ordinance, the vendor and the purchaser are jointly and severally liable to the payment of AVD. Under the DSD regime, there is a provision that if AVD has been charged at Scale 2 based on the purchaser's declaration which is subsequently found out to be not correct, only the purchaser is liable to the payment of the difference. The same provision for incorrect declaration should also apply with the new AVD flat rate, such that only the purchaser is liable for the payment of the difference.

Yours sincerely

Louis Loong
Secretary General