

LCQ7: Taxation mechanism for demand-side management measures for the property market

Following is a question by the Hon Jeffrey Lam and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 3):

Question:

Since November 5, 2016, the Government raised the ad valorem stamp duty (AVD) chargeable to residential property transactions across the board to a flat rate of 15 per cent (i.e. Part 1 of Scale 1 rate). Nevertheless, Hong Kong permanent resident (HKPR) buyers who do not own any other residential property in Hong Kong at the time of acquisition of the residential property are allowed to pay AVD at the original rates (i.e. Scale 2 rates), which are lower. Besides, a HKPR who replaces his/her only residential property in Hong Kong by first acquiring a new property before disposing of the original property may apply for a refund of the difference between the AVD amount computed at 15 per cent and that at the original rate, provided that the original property is sold within 12 months after acquiring the new property.

In this connection, will the Government inform this Council:

(1) given that in the last financial year (up to February 29 this year), among the residential property transactions which were subjected to AVD at Scale 2 rates, 77 per cent were transactions for properties of prices ranging from \$4 million to \$20 million, whether the Government has assessed if the buyers of such properties (quite a number of whom being first-time home buyers) found it burdensome to pay an AVD of \$150,000 to \$500,000 after making down payments; if it has assessed and the outcome is in the affirmative, whether it will consider lowering the rates;

(2) of the number of those applications for a partial refund of the AVD payment, in each of the past two financial years, which were approved or still being processed, the average amount of refund involved in such applications, and the average number of days between the execution of the instruments for a transaction on the property purchase to the submission of the AVD refund application by the applicant (with a tabulated breakdown by the group to which the property price/value belonged);

(3) whether it has reviewed if the arrangement whereby persons replacing their properties have to pay an AVD at a rate of 15 per cent first and then claim partial refund of AVD after disposing of their original properties has added financial burden to such persons and impeded the turnover of residential properties; and

(4) whether it will (i) review the effectiveness of the various demand-side

management taxation measures for the property market and their impacts on the property market and home-buyers, as well as (ii) consider adjusting such measures or establishing an adjustment mechanism?

Reply:

President,

Having consulted the Inland Revenue Department (IRD), my reply to the question is as follows:

(1) In order to accord priority to the home ownership needs of Hong Kong permanent residents (HKPRs) who do not own any residential property in Hong Kong, under the existing mechanism, if a buyer is a HKPR acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition, the relevant residential property transaction is subject to the lower ad valorem stamp duty (AVD) rates at Scale 2. Rates at Scale 2 are the original AVD rates before the introduction of the demand-side management measures by the Government. Depending on the consideration or value of the property (whichever is higher), rates at Scale 2 range from \$100 to 4.25 per cent of the consideration or value of the property.

In considering whether there is a need to adjust the stamp duty rates concerning residential properties, the Government must carefully take into account the impact of relevant arrangements on the property market as a whole. Any move to relax the demand-side management measures or to lower the stamp duty rates may be speculated by the market as a signal for adjustments to the Government's policy on the property market, which may result in further exuberance in the market. The relevant move may also stimulate demand for local residential properties from some citizens, and may lead to a counter-productive result of pushing up property prices when the current housing supply still lags behind demand. Therefore, the Government must act prudently to avoid sending a wrong message to the market.

(2) According to information provided by IRD, information on applications for partial refund of AVD in relation to replacement of residential properties in the past two financial years is set out at Annex.

(3) Under the existing mechanism of the New Residential Stamp Duty (NRSD), if a HKPR acquires a new residential property to replace his/her only original residential property, he/she has to pay the AVD at the NRSD rate of 15 per cent (i.e. Part 1 of Scale 1) in the first instance; he/she may apply to IRD within the statutory time limit for a partial refund of the AVD paid upon proof that his/her only original property has been disposed of within 12 months from the date of executing the assignment of the new residential property. The amount to be refunded is the difference between stamp duties computed at the rate of 15 per cent and the rates at Scale 2.

The Government understands that the existing mechanism of paying the relevant stamp duty in the first instance and claiming partial refund of stamp duty paid after disposing of the original property may increase the

acquisition costs for persons replacing their residential properties. That notwithstanding, if the relevant requirements are relaxed, it may invite some owners without genuine intention to dispose of their original properties to, under the guise of property replacement, defer payment of stamp duty or profit from holding more than one residential property for a longer period of time. This goes against the policy intent of introducing demand-side management measures and may create loopholes, thereby undermining the effectiveness of the measures in reducing investment demand for residential property. In formulating relevant mechanism, the Government has to strike a right balance between taking care of the practical needs of HKPRs in replacing their properties and safeguarding the effectiveness of the demand-side management measures.

(4) The Government has all along been closely monitoring the development and trend of the property market. The Government notices that since the introduction of various demand-side management measures, there have been effective results in combating short-term speculative activities, curbing external demand and reducing investment demand. The Government will, as always, remain vigilant and make reference to a series of indicators, including property prices, home purchase affordability ratio, property transaction volume, housing supply, local and global economic changes, etc., and take appropriate actions as and when necessary in response to market changes, with a view to ensuring a healthy development of the property market.