

HONG KONG TAX ALERT

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Stamp Duty Amendments Passed

Further stamp duty amendments, aimed at curtailing speculation in both residential and non-residential property markets, were eventually passed by the Legislative Council this week

Hong Kong legislators have passed the Stamp Duty (Amendment) Bill 2013 ("the Bill") to amend the Stamp Duty Ordinance (SDO) to double the rates of stamp duty on property transactions.

In February 2013, the Financial Secretary announced proposals for a range of "demand-side" management measures intended to manage the demand for residential properties and minimise the shift of investment speculation from the residential property market to the non-residential property market. The Bill was subsequently introduced into the Legislative Council ("LegCo") on 17 April 2013, but was the subject of intense scrutiny and lobbying by industry bodies and lawmakers.

The new measures increase the ad valorem stamp duty (AVD) rates on transactions in residential and non-residential properties and bring forward the charge of AVD from the conveyance on sale to the agreement for sale of non-residential property transactions.

The amendments to the SDO are:

- (a) Increase the AVD rates on transactions for residential and non-residential properties acquired on or after 23 February 2013 (except exemptions provided under the Bill) as follows:

<i>Consideration for purchase (HKD)</i>	<i>New rate under the Bill</i>	<i>Existing rate under the SDO</i>
Up to \$2,000,000	1.5%	\$100
\$2,000,001 to \$3,000,000	3.0%	1.5%
\$3,000,001 to \$4,000,000	4.5%	2.25%
\$4,000,001 to \$6,000,000	6.0%	3.00%
\$6,000,001 to \$20,000,000	7.5%	3.75%
\$20,000,001 and above	8.5%	4.25%

- (b) Charge AVD on agreements for the sale of non-residential properties, to bring it in line with the existing arrangement for residential property transactions.

Broadly, the new measures are applicable to all persons, except Hong Kong permanent residents buying residential properties but who do not own any residential property in Hong Kong at the date of agreement. There are only limited exceptions to the new charge.

The doubling of stamp duty applies to both residential and commercial property transactions. There was extensive lobbying for an amendment to carve out transactions of non-residential property where the properties were used within the buyers' own business and where the property was to be held for at least three years. Although this proposed amendment was not ultimately passed, the Financial Secretary did indicate that the new legislation would be reviewed within the coming 12 months to ascertain if any adjustments are necessary.

The new measures are deemed to have taken effect on 23 February 2013, the day immediately following the announcement on 22 February 2013. The Inland Revenue Department has been instructed to monitor all property transactions between 23 February 2013 and the gazette date of the amended SDO to ensure that all AVD under the new measures is collected from the solicitors who handled the relevant transactions.

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