FSTB(Tsy)041

(Question Serial No. 2219)

Head: (76) Inland Revenue Department

Subhead (No. & title):   ()

Programme: (1) Assessing Functions

Controlling Officer: Commissioner of Inland Revenue (WONG Kuen Fai)

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

1. According to the Stamp Duty Ordinance (SDO), the Central People's Government (CPG), the Government of HKSAR, any incorporated public officer or any person acting in his capacity as a public officer shall not be chargeable to stamp duty.   If the offices of the CPG acquire an immovable property through a subsidiary company in Hong Kong and the property concerned is used as staff quarters of the offices, remission of the stamp duty payable under section 52 of the SDO will be granted.   Please set out in a table the number of applications for remission of stamp duty submitted to the Financial Services and the Treasury Bureau and the figures on vetting such applications since 2012.

2. Regarding the properties acquired by the offices of the CPG in Hong Kong (including their subsidiaries and public officers) which were granted the remission of stamp duty, please set out in a table the respective numbers and geographical distribution of such properties in each year since 2012.

Asked by: Hon MO Claudia (LegCo internal reference no.: 48)

Reply:

Under section 41(1) of the Stamp Duty Ordinance (SDO), the Central People's Government (CPG), the Government of the Hong Kong Special Administrative Region (HKSAR) or any incorporated public officer or any person acting in his capacity as a public officer shall not be liable for the payment of stamp duty chargeable on any instrument.   Therefore, the CPG is exempt from the payment of stamp duty for the acquisition of properties in Hong Kong. Before Hong Kong's return to China, the same exemption was also available to the British Government for the acquisition of properties in Hong Kong.   Furthermore, under section 52(1) of the SDO, the Chief Executive may remit, wholly or in part, the stamp duty payable;

or refund, wholly or in part, the stamp duty paid, in respect of any instrument chargeable with stamp duty.

The organs of the CPG in Hong Kong are exempt from the payment of stamp duty for the acquisition of properties in Hong Kong under section 41 of the SDO. There is no specified condition for such exemption. Where a CPG's organ in Hong Kong acquires a local property through its subsidiary company, section 41 is not directly applicable. With reference to the principles of section 41, the HKSAR Government will apply section 52(1) to remit the stamp duty chargeable on the relevant transaction instrument. To ensure the consistency of the exemption arrangement, remission of stamp duty on transaction instruments is granted under section 52(1) of the SDO for local properties acquired either by the CPG's organs in Hong Kong or through their subsidiary company.

Information of stamp duty remission accorded to the CPG's organs in Hong Kong or their subsidiary company in respect of local properties they acquired between the financial years 2015-16 and 2019-20 is tabulated as follows:

Financial Year	Organizations	Stamp duty involved ($ million)	No. of immovable properties involved	District
2015-16	Ministry of Commerce of the People's Republic of China	3.6	8	3 (Southern) 5 (Eastern)
	Subsidiary company of a CPG's organ in Hong Kong	15.6	15	5 (Central and Western) 10 (Sha Tin)
2016-17	Subsidiary company of a CPG's organ in Hong Kong	8.4	8	6 (Central and Western) 2 (Kowloon City)
2017-18	-	0	0	0
2018-19	Subsidiary company of a CPG's organ in Hong Kong	47.9	25	23 (Central and Western) 2 (Sha Tin)
2019-20 (As at 29 February 2020)	Subsidiary company of a CPG's organ in Hong Kong	80.4	22	2 (Central and Western) 20 (Kwun Tong)

Note: To ensure quality and timely response to the question, we only provide the relevant information for the past five years.

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