

PKF Hong Kong Tax Newsletter (December 2020)

Abolition of Doubled Ad Valorem Stamp Duty on Non-residential Property Transactions

On 25 November 2020, the Chief Executive of the HKSAR announced in her Policy Address the introduction of the Stamp Duty (Amendment) Bill 2020 (“the Bill”) to abolish the Doubled Ad Valorem Stamp Duty (“DSD”) on non-residential property transactions. The Bill proposes that, subject to the enactment of the Bill by the Legislative Council (“LegCo”), any instruments executed on or after 26 November 2020 in respect of the sale and purchase or transfer of non-residential properties would be subject to a lower scale of DSD rates, meaning that the maximum DSD rate is reduced from 8.5% to 4.25% for these kinds of property transactions (Please refer to Table 1 for details). The proposed amendment does not apply to residential properties.

DSD was originally a tax measure introduced in 2013 to reduce the demand for non-residential properties with a view to maintaining stability in the property market. That was a time where hiked prices and hectic trading activities defined the demand for non-residential properties.

Since 2019, Hong Kong has been stricken with economic decline and uncertainty in the wake of the COVID-19 pandemic. With the continuous downward trend in the prices and transaction volume of non-residential properties, the HKSAR Government considered it is now the appropriate time to abolish DSD as a demand-side management measure. It is believed that the abolition of DSD could facilitate commercial sale of local non-residential properties by businesses that are encountering financial or liquidity problems as a result of the economic downturn, mitigating the impact of the pandemic on Hong Kong's economy.

To allow owners of non-residential properties to benefit from the abolition of DSD as soon as possible, the Chief Executive has made the Public Revenue Protection (Stamp Duty) Order 2020 (the Order) by exercising her statutory powers to give full force and effect of law to the Bill as long as the Order remains in force. The combined effect of the Bill and the Order is that any instruments for non-residential property transactions executed on or after 26 November 2020 will generally be charged with AVD at the lower rates (the Scale 2) pending the scrutiny of the bill by the LegCo. The Government aims to have the Bill passed by the LegCo before the Order ceases to have effect on 26 March 2021.

PKF's View

Under the former DSD rules, enterprises which have financial difficulty or liquidity needs may be reluctant to sell their commercial properties because of the high transaction cost especially including the DSD payable on such transfer. The abolition of DSD is a welcomed government measure that has reduced the transaction cost and opened up the option for enterprises to sell their commercial properties for cash to fund their daily operations. This may also help to increase the transaction volume and facilitate those investors with a positive long-term outlook to enter into the commercial property market.

Consideration or value of the property (whichever is the higher)	Rates (Subject to the enactment of the relevant amendment bill by the Legislative Council)
Up to \$2,000,000	\$100
\$2,000,001 to \$2,351,760	\$100+10% of the excess over \$2,000,000
\$2,351,761 to \$3,000,000	1.50%
\$3,000,001 to \$3,290,320	\$45,000+10% of the excess over \$3,000,000
\$3,290,321 to \$4,000,000	2.25%
\$4,000,001 to \$4,428,570	\$90,000+10% of the excess over \$4,000,000
\$4,428,571 to \$6,000,000	3.00%
\$6,000,001 to \$6,720,000	\$180,000+10% of the excess over \$6,000,000
\$6,720,001 to \$20,000,000	3.75%
\$20,000,001 to \$21,739,120	\$750,000+10% of the excess over \$20,000,000
\$21,739,121 and above	4.25%

Table 1. AVD rates for any instrument executed on or after 26 November 2020 for the sale and purchase or transfer of non-residential properties

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