

LEGISLATIVE COUNCIL BRIEF

Stamp Duty Ordinance
(Chapter 117)

STAMP DUTY (AMENDMENT) (NO. 2) BILL 2023

INTRODUCTION

At the meeting of the Executive Council on 28 March 2023, the Council ADVISED and the Chief Executive ORDERED that the Stamp Duty (Amendment) (No. 2) Bill 2023 (the Bill) at **Annex A** should be introduced into the Legislative Council (LegCo).

2. The introduction of the Bill aims to implement a measure to trawl for talents as announced in the 2022 Policy Address by introducing a refund mechanism (Proposed Refund Mechanism) under the Buyer's Stamp Duty (BSD) and New Residential Stamp Duty (NRSD) regimes for non-Hong Kong permanent residents (non-HKPRs) who have entered Hong Kong under designated talent admission schemes, purchased a residential property in Hong Kong on or after 19 October 2022 and subsequently become Hong Kong permanent residents (HKPRs).

JUSTIFICATIONS

BSD and NRSD payable by Non-HKPRs

3. BSD and NRSD were introduced in October 2012 and November 2016 respectively, as part of the demand side management measures to curb external demand and reduce investment demand respectively, thereby stabilising the residential property market and according priority to the home ownership needs of HKPRs. Generally speaking, BSD applies to all residential property transactions except for those acquired by a HKPR acting on his or her own behalf; while NRSD applies to all residential property transactions except for those acquired by a HKPR acting on his or her own behalf and not owning any other residential property in Hong

Kong at the time of acquisition. Both BSD and NRSD are charged at a flat rate of 15% of the amount or value of the consideration. In other words, acquisitions of residential property by non-HKPRs are currently subject to a stamp duty of 30% (i.e. BSD at 15% and NRSD at 15%)¹. BSD and NRSD continue to remain effective in curbing external demand and investment demand of residential properties. For instance, in 2022, the number of residential property transactions involving non-local individuals and non-local companies stayed low at 0.5% of the total transactions, which was much lower than the 4.5% before the introduction of BSD (i.e. from January to October 2012). Meanwhile, among residential property transactions in 2022 where buyers were HKPRs, about 97% of the cases involved buyers who did not own any other residential property in Hong Kong at the time of acquisition, which was significantly higher than the 75% before the introduction of NRSD (i.e. from January to November 2016).

Attracting and Retaining Incoming Talents

4. Over the past two years, the local workforce shrank by about 140 000. Apart from nurturing and retaining local talents on an ongoing basis, the Government has been proactively competing for talents all over the world to enrich our talent pool, with a view to injecting impetus to the growth of Hong Kong. In this connection and among other talent attraction measures, the Government will introduce the Proposed Refund Mechanism to attract incoming talents to stay in Hong Kong for long-term development by substantially reducing their cost of property purchase, as talents who have a residential property in Hong Kong would have a higher propensity of staying here for good. To this end, the Proposed Refund Mechanism will enable non-HKPR talents who have acquired residential properties and subsequently become HKPRs upon residing in Hong Kong for at least seven years to enjoy the same stamp duty rate on par with that accorded to first-time home buyers who are HKPRs.

Proposed Refund Mechanism

5. We propose that for an eligible incoming talent who acquired a residential property in Hong Kong on or after 19 October 2022 (i.e. the date of announcement of the 2022 Policy Address) and has subsequently

¹ Currently, both HKPRs and non-HKPRs are subject to the Special Stamp Duty if they acquire a residential property on or after 27 October 2012 and sell it within 36 months from the date of acquisition. The rate is 20%, 15% or 10% of the amount or value of the consideration, depending on the duration of which the property has been held.

become HKPR, he/she can apply for a refund of the BSD and NRSD paid for the residential property which, at the time it was purchased, was his/her only residential property (save for replacing property as detailed in paragraph 7(c) below) and he/she still holds on the date of the application for refund. The Ad Valorem Stamp Duty (AVD) at Scale 2 rates (i.e. the rates applicable to first-time home buyers who are HKPRs) will still be payable such that the overall stamp duty charged will be on par with that charged on first-time home buyers who are HKPRs.

6. Eligible incoming talents are those who enter Hong Kong under designated talent admission schemes, namely the General Employment Policy, Admission Scheme for Mainland Talents and Professionals, Quality Migrant Admission Scheme, Immigration Arrangements for Non-local Graduates, Technology Talent Admission Scheme, Admission Scheme for the Second Generation of Chinese Hong Kong Permanent Residents and the newly launched Top Talent Pass Scheme.

7. We consider that the Proposed Refund Mechanism should not encourage eligible incoming talents to make property speculation. Also, the stamp duty treatment for eligible incoming talents should not be more favourable than that for HKPRs. Based on these considerations, we propose that the Proposed Refund Mechanism be implemented according to the following framework, as incorporated in the Bill –

- (a) the Proposed Refund Mechanism would only apply to a residential property in Hong Kong acquired² on or after 19 October 2022 by an eligible incoming talent solely, or jointly with other eligible incoming talent(s), or jointly with non-HKPR closely related person(s)³ who may not be (an) eligible incoming talent(s);
- (b) at the time of acquisition of the residential property, the eligible incoming talent, as the sole buyer or one of the co-buyers, was permitted to stay in Hong Kong by virtue of being a person to

² Under section 29AF of the Stamp Duty Ordinance (Cap. 117, SDO), the date of acquisition of an immovable property by a person is the date of the agreement for sale and purchase (ASP). However, if more than one such agreement is made between the same parties and on the same terms in respect of the property (i.e. preliminary ASP (PASP) and ASP), it is the date of the first of those agreements (i.e. PASP).

³ To adopt the definition of “closely related persons” under section 29AD of the SDO. Two persons are closely related if one person is the parent, spouse, child, brother or sister of the other person. If there are more than two persons, they are closely related if each of the persons is a parent, spouse, child, brother or sister of each of the other persons.

whom a specified scheme applies (i.e. a scheme as listed in paragraph 6 above);

- (c) at the time of acquisition of the residential property, the eligible incoming talent as the sole buyer, or each of the co-buyers, must not be a beneficial owner of any other residential property in Hong Kong (unless the other residential property then owned by the eligible incoming talent or one or more than one of the co-buyers of the subsequent residential property subject to the Proposed Refund Mechanism, is the only residential property in Hong Kong held by him/her/them and he/she/they can produce documentary proof that he/she/they has/have disposed of that original residential property within 12 months after the date of the assignment of the subsequent residential property (i.e. a case of replacing property))⁴;
- (d) the eligible incoming talent can only apply for refund after becoming a HKPR or, if applicable, after every person who is a co-buyer of the initial acquisition⁵ and who remains a beneficial owner⁶ of the residential property concerned has become HKPR;
- (e) at the time of application for refund, the eligible incoming talent, or if applicable, at least one of the eligible incoming talents who is a co-buyer of the initial acquisition, must still be the beneficial owner(s) of the residential property concerned;

⁴ Reference is made to the existing arrangement for NRSD whereby a HKPR who is acquiring a residential Property B to replace his/her only other residential Property A can apply for partial refund of NRSD paid for acquiring Property B. He/she will be subject to NRSD in the first instance, but by virtue of section 29DF of the SDO, he/she may seek a refund of the stamp duty paid in excess of that computed under the lower AVD rates at Scale 2 upon proof that Property A has been disposed of within 12 months from the date Property B was assigned to him/her.

⁵ To cater for potential changes in property ownership arising from the talent(s)' personal or family circumstances (e.g. getting married) during their stay in Hong Kong before becoming HKPR, a talent should still be entitled to apply for stamp duty refund even if there are subsequent changes to the property ownership after initial acquisition, provided that the changes involve only closely related person(s) of the talent and the talent remains a beneficial owner of the subject property on the date of refund application.

⁶ According to section 29AC of the SDO, beneficial owner, in relation to a residential property, includes a purchaser under an agreement for sale of the property that is subsisting. We suggest using "beneficial owner" here to cover also the scenario where an eligible incoming talent acquires a residential property under development and becomes a HKPR when the property is still under construction. In such case, he/she can still submit an application for refund even though he/she has not yet executed an assignment for completion of the transaction of the property.

- (f) the eligible incoming talent, as a sole buyer or as one of the co-buyers of the residential property concerned, can only apply for refund in respect of one residential property;
- (g) the refund of stamp duty is not applicable if the eligible incoming talent has acquired multiple residential properties under a single instrument⁷;
- (h) the Inland Revenue Department will only start accepting refund applications after gazettal of the new legislation that provides for the Proposed Refund Mechanism⁸; and
- (i) any subsequent amendment to the scope of the designated talent admission schemes would be made by means of subsidiary legislation through the negative vetting procedure.

THE BILL

8. The main provisions of the Bill are as follows –
- (a) **Clause 1** sets out the short title and provides that the Bill, when enacted, is deemed to have come into operation on 19 October 2022.
 - (b) **Clause 3** adds a new Division 6A to Part IIIA of the SDO in which new sections 29DI, 29DJ, 29DK and 29DL are included. The new section 29DI provides for the interpretation of terms used in the new Division 6A. The new section 29DJ specifies

⁷ The Stamp Duty (Amendment) (No. 2) Ordinance 2018 was enacted to tighten up the circumstances in which AVD at Scale 2 rates are applicable to HKPRs where the acquisition is for a single residential property under one instrument. Likewise, we suggest that the same restriction should also be applicable to non-HKPR eligible incoming talents.

⁸ Depending on the circumstances of individual cases, the deadline for application for refund would be –

- (i) six months after the date of gazettal of the new legislation;
- (ii) six months after the date when the talent became HKPR, or the date when the person who, among the co-buyers of the initial acquisition and who remains a beneficial owner of the residential property concerned, last became HKPR did so;
- (iii) in the case of replacing property, two years after the date of the instrument under which a single residential property is acquired and the BSD and NRSD concerned had been paid (i.e. the property eligible for refund); or
- (iv) in the case of replacing property, two months after the date of the conveyance on sale under which the original property owned by the talent or co-buyer(s) is transferred or divested within the specified period,

whichever is the latest.

the conditions under which a person who was admitted into Hong Kong as a Hong Kong resident under a designated talent admission scheme and who had paid stamp duty for a residential property can apply for a refund of stamp duty from the Collector of Stamp Revenue. The new section 29DK relaxes in certain specific circumstances one of the refund conditions, which is that the applicant must not own any other residential property when acquiring the residential property concerned. The new section 29DL provides for the deadline for the application for refund;

- (c) **Clause 4** adds a new section 63B to the SDO to empower the Financial Secretary to amend the list of talent admission schemes designated for the Proposed Refund Mechanism by way of publishing in the Gazette a notice which is subsidiary legislation; and
- (d) **Clause 6** adds a new Schedule 12 to the SDO, which contains the list of talent admission schemes designated for the Proposed Refund Mechanism.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be as follows –

Publication in the Gazette	6 April 2023
First Reading and commencement of Second Reading debate	19 April 2023
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

10. The economic, productivity, financial, family, civil service implications of the proposal are set out at **Annex B**. The proposed legislative amendments will not affect the current binding effect of the Ordinance. It has no environmental, gender or sustainability implications

(other than the relevant economic implications). It is in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

11. Owing to market sensitivity of the refund proposal, no public consultation was carried out prior to its announcement in the 2022 Policy Address on 19 October 2022. In formulating the refund proposal, we have taken into account views from society on the pressing need to attract and retain incoming talents for the long-term growth and sustainability of Hong Kong, which include specific suggestion to provide partial stamp duty refund for residential property purchased by incoming talents who are non-HKPR. Following the announcement of the refund proposal, the Government briefed the LegCo Panel on Manpower at the meeting on 15 November 2022 and the Human Resources Planning Commission on 8 November 2022 on the refund proposal, among other talent attraction initiatives under the 2022 Policy Address. Members did not make any specific comment on the refund proposal.

PUBLICITY

12. A press release on the Bill will be issued on 6 April 2023. A spokesman will be available to handle media and public enquiries.

ENQUIRIES

13. Enquiries on this brief can be addressed to Miss Venus TSOI, Principal Assistant Secretary for Housing (Private Housing), at 2761 5117.

Housing Bureau
4 April 2023

Stamp Duty (Amendment) (No. 2) Bill 2023

Contents

Clause	Page
1. Short title and commencement.....	1
2. Stamp Duty Ordinance amended.....	1
3. Part IIIA, Division 6A added	1
Division 6A—Refund of Certain Amounts of Stamp Duty for Hong Kong Permanent Residents Admitted into Hong Kong under Certain Admission Schemes	
29DI. Interpretation.....	2
29DJ. Application for refund.....	3
29DK. Applicants or co-buyers regarded as not being beneficial owners of other residential properties in certain circumstances	7
29DL. Deadline for application.....	10
4. Section 63B added	11
63B. Amendment of Schedule 12.....	11
5. First Schedule amended	11
6. Schedule 12 added	12
Schedule 12 Schemes Specified for Division 6A of Part IIIA	12

A BILL

To

Amend the Stamp Duty Ordinance to provide for a mechanism under which persons who are admitted into Hong Kong as Hong Kong residents under certain admission schemes and who acquire residential properties not as Hong Kong permanent residents may be refunded certain amounts of ad valorem stamp duty and buyer’s stamp duty if those persons subsequently become Hong Kong permanent residents.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Stamp Duty (Amendment) (No. 2) Ordinance 2023.
- (2) This Ordinance is deemed to have come into operation on 19 October 2022.

2. Stamp Duty Ordinance amended

The Stamp Duty Ordinance (Cap. 117) is amended as set out in sections 3 to 6.

3. Part IIIA, Division 6A added

Part IIIA, after Division 6—

Add

“Division 6A—Refund of Certain Amounts of Stamp Duty for Hong Kong Permanent Residents Admitted into Hong Kong under Certain Admission Schemes

29DI. Interpretation

In this Division—

applicable instrument (適用文書) means an instrument—

- (a) under which a single residential property is acquired; and
- (b) on which—
 - (i) buyer’s stamp duty had been paid; and
 - (ii) stamp duty had been paid according to Part 1 of Scale 1 of head 1(1), or Part 1 of Scale 1 of head 1(1A), in the First Schedule;

applicant (申請人), in relation to an application made under section 29DJ(1), means the person who makes the application;

co-buyer (共同買家), in relation to an application made under section 29DJ(1), means—

- (a) the applicant; or
- (b) any other person who, jointly with the applicant, acquired the subject property as mentioned in section 29DJ(1)(b)(ii);

remaining co-buyer (餘下共同買家), in relation to an application made under section 29DJ(1), means a co-buyer who, on the date of the application, remains a beneficial owner of the subject property concerned;

subject property (標的物業), in relation to an applicable instrument, means the residential property acquired under the instrument.

29DJ. Application for refund

- (1) Subject to sections 29DK and 29DL, the Collector may, on an application made by a person who had paid stamp duty on an applicable instrument, refund the specified amount to the person if it is shown to the satisfaction of the Collector that—
 - (a) the date of the person’s acquisition of the subject property falls on or after 19 October 2022; and
 - (b) in relation to the person—
 - (i) if the person alone acquired the subject property under the instrument—the conditions specified in subsection (2) are met; or
 - (ii) if the person, jointly with one or more than one other person, acquired the subject property under the instrument—the conditions specified in subsection (3) are met.
- (2) The conditions specified for subsection (1)(b)(i) are—
 - (a) that on the date of the applicant’s acquisition of the subject property—
 - (i) the applicant was acting on his or her own behalf; and
 - (ii) the applicant was covered by a specified scheme;
 - (b) that the applicant—
 - (i) was not a beneficial owner of any other residential property in Hong Kong on the date of the applicant’s acquisition of the subject property; and
 - (ii) is not a vendor under an agreement for sale of any other residential property in Hong Kong—

- (A) that was made before the date of the applicant's acquisition of the subject property; and
- (B) that is unperformed, or otherwise remains outstanding, on the date of the application;
- (c) that on the date of the application—
 - (i) the applicant remains a beneficial owner of the subject property; and
 - (ii) no person other than one who falls within the following descriptions is a beneficial owner of the subject property in addition to the applicant—
 - (A) the person is closely related to the applicant; and
 - (B) the person was acting on his or her own behalf on the date of his or her acquisition of the subject property; and
- (d) that the applicant has after the date of the applicant's acquisition of the subject property become, and on the date of the application remains, a Hong Kong permanent resident.
- (3) Subject to subsection (4), the conditions specified for subsection (1)(b)(ii) are—
 - (a) that on the date of the co-buyers' acquisition of the subject property—
 - (i) each of the co-buyers was acting on his or her own behalf; and
 - (ii) each of the co-buyers was covered by a specified scheme;

- (b) that each of the co-buyers—
 - (i) was not a beneficial owner of any other residential property in Hong Kong on the date of the co-buyers' acquisition of the subject property; and
 - (ii) is not a vendor under an agreement for sale of any other residential property in Hong Kong—
 - (A) that was made before the date of the co-buyers' acquisition of the subject property; and
 - (B) that is unperformed, or otherwise remains outstanding, on the date of the application;
- (c) that on the date of the application—
 - (i) at least one co-buyer who was, on the date of the co-buyers' acquisition of the subject property, covered by a specified scheme (*specified co-buyer*) remains a beneficial owner of the subject property; and
 - (ii) no person other than one who falls within the following descriptions is a beneficial owner of the subject property in addition to the specified co-buyer—
 - (A) the person is closely related to all of the co-buyers; and
 - (B) the person was acting on his or her own behalf on the date of his or her acquisition of the subject property; and
- (d) that each of the remaining co-buyers has after the date of the co-buyers' acquisition of the subject

property become, and on the date of the application remains, a Hong Kong permanent resident.

- (4) If all the co-buyers were closely related on the date of their acquisition of the subject property, the condition specified in subsection (3)(a)(ii) is taken to be met so long as, on that date—
- (a) the applicant was covered by a specified scheme; and
- (b) each of the co-buyers other than the applicant was not a Hong Kong permanent resident.
- (5) In this section—

specified amount (指明款項), in relation to an applicable instrument, means the sum of the amounts under paragraphs (a) and (b)—

- (a) an amount equal to the difference between—
- (i) if the instrument is one on which stamp duty had been paid according to Part 1 of Scale 1 of head 1(1) in the First Schedule—the stamp duty so paid on the instrument and the stamp duty that would have been payable on the instrument if it were chargeable under Scale 2 of head 1(1) in the First Schedule in accordance with Division 2; or
- (ii) if the instrument is one on which stamp duty had been paid according to Part 1 of Scale 1 of head 1(1A) in the First Schedule—the stamp duty so paid on the instrument and the stamp duty that would have been payable on the instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule in accordance with Division 3;

- (b) the amount of buyer's stamp duty paid on the instrument;

specified scheme (指明計劃) means a scheme (including a policy or arrangement) that is specified in Schedule 12.

- (6) For the purposes of this section, a person is covered by a specified scheme if the person, despite not being a Hong Kong permanent resident, is permitted to stay in Hong Kong by virtue of being a person to whom a specified scheme applies.
- (7) In subsection (6), the reference to a person's being permitted to stay in Hong Kong is a reference to the person's being permitted to stay in Hong Kong pursuant to the exercise of a power under the Immigration Ordinance (Cap. 115).
- (8) For the purposes of this section—
- (a) an agreement for sale of a residential property is unperformed if the agreement is cancelled, annulled or rescinded or is otherwise not performed; and
- (b) such an agreement remains outstanding if the agreement provides for the conveyance of the residential property concerned but the conveyance is not yet executed.

29DK. Applicants or co-buyers regarded as not being beneficial owners of other residential properties in certain circumstances

- (1) Subsection (2) applies if section 29DJ(1)(b)(i) is relied on in making an application under section 29DJ(1).
- (2) Even if, on the date of the applicant's acquisition of the subject property concerned, the applicant was a beneficial owner of another residential property in Hong Kong

(*original property A*), the applicant is, for the purposes of section 29DJ(2)(b)(i), taken not to be a beneficial owner of original property A on that date if the conditions specified in subsection (3) are met.

- (3) The conditions specified for subsection (2) are—
- (a) that it is shown to the satisfaction of the Collector that—
- (i) original property A is—
- (A) disposed of by the applicant under an agreement for sale that is made within the period specified in subsection (7); and
- (B) transferred or divested from the applicant under a conveyance on sale that is executed in conformity with the agreement; or
- (ii) original property A is transferred or divested from the applicant under a conveyance on sale within the period specified in subsection (7);
- (b) that it is shown to the satisfaction of the Collector that, but for the subject property and original property A, the applicant would not be a beneficial owner of any residential property in Hong Kong on the date of the applicant's acquisition of the subject property; and
- (c) that no refund has been made under this Division in respect of original property A.
- (4) Subsection (5) applies if section 29DJ(1)(b)(ii) is relied on in making an application under section 29DJ(1).
- (5) Even if, on the date of the co-buyers' acquisition of the subject property concerned, any one of the co-buyers was a beneficial owner of another residential property in Hong

Kong (*original property B*), that co-buyer is, for the purposes of section 29DJ(3)(b)(i), taken not to be a beneficial owner of original property B on that date if—

- (a) where that co-buyer is a remaining co-buyer—the conditions specified in subsection (6)(a), (b) and (c) are met; or
- (b) in any other case—the condition specified in subsection (6)(b) is met.
- (6) The conditions specified for subsection (5) are—
- (a) that it is shown to the satisfaction of the Collector that—
- (i) original property B is—
- (A) disposed of by the co-buyer under an agreement for sale that is made within the period specified in subsection (7); and
- (B) transferred or divested from the co-buyer under a conveyance on sale that is executed in conformity with the agreement; or
- (ii) original property B is transferred or divested from the co-buyer under a conveyance on sale within the period specified in subsection (7);
- (b) that it is shown to the satisfaction of the Collector that, but for the subject property and original property B, each of the co-buyers would not be a beneficial owner of any residential property in Hong Kong on the date of the co-buyers' acquisition of the subject property; and

- (c) that no refund has been made under this Division in respect of original property B.
- (7) The period specified for the purposes of subsections (3)(a)(i)(A) and (ii) and (6)(a)(i)(A) and (ii) is—
- (a) if the applicable instrument is a conveyance on sale—12 months after the date of the conveyance; or
- (b) if the applicable instrument is an agreement for sale—12 months after the date of the conveyance on sale executed in conformity with the agreement.

29DL. Deadline for application

No refund may be made under this Division if the application for refund is made after—

- (a) subject to paragraph (b), 6 months after—
- (i) the date on which the Stamp Duty (Amendment) (No. 2) Ordinance 2023 (of 2023) is published in the Gazette; or
- (ii) the date on which—
- (A) if section 29DJ(1)(b)(i) is relied on in making the application—the applicant became a Hong Kong permanent resident; or
- (B) if section 29DJ(1)(b)(ii) is relied on in making the application—the person who, among the remaining co-buyers, last became a Hong Kong permanent resident became such a resident,
- whichever is the later; or
- (b) if section 29DK is relied on in making the application—

- (i) 6 months after the date mentioned in paragraph (a)(i);
- (ii) 6 months after the date mentioned in paragraph (a)(ii);
- (iii) 2 years after the date of the applicable instrument; or
- (iv) 2 months after the date of the conveyance on sale under which—
- (A) if section 29DJ(1)(b)(i) is relied on in making the application—original property A is transferred or divested as mentioned in section 29DK(3)(a); or
- (B) if section 29DJ(1)(b)(ii) is relied on in making the application—original property B is transferred or divested as mentioned in section 29DK(6)(a),
- whichever is the latest.”.

4. Section 63B added

After section 63A—

Add

“63B. Amendment of Schedule 12

The Financial Secretary may, by notice published in the Gazette, amend Schedule 12.”.

5. First Schedule amended

First Schedule, within the square brackets, after “29DH,”—

Add

“29DI, 29DJ,”.

6. Schedule 12 added

At the end of the Ordinance—

Add**“Schedule 12**

[ss. 29DJ & 63B]

Schemes Specified for Division 6A of Part IIIA

Column 1	Column 2
Item	Scheme
1.	General Employment Policy
2.	Admission Scheme for Mainland Talents and Professionals
3.	Quality Migrant Admission Scheme
4.	Immigration Arrangements for Non-local Graduates
5.	Technology Talent Admission Scheme
6.	Admission Scheme for the Second Generation of Chinese Hong Kong Permanent Residents
7.	Top Talent Pass Scheme”.

Explanatory Memorandum

The object of this Bill is to amend the Stamp Duty Ordinance (Cap. 117) (*principal Ordinance*) to provide for a mechanism under which persons who are admitted into Hong Kong as Hong Kong residents under certain admission schemes and who acquire residential properties not as Hong Kong permanent residents may be refunded certain amounts of ad valorem stamp duty and buyer’s stamp duty if those persons subsequently become Hong Kong permanent residents.

2. Clause 1 sets out the short title and provides that the Bill, when enacted, is deemed to have come into operation on 19 October 2022.
3. Clause 3 adds a new Division 6A (new sections 29DI to 29DL) to Part IIIA of the principal Ordinance.
4. The new section 29DI provides for the interpretation of terms used in the new Division 6A.
5. The new section 29DJ provides that the Collector of Stamp Revenue may, on an application made by a person who had paid stamp duty for a residential property, refund to the person a certain amount of the stamp duty. The person is eligible for the refund only if the person was admitted into Hong Kong as a Hong Kong resident under certain admission schemes specified in the new Schedule 12 to the principal Ordinance (added by clause 6), and if the person acquired the property not as a Hong Kong permanent resident, but has subsequently become one. The amount of stamp duty to be refunded is, generally speaking, an amount equal to the sum of—
 - (a) the amount of ad valorem stamp duty paid for the property in excess of such stamp duty that would have been payable for the property had a lower rate of such stamp duty (which applies to Hong Kong permanent residents in certain circumstances) applied; and

(b) the amount of buyer's stamp duty paid for the property.

6. Another condition for the refund is that the person, when acquiring the residential property concerned, must not own any other residential property in Hong Kong. The new section 29DK provides that the condition may be relaxed in certain specific circumstances.
7. The new section 29DL provides for the deadline for the application for refund.
8. Clause 4 adds a new section 63B to the principal Ordinance to empower the Financial Secretary to amend the list of admission schemes contained in the new Schedule 12 by way of subsidiary legislation.
9. Clause 5 makes a consequential amendment to the First Schedule to the principal Ordinance.

Implications of the Proposal

In terms of **economic implications**, the refund proposal will reduce the cost of property purchase by eligible incoming talents and help increase their sense of belonging and propensity of staying in Hong Kong for good, which is conducive to injecting impetus to the growth of Hong Kong. Although the refund measure may increase the propensity of non-HKPR talents to purchase flats, the requirement that talents could apply for refund only upon becoming HKPR would avoid any sudden upsurge in flat purchases. Hence, the refund proposal would not pose significant impact on the overall residential property market.

2. In terms of **productivity implications**, the retention of incoming talents to enrich Hong Kong's talent pool will help enhance the productivity of the workforce in Hong Kong.

3. In terms of **financial implications**, the Government revenue implications of the refund measure is uncertain as the amount of stamp duty collected will depend on the number and the value of eligible transactions, as well as whether eligible incoming talents would purchase residential property in Hong Kong after implementation of the refund measure. In any event, the introduction of BSD/NRSD and the proposed refund is not intended to meet fiscal or budgetary objectives.

4. In terms of **family implications**, the refund proposal may bring positive family impact since it will reduce the cost of home purchase by eligible incoming talents, which may encourage them to settle and raise a family in Hong Kong.

5. In terms of **civil service implications**, additional manpower and administrative costs arising from the refund proposal will be absorbed within the existing resources of relevant bureaux/departments as far as possible. Should additional manpower resources be required, they will be sought in accordance with the established mechanism.