立法會
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Subcommittee on Rating (Exemption) Order 2020 (Amendment) Order 2020

Background Brief

Purpose

This paper provides background information on the Rating (Exemption) Order 2020 (Amendment) Order 2020 ("the 2020 Amendment Order"). It also summarizes the major views and concerns expressed by Members on related issues during the scrutiny of Orders providing rates concession in 2015, 2016, 2017, 2018 and 2019, and the consultation of possible modifications to the current mechanism for providing rates concession at the meeting of the Panel on Financial Affairs ("FA Panel") on 18 December 2018.

Background

2. The Government has been implementing rates concession as one-off concessionary measures in past Budgets. Rates exemption measures implemented in the last five financial years are summarized in **Appendix I**.

Rating (Exemption) Order 2020 (Amendment) Order 2020

3. The Rating (Exemption) Order 2020 ("the 2020 Exemption Order") was made by the Chief Executive in Council ("CE in C") under section 36(2) of the Rating Ordinance (Cap. 116) ("RO") to give effect to the rates concession proposed in the 2020-2021 Budget.[1] The 2020 Exemption Order was gazetted on 6 March 2020 and tabled at the Legislative Council ("LegCo") meeting of 18 March 2020 for

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[1] Section 36(2) of the Rating Ordinance (Cap.116) ("RO") provides that the Chief Executive in Council may, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part.

negative vetting, and came into operation on 1 April 2020.[2] Different levels of rates concession are offered for domestic and non-domestic tenements under the 2020 Exemption Order. Domestic tenements are exempted from the payment of rates up to a maximum of $1,500 for each quarter of 2020-2021 (i.e. from 1 April 2020 to 31 March 2021); while non-domestic tenements are exempted from the payment of rates up to a maximum of $5,000 each quarter for the first and second quarters, and up to a maximum of $1,500 each quarter for the third and fourth quarters of 2020-2021.[3] According to the Administration, the higher concession for non-domestic tenements in the first two quarters is to provide a stronger financial relief to business during the economic downturn.

4. In order to enhance the rates concession for non-domestic tenements for the third and fourth quarters of 2020-2021, CE in C made the 2020 Amendment Order under section 36(2) of RO to give effect to the enhancement. The 2020 Amendment Order declares that the concession cap for a non-domestic tenement is adjusted from $1,500 to $5,000 each quarter for the third and fourth quarters of 2020-2021 (i.e. from 1 October 2020 to 31 March 2021).[4] According to the Administration, the enhancement is among the package of Government's relief measures announced on 15 September 2020 with a view to sustaining the support for enterprises amid the very challenging economic conditions brought about by the coronavirus disease-2019.

5. The 2020 Amendment Order was gazetted on 18 September 2020 and tabled at the LegCo meeting of 14 October 2020 for negative vetting. To enable ratepayers to benefit early, the 2020 Amendment Order came into operation upon gazettal on 18 September 2020.

Possible modifications to the rates concession mechanism examined by the Administration

6. When the Subcommittee on Rating (Exemption) Order 2018 ("Subcommittee on the 2018 Order") discussed the rates concession proposal for the 2018-2019 Budget, some members expressed concern that a small number of ratepayers (such as property developers and owners with multiple rateable properties) might receive a considerable amount of rates concessions under the current mechanism, and questioned the effectiveness of the rates concession measure in relieving the financial

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[2] No Subcommittee has been formed to scrutinize the Order.

[3] The concession cap will be reduced proportionately if rates are payable for only part of a concessionary period.

[4] Rates concession for domestic tenements remains unchanged to be capped at $1,500 per tenement per quarter.

pressure on the general public. The Subcommittee urged the Administration to review the current rates concession measure and consider suggestions to achieve a more equitable distribution of the concessions, such as limiting the number of rateable properties per ratepayer eligible for rates concession, confining the rates concession measure to tenants and owners of self-occupied properties, providing rates concession to ratepayers of domestic properties only, and requiring the ratepayers to apply to the Rating and Valuation Department ("RVD") for claiming rates concession.

7. In response to the request of the Subcommittee on the 2018 Order, the Administration explored a number of possible options for modifying the current mechanism. Amongst the options explored, the Administration considered that providing rates concession to one rateable property (which can be domestic or non-domestic) for each owner might be a more feasible approach to vary the rates concession mechanism in achieving a more equitable distribution of the rates concession. Special treatment would be accorded to the tenants of public rental housing ("PRH") units of the Housing Authority, the Housing Society and the Hong Kong Settlers Housing Corporation Limited so that they could continue to benefit from rates concession. RVD needed to build up a property ownership database and collate information from property owners.

Major views and concerns expressed by Members

8. Subcommittees have been formed to scrutinize the Rating (Exemption) Order 2015, the Rating (Exemption) Order 2016, the Rating (Exemption) Order 2018 and the Rating (Exemption) Order 2019 ("the 2019 Order"). The Administration consulted FA Panel at the meeting on 18 December 2018 on possible modifications to the current mechanism for providing rates concession. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

<u>Distribution of the concession amount among ratepayers</u>

9. Some Members were of the view that rates concession could ease the financial pressure on the public, including PRH tenants and small and medium-sized enterprises ("SMEs"). These Members considered that it was reasonable to provide rates concession on the basis of tenement as it was fair for ratepayers to benefit from rates concession based on the amount of rates they paid, subject to a cap on the concession.

10. Some other Members expressed concern that a small number of ratepayers, such as property developers, owners of properties subject to higher rates payment and owners with many rateable properties (especially owners with many non-domestic

properties, e.g. office premises and shopping malls), would reap a large proportion of the total rates concession. They raised criticism that the rates concession measure was lopsided to the rich and returning wealth to the rich, thus ran counter to the Administration's objectives of targeting the concessionary measures at the grassroots and the needy. In view of the above, some Members suggested excluding property owners who owned more than one property (especially involving non-domestic property), and completed but unsold domestic properties held by developers from the rates concession measure, so that the measure would only benefit tenants and owners of self-occupied properties. There were also views that certain properties, such as automatic teller machines or advertising light boxes, should be excluded from the rates concession measure as providing rates concession for these properties could not help achieve the objective of relieving people's burden.

11. The Administration explained that rates concession was implemented on an equal-footing basis in that the measure benefited all ratepayers, regardless of the types (domestic or non-domestic) and rateable value of the relevant properties, and whether the ratepayer was the owner or the tenant. Rates concession was an effective way to provide one-off relief to a wide spectrum of Hong Kong people. As regards the suggestion of confining the rates concession measure to tenants and owners of self-occupied properties, the Administration pointed out that it would involve fundamental changes in the collection of rates, which were based on tenements. Moreover, under RO, both the property owner and the tenants were liable to pay rates. Introducing fundamental changes to rates collection might risk implication on the effectiveness of the rates collection system and excluding these tenants from rates concession they would otherwise receive.

12. As regards the views on rates concession for completed but unsold residential properties held by developers, the Administration advised that the Transport and Housing Bureau was preparing an amendment bill[5] to introduce "Special Rates" on vacant first-hand private residential units. It was believed that the Bill would incentivize developers to sell newly completed domestic units early.

13. Some Members expressed concern that the rates exemption would not benefit the tenants in cases where the rents were rates-inclusive as it was unlikely that their landlords would refund the concession amount to them.

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5 The Rating (Amendment) Bill 2019 ("the Bill") was published in Gazette on 13 September 2019 and received its First Reading at the Legislative Council meeting of 23 October 2019. The Bill amends RO to introduce "Special Rates" on vacant first-hand private residential units, with a view to encouraging more timely supply of these units. The relevant Bills Committee decided to discontinue its work in June 2020 and reported to the House Committee at the latter's meeting on 10 July 2020.

14. The Administration advised that in accordance with RO, the valuation and collection of rates were based on tenements. The owner and the occupier should both be liable for the payment of rates and the arrangement of whether rates were paid by the owner or the tenant depended on the provisions of individual tenancy agreements. For ease of management, many owners of non-domestic properties collected the amount of rates payable in one go when collecting rent from the tenants, and then made rates payment on behalf of the tenants who were liable for the payment of rates under the tenancy agreements. Under such an arrangement, the tenants themselves would remain to be the actual beneficiaries of the rates concession, in accordance with the provisions of the tenancy agreements. Individual tenancy agreements might set out who would benefit from rates concession, if any, for clarity.

15. The Administration further advised that over 82% of the tenancies of the top 10 ratepayers who were estimated to receive largest amounts of rates concession in 2019-2020 were of rates exclusive basis. In other words, most of the rates concessions would be rebated to the tenants concerned in accordance with the provisions of tenancy agreements. A lot of such tenants were SMEs.

<u>Possible modifications to the rates concession mechanism</u>

16. At the FA meeting on 18 December 2018, Panel members considered a number of possible options proposed by the Administration for modifying the mechanism, in particular the option the Administration considered more feasible (i.e. providing rates concession to one rateable property (domestic or non-domestic) for each owner). After considering the pros and cons, most Panel members objected to modifying the existing rates concession mechanism. One of the main concerns was that after modification, tenants who were required to pay rates under the tenancy agreements, including many SMEs and small business operators renting non-domestic properties, would no longer be able to benefit from rates concession. Moreover, some members considered it unfair to restrict owners with a number of properties to rates concession for only one of their properties while they paid rates for all. These members further pointed out that some people might hold more than one property for meeting various needs (e.g. one for self-use and another for use by family members, one for residential use and one for doing business, elderly people who relied on rental income to support their living, etc.) and the proposed change would significantly reduce their benefits from rates concession. The Panel passed a motion to express reservation over the option and requested the Administration to shelve it for the time being. Noting the diverse views and reservations expressed by Panel members, the Administration therefore shelved the proposal to modify the rates concession mechanism.

17. Noting the high set-up and maintenance costs involved for RVD to establish a property ownership database and considering that rates concession was a one-off budget measure that might not be granted every year, members of the Subcommittee on the 2019 Order expressed reservation for investing vast amount of resources to develop the database. Subcommittee members suggested that RVD should modify the existing "Requisition for Particulars of Tenements" (i.e. Form R1A), which it issued from time to time to obtain information relating to tenements, in order to capture information on the ownership of properties. RVD should also explore with the Land Registry on the feasibility of using the latter's database on property ownership. Subcommittee members further suggested that RVD should consider using big data in the collection and collation of information to help develop a comprehensive database on property ownership.

18. The Administration explained that for the purpose of issuing quarterly demand notes for rates payment, RVD only maintained basic information including the names of the ratepayers and their mailing addresses, without collecting other identification information (such as their Hong Kong Identity Card numbers, the Business Registration numbers, or information of the owners of the tenements). Form R1A mainly collected information relating to the rents and key terms of the tenancy agreement of a tenement to facilitate the assessment of rateable value of the tenement. Any changes to the current rates concession approach might imply the need for a fundamental change to the rates collection system. RVD would require resources to set up a new computer system for capturing the property ownership information and to update the information on an on-going basis. RVD would also need to obtain property owners' consent for it to verify the owners' information provided by the Land Registry.

19. On the suggestions for the Land Registry or other relevant departments to share their property ownership database with RVD, the Administration pointed out that due to concern about protection of privacy of personal data, there were legal restrictions for departments to share their data collected from the public when discharging their duties. In particular, departments were under statutory requirement to specify the purpose(s) of collecting information from the public, and were prohibited from using the information collected for other purposes.

Latest development

20. At the House Committee meeting on 16 October 2020, Members agreed to form a subcommittee to study the 2020 Amendment Order.

References

21. A list of relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
24 October 2020

Appendix I

Rates exemption measures implemented in recent years

	Rating (Exemption) Order 2015	**Rating (Exemption) Order 2016**	**Rating (Exemption) Order 2017**	**Rating (Exemption) Order 2018**	**Rating (Exemption) Order 2019**
Date of gazettal	25 February 2015	24 February 2016	22 February 2017	28 February 2018	8 March 2019
Date of tabling in LegCo	18 March 2015	2 March 2016	1 March 2017	21 March 2018	20 March 2019
Commencement date	1 April 2015	1 April 2016	1 April 2017	1 April 2018	1 April 2019
Concession period	1 April 2015 to 30 September 2015 (2 quarters)	1 April 2016 to 31 March 2017 (4 quarters)	1 April 2017 to 31 March 2018 (4 quarters)	1 April 2018 to 31 March 2019 (4 quarters)	1 April 2019 to 31 March 2020 (4 quarters)
Ceiling (per quarter for each rateable property)	$2,500	$1,000	$1,000	$2,500	$1,500

Appendix II

List of relevant papers

Date	Event	Papers/Minutes of meeting
March – May 2015	The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2015	The Order Legal Service Division Report (LC Paper No. LS46/14-15) Report of the Subcommittee (LC Paper No. CB(1)766/14-15) Administration's paper on Rating (Exemption) Order 2015 (LC Paper No. CB(1)642/14-15(01)) Paper on Rating (Exemption) Order 2015 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)642/14-15(02)) Administration's reponse to issues raised at the meeting on 17 March 2015 (LC Paper No. CB(1)708/14-15(02))
March – April 2016	The Legislative Council formed a Subcommittee to scrutinize the Rating (Exemption) Order 2016	The Order Legal Service Division Report (LC Paper No. LS39/15-16) Report of the Subcommittee (LC Paper No. CB(1)787/15-16) Administration's paper on Rating (Exemption) Order 2016 (LC Paper No. CB(1)643/15-16(01))

Date	Event	Papers/Minutes of meeting
		Paper on Rating (Exemption) Order 2016 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)643/15-16(02))
1 March 2017	The Rating (Exemption) Order 2017 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS39/16-17)
21 March 2018	The Rating (Exemption) Order 2018 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS39/17-18) Report of the Subcommittee (LC Paper No. CB(1)861/17-18) Administration's paper on Rating (Exemption) Order 2018 (LC Paper No. CB(1)730/17-18(01)) Paper on Rating (Exemption) Order 2018 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)730/17-18(02))
18 December 2018	Meeting of the Panel on Financial Affairs	Administration's paper (LC Paper No. CB(1)309/18-19(07)) Background brief (LC Paper No. CB(1)309/18-19(08))
20 March 2019	The Rating (Exemption) Order 2019 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS54/18-19)

Date	Event	Papers/Minutes of meeting
		Report of the Subcommittee (LC Paper No. CB(1)848/18-19) Administration's paper on Rating (Exemption) Order 2019 (LC Paper No. CB(1)759/18-19(01)) Paper on Rating (Exemption) Order 2019 prepared by the Legislative Council Secretariat (background brief) (LC Paper No. CB(1)759/18-19(02))
18 March 2020	The Rating (Exemption) Order 2020 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS47/19-20)
14 October 2020	The Rating (Exemption) Order 2020 (Amendment) Order 2020 was tabled in the Legislative Council	The Order Legal Service Division Report (LC Paper No. LS124/19-20)