



## **Car Parking Space and Stamp Duty**

For the purposes of the Stamp Duty Ordinance (Cap. 117), car parking space (CPS) is non-residential property, but if it falls within the applicable legal provisions, there is an exception. As a result, different rates of stamp duty (SD) may be applicable. The key factor is in what combination CPS is purchased. We summarize below the stamp duty liabilities of **a single purchaser** in different scenarios of purchasing CPS. For SD payable in individual cases, readers are advised to consult their own professional advisers.

### **(1) CPS purchased standalone or with other non-residential property**

When a CPS is so purchased, it is non-residential property. According to Cap. 117, the SD are payable as follows:

- Ad valorem duty is payable according to the purchase price or the market value of CPS (whichever is the higher) at **Scale 1** of Head 1(1) of the First Schedule to Cap. 117 (the so called “double stamp duty”). (The new rate of 15% effective from 5<sup>th</sup> November 2016<sup>i</sup> does not apply to non-residential property.)
- Buyer’s SD<sup>ii</sup> is not payable on the purchase of CPS.
- Special SD<sup>iii</sup> is not payable on non-residential property.

Whether a CPS could lawfully be purchased standalone depends on the terms of the relevant Deed of Mutual Covenant and the Government Lease. It is therefore mandatory to have this clarified before any commitment to purchase is made.

### **(2) One CPS purchased with residential property**

When a CPS is so purchased, the applicable rate of SD could be the same as the residential property purchased. The SD liabilities under Cap. 117 are as follows:

- Ad valorem duty is payable according to the purchase price or the market value (whichever is the higher) of the residential property plus the CPS. If the

purchaser falls within section 29AK of Cap. 117<sup>iv</sup>, SD payable in respect of the CPS is at the same rate as the residential property, i.e. at **Scale 2** of Head 1(1) of the First Schedule. Otherwise the rate applicable is at Scale 1 of Head 1(1) of the First Schedule.

- CPS should not be subject to buyer's SD.
- Special SD should not be payable even when the CPS is sold together with the residential property.

To be qualified for paying SD at Scale 2 (i.e. the old rate before any recent increases) pursuant to section 29AK, only one single CPS may be purchased with a residential property. If more than one CPS are purchased with a residential property, the SD rate applicable to all CPSs is at Scale 1.

Section 29AK does not require the CPS purchased together with a residential property to belong to the same lot or development. Hence, it seems that the application of the provisions would not be affected even if the CPS and the residential property situate in different parts of Hong Kong.

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- <sup>i</sup> Assuming that the Stamp Duty (Amendment) Bill 2017 will be passed in due course.
  - <sup>ii</sup> Buyer's SD is payable at 15% by purchasers of residential properties who are not Hong Kong Permanent Residents.
  - <sup>iii</sup> Special SD is payable by vendors who sell their residential properties within 36 months of their acquisition of such properties.
  - <sup>iv</sup> The purchaser is a Hong Kong Permanent Resident acting on his or her own behalf and is not a beneficial owner of any other CPS or residential property in Hong Kong.
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**PLEASE NOTE**

The law and procedure on this subject are very specialized. This article is general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

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