The impact of Special Stamp Duty ("SSD")

SSD was announced by the Government on 19th November 2010 and was gazetted on 30th June 2011. The general purpose of SSD was to calm down the buoyant property market which was said to have surpassed the historical peak in 1997 having risen 27.9% in the first quarter of 2010. SSD imposes a joint and several liability on purchasers and sellers. SSD is payable by purchasers who acquire residential properties after 20th November 2010 and then sells the property within 24 months.

The most common query is the relevant date that should be used when determining the selling and purchasing of the property. In essence, the relevant date is nearly always the date of "the agreement for sale" with the exception being when a provisional agreement has been signed with a term that states that legal action would be taken against the party not completing the transaction.

SSD is calculated on a descending scale of 15% (6 months or less), 10% (over 6 months but less than 12 months) and 5% (over 12 months but 24 months or less) on the property's consideration price or the market value of the property depending on whichever was higher on the term the property is held. Subsequently SSD is paid along with profits tax and is imposed irrespectively whether there are financial gains or not.

Since the announcement and implementation of SSD, the general public has voiced their concerns over the inconsistency and contradictory messages conveyed by the Inland Revenue Department and by the different rules and exemptions.

This law has proved to be an effective temporary measure so far with the rapid growth in the property market having evidently calmed down. The first quarter of 2011 saw the property market index increase by 18.8%, but that was already a lower percentage than last year's first quarter. However, with Hong Kong's economy rapidly growing, only time will tell, whether SSD would be an effective measure in the long term.

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