



## Hong Kong – August 2018

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**DEVELOPERS RACE TO EXPLOIT A LOOPHOLE IN HONG KONG'S VACANCY TAX BEFORE A PATCH IS MADE ..... 1**

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### **Developers race to exploit a loophole in Hong Kong's vacancy tax before a patch is made**

Hong Kong's developers are racing to exploit a loophole in the vacancy tax announced on June 29 for increasing housing supply, before the city's Legislative Council mends the gap when it gets around to passing the bill for enacting the levy.

The tax, announced by Chief Executive Carrie Lam Cheng Yuet-ngor, would make completed homes that are left vacant for more than six months after receiving the occupation permit liable to a levy equivalent to about 5 per cent of the property value.

The policy was announced to pry loose thousands of units of completed - but unsold - residential property from developers' hands to add to the housing supply and ease price pressure in the world's most expensive residential property market. Lam has made housing affordability a major tenet of her administration's priorities.

In response, some developers are leasing their projects to associates to remove them from the vacancy list. Nan Fung Development leased two completed duplex apartments and two villas at Deep Water Bay to four companies controlled by its senior management.

The senior management team included Nan Fung's honorary chairwoman Vivien Chen Wai-wai and her daughter Karen Cheung Tih-loh, as well as one of their associates Ho Hoi-ki, according to Land Registry data.

Nan Fung did not respond to emailed questions by the *South China Morning Post*, and Chen could not be reached to comment.

By "occupying" the properties, the developer avoids having to pay the vacancy tax, estimated at between HK\$50 million and HK\$70 million, agents said.

"This is a tactic to legally and skilfully avoid the vacancy tax," said Raymond Cheng, head of Hong Kong and China research and property at CGS-CIMB Securities. "There is a loophole with the tax."

The Nan Fung luxury residential project, comprising 52 large apartments and two villas ranging between 2,865 square feet and 12,566 sq ft, are being rented out at between HK\$420,000 to HK\$920,000 per month, about 40 per cent lower than the district's average rent, agents said.

Chen is Hong Kong's 36th-wealthiest person according to *Forbes Hong Kong's 50 Richest 2018* list, with a personal fortune of US\$2.2 billion. Her daughter Cheung couldn't be reached.

"If there are loopholes, it would be difficult to implement the vacancy tax," said Kenneth Leung, a Hong Kong lawmaker who said he is likely to propose amendments that can mend the gaps. "A lot of tax codes already have terms to prevent tax evasion."

A factor working in the developers' favour is the duration it takes for the draft bill of the vacancy tax to wind its way through Hong Kong's legislature. It may take more than a year for the June 29 tax to be enacted, by which time it would be made retroactive from the announcement date.

### **International Property Tax Institute**

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“The tax is still subject to amendments from lawmakers,” said City University of Hong Kong’s senior lecturer Lawrence Poon Wing-cheung. “Developers do not need to react so early.”

Nan Fung isn’t the only developer taking advantage of the situation.

Sun Hung Kai Properties, the city’s biggest developer with the largest hoard of unsold apartments, kept a block of 140 units at its Victoria Harbour project in North Point, which is due for completion soon. SHKP will lease the apartments instead of selling them, reflecting a reversal in strategy for the developer. SHKP denied its lease is aimed at skirting the vacancy tax.

Leasing is not the only loophole available to developers, said Hong Kong Polytechnic University’s assistant professor of applied sciences Chung Kim-wah.

“Developers may also sell flats to companies they set up, or their associates, to skirt the tax,” said Chung. “These tactics are easy to imagine. It is not surprising developers with large inventory of properties like to do that.”

Chung said the exploitation of loopholes in vacancy tax is likely to remain.

“The Legislative Council may consider a plan to extend the tax to developments with a lot of flats leased to a company [set up by the developer],” he said.

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