

Stamp Duties (Amendment) Bill

Bill No. 6/2010 [Urgent Bill].

Read the first time on 12th March 2010.

A BILL

intituled

An Act to amend the Stamp Duties Act (Chapter 312 of the 2006 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Stamp Duties (Amendment) Act 2010 and shall be deemed to have come into operation on 20th February 2010.

New sections 22A and 22B

5 2. The Stamp Duties Act is amended by inserting, immediately after section 22, the following sections:

“Contracts and instruments chargeable as conveyances on sale of immovable property

10 **22A.**—(1) Subject to the provisions of this Act, every contract or agreement for the sale of any specified immovable property (or any part thereof) which is chargeable with duty pursuant to section 22 (including any instrument chargeable in like manner) shall be charged with additional ad valorem duty (the amounts of which are indicated in the First Schedule), payable by the vendor of the property, in
15 respect of the consideration for that sale as if it were an actual conveyance on sale of immovable property, if the property or part thereof is disposed of under that contract or agreement —

(a) whilst this section is in force; and

20 (b) before the expiration of the period prescribed in the section 22A Order in relation to the specified immovable property (referred to in this section as the specified holding period) from the date on which the vendor acquired that property or any part thereof.

(2) Subject to the provisions of this Act, every instrument —

25 (a) which is a conveyance or transfer operating as a voluntary disposition inter vivos of any specified immovable property (or any part thereof) and which is chargeable with duty under section 16 as if it were a conveyance or transfer on sale of that property;

30 (b) which is a conveyance or transfer of any specified immovable property (or any part thereof) —

(i) by way of release or settlement;

(ii) pursuant to a declaration of trust where the beneficial interest in the property passes; or

(c) whereby any specified immovable property (or any part thereof) is transferred, by way of distribution in specie upon the voluntary winding-up of a private company, to a person in his capacity as shareholder in that company,

5 shall be treated for the purpose of this section as a conveyance on sale of immovable property and chargeable with the same additional ad valorem duty under subsection (1), payable by the transferor, in respect of the value of the property or part thereof so conveyed or transferred, if the property or part thereof is disposed of under that instrument —

(A) whilst this section is in force; and

(B) before the expiration of the specified holding period from the date on which the transferor acquired that property or any part thereof.

15 (3) Subject to the provisions of this Act and unless the section 22A Order specifies otherwise, every instrument which is a lease or an agreement for lease of any specified immovable property (or any part thereof) for a term equal to or exceeding the prescribed term, shall be treated for the purpose of this section as a conveyance on sale of immovable property and chargeable with the same additional ad valorem duty under subsection (1), payable by the lessor, in respect of the consideration for the lease, if the property or part thereof is disposed of under that instrument —

(a) whilst this section is in force; and

25 (b) before the expiration of the specified holding period from the date on which the lessor acquired that property or any part thereof.

(4) For the purposes of subsection (3) —

30 (a) the fact that the term of a lease or an agreement for lease may be extended in pursuance of an option shall be taken into consideration in determining whether its term is equal to or exceeds the prescribed term; and

35 (b) the fact that a lease or an agreement for lease for a specified period of time is determinable on the happening of an event within that time shall not be taken into consideration in determining its term.

(5) Subject to the provisions of this Act, an instrument whereby an exchange of any specified immovable property (or any part thereof) is effected shall be treated for the purpose of this section as a conveyance on sale of immovable property if the property or part thereof is disposed of under the instrument —

(a) whilst this section is in force; and

(b) before the expiration of the specified holding period from the date on which the party who disposes of the property or part thereof acquired that property or any part thereof,

and shall be chargeable with the same additional ad valorem duty under subsection (1), payable by that party, in respect of the value of the property or part thereof being exchanged that is of the greater value.

(6) In subsection (5), where a party disposes of 2 or more properties or parts thereof to another party under the instrument, those properties or parts shall be treated as one property or part, and their values shall be aggregated, for the purpose of determining the value of the property or part thereof being exchanged that is of the greater value.

(7) Where in any conveyance on sale of immovable property or any part thereof (including any instrument which is chargeable in like manner) the vendors, lessors or transferors of the property or part are joint owners of that property or part, the duty payable by each vendor, lessor or transferor under this section shall be a proportion of the duty commensurate with their respective shares in that property or part; and for this purpose, joint tenants of any property or part shall be presumed, until the contrary is proved, to have equal shares in the property or part.

(8) For the purposes of determining the additional duty chargeable upon a conveyance on sale of immovable property or any part thereof (including any instrument which is chargeable in like manner) —

(a) the consideration or value (whichever is applicable) on which the duty is based, shall be reduced by such amount as the Commissioner considers to be attributable to such part of the specified immovable property which is lawfully used for purposes other than for a prescribed purpose; and

(b) where parts of the property were acquired by the vendor, lessor or transferor at different times, the duty shall be reduced by such amount as the Commissioner determines to be in excess of the duty which would have been chargeable under this section if the property had been conveyed in separate parts.

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(9) The decisions of the Commissioner under subsection (8)(a) and (b), respectively, shall be final.

(10) Section 22(3) and (5) shall apply to a vendor, lessor or transferor of specified immovable property or a part thereof as if —

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(a) the references in those provisions to purchaser or sub-purchaser are substituted with references to such vendor, lessor or transferor; and

(b) the references in those provisions to duty under that section are substituted with references to the additional duty under this section.

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(11) Where any duty paid under section 22 in respect of any contract or agreement is refunded under that section, any additional duty paid under this section in respect of that same contract or agreement shall likewise be refunded.

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(12) Subject to subsection (13) and the section 22A Order, where any specified immovable property or part thereof is acquired or disposed of —

(a) under contract, the time at which the acquisition or disposal is made shall be the time the contract is made (and not, if different, the time at which the property or part is conveyed or transferred), and if the contract is conditional on the exercise of an option, the time at which the acquisition or disposal is made shall be the time when the option is exercised;

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(b) by way of gift, release or settlement or under a declaration of trust, the time at which the acquisition or disposal is made shall be the time when the property or part or any beneficial interest therein passes; or

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(c) by any other means, the time at which the acquisition or disposal is made shall be the time the property or part or any

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interest therein is vested or divested, as the case may be, by operation of law or otherwise.

(13) In this section —

- 5 (a) a reference to the section 22A Order is a reference to the order made under section 22B bringing this section into force;
- (b) a reference to specified immovable property is a reference to immovable property —
- 10 (i) that is used or to be used for a purpose permitted under the Master Plan and specified in the section 22A Order; and
- (ii) unless the section 22A Order specifies otherwise, that is acquired by the person liable to pay the additional ad valorem duty under the relevant subsection on or after 15 the date of coming into operation of this section as specified in the Order;
- (c) a reference to acquisition or disposal of any property shall not include a reference to a conveyance or transfer by way of security of any property (including a re-transfer on 20 redemption of the security);
- (d) where a person entitled to any property by way of security or to the benefit of a charge or incumbrance on any property deals with the property for the purposes of enforcing or giving effect to the security, charge or incumbrance, his 25 dealings with it shall be treated as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance;
- (e) a reference to disposal of any property shall not include a reference to a disposal as a result of bankruptcy, dissolution, 30 receivership or winding-up of the owner of the property, other than a voluntary winding-up; and
- (f) a reference to a person acquiring any property shall include a reference to a situation where, subsequent to his acquisition of any land, building or part thereof or any 35 interest therein, the land is zoned in the Master Plan for a prescribed purpose or the building or part thereof is

permitted under the Planning Act (Cap. 232) to be used for a prescribed purpose, and (unless the section 22A Order specifies otherwise) the time at which the acquisition is made shall be the time when the zoning in the Master Plan is altered in such manner or when the permission under that Act is granted, as the case may be.

(14) Notwithstanding anything in this section —

(a) every conveyance on sale of property and every contract or agreement for the sale of any equitable estate or interest in any property or for the sale of any estate or interest in any property, being a conveyance, a contract or an agreement made before the date of coming into operation of this section; and

(b) every exempt instrument specified for the purposes of this section by rules made under section 77,

shall be chargeable with duty under this Act as if this section is not in force.

Power to bring section 22A into operation

22B.—(1) Section 22A shall not come into operation except at the time and in the manner referred to in subsection (2).

(2) The Minister may, from time to time, by order published in the *Gazette*, declare that section 22A shall come into operation on a date specified in the order, and that section shall come into operation on that date and remain in force until the order is revoked by the Minister.

(3) The order shall specify —

(a) the immovable property to which section 22A applies by the purpose for which it may be used under the Master Plan;

(b) the holding period for the purposes of that section; and

(c) other matters required to be prescribed by that section.

(4) The order may specify different holding periods for different classes of immovable property.

(5) The order may —

- (a) prescribe a different time at which immovable property is acquired or disposed of under any particular class of instruments or any instruments executed by or in favour of any person or class of persons; and
- (b) specify other matters authorised to be prescribed or specified under section 22A.

(6) The Minister may, in respect of the first order made after the commencement of the Stamp Duties (Amendment) Act 2010, specify in the order a date of commencement for section 22A that is before the date of publication of the order in the *Gazette* but no earlier than 20th February 2010.

(7) All orders made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

Amendment of Third Schedule

3. Article No. 2 of the Third Schedule to the Stamp Duties Act is deleted and the following Article substituted therefor:

“2. CONVEYANCE — Article No. 3(a), (c)
to (i)

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| (a) for all purposes other than paragraph (b) | The grantee, transferee or lessee |
| (b) for the purposes of Article No. 3(a) in relation to section 22A | The person liable to pay the additional ad valorem duty as specified in section 22A”. |

EXPLANATORY STATEMENT

This Bill seeks to amend the Stamp Duties Act (Cap. 312) to provide for an additional ad valorem duty payable by a vendor, lessor or transferor of prescribed property which is disposed of within a prescribed period after its acquisition.

Clause 1 relates to the short title and commencement.

Clause 2 inserts new sections 22A and 22B.

The new section 22A provides for the additional stamp duty to be payable by the vendor, lessor or transferor of prescribed immovable property disposed of by him —

- (a) whilst the section is in force pursuant to an order made under the new section 22B; and
- (b) within the holding period prescribed in the order from the date of its acquisition.

The new section 22A is based on the repealed section 22A. It applies to a contract for sale of prescribed immovable property, a gift, release or settlement of such property, a distribution to shareholders of such property in a voluntary winding up of a private company, (unless otherwise stated in the order under section 22B) a lease of such property for at least the prescribed term, as well as an exchange of immovable properties comprising or including such properties or property.

The new section 22B enables the Minister to make an order bringing the new section 22A into force from time to time. The new section 22A will not come into force until an order has been made, and will remain in force until the order is revoked. The new section 22B further provides that the first order made after the commencement of the Bill may backdate the operation of section 22A to a date no earlier than 20th February 2010.

Clause 3 makes a consequential amendment to the Third Schedule (persons liable to pay stamp duty) as a result of the new section 22A.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
