

Stamp Duties (Amendment) Bill

Bill No. 27/2014.

Read the first time on 8 September 2014.

A BILL

i n t i t u l e d

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 2014 and shall come into operation on 1 January 2015.

Amendment of section 15

2. Section 15 of the Stamp Duties Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the words “made on or after” in subsection (1) and substituting the words “executed on or after”;

(b) by inserting, immediately after subsection (1A), the following subsection:

“(1B) If it is shown to the satisfaction of the Commissioner that the prescribed conditions have been fulfilled, then ad valorem stamp duty under Article 3(*bd*) and (*be*) in the First Schedule shall not be chargeable on any instrument executed on or after 12 January 2013 for the purposes of or in connection with —

(a) the transfer of the undertaking or shares in respect of a scheme for the reconstruction of any company or companies, or the amalgamation of companies;

(b) the transfer, conveyance or assignment of any beneficial interest in any asset between such entities that are associated in such manner as may be prescribed;

(c) the conversion of a firm to a limited liability partnership under section 20 of the Limited Liability Partnerships Act (Cap. 163A); or

(d) the conversion of a private company to a limited liability partnership under section 21 of the Limited Liability Partnerships Act.”; and

(c) by deleting paragraph (ii) of subsection (3) and substituting the following paragraph:

“(ii) be recoverable from that entity as a debt due to the Government, together with interest on the amount at the rate of 6% per annum —

(A) in a case where duty was paid on the instrument and then refunded after a claim for relief was allowed under this section, from the date on which the refund was made; or

(B) in any other case —

(BA) if the instrument is executed by any person in Singapore, from the date of its execution; or

(BB) if the instrument is executed outside Singapore, from the date the instrument is first received in Singapore.”.

Amendment of section 15A

3. Section 15A of the principal Act is amended —

(a) by deleting the words “section 75(2)” in subsection (11)(a), (b) and (c) and substituting in each case the words “section 75(1)(a)”;

(b) by deleting the words “subsection (13)” in subsection (12)(i)(B) and (ii)(B) and substituting in each case the words “subsection (13A)”;

(c) by deleting subsection (13) and substituting the following subsections:

“(13) Interest referred to in subsection (11A) shall accrue on the amount of duty referred to in that subsection at the rate of 6% per annum after the expiry of the period in which the duty must be paid to the Commissioner.

(13A) Interest referred to in subsection (12) shall accrue on the amount of relief referred to in that subsection at the rate of 6% per annum —

(a) in a case where duty was paid on the instrument and then refunded after a claim for relief was allowed under this section, from the date on which the refund was made; or

(b) in any other case —

(i) if the instrument is executed by any person in Singapore, from the date of its execution; or

(ii) if the instrument is executed outside Singapore, from the date the instrument is first received in Singapore.”.

Amendment of section 22

4. Section 22(7) of the principal Act is amended by deleting the words “given up to be cancelled” in paragraph (b) and substituting the words “surrendered to the Commissioner, unless the Commissioner dispenses with such surrender in a particular case”.

Amendment of section 57

5. Section 57(2) of the principal Act is amended by deleting the words “given up to be cancelled” in paragraph (b) and substituting the words “surrendered to the Commissioner, unless the Commissioner dispenses with such surrender in a particular case”.

Amendment of section 58

6. Section 58 of the principal Act is amended —

(a) by inserting, immediately after the words “if the instrument is not dated,” in subsection (1)(ii), the words “on an application made”;

(b) by inserting, immediately after subsection (2), the following subsection:

“(3) Notwithstanding subsection (1), where the Commissioner has reasonable cause to believe that a person —

(a) has inadvertently paid duty of a greater value than was necessary; or 5

(b) has inadvertently paid duty in respect of an instrument not liable to any duty,

the Commissioner may, on his own initiative, make an allowance for the duty overpaid or paid (as the case may be).”; and 10

(c) by deleting the words “for misused stamp certificates” in the section heading.

Amendment of section 75

7. Section 75 of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsection: 15

“(1) The Commissioner may certify any amount of money to be refunded and cause the refund to be made immediately under any of the following circumstances:

(a) a claim that the amount of money has been overpaid as duty under this Act is lodged with the Commissioner within 6 months after the date of the overpayment or within such longer period as the Commissioner may, in his discretion allow, and the Commissioner is satisfied that the money has been overpaid as duty under this Act; 20

(b) the Commissioner has reasonable cause to believe in any particular case that the amount of money has been overpaid as duty under this Act.”. 25

EXPLANATORY STATEMENT

This Bill seeks to amend the Stamp Duties Act (Cap. 312) mainly for the following purposes:

- (a) to provide that seller stamp duty with respect to the disposal of industrial property, and residential and mixed-residential property, is not chargeable on certain instruments;
- (b) to empower the Commissioner of Stamp Duties (the Commissioner) to dispense with the requirement for an applicant for a refund of or an allowance to be made for duty paid, from having to surrender the instrument;
- (c) to empower the Commissioner to make an allowance for duty overpaid or paid or to make a refund of overpaid duty, on his own initiative.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 15 (Relief from ad valorem stamp duty) —

- (a) to substitute the words “made on or after” in subsection (1) with the words “executed on or after” to ensure consistency in the wording used in subsections (1) and (1A);
- (b) to insert a new subsection (1B) to provide that ad valorem stamp duty with respect to the disposal of industrial property, and residential and mixed-residential property, is not chargeable on an instrument which is executed on or after 12 January 2013 for the purposes of transactions relating to the reconstruction or amalgamation of companies, the transfer of assets between associated entities, the conversion of a firm to a limited liability partnership or the conversion of a private company to a limited liability partnership, if the instrument fulfils such conditions as may be prescribed; and
- (c) to amend the period in subsection (3) for which interest is payable in a case where relief from duty was first allowed but subsequently disallowed for reasons set out in subsection (3)(a) or (b). Where a refund of duty has already been given, the start date of the period for which interest is payable on the duty, is the date of the refund.

Clause 3 amends section 15A (Relief from ad valorem stamp duty for acquisition of shares of companies) —

- (a) to make amendments to subsection (11)(a), (b) and (c) that are consequential on the amendments made to section 75 vide clause 7; and
- (b) to amend the section for a similar purpose to the purpose of the amendment to section 15(3) by clause 2.

Clause 4 amends section 22(7)(b) to enable the Commissioner to dispense with the requirement for an applicant for a refund of duty under section 22(6), to surrender the instrument to the Commissioner.

Clause 5 amends section 57(2)(b) to enable the Commissioner to dispense with the requirement for an applicant for an allowance for duty under section 57(1), to surrender the instrument to the Commissioner.

Clause 6 amends section 58 (Allowance for duty paid or overpaid for misused stamp certificates) —

- (a) to insert the words “on an application made” in subsection (1)(ii) to clarify that when a person wishes to claim an allowance for duty paid or overpaid on an instrument which is not dated under the section, he has to make an application to the Commissioner;
- (b) to insert a new subsection (3) which empowers the Commissioner to make an allowance for duty overpaid or paid to a person, on the Commissioner’s own initiative, if the Commissioner has reasonable cause to believe that the person has inadvertently paid duty of a greater value than was necessary or has inadvertently paid duty in respect of an instrument not liable to any duty; and
- (c) to amend the section heading as the section deals with allowance for any duty paid or overpaid, and is not confined to making allowance for duty paid or overpaid for misused stamp certificates.

Clause 7 amends section 75 (Refund and repayment of duty) to allow the Commissioner to make a refund of overpaid duty on his own initiative and without the need for a claim to be made for it.

EXPENDITURE OF PUBLIC MONEY

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