

# **Stamp Duties (Amendment) Bill**

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**Bill No. 38/2012.**

*Read the first time on 12th November 2012.*

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.—(1) This Act may be cited as the Stamp Duties (Amendment) Act 2012 and shall, with the exception of section 2, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Section 2 shall be deemed to have come into operation on 1st April 2010.

## Amendment of section 15A

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

(a) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:

“(b) must be —

(i) where the date of the acquisition is during the period from 1st April 2010 to 16th February 2012 (both dates inclusive), directly and wholly owned by the acquiring company at the date of the acquisition; and

(ii) where the date of the acquisition is during the period from 17th February 2012 to 31st March 2015 (both dates inclusive), wholly owned (whether directly or indirectly) by the acquiring company at the date of the acquisition.”;

(b) by deleting the words “or the acquiring subsidiary, as the case may be, owning” in subsection (3)(a) and substituting the words “and its acquiring subsidiaries owning together in total”;

(c) by deleting the words “the acquiring company or the acquiring subsidiary, as the case may be, owns” in subsection (3)(a) and substituting the words “such total ownership was”;

- (d) by deleting the words “or the acquiring subsidiary, as the case may be, owning” in subsection (3)(c) and substituting the words “and its acquiring subsidiaries owning together in total”;
- (e) by deleting the words “the acquiring company or the acquiring subsidiary, as the case may be, owns” in subsection (3)(c)(i) and substituting the words “such total ownership was”;
- (f) by deleting the words “an allowance” in subsection (4)(c) and substituting the words “a deduction”; and
- (g) by deleting the words “, as the case may be,” where they first appear in subsection (7).

### **Amendment of section 22**

3. Section 22(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

“(b) any estate or interest in any property except property situated outside Singapore, and stock or shares,”.

### **Amendment of section 22A**

4. Section 22A of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (8) and substituting the following paragraph:

“(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 that is permitted to be used under the Master Plan or the Planning Act (Cap. 232) (as the case may be) for a purpose that is not a prescribed purpose; and”;

(b) by deleting sub-paragraph (i) of subsection (13)(b) and substituting the following sub-paragraph:

“(i) that is either —

(A) zoned in the Master Plan in a manner specified in the section 22A Order; or

(B) permitted under the Planning Act for use for a purpose specified in the section 22A Order; and”;

(c) by deleting the word “and” at the end of subsection (13)(e); and

(d) by deleting paragraph (f) of subsection (13) and substituting the following paragraphs:

“(f) a reference to a person acquiring any property includes a reference to a situation where —

(i) subsequent to his acquisition of the immovable property, being such vacant land or land with one or more buildings thereon as may be prescribed, the land is zoned in the Master Plan in a prescribed manner, or any building or part thereof on the land is permitted under the Planning Act to be used for a prescribed purpose, whichever is specified in the section 22A Order in respect of that immovable property; or

(ii) subsequent to his acquisition of any part of a building, the part is permitted under the Planning Act 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; and

(g) a reference to a purpose permitted by the Planning Act is a reference to —

- (i) a purpose permitted by a written permission given under section 14(4) of that Act, other than one that is given for a period of 10 years or less;
- (ii) a purpose authorised by a notification under section 21(6) of that Act; or
- (iii) such other purpose as may be prescribed.”.

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### **Amendment of section 22B**

5. Section 22B(3) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) the immovable property to which section 22A applies by —

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- (i) the manner it is zoned under the Master Plan; or
- (ii) the purpose for which it is permitted to be used under the Planning Act, as defined under section 22A(13)(g);”.

### **Amendment of section 29**

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6. Section 29(2) of the principal Act is amended by inserting, immediately after the word “thereon”, the words “or denoted by the stamp certificate attached thereto, as the case may be,”.

### **Amendment of section 40**

7. Section 40 of the principal Act is amended by deleting the words “21 days” in subsections (1)(a) and (1A) and substituting in each case the words “30 days”.

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### **Amendment of section 48**

8. Section 48 of the principal Act is amended by deleting paragraph (a).

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### **Amendment of heading to Part VIII**

9. The heading to Part VIII of the principal Act is amended by deleting the words “SPOILED STAMPS” and substituting the words “DUTY PAID OR OVERPAID IN CERTAIN CASES”.

### 5 **Amendment of section 57**

10. Section 57 of the principal Act is amended —

- (a) by deleting the words “stamps spoiled” in subsection (1) and substituting the words “the duty paid”;
- (b) by deleting paragraph (a) of subsection (1);
- 10 (c) by deleting the words “the stamp used for” in subsection (1)(b);
- (d) by deleting the word “relief” in subsection (2)(a) and substituting the word “allowance”;
- (e) by deleting subsection (3); and
- 15 (f) by deleting the words “spoiled stamps” in the section heading and substituting the words “duty paid for certain instruments”.

### **Amendment of section 58**

11. Section 58 of the principal Act is amended —

- 20 (a) by deleting subsection (1) and substituting the following subsection:

“(1) When any person —

- (a) has inadvertently paid duty of a greater value than was necessary; or
- 25 (b) has inadvertently paid duty in respect of an instrument not liable to any duty,

and has been issued with a stamp certificate denoting the duty so paid in respect of the instrument, the Commissioner may —

- (i) on an application made within 6 months after the date of the instrument; or
- (ii) if the instrument is not dated, within 6 months after the execution thereof by the person by whom it was first or alone executed, 5  
and upon the instrument, if liable to duty, being stamped with the proper duty, cancel that certificate and make an allowance for the duty overpaid or paid (as the case may be).”; and
- (b) by deleting the words “misused stamps” in the section heading and substituting the words “duty paid or overpaid for misused stamp certificates”. 10

#### **Amendment of section 74**

**12.** Section 74 of the principal Act is amended —

- (a) by inserting, immediately after subsection (2), the following subsection: 15  
“(2A) Orders made under subsection (2) in force immediately before 1st January 2012 shall be deemed to be rules made under subsection (2).”;
- (b) by renumbering the existing subsection (2A) as subsection (2B); and 20
- (c) by deleting the words “subsection (2A)” in subsection (3A) and substituting the words “subsection (2B)”.

#### **Amendment of section 78**

**13.** The principal Act is amended by renumbering section 78 as subsection (1) of that section, and by inserting immediately thereafter the following subsections: 25

“(2) Where a notification adds to, varies or revokes any part of the First or Third Schedule, that notification or any subsequent notification may also make provisions to modify the application of one or more of the following provisions in relation to such addition, variation or revocation:

Sections 16, 18, 21, 22, 24, 31, 32A(4) to (7), 32C and 33.

(3) All notifications making provisions as described in subsection (2) shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

### 10 **Savings provision**

15 **14.**—(1) Section 7 shall not apply to decisions of the Commissioner made under section 39A(5) of the principal Act before the date of commencement of section 7, and section 40 of the principal Act in force immediately before that date shall continue to apply to those decisions.

(2) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations, prescribe such provisions of a savings or transitional nature consequent on the enactment of any provision of this Act, as he may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to make various amendments to the Stamp Duties Act (Cap. 312).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 15A (Relief from ad valorem stamp duty for acquisition of shares of company) for the following purposes:

- (a) to clarify that the acquiring company and one or more acquiring subsidiaries may together make qualifying acquisitions of ordinary shares in the same target company, and to further clarify that it is the cumulative ownership of such shares by the acquiring company and its acquiring subsidiaries that determines whether or not the threshold requirements of more than 50%, or 75% or more, have been reached;
- (b) to remove the requirement (for an instrument whose date of acquisition as defined under subsection (20) is a date between 17th February 2012 and



31st March 2015) that an acquiring subsidiary must be wholly and directly owned by the acquiring company, and to provide instead that an acquiring subsidiary must be wholly owned (whether directly or indirectly) by the acquiring company;

- (c) to make an editorial amendment to subsection (4)(c); and
- (d) to delete the first occurrence of the words “, as the case may be,” in subsection (7) as the amendment referred to in paragraph (a) has made these words superfluous.

Clause 3 makes a clarifying amendment to section 22 (Contracts, etc., to be chargeable as conveyances on sale) as ad valorem duty is no longer chargeable on a conveyance on sale of goods, wares, merchandise, marketable securities, ship or vessel.

Clause 4(a) amends section 22A(8). That provision currently provides for the consideration used to determine the amount of seller stamp duty chargeable under section 22 on a conveyance of specified immovable property, to be reduced by an amount considered as attributable to any part of the property used for a non-prescribed purpose. The amendment allows the consideration to be reduced by an amount considered as attributable to any part of the specified immovable property *which may be used* under the Master Plan or Planning Act for a non-prescribed purpose.

Clause 4(b) amends the definition of “specified immovable property” in section 22A(13) for the purpose of section 22A. Property is specified immovable property so long as it is zoned under the Master Plan, or permitted under the Planning Act (Cap. 322) for use for the purpose, specified in the section 22A Order. No reference is to be made to its actual or intended use.

Clause 4(d) deletes paragraph (f) of section 22A(13) and substitutes new paragraphs (f) and (g). The current paragraph (f) of section 22A(13) provides that a reference to a person acquiring any property includes a reference to a situation where, subsequent to his acquisition of any land, building or part thereof or any 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 to be used for a prescribed purpose. The new paragraph (f) permits its application to land and buildings on it to be further calibrated in the section 22A Order.

The new paragraph (g) defines what is meant by “permitted under the Planning Act” for the purpose of the definition of “specified immovable property” as well as section 22A(8) and (13)(f). Temporary written permission for a period not exceeding 10 years will be excluded.

Clause 5 makes a consequential amendment to section 22B(3)(a) as a result of the amendment made to the definition of “specified immovable property” in section 22A.

Clause 6 makes an amendment to subsection (2) of section 29 (Security for future advances, how to be charged) as a result of the replacement of adhesive and impressed stamps with electronic stamping. The provision, which provides that a security for an unlimited amount is only available for such amount as the duty impressed thereon extends to cover, is amended to include a reference to the amount of duty denoted by the stamp certificate attached to the instrument.

Clause 7 amends the period under section 40 (Appeal to the High Court) for the filing of an appeal to the High Court against a decision of the Commissioner of Stamp Duties (the Commissioner) on a notice of objection, and for the service of a notice of such appeal on the Commissioner. The period is extended from 21 to 30 days.

Clause 8 deletes paragraph (a) of section 48 (Denoting penalty), which provides that the payment of a penalty may be denoted on a physical stamp, as such stamps are no longer in use.

Clause 9 amends the heading to Part VIII as a result of the amendments under clauses 10 and 11.

Clause 10 amends section 57 (Allowance for spoiled stamps) by deleting all references to spoiled stamps. The concept of a spoiled stamp is no longer relevant as instruments are now stamped by electronic means.

Clause 11 amends section 58 (Allowance for misused stamps) for a purpose similar to that for clause 10.

Clause 12 amends section 74 (Power to reduce or remit duties) to treat orders made before 1st January 2012 as rules made under that section. This is to enable rules to be made for the purpose of amending orders made under that section before that date.

Clause 13 amends section 78 (Power to amend Schedules) to allow the Minister to make provisions modifying the application of certain provisions of the Act as a result of any amendment to the First or Third Schedule (which set out, respectively, the types of dutiable instruments and persons liable to pay duty on them). The provisions are those which deem certain instruments as dutiable instruments under the First Schedule. Such power is necessary to enable amendments to be made to those provisions in order to prescribe the corresponding circumstances in which the amendments to the First and Third Schedules are to apply in relation to those provisions, as well as to resolve any uncertainty in the operation of those provisions as a result of an amendment to the First and Third Schedules.

Clause 14 is a savings provision for the amendment to section 40 in clause 7. It applies the period of filing an appeal to the High Court and serving a notice of such appeal under the old section 40 to decisions of the Commissioner made before the commencement of the amendment. The clause also enables the Minister to make regulations to prescribe further savings and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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

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