

STAMP DUTY CHANGES ANNOUNCED IN BUDGET 2000
-STAMP DUTY RELIEF FOR TRANSFER OF ASSETS BETWEEN ASSOCIATED COMPANIES

INTRODUCTION

Ad valorem stamp duty is payable on any instrument that effects the disposal, transfer or conveyance of immovable property or stocks. This is applicable even though the transferor and transferee are companies within the same group (e.g. parent and subsidiary, subsidiary and subsidiary). This is because the transferee and transferor companies are all treated as separate legal entities.

In the 2000 Budget Statement the Minister for Finance announced that relief from ad valorem stamp duty would be granted when immovable property or stocks are transferred from one company to another company within the same corporate group. This is provided that the association is so close that the disposal is little more than a change in the ultimate beneficial ownership of the property or stock.

Stamp Duty Relief

Ad valorem stamp duty is not payable on any instrument made on or after 1 July 2000 if the following conditions are met -

- 1 the instrument must be one that effects the disposal, transfer or conveyance of the beneficial interest (both legal and equitable) in the immovable property or stocks.
- 2 the disposal, transfer or conveyance is from one associated company to another associated company. A company is said to be associated when
 - one company is the beneficial owner of not less than 75% of the issued ordinary share capital of the other company or
 - a third company is beneficial owner of not less than 75 of the issued ordinary share capital of each of those companies
- 3 where 75% of ownership is held indirectly (either wholly or partly) through one or more companies in the group, the interest held by the intermediate company shall be at least 51%.
- 4 the transferee company is incorporated in Singapore or is a Singapore tax resident
- 5 the transferee and transferor companies are associated at least a year before the disposal/acquisition unless the transferee company is newly incorporated for the purpose of the acquisition

- 6 the interest in the property or the shares acquired by the transferee company shall consist of the transferor's entire interest held in that property or stock
- 7 valuable consideration is paid in cash or in the issue of shares in the transferee company
- 8 there shall not exist any arrangement in which-
 - a) any part of the consideration for the acquisition is/was provided or received, directly or indirectly, by an outsider not associated with the transferor or transferee company, unless the outsider is a financial institution acting in the capacity of the lender
 - b) the beneficial interest in the immovable property or shares was previously transferred, directly or indirectly, by an outsider not associated with the transferor or transferee company unless stamp duty had been paid on that acquisition or the duty on the instrument has been exempted or remitted
 - c) the transferor and transferee companies will cease to be associated within 2 years of the acquisition by reason of a change in the percentage of beneficial ownership of the transferor or a third company unless it is in consequence of a reconstruction, amalgamation or an initial public offering not exceeding the minimum requirement set by SGX for a main board listing of the shares prevailing at the time of offer to the public (the current minimum requirement is set at 25% of the issued share capital)
- 9 the disposal, transfer or conveyance of the immovable property or shares is for bona fide commercial reasons
- 10 the transferee company holds the beneficial interest in the property/shares acquired for at least 2 years from acquisition unless the disposal is in consequence of a reconstruction, amalgamation or liquidation. If the transferee company is liquidated, the assets will be distributed in specie to its parent company that will retain the assets during that 2 year period
- 11 the instrument which disposes, transfers or conveys the beneficial interest is executed within 12 months of the acquisition (ie date of the agreement for sale and purchase, date of transfer if no agreement is made)
- 12 the instrument which disposes, transfers or conveys the beneficial interest is adjudicated by the Commissioner of Stamp Duties under section 37

Application for Relief

The following information shall be submitted to the Commissioner of Stamp Duties when applying for the relief

- copy of the sale & purchase agreement and the transfer for which relief is sought
- applicant's opinion as to value of the immovable property or the net asset value of the stock, whichever is the asset being acquired
- a graphical presentation of the structure of the companies within the group as at the date of disposal/acquisition
- copies of board minutes & resolutions of the transferor and transferee companies concerning the disposal/acquisition
- a statutory declaration made by a responsible officer of the transferee company or the parent company (eg director, secretary, in-house solicitor). The statutory declaration shall contain the following information:
 - total number of ordinary issued share capital of the transferor, transferee and other intermediary companies through which the transferor and transferee companies are associated
 - name of all ordinary shareholders of the transferor, transferee and intermediary companies and the number of shares held by each of them as at date of disposal/acquisition (attach supporting documents like ROC searches)
 - copy of the latest audited accounts of the transferor company
 - reason for the proposed disposal/acquisition
 - amount of consideration and how and when it will be paid
 - whether and how each of the conditions will be complied with