



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

Published by Authority

NO. 32]

FRIDAY, DECEMBER 10

[2010

First published in the *Government Gazette*, Electronic Edition, on 9th December 2010 at 5:00 pm.

The following Act was passed by Parliament on 18th October 2010 and assented to by the President on 15th November 2010:—

REPUBLIC OF SINGAPORE

No. 28 of 2010.

I assent.

(LS)

S R NATHAN,
President.
15th November 2010.

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 No. 2) Act 2010 and shall, with the exception of sections 3, 4, 5 and 6, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Sections 3 and 6 shall be deemed to have come into operation on 1st April 2010.

(3) Section 4 shall be deemed to have come into operation on 20th February 2010.

(4) Section 5 shall be deemed to have come into operation on 15th July 2010.

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 paragraphs (i) and (ii) of subsection (3) and substituting the following paragraphs:

“(i) become payable by the transferee entity to the Commissioner immediately; and

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

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

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

(b) by inserting, immediately after subsection (3), the following subsections:

“(3A) The amount recoverable under subsection (3) shall be payable at the place stated in a notice served by the Commissioner on the entity, within one month after the service of the notice by the Commissioner on that entity.

(3B) If any amount recoverable from the entity under subsection (3) is not paid within the period specified in

subsection (3A), the following penalties shall be imposed on the entity:

- (a) where the outstanding amount is paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$10 or the outstanding amount, whichever is the greater; and
- (b) where the outstanding amount is not paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$25 or 4 times the outstanding amount, whichever is the greater.

(3C) The Commissioner may reduce or remit any penalty imposed under this section.

(3D) Sections 50 and 70AA shall apply to the collection and recovery by the Commissioner of the amount recoverable under subsection (3) and any penalty imposed under subsection (3B) as they apply to the collection and recovery of duty and penalty required to be paid under this Act.”.

New section 15A

3. The principal Act is amended by inserting, immediately after section 15, the following section:

“Relief from ad valorem stamp duty for acquisition of shares of companies

15A.—(1) Subject to the provisions of this section and the prescribed conditions being fulfilled, ad valorem stamp duty under Article 3(c) in the First Schedule shall not be chargeable on any instrument executed during the period from 1st April 2010 to 31st March 2015 (both dates inclusive) for the purposes of or in connection with a qualifying acquisition of ordinary shares in a company (referred to in this section as the target company) by a Singapore company (referred to in this section as the acquiring company) or a subsidiary of the Singapore company that satisfies subsection (2) (referred to in this section as the acquiring subsidiary).

(2) For the purposes of subsection (1), the acquiring subsidiary —

- (a) must be incorporated for the primary purpose of acquiring and holding shares in other companies; and

- (b) must be directly and wholly owned by the acquiring company at the date of the acquisition.

(3) In this section, a qualifying acquisition of ordinary shares in a target company by an acquiring company or an acquiring subsidiary is any of the following:

- (a) an acquisition that results in the acquiring company or the acquiring subsidiary, as the case may be, owning more than 50% of the total number of ordinary shares in the target company where, before the date of the acquisition, the acquiring company or the acquiring subsidiary, as the case may be, owns 50% or less of the total number of ordinary shares in the target company;
- (b) any other acquisition the date of which falls within the relevant financial year of the acquisition referred to in paragraph (a);
- (c) an acquisition that results in the acquiring company or the acquiring subsidiary, as the case may be, owning 75% or more of the total number of ordinary shares in the target company where —
 - (i) before the date of the acquisition, the acquiring company or the acquiring subsidiary, as the case may be, owns more than 50% but less than 75% of the total number of ordinary shares in the target company; and
 - (ii) the date of the acquisition does not fall within the relevant financial year of the acquisition referred to in paragraph (a);
- (d) any other acquisition the date of which falls within the relevant financial year of the acquisition referred to in paragraph (c).

(4) In subsection (3), “relevant financial year”, in relation to a qualifying acquisition of ordinary shares in a target company referred to in subsection (3)(a) or (c), means —

- (a) the financial year of the company claiming relief from duty under subsection (1) for an instrument made for the purposes of or in connection with the acquisition; or

- (b) any other period of 12 months as the company may elect for the purposes of claiming the relief under this section,

being a financial year or 12-month period in which the date of the acquisition falls.

(5) The election referred to in subsection (4)(b) shall be made to the Commissioner in the manner determined by him and shall be made either at the time the relief is claimed or thereafter; except that where the election is made after the relief has been claimed on the basis of subsection (4)(a) which would if approved result in any instrument which has been given relief no longer being entitled to such relief, the Commissioner may refuse to approve the election unless the company has refunded to him the amount of such relief together with interest at the prescribed rate.

(6) The Commissioner shall, on an application by the company that has paid or is liable to pay the ad valorem duty on an instrument referred to in subsection (1), and if he is satisfied that the instrument is entitled to the relief referred to in that subsection, refund to the company the amount of the duty, subject to the limit set out in subsection (7) or (8).

(7) Subject to subsection (8) and the rules made under subsection (18), the maximum amount of relief from duty to be allowed under subsection (1) to the company by which the stamp duty is payable in any of its financial years shall not exceed \$200,000.

(8) Subject to the rules made under subsection (18), where the financial year of the company by which the stamp duty is payable exceeds 12 months, the maximum amount of relief from duty to be allowed to it for each of the following periods shall not exceed \$200,000:

- (a) the first 12 months of that financial year;
- (b) the remaining period of that financial year.

(9) For the purposes of subsection (1), where the acquiring company or the acquiring subsidiary, as the case may be, and the target company are part of the same group of companies on the date of a qualifying acquisition of ordinary shares in the target company by the acquiring company or the acquiring subsidiary, as the case

may be, no relief from duty shall be allowed for the instrument in question unless the acquisition would result in an increase in the total number of ordinary shares in the target company held on that date by all the companies in the group, excluding the target company.

(10) For the purpose of determining the amount of relief from duty allowable under subsection (1), where the consideration paid by the acquiring company or the acquiring subsidiary, as the case may be, in respect of the share acquisition consists, wholly or in part, of shares in the acquiring company, the value of consideration comprising such shares shall be such value of the shares at the date of the share acquisition as may be determined by the Commissioner.

(11) Section 15(2) shall apply, with the necessary modifications, to an instrument referred to in this section.

(12) Where any claim for relief from duty under this section has been allowed for an instrument and it is subsequently found that —

- (a) any declaration or other evidence furnished in support of the claim was untrue in any material particular; or
- (b) any condition precedent or condition subsequent prescribed under subsection (18) has not been satisfied,

the claim shall be deemed to have been disallowed and an amount equal to the amount of relief from duty shall —

- (i) in a case where the ordinary shares in the target company are acquired by the acquiring company under the instrument —
 - (A) become payable by the acquiring company to the Commissioner immediately; and
 - (B) be recoverable together with interest referred to in subsection (13) from the acquiring company as a debt due to the Government; and
- (ii) in a case where the ordinary shares in the target company are acquired by the acquiring subsidiary under the instrument —
 - (A) become payable by the acquiring company and the acquiring subsidiary, on a joint and several basis, to the Commissioner immediately; and

(B) be recoverable together with interest referred to in subsection (13) from the acquiring company and the acquiring subsidiary, on a joint and several basis, as a debt due to the Government.

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

- (a) if the instrument is executed by any person in Singapore, from the date of its execution; or
- (b) if the instrument is executed outside Singapore, from the date the instrument is first received in Singapore.

(14) The amount recoverable under subsection (12) shall be payable at the place stated in a notice served by the Commissioner on the acquiring company, or the acquiring company and the acquiring subsidiary, as the case may be, within one month after the service of the notice by the Commissioner on the acquiring company, or the acquiring company and the acquiring subsidiary, as the case may be.

(15) If any amount recoverable from the acquiring company, or the acquiring company and the acquiring subsidiary, as the case may be, under subsection (12) is not paid within the period referred to in subsection (14), the following penalties shall be imposed on the company or companies:

- (a) where the outstanding amount is paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$10 or the outstanding amount, whichever is the greater; and
- (b) where the outstanding amount is not paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$25 or 4 times the outstanding amount, whichever is the greater.

(16) The Commissioner may reduce or remit any penalty imposed under this section.

(17) Sections 50 and 70AA shall apply to the collection and recovery by the Commissioner of the amount recoverable under subsection (12) and any penalty imposed under subsection (15) as they apply to the collection and recovery of duty and penalty required to be paid under this Act.

(18) The Minister may, by rules, make provision for the following:

- (a) to modify the provisions of this section in their application to a case where the company claiming relief has made an election under subsection (4)(b), including deeming the dates of specified acquisitions of ordinary shares in the target company as falling within a specified financial year for the purposes of the application of subsections (7) and (8);
- (b) prescribing the conditions precedent and conditions subsequent to be satisfied by the acquiring company, the acquiring subsidiary and the target company for the purpose of claiming relief from duty on any instrument under this section;
- (c) to provide for the disallowance of relief under this section, where the acquiring company or the acquiring subsidiary, as the case may be, divests of any of the ordinary shares it holds in the target company;
- (d) to provide for the application of this section to a business trust registered under the Business Trusts Act (Cap. 31A) as it applies to a Singapore company, with such modifications as may be prescribed;
- (e) prescribing such matters as are required or authorised to be prescribed under this section; and
- (f) generally for giving full effect to or for carrying out the purposes of this section.

(19) In this section —

“financial year”, in relation to a company, means the period in respect of which any profit and loss account of the company laid before it in general meeting is made up, whether that period is a year or not;

“group of companies” means 2 or more companies each of which is either a holding company or subsidiary of the other or any of the others;

“holding company” and “subsidiary” have the same meanings as in section 5 of the Companies Act (Cap. 50);

“Singapore company” means a company which is incorporated in Singapore and resident in Singapore within the meaning of section 2(1) of the Income Tax Act (Cap. 134).

(20) In this section, the date of an acquisition of ordinary shares in a target company is —

- (a) the date on which the agreement for sale of those shares is entered into by the acquiring company or the acquiring subsidiary, as the case may be; or
- (b) in the absence of an agreement referred to in paragraph (a), the date of the transfer of those shares from the target company to the acquiring company or acquiring subsidiary, as the case may be.”.

Amendment of section 22A

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

- (a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Subject to the provisions of this Act, every conveyance on sale of any specified immovable property (or any part thereof) shall be chargeable with the same additional ad valorem duty under subsection (1), payable by the vendor of the property, in respect of the consideration for that sale, 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 vendor acquired that property or part thereof.”;
- (b) by deleting the words “and (5)” in subsection (10);
- (c) by deleting paragraph (a) of subsection (10) and substituting the following paragraph:
 - “(a) the first reference in that provision to purchaser or sub-purchaser is substituted with a reference to such vendor, lessor or transferor; and”;
- (d) by deleting the words “those provisions” in subsection (10)(b) and substituting the words “that provision”;

- (e) by inserting, immediately after subsection (10), the following subsection:

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

- (a) the references in that provision to a contract or agreement for sale include a conveyance on sale; and
- (b) the references in that provision to duty under that section are substituted with references to the additional duty under this section.”; and

- (f) by deleting the section heading and substituting the following section heading:

“Additional duty on instruments for disposal of immovable property within specified holding period”.

Amendment of section 24

- 5.** Section 24 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(2) For the avoidance of doubt, every instrument filed in the land registry by a personal representative declaring himself to be absolute owner of any land shall be charged as a conveyance or transfer of property.”.

Amendment of section 38

- 6.** Section 38 of the principal Act is amended —

- (a) by deleting the word “When” in subsection (2) and substituting the words “Subject to subsection (2A), when”;
- (b) by inserting, immediately after the words “chargeable with duty” in subsection (2), the words “or with full duty”; and
- (c) by inserting, immediately after subsection (2), the following subsection:

“(2A) Where the instrument is one referred to in section 15A(1), the Commissioner may base his opinion on a statutory declaration in such form as he may direct, made by or on behalf of the target company, the acquiring company or the

acquiring subsidiary, or all of them, referred to in that provision, and such further evidence as he considers necessary.”.

Amendment of section 46

7. Section 46(2) of the principal Act is amended by deleting the words “prescribed by” and substituting the words “imposed under”.

New section 70AA

8. The principal Act is amended by inserting, immediately after section 70A, the following section:

“Recovery of duty, etc., from persons leaving Singapore

70AA.—(1) Where the Commissioner is of the opinion that any person is about or likely to leave Singapore without paying all the duty or penalty recoverable from him under any provisions of this Act, the Commissioner may issue a certificate containing particulars of the duty or penalty and a direction to the Commissioner of Police or the Controller of Immigration, or both, that such person be prevented from leaving Singapore without paying the duty or penalty or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) Subject to the provisions of any order issued or made under any law for the time being in force relating to banishment or immigration, the Commissioner of Police or the Controller of Immigration, or both, as the case may be, shall thereupon take, or cause to be taken by any police officer or immigration officer, such measures as may be necessary to prevent the person named in the direction from leaving Singapore until payment of the duty or penalty has been made or secured as aforesaid, including the use of such force as may be necessary and, if appropriate, the detention of any Singapore passport, certificate of identity or travel document and any exit permit or other document authorising such person to leave Singapore.

(3) At the time of issue of the certificate, the Commissioner shall issue to such person a notification thereof by personal service or registered post; but the non-receipt thereof shall not invalidate any proceedings under this section.

(4) Payment of the duty or penalty to an officer in charge of a police station or to an immigration officer or production of a statement signed by the Commissioner stating that the duty or penalty has been paid or secured as aforesaid shall be sufficient authority for allowing such person to leave Singapore.

(5) Any person who, knowing that a direction has been issued under this section for the prevention of his departure from Singapore, voluntarily leaves or attempts to leave Singapore without paying the duty or penalty payable by him or furnishing security to the satisfaction of the Commissioner for payment thereof shall be guilty of an offence and may be arrested, without warrant, by any police officer or immigration officer.

(6) No civil or criminal proceedings shall be instituted or maintained against the Commissioner of Police, the Controller of Immigration or any other police officer or immigration officer, in respect of anything lawfully done under the authority of this section.”.

Amendment of section 74

9. Section 74 of the principal Act is amended —

- (a) by inserting, immediately after the words “The Minister may”, the words “, in his discretion and subject to such conditions as he may impose,”; and
- (b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) A reduction or remission of duty in relation to a class of instruments, or any instrument belonging to such class, or any instrument when executed by or in favour of a class of persons, or by or in favour of members of such class, shall be made by an order published in the *Gazette*, and the conditions (if any) shall be specified in the order.

(3) Where the Minister is satisfied that a person to whom a remission or reduction of duty is granted fails to comply with any condition imposed under subsection (1) (whether a condition precedent or a condition subsequent), an amount equal to the amount of duty so remitted or reduced shall be recoverable as a debt due to the Government.

(4) The amount recoverable under subsection (3) shall be payable at the place stated in a notice served by the Commissioner on the person, within one month after the service of the notice by the Commissioner on that person.

(5) The Commissioner may, in his discretion and subject to such terms and conditions (including the imposition of interest) as he may impose, extend the time delimited by subsection (4) within which payment is to be made.

(6) If any amount recoverable from a person under subsection (3) and any interest imposed under subsection (5) is not paid within the period specified in subsection (4) or extended under subsection (5), the following penalties shall be imposed on the person:

- (a) where the outstanding amount is paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$10 or the outstanding amount, whichever is the greater; and
- (b) where the outstanding amount is not paid to the Commissioner within 3 months from the expiration of such period, a penalty of \$25 or 4 times the outstanding amount, whichever is the greater.

(7) The Commissioner may reduce or remit any penalty imposed under this section.

(8) Sections 50 and 70AA shall apply to the collection and recovery by the Commissioner of the amount recoverable under subsection (3), any interest imposed under subsection (5) and any penalty imposed under subsection (6) as they apply to the collection and recovery of duty and penalty required to be paid under this Act.”.
