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Notification No. B 60 — The Stamp Duties (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 19th day of October 2004.

Stamp Duties (Amendment) Bill

Bill No. 60/2004.

Read the first time on 19th October 2004.

A BILL

i n t i t u l e d

An Act to amend the Stamp Duties Act (Chapter 312 of the 2000 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 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Stamp Duties Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “lease”, the following definition:

“ “limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act 2004;”.

Amendment of section 15

3. Section 15 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (1) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(c) the conversion of a firm to a limited liability partnership under section 20 of the Limited Liability Partnerships Act 2004.”;

- (c) by inserting, immediately after subsection (3), the following subsection:

“(4) In subsection (1), “firm” has the same meaning as in section 2(1) of the Business Registration Act (Cap. 32).”; and

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

“Relief from ad valorem stamp duty”.

New sections 31, 32, 32A and 32B

4. The principal Act is amended by inserting, immediately after section 30, the following sections:

“Conversion of firm and private company to limited liability partnership

31.—(1) Every notice of registration issued by the Registrar upon the conversion of a firm to a limited liability partnership under section 20 of the Limited Liability Partnerships Act 2004 shall be treated for the purposes of this Act as a conveyance on sale from the firm to the limited liability partnership of the chargeable property vested in the limited liability partnership upon such conversion, for a consideration equal to the value of the chargeable property so vested.

(2) Every notice of registration issued by the Registrar upon the conversion of a private company to a limited liability partnership under section 21 of the Limited Liability Partnerships Act 2004 shall be treated for the purposes of this Act as a conveyance on sale from the private company to the limited liability partnership of the chargeable property vested in the limited liability partnership upon such conversion, for a consideration equal to the value of the chargeable property so vested.

(3) In this section —

“chargeable property” means —

(a) immovable property situate in Singapore, or any beneficial interest thereof; and

(b) stocks and shares registered in a register kept in Singapore, or any beneficial interest thereof, other than stocks and shares deposited with and registered in the name of the Central Depository System established under section 130C of the Companies Act (Cap. 50) or its nominee;

“firm” has the same meaning as in section 2(1) of the Business Registration Act (Cap. 32);

“private company” has the same meaning as in section 4(1) of the Companies Act;

“Registrar” has the same meaning as in the Limited Liability Partnerships Act 2004.

Significant change of partners of limited liability partnership

32.—(1) This section shall apply for the purposes of sections 32A and 32B in determining whether a change of partners of a limited liability partnership as a result of —

- 5 (a) any person becoming a partner of the limited liability partnership; or
- (b) any person ceasing to be a partner of the limited liability partnership,

10 (referred to in this section and sections 32A and 32B as a change of partners) amounts to a significant change of partners of the limited liability partnership (referred to in this section and sections 32A and 32B as a significant change of partners).

 (2) A change of partners shall amount to a significant change of partners in the following cases:

- 15 (a) where the composition of the partners of the limited liability partnership upon the change of partners in question is such that, when compared to the composition of the partners of the limited liability partnership on one or more specified dates (as defined in subsection (3)) —

- 20 (i) half or more of the partners of the limited liability partnership on any of those specified dates are no longer partners of the limited liability partnership upon the change of partners in question; or

- 25 (ii) half or more of the partners upon the change of partners in question were not partners of the limited liability partnership on any of those specified dates; or

- 30 (b) where the asset share of the partners of the limited liability partnership upon the change of partners in question is such that, when compared to the asset share of the partners of the limited liability partnership on one or more specified dates, the sum total of all relevant increases in asset share of the partners of the limited liability partnership upon the change of partners in question amounts to 50% or more of the interest in the limited liability partnership.

(3) In subsection (2), “specified date” means —

(a) where one or more significant changes of partners took place within a period of 2 years before the change of partners in question —

5 (i) the date of any change of partners that took place between the significant change of partners closest in time to the change of partners in question and the change of partners in question; and

10 (ii) the date of the significant change of partners closest in time to the change of partners in question; and

(b) where no significant change of partners took place within a period of 2 years before the change of partners in question —

15 (i) in the case of a limited liability partnership formed 2 or more years before the change of partners in question —

(A) the date of any change of partners that took place within the period of 2 years before the change of partners in question; and

20 (B) as at 2 years before the change of partners in question; and

(ii) in the case of a limited liability partnership formed less than 2 years before the change of partners in question —

25 (A) the date of any change of partners that took place between the formation of the limited liability partnership and the change of partners in question; and

(B) the date of the formation of the limited liability partnership.

30 (4) For the purpose of subsection (2)(b), the relevant increase in asset share of a partner of a limited liability partnership shall be —

(a) where the partner upon the change of partners in question was also a partner of a limited liability partnership on the specified date, the difference between the asset share of the

partner upon the change of partners in question and the asset share of the partner on the specified date; and

- (b) where the partner upon the change of partners in question was not a partner of the limited liability partnership on the specified date, the asset share of the partner upon the change of partners in question.

(5) In this section, “asset share”, in relation to a partner of a limited liability partnership, means any of the following:

- (a) in the case of an asset share upon a change of partners (whether significant or otherwise) —

(i) the proportion of the chargeable property held by the limited liability partnership that the partner is entitled to on the winding up of the limited liability partnership, as specified in any instrument effecting or evidencing the change of partners; or

(ii) if any instrument effecting or evidencing a change of partners does not specify the proportion referred to in sub-paragraph (i) or if there is no such instrument, the proportion of the profits of the limited liability partnership that the partner is entitled to on the date of the change of partners;

- (b) in the case of an asset share upon the formation of the limited liability partnership —

(i) the proportion of the chargeable property held by the limited liability partnership that the partner is entitled to on the winding up of the limited liability partnership, as specified in any instrument evidencing the formation of the limited liability partnership; or

(ii) if any instrument evidencing the formation of the limited liability partnership does not specify the proportion referred to in sub-paragraph (i) or if there is no such instrument, the proportion of the profits of the limited liability partnership that the partner is entitled to upon the formation of the limited liability partnership; and

(c) in the case of an asset share on any other date —

(i) the proportion of the chargeable property held by the limited liability partnership that the partner is entitled to on the winding up of the limited liability partnership, as specified in —

(A) where one or more changes of partners took place before that date, any instrument effecting or evidencing the change of partners closest in time to that date; and

(B) where no change of partners took place before that date, any instrument evidencing the formation of the limited liability partnership; or

(ii) if any instrument effecting or evidencing the change of partners or the formation of the limited liability partnership (as the case may be) does not specify the proportion referred to in sub-paragraph (i) or if there is no such instrument, the proportion of the profits of the limited liability partnership that the partner is entitled to on that date.

Transfer of interest in limited liability partnership

32A.—(1) This section shall apply to any limited liability partnership holding any chargeable property.

(2) Where a change of partners amounts to a significant change of partners, every one of the following partners (referred to in this section as a designated partner) shall notify the Commissioner of the change of partners in question in such form as the Commissioner may require within 14 days of the change of partners in question:

(a) every person who, not being a partner of the limited liability partnership before the change of partners in question, becomes a partner of the limited liability partnership upon the change of partners in question; and

(b) every partner of the limited liability partnership whose asset share upon the change of partners in question has increased when compared with his asset share on any of the following dates:

(i) upon an earlier change of partners —

(A) which is closest in time to the change of partners in question; and

(B) in which the composition of the partners or asset share of the partners of the limited liability partnership, when compared to the composition of the partners or asset share of the partners upon the change of partners in question, results in the change of partners in question amounting to a significant change of partners under section 32; and

(ii) where there is no such earlier change of partners —

(A) in the case of a limited liability partnership formed 2 or more years before the change of partners in question, as at 2 years before the change of partners in question;

(B) in the case of a limited liability partnership formed less than 2 years before the change of partners in question, upon the formation of the limited liability partnership.

(3) Any person who fails or neglects without reasonable excuse to comply with subsection (2) shall be guilty of an offence.

(4) Any instrument effecting or evidencing a significant change of partners of a limited liability partnership shall be treated for the purposes of this Act as a conveyance on sale from the limited liability partnership to each designated partner of an interest in the chargeable property held by the limited liability partnership for a consideration equal to the value of the interest as determined under subsection (6) or (7).

(5) Where any significant change of partners of a limited liability partnership is not effected or evidenced by any instrument, the notification to the Commissioner made under subsection (2) shall be treated for the purposes of this Act as such an instrument.

(6) Subject to subsection (7), for the purpose of subsection (4), the value of the interest shall, in relation to any designated partner, be an amount ascertained in accordance with the formula —

- (a) in the case of a person who is a designated partner referred to in subsection (2)(a)

$$A \times B,$$

where A is the asset share of the person upon his becoming a designated partner; and

B is the value of the chargeable property held by the limited liability partnership upon the person becoming a designated partner; and

- (b) in the case of a person who is a designated partner referred to in subsection (2)(b)

$$(C - D) \times E,$$

where C is the asset share of the designated partner upon the significant change of partners in question;

D is —

(a) the asset share of the designated partner upon a significant change of partners closest in time to the significant change of partners in question; and

(b) if there is no such significant change of partners, the asset share of the designated partner upon the formation of the limited liability partnership; and

E is the value of the chargeable property held by the limited liability partnership upon the significant change of partners in question.

(7) Notwithstanding subsection (6), where there is any instrument referred to in subsection (4) which states the amount of the consideration specifically for the transfer of the interest in the chargeable property of the limited liability partnership to the designated partner, the value of the interest for the purpose of subsection (4) shall be the amount stated in the instrument or the amount ascertained under subsection (6), whichever is the higher.

(8) In this section —

“asset share” has the same meaning as in section 32;

“chargeable property” has the same meaning as in section 31.

Conveyance between limited liability partnership and partner

32B.—(1) Subject to subsection (3), the ad valorem stamp duty chargeable on any instrument made for the purposes of or in connection with the transfer, conveyance or assignment of any beneficial interest in any asset —

(a) by a limited liability partnership to a partner thereof;

(b) by a partner of a limited liability partnership to the limited liability partnership; or

(c) by a person who becomes a partner of a limited liability partnership to the limited liability partnership,

shall be reduced by the proportion determined in accordance with subsection (2).

(2) The proportion by which the ad valorem stamp duty shall be reduced under subsection (1) shall be the same proportion as the following:

(a) in the case of a transfer, a conveyance or an assignment of any beneficial interest in any asset between a limited liability partnership and a partner thereof —

(i) where one or more significant changes of partners took place before the transfer, conveyance or assignment, the asset share of the partner upon the significant change of partners closest in time to the transfer, conveyance or assignment; or

(ii) where no significant change of partners took place before the transfer, conveyance or assignment, the asset share of the partner upon the formation of the limited liability partnership; and

(b) in the case of a transfer, a conveyance or an assignment of any beneficial interest in any asset between a limited liability partnership and a person becoming a partner thereof, the asset share of that person upon his becoming a partner thereof.

(3) Notwithstanding subsection (1), the minimum ad valorem stamp duty chargeable on any instrument made for the purposes of or in connection with the transfer, conveyance or assignment of any beneficial interest in any asset referred to in that subsection shall be \$10.

(4) In this section, “asset share” has the same meaning as in section 32.”.

Amendment of section 62

5. Section 62 of the principal Act is amended —

- (a) by deleting the word “or” at the end of paragraph (b); and
- (b) by deleting the comma at the end of paragraph (c) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(d) fails to comply with section 32A(2),”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Stamp Duties Act (Cap. 312).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert a new definition of “limited liability partnership”.

Clause 3 amends section 15 to provide for relief from ad valorem stamp duty in the event of a conversion of a firm to a limited liability partnership under section 20 of the Limited Liability Partnerships Act 2004.

Clause 4 inserts new sections 31, 32, 32A and 32B.

The new section 31 treats a notice of registration issued by the Registrar of Limited Liability Partnerships upon a firm or a private company converting to a limited liability partnership under section 20 or 21 of the Limited Liability Partnership Act 2004, as the case may be, as a conveyance on sale from the firm or private company to the limited

liability partnership of the chargeable property vested in the limited liability partnership upon such conversion.

The new section 32 provides for when a change of partners of a limited liability partnership which results from —

- (a) a person becoming a partner of a limited liability partnership; or
- (b) a partner leaving a limited liability partnership,

amounts to a significant change of partners of the limited liability partnership for the purposes of the new sections 32A and 32B.

In determining whether a change of partners amounts to a significant change of partners, the composition of the partners or the asset share of the partners of the limited liability partnership upon the change of partners in question is to be compared with —

- (a) where one or more significant changes of partners took place within 2 years prior to the change of partners in question —
 - (i) the composition of the partners or asset share of the partners on the date of any change of partners which took place between the date of the significant change of partners closest in time to the change of partners in question, and the change of partners in question; and
 - (ii) the composition of the partners or asset share of the partners on the date of the significant change of partners closest in time to the change of partners in question; and
- (b) where no significant change of partners took place within 2 years prior to the change of partners in question —
 - (i) in the case of a limited liability partnership formed 2 or more years before the change of partners in question —
 - (A) the composition of the partners or asset share of the partners on the date of any change of partners which took place within the period of 2 years before the change of partners in question; and
 - (B) the composition of the partners or asset share of the partners as at 2 years before the change of partners in question; and
 - (ii) in the case of a limited liability partnership formed less than 2 years before the change of partners in question —
 - (A) the composition of the partners or asset share of the partners on the date of any change of partners which took place between the formation of the limited liability partnership and the change of partners in question; and
 - (B) the composition of the partners or asset share of the partners on the date of the formation of the limited liability partnership.

Where the comparison between the composition of the partners or asset share of the partners upon the change of partners in question with the relevant composition of the

partners or asset share of the partners shows a change in the composition of the partners of the limited liability partnership or an aggregate relevant increase in asset shares of the partners as specified in the new section 32, the change in question will amount to a significant change of partners, but not otherwise.

The new section 32A provides for certain matters relating to a transfer of an interest in a limited liability partnership where there is a significant change of partners of the limited liability partnership.

The matters dealt with in the new section 32A where there is a significant change of partners in a limited liability partnership are as follows:

- (a) every person who, upon that significant change of partners —
 - (i) becomes a partner of the limited liability partnership; or
 - (ii) being a partner of the limited liability partnership, increases his interest in certain immovable property and stocks and shares held by the limited liability partnership as specified in subsection (2),
 is to notify the Commissioner of such a change;
- (b) any instrument effecting or evidencing the significant change of partners (and in the absence of such an instrument, the notification to the Commissioner) is deemed to be a conveyance on sale of an interest in certain immovable property and stocks and shares held by the limited liability partnership to the partner required to notify the Commissioner for a consideration equal to the value of the interest; and
- (c) for the purpose of determining the ad valorem stamp duty payable by a partner required to notify the Commissioner of a significant change of partners on a conveyance on sale referred to in sub-paragraph (b), the value of the interest in relation to that partner is to be the higher of the following:
 - (i) the amount stated in the instrument referred to in sub-paragraph (b) as being the consideration specifically for the transfer of the interest to that partner (if any); or
 - (ii) the amount calculated in accordance with the relevant formula specified in subsection (6).

The new section 32B provides for the reduction of ad valorem stamp duty chargeable on any instrument made for the purposes of or in connection with the transfer, conveyance or assignment of any beneficial interest in an asset —

- (a) by a limited liability partnership to a partner thereof;
- (b) by a partner in a limited liability partnership to the limited liability partnership; and
- (c) by a person who becomes a partner of a limited liability partnership to the limited liability partnership,

by a proportion equal to that represented by the asset share of the partner —

- (i) in the case of sub-paragraph (a) or (b) —
 - (A) the asset share of the partner upon a significant change of partners closest in time to the transfer, conveyance or assignment; and
 - (B) where no significant change of partners took place before the transfer, conveyance or assignment, the asset share of the partner upon the formation of the limited liability partnership; and
- (ii) in the case of sub-paragraph (c), the asset share of the partner upon his becoming a partner of the limited liability partnership.

Notwithstanding the amount of any reduction of ad valorem stamp duty provided for under the section, the minimum ad valorem stamp duty chargeable is to be \$10.

Clause 5 amends section 62 to provide that the intentional evasion of duty by not complying with new section 32A(2) is to be an offence.

EXPENDITURE OF PUBLIC MONEY

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