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STAMP DUTIES ACT 1929

STAMP DUTIES (RELIEF FROM STAMP DUTY UPON ACQUISITION OF SHARES OF COMPANIES) (AMENDMENT) RULES 2022

In exercise of the powers conferred by sections 15A and 77 of the Stamp Duties Act 1929, the Minister for Finance makes the following Rules:

Citation and commencement

1.—(1) These Rules are the Stamp Duties (Relief from Stamp Duty upon Acquisition of Shares of Companies) (Amendment) Rules 2022 and, except for rules 6(2) and 9, are deemed to have come into operation on 1 April 2015.

(2) Rule 6(2) is deemed to have come into operation on 1 January 2018.

(3) Rule 9 is deemed to have come into operation on 31 December 2021.

Amendment of heading of rule 3

2. Rule 3 of the Stamp Duties (Relief from Stamp Duty upon Acquisition of Shares of Companies) Rules 2013 (G.N. No. S 163/2013) (called in these Rules the principal Rules) is amended by deleting the rule heading and substituting the following rule heading:

“Prescribed qualifying period under section 15A(4)(b) of Act”.

New rule 3A

3. The principal Rules are amended by inserting, immediately after rule 3, the following rule:

“Prescribed qualifying period under section 15A(6)(b) of Act

3A.—(1) For the purposes of section 15A(6)(b) of the Act, the prescribed period that an acquiring company may elect to replace the qualifying period mentioned in section 15A(6)(a) of the Act is the period specified in paragraph (2) or (3), whichever is applicable.

(2) Where the qualifying period in the first instance is the financial year of the acquiring company in which the acquisition mentioned in section 15A(5)(b) of the Act occurs, the prescribed period is a period of 12 months ending on and including the date of —

- (a) the acquisition mentioned in section 15A(5)(b) of the Act; or
- (b) a subsequent acquisition of ordinary shares in the target company by the acquiring company or the acquiring subsidiary that takes place before the end of the financial year of the acquiring company in which the acquisition mentioned in sub-paragraph (a) falls.

(3) Where the qualifying period in the first instance is the financial year of the acquiring company in which the acquisition mentioned in section 15A(5)(d) of the Act occurs, the prescribed period is either of the following periods:

- (a) the shorter of the following:
 - (i) a period of 12 months ending on and including the date of the acquisition mentioned in section 15A(5)(d) of the Act;
 - (ii) a period commencing immediately after the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary, as the case may be —
 - (A) that occurs in a qualifying period in relation to an acquisition mentioned in section 15A(5)(b) of the Act; and

(B) in respect of which a deduction under section 37L of the Income Tax Act has been claimed,

and ending on and including the date mentioned in sub-paragraph (i);

(b) the shorter of the following:

(i) a period of 12 months ending on and including the date of an acquisition that occurs after but in the same financial year as that in which the acquisition mentioned in section 15A(5)(d) of the Act occurs;

(ii) a period commencing immediately after the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary, as the case may be —

(A) that occurs in a qualifying period in relation to an acquisition mentioned in section 15A(5)(b) of the Act; and

(B) in respect of which a deduction under section 37L of the Income Tax Act has been claimed,

and ending on and including the date mentioned in sub-paragraph (i).”.

Amendment of rule 4

4. Rule 4 of the principal Rules is amended —

(a) by inserting, immediately after the words “section 15A(3)(d)” in paragraph (1)(b), the words “or (e)”; and

(b) by deleting the rule heading and substituting the following rule heading:

“Conditions precedent for relief for acquisitions under section 15A(3) of Act”.

New rule 4A

5. The principal Rules are amended by inserting, immediately after rule 4, the following rule:

“Conditions precedent for relief for acquisitions under section 15A(5) of Act

4A.—(1) For the purposes of section 15A(1) of the Act, the conditions precedent for relief from ad valorem stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition in a target company by an acquiring company or any acquiring subsidiary mentioned in section 15A(5) of the Act are specified in paragraph (2) and (where applicable) paragraph (3).

(2) The conditions precedent are —

(a) the acquiring company —

- (i) is carrying on a trade or business in Singapore on the date of the acquisition of the shares;
- (ii) has in its employment at least 3 local employees at all times during the period of 12 months immediately before that date;
- (iii) is not connected to the target company for at least 2 years immediately before that date, unless paragraph (4) applies; and
- (iv) in a case where the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act, has a Singapore company as its ultimate holding company on that date;

(b) where the acquisition is made by the acquiring subsidiary, the acquiring subsidiary —

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- (i) does not carry on a trade or business in Singapore or elsewhere on the date of the acquisition of the shares; and
 - (ii) does not claim any deduction for any capital expenditure or transaction costs under section 37L of the Income Tax Act for the financial year in which the acquisition occurs or any stamp duty relief under section 15A of the Act for that financial year;
 - (c) where the acquisition is made by the acquiring subsidiary and, on the date of the acquisition of the shares, the acquiring subsidiary is indirectly owned by the acquiring company through one or more intermediate companies, every such intermediate company —
 - (i) is wholly owned (whether directly or indirectly) by the acquiring company on that date;
 - (ii) is incorporated for the primary purpose of acquiring and holding shares in other companies;
 - (iii) does not carry on a trade or business in Singapore or elsewhere on that date; and
 - (iv) does not claim any deduction for any capital expenditure or transaction costs under section 37L of the Income Tax Act for the financial year in which the acquisition occurs or any stamp duty relief under section 15A of the Act for that financial year;
 - (d) the target company, or a subsidiary wholly owned by the target company (either directly, or indirectly through one or more intermediate companies) —
 - (i) carries on a trade or business on the date of the acquisition of the shares; and

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- (ii) has in its employment at least 3 employees at all times during the period of 12 months immediately before that date; and
- (e) the consideration paid by the acquiring company or the acquiring subsidiary (as the case may be) in respect of the qualifying acquisition consists only of cash or shares in the acquiring company or a combination of both.
- (3) For the purposes of an acquisition mentioned in section 15A(5)(c) or (e) of the Act, it is also a condition precedent that the conditions specified in paragraph (2) are also satisfied in relation to —
- (a) the qualifying acquisition mentioned in section 15A(5)(a) of the Act, where the claim is for relief from stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition falling within the qualifying period in which the qualifying acquisition mentioned in section 15A(5)(a) of the Act occurs;
- (b) the qualifying acquisition mentioned in section 15A(5)(b) of the Act, where the claim is for relief from stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition falling within the qualifying period in which the qualifying acquisition mentioned in section 15A(5)(b) of the Act occurs; or
- (c) the qualifying acquisition mentioned in section 15A(5)(d) of the Act, where the claim is for relief from stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition falling within the qualifying period in which the qualifying acquisition mentioned in section 15A(5)(d) of the Act occurs.
- (4) Paragraph (2)(a)(iii) does not apply in respect of any qualifying acquisition where the date of the qualifying acquisition is —

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- (a) after the date of an acquisition mentioned in section 15A(5)(a), (b) or (d) of the Act, as the case may be; but
 - (b) on or before the last day of the qualifying period in which the acquisition mentioned in section 15A(5)(a), (b) or (d) of the Act (as the case may be) occurs.
- (5) For the purposes of paragraph (2)(a)(iii), a company is connected to another company if —
- (a) at least 75% of the total number of ordinary shares in one company are beneficially held, directly or indirectly, by the other; or
 - (b) at least 75% of the total number of ordinary shares in each of the 2 companies are beneficially held, directly or indirectly, by a third company.”.

Amendment of rule 5

6.—(1) Rule 5 of the principal Rules is amended —

- (a) by inserting, immediately after the words “or its acquiring subsidiary” in paragraph (1), the words “made during the period from 1 April 2010 to 31 March 2015 (both dates inclusive)”;
- (b) by inserting, immediately after paragraph (1), the following paragraphs:

“(1A) For the purposes of section 15A(1) of the Act, the conditions subsequent for relief from ad valorem stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition in a target company by an acquiring company or its acquiring subsidiary made during the period from 1 April 2015 to 31 March 2020 (both dates inclusive) are as follows:

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- (a) the acquiring company —
- (i) continues to carry on a trade or business in Singapore throughout the restriction period; and
 - (ii) has in its employment at least 3 local employees throughout the restriction period;
- (b) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(a) of the Act or an acquisition that falls within the qualifying period in which the firstmentioned qualifying acquisition occurs —
- (i) the target company does not, at any time during the restriction period, issue additional ordinary shares that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to below 20%;
 - (ii) the acquiring company or its acquiring subsidiary (as the case may be) does not divest its shares in the target company that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to below 20% at any time during the restriction period;
 - (iii) the target company is considered an associate of the acquiring company or its acquiring subsidiary (as the case may be) within the meaning of FRS 28 or SFRS for Small Entities

(as the case may be) throughout the restriction period; and

(iv) at least one director of any of the following companies is, within such time starting from the end of the qualifying period as the Commissioner may allow and throughout the restriction period, the nominee of the acquiring company or its acquiring subsidiary, as the case may be:

(A) the target company;

(B) a subsidiary that —

(BA) is wholly owned by the target company either directly, or indirectly through one or more intermediate companies;

(BB) carries on a trade or business in Singapore or elsewhere on the date of the acquisition of shares; and

(BC) has in its employment at least 3 employees at all times during the period of 12 months immediately before that date;

(C) a company that is wholly owned (either directly, or indirectly through one or more intermediate companies) by the target company, and that

wholly owns (either directly, or indirectly through one or more intermediate companies) the subsidiary mentioned in sub-paragraph (B);

(c) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(b) of the Act or an acquisition that falls within the qualifying period in which the firstmentioned qualifying acquisition occurs —

(i) the target company does not, at any time during the restriction period, issue additional ordinary shares that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to 50% or less; or

(ii) the acquiring company or its acquiring subsidiary (as the case may be) does not divest its shares in the target company that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to 50% or less at any time during the restriction period;

(d) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(d) of the Act or an acquisition that falls within the qualifying period in which the firstmentioned qualifying acquisition occurs —

(i) the target company does not, at any time during the restriction period,

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- issue additional ordinary shares that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to 50% or less; or
- (ii) the acquiring company or its acquiring subsidiary (as the case may be) does not divest its shares in the target company that reduces the total ownership of the acquiring company and its acquiring subsidiaries of the ordinary shares in the target company to below 75% at any time during the restriction period;
- (e) the acquiring company or, if the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act, its ultimate holding company continues to be a Singapore company throughout the restriction period;
- (f) where the qualifying acquisition is made by the acquiring subsidiary, the acquiring subsidiary and every intermediate company through which the acquiring subsidiary is indirectly owned by the acquiring company —
- (i) does not carry on any trade or business in Singapore or elsewhere at any time during the restriction period;
 - (ii) does not claim any deduction for any capital expenditure or transaction costs under section 37L of the Income Tax Act for the financial year in which the qualifying

acquisition occurs or claim any stamp duty relief under section 15A of the Act for that financial year; and

(iii) is, throughout the restriction period, wholly owned (whether directly or indirectly) by the acquiring company;

(g) the shareholders of the acquiring company are, to the satisfaction of the Commissioner, substantially the same throughout the restriction period, or the Minister or such person as the Minister may appoint is satisfied that any substantial change in the shareholders during the restriction period is not for the purpose of deriving any tax benefit or obtaining any tax advantage.

(1B) The requirement in paragraph (1A)(b)(iv) is not satisfied by nominating an individual who, at the time of the nomination, is already a director of —

- (a) the target company mentioned in paragraph (1A)(b)(iv)(A);
- (b) the subsidiary mentioned in paragraph (1A)(b)(iv)(B); or
- (c) the company mentioned in paragraph (1A)(b)(iv)(C),

as the case may be.

(1C) The requirement in paragraph (1A)(b)(iv) is treated as satisfied even though at any time during the restriction period, the nominee of the acquiring company or its acquiring subsidiary (including any replacement for the nominee) ceases to be a director of the company mentioned in paragraph (1A)(b)(iv)(A), (B) or (C) (as the case

may be), if the acquiring company or its acquiring subsidiary satisfies the Commissioner that —

- (a) there is reasonable cause for the cessation; and
 - (b) (unless the Commissioner in a particular case determines that such replacement is not possible) the acquiring company or its acquiring subsidiary has made reasonable efforts to replace the director with another nominee for the remainder of the restriction period.”;
- (c) by deleting the words “paragraph (1)(g)” in paragraph (2) and substituting the words “paragraphs (1)(g) and (1A)(g)”;
- (d) by deleting the word “or” at the end of paragraph (3)(a); and
- (e) by deleting the full-stop at the end of sub-paragraph (b) of paragraph (3) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:
- “(c) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(a) of the Act or an acquisition that falls within the qualifying period in which the firstmentioned qualifying acquisition occurs, the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary (as the case may be) that occurs in a qualifying period in relation to the firstmentioned acquisition;
 - (d) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(b) of the Act or an acquisition that falls within the qualifying

period in which the firstmentioned qualifying acquisition occurs, the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary (as the case may be) that occurs in a qualifying period in relation to the firstmentioned acquisition; or

- (e) where the qualifying acquisition is the acquisition mentioned in section 15A(5)(d) of the Act or an acquisition that falls within the qualifying period in which the firstmentioned qualifying acquisition occurs, the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary (as the case may be) that occurs in a qualifying period in relation to the firstmentioned acquisition.”.

(2) Rule 5(1A) of the principal Rules, as inserted by paragraph (1)(b), is amended by inserting, immediately after “FRS 28” in sub-paragraph (b)(iii), “, SFRS(I) 1-28,”.

Amendment of rule 6

7. Rule 6 of the principal Rules is amended by inserting, immediately after the words “and 5(1)(e)”, the words “and (1A)(e)”.

Amendment of Part II of Schedule

8. Part II of the Schedule to the principal Rules is amended —

- (a) by deleting the words “and 5(1)(b)(i)” in item 1 under the heading “*Provision*” and substituting the words “, 4A(2)(a)(i) and 5(1)(b)(i) and (1A)(a)(i)”;
- (b) by deleting the words “and 5(1)(b)(ii)” in item 2 under the heading “*Provision*” and substituting the words “, 4A(2)(a)(ii) and 5(1)(b)(ii) and (1A)(a)(ii)”;
- (c) by deleting the words “Rule 4(1)(a)(i)(C) and (b)(i)(C) and (3)” in item 3 under the heading “*Provision*” and

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- substituting the words “Rules 4(1)(a)(i)(C) and (b)(i)(C) and (3) and 4A(2)(a)(iii)”;
- (d) by deleting the words “and 5(1)(e)” in item 4 under the heading “*Provision*” and substituting the words “, 4A(2)(a)(iv) and 5(1)(e) and (1A)(e)”;
- (e) by inserting, immediately after the words “Rule 5(1)(g)” in item 5 under the heading “*Provision*”, “, (1A)(g)”.

Miscellaneous amendments

9. The principal Rules are amended —

- (a) by deleting the words “(Cap. 36)” in paragraph (b) of the definition of “local employee” in rule 2 and substituting “1953”;
- (b) by deleting the words “(Cap. 50)” in the following provisions and substituting in each case “1967”:
- Rule 2 (definition of “local employee”)
 - Rule 4(1)(a)(i)(D)
 - Rule 5(1)(e);
- (c) by inserting, immediately after the words “Companies Act” in the following provisions, “1967”:
- Rule 2 (definition of “ultimate holding company”)
 - Rule 4(1)(b)(i)(D)
 - Rule 4A(2)(a)(iv)
 - Rule 5(1A)(e);
- (d) by deleting the words “section 15A(4)(b)” in rule 3 and the rule heading and substituting in each case the words “section 15A(6)(b)”;
- (e) by deleting the words “section 15A(4)(a)” in rule 3 and substituting the words “section 15A(6)(a)”;

(f) by deleting the words “section 15A(3)(a)” wherever they appear in the following provisions and substituting in each case the words “section 15A(5)(a)”:

Rule 3(a) and (b)

Rule 4(1)(b)(v)(A)

Rule 5(1)(c) and (3)(a);

(g) by deleting the word “occurs” wherever it appears in the following provisions and substituting in each case the words “is made”:

Rule 3(a) and (b)

Rule 3A(2) and (3)

Rule 4(1) and (2)

Rule 4A(2), (3) and (4)

Rule 5(1), (1A) and (3);

(h) by deleting the words “section 15A(3)(c)” wherever they appear in the following provisions and substituting in each case the words “section 15A(5)(b)”:

Rule 3(b)

Rule 4(1)(b)(v)(B)

Rule 5(1)(d) and (3)(b);

(i) by deleting the words “section 37L of the Income Tax Act (Cap. 134)” and substituting the words “section 37O of the Income Tax Act 1947” in the following provisions:

Rule 3(b)(i)(B)

Rule 4(1)(a)(ii)(B)

Rule 5(1)(f)(ii);

(j) by deleting the words “section 37L of the Income Tax Act” and substituting the words “section 37O of the Income Tax Act 1947” in the following provisions:

Rule 3(b)(ii)(B)

Rule 3A(3)(a)(ii)(B) and (b)(ii)(B)

Rule 4(1)(a)(iii)(D) and (b)(ii)(B) and (iii)(D)

Rule 4A(2)(b)(ii) and (c)(iv)

Rule 5(1A)(f)(ii);

(k) by deleting the words “section 15A(6)(b)” in rule 3A(1) and the rule heading and substituting in each case the words “section 15A(8)(b)”;

(l) by deleting the words “section 15A(6)(a)” in rule 3A(1) and substituting the words “section 15A(8)(a)”;

(m) by deleting the words “section 15A(5)(b)” wherever they appear in the following provisions and substituting in each case the words “section 15A(7)(b)”:

Rule 3A(2) and (3)

Rule 4A(3)(b)

Rule 5(1A)(c) and (3)(d);

(n) by deleting the words “section 15A(5)(d)” wherever they appear in the following provisions and substituting in each case the words “section 15A(7)(d)”:

Rule 3A(3)

Rule 4A(3)(c)

Rule 5(1A)(d) and (3)(e);

(o) by deleting the words “section 15A(3)(a) or (c)” in rule 4(1)(a) and (2)(a) and (b) and substituting in each case the words “section 15A(5)(a) or (b)”;

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- (p) by deleting the words “section 15A(3)(d) or (e)” in rule 4(1)(b) and substituting the words “section 15A(5)(c) or (d)”;
- (q) by deleting the words “section 15A(3)” in the rule heading of rule 4 and substituting the words “section 15A(5)”;
- (r) by deleting the words “section 15A(5)” in rule 4A(1) and the rule heading and substituting in each case the words “section 15A(7)”;
- (s) by deleting the words “section 15A(5)(c) or (e)” in rule 4A(3) and substituting the words “section 15A(7)(c) or (e)”;
- (t) by deleting the words “section 15A(5)(a)” wherever they appear in the following provisions and substituting in each case the words “section 15A(7)(a)”:
- Rule 4A(3)(a)
- Rule 5(1A)(b) and (3)(c);
- (u) by deleting the words “section 15A(5)(a), (b) or (d)” wherever they appear in rule 4A(4) and substituting in each case the words “section 15A(7)(a), (b) or (d)”;
- (v) by deleting the words “(Cap. 31A)” in rule 9(1) and substituting “2004”; and
- (w) by deleting the words “section 15A(9)” in rule 9(2) and substituting the words “section 15A(24)”.

Made on 29 July 2022.

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Singapore.*

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