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STAMP DUTIES ACT (CHAPTER 312)

STAMP DUTIES (NON-LICENSED HOUSING DEVELOPERS) (REMISSION OF ABSD) RULES 2015

ARRANGEMENT OF RULES

Rule

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In exercise of the powers conferred by section 74 of the Stamp Duties Act, the Minister for Finance makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Stamp Duties (Non-Licensed Housing Developers) (Remission of ABSD) Rules 2015 and come into operation on 16 December 2015.

Definitions

2. In these Rules, unless the context otherwise requires —

“additional buyer’s stamp duty” or “ABSD” means the duty referred to in paragraph (*bf*) of Article 3 of the First Schedule to the Act;

“conveyance direction” means a direction referred to in section 22(4) of the Act;

“housing accommodation” includes a building or tenement wholly or principally constructed, adapted or intended for human habitation, or for human habitation and as business premises, but excludes a serviced apartment and a workers’ dormitory;

“housing developer” means a company which engages in a business of housing development;

“housing development” means the construction of no more than 4 units of housing accommodation, including any building operations in, on, over or under the land for the purpose of erecting such housing accommodation, and the sale of land which would be appurtenant to such housing accommodation.

Remission of ABSD for instruments relating to property for housing development

3.—(1) There is to be remitted the ABSD that is chargeable on any of the following instruments (not being one to which rule 4 applies) executed on or after 16 December 2015:

- (a) a conveyance, assignment or transfer on sale of residential property to a housing developer for the purpose of housing development by the housing developer;
- (b) any instrument chargeable in like manner, including (but not limited to) a conveyance direction.

(2) The remission under this rule is subject to all of the following conditions:

- (a) the housing developer commences housing development on the residential property within 2 years starting from the date of execution of the instrument;
- (b) the housing developer completes the housing development, and sells all the units of housing accommodation that are the subject of the development within 3 years starting from the date of execution of the instrument;
- (c) the housing developer provides to the Commissioner, within 2 years starting from the date of execution of the instrument or (in any particular case) by such earlier date as

the Commissioner may require or such later date as the Commissioner may permit —

- (i) a copy of the approval of the Controller of Residential Property referred to in section 31 of the Residential Property Act (Cap. 274) (if applicable) in respect of the housing development; and
 - (ii) such other documents as the Commissioner may require to satisfy himself or herself that the condition under sub-paragraph (a) has been complied with;
- (d) the housing developer provides to the Commissioner within 3 years starting from the date of execution of the instrument, or (in any particular case) by such earlier date as the Commissioner may require or such later date as the Commissioner may permit —
- (i) a copy of the Temporary Occupation Permit or Certificate of Statutory Completion in respect of the units of housing accommodation; and
 - (ii) such other documents as the Commissioner may require to satisfy himself or herself that the condition under sub-paragraph (b) has been complied with;
- (e) the housing developer provides to the Commissioner on the date of execution of the instrument or by such later date as the Commissioner may permit in any particular case, a written undertaking to comply with all the conditions in sub-paragraphs (a) to (d).

(3) For the purpose of paragraph (2), the date set out in each of the following sub-paragraphs is treated as the date of execution of the instrument described in that sub-paragraph:

- (a) in the case of an instrument that is a conveyance, assignment or transfer to a housing developer which is preceded by a contract or agreement for the sale of the residential property to the housing developer, the date the contract or agreement is executed;

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- (b) in the case of an instrument that is a conveyance, assignment or transfer to a housing developer which is preceded by a conveyance direction directing the conveyance or transfer of the residential property to the housing developer —
- (i) if duty is remitted under rule 5 on a contract or agreement for the sale of the residential property to the company which made the conveyance direction, the date that contract or agreement is executed; or
 - (ii) if duty is not remitted under rule 5 on such contract or agreement, the date the conveyance direction is executed;
- (c) in the case of an instrument that is a conveyance direction —
- (i) if duty is remitted under rule 5 on a contract or agreement for the sale of the residential property to the company which made the conveyance direction, the date that contract or agreement is executed; or
 - (ii) if duty is not remitted under rule 5 on such contract or agreement, the date the conveyance direction is executed.

(4) In paragraph (3)(b)(i) and (c)(i), duty is treated as remitted under rule 5 even if it subsequently becomes recoverable under section 74(3) of the Act.

Remission of ABSD for instruments extending terms of State leases

4.—(1) Where —

- (a) ABSD is remitted under rule 3 on a State lease of residential property for a fixed term, the lessee of which is a company which is granted the State lease for the purpose of a housing development on it by the company; and
- (b) an instrument is executed, before the expiry of the State lease and on or after 16 December 2015, conveying to that company an extension of the term of the State lease but

without any expansion or excision of the area of land to which the State lease relates, and the extension is not attributable to any option in the State lease,

there is to be remitted the ABSD that is chargeable on the instrument mentioned in sub-paragraph (b).

(2) The remission under this rule is subject to the satisfaction of all of the conditions for the remission of the ABSD on the State lease under rule 3(2).

(3) In paragraph (1)(a), duty is treated as remitted under rule 3 even if it subsequently becomes recoverable under section 74(3) of the Act.

Remission of ABSD for contract for sale of property subject to conveyance direction

5.—(1) There is to be remitted the ABSD that is chargeable on a contract or agreement for sale of residential property to a company that is executed on or after 16 December 2015, if the company enters into the contract or agreement with the intention that the property be transferred to another company which the first company had, at the date of the execution of the contract or agreement, intended to have incorporated or has incorporated (called in this rule the subsidiary) for the purpose of a housing development by the subsidiary.

(2) The remission under this rule is subject to all of the following conditions:

- (a) the conveyance direction for the conveyance or transfer of the property to the subsidiary is made not more than 2 months starting from the date of the execution of the contract or agreement;
- (b) no consideration passes between the first company and the subsidiary for the conveyance or transfer;
- (c) at all times between the date of the execution of the contract or agreement and the date of issue of the Temporary Occupation Permit or Certificate of Statutory Completion for all units of housing accommodation that are the subject of the housing development (both dates inclusive), the first company —

- (i) has beneficial interest in more than 50% of the shares in the subsidiary; and
- (ii) holds more than 50% of the votes attached to the voting shares in the subsidiary.

Made on 14 December 2015.

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