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No. S 217

STAMP DUTIES ACT (CHAPTER 312)

STAMP DUTIES (SPOUSES) (REMISSION OF ABSD) RULES 2013

ARRANGEMENT OF RULES

Rule

1. Citation and commencement
 2. Definitions
 3. Remission of ABSD where joint parties are spouses both of whom do not own property
 4. Remission of ABSD where joint parties are spouses either of whom owns one property
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In exercise of the powers conferred by section 74 of the Stamp Duties Act, the Minister for Finance hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Stamp Duties (Spouses) (Remission of ABSD) Rules 2013 and shall be deemed to have come into operation on 12th January 2013.

Definitions

2.—(1) In these Rules —

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

[S 952/2021 wef 16/12/2021]

“CSC” means a certificate of statutory completion in respect of the residential property in question issued by the

Commissioner of Building Control under section 12 of the Building Control Act (Cap. 29);

“exempt instrument” means an instrument for which additional buyer’s stamp duty chargeable thereon is remitted under any provision of these Rules;

“foreigner” means an individual who is not a citizen of Singapore or a permanent resident of Singapore;

“foreigner not owning property” means a foreigner who, if not for the transaction which is the subject of the exempt instrument, does not beneficially own (whether alone or jointly or in common with another) an estate or interest in any residential property situated within Singapore;

“foreigner owning one property” means a foreigner who, if not for the transaction which is the subject of the exempt instrument, beneficially owns (whether alone or jointly or in common with another) an estate or interest in one residential property situated within Singapore;

“joint parties”, in relation to an instrument, means —

(a) joint purchasers, grantees, transferees or lessees (as the case may be) under the instrument;

(b) if the instrument is executed before 9 May 2022 and the estate or interest in the residential property is to be held on trust by the purchaser, grantee, transferee or lessee for individuals, those individuals; or

[S 373/2022 wef 09/05/2022]

(c) if the instrument is executed before 9 May 2022 and the estate or interest in the residential property is to be held on trust by the purchaser, grantee, transferee or lessee for himself and another individual, both of them;

[S 373/2022 wef 09/05/2022]

“married” means married under written law or under the law of another country in circumstances where the marriage would

be recognised as valid under that law, but not if the marriage is void under the Women’s Charter (Cap. 353);

[S 952/2021 wef 16/12/2021]

“residential property” has the same meaning as in paragraph (b) of the definition of that term in paragraph (1) of Article 3 of the First Schedule to the Act;

“Singapore citizen not owning property” means a citizen of Singapore who, if not for the transaction which is the subject of the exempt instrument, does not beneficially own (whether alone or jointly or in common with another) an estate or interest in any residential property situated within Singapore;

“Singapore citizen owning one property” means a citizen of Singapore who, if not for the transaction which is the subject of the exempt instrument, beneficially owns (whether alone or jointly or in common with another) an estate or interest in one residential property situated within Singapore;

“Singapore permanent resident not owning property” means a permanent resident of Singapore who, if not for the transaction which is the subject of the exempt instrument, does not beneficially own (whether alone or jointly or in common with another) an estate or interest in any residential property situated within Singapore;

“Singapore permanent resident owning one property” means a permanent resident of Singapore who, if not for the transaction which is the subject of the exempt instrument, beneficially owns (whether alone or jointly or in common with another) an estate or interest in one residential property situated within Singapore;

“TOP” means the temporary occupation permit in respect of the residential property in question granted by the Commissioner of Building Control under section 12 of the Building Control Act (Cap. 29).

(2) In these Rules, a reference to joint purchasers, grantees, transferees or lessees is a reference to persons to whom the estate

or interest in the residential property in question is sold, conveyed, transferred or assigned as joint tenants or as tenants in common.

(3) In these Rules, where any estate or interest in residential property is acquired or disposed of —

- (a) under contract, the time at which the acquisition or disposal is made shall be the time the contract is made, and if the contract is conditional on the exercise of an option, the time at which the acquisition or disposal is made shall be the time when the option is exercised;
- (b) by way of gift, release or settlement or under a declaration of trust, the time at which the acquisition or disposal is made shall be the time when the estate or interest passes; or
- (c) by any other means, the time at which the acquisition or disposal is made shall be the time when the estate or interest is vested or divested, as the case may be, by operation of law or otherwise.

(4) In these Rules, a reference to the acquisition or disposal of any estate or interest in property shall not include a reference to a conveyance or transfer by way of security of any estate or interest in property, including a re-transfer on redemption of the security.

(5) For the avoidance of doubt, in determining if a person beneficially owns (whether alone or jointly or in common with another) an estate or interest in any number of residential properties situated within Singapore, any ownership of partnership property or property held on trust by him other than for himself shall be disregarded.

(5A) Where any estate or interest in any residential property (being one sold, conveyed, transferred or assigned under an instrument executed on or after 9 May 2022) is held on trust for an identifiable individual beneficiary (*X*) as defined in paragraph (1A) (read with paragraph (1B)) of Article 3 of the First Schedule to the Act, *X* is, for the purposes of the definitions of “foreigner not owning property”, “foreigner owning one property”, “Singapore citizen not owning property”, “Singapore citizen owning one property”, “Singapore permanent resident not owning property” and “Singapore permanent

resident owning one property”, treated as one who beneficially owns the estate or interest.

[S 373/2022 wef 09/05/2022]

(5B) To avoid doubt, for the purposes of the definitions of “foreigner not owning property”, “foreigner owning one property”, “Singapore citizen not owning property”, “Singapore citizen owning one property”, “Singapore permanent resident not owning property” and “Singapore permanent resident owning one property”, a person who is a settlor of a trust under section 22C of the Act does not beneficially own the estate or interest in residential property being disclaimed or renounced by reason only of the section 22C notice being treated as a conveyance or transfer of the estate or interest under that section (but without affecting the settlor being so treated because of the resulting trust).

[S 747/2022 wef 19/09/2022]

(6) In determining if a person beneficially owns (whether alone or jointly or in common with another) an estate or interest in any number of residential properties situated within Singapore, any ownership of property that is the subject of a notification under section 5 of the Land Acquisition Act (Cap. 152) shall be disregarded.

Remission of ABSD where joint parties are spouses both of whom do not own property

3.—(1) There shall be remitted the full amount of ABSD that is chargeable on —

- (a) a contract or agreement for the sale of, or a conveyance, assignment or transfer on sale of, an estate or interest in a single residential property; and
- (b) any instrument chargeable in like manner,

if there are 2 (and only 2) joint parties under the instrument and, at the time of execution of the instrument —

- (i) they are married to each other; and
- (ii) they are, respectively, a Singapore citizen not owning property and either a Singapore permanent resident not owning property or a foreigner not owning property.

(2) Paragraph (1) does not apply if the estate or interest in the residential property is to be held as partnership property of a partnership.

(3) Paragraph (1) does not apply to an instrument (being one executed on or after 9 May 2022) if either or both of the joint parties is or are to hold the estate or interest sold, conveyed, transferred or assigned under the instrument on trust.

[S 373/2022 wef 09/05/2022]

Remission of ABSD where joint parties are spouses either of whom owns one property

4.—(1) Subject to the satisfaction of all of the conditions in paragraph (3), there shall be remitted the full amount of ABSD that is chargeable on —

- (a) a contract or agreement for the sale of, or a conveyance, assignment or transfer on sale of, an estate or interest in a single residential property; and
- (b) any instrument chargeable in like manner,

if there are 2 (and only 2) joint parties under the instrument and, at the time of execution of the instrument —

- (i) they are married to each other; and
- (ii) they satisfy one of the descriptions in paragraph (2).

(2) For the purposes of paragraph (1), the joint parties must satisfy one of the following descriptions at the time of execution of the instrument:

- (a) one of them is a Singapore citizen not owning property, and the other is a Singapore citizen owning one property, a Singapore permanent resident owning one property, or a foreigner owning one property;
- (b) one of them is a Singapore citizen owning one property, and the other is a Singapore permanent resident not owning property, a Singapore permanent resident owning one property, a foreigner not owning property or a foreigner owning one property;

(c) each of them is a Singapore citizen owning one property, whether or not it is the same residential property.

(3) The conditions referred to in paragraph (1) are —

(a) the estate or interest in the residential property that is the subject of the instrument is not to be held as partnership property of a partnership;

(aa) the estate or interest in the residential property that is the subject of the instrument (being one executed on or after 9 May 2022) is not to be held by either or both of the joint parties on trust;

[S 373/2022 wef 09/05/2022]

(b) the ABSD chargeable on the instrument has already been paid to the Commissioner;

(c) the estate or interest or estates or interests in —

(i) the residential property by virtue of which one of the joint parties referred to in paragraph (2)(a) or (b) is a Singapore citizen owning one property, a Singapore permanent resident owning one property or a foreigner owning one property; or

(ii) the residential property or properties (as the case may be) by virtue of which the joint parties referred to in paragraph (2)(c) are each a Singapore citizen owning one property,

as the case may be, is or are both disposed of —

(A) within 6 months after the date of execution of the instrument; or

(B) if no TOP or CSC is granted or issued in respect of the residential property that is the subject of the instrument on the date of execution of the instrument, within 6 months after the date of grant or issue of the TOP or of the CSC, whichever is the earlier;

(d) neither of the joint parties has acquired (whether alone or together with another person) any estate or interest in any

other residential property between the date of execution of the instrument and the date of disposal referred to in sub-paragraph (c);

(e) on the date of disposal referred to in sub-paragraph (c) —

(i) each joint party beneficially owns jointly or in common with the other joint party, and with no other person, the estate or interest in the residential property that is the subject of the instrument; and

(ii) remains married to each other; and

(f) a claim for a refund of the ABSD paid to the Commissioner is made to the Commissioner within 6 months after the date of disposal referred to in sub-paragraph (c) or such longer period as the Commissioner may allow in a particular case.

(3A) However, in a case where —

(a) the date of execution of the instrument is on or before 1 June 2020; and

(b) without regard to this paragraph, the last date by which paragraph (3)(c) must be complied with is on or after 1 February 2020,

then the reference to 6 months in paragraph (3)(c)(A) or (B) (as the case may be) is replaced with a reference to 12 months.

[S 369/2020 wef 01/02/2020]

(4) The reference in paragraph (3)(d), (e) and (f) to the date of disposal referred to in paragraph (3)(c) is, in a case where the estates or interests in 2 residential properties are disposed of on different dates, the later of the dates.

Made this 3rd day of April 2013.

LIM SOO HOON
Permanent Secretary
(Finance) (Performance),
Ministry of Finance,
Singapore.

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